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H.587

Introduced by Representative Brennan of Colchester

Referred to Committee on

Date:

Subject: Fish and wildlife; enforcement; penalties

Statement of purpose of bill as introduced: This bill proposes to amend multiple provisions relating to the enforcement of fish and wildlife violations.

An act relating to enforcement of fish and wildlife violations

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

Sec. 1. 10 V.S.A. § 4518 is amended to read:

§ 4518. BIG GAME VIOLATIONS; THREATENED AND ENDANGERED SPECIES; SUSPENSION; VIOLATIONS

(a) Whoever ~~violates~~ commits a big game violation in violation of a provision of this part or ~~orders~~ order or rules of the Board ~~relating to taking,~~ relating to taking, ~~possessing, transporting, buying, or selling of big game; relating to threatened~~ relating to threatened ~~or endangered species; or relating to the trade in covered animal parts or~~ relating to the trade in covered animal parts or ~~products~~ shall be fined not more than ~~\$1,000.00~~ \$2,000.00 nor less than ~~\$400.00~~ \$500.00 or imprisoned for not more than 60 days, or both. Upon a second and all subsequent convictions or any conviction while under license suspension related to the requirements of part 4 of this title, the violator shall

1 be fined not more than ~~\$4,000.00~~ \$5,000.00 nor less than \$2,000.00 or
2 imprisoned for not more than ~~60~~ 180 days, or both.

3 (b) As used in this part, “big game violation” means:

4 (1) a violation relating to the taking, possessing, transporting, buying, or
5 selling of big game;

6 (2) a violation of chapter 123 of this title and the rules related to
7 threatened and endangered species;

8 (3) a violation of section 4280 of this title relating to criminal
9 suspensions;

10 (4) a violation of chapter 124 of this title relating to the trade in covered
11 animal parts or products;

12 (5) interference with hunting, fishing, or trapping in violation of section
13 4708 of this title; or

14 (6) illegal commercial importation or possession of wild animals in
15 violation of section 4709 of this title.

16 Sec. 2. 10 V.S.A. § 4552 is amended to read:

17 § 4552. JURISDICTION; VENUE

18 The Vermont Criminal Division of the Superior Court shall have exclusive
19 jurisdiction over fish and wildlife violations, except for violations of section
20 4152 of this title and chapters 123 and 124 of this title and the rules adopted
21 under the section and chapters. Venue for adjudicating fish and wildlife

1 violations shall be the unit of the Criminal Division of the Superior Court
2 having jurisdiction over the geographical area where the offense is stated to
3 have occurred.

4 Sec. 3. 10 V.S.A. § 4572 is amended to read:

5 § 4572. DEFINITIONS; ENFORCEMENT DISCRETION

6 (a) As used in this subchapter, a minor fish and wildlife violation means:

7 (1) a violation of 10 V.S.A. § 4145 (violation of access and landing area
8 rules);

9 (2) a violation of 10 V.S.A. § 4251 (taking wild animals and fish
10 without a license);

11 (3) a violation of 10 V.S.A. § 4266 (failure to carry a license on person
12 or failure to exhibit license);

13 (4) a violation of 10 V.S.A. § 4267 (false statements in license
14 application; altering license; transferring license to another person; using
15 another person's license; or guiding an unlicensed person);

16 (5) a violation of 10 V.S.A. § 4713 (tree or ground stands or blinds); or

17 (6) [Repealed.]

18 (7) a violation of a biological collection rule adopted by the Board under
19 part 4 of this title.

20 (b) "Bureau" means the Judicial Bureau as created in 4 V.S.A. § 1102.

1 (c) Except for big game violations and under revocation offenses, a fish
2 and game warden may determine that a fish and wildlife violation shall be
3 charged as a minor violation based on factors such as:

4 (1) the offender has no prior history of violations;

5 (2) the offender was cooperative and forthcoming or reported the
6 violation;

7 (3) mitigating circumstances;

8 (4) the totality of circumstances would lead a reasonable person to
9 believe that the offense is minor in nature;

10 (5) there is no possibility of forfeiture; or

11 (6) there is no need for a criminal warrant to investigate a violation.

12 Sec. 4. 10 V.S.A. § 8003(a) is amended to read:

13 (a) The Secretary may take action under this chapter to enforce the
14 following statutes and rules, permits, assurances, or orders implementing the
15 following statutes, and the Board may take such action with respect to
16 subdivision (10) of this subsection:

17 * * *

18 (31) 10 V.S.A. chapter 124, relating to the trade in covered animal parts
19 or products; ~~and~~

20 (32) 10 V.S.A. chapter 164B, relating to collection and management of
21 covered household hazardous products; and

1 (33) 10 V.S.A. § 4152, relating to permits for scientific, educational, and
2 noncommercial ceremonial purposes.

3 Sec. 5. 10 V.S.A. § 4519 is amended to read;

4 § 4519. ~~ASSURANCE OF DISCONTINUANCE~~

5 ~~(a) As an alternative to judicial proceedings, the Commissioner may accept~~
6 ~~an assurance of discontinuance of any violation of this part. An assurance of~~
7 ~~discontinuance may include, but need not be limited to:~~

8 ~~(1) specific actions to be taken;~~

9 ~~(2) abatement or mitigation schedules;~~

10 ~~(3) payment of a civil penalty and the costs of investigation;~~

11 ~~(4) payment of an amount to be held in escrow pending the outcome of~~
12 ~~an action or as restitution to aggrieved persons.~~

13 ~~(b) An assurance of discontinuance shall be in writing and signed by the~~
14 ~~respondent and shall specify the statute or regulation alleged to have been~~
15 ~~violated. An assurance of discontinuance shall be simultaneously filed with the~~
16 ~~Attorney General and the Civil Division of the Superior Court of the county in~~
17 ~~which the alleged violation occurred or the Civil Division of the Superior~~
18 ~~Court of Washington County. An assurance of discontinuance may, by its~~
19 ~~terms, become an order of the court. Evidence of a violation of an assurance of~~
20 ~~discontinuance shall be prima facie proof of the violation.~~

1 ~~(c) Any violation of an assurance of discontinuance shall constitute a~~
2 ~~separate and distinct offense of the underlying statute or rule and shall be~~
3 ~~subject to an administrative penalty under section 4520 of this title, in addition~~
4 ~~to any other applicable penalties. [Repealed.]~~

5 Sec. 6. REPEAL

6 10 V.S.A. §§ 4520 (administrative penalties) and 4520a (notice and hearing
7 of fish and wildlife violations) are repealed.

8 Sec. 7. EFFECTIVE DATE

9 This act shall take effect on July 1, 2024.