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HOUSE BILL NO. 342

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact § 29.1-529 of the Code of Virginia, relating to the designation of persons authorized to kill deer or bear damaging property.

Patron—Wilt

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; wildlife creating a hazard to aircraft or motor vehicles; transfer of authorization to kill deer or bear.

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, *including a person designated under subsection J*, 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 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 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, *including a person designated under subsection J*, 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

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

64 F. The Director or his designee may revoke or refuse to reissue any authorization granted under this
65 section when it has been shown by a preponderance of the evidence that an abuse of the authorization
66 has occurred. Such evidence may include a complaint filed by any person with the Department alleging
67 that an abuse of the written authorization has occurred. Any person aggrieved by the issuance, denial or
68 revocation of a written authorization can appeal the decision to the Department of Game and Inland
69 Fisheries. Any person convicted of violating any provision of the hunting and trapping laws and
70 regulations shall be entitled to receive written authorization to kill deer or bear. However, such person
71 shall not (i) be designated as a shooter nor (ii) carry out the authorized activity for a person who has
72 received such written authorization for a period of at least two years and up to five years following his
73 most recent conviction for violating any provision of the hunting and trapping laws and regulations. In
74 determining the appropriate length of this restriction, the Director shall take into account the nature and
75 severity of the most recent violation and of any past violations of the hunting and trapping laws and
76 regulations by the applicant. No person shall be designated as a shooter under this section during a
77 period when such person's hunting license or privileges to hunt have been 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 or bear killed pursuant to this section or wildlife killed pursuant to
83 subsection C shall not be used for the purposes of taxidermy, mounts, or any public display unless
84 authorized by the Director or his designee. However, the meat of any such animal may be used for
85 human consumption. The carcass and any unused meat of any such animal shall be disposed of within
86 24 hours of being killed. Any person who violates any provision of this subsection is guilty of a Class 3
87 misdemeanor.

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

91 *J. Through an application process administered by the Department, an owner or lessee of land may*
92 *request in advance that any written authorization to kill deer or bear that he receives under subsection*
93 *A or E shall designate one or more persons in place of the owner or lessee of land. The Board shall (i)*
94 *establish qualifications for persons applying to be designated; (ii) permit any landowner or lessee to*
95 *apply to enroll his land whether or not damage from deer or bear has been reported on the land in the*
96 *past; (iii) permit a landowner or lessee to establish conditions for persons designated to kill deer or*
97 *bear on an enrolled property; (iv) instruct the Director or his designee to establish safety requirements*
98 *for each enrolled property; and (v) require any qualified person to agree to the landowner's conditions*
99 *and the Director's safety requirements before he may be designated on a written authorization granted*
100 *under subsection A or E. Designation of persons on written authorizations to kill deer or bear shall be*
101 *made on a first-come, first-served basis. The Director shall charge each designee a fee as a condition of*
102 *each designation he receives, no less than 50 percent of which is to be paid to the landowner or lessee*
103 *of the enrolled land, whether or not the designee kills a deer or bear on the land. The Director or his*
104 *designee shall enable the application for enrollment of lands; the application of persons for designation;*
105 *the designation of the first person or persons qualified each time the killing of deer or bear is*
106 *authorized under this program; the administration of fees to designees; and the management of other*
107 *aspects of this program through a website.*