

1 H.636

2 Introduced by Representative Deen of Westminster

3 Referred to Committee on

4 Date:

5 Subject: Fish and wildlife; enforcement

6 Statement of purpose of bill as introduced: This bill proposes to amend
7 multiple provisions related to the authority of the Department of Fish and
8 Wildlife to collect information, acquire property, issue licenses and lottery
9 applications, and enforce violations.

10 An act relating to miscellaneous fish and wildlife subjects

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 * * * Information Collection * * *

13 Sec. 1. 10 V.S.A. § 4132 is amended to read:

14 § 4132. GENERAL DUTIES OF COMMISSIONER

15 (a) The Commissioner shall have charge of the enforcement of the
16 provisions of this part.

17 * * *

18 (f) The Commissioner may collect data, conduct scientific research, and
19 contract with qualified consultants for the purposes of managing fish and
20 wildlife in the State and achieving the requirements and policies of this part.

1 The Commissioner may designate as confidential any data, records, or
2 information produced or acquired by staff or contractors in the conduct of
3 study or research related to fish and wild flora and fauna, but only if such
4 documents present a threat to a species. Examples include the disclosure of the
5 location of furbearers and fish game species with fidelity to specific habitat
6 locations and the GIS location of den sites. Such data, records, or information
7 shall be disclosed if published or publicly released by the Department or its
8 authorized agents.

9 * * * Acquisition of Property; Grants * * *

10 Sec. 2. 10 V.S.A. § 4144(a) is amended to read:

11 (a) The ~~secretary~~ Secretary with approval of the Governor may acquire for
12 the use of the ~~State~~ Department of Fish and Wildlife by gift, purchase, or lease
13 ~~in the name of the State,~~ any and all rights and interests in lands, ponds, or
14 streams, and hunting and fishing rights and privileges in any lands or waters in
15 the State, ~~with~~ and the necessary rights of ingress or egress to and from such
16 lands and waters. The Secretary's authority to acquire property interests under
17 this section shall include all of the interests that may be acquired under
18 subsection 6303(a) of this title. Rights or interests in real property acquired by
19 the Secretary through transactions funded in whole or in part by the Vermont
20 Housing and Conservation Board are deemed as accepted by the Governor.

1 Sec. 3. 10 V.S.A. § 4147 is amended to read:

2 § 4147. FISH AND WILDLIFE LANDS

3 (a) Notwithstanding the provisions of 29 V.S.A. § 166, the Secretary with
4 the approval of the Governor, may convey, exchange, sell, or lease lands ~~under~~
5 the Secretary's jurisdiction of the Department of Fish and Wildlife for one or
6 more of the following purposes:

7 (1) resolving trespass issues and implementing boundary line
8 adjustments and right-of-way and deed corrections, provided that the transfers
9 are advantageous to the State;

10 (2) implementing the acquisition of new lands for conservation and
11 public recreation when, in his or her judgment, it is advantageous to the State
12 ~~to do so in the highest orderly development of such lands and management of~~
13 ~~game thereon.~~

14 (b) ~~Provided, however, such lease~~ The lease, sale, or exchange of lands
15 under this section shall not include oil and gas leases and shall not be contrary
16 to the terms of any contract ~~which~~ that has been entered into by the State.
17 Rights or interests in real property conveyed by the Secretary as a part of
18 transactions funded in whole or in part by the Vermont Housing and
19 Conservation Board are deemed as accepted by the Governor.

1 Sec. 4. 32 V.S.A. § 5 is amended to read:

2 § 5. ACCEPTANCE OF GRANTS

3 (a) No original of any grant, gift, loan, or any sum of money or thing of
4 value may be accepted by any agency, department, commission, board, or
5 other part of State government except as follows:

6 * * *

7 (3)(A) This section shall not apply to the following items, if the
8 acceptance of those items will not incur additional expense to the State or
9 create an ongoing requirement for funds, services, or facilities:

10 (i) the acceptance of grants, gifts, donations, loans, or other things
11 of value with a value of \$5,000.00 or less;

12 (ii) the acceptance by the Department of Forests, Parks and
13 Recreation and the Department of Fish and Wildlife of grants, gifts, donations,
14 loans, or other things of value with a value of \$15,000.00 or less; ~~or~~

15 (iii) the acceptance by the Vermont Veterans' Home of grants,
16 gifts, donations, loans, or other things of value with a value of \$10,000.00 or
17 less; or

18 (iv) the acceptance by the Department of Fish and Wildlife of
19 grants, gifts, donations, loans, or other things of value with a value of
20 \$15,000.00 or less, except for real estate or grants related to the acquisition of
21 real estate.

1 (6) procedures for accounting for and return of all monies and
2 negotiable documents due the Department from agencies in accordance with
3 the provisions of this title and Title 32 of the Vermont Statutes Annotated;

4 (7) procedures for the audit of all license programs and license agency
5 transactions and the proper retention and inspection of all accounting and
6 inventory records related to the sale or issuance of licenses;

7 (8) procedures for the suspension of any license agent or agency,
8 including a town clerk agent, for noncompliance with the provisions of this
9 title, any written agreement between the agent and the Department, or any
10 licensing rule established by the Department;

11 (9) that for each license or lottery application, \$1.50 of the fee is a filing
12 fee that may be retained by the agent, except for the super sport license for
13 which \$5.00 of the fee is a filing fee that may be retained by the agent; and

14 (10) that for licenses, lottery applications, and tags issued where the
15 Department does not receive any part of the fee, \$1.50 may be charged as a
16 filing fee and retained by the agent.

17 * * * Migratory Waterfowl Stamp Program * * *

18 Sec. 6. 10 V.S.A. § 4277 is amended to read:

19 § 4277. MIGRATORY WATERFOWL STAMP PROGRAM

20 (a) Definitions. As used in this section:

1 (1) “Migratory waterfowl” means all waterfowl species in the family
2 anatidae, including wild ducks, geese, brant, and swans.

3 (2) “Stamp” means the State migratory waterfowl hunting stamp
4 furnished by the Department of Fish and Wildlife as provided for in this
5 section and the federal migratory waterfowl stamp furnished by the U.S.
6 Department of the Interior.

7 (b) Waterfowl stamp required. No person 16 years of age or older shall
8 attempt to take or take any migratory waterfowl in this State without first
9 obtaining a State and federal migratory waterfowl stamp for the current year in
10 addition to a regular hunting license as provided by section 4251 of this title.
11 A stamp shall not be transferable. The State stamp year shall run from
12 January 1 to December 31.

13 (c) Waterfowl stamp design, production, and distribution. The
14 Commissioner of Fish and Wildlife shall be responsible for the design,
15 production, procurement, distribution, and sale of ~~all stamps~~ the State stamp
16 and all marketable stamp ~~by-products~~ by-products such as posters, artwork,
17 calendars, and other items.

18 (d) Fee. ~~Stamps~~ State stamps shall be sold at the direction of the
19 Commissioner for a fee of \$7.50. The issuing agent may retain a fee of \$1.00
20 for each stamp and shall remit \$6.50 of each fee to the Department of Fish and

1 Wildlife. The Commissioner shall establish a uniform sale price for all
2 categories of ~~byproducts~~ by-products.

3 (e) Disposition of waterfowl receipts. All State waterfowl stamp receipts
4 and all receipts from the sale of State stamp ~~byproducts~~ by-products shall be
5 deposited in the Fish and Wildlife Fund. All State stamp and ~~byproducts~~ by-
6 products receipts shall be expended through the appropriation process for
7 waterfowl acquisition and improvement projects.

8 (f) Advisory committee. There is hereby created a the Migratory
9 Waterfowl Advisory Committee which shall consist of five persons and up to
10 three alternates appointed by and serving at the pleasure of the Commissioner
11 of Fish and Wildlife. The Commissioner shall designate a the Chair. The
12 Committee shall be consulted with and may make recommendations to the
13 Commissioner in regard to all projects and activities supported with the funds
14 derived from the implementation of this section. The Commissioner shall
15 make an annual financial and progress report to the Committee with regard to
16 all activities authorized by this section.

17 * * * Forfeiture * * *

18 Sec. 7. 10 V.S.A. § 4505 is amended to read:

19 § 4505. HEARING; FORFEITURE

20 The game warden or other officer shall retain possession of firearms, jacks,
21 lights, motor vehicles, and devices taken until final disposition of the charge

1 against the owner, possessor, or person using the same in violation of the
2 provisions of section 4745, 4781, 4783, 4784, 4705(a), 4280, 4747, or 4606 of
3 this title, in accordance with the provisions of section 4503 of this title. When
4 the owner, possessor, or person using firearms, jacks, lights, motor vehicles,
5 and devices in violation of the section is convicted of the offense, the court
6 where the conviction is had shall cause the owner, if known, and possessor,
7 and all persons having the custody of or exercising any control over the
8 firearms, jacks, lights, motor vehicles, and devices seized, either as principal,
9 clerk, servant, or agent and the respondent to appear and show cause, if any
10 they have, why a forfeiture or condemnation order should not issue. The
11 hearings may be held as a collateral proceeding to the trial of the respondent in
12 the discretion of the court.

13 * * * Enforcement; Violations * * *

14 Sec. 8. 10 V.S.A. § 4551 is amended to read:

15 § 4551. FISH AND WILDLIFE VIOLATION DEFINED

16 A violation of any provision of this part, other than a violation for which a
17 term of imprisonment may be imposed, or a minor violation as defined in
18 section 4572 of this title, ~~or a violation of a rule adopted under this part~~ shall
19 be ~~known as~~ a fish and wildlife violation.

1 Sec. 9. 10 V.S.A. § 4705 is amended to read:

2 § 4705. SHOOTING FROM MOTOR VEHICLES OR AIRCRAFT;

3 SHOOTING FROM OR ACROSS HIGHWAY; PERMIT

4 (a) A person shall not take, or attempt to take, a wild animal by shooting
5 from a motor vehicle, motorboat, airplane, snowmobile, or other motor
6 propelled craft or any vehicle drawn by a motor propelled vehicle except as
7 permitted under subsection (e) of this section.

8 (b) A person shall not carry or possess while in or on a vehicle propelled by
9 mechanical power or drawn by a vehicle propelled by mechanical power
10 within the ~~right-of-way~~ right-of-way of a public highway a rifle or shotgun
11 containing a loaded cartridge or shell in the chamber, mechanism, or in a
12 magazine, or clip within a rifle or shotgun, a crossbow, or a muzzle-loading
13 rifle or muzzle-loading shotgun that has been charged with powder and
14 projectile and the ignition system of which has been enabled by having an
15 affixed or attached percussion cap, primer, battery, or priming powder, except
16 as permitted under subsections (d) and (e) of this section. A person who
17 possesses a rifle, crossbow, or shotgun, including a muzzle-loading rifle or
18 muzzle-loading shotgun, in or on a vehicle propelled by mechanical power, or
19 drawn by a vehicle propelled by mechanical power within a ~~right-of-way~~ right-
20 of-way of a public highway shall upon demand of an enforcement officer
21 exhibit the firearm for examination to determine compliance with this section.

1 (c) A person while on or within 25 feet of the traveled portion of a public
2 highway, except a public highway designated Class 4 on a town highway map,
3 shall not take or attempt to take any wild animal by shooting a firearm, a
4 muzzle loader, a bow and arrow, or a crossbow. A person while on or within
5 the traveled portion of a public highway designated Class 4 on a town highway
6 map shall not take or attempt to take any wild animal by shooting a firearm, a
7 muzzle loader, a bow and arrow, or a crossbow. A person shall not shoot a
8 firearm, a muzzle loader, a bow and arrow, or a crossbow over or across the
9 traveled portion of a public highway, except for a person shooting over or
10 across the traveled portion of a public highway from a sport shooting range, as
11 that term is defined in section 5227 of this title, provided that:

- 12 (1) the sport shooting range was established before January 1, 2014; and
13 (2) the operators of the sport shooting range post signage warning users
14 of the public highway of the potential danger from the sport shooting range.

15 (d) This section shall not restrict the possession or use of a loaded firearm
16 by an enforcement officer in performance of his or her duty.

17 * * *

18 (f) The phrase “public highway,” as used in this section, means roads,
19 including Class 4 roads, shown on the highway maps of the respective towns,
20 made by the Agency of Transportation, but does not include foot trails ~~or~~
21 ~~private roads.~~

1 Sec. 10. 10 V.S.A. § 4709 is amended to read:

2 § 4709. TRANSPORT, IMPORTATION, POSSESSION, AND STOCKING
3 OF WILD ANIMALS; POSSESSION OF WILD BOAR

4 (a) A person shall not bring into ~~the State~~, transport into, transport within,
5 transport through, or possess in the State any live wild bird or animal of any
6 kind, ~~unless, upon application in writing therefor, the person obtains~~ without a
7 permit from the Commissioner ~~a permit to do so~~. The importation permit may
8 be granted under such regulations therefor as the ~~Board~~ Commissioner shall
9 prescribe and only after the Commissioner has made such investigation and
10 inspection of the birds or animals as she or he may deem necessary. The
11 Department may dispose of unlawfully possessed or imported wildlife as it
12 may judge best, and the State may collect treble damages from the violator of
13 this subsection for all expenses incurred.

14 (b) No person shall bring into the State from another country, state, or
15 province wildlife illegally taken, transported, or possessed contrary to the laws
16 governing the country, state, or province from which the wildlife originated.

17 (c) No person shall place a Vermont-issued tag on wildlife taken outside
18 the State. No person shall report big game in Vermont when the wildlife is
19 taken outside the State.

20 ~~(b)~~(d) Nothing in this section shall prohibit the Commissioner or duly
21 authorized agents of the Department of Fish and Wildlife from bringing into

1 the State for the purpose of planting, introducing, or stocking, or from planting,
2 introducing, or stocking in the State, any wild bird or animal.

3 ~~(e)~~(e) Applicants shall pay a permit fee of \$100.00.

4 ~~(d)~~(f)(1) The Commissioner shall not issue a permit under this section for
5 the importation or possession of the following live species, a hybrid or genetic
6 variant of the following species, offspring of the following species, or
7 offspring or a hybrid of a genetically engineered variant of the following
8 species: wild boar, wild hog, wild swine, feral pig, feral hog, feral swine, old
9 world swine, razorback, Eurasian wild boar, or Russian wild boar (*Sus scrofo*
10 *Linnaeus*).

11 (2) This subsection shall not apply to the domestic pig (*Sus domesticus*)
12 involved in domestic hog production and shall not restrict or limit the authority
13 of the Secretary of Agriculture, Food and Markets to regulate the importation
14 or possession of the domestic pig as livestock or as a domestic animal under
15 Title 6 of the Vermont Statutes Annotated.

16 * * * Effective Date * * *

17 Sec. 11. EFFECTIVE DATE

18 This act shall take effect on July 1, 2018.