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Agency Of Natural Resources

April 22, 2019

House Natural Resources Fish & Wildlife
Senate Natural Resources & Energy
Legislative Committee on Administrative Rules
Vermont State House
115 State Street
Montpelier, VT 05633-5301

Re: Snares and Cable Restraint Leghold Traps

Dear Honored Legislators:

I am writing on behalf of the Vermont Department of Fish and Wildlife to advise you of issues that have arisen, in part, as a result of the passage of Act 170 in 2018. As you may know, in accordance with section 13 of Act 170, the Vermont Fish and Wildlife Board was directed to apply trapping rules to “persons trapping for compensation under 10 V.S.A. § 4828.” In addition, section 11 of Act 170 amended 10 V.S.A. § 4828 to include the following language:

Sec. 11. 10 V.S.A. § 4828 is amended to read:§ 4828. TAKING OF RABBIT OR FUR-BEARING ANIMALS BY LANDOWNER; SELECTBOARD; CERTIFICATE; PENALTY
(a)(1) The provisions of law or rules of the Board relating to the taking of rabbits or fur-bearing animals shall not apply to:
(A) an owner, the owner’s employee, tenant, or caretaker of property protecting the property from damage by rabbits or fur-bearing animals; or
(B) a member of the selectboard of a town protecting public highways or bridges from such damage or submersion with the permission of the owner of lands affected.
(2) A person who for compensation sets a trap for rabbits or fur-bearing animals on the property of another in defense of that property shall possess a valid trapping license.

Based on the statutory language and the legislative hearings and discussions, the Legislature clearly intended to subject persons trapping for compensation to some of the trapping rules, and directed the Fish and Wildlife Board, in consultation with the Fish and Wildlife Department, to determine which rules were appropriate.

The rulemaking initiative has prompted examination of the regulations and statutes related to trapping and specifically to snares. An unrecognized and inadvertent, at least on the part of the Department, effect of the changes made to the nuisance trapping law is the banning of the use of

cable restraint devices, which are often called snares, for use in taking nuisance wildlife. A snare is a trapping device that uses a loop of wire, stranded wire, wire rope, or other material designed to set and close or tighten like a noose around the neck, torso, foot, or leg of an animal. In contrast, a cable restraint is a trapping device that also uses a wire, wire rope or other material but has a loop stop component attached the wire device that prevents it from closing beyond a specified point. Modern cable restraint snares have been extensively tested for animal welfare, selectivity, efficiency, safety, and practicability.

It appears to be the opinion of Legislative Council Attorney Michael O’Grady, that snares are banned and cannot be used by persons who trap nuisance wildlife for compensation. Mr. O’Grady wrote the following to the Department as part of a response to the Furbearer Management Rule pending before LCAR:

“Specifically, 10 VSA 4706 provides that a person shall not take an animal by snaring nor shall he or she possess a snare with intent to use the same.

So, by statute, you cannot take an animal with a snare or even possess a snare with intent to use it.”

The Department has always interpreted § 4828, and specifically the phrase the “*provisions of law* or rules of the Board related to the taking of rabbits or furbearing animals” to exempt landowners and the other persons specified, from the prohibition against using snares to take furbearers in defense of property and persons. The snare language is set forth in 10 V.S.A. § 4706, and states: “A person shall not take an animal by snaring nor shall he or she possess a snare with intent to use the same.” This statute was passed in 1923 and predates more recent developments in the use of cable restraint traps which are sometimes labeled snares, as well. Specifically, at the time of passage the term “snare” referred to a trap that uses a wire, cord or cable mechanism that tightens like a noose to capture animals.

The ban on snares predates extensive research regarding best management practices for trapping and the development of cable restraints that are designed to capture an animal alive and unharmed. The construction and operation of snares has evolved dramatically over time, particularly with regard to cable restraints. Cable restraints fundamentally differ from traditional snares in that they are designed and deployed specifically to humanely restrain rather than kill an animal. Comprehensive studies on the use of cable restraints in Wisconsin and Pennsylvania failed to show any ill-effects on domestic animals such as dogs, and concluded that, “cable restraint related injuries and mortalities were rare.” Cable restraints have been scientifically proven to be a practical, safe, effective, and humane tool for capturing furbearers and have been shown to minimize harm to domestic animals and wildlife alike.

Cable restraints are currently allowed to in 38 states, and most Canadian Provinces. Missouri (2004), Wisconsin (2004), Michigan (2005), Pennsylvania (2005), and more recently Ohio and West Virginia legalized cable restraints. These initiatives were based largely on the research done in support of the development of Best Management Practices (BMP’s) for trapping. Cable restraints have been approved by a number of institutional animal care and use committees pursuant to the Federal Animal Welfare act, and are used by researchers at a number of Universities to do science-based research. The specific role of these committees is to assure that

the proposed capture techniques (i.e. cable restraints) are humane and consistent with animal welfare requirements. In fact, two states (Pennsylvania and Wisconsin) that ban snares allow cable restraints in recognition of the significant differences between the traditional snares and cable restraints.

In accordance with 10 V.S.A. § 4138 (a), the Commissioner has broad authority to permit the taking of wild animals doing damage. The language of the statute is as follows:

(a) The Commissioner may take, permit, or cause to be taken at any time from any waters, and in any manner, fish which hinder or prevent the propagation of game or food fish and may take, permit, or cause to be taken at any time wild animals which are doing damage.

Accordingly, the Department has issued permits to address wildlife issued at airports that allow the use of cable restraint (snares) at airports. Specifically, these mechanisms allow for the capture and release of canids off the premises. They also make it much more likely that any non-target species that is inadvertently captured, including domestic animals, can be released unharmed.

The Department is aware of the potential controversial nature of trapping and the potential for misinformation regarding cable restraints. Given all of these factors, the Department would like to inform the jurisdictional legislative committees that we believe there are valid scientific, mechanical and legal distinctions between snares and cable restraints that have been demonstrated to be nonlethal in accordance with extensive studies. The Department intends to continue to authorize the use of cable restraints; in accordance with the scientific evidence and proven best management practices.

We would also like the committees to know that we are very open to discussing this issue and making any of our staff available to inform this discussion.

Thank you for your assistance and do not hesitate to contact me at 802-595-36911 or louis.porter@vermont.gov with any questions you may have.

Sincerely,



Louis Porter, Commissioner,
Department of Fish and Wildlife

cc: Mark Scott, Director of Wildlife
Kim Royer, Furbearer Biologist