

1 S.321

2 Introduced by Senator Nitka

3 Referred to Committee on

4 Date:

5 Subject: Fish and wildlife; hunting; fishing; authority of Commissioner of Fish
6 and Wildlife

7 Statement of purpose of bill as introduced: This bill proposes to amend
8 multiple provisions related to the authority of the Department of Fish and
9 Wildlife (Department). The bill would authorize the Commissioner of Fish
10 and Wildlife (Commissioner) to authorize the taking of wild animals under
11 certain specified conditions. The bill would authorize the Department to enter
12 reciprocal service agreements with the U.S. Fish and Wildlife Service. The bill
13 would authorize the Commissioner to designate three days on Labor Day
14 weekend as free fishing days. The bill would amend the uniform point system
15 statute to make technical revisions and to make a violation of snaring law a 20-
16 point violation. The bill would amend the fees for fishing tournaments. The
17 bill would also prohibit the carrying of an airgun or a cocked crossbow in a
18 motor vehicle. In addition, the bill would grant the Department the authority to
19 respond to escaped swine or wild swine, including authority to take or
20 euthanize escaped or wild swine.

1 An act relating to miscellaneous fish and wildlife issues

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

3 Sec. 1. 10 V.S.A. § 4138 is amended to read:

4 § 4138. CONTROL OF FISH, GAME; POWERS OF COMMISSIONER

5 (a) The Commissioner may take, permit, or cause to be taken at any time
6 ~~from any waters,~~ and in any manner, fish ~~which~~ and wild animals:

7 (1) that hinder or prevent the propagation of wildlife, game, or food fish
8 ~~and may take, permit, or cause to be taken at any time wild animals which are~~
9 ~~doing damage. Such removal or taking and the possession and disposition of~~
10 ~~such fish or wild animals shall be under such regulations as the Commissioner~~
11 ~~may prescribe;~~

12 (2) that pose a threat to human health, safety, or the environment;

13 (3) that are damaging private or public property;

14 (4) as necessary to conduct scientific research; and

15 (5) as necessary to maintain the best health, population, and utilization
16 levels of a regulated species and of other species that are part of the ecosystem.

17 (b) The Commissioner may take necessary measures to control, in public
18 waters, aquatic vegetation, insects, or aquatic life, for the purpose of improving
19 ~~such~~ waters as a habitat.

1 (c) Any measures ~~which~~ that involve temporary pollution of waters shall be
2 carried out in accordance with the provisions of chapter 50, section 1455 of
3 this title.

4 (d) The Commissioner shall cooperate with the Transportation Board in
5 any proceeding brought under 19 V.S.A. § 37 to protect a highway, railroad, or
6 public airport from impoundments of water created by beaver.

7 Sec. 2. 10 V.S.A. § 4199 is amended to read:

8 § 4199. RECIPROCAL ASSISTANCE AGREEMENTS

9 (a) ~~As used in this section~~ “officer” means a game warden, a
10 conservation law enforcement officer, ~~or~~ a person in another state charged with
11 enforcing the fish and wildlife laws of that state, or a law enforcement officer
12 employed by the U.S. Fish and Wildlife Service, Office of Law Enforcement.

13 (b) The Commissioner may enter into a reciprocal assistance agreement
14 with his or her counterpart in any other state or with the U.S. Fish and Wildlife
15 Service. An agreement made under this section shall be for the sole purpose of
16 cooperating and assisting each other in detecting and apprehending people
17 violating the fish and wildlife or environmental laws of the State, subject to the
18 limitations of section 4193 of this title.

19 (c) Pursuant to an agreement under this section, the Commissioner may
20 send fish and wildlife wardens into another state for the purpose of assisting
21 the officers of that state or the U.S. Fish and Wildlife Service and may accept

1 officers of another state into Vermont for the purpose of assisting Vermont
2 wardens.

3 (d) Under an agreement pursuant to this section:

4 (1) When a Vermont game warden or an officer of one state enters
5 another state for the purposes of assistance, he or she shall be under the
6 operational control of the chief officer of the host state and shall have the same
7 duties, rights, privileges, and immunities as officers of the host state. An
8 officer of another state or the U.S. Fish and Wildlife Service operating in
9 Vermont under this section shall have the same powers as a Vermont game
10 warden provided the officer is certified by the Executive Director of the
11 Vermont Criminal Justice Training Council as meeting the standards
12 established in 20 V.S.A. § 2358 for Vermont law enforcement officers. This
13 subsection does not nullify subsection 4193(b) of this title.

14 (2) When an officer is serving in another state under this section, the
15 host state shall assume liability to third persons for actions of that officer taken
16 on account of or in connection with a request for assistance hereunder but only
17 to the extent that the host state would be liable for actions of one of its own
18 officers. The home state of the officer shall be responsible for payment of
19 salary, expenses, and injury and death benefits of the officer while on duty in
20 another state.

1 (e) A reciprocal assistance agreement shall be executed in writing, shall set
2 forth the terms and conditions under which assistance may be requested or
3 rendered and shall remain in full force and effect until terminated by mutual
4 consent of the parties to the agreement, or until 10 days after one of the parties
5 has given notification to another party of intention to terminate the agreement.

6 Sec. 3. 10 V.S.A. § 4251 is amended to read:

7 § 4251. TAKING WILD ANIMALS AND FISH; LICENSE

8 (a) Except as provided in sections 4253 and 4254b of this title, a person
9 shall not take wild animals or fish without first having procured a license
10 ~~therefor~~ for the taking; provided, however, that a person under 15 years of age
11 may take fish in accordance with this part and regulations of the Board,
12 without first having procured a license therefor.

13 (b) The Commissioner of Fish and Wildlife may designate three days on
14 Labor Day weekend each year and and an additional two days each calendar
15 year as “free fishing days” for which no license shall be required. ~~One~~ Of the
16 additional two days of free fishing, one day shall occur in the open water
17 fishing season and one day shall occur during the ice fishing season.

18 Sec. 4. 10 V.S.A. § 4254(e)(10) is amended to read:

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

1 Sec. 5. 10 V.S.A. § 4261 is amended to read:

2 § 4261. ~~LOST, REPLACEMENT, OR FREE LICENSE CERTIFICATE~~

3 ~~(a) A person who has lost a license other than a lifetime license or~~
4 ~~permanent license may demand a lost license certificate from the agent of~~
5 ~~original issue. The fee shall be \$5.00 which the agent may retain. If the agent~~
6 ~~of original issue is no longer selling licenses, the applicant may apply directly~~
7 ~~to the Department. If available, replacement and free licenses may be obtained~~
8 ~~from a point of sale agent or online at the State's website. If requested from a~~
9 ~~point of sale agent, a \$1.50 filing fee may be charged and retained by the~~
10 ~~agent.~~

11 ~~(b) A person who has lost a lifetime license or permanent license may~~
12 ~~obtain a new license upon application to the Department, payment of a \$5.00~~
13 ~~fee and submission of proof of identification. If available, replacement and~~
14 ~~free licenses may be obtained from a point of sale agent or online at the State's~~
15 ~~website. If requested from a point of sale agent, a \$1.50 filing fee may be~~
16 ~~charged and retained by the agent. [Repealed.]~~

17 Sec. 6. 10 V.S.A. § 4502 is amended to read:

18 § 4502. UNIFORM POINT SYSTEM; REVOCATION OF LICENSE

19 (a) A uniform point system that assigns points to those convicted of a
20 violation of a provision of this part is established. The conviction report from
21 the ~~Court~~ court shall be prima facie evidence of the points assessed. In

1 addition to other penalties assessed for violation of fish and wildlife statutes,
2 the Commissioner shall suspend licenses issued under this part ~~which~~ that are
3 held by a person who has accumulated 10 or more points in accordance with
4 the provisions of subsection (c) of this section.

5 (b) A person violating provisions of this part shall receive points for
6 convictions in accordance with the following schedule (all sections are in this
7 title of the Vermont Statutes Annotated):

8 (1) Except for biological collection violations determined to be nonpoint
9 violations under the rules of the Board, five points shall be assessed for any
10 violation of statutes or rules adopted under this part except those listed in
11 subdivisions (2) and (3) of this subsection.

12 (2) Ten points shall be assessed for:

13 * * *

14 (H) § 4705. ~~Shooting~~ Transport and shooting from motor vehicles or
15 aircraft

16 (I) ~~§ 4706. Snaring animals~~ [Repealed.]

17 * * *

18 (Y) Appendix § 2; ~~Appendix § 33, section 14.3.~~ Reporting of big
19 game

20 * * *

1 (II) Appendix § 37, as it ~~applies to annual deer limits~~ section 10.

2 Novice season

3 * * *

4 (QQ) ~~Appendix § 22, section 6.7; Appendix § 33, section 13.1(g);~~
5 ~~Appendix § 37, section 7.7. Possession or transport of a cocked crossbow in or~~
6 ~~on a motor vehicle, motorboat, airplane, snowmobile, or other motor propelled~~
7 ~~vehicle~~ [Repealed.]

8 (RR) ~~Appendix § 7, section 6.3(b). Hunting bear with any dog not~~
9 ~~listed on the permit~~ [Repealed.]

10 (SS) Appendix § 37, ~~section 9.0.~~ Feeding deer.

11 (TT) § 4716. Participating in a coyote-hunting competition.

12 (3) Twenty points shall be assessed for:

13 (A) ~~§ 4192. General powers and duties; failure to obey warden~~
14 [Repealed.]

15 * * *

16 (I) § 4745. Taking ~~deer~~ big game out of season prohibited

17 * * *

18 (O) Appendix § 7, sections 4.2, 5.1, 5.2, 5.3, 6.1, 6.2, 6.3(b), 6.3(d),
19 6.3(e), 6.4, 6.5(c), 6.5(d), 7.1, and 7.2, 7.3, and 7.4. Bear, unauthorized taking

1 (P) Appendix § 22. Turkey season, excluding: requirements for
2 youth turkey hunting season; ~~section 6.2~~, size of shot used or possessed; and
3 ~~section 6.7~~, transport of cocked crossbow

4 * * *

5 (U) Appendix § 37, excluding: requirements for youth deer hunting
6 weekend; requirements for novice season; limitations on feeding of deer;
7 ~~section 7.7~~, transport of cocked crossbow; reporting big game; and section
8 11.0, ban of urine and other natural lures

9 * * *

10 (W) § 4711. ~~Crossbow hunting~~ [Repealed.]

11 (X) ~~Appendix § 4. Hunting with a crossbow without a permit or~~
12 ~~license~~ [Repealed.]

13 * * *

14 (DD) § 4706. Snaring animals

15 (4) In addition to other points assessed under this subsection, a person
16 shall be assessed one point for each fish, bird, animal, or pelt possessed, taken,
17 transported, bought, or sold in excess of the limits established in statutes or
18 rules adopted under this part.

19 (c) Licenses shall be suspended as follows:

20 (1) For 10 to 14 points accumulated in five years—a one-year
21 suspension.

1 (2) For 15 to 19 points accumulated in five years—a two-year
2 suspension.

3 (3) For 20 or more points accumulated in five years—a three-year
4 suspension.

5 (d) The Commissioner shall establish a centralized registry of licensees and
6 shall track all convictions and the point accumulations, if any, against
7 licensees. The Commissioner shall provide adequate notice to licensees of
8 their point accumulations, and suspensions, if any.

9 (e) When a person holding a license issued under this part has been
10 convicted of a violation of 13 V.S.A. § 1023(a)(2) or has been convicted of
11 manslaughter by the careless and negligent use of firearms, the Commissioner
12 shall revoke the person's hunting license, 20 points shall accumulate on the
13 person's license, and another license shall not be issued to the person within
14 five years from the date of the revocation or within five years from the date of
15 the conviction if the person had no license. The court before which such
16 person is convicted shall certify the conviction to the Commissioner. A
17 revocation shall be deemed effective when notice is given, when made in
18 person, or three days after the deposit of the notice in the U.S. mail, if made in
19 writing.

20 (f) The Commissioner shall not reinstate a license suspended pursuant to
21 subdivisions (c)(2) and (3) of this section until the licensee has successfully

1 completed a remedial course designed to teach hunters, trappers, and anglers
2 correct legal and ethical behavior while hunting, trapping, and fishing in
3 Vermont. The remedial course shall be approved by the Commissioner and
4 conducted by the Department. The fee for the remedial course shall be
5 \$100.00. Funds collected for the course shall be deposited in the Fish and
6 Wildlife Fund.

7 (g) The Commissioner may periodically implement a forgiveness program
8 for unpaid monetary penalties, to allow otherwise eligible persons to apply for
9 and receive a hunting, fishing, or trapping license.

10 Sec. 7. 10 V.S.A. § 4613 is amended to read:

11 § 4613. FISHING TOURNAMENTS

12 (a) No person or organization shall hold a fishing tournament on the waters
13 of the State without first obtaining a permit from the Department of Fish and
14 Wildlife. A tournament held on the Connecticut River, excluding Moore
15 Reservoir and Comerford Reservoir, that does not utilize an access area in
16 Vermont is not required to obtain a permit from the Department of Fish and
17 Wildlife.

18 (b) A fishing tournament means a contest, in which anglers pay a fee to
19 enter and in which the entrants compete for a prize based on the quality or size
20 of the fish they catch. A tournament may run multiple days, but in order for
21 the tournament to be considered a single event, the tournament shall be held on

1 consecutive days. A tournament that limits the entrants to people below
2 15 years of age or a tournament held as part of a Special Olympics program
3 shall be exempt from paying the fee required under subsection (d) of this
4 section.

5 (c) The Commissioner shall adopt rules that establish the procedure for
6 implementation of this section. The rules shall include a provision that an
7 angler may not enter a fish which was caught and confined to an enclosed area
8 prior to the beginning of the tournament.

9 (d) The Commissioner shall charge a fee ~~of \$50.00~~ for each permit issued
10 under this section based on the number of proposed participants and shall
11 deposit the fee collected into the Fish and Wildlife Fund. The fees for a permit
12 shall be:

13 (1) for tournaments of 1–25 participants: \$10.00;

14 (2) for 26–50 participants: \$30.00; or

15 (3) for more than 50 participants: \$100.00.

16 Sec. 8. 10 V.S.A. § 4705 is amended to read:

17 § 4705. SHOOTING FROM MOTOR VEHICLES OR AIRCRAFT;

18 SHOOTING FROM OR ACROSS HIGHWAY; PERMIT

19 (a) A person shall not take or attempt to take a wild animal by shooting

20 from a motor vehicle, motorboat, airplane, snowmobile, or other motor-

1 propelled craft or any vehicle drawn by a motor-propelled vehicle except as
2 permitted under subsection (e) of this section.

3 (b)(1) A person shall not carry or possess while in or on a vehicle propelled
4 by mechanical power or drawn by a vehicle propelled by mechanical power
5 within the right-of-way of a public highway one or more of the following:

6 (A) a rifle or a shotgun containing a loaded cartridge or shell in the
7 chamber, mechanism, or in a magazine, or clip within a rifle or shotgun, ~~or;~~

8 (B) a muzzle-loading rifle or muzzle-loading shotgun that has been
9 charged with powder and projectile and the ignition system of which has been
10 enabled by having an affixed or attached percussion cap, primer, battery, or
11 priming powder, except as permitted under subsections (d) and (e) of this
12 section; or

13 (C) an air gun, air rifle, or air bow with a 200-feet-per second or
14 greater rating or other pneumatic or gas-powered weapon, while cocked,
15 charged, pumped, or containing any projectile, including a bb, pellet, bolt,
16 arrow, or other projectile fitted to the weapon.

17 (2) Unless it is uncocked, a person shall not possess or transport a
18 crossbow in or on a motor vehicle, motorboat, airplane, snowmobile, or other
19 motor-propelled craft or any vehicle drawn by a motor-propelled vehicle
20 except as permitted under subsection 4705(e) of this title.

1 (3) A person who possesses a rifle, an airgun, a crossbow, or a shotgun,
2 including a muzzle-loading rifle or muzzle-loading shotgun, in or on a vehicle
3 propelled by mechanical power, or drawn by a vehicle propelled by
4 mechanical power within a right-of-way of a public highway shall upon
5 demand of an enforcement officer exhibit the firearm for examination to
6 determine compliance with this section.

7 * * *

8 Sec. 9. 10 V.S.A. § 4786 is amended to read:

9 § 4786. GAME SUPPERS

10 (a) Notwithstanding any provision of law to the contrary, game suppers
11 may be held at any time by a church, volunteer fire department, rod and game
12 club, educational or cooperative organization, or ~~other~~ nonprofit organization
13 under permit issued by a fish and wildlife warden, the Commissioner, or a
14 designee of the Commissioner. The Department may hold game suppers or
15 similar fish and game food events without a permit issued under this section.

16 (b) Wild animals and fish legally taken in this State, or another state or
17 country, may be transported and sold as part of a game supper authorized by
18 permit. Big game provided by the Department may also be sold at such
19 suppers. Migratory waterfowl and anadromous salmon shall not be sold.

20 (c) The permit for a game supper required by this section shall state the
21 name of the organization holding the supper, and the date and place of the

1 supper. The permit shall be applied for ~~no~~ not later than 10 days before the
2 date of the supper.

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

4 § 4709. TRANSPORT, IMPORTATION, POSSESSION, AND STOCKING
5 OF WILD ANIMALS; POSSESSION OF WILD BOAR OR
6 ESCAPED SWINE

7 (a) A person shall not bring into, transport into, transport within, transport
8 through, or possess in the State any live wild bird or animal of any kind,
9 including any manner of wild swine or pig, without authorization from the
10 Commissioner or his or her designee. The importation permit may be granted
11 under such regulations therefor as the Commissioner shall prescribe and only
12 after the Commissioner has made such investigation and inspection of the birds
13 or animals as she or he may deem necessary. The Department may dispose of
14 unlawfully possessed or imported wildlife as it may judge best, and the State
15 may collect treble damages from the violator of this subsection for all expenses
16 incurred.

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

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

4 (d) Nothing in this section shall prohibit the Commissioner or duly
5 authorized agents of the Department of Fish and Wildlife from bringing into
6 the State for the purpose of planting, introducing, or stocking or from planting,
7 introducing, or stocking in the State any wild bird or animal.

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

9 (f)(1) The Commissioner shall not issue a permit under this section for the
10 importation or possession of the following live species, a hybrid or genetic
11 variant of the following species, offspring of the following species, or
12 offspring or a hybrid of a genetically engineered variant of the following
13 species: wild boar, wild hog, wild swine, feral pig, feral hog, feral swine, old
14 world swine, razorback, Eurasian wild boar, or Russian wild boar (*Sus scrofo*
15 *Linnaeus*). A wild or feral swine or pig:

16 (A) is a pig that is outside of an enclosure, is free roaming on public
17 or private land, and does not exhibit the behavior of a pig that is under
18 domestic management or confinement; or

19 (B) exhibits at least one skeletal characteristic of a wild swine or
20 swine of Eurasian origin; including:

1 (i) skull characteristics of an elongated snout or sloping
2 appearance with little or no stop at the eye line;

3 (ii) a shoulder structure with a steep or predominate ridge along
4 the back appearance, known as a razorback;

5 (iii) hindquarters proportionally smaller than the forequarters
6 lacking natural muscling found in commercial species; or

7 (iv) visible tusks.

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

13 (3) Upon actual notice of the escape of swine that is not yet feral and is
14 not confined in an enclosure, the owner of the escaped swine shall attempt to
15 recapture the animal. Any escaped animal that remains outside an enclosure
16 longer than 96 hours may be taken or euthanized by the Department; the
17 Agency of Agriculture, Food and Markets; or a designee, such as Wildlife
18 Services of the U.S. Department of Agriculture, Animal and Plant Health
19 Inspection Service. When possible, the Department shall notify the Agency of
20 Agriculture, Food and Markets and the municipality where the swine is
21 located, prior to destroying escaped swine.

1 (4) The State shall not be liable for damages or claims associated with
2 the taking or euthanasia of escaped swine provided that the actions of the State
3 agents are reasonable.

4 (5) Any wild or feral swine may be destroyed or euthanized by the
5 Department. The Department shall notify the owner, if possible; the Agency
6 of Agriculture, Food and Markets; and the municipality where the wild or feral
7 swine is located of the disposition of the wild or feral swine.

8 (6) Any person who kills a wild or feral swine in Vermont, shall report
9 to a State game warden and shall present the carcass to the State game warden
10 within 24 hours for identification and examination, disease sample collection,
11 or case assignment.

12 Sec. 11. 13 V.S.A. § 351b is amended to read:

13 § 351b. SCOPE OF SUBCHAPTER

14 This subchapter shall not apply to:

15 (1) activities regulated by the Department of Fish and Wildlife pursuant
16 to 10 V.S.A. Part 4, including the act of destroying escaped or feral swine in
17 accordance with 10 V.S.A. § 4709(f)(3) and (4);

18 (2) scientific research governed by accepted procedural standards
19 subject to review by an institutional animal care and use committee;

20 (3) livestock and poultry husbandry practices for raising, management,
21 and use of animals;

1 (4) veterinary medical or surgical procedures; and

2 (5) the killing of an animal as provided by 20 V.S.A. §§ 3809 and 3545.

3 Sec. 12. 20 V.S.A. § 3350 is added to read:

4 § 3350. THE DISPOSITION OF WILD OR FERAL SWINE OR ESCAPED

5 SWINE

6 (a) The General Assembly finds that wild or feral swine and escaped swine
7 have the potential for spreading serious disease to domestic livestock, may
8 cause devastating destruction to natural ecosystems, and pose a threat to
9 human health and safety.

10 (b) In light of the potential impacts of wild or feral swine or escaped swine,
11 and notwithstanding the provisions of law in this chapter, the Department of
12 Fish and Wildlife may destroy or euthanize a wild or feral swine or an escaped
13 swine in accordance with the requirements of 10 V.S.A. § 4709(f)(3).

14 (c) The exercise by the Department of Fish and Wildlife of the authority
15 under 10 V.S.A. § 4709 (f)(3) shall not prevent any person from pursuing or
16 collecting the remedies set forth in this chapter.

17 Sec. 13. EFFECTIVE DATE

18 This act shall take effect on July 1, 2020.