

SB 336 (veto)

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-NINTH LEGISLATURE**  
**REGULAR SESSION, 2010**

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**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**Senate Bill No. 336**

(SENATOR BOWMAN, *original sponsor*)

[Passed March 10, 2010; in effect ninety days from passage.]

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2010 MAR 18 PM 3:37

FILED

2010 MAR 18 PM 3: 37

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SECRETARY OF STATE

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**Senate Bill No. 336**

(SENATOR BOWMAN, *original sponsor*)

[Passed March 10, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §20-2-5a and §20-2-7 of the Code of West Virginia, 1931, as amended, all relating to forfeiture and restitution by persons causing injury or death to game, protected species of animal or private game farm animals; adding additional replacement value for antlered deer based upon antler spread; increasing the forfeiture amount for illegally taken game fish or fish of a protected species; clarifying forfeiture procedures and costs; and ordering restitution for private game farm animals.

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

That §20-2-5a and §20-2-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 2. WILDLIFE RESOURCES.**

**§20-2-5a. Forfeiture by person causing injury or death of game or protected species of animal; additional replace-**

**ment costs for antlered deer; forfeiture procedures  
and costs.**

1 (a) Any person who is convicted of violating a criminal  
2 law of this state that results in the injury or death of game,  
3 as defined in section two, article one of this chapter, or a  
4 protected species of animal, in addition to any other  
5 penalty to which he or she is subject, shall forfeit the cost  
6 of replacing the game or protected species of animal to the  
7 state as follows:

8 (1) For each game fish or each fish of a protected species  
9 taken illegally other than by pollution kill, \$10 for each  
10 pound and any fraction thereof;

11 (2) For each bear or elk, \$500;

12 (3) For each deer or raven, \$200;

13 (4) For each wild turkey, hawk or owl, \$100;

14 (5) For each beaver, otter or mink, \$25;

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

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

18 (8) For each wild boar, \$200;

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

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

21 (11) For any other game or protected species of animal,  
22 \$100.

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

28 (1) For any deer in which the inside spread of the main  
29 beams of the antlers measured at the widest point equals  
30 14 inches or greater but less than 16 inches, \$1,000;

31 (2) For any deer in which the inside spread of the main  
32 beams of the antlers measured at the widest point equals  
33 16 inches or greater but less than 18 inches, \$1,500;

34 (3) For any deer in which the inside spread of the main  
35 beams of the antlers measured at the widest point equals  
36 18 inches or greater but less than 20 inches, \$2,000; and

37 (4) For any deer in which the inside spread of the main  
38 beams of the antlers measured at the widest point equals  
39 20 inches or greater, \$2,500.

40 (5) Any person convicted of a second or subsequent  
41 violation of any criminal law of this state which violation  
42 causes the injury or death of antlered deer is subject to  
43 double the authorized range of cost to be forfeited.

44 (c) Upon conviction, the court shall order the person to  
45 forfeit to the state the amount set forth in this section for  
46 the injury or death of the game or protected species of  
47 animal. If two or more defendants are convicted for the  
48 same violation causing the injury or death of game or  
49 protected species of animal, the forfeiture shall be paid by  
50 each person in an equal amount. The forfeiture shall be  
51 paid by the person so convicted within the time prescribed  
52 by the court not to exceed sixty days. In each instance, the  
53 court shall pay the forfeiture to the Division of Natural  
54 Resources to be deposited into the License Fund- Wildlife  
55 Resources (3200) and used only for the replacement,  
56 habitat management or enforcement programs for injured  
57 or killed game or protected species of animal.

**§20-2-7. Hunting, trapping or fishing on lands of another;  
damages and restitution.**

1 (a) It is unlawful for any person to shoot, hunt, fish or  
2 trap upon the fenced, enclosed or posted lands of another

3 person; or to peel trees or timber, build fires or do any  
4 other act in connection with shooting, hunting, fishing or  
5 trapping on such lands without written permission in his  
6 or her possession from the owner, tenant or agent of the  
7 owner.

8 (b) Any person who hunts, traps or fishes on land  
9 without the permission of the owner, tenant or agent of the  
10 owner is guilty of a misdemeanor and liable to the owner  
11 or person suffering damage for all costs and damages for:  
12 (1) Killing or injuring any domestic animal, fowl, or  
13 private game farm animal; (2) cutting, destroying or  
14 damaging any bars, gates or fence or any part of the  
15 property; or (3) leaving open any bars or gates resulting in  
16 damage to the property.

17 (c) Restitution of the value of the property or animals  
18 injured, damaged or destroyed shall be required upon  
19 conviction pursuant to sections four and five, article  
20 eleven-a, chapter sixty-one of this code. The restitution  
21 ordered for private game farm animals shall be equivalent  
22 to or greater than the replacement values for deer listed in  
23 section five-a in this article.

24 (d) The owner, tenant or agent of the owner may arrest  
25 a person violating this section and immediately take him  
26 or her before a magistrate. The owner, tenant or agent of  
27 the owner is vested with the powers and rights of a  
28 conservation officer for these purposes. The officers  
29 charged with the enforcement of the provisions of this  
30 chapter shall enforce the provisions of this section if  
31 requested to do so by the owner, tenant or agent of the  
32 owner, but not otherwise.

33 (e) The provisions of subsections (b) and (d) of this  
34 section related to criminal penalties and being subject to  
35 arrest are inapplicable to a person whose dog, without the  
36 person's direction or encouragement, travels onto the  
37 fenced, enclosed or posted land of another in pursuit of an

38 animal or wild bird: *Provided*, That the pursuit does not  
39 result in the taking of game from the fenced, enclosed or  
40 posted land and does not result in the killing of domestic  
41 animals or fowl or other damage to or on the fenced,  
42 enclosed or posted land.



Enr. Com. Sub. for S. B. No. 336] 6

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....  
Chairman Senate Committee

.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

.....  
Speaker House of Delegates

The within *is disappeared* ..... this the *17<sup>th</sup>* .....

Day of *March* ....., 2010.

.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 17 2010

Time 9:16am