## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2005

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## SENATE BILL 918\* Corrected Copy 4/12/05

Short Title: Sportsman's Bill of Rights. (Public) Senators Hoyle; Berger of Rockingham, Apodaca, Berger of Franklin, Sponsors: Bingham, Blake, Brock, Brown, Dalton, East, Forrester, Garwood, 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 AN ACT TO RECOGNIZE THE RIGHT TO HUNT AND FISH IN NORTH CAROLINA. Whereas, hunting, trapping, and fishing are valued components of the right to enjoy the natural resources of the State; and Whereas, it is well established in common law that citizens have the right to hunt, trap, and fish, subject to the property rights of others; and Whereas, rights profit à prendre, including the taking of wildlife and fish, are recognized as valuable incidents of ownership of real property and as such contribute to the value of land; and Whereas, hunting rights are established rights routinely conveyed or retained not as a mere license, but as an interest in real estate in the nature of an incorporeal

13 hereditament; and

Whereas, enjoyment of hunting, trapping, and fishing enhances the willingness of persons to conserve undeveloped land and contributes to the preservation of environmentally pristine tracts of land to the greater good of all citizens; and

Whereas, hunting, trapping, and fishing provide food and contributesignificantly to the year-round sustenance for many persons in the State; and

Whereas, hunting, trapping, and fishing provide wholesome, outdoor sportingactivities and exercise for persons of all ages and abilities; and

Whereas, hunting, trapping, and fishing provide educational opportunities and lessons in sportsmanship and citizenship, such as learning to appreciate the value and beauty of the State's natural resources and to recognize the need to wisely maintain natural resources, including the conservation of wildlife; and

Whereas, hunting, trapping, and fishing opportunities attract visitors and enhance the State's tourism industry; and

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1	Whoreas hunting transing and fishing support commercial enterprises			
2	Whereas, hunting, trapping, and fishing support commercial enterprises			
2 3	important to the State's economy, including hunting guide services, recreational fishing			
4	services, retail businesses providing specialized clothing, equipment, vehicles, weapons, and other gear, pet food suppliers, and other related commercial enterprises; and			
4 5	Whereas, hunting and trapping support the economically significant			
5 6	industries of breeding, maintenance, and sale of domestic animals; domestic animal			
0 7	breeding clubs; breed competitions; and field trials of domestic animals, including the			
8	•			
9	many breeds of hunting dogs; and 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			
12	Whereas, dogs used for hunting are valuable assets of their owners and are			
13	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	<b>SECTION 1.</b> 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 40	(2) Fish and wildlife shall be managed by regulations providing persons			
40	with the continued opportunity to take, by traditional means and			
41 42	methods, species traditionally pursued by hunters, trappers, and anglers.			
42	angiors.			

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1 2	<u>(3)</u>	Fish and wildlife management, including taking with the State's duty to protect the natural reso	-		
3 4 5	<u>(4)</u>	duty to conserve wild animals, birds, and fish. Hunting, trapping, or fishing by sportsmen shall and available means of controlling all invasi			
6 7 8	<u>(5)</u>	<u>species.</u> <u>Persons shall have the continuing right to hunt v</u> <u>sell, breed, transport, and use dogs in hunting.</u>	with dogs and to buy,		
9	<u>(b)</u> The <b>(</b>	General Assembly finds that animals are property.	, whether the animals		
10	are domesticate	d animals owned by persons or wildlife resource	s 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		to which persons are entitled, or that animals have	e the rights of persons		
15	under the law."				
16		<b>FION 2.</b> G.S. 113-291.1 is amended by adding	a new subsection to		
17	read:				
18		ithstanding any other provision of law, a personal			
19	• •	t issued under Article 54B of Chapter 14 of the	•		
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		ocal wildlife law."			
24		<b>FION 3.</b> G.S. 113-295 reads as rewritten:			
25		inlawful for a person to interfere intentionally with			
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		ces. This subsection does not apply to a pers			
32		the taking of wildlife resources while using the			
33	-	agriculture, mining, or recreation. This subsection	also does not apply to		
34		rson on land he owns or leases.	<b>C 1</b>		
35		this subsection is a Class 2 misdemeanor for a	first conviction and a		
36		eanor for a second or subsequent conviction."			
37		<b>FION 4.</b> G.S. 14-401.17 reads as rewritten:			
38		Unlawful removal or destruction of electronic	·		
39 40		wful possession or transport of dog wearing elect			
40 41		inlawful to intentionally remove or destroy an electron and a standard on a dog by its owner to maintain control			
41 42		e placed on a dog by its owner to maintain control	-		
42 43		unlawful to take or attempt to take possession of			
43 44	-	tronic collar or other electronic device, or any othe hunting dog, without immediately notifying the			

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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 <del>(d)</del> 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.