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SENATE BILL NO. 1023

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact §§ 29.1-352, 29.1-354, 29.1-355, 29.1-356, and 29.1-357 of the Code of Virginia and to repeal §§ 29.1-353 and 29.1-358 of the Code of Virginia, relating to the Department of Game and Inland Fisheries; damage stamp compensation program.

Patrons—Puckett and Reynolds

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-352, 29.1-354, 29.1-355, 29.1-356, and 29.1-357 of the Code of Virginia are amended and reenacted as follows:

§ 29.1-352. Damage stamp program established; purpose; intent.

There is hereby established a damage stamp program to provide for an available source of funds to be used to compensate damage to crops, fruit trees, commercially grown Christmas trees, nursery stock, livestock, colonies of bees, bee equipment and appliances, as defined in § 3.2-4400, or farm equipment that is caused by deer, elk, or bear, or by big game hunters. It is the intent of the General Assembly that persons suffering loss or damage as the result of these activities should be realistically compensated for damages that occurred to their property as the result of the activity. ~~A local governing body shall encourage to the maximum extent possible the utilization of the damage stamp fund for payment of claims in keeping with the purposes of this article.~~

§ 29.1-354. Stamps required; issuance; fee; affixing stamps; cancellation.

It shall be unlawful for any person ~~required to have a license to hunt bear, deer or elk in any locality adopting a damage stamp ordinance within the Commonwealth to hunt~~ without having first obtained the special stamp. A violation of this provision shall be punishable as a Class 3 misdemeanor.

The annual fee for such a stamp shall be ~~\$1. The local governing body may prescribe any fee, not to exceed \$5 for these special stamps, when issued to residents of the Commonwealth and \$10 for nonresidents of the Commonwealth.~~

The special stamps shall be obtained from a ~~locally designated official or from any agent designated and compensated by the Board pursuant to § 29.1-327. The agent shall be paid a fee of \$.10 from the special fund for each stamp issued.~~

The stamp shall be affixed to the reverse side of a current hunting license of each person required to obtain the stamp, and that person shall cancel the stamp with his initials.

§ 29.1-355. Damage Stamp Fund established; disposition of funds.

All moneys received from the sale of the special stamps shall be paid into the local treasury to the credit of a special damage stamp fund and identified by the year in which the moneys were collected. ~~There is hereby created in the state treasury a special nonreverting fund to be known as the Damage Stamp Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys received from the sale of the special stamps shall be paid into the state treasury, identified by the year in which the moneys were collected, and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall be deposited into the Feed the Hungry Fund established pursuant to subsection C of § 29.1-332 to support the activities of Hunters for the Hungry. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.~~

The special fund shall be used for the following purposes:

1. Payment for damages to crops, fruit trees, commercially grown Christmas trees, nursery stock, livestock, colonies of bees, bee equipment and appliances, as defined in § 3.2-4400, or farm equipment that is caused by deer, elk, or bear at any time, or by big game hunters during hunting season; ~~and~~

2. Payment of the actual and necessary costs of the administration of the provisions of this article, including the printing and distribution of the required stamps and the payment of reasonable fees to persons designated by a ~~local governing body~~ to inspect, evaluate, and confirm reported claims and adjust such claims; ~~and~~

3. ~~In the discretion of the local governing body, payment~~ Payment of the costs of law enforcement directly related to and incidental to carrying out the provisions of this article and the general game laws of the Commonwealth; any person compensated to engage in such law-enforcement activities shall be

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SB1023

59 approved for such employment by the director and appointed to be a special conservation police officer
60 in accordance with the Board's standards and policies governing such appointment; and

61 4. ~~In the discretion of the local governing body, administrative~~ *Administrative* expenses related to the
62 special stamps, support of a county volunteer fire prevention and suppression program when the program
63 includes fire fighting on big game hunting lands open to the public, and support of local volunteer
64 rescue squads whose services are available to hunters in distress. However, the money appropriated from
65 the special damage stamp fund for these purposes shall not exceed, in the aggregate, in any calendar
66 year, an amount equal to 25 percent of the amount paid into the special damage stamp fund during the
67 fiscal year or previous calendar year. Once selecting the fiscal year or previous calendar year, the local
68 governing body must continue to use that selected period of time in determining the amount of money
69 to be appropriated from the special damage stamp fund.

70 § 29.1-356. Reporting damages; filing and adjudicating claims.

71 Any person suffering damage pursuant to the provisions of this article shall report the damage to a
72 ~~locally designated~~ *an official designated by the Board* whose duty it shall be to have the damage
73 investigated. The claim for damage shall be filed under oath and in a manner and form as may be
74 prescribed by the ~~local governing body~~ *Board*.

75 If the claimant and the designated ~~local~~ official agree as to the amount of damage, the ~~local~~
76 ~~governing body Board or an agent thereof~~ may approve the amount and order payment thereof from the
77 ~~special damage stamp fund~~ *Special Damage Stamp Fund* established by this article. No claim for
78 damages shall be paid to any person who does not *hunt or* permit the hunting of big game or elk by
79 licensed hunters on his property. However, the fact that a landowner places reasonable restrictions on the
80 number of licensed hunters who are permitted to hunt big game or elk on his property shall not
81 disqualify him from filing a claim for damages pursuant to this section. In the event that no agreement
82 as to the amount of damages can be reached, the claimant may initiate an action in the general district
83 court of the county in which the damage occurred.

84 § 29.1-357. Civil action required.

85 In any instance in which compensable damage is alleged to have been caused by an individual hunter
86 whose whereabouts are known and when it is reasonable and practicable to do so, the claimant shall
87 first proceed against such hunter in a civil action before any payment is made pursuant to the provisions
88 of this article.

89 Upon payment of any claim pursuant to the provisions of this article, the ~~county~~ *Board* shall be
90 subrogated to the rights of the claimant against such individual hunter.

91 2. That §§ 29.1-353 and 29.1-358 of the Code of Virginia are repealed.