

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources, Fish, and Wildlife to which was
3 referred House Bill No. 683 entitled “An act relating to prohibiting the
4 incidental take of migratory birds” respectfully reports that it has considered
5 the same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. FINDINGS

8 The General Assembly finds:

9 (1) On December 22, 2017, the U.S. Department of the Interior released
10 a memorandum stating that the agency would no longer interpret the Migratory
11 Bird Treaty Act as prohibiting incidental take of migratory birds. This changes
12 the way the Act has been interpreted for the past 40 years.

13 (2) Vermont is an important stop for birds that migrate along the
14 Atlantic Flyway.

15 (3) The Department of Fish and Wildlife reports that Vermont has
16 approximately 260 species of birds. Of those, Vermont hosts 125 forest
17 species, making it one of the most forest-species-rich states in the nation.

18 (4) According to a 2015 report by the Gund Institute, at 39 percent,
19 Vermont leads the nation in number of residents who participate in bird
20 watching, which is nearly double the national average of 20 percent. Vermont

1 is second only to Alaska in the number of residents who participate in hunting,
2 fishing, and wildlife viewing.

3 (5) According to a 2011 report by the U.S. Fish and Wildlife Service,
4 bird watching attracts many people to Vermont. In 2011, wildlife watchers
5 spent \$289 million on wildlife-watching activities in Vermont. The report
6 found that 292,000 people participated in bird watching and 56 percent of them
7 took trips away from home to participate in bird watching.

8 (6) Migratory birds are important to Vermont's citizens and economy
9 and should be protected from incidental take in Vermont law.

10 Sec. 2. 10 V.S.A. § 4902 is amended to read:

11 § 4902. WILD BIRDS GENERALLY; NO OPEN SEASON; EXCEPTION

12 (a) Wild birds, other than pigeons, shall not be taken, possessed, bought, or
13 sold, at any time, except as provided by this part, rules of the Board, or orders
14 of the Commissioner. Birds coming from ~~without~~ outside the State belonging
15 to the same family as those protected by this subchapter shall not be bought or
16 sold.

17 (b) Bird harm or death that results from human activity where the intent
18 was not to harm or kill the bird, but where bird harm or death was a direct and
19 foreseeable result of the activity, is prohibited. Nothing in this section shall
20 require the Department to implement a new permitting program.

1 Sec. 3. 10 V.S.A. § 4910 is added to read:

2 § 4910. ENFORCEMENT DISCRETION

3 For purposes of migratory bird protection in this title, the Commissioner has
4 authority to exercise enforcement discretion, including refraining from taking
5 any enforcement action for the incidental take of migratory birds.

6 Enforcement, if any, shall focus on activities that have at least local population
7 level impacts on migratory birds. Enforcement of this provision, shall be in
8 accordance with 10 V.S.A. Section 4520.

9 Sec. 4. EFFECTIVE DATE

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

11 and that after passage the title of the bill be amended to read: “An act
12 relating to the Protection of Migratory Birds”

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17 (Committee vote: _____)

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Representative _____

FOR THE COMMITTEE