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S.258

An act relating to the management of fish and wildlife

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

* * * Fish and Wildlife Board; Governance * * *

Sec. 1. 10 V.S.A. § 4041 is amended to read:

§ 4041. DEPARTMENT OF FISH AND WILDLIFE; FISH AND WILDLIFE
BOARD; MEMBERS, TERM, CHAIR

(a) There is hereby established a Department of Fish and Wildlife that shall be administered by the Commissioner.

(b)(1) There is hereby established a Fish and Wildlife Board. The purpose of the Board shall be to serve in an advisory capacity to the Department of Fish and Wildlife in the establishment of Department rules and any policies therein regarding the regulation and conservation of fish and wild game and the taking thereof, except as otherwise specifically provided by law.

(2) The Board shall consist of ~~14~~ 16 members, one from each ~~county~~ of the 14 counties in the State, appointed by the Governor with the advice and consent of the Senate and two at large members, one appointed by the Speaker of the House, and one appointed by the Committee on Committees. The members of the Board shall be appointed for a term of six years, or the unexpired portion thereof, and during their terms the 14 members appointed by the Governor by county shall reside in the county from which they are

1 appointed. In the event a member resigns or no longer resides in the county
2 from which ~~he or she~~ the member was appointed, the ~~Governor~~ authority that
3 appointed the member shall appoint a new member ~~from that county~~ for the
4 unexpired portion of the term. Appointments shall be made in ~~such~~ a manner
5 that either two or three terms shall expire each year. A member ~~servng a full~~
6 ~~six year term shall not be eligible for reappointment~~ shall be eligible to serve a
7 maximum of two full six-year terms. The ~~Governor~~ Board shall biennially
8 ~~designate~~ elect a chair.

9 (3) In order to be appointed to the Board, a person shall apply in writing
10 to the appointing authority.

11 (4) The appointing authority shall give due consideration to appointing
12 persons who:

13 (A) have a history of involvement with and dedication to fish and
14 wildlife, including a knowledge of fish and wildlife biology, ecology, and the
15 ethics of fish and wildlife management;

16 (B) provide balanced viewpoints; and

17 (C) recognize the challenges to wildlife and habitat caused by climate
18 change, including an unprecedented loss of biodiversity, and prioritize the
19 value of science in the work to conserve, protect, and restore natural
20 ecosystems.

1 (c) Upon appointment, each Board member shall receive training from the
2 Department on wildlife management and hunting ethics, such as the North
3 American Model of Wildlife Conservation; wildlife biology; coexistence with
4 wildlife; the reduction of conflict between humans and wildlife; and the
5 impacts of climate change on fish and wildlife.

6 (d) Upon the filing of a proposed rule regarding the regulation and
7 conservation of fish and wild game and the taking thereof with the Secretary of
8 State pursuant to 3 V.S.A. § 838, the Department shall submit the proposed
9 rule to the Board for its review. After a public hearing and an opportunity for
10 the public to submit written comments, the Board shall consider whether a
11 proposed rule is designed to maintain the best health, population, viewing
12 opportunities, and utilization levels of the regulated species and of other
13 necessary or desirable species that are ecologically related to the regulated
14 species and whether the rules are adequately supported by investigation and
15 research conducted by the Department. If the Board, by majority vote,
16 determines that a proposed rule should be revised, it shall submit a written
17 report to the Department setting forth its recommended revisions, and the
18 reasons therefore, within 60 days following its receipt of a proposed rule. The
19 Board shall include with its report the public comments it received. The
20 Department shall consider fully any recommendations by the Board. If the
21 Board's recommendations are not included in the rule, the Department shall

1 issue a written explanation of why it did not include the Board's
2 recommendations in the rule. The Board's written report and the Department's
3 response thereto shall be included with the materials submitted to the
4 Legislative Committee on Administrative Rules under 3 V.S.A. § 841.

5 Sec. 2. 10 V.S.A. § 4081 is amended to read:

6 § 4081. POLICY

7 (a)(1) As provided by Chapter II, § 67 of the Constitution of the State of
8 Vermont, the fish and wildlife of Vermont are held in trust by the State for the
9 benefit of the citizens of Vermont and shall not be reduced to private
10 ownership. The State of Vermont, in its sovereign capacity as a trustee for the
11 citizens of the State, shall have ownership, jurisdiction, and control of all of the
12 fish and wildlife of Vermont.

13 (2) The Commissioner of Fish and Wildlife shall manage and regulate
14 the fish and wildlife of Vermont in accordance with the requirements of this
15 part ~~and the rules of the Fish and Wildlife Board, including the Department of~~
16 Fish and Wildlife rules on Non-game Management as set forth in Code of
17 Vermont Rules 12-010-028. ~~The protection, propagation control,~~
18 ~~management, and conservation of fish, wildlife, and fur-bearing animals in this~~
19 ~~State are in the interest of the public welfare.~~ It is in the public welfare to
20 protect, manage, and conserve the fish and wildlife of the State and the habitats
21 in which they reside. The State, through the Commissioner of Fish and

1 Wildlife, shall safeguard the fish, ~~and~~ wildlife, and fur-bearing animals of the
2 State for the people of the State, and the State shall fulfill this duty with a
3 constant and continual vigilance.

4 (b) ~~Notwithstanding the provisions of 3 V.S.A. § 2803, the Fish and~~
5 ~~Wildlife Board shall be the State agency charged with carrying out the~~
6 ~~purposes of this subchapter.~~

7 (e) ~~An abundant,~~ A healthy deer herd is a ~~primary goal~~ one of the most
8 important goals of fish and wildlife management. The use of a limited unit
9 open season on antlerless deer shall be implemented only after a scientific
10 game management study by the Department of Fish and Wildlife supports such
11 a season.

12 (d)(c) Annually, the Department shall update a scientific management
13 study of the State deer herd. The study shall consider data provided by
14 Department biologists and citizen testimony taken under subsection (f)(e) of
15 this section.

16 (e)(d) Based on the results of the updated management study and citizen
17 testimony, the ~~Board~~ Department shall decide whether an antlerless deer
18 hunting season is necessary and, if so, how many permits are to be issued. If
19 the ~~Board~~ Department determines that an antlerless season is necessary, it shall
20 adopt a rule creating one and the Department shall then administer an
21 antlerless program.

1 ~~(e)~~(e) Annually, the Department shall hold regional public hearings to
2 receive testimony and data from concerned citizens about their knowledge and
3 concerns about the deer herd. The ~~Board~~ Department shall identify the regions
4 by rule.

5 ~~(e)~~(f) If the ~~Board~~ Department finds that an antlerless season is necessary
6 to maintain the health and size of the herd, the Department shall administer an
7 antlerless deer program. Annually, the ~~Board~~ Department shall determine how
8 many antlerless permits to issue in each wildlife management unit. For a
9 nonrefundable fee of \$10.00 for residents and \$25.00 for nonresidents, a
10 person may apply for a permit. Each person may submit only one application
11 for a permit. The Department shall allocate the permits in the following
12 manner:

13 (1) A Vermont landowner, as defined in section 4253 of this title, who
14 owns 25 or more contiguous acres and who applies shall receive a permit for
15 antlerless hunting in the management unit on which the land is located before
16 any are given to people eligible under subdivision (2) of this subsection. If the
17 land is owned by more than one individual, corporation, or other entity, only
18 one permit shall be issued. Landowners applying for antlerless permits under
19 this subdivision shall not, at the time of application or thereafter during the
20 regular hunting season, post their lands except under the provisions of section
21 4710 of this title. As used in this section, “post” means any signage that would

1 lead a reasonable person to believe that hunting is restricted on the land. If the
2 number of landowners who apply exceeds the number of permits for that
3 district, the Department shall award all permits in that district to landowners by
4 lottery.

5 (2) Permits remaining after allocation pursuant to subdivision (1) of this
6 subsection shall be issued by lottery.

7 (3) Any permits remaining after permits have been allocated pursuant to
8 subdivisions (1) and (2) of this subsection shall be issued by the Department
9 for a \$10.00 fee for residents. Ten percent of the remaining permits may be
10 issued to nonresident applicants for a \$25.00 fee.

11 Sec. 3. 10 V.S.A. § 4082 is amended to read:

12 § 4082. VERMONT FISH AND WILDLIFE REGULATIONS

13 (a) The ~~Board~~ Department may adopt rules, under 3 V.S.A. chapter 25, to
14 be known as the “Vermont Fish and Wildlife Regulations” for the regulation of
15 fish and wild game and the taking thereof except as otherwise specifically
16 provided by law. The rules shall be designed to maintain the best health,
17 population, and utilization levels of the regulated species and of other
18 necessary or desirable species that are ecologically related to the regulated
19 species. The rules shall be supported by ~~investigation and research conducted~~
20 ~~by the Department on behalf of the Board~~ the best science available through
21 Department and peer reviewed research.

1 (b)(1) Except as provided for under subdivision (2) of this subsection, the
2 ~~Board~~ Department annually may adopt rules relating to the management of
3 migratory game birds, and shall follow the procedures for rulemaking
4 contained in 3 V.S.A. chapter 25. For each ~~such~~ rule, the ~~Board~~ Department
5 shall conduct a hearing but, when necessary, may schedule the hearing for a
6 day before the terms of the rule are expected to be determined.

7 (2) Beginning with the 2015 hunting season, the ~~Board~~ Department may
8 set by procedure the daily bag and possession limits of migratory game birds
9 that may be harvested in each Waterfowl Hunting Zone annually without
10 following the procedures for rulemaking contained in 3 V.S.A. chapter 25.
11 The annual daily bag and possession limits of migratory game birds shall be
12 consistent with federal requirements. Prior to setting the migratory game bird
13 daily bag and possession limits, the ~~Board~~ Department shall provide a period
14 of not less than 30 days of public notice and shall conduct at least two public
15 informational hearings. The final migratory game bird daily bag and
16 possession limits shall be enforceable by the Department under its enforcement
17 authority in part 4 of this title.

18 (c) The ~~Board~~ Department may set by procedure the annual number of
19 antlerless deer that can be harvested in each Wildlife Management Unit and the
20 annual number of moose that can be harvested in each Wildlife Management
21 Unit without following the procedures for rulemaking contained in 3 V.S.A.

1 chapter 25. The annual numbers of antlerless deer and moose that can be
2 harvested shall be supported by investigation and research conducted by the
3 Department ~~on behalf of the Board~~. Prior to setting the antlerless deer and
4 moose permit numbers, the ~~Board~~ Department shall provide a period of not
5 less than 30 days of public notice and shall conduct at least three public
6 informational hearings. The public informational hearings may be conducted
7 simultaneously with the regional antlerless deer meetings required by
8 10 V.S.A. App. § 2b. The final annual antlerless deer and moose harvest
9 permit numbers shall be enforceable by the Department under its enforcement
10 authority in part 4 of this title. The final annual antlerless deer and moose
11 harvest permit numbers shall be reported to the House Committee on
12 Environment and Energy and the Senate Committee on Natural Resources and
13 Energy as part of the annual deer report required under section 4084 of this
14 title. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall
15 not apply to the report to be made under this subsection.

16 Sec. 4. 10 V.S.A. § 4048(d) is amended to read:

17 (d) The Commissioner of Fish and Wildlife, according to the provisions of
18 3 V.S.A. chapter 25 and after consultation with the Endangered Species
19 Committee, shall adopt a rule establishing a plan for nongame wildlife. The
20 rule may be amended from time to time, and shall be reviewed, after public
21 hearings, at least every five years. The plan shall contain:

1 (1) strategies to manage, inventory, preserve, protect, perpetuate, and
2 enhance all nongame wildlife in the State, including identification of wildlife
3 species in need of protection and information on their population distributions,
4 habitat requirements, limiting factors, and other pertinent biological and
5 ecological data on nongame wildlife species in need of protection;

6 (2) estimates of resources available for these strategies; and

7 (3) plans for research and education in nongame wildlife.

8 Sec. 5. 10 V.S.A. § 4601 is amended to read:

9 § 4601. TAKING FISH; POSSESSION

10 A person shall not take fish, except in accordance with this part and
11 regulations of the ~~Board~~ Department, or possess a fish taken in violation of this
12 part or regulations of the ~~Board~~ Department.

13 Sec. 6. 3 V.S.A. § 2803 is amended to read:

14 § 2803. ADVISORY CAPACITY

15 (a) All boards, committees, councils, activities, and departments ~~which~~ that
16 under this chapter are a part of the Agency shall be advisory only, except as
17 hereinafter provided, and the powers and duties of such boards, committees,
18 councils, activities, and departments, including administrative, policy making,
19 rulemaking, and regulatory functions, shall vest in and be exercised by the
20 Secretary of the Agency.

21 (b) Notwithstanding subsection (a) of this section or any other provision of

1 this chapter, ~~the Fish and Wildlife Board and~~ the Natural Resources Board
2 shall retain and exercise all powers and functions given to ~~them~~ it by law
3 ~~which~~ that are of regulatory or quasi-judicial nature, including the power to
4 adopt, amend, and repeal rules and regulations; to conduct hearings; to
5 adjudicate controversies; and to issue and enforce orders, in the manner and to
6 the extent to which those powers are given to ~~those respective boards~~ the
7 Board by law.

8 Sec. 7. CONFORMING REVISIONS

9 When preparing the Vermont Statutes Annotated for publication, the Office
10 of Legislative Counsel shall make the following revisions throughout the
11 statutes as needed for consistency with Secs. 1–6 of this act, provided the
12 revisions have no other effect on the meaning of the affected statutes:

13 (1) replace “Board” with “Department” in 10 V.S.A. §§ 4605, 4701,
14 4702, 4742a, 4828, 4830, 4861, 4902, and 5001; and

15 (2) revisions that are substantially similar to those described in
16 subdivision (1) of this section.

17 Sec. 8. TRANSITION

18 (a) The Vermont Fish and Wildlife regulations adopted by the Fish and
19 Wildlife Board and in effect as of the effective date of this act shall remain in
20 effect and have the full force and effect of law until such time as they are
21 repealed or amended by the General Assembly by legislative act or by the

1 Department of Fish and Wildlife pursuant to 3 V.S.A. chapter 25.

2 (b) The members of the Fish and Wildlife Board as of the effective date of
3 this act shall continue to serve as members of the Board until all new members
4 of the Board are appointed under 10 V.S.A. § 4041(b) or 90 days after the
5 effective date of this act, whichever occurs first.

6 (c) The Commissioner of Fish and Wildlife shall commence rulemaking to
7 develop the nongame wildlife plan required by 10 V.S.A. § 4048(d) not later
8 than July 1, 2024 and shall complete rulemaking not later than September 1,
9 2025. In so doing, the Commissioner shall work to harmonize provisions of all
10 Fish and Wildlife rules to realize the public interest in the sound management
11 of game and nongame species according to ecological principles supported by
12 the best science available through Department and peer-reviewed research.

13 * * * Hunting Coyote * * *

14 Sec. 9. 10 V.S.A. § 5008 is amended to read:

15 § 5008. HUNTING COYOTE ~~WITH AID OF DOGS; PERMIT; USE OF~~

16 BAIT

17 (a) ~~No person shall pursue coyote with the aid of dogs, either for training or~~
18 ~~taking purposes, without a permit issued by the Commissioner.~~

19 ~~(1) The Commissioner may deny any permit at the Commissioner's~~
20 ~~discretion. The Commissioner shall not issue more than 100 permits annually.~~

21 ~~(2) The number of permits that the Commissioner issues to nonresidents~~

1 ~~in any given year shall not exceed 10 percent of the number of permits issued~~
2 ~~to residents in the preceding year. The Commissioner shall establish a process~~
3 ~~and standards for determining which nonresidents are to receive a permit,~~
4 ~~including who will receive a permit if there are more nonresident applicants~~
5 ~~than nonresident permits.~~

6 ~~(3) A nonresident may train dogs to pursue coyote only while the~~
7 ~~training season is in effect in the nonresident's home state and subject to the~~
8 ~~requirements of this part and rules adopted under this part.~~

9 ~~(b)(1) The Commissioner shall issue permits under this section to a resident~~
10 ~~for a fee of \$50.00.~~

11 ~~(2) The application fee for a nonresident permit issued under this section~~
12 ~~shall be \$10.00, and the fee for a nonresident permit issued under this section~~
13 ~~shall be \$200.00 for a successful applicant No person shall pursue coyote with~~
14 ~~the aid of dogs, either for the purposes of training a dog or taking a coyote.~~

15 ~~(b) A person shall not take coyote by using bait, except as authorized~~
16 ~~pursuant to a trapping license issued under this part. As used in this~~
17 ~~subsection, "bait" means any animal, vegetable, fruit, or mineral matter placed~~
18 ~~with the intention of attracting wildlife.~~

19 Sec. 10. REPEAL; HUNTING COYOTE WITH AID OF DOGS;

20 ISSUANCE OF PERMITS

21 ~~(a) 10 V.S.A § 5009, as enacted under 2021 Acts and Resolves No. 165,~~

1 Sec. 1 (hunting coyote with aid of dogs), is repealed.

2 (b) The following subsections of 10 V.S.A. App. § 44 (furbearing species)
3 are repealed:

4 (1) 3.1 (definition of accompany for purpose of pursuing coyote);

5 (2) 3.6 (definition of control of dogs; taking of coyote);

6 (3) 3.7 (definition of coyote dog permit);

7 (4) 3.9 (definition of Department registered dog);

8 (5) 3.12 (definition of pack of dogs);

9 (6) 3.15 (definition of relaying packs and dogs);

10 (7) 3.16 (definition of subpermittee);

11 (8) 3.17 (definition of taking coyote with the aid of dogs);

12 (9) 3.19 (definition of training/control collar);

13 (10) 3.22 (definition of unregistered dog); and

14 (11) 4.20 (taking coyote with the aid of dogs).

15 (c) The Commissioner of Fish and Wildlife shall not issue a permit to hunt
16 or take coyote with the aid of dogs after the effective date of this act. If a
17 person submitted an application to hunt or take coyote with the aid of dogs as
18 of the effective date of this act but has not been awarded a permit, the
19 Commissioner of Fish and Wildlife shall not issue a permit and shall refund to
20 the permit applicant any fees submitted as part of the application.

