

H. B. 2515

(By Delegates R. Phillips, J. Nelson, Eldridge, H. White, Marcum,
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[Introduced January 29, 2015; referred to the
Committee on Agriculture and Natural Resources then Finance.]

A BILL to amend and reenact §20-2-4 and §20-2-5a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §20-2-5h, all relating to elk restoration; requiring persons required to deliver wildlife to an official checking station to electronically register that wildlife in lieu of its delivery to an official checking station; establishing a fine for the illegal taking of elk; requiring the Division of Natural Resources to take an active role in the reintroduction of the elk species; making findings; and providing for rule-making.

Be it enacted by the Legislature of West Virginia:

That §20-2-4 and §20-2-5a of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §20-2-5h, all to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-4. Possession of wildlife.

Except for wildlife, lawfully taken, killed or obtained, no person may have in his or her possession any wildlife, or parts thereof, during closed seasons. It is unlawful to possess any wildlife, or parts thereof, which have been illegally taken, killed or obtained. Any wildlife illegally taken, killed or possessed shall be forfeited to the state and shall be counted toward the daily, seasonal, bag, creel and possession limit of the person in possession of, or responsible for, the illegal taking or killing of any wildlife.

1 Wildlife lawfully taken outside of this state is subject to the same laws and rules as that taken
2 within this state.

3 Migratory wild birds may be possessed only in accordance with the "Migratory Bird Treaty
4 Act" and regulations thereunder.

5 The restrictions in this section do not apply to the director or duly authorized agents, who
6 may, in any manner, take or maintain in captivity, at any time, any wildlife for the purpose of
7 carrying out the provisions of this chapter.

8 Wildlife, except protected birds, elk, spotted fawn, and bear cubs, killed or mortally wounded
9 as a result of being accidentally or inadvertently struck by a motor vehicle may be lawfully possessed
10 if the possessor of the wildlife provides notice of the claim within twelve hours to a relevant
11 law-enforcement agency, and obtains a nonhunting game tag within twenty-four hours of possession.
12 The director shall propose administrative policy which addresses the means, methods and
13 administrative procedures for implementing the provisions of this section.

14 Persons required to deliver wildlife to an official checking station ~~may~~, shall, in accordance
15 with rules promulgated by the director, electronically register the wildlife in lieu of the delivery to
16 an official checking station. "Electronically register" means submission of all necessary and relevant
17 information to the division, in the manner designated by rule, in lieu of delivery of the wildlife to
18 an official checking station. The director may promulgate rules, pursuant to article three, chapter
19 twenty-nine-a of this code, governing the electronic
20 registration of wildlife.

21 **§20-2-5a. Forfeiture by person causing injury or death of game or protected species of**
22 **animal; additional replacement costs for antlered deer; forfeiture procedures**
23 **and costs.**

24 (a) Any person who is convicted of violating a criminal law of this state that results in the
25 injury or death of game, as defined in section two, article one of this chapter, or a protected species
26 of animal, in addition to any other penalty to which he or she is subject, shall forfeit the cost of

1 replacing the game or protected species of animal to the state as follows:

2 (1) For each game fish or each fish of a protected species taken illegally other than by
3 pollution kill, \$10 for each pound and any fraction thereof;

4 (2) For each bear, ~~or elk~~, \$500;

5 (3) For each deer or raven, \$200;

6 (4) For each wild turkey, hawk or owl, \$100;

7 (5) For each beaver, otter or mink, \$25;

8 (6) For each muskrat, raccoon, skunk or fox, \$15;

9 (7) For each rabbit, squirrel, opossum, duck, quail, woodcock, grouse or pheasant, \$10;

10 (8) For each wild boar, \$200;

11 (9) For each bald eagle, \$5,000;

12 (10) For each golden eagle, \$5,000; ~~and~~

13 (11) For each elk, \$5,000; and

14 ~~(11)~~ (12) For any other game or protected species of animal, \$100.

15 (b) In addition to the replacement value for deer in subsection (a)(3), the following cost shall
16 also be forfeited to the state by any person who is convicted of violating any criminal law of this
17 state and the violation causes the injury or death of antlered deer:

18 (1) For any deer in which the inside spread of the main beams of the antlers measured at the
19 widest point equals 14 inches or greater but less than 16 inches, \$1,000;

20 (2) For any deer in which the inside spread of the main beams of the antlers measured at the
21 widest point equals 16 inches or greater but less than 18 inches, \$1,500;

22 (3) For any deer in which the inside spread of the main beams of the antlers measured at the
23 widest point equals 18 inches or greater but less than 20 inches, \$2,000; and

24 (4) For any deer in which the inside spread of the main beams of the antlers measured at the
25 widest point equals 20 inches or greater, \$2,500.

26 (5) Any person convicted of a second or subsequent violation of any criminal law of this state

1 which violation causes the injury or death of antlered deer is subject to double the authorized range
2 of cost to be forfeited.

3 (c) Upon conviction, the court shall order the person to forfeit to the state the amount set
4 forth in this section for the injury or death of the game or protected species of animal. If two or more
5 defendants are convicted for the same violation causing the injury or death of game or protected
6 species of animal, the forfeiture shall be paid by each person in an equal amount. The forfeiture shall
7 be paid by the person so convicted within the time prescribed by the court not to exceed sixty days.
8 In each instance, the court shall pay the forfeiture to the Division of Natural Resources to be
9 deposited into the License Fund-Wildlife Resources (3200) and used only for the replacement,
10 habitat management or enforcement programs for injured or killed game or protected species of
11 animal.

12 **§20-2-5h. Elk restoration; depredation permits; rule-making.**

13 (a) The Legislature hereby finds and declares that:

14 (1) Pursuant to section one, article one of this chapter, the division is charged with
15 developing comprehensive programs for the exploration, conservation, development, protection,
16 enjoyment and use of the natural resources of the State of West Virginia.

17 (2) Hunting is a valued natural heritage of the citizens of the state.

18 (3) Eastern Elk were once common native elk species in the State prior to and following its
19 formation, but historical records indicate native elk were extirpated from the State of West Virginia
20 around 1875.

21 (4) Until recently, free roaming elk have not been present in the state.

22 (5) Section two, article one of this chapter defines elk as a game animal. However there is
23 currently no open hunting season for this species due to population levels that would not sustain
24 hunting.

25 (6) The citizens have expressed a desire for, and would benefit from, active elk restoration
26 in the state.

1 (b) The division, as the agency charged with preserving the hunting heritage in the state,
2 shall take an active role in the reintroduction of the elk species and shall establish an effective,
3 science-based elk management plan.

4 (c) The director shall promulgate rules in accordance with article three, chapter twenty-nine-a
5 of this code establishing the conditions under which depredation permits may be issued to persons
6 suffering damage from elk to allow the taking of elk and to develop protocols for the management
7 of elk outside the elk management area designated by the division.

8 (d) The director may promulgate rules in accordance with article three, chapter twenty-nine-a
9 chapter twenty-nine-a of this code establishing the conditions and permits that would allow the
10 management and future hunting of elk, which, upon reintroduction, shall be wild animals for all
11 purposes of this chapter. It shall be unlawful for any person to hunt, capture or kill any elk, or have
12 in his or her possession any elk or elk parts, except for elk lawfully taken, killed or obtained, during
13 an established open hunting season for elk and in the manner designated by the rules promulgated
14 pursuant to this section.

NOTE: The purpose of this bill is to require the Division of Natural Resources to take an active role in the reintroduction of the elk species to the state. The bill establishes a fine for the illegal taking of elk. The bill makes findings and provides for rule-making. The bill requires hunters to electronically register the taken wildlife in lieu of its delivery to an official checking station.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§22-2-5h is new; therefore, it has been completely underscored.