

1 S.258

2 Introduced by Senators Bray, Hardy, McCormack and White

3 Referred to Committee on

4 Date:

5 Subject: Fish and wildlife; Fish and Wildlife Board; hunting coyote;

6 governance

7 Statement of purpose of bill as introduced: This bill proposes to transfer the
8 authority to adopt rules for the taking of fish, wildlife, and fur-bearing animals
9 from the Fish and Wildlife Board to the Department of Fish and Wildlife. The
10 bill would also amend the authority of the Fish and Wildlife Board so that it
11 serves in an advisory capacity to the Department of Fish and Wildlife. In
12 addition, the bill would prohibit the hunting of coyote with dogs.

13 An act relating to the management of fish and wildlife

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

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

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

17 § 4041. DEPARTMENT OF FISH AND WILDLIFE; FISH AND WILDLIFE
18 BOARD; MEMBERS, TERM, CHAIR

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

1 direction and supervision of a Commissioner appointed by the Secretary as
2 provided in 3 V.S.A. § 2851. In addition to the duties and powers provided
3 under this chapter, the Commissioner shall have the powers and duties
4 specified in 3 V.S.A. § 2852 and such additional duties as may be assigned to
5 the Commissioner by the Secretary under 3 V.S.A. § 2853. The Commissioner
6 shall implement the policy and purposes specified in section 4081 of this title
7 where appropriate and to the extent that resources of the Department permit.

8 (b)(1) There is hereby established a Fish and Wildlife Board. The purpose
9 of the Board shall be to serve in an advisory capacity to the Department of Fish
10 and Wildlife in the establishment of Department policy and rules.

11 (2) The Board shall consist of 14 12 members, ~~one from each county,~~
12 ~~appointed by the Governor with the advice and consent of the Senate. Four~~
13 members of the Board shall be appointed by the Commissioner, four members
14 of the Board shall be appointed by the Speaker of the House, and four
15 members of the Board shall be appointed by the Committee on Committees.

16 The members of the Board shall be appointed for a term of six years, or the
17 unexpired portion thereof, ~~and during their terms shall reside in the county~~
18 ~~from which they are appointed. In the event a member no longer resides in the~~
19 ~~county from which he or she was appointed, the Governor shall appoint a~~
20 ~~member from that county for the unexpired portion of the term. Appointments~~
21 shall be made in ~~such~~ a manner that either two or three terms shall expire each

1 year. A member serving a full six-year term shall not be eligible for
2 reappointment. The ~~Governor~~ Commissioner shall biennially designate a
3 chair.

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

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

9 (A) the need for geographic diversity on the part of the Board's
10 membership;

11 (B) the need for the Board members to have a history of involvement
12 with and dedication to fish and wildlife, including a knowledge of fish and
13 wildlife biology, ecology, and the ethics of fish and wildlife management;

14 (C) the need for the Board to include members of the public
15 representing both consumptive uses and nonconsumptive uses of wildlife; and

16 (D) coordinating their appointments to ensure the appropriate
17 composition of the board as defined by subdivisions (A)–(C) of this
18 subdivision (4).

19 (5) As used in this subsection, “nonconsumptive use of wildlife” means
20 watching, photographing, listening to wildlife, and similar other activities
21 without engaging in hunting, fishing, trapping, or any other form of extraction.

1 (c) Upon appointment, each Board member shall receive training from the
2 Department on wildlife biology, coexistence with wildlife, ethics, the reduction
3 of conflict between humans and wildlife, and the impacts of climate change on
4 fish and wildlife.

5 (d) Upon the filing of a proposed rule with the Secretary of State pursuant
6 to 3 V.S.A. § 838, the Department shall submit the proposed rule to the Board
7 for its review. After a public hearing and an opportunity for the public to
8 submit written comments, the Board shall consider whether a proposed rule is
9 designed to maintain the best health, population, viewing opportunities, and
10 utilization levels of the regulated species and of other necessary or desirable
11 species that are ecologically related to the regulated species and whether the
12 rules are adequately supported by investigation and research conducted by the
13 Department. If the Board, by majority vote, determines that a proposed rule
14 should be revised, it shall submit a written report to the Department setting
15 forth its recommended revisions, and the reasons therefore, within 60 days
16 following its receipt of a proposed rule. The Board shall include with its report
17 the public comments it received. The Department shall consider fully any
18 recommendations by the Board and shall issue a written explanation of why it
19 overruled the Board's arguments and considerations for revising the rule. The
20 Board's written report and the Department's response thereto shall be included

1 with the materials submitted to the Legislative Committee on Administrative
2 Rules under 3 V.S.A. § 841.

3 § 4042. ~~COMMISSIONER; APPOINTMENT~~

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

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

8 § 4081. POLICY

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

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

1 protect, manage, and conserve the fish and wildlife of the State and the habitats
2 in which they reside. The State, through the Commissioner of Fish and
3 Wildlife, shall safeguard the fish, and wildlife, ~~and fur-bearing animals~~ of the
4 State for the people of the State, and the State shall fulfill this duty with a
5 constant and continual vigilance.

6 (3) The Commissioner shall commence rulemaking to develop the
7 nongame wildlife plan required by subsection 4048(d) of this title 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 ~~(b) Notwithstanding the provisions of 3 V.S.A. § 2803, the Fish and~~
14 ~~Wildlife Board shall be the State agency charged with carrying out the~~
15 ~~purposes of this subchapter.~~

16 ~~(c) An abundant, A healthy deer herd is a ~~primary goal~~ one of the most~~
17 ~~important goals~~ of fish and wildlife management. The use of a limited unit
18 open season on antlerless deer shall be implemented only after a scientific
19 game management study by the Department of Fish and Wildlife supports such
20 a season.

1 ~~(c)~~(c) Annually, the Department shall update a scientific management
2 study of the State deer herd. The study shall consider data provided by
3 Department biologists and citizen testimony taken under subsection ~~(f)~~(e) of
4 this section.

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

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

14 ~~(f)~~(f) If the ~~Board~~ Department finds that an antlerless season is necessary
15 to maintain the health and size of the herd, the Department shall administer an
16 antlerless deer program. Annually, the ~~Board~~ Department shall determine how
17 many antlerless permits to issue in each wildlife management unit. For a
18 nonrefundable fee of \$10.00 for residents and \$25.00 for nonresidents, a
19 person may apply for a permit. Each person may submit only one application
20 for a permit. The Department shall allocate the permits in the following
21 manner:

1 (1) A Vermont landowner, as defined in section 4253 of this title, who
2 owns 25 or more contiguous acres and who applies shall receive a permit for
3 antlerless hunting in the management unit on which the land is located before
4 any are given to people eligible under subdivision (2) of this subsection. If the
5 land is owned by more than one individual, corporation, or other entity, only
6 one permit shall be issued. Landowners applying for antlerless permits under
7 this subdivision shall not, at the time of application or thereafter during the
8 regular hunting season, post their lands except under the provisions of section
9 4710 of this title. As used in this section, “post” means any signage that would
10 lead a reasonable person to believe that hunting is restricted on the land. If the
11 number of landowners who apply exceeds the number of permits for that
12 district, the Department shall award all permits in that district to landowners by
13 lottery.

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

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

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

2 § 4082. VERMONT FISH AND WILDLIFE REGULATIONS

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

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

18 (2) Beginning with the 2015 hunting season, the ~~Board~~ Department may
19 set by procedure the daily bag and possession limits of migratory game birds
20 that may be harvested in each Waterfowl Hunting Zone annually without
21 following the procedures for rulemaking contained in 3 V.S.A. chapter 25.

1 The annual daily bag and possession limits of migratory game birds shall be
2 consistent with federal requirements. Prior to setting the migratory game bird
3 daily bag and possession limits, the ~~Board~~ Department shall provide a period
4 of not less than 30 days of public notice and shall conduct at least two public
5 informational hearings. The final migratory game bird daily bag and
6 possession limits shall be enforceable by the Department under its enforcement
7 authority in part 4 of this title.

8 (c) The ~~Board~~ Department may set by procedure the annual number of
9 antlerless deer that can be harvested in each Wildlife Management Unit and the
10 annual number of moose that can be harvested in each Wildlife Management
11 Unit without following the procedures for rulemaking contained in 3 V.S.A.
12 chapter 25. The annual numbers of antlerless deer and moose that can be
13 harvested shall be supported by investigation and research conducted by the
14 Department ~~on behalf of the Board~~. Prior to setting the antlerless deer and
15 moose permit numbers, the ~~Board~~ Department shall provide a period of not
16 less than 30 days of public notice and shall conduct at least three public
17 informational hearings. The public informational hearings may be conducted
18 simultaneously with the regional antlerless deer meetings required by
19 10 V.S.A. App. § 2b. The final annual antlerless deer and moose harvest
20 permit numbers shall be enforceable by the Department under its enforcement
21 authority in part 4 of this title. The final annual antlerless deer and moose

1 harvest permit numbers shall be reported to the House Committee on
2 Environment and Energy as part of the annual deer report required under
3 section 4084 of this title. The provisions of 2 V.S.A. § 20(d) (expiration of
4 required reports) shall not apply to the report to be made under this subsection.

5 Sec. 4. 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. 5. 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

1 adopt, amend, and repeal rules and regulations; to conduct hearings; to
2 adjudicate controversies; and to issue and enforce orders, in the manner and to
3 the extent to which those powers are given to ~~those respective boards~~ the
4 Board by law.

5 Sec. 6. CONFORMING REVISIONS

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

10 (1) replace “Board” with “Department” in 10 V.S.A. §§ 4605, 4701,
11 4702, 4742a, 4828, 4830, 4861, 4902, and 5001; and

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

14 Sec. 7. TRANSITION

15 (a) The Vermont Fish and Wildlife regulations promulgated by the Fish
16 and Wildlife Board and in effect as of the effective date of this act shall remain
17 in effect and have the full force and effect of law until such time as they are
18 repealed or amended by the Department of Fish and Wildlife pursuant to
19 3 V.S.A. chapter 25.

1 (b) The terms of the members of the Fish and Wildlife Board as of the
2 effective date of this act shall terminate 90 days after the effective date of this
3 act.

4 * * * Hunting Coyote * * *

5 Sec. 8. 10 V.S.A. § 5008 is added to read:

6 § 5008. HUNTING COYOTE; USE OF BAIT

7 (a) No person shall pursue coyote with the aid of dogs, either for the
8 purposes of training a dog or taking a coyote.

9 (b) A person shall not take coyote by using bait. As used in this
10 subsection, “bait” means any animal, vegetable, fruit, or mineral matter placed
11 with the intention of attracting wildlife.

12 Sec. 9. REPEALS

13 (a) 2021 Acts and Resolves No. 165, Sec. 1 (hunting coyote with aid of
14 dogs) is repealed.

15 (b) 2021 Acts and Resolves No. 165, Sec. 2 (moratorium on hunting of
16 coyote with dogs) is repealed.

17 (c) 2021 Acts and Resolves No. 165, Sec. 3 (Fish and Wildlife Board rules;
18 hunting coyote with dogs) is repealed.

19 * * * Effective Date * * *

20 Sec. 10. EFFECTIVE DATE

21 This act shall take effect on passage.