WEST VIRGINIA CODE CHAPTER 20 ARTICLE 2D

WV Legislature

§20-2D-1. Purpose.

The purposes of this article are to:

(1) Establish a program within the West Virginia Division of Natural Resources Wildlife Resources Section for the short-term rehabilitation and subsequent release of orphaned, sick, and injured wildlife, by authorized persons, including standards for such program.

(2) Establish a wildlife rehabilitation permit system to include criteria for issuing permits to persons to provide for the care, treatment, and release of orphaned, sick, or injured wildlife. The permit process shall be designed to ensure all persons engaged in rehabilitation of wildlife are qualified, undergo periodic training, house wildlife under proper conditions, provide a high level of humane care for wildlife, and are protected as much as is possible from injury caused by wildlife or from contracting or spreading disease that may be carried by wildlife.

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§20-2D-2. Definitions.

(a) As used in this article:

(1) “Applicant” means a person who applies for a West Virginia Division of Natural Resources wildlife rehabilitation permit.

(2) “Continuing education and training” means instruction, courses of instruction, study guides and other materials determined to be acceptable for use by wildlife rehabilitation permit holders to satisfy the requirements for renewal of permits upon expiration established by the Division of Natural Resources.

(3) “Facilities” means equipment, housing, or other shelter used in, or necessary for, the rehabilitation of wildlife.

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

(5)“In-facility assistant” means any person listed on an approved wildlife rehabilitation permit issued by the Division who is allowed to assist the permit holder with wildlife care within a wildlife rehabilitation facility.

(6) “Non-releasable wildlife” means rehabilitated wildlife that cannot be released due to a permanent injury or degenerative physical condition as a result of illness that would significantly reduce the ability to survive in the wild.

(7) “Permit” means a wildlife rehabilitation permit issued by the Division.

(8) “Permit holder” means a person who possesses a valid rehabilitation permit issued by the Division.

(9) “Public exhibition” means any display to the general public of wildlife undergoing rehabilitation, either on the permit holder’s premises or elsewhere.

(10) “Transport” means the act by a permit holder of causing or attempting to cause wildlife to be carried or moved in any way, except within the permit holder’s premises.

(11) “Wildlife rehabilitation” means the act or acts of receiving, temporarily confining, providing or arranging for veterinary care, releasing, and humanely dispatching orphaned, sick, or injured native wildlife.

(12) “Wildlife rehabilitator” means a person who holds a valid wildlife rehabilitation permit issued by the Division of Natural Resources.

(13) All other terms have the meaning prescribed in §20-1-2 *et seq*.

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§20-2D-3. Wildlife rehabilitation.

(a) No person may keep, hold, or possess in captivity any orphaned, sick, or injured wildlife without receiving a wildlife rehabilitation permit issued by the director. Except, holders of a United States Fish and Wildlife Service Wildlife Rehabilitation Permit to rehabilitate migratory birds may rehabilitate migratory birds in accordance with the Federal permit and a veterinarian with an active West Virginia veterinary medicine license may provide emergency veterinary care for wildlife. Persons who have been issued a permit by the director to conduct wildlife rehabilitation may be authorized to receive, temporarily confine, provide veterinary care for, release, and humanely dispatch native wildlife in this state provided that the methods of and documentation for such activities shall be in accordance with all permit conditions.

(b) Any person may capture and transport orphaned, injured, or sick wildlife without unnecessary delay directly to a permitted Wildlife Rehabilitator or a veterinarian licensed in this state, but only after contacting the individual or entity to which the wildlife is to be transferred and confirming that the wildlife will be accepted. Prior to transport, no care may be provided to the wildlife unless directed by a permitted Wildlife Rehabilitator.

(c) Rehabilitated native wildlife that recover and are not permanently impaired shall be returned ot the wild, and preferably returned to the location where found. Prior to release, consent must be obtained from a landowner for wildlife released on private property, or a government administrator for wildlife released on city, county or state property.

(d) The director may restrict the rehabilitation of certain species of wildlife, either statewide or in certain geographic areas, as needed, due to disease, overpopulation, or other limiting factors.

(e) The director may limit the total number of permits which allow a person to rehabilitate wildlife that are issued in certain geographic areas of the state, if in the best interest of the wildlife resource, or if necessary to provide the most efficient management of the permitting process by the division.

(f) The director shall have the authority to promulgate emergency legislative rules and legislative rules pursuant to §29A-3-1 *et seq*. of this code providing for the wildlife rehabilitation application process, application fee, permit eligibility requirements, permit renewal requirements, permit revocation requirements, wildlife housing and facilities requirements, record keeping requirements, and any other provision necessary in implementing and administering this article.

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§20-2D-4. Wildlife rehabilitation permits, permit classes, and application requirements.

(a) Any person wishing to conduct wildlife rehabilitation in this state must first make application to the director for a wildlife rehabilitation permit.

(b) No person may be issued a wildlife rehabilitation permit who has previously been convicted of or pleaded guilty to a violation of any Federal, State, or local law or ordinance relating to wildlife, animal welfare, or animal cruelty.

(c) To be eligible for a rehabilitation permit, issued by the Director, the applicant must:

(1) Be at least 18 years of age.

(2) Be a resident of the state of West Virginia.

(3) Have wildlife handling and care training as established by the Director.

(4) Pass a relevant examination relating to biology, care, handling, diet, animal welfare, statutes, rules, and regulations and other such appropriate matters as determined by the Director.

(5) Meet and maintain facility requirements as required by the Director.

(6) Provide written verification that a veterinarian holding an active West Virginia license has agreed to assist and consult with the applicant on the treatment and care of wildlife being rehabilitated and recommends the individual for a wildlife rehabilitation permit. Except, if the applicant is a veterinarian, a copy of their active West Virginia license is required.

(7) Permit holders are required to list on their permit in-facility assistants that assist with daily care and rehabilitation. In-facility assistants must:

(A) Be at least 18 years of age.

(B) Have the appropriate wildlife handling and care training as established by the Director.

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§20-2D-5. Permit conditions.

(a) A permit issued under the provisions of this article shall not be transferred to any other person.

(b) A permit issued under the provisions of this article shall be effective for one calendar year from the date of issue.

(c) A permit issued under the provisions of this article shall only be issued to one facility with one specific geographic location.

(d) The Director shall be notified by the permit holder within 24 hours of the occurrence of any unexplained diseases or deaths occurring in wildlife held under this permit.

(e) Permit holders must notify the Director within 24 hours of the escape of wildlife from the facility.

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§20-2D-6. General provisions regarding wildlife rehabilitation.

(a) Permit holders or designated in-shelter assistants may have contact with wildlife being rehabilitated only to the extent necessary for adequate care and treatment. Wildlife may not be habituated to humans, tamed, kept as pets, or used in inappropriate ways.

(b) Public exhibition of wildlife being rehabilitated is prohibited.

(c) Permit holders shall notify the director immediately of the receipt of a federally threatened or endangered species.

(d) On advice from the permit holder's consulting veterinarian, an injured or sick wildlife that is incapable of surviving if released to the wild must be:

(1) Humanely euthanized under the direction of the permit holder's consulting veterinarian;

(2) Turned over to the director or his or her designee; or

(3) On approval by the director, may remain with the rehabilitator for educational display.

(e) Euthanasia of wildlife shall be carried out by the most humane means possible under the direction of the permit holder's consulting veterinarian according to criteria established by the American Veterinary Medical Association, the National Wildlife Rehabilitators Association, or the International Wildlife Rehabilitators Council. Threatened or endangered species may be euthanized only on written approval from the director.

(f) Wildlife that are euthanized or die of natural causes must be buried or incinerated, except migratory birds. Federal permit holders must follow the guidelines of their permits for the final disposition of carcasses.

(g) Permit holders may not sell, barter, or give away any live or dead wildlife or any parts thereof.

(h) The Director or his or her designee shall be able to inspect any wildlife rehabilitation facility at any time for reasons including disease surveillance, collection of treatment records, and wildlife welfare checks.

(i) The Director can require wildlife to be tested, quarantined, and destroyed if they are exposed to or known to possess diseases or parasites of pathological or ecological significance to humans, domestic livestock and poultry, or native wildlife.

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§20-2D-7. Prohibited activities by rehabilitation permit holders.

(a) A permit holder may not import or accept wildlife for rehabilitation from outside West Virginia.

(b) A permit holder may not transport wildlife across state lines for any reason.

(c) A permit holder who is not a veterinarian with an active West Virginia veterinary license may not charge a fee for rehabilitating wildlife.

(d) A permit holder may not delegate to others the authority granted in his or her permit except that permit holders may designate others as in-shelter assistants to assist with the care and feeding of wildlife on the premises of the permit holder and under the direct supervision of the permit holder.

(e) A permit holder may not practice veterinary medicine as defined by law unless he or she is actively licensed as a veterinarian in this state.

(f) Permit holders may not transfer the possession of a wildlife to anyone except the Director, a designee of the Director, or another permitted wildlife rehabilitation facility.

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§20-2D-8. Revocation of permits.

(a) The director may revoke all or part of a permit when a permit holder has failed to comply with the provisions of this article, when necessary to protect the interests of the public, or to protect the interests of the wildlife under the permit holder's care.

(b) Except in an emergency, a permit holder must be notified in writing of the conditions and nature of a revocation no less than 14 days prior to the effective date of the revocation.

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§20-2D-9. Violation of article.

(a) Any person violating any provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $1000, which is not subject to suspension by the court, confined in jail not less than 10 nor more than 30 days, or both fined and confined.

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