

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

Introduced

### Senate Bill 450

FISCAL  
NOTE

BY SENATORS SMITH, STOLLINGS, AND LINDSAY

[Introduced February 25, 2021; referred  
to the Committee on Natural Resources]

1 A BILL to amend and reenact §20-2-5a of the Code of West Virginia, 1931, as amended; and to  
 2 amend said code by adding thereto a new section, designated §20-2-5k, all relating to  
 3 protecting albino deer; adding albino deer to list of animals to which forfeiture and  
 4 additional replacement costs apply; defining terms; prohibiting hunting, capturing, killing,  
 5 or destroying albino deer; providing exceptions; and providing criminal penalties.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 2. WILDLIFE RESOURCES.**

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

1 (a) Any person who is convicted of violating a criminal law of this state that results in the  
 2 injury or death of game, as defined in §20-1-2 of this code, or a protected species of animal, in  
 3 addition to any other penalty to which he or she is subject, shall forfeit the replacement cost of  
 4 the game or protected species of animal to the state as follows:

5 (1) For each game fish or each fish of a protected species taken illegally other than by  
 6 pollution kill, \$20 for each pound and any fraction thereof: *Provided*, That for each native brook  
 7 trout that exceeds the creel limit, \$100 each for the first five illegally taken and \$20 for each  
 8 thereafter;

9 (2) For each bear, \$1,000;

10 (3) For each deer or albino deer, \$500;

11 (4) For each wild turkey, \$250;

12 (5) For each beaver, otter or mink, \$100;

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

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

15 (8) For each wild boar, \$500;

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

17 (10) For each golden eagle, \$5,000;

18 (11) For each elk, \$10,000;

19 (12) For each raven, hawk, or owl \$200; and

20 (13) For any other game or protected species of animal, \$100.

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

25 (1) For any deer or albino deer in which the inside spread of the main beams of the antlers  
26 measured at the widest point equals 14 inches or greater but less than 16 inches, \$2,500;

27 (2) For any deer or albino deer in which the inside spread of the main beams of the antlers  
28 measured at the widest point equals 16 inches or greater but less than 18 inches, \$5,000;

29 (3) For any deer or albino deer in which the inside spread of the main beams of the antlers  
30 measured at the widest point equals 18 inches or greater but less than 20 inches, \$7,500; and

31 (4) For any deer or albino deer in which the inside spread of the main beams of the antlers  
32 measured at the widest point equals 20 inches or greater, \$10,000.

33 (5) Any person convicted of a second or subsequent violation of any criminal law of this  
34 state which violation causes the injury or death of antlered deer or albino deer is subject to double  
35 the authorized range of replacement cost to be forfeited.

36 (c) Upon conviction, the court shall order the person to forfeit to the state the amount set  
37 forth in this section for the injury or death of the game or protected species of animal. If two or  
38 more defendants are convicted for the same violation causing the injury or death of game or  
39 protected species of animal, the replacement costs shall be paid by each person in an equal  
40 amount. The replacement costs shall be paid by the person so convicted within the time  
41 prescribed by the court not to exceed 60 days. In each instance, the court shall pay the  
42 replacement costs to the Division of Natural Resources to be deposited into the License Fund-

43 Wildlife Resources and used only for the replacement, habitat management or enforcement  
44 programs for injured or killed game or protected species of animal.

45 (d) Any person convicted of an offense described in subsection (a) of this section and  
46 subject to the replacement cost provisions of subsection (b) or subdivision (a)(11) of this section  
47 shall also be subject to a revocation of hunting and fishing license for a period of five years  
48 pursuant to §20-2-38 of this code and such person shall not be issued any other hunting license  
49 for a period of five years.

**§20-2-5k. Protection of albino deer; criminal penalties.**

1 (a) For purposes of this article, "albino deer" means a deer with a lack of or significant  
2 deficiency of pigment in skin and hair and with pink eyes.

3 (b) Except as provided in §20-2-15 of this code, it is unlawful for any person to hunt,  
4 capture, kill, or destroy any albino deer.

5 (c) Any person who commits a violation of the provisions of this section is guilty of a  
6 misdemeanor and, upon conviction, shall be fined not less than \$250 nor more than \$1,000, or  
7 confined in jail not less than 10 days nor more than 100 days, or both fined and confined.

NOTE: The purpose of this bill is to protect albino deer. The bill defines albino deer and, with certain exceptions, prohibits hunting, capturing, killing, or destroying them. The bill adds albino deer to the list of animals for which forfeiture and replacement costs apply. The bill provides criminal penalties.

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