GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2005

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SENATE DRS85156-LL-136A* (3/14)

Short Title: Sportsman's Bill of Rights.

Sponsors:Senators Hoyle, and Berger of Rockingham.Referred to:

1	A BILL TO BE ENTITLED
2	AN ACT TO RECOGNIZE THE RIGHT TO HUNT AND FISH IN NORTH
3	CAROLINA.
4	Whereas, hunting, trapping, and fishing are valued components of the right to
5	enjoy the natural resources of the State; and
6	Whereas, it is well established in common law that citizens have the right to
7	hunt, trap, and fish, subject to the property rights of others; and
8	Whereas, rights profit à prendre, including the taking of wildlife and fish, are
9	recognized as valuable incidents of ownership of real property and as such contribute to
10	the value of land; and
11	Whereas, hunting rights are established rights routinely conveyed or retained
12	not as a mere license, but as an interest in real estate in the nature of an incorporeal
13	hereditament; and
14	Whereas, enjoyment of hunting, trapping, and fishing enhances the
15	willingness of persons to conserve undeveloped land and contributes to the preservation
16	of environmentally pristine tracts of land to the greater good of all citizens; and
17	Whereas, hunting, trapping, and fishing provide food and contribute
18	significantly to the year-round sustenance for many persons in the State; and
19	Whereas, hunting, trapping, and fishing provide wholesome, outdoor sporting
20	activities and exercise for persons of all ages and abilities; and
21	Whereas, hunting, trapping, and fishing provide educational opportunities and
22	lessons in sportsmanship and citizenship, such as learning to appreciate the value and
23	beauty of the State's natural resources and to recognize the need to wisely maintain
24	natural resources, including the conservation of wildlife; and
25	Whereas, hunting, trapping, and fishing opportunities attract visitors and
26	enhance the State's tourism industry; and

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(Public)

General Assembly of North Carolina

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1	Whereas, hunting, trapping, and fishing support commercial enterprises			
2	important to the State's economy, including hunting guide services, recreational fishing			
3	services, retail businesses providing specialized clothing, equipment, vehicles, weapons,			
4	and other gear, pet food suppliers, and other related commercial enterprises; and			
5	Whereas, hunting and trapping support the economically significant			
6	industries of breeding, maintenance, and sale of domestic animals; domestic animal			
7	breeding clubs; breed competitions; and field trials of domestic animals, including the			
8	many breeds of hunting dogs; and			
9	Whereas, dogs belong to that class of domiciled animals that the law			
10	recognizes as objects of property; and			
11	Whereas, dogs are prized for hunting purpose, and as watchdogs and as pets,			
12	and, further, many dogs have actual commercial and market value; and			
13	Whereas, dogs used for hunting are valuable assets of their owners and are			
14	legitimately protected by law; and			
15	Whereas, it is reasonable to affirm the right of persons to hunt, trap, and fish,			
16	and specifically the right to hunt with dogs, subject to the property rights of others and			
17	the reasonable regulation of wildlife; and			
18	Whereas, present statutory law provides an adequate regulatory scheme for			
19	reasonably necessary protection of domesticated animals and wildlife; and			
20	Whereas, it is not a part of the common law or statutory law that animals are			
21	entitled to the legal justice to which persons are entitled, or that animals have any of the			
22	rights of persons under the law; and			
23	Whereas, while it is well settled that animals are properly subject to many			
24	protections under existing law, it is specifically rejected that any statute, local			
25	ordinance, rule, or regulation should seek to establish the erroneous principle that			
26	animals should have any of the legal rights to which persons are entitled; Now,			
27	therefore,			
28	The General Assembly of North Carolina enacts:			
29	SECTION 1. Chapter 113 of the General Statutes is amended by adding a			
30	new Article to read:			
31	" <u>Article 20A.</u>			
32	" <u>Right to Hunt.</u>			
33	" <u>§ 113-270. Right to hunt and fish.</u>			
34	(a) <u>The General Assembly finds that:</u>			
35	(1) <u>Hunting, trapping, and fishing, including the taking of wild animals,</u>			
36	wild birds, and fish, are a valued part of the heritage of this State, are a			
37	fundamental right of the people, and shall be forever preserved for the			
38	people.			
39	(2) Fish and wildlife shall be managed by regulations providing persons			
40	with the continued opportunity to take, by traditional means and			
41	methods, species traditionally pursued by hunters, trappers, and			
42	anglers.			

	General Assembly of North Carolina	Session 2005	
1	(3) Fish and wildlife management, including taking, shal	l be consistent	
2	with the State's duty to protect the natural resource h		
3	duty to conserve wild animals, birds, and fish.	Q	
4	(4) Hunting, trapping, or fishing by sportsmen shall always	be a preferred	
5	and available means of controlling all invasive or		
6	species.	1 1	
7	(5) Persons shall have the continuing right to hunt with do	ogs and to buy,	
8	sell, breed, transport, and use dogs in hunting.	<u> </u>	
9	(b) The General Assembly finds that animals are property, wheth	ner the animals	
10	are domesticated animals owned by persons or wildlife resources held		
11	citizens. No law, local ordinance, rule, or regulation shall seek to establish	sh or attempt to	
12	grant to animals any rights of persons under the law. No statute, local ord	linance, rule, or	
13	regulation shall have as its philosophical basis the concept that animals are entitled to		
14	the legal justice to which persons are entitled, or that animals have the ri	ghts of persons	
15	under the law."		
16	SECTION 2. G.S. 113-291.1 is amended by adding a new	v subsection to	
17	read:		
18	"(k) Notwithstanding any other provision of law, a person wit	h a concealed	
19	handgun permit issued under Article 54B of Chapter 14 of the Genera	•	
20	possess a handgun at any time while hunting, traveling to hunt, tra		
21	traversing a refuge, public hunting area, or wildlife management		
22	possession shall not be used as a basis for charging the person with a viol	ation of a State	
23	wildlife law or local wildlife law."		
24	SECTION 3. G.S. 113-295 reads as rewritten:		
25	"(a) It is unlawful for a person to interfere intentionally with the la	-	
26	wildlife resources or to drive, harass, or intentionally disturb any wildlif		
27	the purpose of disrupting the lawful taking of wildlife resources. It is		
28	person to intentionally distract or displace, or attempt to distract or displace, a hunting		
29	dog while that dog is running, hunting, on point, or in training. It is unlawful to take or		
30	abuse property, equipment, or hunting dogs that are being used for the la	-	
31	wildlife resources. This subsection does not apply to a person wh	-	
32	interferes with the taking of wildlife resources while using the land for		
33	activity such as agriculture, mining, or recreation. This subsection also do	bes not apply to	
34 35	activity by a person on land he owns or leases. Violation of this subsection is a Class 2 misdemeanor for a first co	nuistion and a	
		inviction and a	
36 37	Class 1 misdemeanor for a second or subsequent conviction." SECTION 4. G.S. 14-401.17 reads as rewritten:		
38	"§ 14-401.17. Unlawful removal or destruction of electronic dog	collars collars.	
38 39	unlawful possession or transport of dog wearing electronic		
40	(a) It is unlawful to intentionally remove or destroy an electronic		
40	electronic device placed on a dog by its owner to maintain control of the		
42	(a1) It is unlawful to take or attempt to take possession of or trans	-	
43	wearing an electronic collar or other electronic device, or any other dog		
44	knows to be a hunting dog, without immediately notifying the owner	-	
	S918 [Filed]	Page 3	

General Assembly of North Carolina

without having prior permission of the owner to detain the dog. Nothing in this 1 2 subsection limits the lawful exercise of police powers by wildlife enforcement officers, 3 animal control officers, or other law enforcement officers. 4 A first conviction for a violation of this section is a Class 3 misdemeanor. A (b) 5 second or subsequent conviction for a violation of this section is a Class 2 6 misdemeanor. 7 This act is enforceable by officers of the Wildlife Resources Commission, by (c) 8 sheriffs and deputy sheriffs, and peace officers with general subject matter jurisdiction. This act applies only to Alamance, Anson, Avery, Beaufort, Brunswick, 9 (d) 10 Buncombe, Burke, Caldwell, Camden, Caswell, Cherokee, Chowan, Clay, Columbus, Craven, Cumberland, Davidson, Graham, Haywood, Henderson, Hyde, Jackson, 11 12 Macon, Madison, McDowell, Mecklenburg, Mitchell, New Hanover, Orange, 13 Pasquotank, Pitt, Robeson, Rockingham, Swain, Transylvania, Union, Wilkes, and 14 Yancey Counties." 15 **SECTION 5.** Sections 3 and 4 of this act become effective December 1, 16 2005, and apply to offenses committed on or after that date. The remainder of this act is 17 effective when it becomes law.