

1 H.13

2 Introduced by Representatives Deen of Westminster, McCullough of Williston
3 and Webb of Shelburne

4 Referred to Committee on

5 Date:

6 Subject: Fish and game; forest resources; deer doing damage

7 Statement of purpose: This bill proposes to authorize the commissioner of fish
8 and wildlife to approve the taking of up to 10 deer per year when deer are
9 doing damage to forestland managed for the production of a sawlog or sawlog
10 product of a commercial species of any grade, provided that: the land is not
11 posted against hunting; the forestland at issue is managed under a current
12 forest management plan; and a consulting forester has determined in writing
13 that deer overbrowsing jeopardizes the regeneration of commercial timber
14 species on the forestland at issue. The bill would also provide that the deer
15 herd is to be managed in balance with other forest species, uses, and values. In
16 addition, the bill would require the annual study of the deer herd to consider
17 data on the impact of the deer herd on forest health.

18 An act relating to deer doing damage to forest resources

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

1 ~~Sec. 1. 10 V.S.A. § 4826 is amended to read:~~

2 § 4826. TAKING DEER DAMAGING CROPS

3 (a) A person, including an authorized member of the person's family, an
4 authorized regular on-premises employee, or an agent who holds a Vermont
5 hunting license and who is designated by the person, may take, on land owned
6 or occupied by the person, up to four deer per year which the person can prove
7 were doing damage to the following:

8 (1) a tree which is being grown in a plantation or being cultivated for the
9 purpose of harvesting an annual or perennial crop or producing any marketable
10 item; or

11 (2) a crop-bearing plant; or

12 (3) a crop, except grass.

13 (b)(1) The commissioner may issue in writing an approval for a person,
14 including an authorized member of the person's family, an on-premises
15 employee, or an agent who holds a Vermont hunting license and who is
16 designated by the person, to take, on land owned or occupied by the person, up
17 to ten deer per year that are doing damage to forestland managed for the
18 production, now or in the future, of a sawlog or sawlog product of a
19 commercial species of any grade, provided that:

20 (A) The land owned by the person is not posted against hunting;

1 ~~(B) The person possesses for the forestland in question a forest~~
2 ~~management plan that is current and in effect;~~

3 (C) A consulting forester or county forester has:

4 (i) inspected the forestland at issue;

5 (ii) determined that deer overbrowsing jeopardizes the
6 regeneration of commercial timber species on the forestland; and

7 (iii) submitted a summary of inspection to the commissioner of
8 fish and wildlife.

9 (2) Within 30 days of submission of an inspection summary under
10 subdivision (1) of this subsection, the commissioner shall issue written
11 approval to take deer under this subsection or shall request that a forester
12 selected by the commissioner conduct a second inspection of the forestland at
13 issue in order to confirm that deer overbrowsing on the forestland jeopardizes
14 regeneration of commercial timber species on that land. If the determination of
15 the forester selected by the commissioner conflicts with the original
16 determination in the submitted inspection summary, the commissioner may
17 refuse to authorize the taking of deer on the forestland at issue.

18 (3) No later than 180 days after the submission of the original inspection
19 summary under subdivision (1) of this subsection, the commissioner shall
20 notify the person who owns the forestland at issue of the outcome of the
21 second inspection and shall issue written approval or denial to take deer.

1 ~~(c)~~ A person by whom, or under whose direction, a deer is wounded or
2 killed, shall report in writing signed by him or her within 12 hours all the facts
3 relative to the act to a game warden. The report shall state the time and place
4 of the wounding or killing.

5 ~~(e)~~(d) A person who kills a deer shall immediately properly dress the
6 carcass and care for the meat.

7 ~~(d)~~(e) The game warden shall immediately investigate the case and if
8 satisfied that the deer was taken as provided in this section, shall give the
9 person a certificate of the finding in the matter. The certificate shall entitle the
10 person to the ownership of the carcass, but the person shall not sell or give
11 away the same. However, the head and the antlers, if any, shall be turned over
12 to a warden. In addition, any carcass not needed for home consumption in the
13 household of the certificate-holder shall be turned over to a game warden.

14 ~~(e)~~(f) When a game warden finds that a deer has been wounded or killed
15 contrary to the provisions of this section, he or she shall dispose of the deer
16 under the direction of the commissioner, and any monies received therefor
17 shall be paid to the commissioner.

18 ~~(f)~~(g) "Person" includes all people who jointly own or occupy the land.
19 Therefore, if two or more people jointly own or occupy land, they may jointly
20 take or authorize the taking of only up to four deer.

1 ~~(g)(h)~~ The commissioner may issue a permit to a person to take more than
2 ~~four deer under this section~~ the maximum limit of deer doing damage set forth
3 in subsection (a) or (b) of this section if:

4 (1) the land owned by the person is not posted against hunting;

5 (2) the person can prove that the property is sustaining additional and
6 ongoing damage; and

7 (3) the person has taken reasonable measures to prevent the deer from
8 continuing to damage the crop or continuing to damage forestland managed for
9 the production of a sawlog or sawlog product of a commercial species of
10 any grade.

11 ~~(h)~~(i) The commissioner is authorized to issue an order requiring any
12 person to remove food or bait which has the effect of luring deer into the
13 vicinity of the property sustaining damage. In this subsection, food does not
14 include a crop or crop-bearing plant.

15 Sec. 2. 10 V.S.A. § 4081(c) and (d) are amended to read:

16 (c) An abundant, healthy deer herd, managed in balance with other forest
17 species, uses, and values, is a primary goal of fish and wildlife management.

18 The use of a limited unit open season on antlerless deer shall be implemented
19 only after a scientific game management study by the fish and wildlife
20 department supports such a season.

1 ~~(d) Annually, the department shall update a scientific management study of~~
2 ~~the state deer herd. The study shall consider data provided by department of~~
3 ~~fish and wildlife biologists; the department of forests, parks and recreation~~
4 ~~regarding the impact of deer populations on forest health; and citizen testimony~~
5 ~~taken under subsection (f) of this section.~~

6 Sec. 3. DEPARTMENT OF FISH AND WILDLIFE REPORT ON TAKING
7 OF DEER DOING DAMAGE

8 ~~On or before January 15, 2013, and annually thereafter, the commissioner~~
9 ~~of fish and wildlife shall report to the house committee on fish, wildlife and~~
10 ~~water resources and the senate committee on natural resources and energy~~
11 ~~regarding implementation of the commissioner's authority to approve the~~
12 ~~taking of deer doing damage to forestland managed for the production of~~
13 ~~sawlogs or sawlog products from commercial species. The report~~
14 ~~shall include:~~

15 ~~(1) A summary of how the commissioner has exercised his or her~~
16 ~~authority to approve the taking of deer doing damage to forestland managed~~
17 ~~for the production of sawlogs or sawlog products from commercial species;~~

18 ~~(2) The number of requests that the commissioner received for approval~~
19 ~~to take deer doing damage to forestland managed for the production of sawlogs~~
20 ~~or sawlog products from commercial species;~~

1 ~~(3) The number of approvals that the commissioner issued to take deer~~
2 ~~doing damage to forestland managed for the production of sawlogs or sawlog~~
3 ~~products from commercial species;~~

4 ~~(4) An estimate of the number of deer taken under the commissioner's~~
5 ~~authority to approve the taking of deer doing damage to forestland managed~~
6 ~~for the production of sawlogs or sawlog products from commercial species.~~

7 Sec. 4. EFFECTIVE DATE

8 ~~This act shall take effect on July 1, 2011.~~

9
Sec. 1. FINDINGS

The general assembly finds and declares:

(1) The forests of Vermont are integral to the economy, culture, beauty, and appeal of the state.

(2) Each 1,000 acres of forestland in Vermont supports 1.4 forest-based manufacturing, forestry, and logging jobs and 1.4 forest-related tourism and recreation jobs.

(3) Vermont landowners received estimated stumpage revenue in 2005 of \$31.5 million.

(4) The sale of Christmas trees, wreaths, and maple syrup contributed approximately \$22 million in 2005.

(5) White-tailed deer in Vermont are also important socially, culturally, ecologically, and economically.

(6) Under 10 V.S.A. § 4081, an abundant, healthy deer herd is a primary goal of fish and wildlife management in Vermont.

(7) Activities related to white-tailed deer such as hunting, photographing, and viewing generate in excess of \$157 million annually in Vermont, and the revenue generated from deer hunting is dispersed throughout the state's rural communities in the form of food, gasoline, and lodging expenditures.

(8) In parts of Vermont, however, the state's distinct interests in

forestland and the deer herd are in conflict where deer populations have damaged existing wood lots and destroyed efforts to reseed or regenerate saplings.

(9) The existing authority to take deer doing damage to crops has been interpreted by the department of fish and wildlife as applying to trees or plantations cultivated for an annual or perennial crop and not to land managed for the production of other marketable forest products.

(10) The general assembly should clarify the authority of a land owner to take deer doing damage to land managed for the production of marketable forest products in order to mitigate the existing conflicts between management of forestland and the management of the deer herd.

Sec. 2. 10 V.S.A. § 4826 is amended to read:

§ 4826. TAKING DEER DAMAGING CROPS OR FORESTLAND

(a) A person, including an authorized member of the person's family, an authorized regular on-premises employee, or an agent who holds a valid Vermont hunting license and who is designated by the person, may take, with the approval of a game warden, on land owned or ~~occupied~~ leased by the person, up to four deer per calendar year which the person can prove were doing damage to the following:

(1) a tree which is being grown in a plantation or being cultivated for the purpose of harvesting an annual or perennial crop or producing any marketable item; or

(2) a crop-bearing plant; or

(3) a crop, except grass.

(b)(1) The commissioner may issue in writing an approval for a person, including an authorized member of the person's family, an on-premises employee, or an agent who holds a Vermont hunting license and who is designated by the person, to take on land owned or leased by the person up to four deer per calendar year that are doing damage to land managed for the production of marketable forest products, provided that:

(A) The land owned by the person is not posted against hunting;

(B) The person possesses for the land in question a forest management plan that is current and in effect;

(C) The person has notified a game warden of the alleged damage to land managed for the production of marketable forest products;

(D) A county forester has:

(i) inspected the land at issue;

(ii) determined that deer overbrowsing jeopardizes the regeneration of timber species on the land; and

(iii) submitted a summary of inspection to the commissioner of fish and wildlife.

(2) Within 60 days of submission of an inspection summary under subdivision (1) of this subsection, the commissioner shall:

(A) issue a written approval to take up to four antlerless deer on the land at issue, provided that the commissioner shall approve only the taking of an appropriate number of deer in a calendar year on the land at issue as determined by a review of the size of the parcel and all other pertinent factors; or

(B) issue a written decision denying approval to take deer on the land at issue, including a summary of the basis for the denial.

(c) A person by whom, or under whose direction, a deer is wounded or killed, shall report in writing signed by him or her within 12 hours all the facts relative to the act to a game warden. The report shall state the time and place of the wounding or killing.

(e)(d) A person who kills a deer shall immediately properly dress the carcass and care for the meat.

(d)(e) The game warden shall immediately investigate the case ~~and if~~. Upon request of a warden, the person owning or leasing the land or his or her agent shall direct the warden to the site on which the deer was killed. If satisfied that the deer was taken as provided in this section, the warden shall give the person a certificate of the finding in the matter. The certificate shall entitle the person to the ownership of the carcass, but the person shall not sell or give away the same. However, ~~the head and~~ the antlers, if any, shall be turned over to a warden. In addition, any carcass not needed for home consumption in the household of the certificate-holder shall be turned over to a game warden.

(e)(f) When a game warden finds that a deer has been wounded or killed contrary to the provisions of this section, he or she shall dispose of the deer under the direction of the commissioner, and any monies received therefor shall be paid to the commissioner.

(f)(g)(1) "Person" includes all people who jointly own or ~~occupy~~ lease the land. ~~Therefore, if two or more people jointly own or occupy land, they may jointly take or authorize the taking of only up to four deer.~~

(2) "Post" means any signage that would lead a reasonable person to

believe that hunting is prohibited on the land, except for signs erected pursuant to section 4710 of this title.

~~(g)~~(h) *The commissioner may issue a permit to a person to take more than four deer under this section if:*

(1) the land owned by the person is not posted against hunting;

(2) the person ~~can prove~~ proves that the property is sustaining additional and ongoing damage; and

(3) the person has taken reasonable measures to prevent the deer from continuing to damage the crop or to damage trees, saplings, or seedlings on land managed for the production of marketable forest products.

~~(h)~~(i) *The commissioner is authorized to issue an order requiring any person to remove food or bait which has the effect of luring deer into the vicinity of the property sustaining damage. In this subsection, food does not include a crop or crop-bearing plant.*

Sec. 3. 10 V.S.A. § 4081(c) and (d) are amended to read:

(c) An abundant, healthy deer herd, managed in balance with other forest species, forest uses, and forest health, is a primary goal of fish and wildlife management. The use of a limited unit open season on antlerless deer shall be implemented only after a scientific game management study by the fish and wildlife department supports such a season.

(d) Annually, the department shall update a scientific management study of the state deer herd. The study shall consider data provided by department of fish and wildlife biologists; the department of forests, parks and recreation regarding the impact of deer populations on forest health; and citizen testimony taken under subsection (f) of this section.

Sec. 4. DEPARTMENT OF FISH AND WILDLIFE WORKING GROUP ON

*DEER DOING DAMAGE TO LAND MANAGED FOR THE
PRODUCTION OF MARKETABLE FOREST PRODUCTS*

(a) The commissioner of fish and wildlife shall convene a working group to review and recommend methods for addressing or limiting damage by deer to trees, saplings, and seedlings on land managed for the production of marketable forest products. The working group shall consist of the commissioner or his or her designee and the following members to be appointed by the commissioner:

(1) two qualified foresters;

(2) two owners of land managed for the production of marketable forest

products;

(3) two wildlife biologists with knowledge of the state deer herd or of the impact of deer on forestland; and

(4) two persons who hold a valid Vermont hunting license.

(b) On or before January 15, 2012, the commissioner shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources with the recommendations of the working group. The report shall include an analysis of how and if prohibiting the posting of land as a condition of taking deer doing damage to land managed for the production of marketable forest products will achieve the goal of reducing or mitigating distinct occurrences of damage from deer populations.

Sec. 5. EDUCATION AND OUTREACH REGARDING FORESTRY

PRACTICES TO PREVENT DEER DOING DAMAGE

On or before September 1, 2011, the commissioner of fish and wildlife, in consultation with the commissioner of forests, parks and recreation, shall conduct education and outreach activities regarding forestry practices to address deer doing damage to land managed for the production of marketable forest products. Such outreach should include methods by which owners of land managed for the production of marketable forest products can contact Vermont licensed hunters in order to invite hunting on land being damaged by deer. The commissioner shall publish recommended forestry practices and other methods for addressing deer damage to land managed for the production of marketable forest products in the department of fish and wildlife's landowner habitat management guidelines, in the Vermont guide to hunting, fishing, and trapping laws, and on the website of the department of fish and wildlife.

Sec. 6. 10 V.S.A. § 4826 is amended to read:

§ 4826. TAKING DEER DAMAGING CROPS ~~OR FORESTLAND~~

(a) A person, including an authorized member of the person's family, an authorized regular on-premises employee, or an agent who holds a valid Vermont hunting license and who is designated by the person, may take, with the approval of a game warden, on land owned or leased by the person, up to four deer per calendar year which the person can prove were doing damage to the following:

(1) a tree which is being grown in a plantation or being cultivated for the purpose of harvesting an annual or perennial crop or producing any marketable item; or

(2) a crop-bearing plant; or

(3) a crop, except grass.

~~(b)(1) The commissioner may issue in writing an approval for a person, including an authorized member of the person's family, an on premises employee, or an agent who holds a Vermont hunting license and who is designated by the person, to take, on land owned or leased by the person up to four deer per calendar year that are doing damage to land managed for the production of marketable forest products, provided that:~~

~~(A) The land owned by the person is not posted against hunting;~~

~~(B) The person possesses for the land in question a forest management plan that is current and in effect;~~

~~(C) The person has notified a game warden of the alleged damage to land managed for the production of marketable forest products;~~

~~(D) A county forester has:~~

~~(i) inspected the land at issue;~~

~~(ii) determined that deer overbrowsing jeopardizes the regeneration of timber species on the land; and~~

~~(iii) submitted a summary of inspection to the commissioner of fish and wildlife.~~

~~(2) Within 60 days of submission of an inspection summary under subdivision (1) of this subsection, the commissioner shall:~~

~~(A) issue a written approval to take up to four antlerless deer on the land at issue, provided that the commissioner shall approve only the taking of an appropriate number of deer in a calendar year on the land at issue as determined by a review of the size of the parcel and all other pertinent factors; and~~

~~(B) issue a written decision denying approval to take deer on the land at issue, including a summary of the basis for the denial.~~

(c) A person by whom, or under whose direction, a deer is wounded or killed, shall report in writing signed by him or her within 12 hours all the facts relative to the act to a game warden. The report shall state the time and place of the wounding or killing.

(d) A person who kills a deer shall immediately properly dress the carcass and care for the meat.

(e) The game warden shall immediately investigate the case. Upon request of a warden, the person owning or leasing the land or his or her agent shall direct the warden to the site on which the deer was killed. If satisfied that the

deer was taken as provided in this section, the warden shall give the person a certificate of the finding in the matter. The certificate shall entitle the person to the ownership of the carcass, but the person shall not sell or give away the same. However, the antlers, if any, shall be turned over to a warden. In addition, any carcass not needed for home consumption in the household of the certificate-holder shall be turned over to a game warden.

(f) When a game warden finds that a deer has been wounded or killed contrary to the provisions of this section, he or she shall dispose of the deer under the direction of the commissioner, and any monies received therefor shall be paid to the commissioner.

(g)(1) "Person" includes all people who jointly own or lease the land.

(2) "Post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land, except for signs erected pursuant to section 4710 of this title.

(h) The commissioner may issue a permit to a person to take more than four deer under this section if:

(1) the land owned by the person is not posted against hunting;

(2) the person proves that the property is sustaining additional and ongoing damage; and

(3) the person has taken reasonable measures to prevent the deer from continuing to damage the crop ~~or to damage trees, saplings, or seedlings on land managed for the production of marketable forest products.~~

(i) The commissioner is authorized to issue an order requiring any person to remove food or bait which has the effect of luring deer into the vicinity of the property sustaining damage. In this subsection, food does not include a crop or crop-bearing plant.

Sec. 7. 10 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

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

** * **

(37) "Post" or "posted land": compliance with the requirements of section 5201 of this title.

Sec. 8. 10 V.S.A. § 4081(g) is amended to read:

(g) If the board finds that an antlerless season is necessary to maintain the health and size of the herd, the department shall administer an antlerless deer

program. Annually, the board shall determine how many antlerless permits to issue in each wildlife management unit. For a nonrefundable fee of \$10.00 for residents and \$25.00 for nonresidents a person may apply for a permit. Each person may submit only one application for a permit. The department shall allocate the permits in the following manner:

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

* * *

Sec. 9. 10 V.S.A. § 4253 is amended to read:

§ 4253. LANDOWNER; FAMILY; EXCEPTION

(a) A resident owner of lands, his or her spouse, and their minor children may, without procuring a license under this chapter, take fish from the waters therein, shoot pickerel, and take wild animals or wild birds therein subject to the provisions of this part.

(b) A nonresident owner of lands, his or her spouse, and their minor children, may without procuring a license under this chapter, take fish from the waters therein, shoot pickerel, and take wild animals or wild birds thereon subject to the provisions of this part, except if the lands are posted under provisions other than section 4710 of this title.

(c) As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land.

Sec. 10. 10 V.S.A. § 4829 is amended to read:

§ 4829. PERSON SUFFERING DAMAGE BY DEER OR BLACK BEAR

A person who suffers damage by deer to the person's crops, fruit trees, or crop-bearing plants on land not posted against the hunting of deer, or a person who suffers damage by black bear to the person's cattle, sheep, swine, poultry,

or bees or bee hives on land not posted against hunting or trapping of black bear is entitled to reimbursement for the damage, and may apply to the department of fish and wildlife within 72 hours of the occurrence of the damage for reimbursement for the damage. As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land.

Sec. 11. EFFECTIVE DATE

(a) This section and Secs. 1 (findings), 2 (taking deer doing damage), 3 (state deer policy), 4 (working group on deer doing damage), and 5 (outreach and education), 7 (definition of "post"), 8 (antlerless permit; post), 9 (landowner hunt exception; post), and 10 (bear doing damage; post) of this act shall take effect on passage.

(b) Sec. 6 (repeal of authority to take deer doing damage to forestland) of this act shall take effect on January 1, 2013.