WEST VIRGINIA CODE: §20-2-5H

§20-2-5h. Elk management area; elk damage fund; criminal penalties; rule-making.

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

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

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

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

(1) Any person who commits a violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000, or confined in jail not less than thirty nor more than one hundred days, or both fined and confined.

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

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

(e) Rulemaking. -- The director shall propose rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code to:

WV Legislature

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

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

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

(4) Establish hunting application fees and procedures;

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

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

WV Legislature