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SENATE BILL NO. 868

Offered January 12, 2011

Prefiled January 10, 2011

A *BILL to amend and reenact § 29.1-529 of the Code of Virginia, relating to damage of crops and livestock; lawful killing of elk and Canada geese.*

Patrons—Stuart, Puckett and Reynolds

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

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

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

A. Whenever deer, *elk*, *Canada geese*, 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, *elk*, *Canada geese*, 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, *elk*, *Canada geese*, 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 non-lethal control measures rather than authorizing the killing of the bear, provided that 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. 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, *elk*, *Canada geese*, 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 wildlife is 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 wildlife is creating a hazard, he shall authorize such person or persons or their representatives to kill wildlife when the wildlife is found to be creating such a hazard. As used in this subsection, the term "wildlife" shall not include any federally protected species.

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.

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 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

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59 animals to be killed and the period of time for which the authorization is effective. The requirement in
60 subsection A of this section, that an owner or lessee of land demonstrate that during the period
61 following the prior authorization deer, *elk*, *Canada geese*, or bear have been hunted on his land, shall
62 not apply to any locality that conducts a deer population control program authorized by the Department.

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

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

82 H. The parts of any deer, *elk*, *Canada geese*, or bear killed pursuant to this section or wildlife killed
83 pursuant to subsection C shall not be used for the purposes of taxidermy, mounts, or any public display
84 unless authorized by the Director or his designee. However, the meat of any such animal may be used
85 for human consumption. The carcass and any unused meat of any such animal shall be disposed of
86 within 24 hours of being killed. Any person who violates any provision of this subsection is guilty of a
87 Class 3 misdemeanor.

88 I. It is unlawful to willfully and intentionally impede any person who is engaged in the lawful killing
89 of a bear, *elk*, *Canada geese*, or deer pursuant to written authorization issued under this section. Any
90 person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.