

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 918*

Short Title: Sportsman's Bill of Rights. (Public)

Sponsors: Senators Hoyle, Berger of Rockingham; Apodaca, Berger of Franklin, Bingham, Blake, Brock, Brown, Dalton, East, Forrester, Garwood, Goodall, Hartsell, Holloman, Horton, Jacumin, Jenkins, Presnell, Smith, Snow, Stevens, Swindell, Thomas, Tillman, and Webster.

Referred to: Judiciary I.

March 24, 2005

A BILL TO BE ENTITLED

1 AN ACT TO RECOGNIZE THE RIGHT TO HUNT AND FISH IN NORTH
2 CAROLINA.
3

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

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 "Article 20A.

32 "Right to Hunt.

33 "§ 113-270. Right to hunt and fish.

34 (a) The General Assembly finds that:

35 (1) Hunting, trapping, and fishing, including the taking of wild animals,
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.

1 (3) Fish and wildlife management, including taking, shall be consistent
2 with the State's duty to protect the natural resource heritage and its
3 duty to conserve wild animals, birds, and fish.

4 (4) Hunting, trapping, or fishing by sportsmen shall always be a preferred
5 and available means of controlling all invasive or overpopulated
6 species.

7 (5) Persons shall have the continuing right to hunt with dogs and to buy,
8 sell, breed, transport, and use dogs in hunting.

9 (b) The General Assembly finds that animals are property, whether the animals
10 are domesticated animals owned by persons or wildlife resources held in trust for all
11 citizens. No law, local ordinance, rule, or regulation shall seek to establish or attempt to
12 grant to animals any rights of persons under the law. No statute, local ordinance, 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 rights of persons
15 under the law."

16 **SECTION 2.** G.S. 113-291.1 is amended by adding a new subsection to
17 read:

18 "(k) Notwithstanding any other provision of law, a person with a concealed
19 handgun permit issued under Article 54B of Chapter 14 of the General Statutes may
20 possess a handgun at any time while hunting, traveling to hunt, training dogs, or
21 traversing a refuge, public hunting area, or wildlife management area, and that
22 possession shall not be used as a basis for charging the person with a violation 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 lawful taking of
26 wildlife resources or to drive, harass, or intentionally disturb any wildlife resources for
27 the purpose of disrupting the lawful taking of wildlife resources. It is unlawful for a
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 lawful taking of
31 wildlife resources. This subsection does not apply to a person who incidentally
32 interferes with the taking of wildlife resources while using the land for other lawful
33 activity such as agriculture, mining, or recreation. This subsection also does not apply to
34 activity by a person on land he owns or leases.

35 Violation of this subsection is a Class 2 misdemeanor for a first conviction and a
36 Class 1 misdemeanor for a second or subsequent conviction."

37 **SECTION 4.** G.S. 14-401.17 reads as rewritten:

38 "**§ 14-401.17. Unlawful removal or destruction of electronic dog collars; collars;**
39 **unlawful possession or transport of dog wearing electronic collar.**

40 (a) It is unlawful to intentionally remove or destroy an electronic collar or other
41 electronic device placed on a dog by its owner to maintain control of the dog.

42 (a1) It is unlawful to take or attempt to take possession of or transport any dog
43 wearing an electronic collar or other electronic device, or any other dog that the person
44 knows to be a hunting dog, without immediately notifying the owner of the dog or

1 without having prior permission of the owner to detain the dog. Nothing in this
2 subsection limits the lawful exercise of police powers by wildlife enforcement officers,
3 animal control officers, or other law enforcement officers.

4 (b) A first conviction for a violation of this section is a Class 3 misdemeanor. A
5 second or subsequent conviction for a violation of this section is a Class 2
6 misdemeanor.

7 (c) This act is enforceable by officers of the Wildlife Resources Commission, by
8 sheriffs and deputy sheriffs, and peace officers with general subject matter jurisdiction.

9 ~~(d) This act applies only to Alamance, Anson, Avery, Beaufort, Brunswick,~~
10 ~~Buncombe, Burke, Caldwell, Camden, Caswell, Cherokee, Chowan, Clay, Columbus,~~
11 ~~Craven, Cumberland, Davidson, Graham, Haywood, Henderson, Hyde, Jackson,~~
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.