

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 Senate Bill No. 258 entitled “An act relating to the management of fish and
4 wildlife” respectfully reports that it has considered the same and recommends
5 that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

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

8 Sec. 1. 10 V.S.A. §§ 4041 and 4042 are amended to read:

9 § 4041. DEPARTMENT OF FISH AND WILDLIFE; FISH AND WILDLIFE
10 BOARD; MEMBERS, TERM, CHAIR

11 (a) There is hereby established a Department of Fish and Wildlife ~~that shall~~
12 ~~be administered by the Commissioner.~~ The Department shall be under the
13 direction and supervision of a Commissioner appointed by the Secretary as
14 provided in 3 V.S.A. § 2851. In addition to the duties and powers provided
15 under this chapter, the Commissioner shall have the powers and duties
16 specified in 3 V.S.A. § 2852 and such additional duties as may be assigned to
17 the Commissioner by the Secretary under 3 V.S.A. § 2853. The Commissioner
18 shall implement the policy and purposes specified in section 4081 of this title
19 where appropriate and to the extent that resources of the Department permit.

20 (b)(1) There is hereby established a Fish and Wildlife Board. The purpose
21 of the Board shall be to serve in an advisory capacity to the Department of Fish
22 and Wildlife in the establishment of Department rules and any policies therein

1 regarding the management and conservation of wildlife in the State, except for
2 establishment of rules and policies related to wildlife regulated under chapter
3 123 of this title.

4 (2) The Board shall consist of 14 15 members, one from each county,
5 appointed by the Governor with the advice and consent of the Senate and one
6 at large member. Five members of the Board shall be appointed by the
7 Commissioner, five members of the Board shall be appointed by the Speaker
8 of the House, and five members of the Board shall be appointed by the
9 Committee on Committees. The members of the Board shall be appointed for
10 a term of six years, or the unexpired portion thereof, and during their terms the
11 14 members appointed by county shall reside in the county from which they
12 are appointed. In the event a member resigns or no longer resides in the
13 county from which he or she the member was appointed, the Governor
14 authority that appointed the member shall appoint a new member from that
15 county for the unexpired portion of the term. Appointments shall be made in
16 such a manner that either two or three terms shall expire each year. A member
17 -serving a full six-year term shall not be eligible for reappointment shall be
18 eligible to serve a maximum of two full six-year terms. The ~~Governor~~
19 Commissioner shall biennially designate a chair.

20 (3) In order to be appointed to the Board, a person shall apply in writing
21 to the appointing authority. The appointing authority shall acknowledge, in
22 writing, the receipt of each application.

1 (4) In considering applicants to the Board, the appointing authority shall
2 give due consideration to:

3 (A) the need for the Board members to have a history of involvement
4 with and dedication to fish and wildlife, including a knowledge of fish and
5 wildlife biology, ecology, and the ethics of fish and wildlife management;

6 (B) the need for the Board to have a balanced representation and
7 include members of the public representing an approximately equal number of
8 licensed users and nonlicensed users of wildlife; and

9 (C) coordinating their appointments to ensure the appropriate
10 composition of the board as required by this subsection (b).

11 (5) As used in this subsection:

12 (A) “licensed user of wildlife” means a person who has held a
13 Vermont hunting, fishing, or trapping license in each of the previous five years
14 prior to appointment; and

15 (B) “nonlicensed user of wildlife” means a person who has not held a
16 Vermont hunting, fishing, or trapping license in any of the previous five years
17 prior to appointment.

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

1 (d) Upon the filing of a proposed rule with the Secretary of State pursuant
2 to 3 V.S.A. § 838, the Department shall submit the proposed rule to the Board
3 for its review. After a public hearing and an opportunity for the public to
4 submit written comments, the Board shall consider whether a proposed rule is
5 designed to maintain the best health, population, viewing opportunities, and
6 utilization levels of the regulated species and of other necessary or desirable
7 species that are ecologically related to the regulated species and whether the
8 rules are adequately supported by investigation and research conducted by the
9 Department. If the Board, by majority vote, determines that a proposed rule
10 should be revised, it shall submit a written report to the Department setting
11 forth its recommended revisions, and the reasons therefore, within 60 days
12 following its receipt of a proposed rule. The Board shall include with its report
13 the public comments it received. The Department shall consider fully any
14 recommendations by the Board. If the Board’s recommendations are not
15 included in the rule, the Department shall issue a written explanation of why it
16 did not include the Board’s recommendations in the rule. The Board’s written
17 report and the Department’s response thereto shall be included with the
18 materials submitted to the Legislative Committee on Administrative Rules
19 under 3 V.S.A. § 841.

20 § 4042. ~~COMMISSIONER; APPOINTMENT~~

1 ~~The Commissioner shall be appointed pursuant to the provisions of 3~~
2 ~~V.S.A. § 2851. The Commissioner shall also be Executive Secretary of the~~
3 ~~Board. [Repealed.]~~

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

5 § 4081. POLICY

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

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

1 State for the people of the State, and the State shall fulfill this duty with a
2 constant and continual vigilance.

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

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

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

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

21 ~~(f)~~(e) Annually, the Department shall hold regional public hearings to
22 receive testimony and data from concerned citizens about their knowledge and

1 concerns about the deer herd. The ~~Board~~ Department shall identify the regions
2 by rule.

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

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

1 district, the Department shall award all permits in that district to landowners by
2 lottery.

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

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

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

10 § 4082. VERMONT FISH AND WILDLIFE REGULATIONS

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

20 (b)(1) Except as provided for under subdivision (2) of this subsection, the
21 ~~Board~~ Department annually may adopt rules relating to the management of
22 migratory game birds; and shall follow the procedures for rulemaking

1 contained in 3 V.S.A. chapter 25. For each ~~such~~ rule, the ~~Board~~ Department
2 shall conduct a hearing but, when necessary, may schedule the hearing for a
3 day before the terms of the rule are expected to be determined.

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

15 (c) The ~~Board~~ Department may set by procedure the annual number of
16 antlerless deer that can be harvested in each Wildlife Management Unit and the
17 annual number of moose that can be harvested in each Wildlife Management
18 Unit without following the procedures for rulemaking contained in 3 V.S.A.
19 chapter 25. The annual numbers of antlerless deer and moose that can be
20 harvested shall be supported by investigation and research conducted by the
21 Department ~~on behalf of the Board~~. Prior to setting the antlerless deer and
22 moose permit numbers, the ~~Board~~ Department shall provide a period of not

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

12 Sec. 4. 10 V.S.A. § 4048 is amended:

13 (d) The Commissioner of Fish and Wildlife, according to the provisions of
14 3 V.S.A. chapter 25 and after consultation with the Fish and Wildlife Board
15 and the Endangered Species Committee, shall adopt a rule establishing a plan
16 for nongame wildlife. The rule may be amended from time to time, and shall
17 be reviewed, after public hearings, at least every five years. The plan shall
18 contain:

19 (1) strategies to manage, inventory, preserve, protect, perpetuate, and
20 enhance all nongame wildlife in the State, including identification of wildlife
21 species in need of protection and information on their population distributions,

1 habitat requirements, limiting factors, and other pertinent biological and
2 ecological data on nongame wildlife species in need of protection;

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

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

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

6 § 4601. TAKING FISH; POSSESSION

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

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

11 § 2803. ADVISORY CAPACITY

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

18 (b) Notwithstanding subsection (a) of this section or any other provision of
19 this chapter, ~~the Fish and Wildlife Board and the Natural Resources Board~~
20 shall retain and exercise all powers and functions given to ~~them~~ it by law
21 ~~which~~ that are of regulatory or quasi-judicial nature, including the power to
22 adopt, amend, and repeal rules and regulations; to conduct hearings; to

1 adjudicate controversies; and to issue and enforce orders, in the manner and to
2 the extent to which those powers are given to ~~those respective boards~~ the
3 Board by law.

4 Sec. 7. CONFORMING REVISIONS

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

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

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

13 Sec. 8. TRANSITION

14 (a) The Vermont Fish and Wildlife regulations adopted by the Fish and
15 Wildlife Board and in effect as of the effective date of this act shall remain in
16 effect and have the full force and effect of law until such time as they are
17 repealed or amended by the General Assembly by legislative act or by the
18 Department of Fish and Wildlife pursuant to 3 V.S.A. chapter 25.

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

1 (c) The Commissioner of Fish and Wildlife shall commence rulemaking to
2 develop the nongame wildlife plan required by 10 V.S.A. § 4048(d) not later
3 than July 1, 2024 and shall complete rulemaking not later than September 1,
4 2025. In so doing, the Commissioner shall work to harmonize provisions of all
5 Fish and Wildlife rules to realize the public interest in the sound management
6 of game and nongame species according to ecological principles supported by
7 the best science available through Department and peer-reviewed research.

8 Sec. 9. 10 V.S.A. § 4001 is amended to read:

9 § 4001. DEFINITIONS

10 Words and phrases used in this part, unless otherwise provided, shall be
11 construed to mean as follows:

12 * * *

13 (14) Fur-bearing animals: beaver, otter, marten, mink, raccoon, fisher,
14 fox, skunk, coyote, bobcat, weasel, opossum, lynx, wolf, and muskrat.

15 * * *

16 (15) Wild animals or wildlife: all animals, including birds, fish,
17 amphibians, and reptiles, other than domestic animals, domestic fowl, or
18 domestic pets.

19 * * *

20 (23) Take and taking: pursuing, shooting, hunting, killing, capturing,
21 trapping, snaring, and netting fish, birds, and quadrupeds and all lesser acts,
22 such as disturbing, harrying, worrying, or wounding or placing, setting,

1 drawing, or using any net or other device commonly used to take fish or wild
2 animals, whether they result in the taking or not; and shall include every
3 attempt to take and every act of assistance to every other person in taking or
4 attempting to take fish or wild animals, provided that when taking is allowed
5 by law, reference is had to taking by lawful means and in a lawful manner.

6 * * *

7 (42) “Trapping” means to take or attempt to take fur-bearing animals
8 with traps including the dispatching of lawfully trapped fur-bearing animals.

9 Sec. 10. 10 V.S.A. § 4866 is added to read:

10 § 4866. SETBACKS; TRAPPING

11 (a) As used in this section:

12 (1) “Public highway,” means any highway, as that term is defined in
13 24 V.S.A. § 4, including Class 4 roads, shown on the highway maps of the
14 respective towns made by the Agency of Transportation, but shall not include
15 trails.

16 (2) “Trail” means a path or corridor open to the public, including all
17 areas used for nonmotorized recreational purposes such as hiking, walking,
18 bicycling, cross-country skiing, horseback riding, and other similar activities.

19 (b) No foothold trap or body-gripping trap shall be set:

20 (1) on or within 50 feet of a trail or a public highway, including when
21 the trap is set in water or under the ice.

1 (2) on or within 100 feet of a building, parking lot, visitor center, park,
2 playground, picnic area, shelter, pavilion, school, camp or campground,
3 recreational facility, or any other area where persons may reasonably be
4 expected to recreate, including when the trap is set in water or under the ice.

5 (c) The requirements of subsection (b) of this section shall not apply to a
6 resident or nonresident owner of land, the owner’s spouse, and the owner’s
7 minor children when trapping on the owner’s land, regardless of whether the
8 land is posted under section 4710 of this title.

9 Sec. 11. REPEAL; FISH AND WILDLIFE REGULATIONS; TRAPPING

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

12 (1) subsection 3.20 (definition of trapping);

13 (2) subsection 3.11 (definition of legal trail);

14 (3) subsection 3.14 (definition of public trail); and

15 (4) subsection 4.15 (trapping setbacks).

16 * * * Hunting Coyote * * *

17 Sec. 12. 10 V.S.A. § 5008 is amended to read:

18 § 5008. ~~HUNTING COYOTE WITH AID OF DOGS; PERMIT; USE OF~~

19 BAIT

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

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

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

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

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

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

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

22 Sec. 13. REPEAL; HUNTING COYOTE WITH AID OF DOGS; ISSUANCE

1 OF PERMITS

2 (a) 10 V.S.A § 5009, as enacted under 2021 Acts and Resolves No. 165,
3 Sec. 1 (hunting coyote with aid of dogs), is repealed.

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

6 (1) 3.1 (definition of accompany for purpose of pursuing coyote);

7 (2) 3.6 (definition of control of dogs; taking of coyote);

8 (3) 3.7 (definition of coyote dog permit);

9 (4) 3.9 (definition of Department registered dog);

10 (5) 3.12 (definition of pack of dogs);

11 (6) 3.15 (definition of relaying packs and dogs);

12 (7) 3.16 (definition of subpermittee);

13 (8) 3.17 (definition of taking coyote with the aid of dogs);

14 (9) 3.19 (definition of training/control collar);

15 (10) 3.22 (definition of unregistered dog); and

16 (11) 4.20 (taking coyote with the aid of dogs).

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

1 Commissioner of Fish and Wildlife shall not issue a permit and shall refund to
2 the permit applicant any fees submitted as part of the application.

3 * * * Effective Date * * *

4 Sec. 14. EFFECTIVE DATE

5 This act shall take effect on passage.

6

7

8

9

10 (Committee vote: _____)

11

12

Senator _____

13

FOR THE COMMITTEE