**South Carolina General Assembly**

120th Session, 2013-2014

**A54, R71, H3762**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. H.L. Ott, Skelton, Hardwick, Hodges, Knight, Bales, Jefferson, Parks, Sellers, Finlay, Funderburk, Gagnon, Gambrell, George, Hayes, Hiott, Hixon, Horne, Lowe, D.C. Moss, Norman, Pitts, Putnam, Riley, White, Williams and Vick

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Introduced in the House on March 6, 2013

Introduced in the Senate on April 30, 2013

Last Amended on May 22, 2013

Passed by the General Assembly on May 29, 2013

Governor's Action: June 7, 2013, Signed

Summary: Hunting

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 3/6/2013 House Introduced and read first time ([House Journal‑page 69](file:///h%3A%5CHJ%20Archive%5C2013%5C03-06-13.docx))

 3/6/2013 House Referred to Committee on **Judiciary** ([House Journal‑page 69](file:///h%3A%5CHJ%20Archive%5C2013%5C03-06-13.docx))

 3/20/2013 House Recalled from Committee on **Judiciary**

 3/20/2013 House Referred to Committee on **Agriculture, Natural Resources and Environmental Affairs**

 4/18/2013 House Committee report: Favorable with amendment **Agriculture, Natural Resources and Environmental Affairs** ([House Journal‑page 8](file:///h%3A%5CHJ%20Archive%5C2013%5C04-18-13.docx))

 4/24/2013 House Member(s) request name added as sponsor: Vick

 4/24/2013 House Amended ([House Journal‑page 45](file:///h%3A%5CHJ%20Archive%5C2013%5C04-24-13.docx))

 4/24/2013 House Read second time ([House Journal‑page 45](file:///h%3A%5CHJ%20Archive%5C2013%5C04-24-13.docx))

 4/24/2013 House Roll call Yeas‑106 Nays‑0 ([House Journal‑page 48](file:///h%3A%5CHJ%20Archive%5C2013%5C04-24-13.docx))

 4/25/2013 House Read third time and sent to Senate ([House Journal‑page 28](file:///h%3A%5CHJ%20Archive%5C2013%5C04-25-13.docx))

 4/30/2013 Senate Introduced and read first time ([Senate Journal‑page 11](file:///h%3A%5CSJ%20Archive%5C2013%5C04-30-13.docx))

 4/30/2013 Senate Referred to Committee on **Fish, Game and Forestry** ([Senate Journal‑page 11](file:///h%3A%5CSJ%20Archive%5C2013%5C04-30-13.docx))

 5/14/2013 Senate Polled out of committee **Fish, Game and Forestry** ([Senate Journal‑page 7](file:///h%3A%5CSJ%20Archive%5C2013%5C05-14-13.docx))

 5/14/2013 Senate Committee report: Favorable **Fish, Game and Forestry** ([Senate Journal‑page 7](file:///h%3A%5CSJ%20Archive%5C2013%5C05-14-13.docx))

 5/22/2013 Senate Amended ([Senate Journal‑page 10](file:///h%3A%5CSJ%20Archive%5C2013%5C05-22-13.docx))

 5/22/2013 Senate Read second time ([Senate Journal‑page 10](file:///h%3A%5CSJ%20Archive%5C2013%5C05-22-13.docx))

 5/22/2013 Senate Roll call Ayes‑29 Nays‑2 ([Senate Journal‑page 10](file:///h%3A%5CSJ%20Archive%5C2013%5C05-22-13.docx))

 5/23/2013 Senate Read third time and returned to House with amendments ([Senate Journal‑page 16](file:///h%3A%5CSJ%20Archive%5C2013%5C05-23-13.docx))

 5/29/2013 House Concurred in Senate amendment and enrolled ([House Journal‑page 38](file:///h%3A%5CHJ%20Archive%5C2013%5C05-29-13.docx))

 5/29/2013 House Roll call Yeas‑105 Nays‑0 ([House Journal‑page 38](file:///h%3A%5CHJ%20Archive%5C2013%5C05-29-13.docx))

 6/4/2013 Ratified R 71

 6/7/2013 Signed By Governor

 6/18/2013 Effective date 06/07/13

 6/18/2013 Act No. 54

**VERSIONS OF THIS BILL**

[3/6/2013](file:///p%3A%5Cpprever%5C2013-14%5C3762_20130306.docx)

[4/18/2013](file:///p%3A%5Cpprever%5C2013-14%5C3762_20130418.docx)

[4/24/2013](file:///p%3A%5Cpprever%5C2013-14%5C3762_20130424.docx)

[5/14/2013](file:///p%3A%5Cpprever%5C2013-14%5C3762_20130514.docx)

[5/22/2013](file:///p%3A%5Cpprever%5C2013-14%5C3762_20130522.docx)

(A54, R71, H3762)

**AN ACT TO AMEND SECTIONS 50‑11‑740, AS AMENDED, AND 50‑11‑745, RELATING TO THE CONFISCATION, FORFEITURE, SALE, AND RELEASE OF PROPERTY USED FOR THE UNLAWFUL HUNTING OF WILDLIFE, SO AS TO PROVIDE ADDITIONAL TYPES OF PROPERTY THAT ARE COVERED BY BOTH PROVISIONS, TO REVISE THE DEFINITION OF THE TERM “HUNTING” BY EXCLUDING REFERENCES TO THE CARCASS OF A COYOTE, ARMADILLO, OR FERAL HOG, TO MAKE A TECHNICAL CHANGE, TO DELETE THE PROVISION THAT RELATES TO THE HUNTING OF CERTAIN ANIMALS UNDER SECTION 50-11-710, TO DELETE THE PROVISION THAT REQUIRES THE DEPARTMENT OF NATURAL RESOURCES TO PAY THE NET PROCEEDS FROM THE SALE OF A CONFISCATED DEVICE TO THE STATE TREASURER FOR DEPOSIT INTO THE FISH AND WILDLIFE PROTECTION FUND, AND REQUIRE THAT THE NET PROCEEDS FROM A SALE MUST BE DEPOSITED IN A COUNTY’S GAME AND FISH FUND, AND TO REVISE THE PENALTIES THAT MAY BE IMPOSED FOR THE UNLAWFUL HUNTING OF WILDLIFE.**

Be it enacted by the General Assembly of the State of South Carolina:

**Confiscation, forfeiture, sale, and release of property used for unlawful hunting**

SECTION 1. Section 50‑11‑740 of the 1976 Code, as last amended by Act 228 of 2012, is further amended to read:

 “Section 50‑11‑740. (A) Every vehicle, boat, trailer, other means of conveyance, animal, firearm, or device used in the hunting of deer or bear at night is forfeited to the State and must be seized by any peace officer who shall forthwith deliver it to the department.

 (B) ‘Hunting’ as used in this section in reference to a vehicle, boat, or other means of conveyance includes the transportation of a hunter to or from the place of hunting or the transportation of the carcass, or any part of the carcass, of a deer or bear which has been unlawfully killed at night.

 (C)(1) For purposes of this section, a conviction for unlawfully hunting deer or bear at night is conclusive as against any owner of the above mentioned property.

 (2) In all other instances, forfeiture must be accomplished by the initiation by the State of an action in the circuit court in the county in which the property was seized giving notice to owners of record and lienholders of record or other persons having claimed an interest in the property subject to forfeiture and an opportunity to appear and show, if they can, why the property should not be forfeited and disposed of as provided for by this section. Failure of any person claiming an interest in the property to appear at the above proceeding after having been given notice of the proceeding constitutes a waiver of his claim and the property must be immediately forfeited to the State.

 (3) Notice of the above proceedings must be accomplished by:

 (a) personal service of the owner of record or lienholder of record by certified copy of the petition or notice of hearing; or

 (b) in the case of property for which there is no owner or lienholder of record, publication of notice in a newspaper of local circulation in the county where the property was seized for at least two successive weeks before the hearing.

 (D) The department shall sell any confiscated device at public auction for cash to the highest bidder in front of the county courthouse in the county where it is confiscated, after having given ten days’ public notice of the sale by posting advertisement thereof on the door or bulletin board of the county courthouse or by publishing the advertisement at least once in a newspaper of general circulation in the county.

 (E)(1) If an individual is apprehended for a first offense and the device is of greater value than two thousand five hundred dollars, the owner may at any time before sale redeem it by paying to the department the sum of two thousand five hundred dollars. When the device is of lesser value than two thousand five hundred dollars, the owner may at any time before sale redeem it by paying to the department the retail market value.

 (2) If an individual is apprehended for a second offense and the device is of greater value than five thousand dollars, the owner may, at any time before sale, redeem it by paying to the department the sum of five thousand dollars. When the device is of lesser value than five thousand dollars, the owner may, at any time before sale, redeem it by paying to the department the retail market value.

 (3) If an individual is apprehended for a third or subsequent offense, the device must be forfeited to the State.

 (F) Upon sale or redemption of a confiscated device, the department shall pay over the net proceeds, after payment of any proper costs and expenses of the seizure, advertisement, and sale, including any proper expense incurred for the storage of the confiscated device, to the State Treasurer for deposit in the County Game and Fish Fund.”

**Confiscation, forfeiture, sale, and release of property used for unlawful hunting**

SECTION 2. Section 50‑11‑745(A) of the 1976 Code is amended to read:

 “(A) Notwithstanding another provision of law, the Department of Natural Resources may administratively release any vehicle, boat, trailer, other means of conveyance, animal, firearm, or device confiscated from a person charged with hunting of deer or bear at night to an innocent owner or lienholder of the property.”

**Savings clause**

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

**Time effective**

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 4th day of June, 2013.

Approved the 7th day of June, 2013.

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