

**From:** Lori

**Sent:** Tuesday, March 12, 2019 7:57 AM

**To:** Amy Sheldon <ASheldon@leg.state.vt.us>

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**Subject:** H357

Dear Representative Sheldon:

Thank you for your interest in this important bill.

**The bill can easily be modified to address Commissioner Porter's objections:**

1. An exemption for activities conducted under title 10 VSA §4828 could be added to the bill to make it inapplicable to persons who kill wildlife in defense of property (e.g., a raccoon who kills chickens).
2. The Commissioner also expressed concerns that the the law would be unenforceable, but it would be enforceable to the same extent as many other worthwhile laws that now exist including many in Vermont's criminal code. The Commissioner's position also focuses on the general punitive aspect of laws but overlooks the important *deterrent effect* of laws.

I fully support the bill but as a practicing attorney I believe that **H357, as drafted, creates loopholes that need to be closed** . Specifically:

1. The bill defines waste as "intentionally" leaving a wounded or killed animal without making a reasonable effort to retrieve and use the animal. Adding a mental state to the offense will unnecessarily complicate enforcement efforts because law enforcement will have to prove that the person acted with a specific "conscious objective" to leave the animal behind. I can't envision a scenario where such conduct wouldn't be intentional, yet it can be difficult to actually prove that intent. Federal wanton waste laws do not impose a mental state on the offense of wanton waste for this very reason. I
2. The language in the bill that limits waste to that occurring in "field or forest" fails to protect aquatic and semi-aquatic animals such as beaver and mink from wanton waste.
3. The bill also limits waste to circumstances in which the animal is not "used." The failure to define "use" has the potential to result in circumvention of the law by the mere removal of a tooth or other body part for any trumped up use claimed by an unethical hunter or trapper.

Other rural states (and the federal government) have wanton waste laws in place, including Alaska and Colorado. These states recognize the importance of having laws in place that ensure that wildlife is neither wasted nor abandoned and left to suffer.

Thank you for your work on this important issue. I'd be happy to provide additional information if you have questions.

Lori Kettler