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HOUSE BILL NO. 1482

Offered January 16, 2008

A BILL to amend and reenact § 29.1-529 of the Code of Virginia, relating to the management of damage from bears.

Patrons—Saxman, Athey, Carrico, Cline, Cox, Gear, Griffith, Hogan, Kilgore, Landes, Lohr, Loupassi, Massie, Merricks, Pogge, Poindexter, Scott, E.T., Sherwood and Tata

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 29.1-529 of the Code of Virginia is amended and reenacted as follows:

§ 29.1-529. Killing of deer or bear damaging fruit trees, crops, livestock, or personal property or creating a hazard to aircraft or motor vehicles.

A. Whenever deer or bear are damaging fruit trees, crops, livestock or personal property utilized for commercial agricultural production in the Commonwealth, the owner or lessee of the lands on which such damage is done shall immediately report the damage to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer or bear are responsible for the damage, he shall authorize in writing the owner, lessee or any other person designated by the Director or his designee to kill such deer or bear when they are found upon the land upon which the damages occurred. However, the Director or his designee shall have the option of authorizing ~~the capture and relocation of such bear~~*non-lethal control measures* rather than authorizing the killing of the bear, provided that ~~the relocation occurs~~*such measures occur* within a reasonable period of time; and whenever deer cause damage on parcels of land of five acres or less, except when such acreage is used for commercial agricultural production, the Director or his designee shall have discretion as to whether to issue a written authorization to kill the deer. The Director or his designee may limit such authorization by specifying in writing the number of animals to be killed and duration for which the authorization is effective and may in proximity to residential areas and under other appropriate circumstances limit or prohibit the authorization between 11:00 p.m. and one-half hour before sunrise of the following day. The Director or his designees issuing these authorizations shall specify in writing that only antlerless deer shall be killed, unless the Director or his designee determines that there is clear and convincing evidence that the damage was done by deer with antlers. Deer or bear killed pursuant to such authorization shall be utilized or disposed of within 24 hours of being killed. Any owner or lessee of land who has been issued a written authorization shall not be issued an authorization in subsequent years unless he can demonstrate to the satisfaction of the Director or his designee that during the period following the prior authorization, the owner or his designee has hunted bear or deer on the land for which he received a previous authorization.

B. Subject to the provisions of subsection A, the Director or his designee may issue a written authorization to kill deer causing damage to residential plants, whether ornamental, noncommercial agricultural, or other types of residential plants. The Director may charge a fee not to exceed actual costs. The holder of this written authorization shall be subject to local ordinances, including those regulating the discharge of firearms.

C. Whenever deer are creating a hazard to the operation of any aircraft or to the facilities connected with the operation of aircraft, the person or persons responsible for the safe operation of the aircraft or facilities shall report such fact to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer are creating a hazard, he shall authorize such person or persons or their representatives to kill the deer when they are found to be creating such a hazard.

D. Whenever deer are creating a hazard to the operation of motor vehicle traffic within the corporate limits of any city, the operator of a motor vehicle may report such fact to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer are creating a hazard within such city, he may authorize responsible persons, or their representatives, to kill the deer when they are found to be creating such a hazard. The carcass of every deer or bear so killed may be awarded to the owner or lessee by the Director or his designee, who shall give such person a certificate to that effect on forms furnished by the Department. Any person awarded a deer or bear under this section may use the carcass as if he had killed the animal during the hunting season for deer or bear.

E. Whenever deer are damaging property in a locality in which deer herd population reduction has been recommended in the current Deer Management Plan adopted by the Board, the owner or lessee of the lands on which such damage is being done may report such damage to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer are responsible for the

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damage, he may authorize in writing the owner, lessee or any other person designated by the Director or his designee to kill such deer when they are found upon the land upon which the damages occurred. The Director or his designee also may limit such authorization by specifying in writing the number of animals to be killed and the period of time for which the authorization is effective. The carcass of every deer so killed may be awarded to the owner or lessee by the Director or his designee, who shall give such person a certificate to that effect on forms furnished by the Department. Any person awarded a deer under this section may use the carcass as if he had killed the animal during the hunting season for deer. The requirement in subsection A of this section, that an owner or lessee of land demonstrate that during the period following the prior authorization deer or bear have been hunted on his land, shall not apply to any locality that conducts a deer population control program authorized by the Department.

F. The Director or his designee may revoke or refuse to reissue any authorization granted under this section when it has been shown by a preponderance of the evidence that an abuse of the authorization has occurred. Such evidence may include a complaint filed by any person with the Department alleging that an abuse of the written authorization has occurred. Any person aggrieved by the issuance, denial or revocation of a written authorization can appeal the decision to the Department of Game and Inland Fisheries. Any person convicted of violating any provision of the hunting and trapping laws and regulations shall be entitled to receive written authorization to kill deer or bear. However, such person shall not (i) be designated as a shooter nor (ii) carry out the authorized activity for a person who has received such written authorization for a period of at least two years and up to five years following his most recent conviction for violating any provision of the hunting and trapping laws and regulations. In determining the appropriate length of this restriction, the Director shall take into account the nature and severity of the most recent violation and of any past violations of the hunting and trapping laws and regulations by the applicant. No person shall be designated as a shooter under this section during a period when such person's hunting license or privileges to hunt have been suspended or revoked.

G. The Director or his designee may authorize, subject to the provisions of this section, the killing of deer over bait within the political boundaries of any city or town in the Commonwealth when requested by a certified letter from the governing body of such locality.