



January 26, 2016

Dear Members of the House Committee on Fish, Wildlife and Water Resources:
I am writing to you on behalf of Protect Our Wildlife and our 2,000 Vermont members concerning Bill H.570, ***An act relating to hunting, fishing, and trapping.***

There does not appear to be any demonstrated need to amend those sections of the current statute noted below, and we believe the proposed changes would introduce ambiguity. The current statute is sufficient to avoid intentional interference with trapping, hunting, and fishing activities.

We understand that the committee is meeting with legislative counsel on Thursday and would appreciate responses to our questions below.

○ ***§ 4708. INTERFERENCE WITH HUNTING, FISHING, OR TRAPPING***

The proposed changes would create ambiguity in the application and enforcement of the statute.

For example, there is no definition of "tampering." When there is no definition, the courts will look to the common use of the word, which we believe is overly broad in this instance.

We are also concerned that the offense of "tampering" does not appear to allow for instances in which a citizen may be justified in her actions, e.g., when attempting to aid a dog caught in a trap, or a bird caught in a fishing net.

Further, the proposed language does not limit the offense of "tampering" to activity that involves *lawfully* set traps, nets, etc. As a result, it appears

Protect Our Wildlife
PO BOX 3024
Stowe, VT 05672
www.ProtectOurWildlifeVT.org

that a landowner, for example, would be in violation if she removed a trap that was unlawfully placed on her property.

The proposed language also appears to expand the violation from interference with traps, to tampering in any way with any type of equipment that is used for trapping, hunting, or fishing. We believe this addition is: 1) overly broad and would encompass activity that is unrelated to any intent to interfere with trapping, hunting or fishing; and 2) is unnecessary since the current statute already includes a broad prohibition that makes it an offense to "intentionally interfere with the lawful taking of fish or wild animals by another"

The proposed changes would create a violation for merely "hindering" an activity, where the current language requires "disrupting the lawful taking." Arguably, that sets a lower threshold for a violation. Further, what does hindering encompass?

The current exemption for "incidental interference arising from lawful activity by land users including farmers and recreationists" has been removed. With many members who use public lands for recreational purposes, POW is concerned by this proposed change. What was the catalyst for that change?

- **§5201. NOTICES; POSTING**

This amendment appears to narrow the species of animals that a landowner can protect from trapping, hunting, or fishing on her land by replacing "fish or wild animals" with "game." Under VT law, the definition of "game" includes only game birds or game quadrupeds. Game birds are defined as quail, partridge, woodcock, pheasant, plover of any kind, Wilson snipe, other shore birds, rail, coot, gallinule, wild ducks, wild geese, and wild turkey. Game quadrupeds are defined as caribou, elk, moose, deer, gray squirrel, rabbit, and black bear.

If the intent or effect of this amendment is to limit the ability of a landowner to prohibit certain activities on her land, and thus impact the owner's use of her land in significant ways, this might raise a constitutional "takings" issue.

We look forward to hearing from you so that we may update our members accordingly.

Sincerely



Brenna Galdenzi, POW President

Protect Our Wildlife
PO BOX 3024
Stowe, VT 05672
www.ProtectOurWildlifeVT.org

Protect Our Wildlife
PO BOX 3024
Stowe, VT 05672
www.ProtectOurWildlifeVT.org