

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 21**

By Senators Smith (Mr. President), Rucker, Thorne,

Phillips, Hart, Willis, and Rose

[Reported March 13, 2025 from the Committee on

Natural Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,  
2 designated §20-2-5m, relating to the assessment of a wildlife impact fee by the Director of  
3 the Division of Natural Resources on operators of wind power projects that injure or kill  
4 protected birds, wild birds, and bats; providing for wildlife impact fee; providing for criminal  
5 law exemption; and defining “wind turbine and tower and related components”.

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

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

### **§20-2-5m. Assessment of Wildlife Impact Fee on operators of wind power projects that injure or kill protected bird, wild birds, and bats.**

1 (a) It is the public policy of the State of West Virginia to protect wildlife resources for the use  
2 and enjoyment of all the citizens of this state, pursuant to §20-2-1. Wildlife resources include  
3 protected birds, wild birds, and bats.

4 (b) Wind power projects utilize wind turbines and towers and related components which  
5 pose a significant risk of collision to protected birds and wild birds, including bald eagles, also  
6 known as American eagles, golden eagles, ravens, hawks, owls, and woodcocks, as well as bats.

7 (c) Any operator or permittee of a wind power project found by the director to have injured  
8 or killed a protected bird, wild bird, or bat through the operation of a wind turbine, tower, or related  
9 component shall be assessed and forfeit a wildlife impact fee pursuant to the wildlife replacement  
10 provisions in §20-2-5a: *Provided*, That, notwithstanding any provision of this code to the contrary,  
11 no injury or death resulting from a collision with a wind power project shall constitute a criminal  
12 violation.

13 (d) In each instance, the wildlife impact fee shall be paid to the Division of Natural  
14 Resources to be deposited into the Wildlife Endowment Fund, §20-2B-1, *et seq.*, and used for  
15 replacement, habitat management, education, or enforcement programs.

16 (e) As used in this section, "wind turbine and tower and related components" includes: All  
17 structures of a wind power project that create a collision risk for protected wildlife resources

including, but not limited to, the rotor, consisting of the blades and the supporting hub; the drive train, which includes the remaining rotating parts such as the shafts, gearbox, coupling, a mechanical brake and the generator; the nacelle and main frame, including the wind turbine housing, bedplate and the yaw system; the turbine transformer; the machine controls; the tower; the tower foundation; and all associated structures including electricity cables and meteorological masts: *Provided*, That, notwithstanding any provision of this code to the contrary, no wildlife resource injured or killed by a wind power project or the operation of a wind turbine and tower may be considered a lawful taking: *Provided, however*, That nothing in this section may be construed to prohibit the taking, possession, or transportation of bald or golden eagles legally under the current federal Eagle Protection Act, 16 U.S.C. §668a, and the current federal regulations, 50 CFR 22.1 *et seq.*