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**STATE OF VERMONT
GENERAL ASSEMBLY**

Legislative Committee on Administrative Rules (LCAR)

To: Sen. Christopher Bray, Chair, Senate Committee on Natural Resources
and Energy
Rep. Amy Sheldon, Chair, House Committee on Natural Resources, Fish,
and Wildlife

From: Legislative Committee on Administrative Rules

CC: Michael O'Grady, Deputy Chief Counsel, Office of Legislative Council

Date: September 5, 2019

Subject: Request for review of cable restraints versus snares

The Legislative Committee on Administrative Rules (LCAR) is writing to request that your committees review the issue of whether there is a distinction between snares and cable restraints and, if so, whether cable restraints should be a permissible method for taking animals. Pursuant to 10 V.S.A. § 4706, a person is prohibited from taking an animal by snare. However, both statute and Fish and Wildlife Board rules are silent on the definition of "snare," and neither statute nor rule define "cable restraint" or address whether cable restraints may be used for taking animals.

The issue of whether there is a distinction between snares and cable restraints came to LCAR's attention during our review of 18-P56, which was a rule proposed by the Fish and Wildlife Board applying specified provisions of the existing Furbearing Species Rule—10 App. V.S.A. § 44—to persons who trap nuisance furbearers for compensation.¹ The existing rule in subdivision 4.6 prohibits people from using snares for trapping, and the Board's proposed rule 18-P56 in subdivision 6.1 likewise extended that snaring prohibition to nuisance trappers. Therefore, the proposed rule does not allow for snaring, nor does it in any way alter the current law prohibition on snaring. However, neither the existing rule nor proposed rule 18-P56 address cable restraints.²

¹ Rule 18-P56 was proposed in accordance with 2018, Act No. 170, which in Sec. 11 requires nuisance trappers to have a trapping license beginning Jan. 1, 2020, and which in Sec. 13 requires the Board to adopt by rule the provisions of the existing trapping rules that shall apply to nuisance trappers.

² Although the Department of Fish and Wildlife considered the option of the Board withdrawing the rule and reinitiating the rulemaking process in order to define an appropriate use of cable restraints, due to the requirement for nuisance trappers to have a trapping license beginning Jan. 1, 2020, this option was not pursued.

While LCAR ultimately approved the rule as proposed by the Board, during our deliberations we heard testimony from the Department of Fish and Wildlife indicating that both the Department and the Board considered cable restraints to be distinguishable from snares and that cable restraints should be permitted for the taking of animals.³ Indeed, in the past, the Department has issued permits allowing the use of cable restraints. Conversely, LCAR also heard testimony from the U.S. Humane Society and Protect our Wildlife indicating that cable restraints are snares and that their use should be prohibited.

Due to uncertainty regarding whether it is the General Assembly's intent to allow for the taking of animals by cable restraint, the Department indicated to us at our August 22, 2019 meeting that it will not permit the use of cable restraints until it receives further legislative clarification. LCAR agrees that this issue should be clarified; accordingly, we request that your committees review whether cable restraints should be permitted in order to enact any necessary legislation.

Thank you for your consideration of this issue. If you need additional information on this topic, please contact Michael O'Grady in the Office of Legislative Council.

³ For reference, LCAR received a copy of a letter dated April 22, 2019, addressed to your committees from the Commissioner of Fish and Wildlife that discussed the Department's position on this issue.