



SPONSOR: Sen. Wilson & Rep. Carson
Sens. Buckson, Hocker, Pettyjohn; Reps. Hilovsky,
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DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 303

AN ACT PROPOSING AN AMENDMENT TO ARTICLE 1 OF THE DELAWARE CONSTITUTION RELATING TO HUNTING, FISHING, AND TRAPPING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

1 WHEREAS, the right to hunt, fish, and trap has been an assumed right among citizens of Delaware since colonial
2 times and possibly even earlier; and

3 WHEREAS, these rights were assumed to belong to every law-abiding citizen of proper age and sound condition
4 really even before there was a State of Delaware; and

5 WHEREAS, these rights have always been understood to be subject to certain limits and conditions; and

6 WHEREAS, it has long been understood that State and, in some cases, local governments may set limits and
7 regulations as to hunting, fishing, and trapping, establish hunting and fishing seasons, and as to types of fish and wildlife
8 that can be sought by fisherman, hunters, and trappers; and

9 WHEREAS, in an age when more and more of our long-held rights as citizens are being challenged by various
10 groups and individuals in various ways and various reasons, it seems timely to add this hallowed right to those that are
11 spelled out in the pages of Delaware's state constitution; and

12 WHEREAS, this act does not seek to enshrine any new rights, but rather to spell out a right that has been part of
13 our common heritage as citizens throughout our state's history.

14 Section 1. The General Assembly finds and declares all of the following:

15 (1) The right to hunt, fish, and trap wildlife is a valued part of Delaware's natural heritage and is forever
16 preserved for the public good.

17 (2) The right to hunt, fish, and trap wildlife in this State includes the right to use traditional methods to do so,
18 subject only to the laws prescribed by the General Assembly and rules prescribed by virtue of the authority of the
19 General Assembly to promote wildlife protection, conservation, replenishments, and management in this State, and to
20 preserve the future of hunting, fishing, and trapping wildlife in this State.

21 (3) Hunting, fishing, and trapping wildlife is the preferred means of managing and controlling wildlife.

- 22 (4) This act may not be construed to do any of the following:
- 23 a. Limit the application of a law relating to trespass or property rights.
- 24 b. Affect rights to divert, appropriate, or use water, or to establish a minimum amount of water in any
- 25 water body.
- 26 c. Lead to a diminution or abrogation of a public or private right or of the State's power to regulate
- 27 commercial activities.
- 28 d. Prevent the suspension or revocation, under a law enacted by the General Assembly, of an individual's
- 29 hunting, fishing, or trapping license.
- 30 e. Alter a burden of proof requirement otherwise established by law for a challenge to a law or regulation
- 31 pertaining to hunting, fishing, or trapping the wildlife of this State.

32 Section 2.

33 Amend Article I of the Delaware Constitution by making deletions as shown by strike through and insertions as

34 shown by underline as follows:

35 § 22. Right to hunt, fish, or trap.

36 An individual has the right to hunt, fish, or trap wildlife in this State.

SYNOPSIS

This Act is the first leg of a constitutional amendment to establish the right to hunt and fish in Delaware. Twenty-one other states have preserved the rights of their citizens to hunt, fish, or trap wildlife. This Act is modeled after the constitutional provisions of Idaho, Indiana, Kentucky, Louisiana, and Tennessee.

This Act specifically acknowledges Delaware's valued, natural heritage of hunting, fishing, and trapping, and declares hunting, fishing, and trapping as the preferred methods of managing and controlling wildlife in this State.

This Act may not be applied to do any of the following:

1. Affect rights to divert, appropriate, or use water, or to establish a minimum amount of water in any water body.
2. Lead to a diminution or abrogation of a public or private right or of the State's power to regulate commercial activities.
3. Prevent the suspension or revocation, under a law enacted by the General Assembly, of an individual's hunting, fishing, or trapping license.
4. Alter a burden of proof requirement otherwise established by law for a challenge to a law or regulation pertaining to hunting, fishing, or trapping the wildlife of this State.

Author: Senator Wilson