

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4404

BY DELEGATES ELDRIDGE, LOVE, LYNCH, MAYNARD,
PAYNTER, PHILLIPS, LANE, WHITE, MARCUM, R. MILLER
AND RODIGHIERO

[Introduced February 2, 2018; Referred
to the Committee on Agriculture and Natural
Resources then the Judiciary.]

1 A BILL to amend and reenact §20-2-5h of the Code of West Virginia, 1931, as amended, relating
2 to requiring that five percent of the permits to hunt elk be issued to West Virginia residents
3 who are honorably discharged veterans of the armed forces of the United States of
4 America.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5h. Elk management area; Elk Damage Fund; criminal penalties; rule-making.

1 (a) *Findings.* -- The Legislature finds that Eastern Elk were once a common, native species
2 in the state prior to and following its formation, but historical records indicate native elk were
3 extirpated from the state around 1875. Until recently, free roaming elk have not been present in
4 the state. However, elk are now migrating to the state from Kentucky, which has an active elk
5 restoration program. Therefore, the Division of Natural Resources has established an active elk
6 restoration program in Southern West Virginia.

7 (b) *Elk management area.* -- The division has established an elk restoration management
8 plan to reintroduce elk to all of Logan County, Mingo County, McDowell County and Wyoming
9 County, and part of Boone County, Lincoln County and Wayne County. The director and the
10 division may not expand the elk management area without statutory authorization.

11 (c) *Elk Damage Fund.* -- There is hereby created a special revenue account in the State
12 Treasury to be known as the Elk Damage Fund to be administered by the division. Ten percent
13 from all application fees for the hunting of elk are to be deposited into the Elk Damage Fund."
14 Expenditures from the fund shall be for the payment of damages caused to agricultural crops,
15 agricultural fences and personal gardens by elk.

16 (d) *Criminal penalties.* -- It shall be unlawful for any person to hunt, capture or kill any elk,
17 or have in his or her possession elk or elk parts, except for elk lawfully taken, killed or obtained
18 during an established open hunting season for elk or by permit.

19 (1) Any person who commits a violation of the provisions of this section is guilty of a

20 misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than
21 \$5,000, or confined in jail not less than 30 nor more than 100 days, or both fined and confined.

22 (2) Any person who commits a second violation of the provisions of this section is guilty of
23 a misdemeanor and, upon conviction thereof, shall be fined not less than \$2,000 nor more than
24 \$7,500, or confined in jail not less than 30 days nor more than one year, or both fined and
25 confined.

26 (3) Any person who commits a third or subsequent violation of the provisions of this section
27 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than
28 \$10,000, or imprisoned in a state correctional facility not less than one year nor more than five
29 years, or both fined and imprisoned.

30 (e) *Rulemaking.* -- The director shall propose rules for promulgation in accordance with
31 the provisions of §29a-3-1 *et seq.* of this code to:

32 (1) Set forth the parameters of the elk management plan;

33 (2) Establish the procedures for the issuance of depredation permits to persons suffering
34 damage from elk;

35 (3) Establish protocols for the control of elk outside the elk management area;

36 (4) Establish hunting application fees and procedures: Provided, That five percent of all
37 permits issued for the hunting of elk shall be issued to West Virginia residents who are honorably
38 discharged veterans of the armed forces of the United States of America;

39 (5) Establish procedures for reimbursement from the Elk Damage Fund to those with
40 damage to agricultural crops, agricultural fences and personal gardens caused by elk; and

41 (6) Establish protocols for ensuring elk imported to the state are healthy, tested for
42 tuberculosis, brucellosis and other diseases of critical concern, and from an area where chronic
43 wasting disease has not been detected.

NOTE: The purpose of this bill is to require that five percent of the permits to hunt elk be

issued to West Virginia residents who are honorably discharged veterans of the armed forces of the United States of America.

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