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H.683

Introduced by Representatives Dolan of Waitsfield, Sheldon of Middlebury,  
Anthony of Barre City, Bartholomew of Hartland, Bates of  
Bennington, Brumsted of Shelburne, Campbell of St.  
Johnsbury, Carroll of Bennington, Coffey of Guilford, Colston  
of Winooski, Durfee of Shaftsbury, Fegard of Berkshire, Hill of  
Wolcott, Hooper of Randolph, Hooper of Burlington, James of  
Manchester, Jerome of Brandon, Killacky of South Burlington,  
LaLonde of South Burlington, Lefebvre of Newark,  
McCullough of Williston, Morgan of Milton, O'Brien of  
Tunbridge, Ode of Burlington, Partridge of Windham,  
Rachelson of Burlington, Ralph of Hartland, Scheu of  
Middlebury, Squirrell of Underhill, Till of Jericho, Townsend of  
South Burlington, Walz of Barre City, Webb of Shelburne,  
White of Hartford, and Yantachka of Charlotte

Referred to Committee on

Date:

Subject: Conservation and development; wildlife; migratory birds

Statement of purpose of bill as introduced: This bill proposes to prohibit the  
incidental taking of migratory birds.

1 *An act relating to the protection of migratory birds*

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

3 Sec. 1. FINDINGS

4 The General Assembly finds:

5 (1) On December 22, 2017, the U.S. Department of the Interior released  
6 a memorandum stating that the agency would no longer interpret the Migratory  
7 Bird Treaty Act as prohibiting incidental take of migratory birds. This  
8 changes the way the Act has been interpreted for the past 40 years.

9 (2) Vermont is an important stop for birds that migrate along the  
10 Atlantic Flyway.

11 (3) The Department of Fish and Wildlife reports that Vermont has  
12 approximately 260 species of birds. Of those, Vermont hosts 125 forest  
13 species, making it one of the most forest-species-rich states in the nation.

14 (4) According to a 2015 report by the Gund Institute, at 39 percent,  
15 Vermont leads the nation in number of residents who participate in bird  
16 watching, which is nearly double the national average of 20 percent. Vermont  
17 is second only to Alaska in the number of residents who participate in hunting,  
18 fishing, and wildlife viewing.

19 (5) According to a 2011 report by the U.S. Fish and Wildlife Service,  
20 bird watching attracts many people to Vermont. In 2011, wildlife watchers  
21 spent \$289 million on wildlife-watching activities in Vermont. The report

1 ~~found that 292,000 people participated in bird watching and 56 percent of~~  
2 ~~them took trips away from home to participate in bird watching.~~

3 (6) Migratory birds are important to Vermont's citizens and economy  
4 and should be protected from incidental take in Vermont law.

5 Sec. 2. 10 V.S.A. § 4902 is amended to read:

6 § 4902. WILD BIRDS GENERALLY; NO OPEN SEASON; EXCEPTION

7 Wild birds, other than pigeons, shall not be taken, possessed, bought, or  
8 sold, at any time, except as provided by this part, rules of the Board, or orders  
9 of the Commissioner. Birds coming from without outside the State belonging  
10 to the same family as those protected by this subchapter shall not be bought or  
11 sold. Bird harm or death that results from human activity where the intent was  
12 not to harm or kill the bird, but where bird harm or death was a direct and  
13 foreseeable result of the activity, is prohibited.

14 Sec. 3. EFFECTIVE DATE

15 ~~This act shall take effect on July 1, 2020.~~

*Sec. 1. FINDINGS*

*The General Assembly finds:*

*(1) On December 22, 2017, the U.S. Department of the Interior released a memorandum stating that the agency would no longer interpret the*

Migratory Bird Treaty Act as prohibiting incidental take of migratory birds. This changes the way the Act has been interpreted for the past 40 years.

(2) Vermont is an important stop for birds that migrate along the Atlantic Flyway.

(3) The Department of Fish and Wildlife reports that Vermont has approximately 260 species of birds. Of those, Vermont hosts 125 forest species, making it one of the most forest-species-rich states in the nation.

(4) According to a 2015 report by the Gund Institute, at 39 percent, Vermont leads the nation in number of residents who participate in bird watching, which is nearly double the national average of 20 percent. Vermont is second only to Alaska in the number of residents who participate in hunting, fishing, and wildlife viewing.

(5) According to a 2011 report by the U.S. Fish and Wildlife Service, bird watching attracts many people to Vermont. In 2011, wildlife watchers spent \$289 million on wildlife-watching activities in Vermont. The report found that 292,000 people participated in bird watching and 56 percent of them took trips away from home to participate in bird watching.

(6) Migratory birds are important to Vermont's citizens and economy and should be protected from incidental take in Vermont law.

Sec. 2. 10 V.S.A. § 4902 is amended to read:

~~§ 4902. WILD BIRDS GENERALLY, NO OPEN SEASON, EXCEPTION~~

~~(a) Wild birds, other than pigeons, shall not be taken, possessed, bought, or sold, at any time, except as provided by this part, rules of the Board, or orders of the Commissioner. Birds coming from without outside the State belonging to the same family as those protected by this subchapter shall not be bought or sold.~~

~~(b) Bird harm or death that results from human activity where the intent was not to harm or kill the bird, but where bird harm or death was a direct and foreseeable result of the activity, is prohibited. Nothing in this section shall require the Department to implement a new permitting program.~~

§ 4902. WILD BIRDS GENERALLY; NO OPEN SEASON; EXCEPTION

(a) Wild birds, other than pigeons, shall not be taken, possessed, bought, or sold, at any time, except as provided by this part, rules of the Board or orders of the Commissioner. Birds coming from without the State belonging to the same family as those protected by this subchapter shall not be bought or sold.

(b) Harm or death of a migratory bird listed as protected in the Migratory Bird Treaty Act, 16 U.S.C. §§ 703–712 as of July 1, 2020, that results from

human activity where the intent was not to harm or kill the bird, but where bird harm or death was a direct and foreseeable result of the activity, is prohibited. Nothing in this section shall require the Department to implement a new permitting program.

Sec. 3. 10 V.S.A. § 4910 is added to read:

§ 4910. ENFORCEMENT DISCRETION

For purposes of migratory bird protection in this title, the Commissioner has authority to exercise enforcement discretion, including refraining from taking any enforcement action for the incidental take of migratory birds. Enforcement, if any, shall focus on activities that have at least local population level impacts on migratory birds. ~~Enforcement of this provision, shall be in accordance with 10 V.S.A. Section 4520.~~

Sec. 4. EFFECTIVE DATE

This act shall take effect on ~~July 1, 2020~~ passage.