

**Proposed Response to Act 170
of the 2017-2018 Legislative Session**

**Related to Changes to 10 V.S.A. § 4828 and § 4254c
September 6, 2018**

Prepared for the Vermont Fish and Wildlife Board



Vermont Fish and Wildlife Department
Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05620-3702
(802)828-1000

I. Summary

The Department is making the following recommendations in response to 2018 statutory changes. The rules proposed below will increase accountability for those individuals or commercial entities trapping furbearers or rabbits in defense of property for compensation. However, we also recognize that public attitudes towards wildlife often change for the worse when wildlife damage issues cannot be resolved quickly and effectively. Therefore, the Department has worked to maintain some flexibility for individuals, landowners, or municipalities experiencing furbearers or rabbits doing damage. Through this proposal, we have tried to maintain the ability to successfully address situations where problems occur, while at the same time minimizing the application of unsuitable or inappropriate actions.

The proposal also includes a recommended approach to addressing Sec. 10 of Act 170 - 10 V.S.A. § 4254c, the requirement to report any incidentally trapped cats and dogs.

II. Background

The following sections of Act 170 (10, 11, and 13) relate to this proposal and are taken from the bill as enacted into law. Underlined sections indicate new language added to the statutes, strikethroughs indicate language removed.

Sec. 10:

10 V.S.A. § 4254c is added to read:

§ 4254c. NOTICE OF TRAPPING; DOG OR CAT

A person who incidentally traps a dog or cat shall notify a fish and wildlife warden or the Department within 24 hours after discovery of the trapped dog or cat. The Department shall maintain records of all reports of incidentally trapped dogs or cats submitted under this section, and the reports shall include the disposition of each incidentally trapped dog or cat.

Sec. 11:

10 V.S.A. § 4828 is amended to read:

§ 4828. TAKING OF RABBIT OR FUR-BEARING ANIMALS BY LANDOWNER; SELECTBOARD; CERTIFICATE; PENALTY

(a)(1) The provisions of law or ~~regulations~~-rules of the Board relating to the

taking of rabbits or fur-bearing animals shall not apply to:

(A) an owner, the owner's employee, tenant, or caretaker of property protecting the property from damage by rabbits or fur-bearing animals; or

(B) ~~to a member of the~~ selectboard of a town protecting public highways or bridges from such damage or submersion with the permission of the owner of lands affected.

(2) A person who for compensation sets a trap for rabbits or fur-bearing animals on the property of another in defense of that property shall possess a valid trapping license.

(3)(A) ~~However, if~~ If required by rule of the ~~board~~ Board, an owner, ~~the owner's employee, tenant, or caretaker, or the members;~~ a member of the selectboard, ~~;~~ or a person who sets a trap for compensation who ~~desire~~ desires to possess during the closed season the skins of any fur-bearing animals taken in defense of property, highways, or bridges shall notify the Commissioner or the Commissioner's representative within 84 hours after taking ~~such~~ the animal, and shall hold ~~such~~ the pelts for inspection by such authorized representatives.

(b) Before disposing of ~~such~~ pelts taken under this section, if required by rule of the Board, the property owner; the owner's employee, tenant, or caretaker, ~~or;~~ a member of the selectboard; or a person who sets a trap for compensation shall secure from the Commissioner or a designee a certificate describing the pelts, and showing that the pelts were legally taken during a closed season and in defense of property, highways, or bridges. In the event of storage, sale, or transfer, ~~such~~ the certificates shall accompany the pelts ~~described therein~~.

Sec. 13:

FISH AND WILDLIFE BOARD RULES; TRAPPING

On or before January 1, 2019, the Fish and Wildlife Board shall adopt by rule those requirements of Fish and Wildlife Board Rule 44 regarding the trapping of fur-bearing animals that shall apply to persons trapping for compensation under 10 V.S.A. § 4828.

III. Proposal

The following proposed rule changes are in response to Act 170. The proposal addresses changes to 10 V.S.A. § 4828: THE TAKING OF RABBIT OR FUR-BEARING ANIMALS BY LANDOWNER; SELECTBOARD; CERTIFICATE; PENALTY and, requires that individuals taking furbearers or rabbits in defense of property have a valid trapping license: A person who for compensation sets a trap for rabbits or fur-bearing animals on the property of another in defense of that property shall possess a valid trapping license.

In addition, Section 13: FISH AND WILDLIFE BOARD RULES; TRAPPING, requires that the Board adopt additional rules related to the taking of furbearers or rabbits in defense of property for compensation: On or before January 1, 2019, the Fish and Wildlife Board shall adopt by rule those requirements of Fish and Wildlife Board Rule 44 regarding the trapping of fur-bearing animals that shall apply to persons trapping for compensation under 10 V.S.A. § 4828.

The Department and the Vermont Trappers Association (VTA) have long discussed the benefits of regulations related to 10 V.S.A. § 4828 and, in the past, have worked together in an attempt to jointly tackle related concerns.

For section 13, the statutory language directs the Department and the Board to adopt, as written, those sections in rule 44 deemed appropriate to addressing human/furbearer conflicts. Therefore, the rules proposed below are drawn directly from those listed in 44 and are an attempt to provide additional accountability for those individuals taking furbearers or rabbits in defense of property while at the same time maintaining some flexibility for landowners and municipalities experiencing conflicts with these animals.

A. Section 13: FISH AND WILDLIFE BOARD RULES TRAPPING

On or before January 1, 2019, the Fish and Wildlife Board shall adopt by rule those requirements of Fish and Wildlife Board Rule 44 regarding the trapping of fur-bearing animals that shall apply to persons trapping for compensation under 10 V.S.A. §4828

Proposed Regulations for Board review:

- 4.1. A person trapping for fur-bearing animals under this rule shall visit his/her traps at least once every calendar day, except as provided in paragraph 4.2, and dispatch or release any animal caught therein

- 4.2 A person who sets body gripping traps in the water or under the ice, or foothold or cage traps under the ice shall visit his/her traps at least once every three calendar days and remove any animal caught therein.
- 4.3 A person shall not set a trap on lands other than his/her own which does not have his/her name and address permanently and legibly stamped or engraved thereon, or on a tag of rustless material securely attached thereto
- 4.4 All traps under ice will be marked with a tag visible above the ice.
- 4.5 A person shall not set a body gripping trap with a jaw spread over eight inches measured inside the jaws unless the trap is set five feet or more above the ground, or in the water.
- 4.10 A person shall not possess a furbearing animal unlawfully taken.
- 4.11 A person shall not take a fur-bearing animal by use of any poisonous mixture.
- 4.14 (e) A person who takes bobcat, fisher, and otter pursuant to 10 V.S.A. § 4828 and who desires to keep the pelt shall notify authorized Department staff with 84 hours of the taking. Pelts shall be presented to authorized Department staff for tagging. Such tags shall remain affixed to the pelts until tanned. Carcasses shall be surrendered to authorized Department staff at the time of tagging.
- 4.16 (b) Any person who incidentally captures a lynx shall notify the Department immediately.
- 4.17 (a) Any person who obtains a trapping license shall complete and submit an annual biological collection trapper survey for the license season to the Department within the timeline specified by the Commissioner.
 - (b) The failure to complete and submit a biological collection survey to the Department shall be a non-point violation under 10 VSA 4502.

Proposed Rule Language:

6.0 Taking Rabbits and furbearers in Defense of Property for a Fee

6.1 In accordance with Sec. 11 of Act 170 from the 2017-2018 Adj Session, no provisions of law or rules of the Board are applicable to trapping nuisance rabbits and fur-bearing animals for compensation except the following sections and subsections of the Furbearing Species rules set forth in Title 10, Appendix 44: 4.1, 4.2, 4.3, 4.4, 4.5, 4.10, 4.11, 4.14 €, 4.16 (b), and 4.17 (a) and (b).

The Legislature also added 10 V.S.A. § 4254c which reads:

B. 4254c. NOTICE OF TRAPPING; DOG OR CAT

A person who incidentally traps a dog or cat shall notify a fish and wildlife warden or the Department within 24 hours after discovery of the trapped dog or cat. The Department shall maintain records of all reports of incidentally trapped dogs or cats submitted under this section, and the reports shall include the disposition of each incidentally trapped dog or cats.

The Department proposes the following process for addressing this change:

Record in Spillman (Warden Cad system)

Calls can be taken by warden, biologist, dispatchers, or Administrative Assistant. Reports will include the following and will be forwarded to Fish & Wildlife Department's Law Enforcement Division for entering into the Spellman system.

Town

Date

Cat or dog

Disposition of animal (i.e. returned to owner, released, dispatched, taken to a vet, other (please explain))

Collared/Licensed/I.D. (yes/no)