

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4767

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BOWE, ANGELUCCI, KESSINGER, DEAN, STORCH,
SPONAUGLE AND PYLES

[Introduced February 10, 2020; Referred to the
Committee on Agriculture and Natural Resources
then Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §20-2D-1, §20-2D-2, §20-2D-3, §20-2D-4, §20-2D-5, §20-2D-6, §20-2D-7,
3 §20-2D-8, §20-2D-9, §20-2D-10, §20-2D-11, §20-2D-12, §20-2D-13, §20-2D-14, §20-2D-
4 15, §20-2D-16 and §20-2D-17, all relating to establishing a system for issuing permits for
5 persons to provide rehabilitation of orphaned, sick and injured wildlife; setting forth a
6 purpose for the legislation; defining certain terms; establishing qualifications and duties of
7 rehabilitators; providing for the issuance of permits by the Director of Rehab Services for
8 the Division of Natural Resources; requiring certain standards of treatment and housing;
9 listing criteria for revocation of permits; and providing that the Director of Rehab Services
10 for the Division of Natural Resources may propose legislative rules.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2D. WILDLIFE REHABILITATION.

§20-2D-1. Purpose; Director of Rehab Services.

1 (a) The purposes of this article are to:
2 (1) Establish reasonable standards and a small division within the West Virginia
3 Department of Natural Resources for the rehabilitation of orphaned, sick and injured wildlife,
4 including wild animals and birds;
5 (2) Establish a permit system and other criteria for issuing permits to individuals to provide
6 for the care, treatment and release of orphaned and debilitated wildlife obtained by those
7 individuals or received from other parties. The permit process is designed to provide for the
8 participation of selected volunteers to the maximum extent possible and to ensure that all persons
9 engaged in rehabilitation of wildlife are qualified, undergo periodic training, house animals and
10 birds under proper conditions, provide a high level of humane care for animals and birds, and are
11 protected as much as is possible from injury caused by animals and birds or from contracting
12 disease that may be carried by animals and birds.
13 (b) The Director of the Division of Natural Resources shall employ a Director of Rehab

14 Services who is required to be a licensed veterinarian and shall administer this program.

§20-2D-2. Limitations.

1 This article does not authorize ownership or possession of wildlife for purposes other than
2 rehabilitation and release nor does it authorize any person with a wildlife rehabilitation permit to
3 practice veterinary medicine.

§20-2D-3. Definitions.

1 As used in this article:

2 “Advisor” means a master class permit holder who has volunteered to provide counsel
3 and to serve as a mentor for apprentice class permit holders.

4 “Applicant” means a person who applies for a West Virginia Department of Natural
5 Resources wildlife rehabilitation permit.

6 “Big game” means deer, elk, bear and boar.

7 “Continuing education and training” means instruction, courses of instruction, study guides
8 or other materials determined by the director to be acceptable for use by wildlife rehabilitation
9 permit holders to satisfy the requirements for renewal of permits upon expiration.

10 “Director” means the Director of Rehab Services or the director’s designated employees
11 or other agents.

12 “Division” means the West Virginia Division of Natural Resources.

13 “Facilities” means equipment, housing or other shelter used in, or necessary for, the
14 rehabilitation of wildlife.

15 “Federal permit” means a permit for the rehabilitation of migratory birds issued by the
16 United States Fish and Wildlife Service.

17 “In-shelter assistant” means a person designated by apprentice, or master permit holders,
18 to assist permit holders with basic care and feeding of animals and birds undergoing rehabilitation
19 in the facility of the permit holder.

20 “Non-releasable wildlife” means wildlife that cannot be released because of a permanent

21 injury, degenerative physical condition as a result of illness, or habituation to humans that would
22 significantly reduce the chance of the animal surviving in the wild.

23 “Permit” means a wildlife rehabilitation permit issued by the Director of Rehab Services as
24 provided in this article.

25 “Permit holder” means a person who possesses a valid apprentice or master wildlife
26 rehabilitation permit issued by the Director Rehab Services.

27 “Public exhibition” means a display to the general public of wild animals and birds
28 undergoing rehabilitation, either on the permit holder’s premises or elsewhere.

29 “Transport” means the act by a permit holder of causing or attempting to cause wild
30 animals to be carried or moved other than within the premises of a permit holder.

31 “Volunteers” mean persons who are experienced with wildlife rehabilitation and are
32 designated by the Director of Rehab Services to assist with the process of issuing wildlife
33 rehabilitation permits to individuals.

34 “Wildlife rehabilitation” means the process of rescuing, raising and arranging for veterinary
35 medical care of orphaned, sick, displaced or injured wild animals and birds with a goal of releasing
36 them back to their natural habitat.

37 “Wildlife rehabilitator” means a person who has a valid Division of Natural Resources
38 apprentice or master class wildlife rehabilitation permit issued by the division.

§20-2D-4. Federal permits.

1 A permit holder authorized to rehabilitate migratory birds under a department permit must
2 also possess a valid United States Fish and Wildlife Service special purpose rehabilitation permit.
3 Other rehabilitation activities may also require a federal permit including a permit to work with
4 endangered species. Issuance of a permit by the Director of Rehab Services does not exempt
5 the permit holder from the permit requirements of federal law. A permit holder may not practice
6 veterinary medicine as defined by law unless he or she is licensed as a veterinarian.

§20-2D-5. Wildlife rehabilitation permits.

1 (a) Except for every person with a permit issued by the United States Fish and Wildlife
2 Service to rehabilitate migratory birds and every person providing verifiable proof of four years
3 similar experience in wildlife rehabilitation in this state who pays a fee of \$100 therefor shall be
4 issued a master class permit by the Director of Rehab Services on the effective date of, and as
5 provided by, this article. No person may rehabilitate a wild animal or bird without a permit from
6 the Director of Rehab Services. A person with a rehabilitation permit may capture, receive,
7 possess, transport or transfer an orphaned, sick or injured wild animal or bird for purposes of
8 rehabilitation according to conditions of the permit. Permits may only be issued to residents of
9 West Virginia except when the Director of Rehab Services determines that there are special
10 circumstances where the interests of wildlife rehabilitation in this state are served by issuing
11 permits to nonresidents. Nonresidents must meet the same permit requirements as residents.
12 The Director of Rehab Services may restrict the rehabilitation of certain species of animals and
13 birds, either statewide or in certain geographic areas, as needed due to disease, overpopulation
14 or other limiting factors. The permit may be limited to certain species if deemed to be in the best
15 interest of the wildlife resource, or upon request of the applicant.

16 (b) No person may be authorized to have both a game farm license and a wildlife
17 rehabilitation permit at the same time.

§20-2D-6. Permit classes.

1 There are two classes of wildlife rehabilitation permits, as follows:

2 (1) *Apprentice class.* – (A) An apprentice class permit holder must:

3 (i) Be at least 18 years of age;

4 (ii) Have experience at handling and caring for animals and birds according to criteria
5 established by the Director of Rehab Services;

6 (iii) Pass a written test for the apprentice class with a score of at least 80 percent;

7 (iv) Maintain facilities as required by this article; and

8 (v) Identify a licensed veterinarian who has agreed to assist and consult with the applicant

9 on the treatment and care of animals and birds being rehabilitated; and be advised by a master
10 level permit holder.

11 (B) An apprentice class permit holder may:

12 (i) Possess an orphaned, sick or injured wild bird or animal up to 48 hours for transport to
13 another apprentice or master class permit holder authorized to possess for rehabilitation the
14 particular bird or animal, or to a licensed veterinarian or after consultation, not more than 48 hours
15 of possession of an orphaned, sick or injured wild bird or animal, to receive direction for further
16 care from a master class permit holder or veterinarian;

17 (ii) Provide emergency care for a sick or injured wild animal or bird designated on the
18 permit and either transport within 48 hours to a master class permit holder authorized to possess
19 for rehabilitation the particular animal, or to a licensed veterinarian or after consultation, not more
20 than 48 hours of possession receive direction for further care from a master class permit holder
21 or veterinarian; and

22 (iii) Possess for rehabilitation only healthy orphaned wild animals and birds.

23 (C) An apprentice class permit holder may not possess for rehabilitation any species of
24 endangered or threatened wild animal or bird other than for transport for emergency care and
25 may not possess for rehabilitation any species of bird belonging to the orders Falconiformes
26 (hawks, eagles, harriers, osprey and falcons) and Strigiformes (owls). An apprentice class permit
27 holder may only possess mammals for rehabilitation such as deer and those belonging to the
28 orders Lagomorpha (rabbits and hares) and Rodentia (squirrels, pocket gophers, rats, mice,
29 moles, lemmings, beaver and porcupine). An apprentice class permit holder may designate no
30 more than two persons as in-shelter assistants who may work in the facility of the permit holder
31 to assist with care and feeding of animals and birds being rehabilitated. The apprentice class
32 permit holder is responsible for notifying the Director of Rehab Services, in writing, of the names,
33 addresses and telephone numbers of in-shelter assistants.

34 (2) Master class. – (A) A master class permit holder must:

- 35 (i) Be at least 21 years of age;
- 36 (ii) Have been an apprentice class permit holder for at least two years;
- 37 (iii) As an apprentice class permit holder, have demonstrated ongoing animal rehabilitation
38 activities and successfully completed continuing education and training;
- 39 (iv) Pass a written test for the master class permit holder with a score of at least 80 percent;
- 40 (v) Maintain facilities as required by this article; and
- 41 (vi) Identify a licensed veterinarian who has agreed to assist and consult with the applicant
42 on the treatment and care of animals and birds being rehabilitated.
- 43 (B) A master class permit holder may:
- 44 (i) Possess an orphaned, sick, or injured wild animal or bird up to 48 hours for transport to
45 an apprentice or master class permit holder authorized to possess for rehabilitation the particular
46 animal or bird, or to a licensed veterinarian;
- 47 (ii) Provide emergency care for a sick or injured wild animal or bird and transport within 48
48 hours to another master class permit holder authorized to possess for rehabilitation the particular
49 animal or bird, or to a licensed veterinarian;
- 50 (iii) Possess for rehabilitation healthy orphaned, sick or injured wild animals and birds;
- 51 (iv) Serve voluntarily as an advisor of apprentice permit holders: *Provided*, That master
52 class permit holders who desire to serve as advisors to apprentice class permit holders must:
- 53 (I) Submit a written request to the Director of Rehab Services requesting designation as
54 an apprentice advisor; and
- 55 (II) Have experience rehabilitating the species of animals and birds that apprentice class
56 permit holders are allowed to possess.

§20-2D-7. Permit requirements.

- 1 Applicants for apprentice level permits must be able to demonstrate reasonable
2 experience and skills at handling and caring for animals and birds. The applicant may meet this
3 requirement if he or she:

- 4 (1) Holds a degree in veterinary medicine, veterinary technology or animal science;
5 (2) Has experience working with a practicing veterinarian or at a publicly owned or
6 operated zoo, university animal clinic, animal shelter or wildlife rehabilitation clinic;
7 (3) Has experience working with an individual licensed as a wildlife rehabilitator, including
8 hands-on experience with animals and birds; or
9 (4) Has other verifiable experience in caring for animals and birds.

§20-2D-8. Examination; other requirements.

- 1 (a) The applicant must obtain a score of at least 80 percent on a supervised examination
2 provided by the Director of Rehab Services. An applicant who does not receive a score of at least
3 80 percent on the examination must wait a minimum of two months before retaking the
4 examination.
- 5 (b) The applicant must have on the premises adequate facilities to carry out wildlife
6 rehabilitation activities. Adequate facilities include types of cages, cage sizes and other facility
7 criteria as prescribed by the minimum standards of the National Wildlife Rehabilitators Association
8 or the International Wildlife Rehabilitators Council.
- 9 (c) All classes of wildlife rehabilitation permit holders, except licensed veterinarians, must
10 notify the Director of Rehab Services the licensed veterinarian consultant who will advise and
11 assist permit holders in the care and treatment of wild animals and birds. The agreement with a
12 licensed veterinarian must be specifically set out in a letter on letterhead with the veterinarian's
13 original signature and included in the original permit request. Apprentice class wildlife
14 rehabilitation permit holders must have a master class wildlife permit holder as an advisor. The
15 agreement with a master class wildlife permit holder must be specifically set out in a letter on
16 letterhead with the veterinarian's original signature and included in the original permit request.

§20-2D-9. Application.

- 1 Written application for wildlife rehabilitation permits shall be made on the form provided
2 by the Director of Rehab Services. The application must be accompanied by a fee of \$100 and

3 contain the following information:

4 (1) The name, address, telephone number and date of birth of the applicant;

5 (2) The address of the proposed wildlife rehabilitation activity or facility;

6 (3) A detailed description and clear photographs of the applicant's facilities, including
7 numbers and sizes of cages and other pertinent information as requested by the Director of Rehab
8 Services;

9 (4) A description of educational background related to animal biology, veterinary medicine
10 and wildlife rehabilitation and two letters of reference from people who know the applicant
11 describing the applicant's experience with care of wildlife;

12 (5) A description of experience and training related to wildlife rehabilitation, including a
13 compilation of the types of department wildlife rehabilitation permits possessed in the past and
14 the duration of the permit;

15 (6) Certification from the Director of Rehab Services that the applicant has obtained a
16 score of at least 80 percent on a supervised examination provided by the Director of Rehab
17 Services for the class of rehabilitation permit requested;

18 (7) The name, address and telephone number of the licensed veterinarian who has agreed
19 to assist and consult with the permit holder on the treatment and care of animals and birds being
20 rehabilitated;

21 (8) For applicants for apprentice level wildlife rehabilitation permits, the name, address,
22 telephone number and division rehabilitation permit number of the master class permit holder who
23 has agreed to serve as an advisor for the applicant;

24 (9) The types of wildlife the applicant desires to rehabilitate allowed by the permit level
25 applied for;

26 (10) An agreement to comply with the requirements of this article; and

27 (11) The original letter of agreement with a licensed veterinarian or master class permit
28 holder must be specifically set out in a letter on letterhead with the veterinarian's or master class

29 permit holder's original signature and included in the original permit request.

§20-2D-10. Inspection and issuance.

1 After receipt of the application for a rehabilitation permit, and a determination by the
2 Director of Rehab Services that the applicant has satisfied all requirements for a permit, the
3 Director of Rehab Services shall inspect the applicant's facility. This duty may also be done by an
4 assistant or wildlife biologist if needed.

§20-2D-11. Permit not transferable.

1 A permit issued under the provisions of this article may not be transferred to another
2 person.

§20-2D-12. Record keeping and reporting requirements.

1 All permit holders shall retain complete and current records on forms provided by the
2 Director of Rehab Services of any animal or bird to come into the possession of the permit holder
3 under the provisions of this article. These records must be updated within 24 hours of receipt of
4 an animal or bird needing rehabilitation. All permit holders shall submit a report of his or her annual
5 activities to the division by January 31 of the following year. Permit holders are required to retain
6 records for three calendar years and make the records available for inspection by the Director of
7 Rehab Services at reasonable times.

§20-2D-13. Examination, continuing education and training.

1 (a) The Director of Rehab Services shall establish examinations for initial issuance of each
2 class of permit and shall appoint a committee to include two wildlife rehabilitation permit holders,
3 a veterinarian and a designee of the Director of Rehab Services to establish requirements for
4 continuing education and training needed for renewal of permits. These requirements must be
5 fully met before permits may be renewed.

6 (b) Persons experienced with wildlife rehabilitation may be designated by the Director of
7 Rehab Services to:

8 (1) Assist in the development of examinations and continuing education and training

9 materials;

10 (2) Assist in the administration of examinations for various levels of permits;

11 (3) Conduct continuing education under direction of the Director of Rehab Services; and

12 (4) Consult with the Director of Rehab Services regarding the wildlife rehabilitation permit
13 process.

§20-2D-14. General provisions regarding wildlife rehabilitation.

1 (a) Permit holders may capture orphaned, sick or injured animals and birds or receive
2 animals and birds from others for purposes of rehabilitation. Permit holders may not import or
3 accept animals and birds for rehabilitation from outside West Virginia, except as may be permitted
4 by the Director of the Division of Natural Resources. The Director of Rehab Services shall be
5 notified immediately of the receipt of a threatened or endangered species by a permit holder.

6 (b) Animals and birds being rehabilitated may have contact with the permit holder or
7 designated in-shelter assistants only to the extent necessary for adequate care and treatment.
8 Animals and birds may not be habituated to humans, tamed, used as pets or used in inappropriate
9 ways. Mammals being rehabilitated may be housed only with others of the same species. Public
10 exhibition of animals and birds being rehabilitated is prohibited. Transfers of animals and birds
11 being rehabilitated may be made to the same level or to higher level permit holders and, in the
12 case of master permit holders, to lower level permit holders, when in the judgment of the permit
13 holder after discussion with the permit holder's master class advisor or veterinarian consultant, it
14 is determined that a transfer would result in improved care of the animal and the permit holder is
15 authorized to possess the animals and birds transferred.

16 (c) Costs incurred by the permit holder for rehabilitation activities are the responsibility of
17 the permit holder only. Permit holders who are not veterinarians may not charge a fee for
18 rehabilitating animals and birds. Permit holders may not delegate to others the authority granted
19 in their permit except that permit holders may designate others as in-shelter assistants to assist
20 with the care and feeding of animals or birds on the premises of the permit holder and under the

21 direct supervision of the permit holder. When, in the judgment of the permit holder, after
22 discussion with the permit holder's master class advisor or veterinarian consultant, an injured or
23 sick animal has sufficiently recovered, or an orphaned animal is matured to the point where it has
24 a reasonable chance to survive in the wild, the animal or bird shall be released immediately in
25 suitable habitat as near to the point where the animal was captured as practical. Rehabilitated
26 animals and birds are not to be transported across state lines for release or for any other purposes
27 unless expressly authorized by the Director of the Division of Natural Resources. When
28 authorized by the Director of Rehab Services, animals and birds that are not sufficiently recovered
29 from injuries or illnesses, or are not otherwise ready for release prior to the onset of cold weather,
30 may be kept over winter and released in the spring. When, in the judgment of the permit holder,
31 and on advice of the permit holder's master class advisor or veterinarian consultant, an injured,
32 sick or orphaned animal or wild bird is incapable of surviving if released to the wild, the animal
33 must be:

34 (1) Humanely euthanized under the direction of the veterinarian consultant;
35 (2) Turned over to the Director of Rehab Services;
36 (3) Transferred as directed by the Director of Rehab Services: *Provided*, That upon
37 application to, payment of the required fee and the issuance of a permit to a master class permit
38 holder by the Director of Rehab Services, the master class permit holder may keep an injured,
39 sick or orphaned animal or bird that is incapable of surviving if released to the wild, except for
40 migratory fowl, in a roadside menagerie for the lifetime of the animal or bird; or

41 (4) Transferred to a master class advisor where a permit can be obtained to cage and
42 keep for educational purposes.

43 (d) Euthanizing a wild animal or bird may only be carried out by the most humane means
44 possible by either the permit holder or veterinarian consultant and only by methods specifically
45 prescribed by the veterinarian consultant according to criteria established by the American
46 Veterinary Medical Association, the National Wildlife Rehabilitators Association or the

47 International Wildlife Rehabilitators Council. Except where it is necessary to relieve immediate
48 pain, and in cases where recovery is highly unlikely, threatened or endangered species may be
49 euthanized only on express approval of the Director of Rehab Services. Animals and birds that
50 die of natural causes or that are euthanized must be buried, incinerated, rendered or turned over
51 to a person or institution that possesses a valid salvage permit from the department and, in the
52 case of migratory birds, a valid federal salvage permit.

53 (e) Threatened or endangered species or any parts thereof shall be disposed of only at
54 the direction of the Director of Rehab Services. Live or dead animals or birds or any parts thereof
55 may not be sold, bartered or given away.

56 (f) All fees collected shall be used to offset the additional administrative costs of the
57 Division of Natural Resources made necessary in order to implement the provisions of this article.

§20-2D-15. Facilities and operating standards.

1 All facilities and procedures required for care, feeding, watering and exercising animals
2 and birds, indoor and outdoor facilities, cages, pens, enclosures or other areas shall be in
3 accordance with common veterinary protocols and in compliance with the standards of the
4 National Wildlife Rehabilitators Association and International Wildlife Rehabilitation Council
5 minimum standards for wildlife rehabilitation.

§20-2D-16. Revocation of permits.

1 The Director of Rehab Services may at any time revoke all or part of a permit under the
2 conditions in this part whenever the Director of Rehab Services has determined that a permit
3 holder has failed to comply with provisions of this article or when it is necessary to protect the
4 interests of the public, or to protect the wildlife covered by the permits. Except in an emergency,
5 at least 14 days prior to the effective date of the revocation the permit holder must be informed in
6 writing of the nature of the revocation and of the conditions which, in the opinion of the Director
7 of Rehab Services, requires the revocation. Within 30 days of mailed notice of revocation, the
8 permit holder may apply for an amendment to the permit or to request a hearing before the

9 Director of Rehab Services to contest the revocation, support the permit holder's proposed
10 amendment, or both. The Director of Rehab Services shall work in accordance with and have full
11 cooperation from the Director of Natural Resources, all police entities, and biologist for the
12 Division of Natural Resources. This partnership shall work together when needed to revoke a
13 permit holder's licenses or for the safety of the animals. Animals retained by the Division of Natural
14 Resources maybe placed with another permit holder.

§20-2D-17. Rules.

1 The Director of Rehab Services may propose rules for legislative approval in accordance
2 with the provisions of §29A-3-1 et seq. of this code to aid in implementing and administering this
3 article.

NOTE: The purpose of this bill is to provide a program to permit and train volunteers, called rehabilitators, to care for, protect and return injured wildlife to the wild. All states around West Virginia have rehab laws in effect.

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