

**REPORT OF THE
DEPARTMENT OF GAME AND INLAND FISHERIES**

Study of Local Firearms Hunting Ordinances

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 6

**COMMONWEALTH OF VIRGINIA
RICHMOND
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COMMONWEALTH of VIRGINIA

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Department of Game and Inland Fisheries

Colonel W. Gerald Massengill
Interim Director

December 27, 2005

TO: The Honorable Mark R. Warner, Governor of Virginia

 and

 Members of the Virginia General Assembly

Dear Governor Warner, Senators, and Delegates:

The Department of Game and Inland Fisheries is pleased to transmit its report regarding the study of local firearms hunting ordinances in accordance with 2004 Senate Joint Resolution No. 38 and continued by 2005 Senate Joint Resolution No. 393.

This report provides information on the concept of using model firearms hunting ordinances by localities.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "W. Massengill".

Colonel W. Gerald Massengill
Interim Director

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EXECUTIVE SUMMARY

Senate Joint Resolution No. 38 (SJR 38) of the 2004 Regular Session of the Virginia General Assembly requested the Department of Game and Inland Fisheries to study local firearms hunting ordinances. In conducting its study, the Department was asked to examine, among other issues, how these ordinances could be made more uniform and consistent across the state, with particular attention paid to the development and use of model ordinances that would lead to an easier understanding by the public of the hunting laws. While the Department made some progress under SJR 38 in working with the localities to address the diversity and scope of local hunting ordinances, the study was continued for an additional year through Senate Joint Resolution No. 393 (SJR 393) of the 2005 Session of the Virginia General Assembly.

Currently, there are sixty-five (65) localities (55 counties and 10 cities) listed in the Department's annual hunting digest as having one or more local firearms hunting ordinances. Sixty-nine (69) localities have not enacted any local hunting firearms hunting ordinances. In the 2004 work for SJR 38, the Department corresponded with all 134 counties and cities for feedback on a series of eight model ordinances that had been developed as a "menu of options" from which a local governing body could select when considering and enacting (or reenacting) local firearms hunting ordinances. The Department was not advocating adoption of any ordinances in those localities that do not already have them. The intent was simply to gather feedback about the usefulness and acceptability of model ordinance language.

Additionally, the Department conducts its "Assessment of State and Federal Mandates on Virginia Local Governments" every five years and completed the most recent assessment about mid-year 2005. This assessment is based on feedback received from the localities about hunting firearms restrictions, hunting or trapping near a highway, and carrying a loaded firearm on a public road. In conducting this assessment, the Department solicited feedback from all 325 counties, cities, and towns.

Of the sixty-five localities currently having ordinances, a response was received for SJR 38 from 19 of the 55 counties and 5 of the 10 cities. Of the 19 counties responding, 13 indicated that the use of model ordinances would not be satisfactory in meeting the needs of their locality. Of the 5 cities responding, 4 indicated that the use of model ordinances would not be satisfactory in meeting the needs of their locality. Further, in the recent mandates assessment, the localities indicated that the mandates are doing as intended.

In light of the information received from SJR 38 and the recent mandates assessment, the Department has concluded that there is not substantial support by the localities to change the current way of doing business on local firearms hunting ordinances with respect to the use of model ordinances.

INTRODUCTION AND BACKGROUND

Senate Joint Resolution No. 38 (SJR 38) of the 2004 Session of the Virginia General Assembly requested the Department of Game and Inland Fisheries to study local firearms hunting ordinances. In conducting its study, the Department was requested to examine, among other issues, how these ordinances can be made more uniform and consistent across the state, with particular attention paid to the development and use of model ordinances that would lead to an easier understanding by the public of the hunting laws.

The Code of Virginia provides enabling legislation for the localities to enact local firearms hunting ordinances. § 29.1-526 authorizes counties and cities to prohibit by ordinance hunting and trapping near primary and secondary highways. § 29.1-527 authorizes counties, cities, and towns to prohibit by ordinance hunting near public schools and county, city, town and regional parks. § 29.1-528 authorizes counties and cities to prohibit by ordinance hunting with certain firearms. § 15.2-1113.1 authorizes cities and towns to prohibit hunting in certain heavily populated areas. §§ 15.2-1209 and 15.2-1210 authorize counties to prohibit by ordinance shooting of firearms and hunting, respectively, in certain heavily populated areas.

According to the Code of Virginia, it shall be the duty of the governing body enacting an ordinance under § 29.1-526 or § 29.1-528 to notify the Director of the Department of Game and Inland Fisheries by registered mail no later than May 1 of the year in which the ordinance is to take effect. If the governing body fails to make such notice, the ordinance shall be unenforceable. As a benefit to the hunters of the Commonwealth, the Department provides a listing of local firearms ordinances, laws, and regulations in its annual hunting laws and regulations digest.

In the Department's 2005-2006 hunting digest, there are sixty-five (65) localities (55 counties and 10 cities) with one or more of 73 separate listings for local firearms hunting ordinances. Since a number of the listings address similar issues (rifle prohibitions, use of muzzleloading firearms, hunting near roadways, etc.) but use different language to essentially accomplish the same end result for the locality, the Department developed a number of ordinances intended to serve as models, guides, or basically a "menu of options" from which a local governing body could select when considering and enacting (or reenacting) local firearms hunting ordinances.

In the Department's work for SJR 38, it corresponded with all 134 counties and cities for feedback on the series of eight model ordinances that had been developed as a "menu of options" noted above. The Department did not advocate adoption of any ordinances in any localities that did not already have them. The intent was to simply gather feedback about the usefulness and acceptability of model ordinance language.

While the Department made some progress under SJR 38 in working with the localities to address the diversity and scope of local hunting ordinances, the study was continued for an additional year through Senate Joint Resolution No. 393 (SJR 393) of the 2005 Session of the Virginia General Assembly. The primary benefit to continuation of the study into 2005 was that the Department conducts its “Assessment of State and Federal Mandates on Virginia Local Government” every five years and was scheduled to complete the most recent assessment about mid-year 2005. This assessment is based on feedback received from the localities about hunting firearms restrictions, hunting or trapping near a highway, and carrying a loaded firearm on a public road. The Department solicited feedback from all 325 counties, cities, and towns, and completed the assessment in August 2005.

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

Of the sixty-five (65) localities currently having ordinances, a response was received for SJR 38 from nineteen (19) of the fifty-five (55) counties and five (5) of the ten (10) cities. Of the nineteen counties responding, thirteen (13) indicated that the use of model ordinances would not be satisfactory in meeting the needs of their locality. Of the five cities responding, four (4) indicated that the use of model ordinances would not be satisfactory in meeting the needs of their locality. While the scope of feedback was somewhat limited, there was overwhelming reluctance on the part of the responding localities on the usefulness and acceptability of model ordinance language. Further, in the recent mandates assessment, the localities indicated that the mandates are doing as intended.

In light of the information received from SJR 38 and the recent mandates assessment, the Department has concluded that there is not substantial support by the localities to change the current way of doing business on local firearms hunting ordinances with respect to the use of model ordinances. The process regarding local ordinances is intended for the benefit of localities and must be a process that is acceptable to them. In that regard, the Department's recommendation is to continue the current way of doing business.

APPENDIX A: STUDY RESOLUTIONS

SENATE JOINT RESOLUTION NO. 38

Requesting the Department of Game and Inland Fisheries to study local firearms hunting ordinances. Report.

Agreed to by the Senate, February 17, 2004

Agreed to by the House of Delegates, March 9, 2004

WHEREAS, § 29.1-526 of the Code of Virginia authorizes counties and cities to prohibit by ordinance hunting and trapping near primary and secondary highways; and

WHEREAS, § 29.1-527 authorizes counties, cities, and towns to prohibit by ordinance hunting near public schools and county, city, town and regional parks; and

WHEREAS, § 29.1-528 authorizes cities and towns to prohibit by ordinance hunting in certain firearms; and

WHEREAS, § 15.2-1113.1 authorizes cities and towns to prohibit by ordinance hunting in certain areas; and

WHEREAS, §§ 15.2-1209 and 15.2-1210 authorize counties to prohibit by ordinance shooting of firearms, and hunting, respectively, in certain areas; and

WHEREAS, counties and cities are authorized by §§ 18.2-287 and 18.2-287.1 to adopt other firearms ordinances related to carrying or transporting loaded firearms; and

WHEREAS, for the benefit of the Commonwealth's hunters, the Department of Game and Inland Fisheries provides a listing of local firearms ordinances, laws, and regulations in its annual hunting regulations digest; and

WHEREAS, the listing has grown to include 70 separate listings for 60 localities; and

WHEREAS, having these authorities under various Virginia statutes has resulted in a lack of uniformity and simplicity in local firearms hunting ordinances; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Department of Game and Inland Fisheries be requested to study local firearms hunting ordinances. In conducting its study, the Department of Game and Inland Fisheries, in consultation with local government attorneys, shall examine, among other issues, how these ordinances can be made more uniform and consistent across the state, with particular attention paid to the development and use of model ordinances that would lead to an easier understanding by the public of the hunting laws.

All agencies of the Commonwealth shall provide assistance to the Department of Game and Inland Fisheries for this study, upon request.

The Department of Game and Inland Fisheries shall complete its meetings by November 30, 2004, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2005 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

SENATE JOINT RESOLUTION NO. 393

Requesting the Department of Game and Inland Fisheries to continue its study of local firearms hunting ordinances. Report.

Agreed to by the Senate, February 2, 2005

Agreed to by the House of Delegates, February 24, 2005

WHEREAS, Senate Joint Resolution No. 38 (2004) requested the Department of Game and Inland Fisheries to study local firearms hunting ordinances; and

WHEREAS, the Department has corresponded with all 134 counties and cities to request their comments on the use of model firearms hunting ordinances and how the needs of the locality could be met through the consideration and use of model ordinance language; and

WHEREAS, the Department received responses from 44 of the 134 localities, with the responses clearly indicating that continuing discussions are warranted to further clarify the development of model ordinance language and the subsequent implementation of the model ordinance concept; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Department of Game and Inland Fisheries be requested to continue its study of local firearms hunting ordinances.

In conducting its study, the Department shall examine, among other issues, how these ordinances can be made more uniform and consistent across the Commonwealth, with particular attention paid to the development and use of model ordinances that would lead to an easier understanding by the public of the hunting laws.

All agencies of the Commonwealth shall provide assistance to the Department for this study, upon request.

The Department shall complete its meetings by November 30, 2005, and shall submit to the Governor and General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2006 Regular Session of the General Assembly and shall be posted on the General Assembly's website.