

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 2515**

5 (By Delegates R. Phillips, J. Nelson, Eldridge, H. White, Marcum, Reynolds, L. Phillips, R.
6 Smith, Sobonya, Hill and Arvon)

7
8 [Passed March 14, 2015; in effect ninety days from passage.]

9
10 AN ACT to amend and reenact §20-2-4, §20-2-5, §20-2-5a, §20-2-5g, §20-2-22a and §20-2-42w of
11 the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a
12 new section, designated §20-2-5h, all relating to wildlife; disallowing elk to be possessed if
13 struck by motor vehicle; requiring persons required to deliver wildlife to official checking
14 station to electronically register wildlife; increasing fine for illegal taking of elk; prohibiting
15 hunting wildlife with night vision technology, drone or other unmanned aircraft; clarifying
16 when a person may carry certain firearms; permitting a person to carry firearm for self
17 defense while in the woods; clarifying when a shotgun or rifle is unloaded; permitting
18 hunting with crossbows during certain seasons and with certain limitations; establishing elk
19 management area in Southern West Virginia; establishing elk damage fund; providing for
20 criminal penalties for the illegal taking of elk; clarifying bear laws and Class Y permits;
21 authorizing director to propose legislative rules; and making technical corrections.

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

1 That §20-2-4, §20-2-5, §20-2-5a, §20-2-5g, §20-2-22a and §20-2-42w of the Code of West
2 Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding
3 thereto a new section, designated §20-2-5h, all to read as follows:

4 **ARTICLE 2. WILDLIFE RESOURCES.**

5 **§20-2-4. Possession of wildlife.**

6 (a) Except for wildlife, lawfully taken, killed or obtained, no person may have in his or her
7 possession any wildlife, or parts thereof, during closed seasons. It is unlawful to possess any
8 wildlife, or parts thereof, which have been illegally taken, killed or obtained. Any wildlife illegally
9 taken, killed or possessed shall be forfeited to the state and shall be counted toward the daily,
10 seasonal, bag, creel and possession limit of the person in possession of, or responsible for, the illegal
11 taking or killing of any wildlife.

12 (b) Wildlife lawfully taken outside of this state is subject to the same laws and rules as
13 wildlife taken within this state.

14 (c) Migratory wild birds may be possessed only in accordance with the Migratory Bird Treaty
15 Act, 16 U. S. C. §703, *et seq.*, and its regulations.

16 (d) The restrictions in this section do not apply to the director or duly authorized agents, who
17 may take or maintain in captivity any wildlife for the purpose of carrying out the provisions of this
18 chapter.

19 (e) Wildlife, except protected birds, elk, spotted fawn, and bear cubs, killed or mortally
20 wounded as a result of being accidentally or inadvertently struck by a motor vehicle may be lawfully
21 possessed if the possessor of the wildlife provides notice of the claim within twelve hours to a

1 relevant law-enforcement agency, and obtains a nonhunting game tag within twenty-four hours of
2 possession. The director shall propose administrative policy which addresses the means, methods
3 and administrative procedures for implementing the provisions of this section.

4 (f) Persons required to deliver wildlife to an official checking station shall, in accordance
5 with rules promulgated by the director, electronically register the wildlife in lieu of the delivery to
6 an official checking station. "Electronically register" means submission of all necessary and relevant
7 information to the division, in the manner designated by rule, in lieu of delivery of the wildlife to
8 an official checking station. The director may promulgate rules, pursuant to article three, chapter
9 twenty-nine-a of this code, governing the electronic registration of wildlife.

10 **§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts.**

11 Except as authorized by the director or by law, it is unlawful at any time for any person to:

12 (1) Shoot at any wild bird or wild animal unless it is plainly visible;

13 (2) Dig out, cut out, smoke out, or in any manner take or attempt to take any live wild animal
14 or wild bird out of its den or place of refuge;

15 (3) Use or attempt to use any artificial light or any night vision technology, including image
16 intensification, thermal imaging or active illumination while hunting, locating, attracting, taking,
17 trapping or killing any wild bird or wild animal: *Provided*, That it is lawful to hunt or take coyote,
18 fox, raccoon, opossum or skunk by the use of artificial light or night vision technology. A n y
19 person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, shall for
20 each offense be fined not less than \$100 nor more than \$500, and shall be confined in jail for not less
21 than ten days nor more than one hundred days;

1 (4) Hunt, take, kill, wound or shoot at wild animals or wild birds from an airplane or other
2 airborne conveyance, a drone or other unmanned aircraft, an automobile or other land conveyance,
3 or from a motor-driven water conveyance;

4 (5) Use a drone or other unmanned aircraft to hunt, take or kill a wild bird or wild animal,
5 or to use a drone or other unmanned aircraft to drive or herd any wild bird or wild animal for the
6 purposes of hunting, trapping or killing;

7 (6) Take any beaver or muskrat by any means other than a trap;

8 (7) Catch, capture, take, hunt or kill by seine, net, bait, trap or snare or like device a bear,
9 wild turkey, ruffed grouse, pheasant or quail;

10 (8) Intentionally destroy or attempt to destroy the nest or eggs of any wild bird or have in his
11 or her possession the nest or eggs;

12 (9) Carry an uncased or loaded firearm in the woods of this state with the following
13 permissible exceptions:

14 (A) A person in possession of a valid license or permit during open firearms hunting season
15 for wild animals and nonmigratory wild birds;

16 \ (B) A person hunting or taking unprotected species of wild animals, wild birds and migratory
17 wild birds during the open season, in the open fields, open water and open marshes of the state;

18 (C) A person carrying a firearm pursuant to sections six and six-a of this article; or

19 (D) A person carrying a firearm for self defense who is not prohibited from possessing
20 firearms by section seven, article seven, chapter sixty-one of this code;

21 (10) Have in his or her possession a crossbow with a nocked bolt, or a rifle or shotgun with

1 cartridges that have not been removed or a magazine that has not been detached, in or on any vehicle
2 or conveyance, or its attachments,. For the purposes of this section, a rifle or shotgun whose
3 magazine readily detaches is considered unloaded if the magazine is detached and no cartridges
4 remain in the rifle or shotgun itself. Except that between five o'clock post meridian of day one and
5 seven o'clock ante meridian, Eastern Standard Time, of the following day, any unloaded firearm or
6 crossbow may be carried only when in a case or taken apart and securely wrapped. During the period
7 from July 1 to September 30, inclusive, of each year, the requirements relative to carrying unloaded
8 firearms are permissible only from eight-thirty o'clock post meridian to five o'clock ante meridian,
9 Eastern Standard Time: *Provided*, That the time periods for carrying unloaded and uncased firearms
10 are extended for one hour after the post meridian times and one hour before the ante meridian times
11 established in this subdivision, if a person is transporting or transferring the firearms to or from a
12 hunting site, campsite, home or other abode;

13 (11) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which
14 wildlife may be taken after the hour of five o'clock ante meridian on Sunday on private land without
15 the written consent of the landowner any wild animals or wild birds except when a big game season
16 opens on a Monday, the Sunday prior to that opening day will be closed for any taking of wild
17 animals or birds after five o'clock ante meridian on that Sunday: *Provided*, That traps previously and
18 legally set may be tended after the hour of five o'clock ante meridian on Sunday and the person
19 tending the traps may carry firearms for the purpose of humanely dispatching trapped animals. Any
20 person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, in addition
21 to any fines that may be imposed by this or other sections of this code, is subject to a \$100 fine;

1 (12) Hunt, catch, take, kill, injure or pursue a wild animal or wild bird with the use of a ferret;

2 (13) Buy raw furs, pelts or skins of fur-bearing animals unless licensed to do so;

3 (14) Catch, take, kill or attempt to catch, take or kill any fish by any means other than by rod,
4 line and hooks with natural or artificial lures: *Provided*, That snaring of any species of suckers, carp,
5 fallfish and creek chubs is lawful;

6 (15) Employ, hire, induce or persuade, with money, things of value or by any means, any
7 person to hunt, take, catch or kill any wild animal or wild bird except those species in which there
8 is no closed season; or to fish for, catch, take or kill any fish, amphibian or aquatic life that is
9 protected by rule, or the sale of which is otherwise prohibited;

10 (16) Hunt, catch, take, kill, capture, pursue, transport, possess or use any migratory game or
11 nongame birds except as permitted by the Migratory Bird Treaty Act, 16 U. S. C. §703, *et seq.*, and
12 its regulations;

13 (17) Kill, take, catch, sell, transport or have in his or her possession, living or dead, any wild
14 bird other than a game bird including the plumage, skin or body of any protected bird, irrespective
15 of whether the bird was captured in or out of this state, except the English or European sparrow
16 (*Passer domesticus*), starling (*Sturnus vulgaris*) and cowbird (*Molothrus ater*), which may be killed
17 at any time;

18 (18) Use dynamite, explosives or any poison in any waters of the state for the purpose of
19 killing or taking fish. Any person violating this subdivision is guilty of a felony and, upon
20 conviction thereof, shall be fined not more than \$500 or imprisoned for not less than six months nor
21 more than three years, or both fined and imprisoned;

1 (19) Have a bow and gun, or have a gun and any arrow, in the fields or woods at the same
2 time;

3 (20) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take or attempt
4 to take any wildlife except as otherwise provided in sections five-g and forty-two-w of this article;

5 (21) Take or attempt to take turkey, bear, elk or deer with any arrow unless the arrow is
6 equipped with a point having at least two sharp cutting edges measuring in excess of three fourths
7 of an inch wide;

8 (22) Take or attempt to take any wildlife with an arrow having an explosive head or shaft,
9 a poisoned arrow or an arrow which would affect wildlife by any chemical action;

10 (23) Shoot an arrow across any public highway;

11 (24) Permit any dog owned or under his or her control to chase, pursue or follow the tracks
12 of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That dogs
13 may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be
14 held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or upon
15 the grounds or lands of another person with his or her written permission, or on public lands at any
16 time. Nonresidents may not train dogs in this state at any time except during the legal small game
17 hunting season. A person training dogs may not have firearms or other implements in his or her
18 possession during the closed season on wild animals and wild birds;

19 (25) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water
20 race or wild hunt: *Provided*, That any person, group of persons, club or organization may hold a trial
21 upon obtaining a permit pursuant to section fifty-six of this article. The person responsible for

1 obtaining the permit shall prepare and keep an accurate record of the names and addresses of all
2 persons participating in the trial and make the records readily available for inspection by any natural
3 resources police officer upon request;

4 (26) Hunt, catch, take, kill or attempt to hunt, catch, take or kill any wild animal, wild bird
5 or wild fowl except during open seasons;

6 (27) Hunting on public lands on Sunday after five o'clock ante meridian is prohibited;

7 (28) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement which
8 wildlife can be taken, on private lands on Sunday after the hour of five o'clock ante meridian:

9 *Provided*, That the provisions of this subdivision do not apply in any county until the county
10 commission of the county holds an election on the question of whether the provisions of this
11 subdivision prohibiting hunting on Sunday shall apply within the county and the voters approve the
12 allowance of hunting on Sunday in the county. The election is determined by a vote of the resident
13 voters of the county in which the hunting on Sunday is proposed to be authorized. The county
14 commission of the county in which Sunday hunting is proposed shall give notice to the public of the
15 election by publication of the notice as a Class II-0 legal advertisement in compliance with the
16 provisions of article three, chapter fifty-nine of this code and the publication area for the publication
17 is the county in which the election is to be held. The date of the last publication of the notice shall
18 fall on a date within the period of the fourteen consecutive days next preceding the election.

19 On the local option election ballot shall be printed the following:

20 Shall hunting on Sunday be authorized on private lands only with the consent of the land
21 owner in _____ County?

1 Yes

2 No

3 (Place a cross mark in the square opposite your choice.)

4 Any local option election to approve or disapprove of the proposed authorization of Sunday
5 hunting within a county shall be in accordance with procedures adopted by the commission. The
6 local option election may be held in conjunction with a primary or general election or at a special
7 election. Approval shall be by a majority of the voters casting votes on the question of approval or
8 disapproval of Sunday hunting at the election.

9 If a majority votes against allowing Sunday hunting, an election on the issue may not be held
10 for a period of one hundred four weeks. If a majority votes “yes”, an election reconsidering the
11 action may not be held for a period of five years. A local option election may thereafter be held if
12 a written petition of qualified voters residing within the county equal to at least five percent of the
13 number of persons who were registered to vote in the next preceding general election is received by
14 the county commission of the county in which Sunday hunting is authorized. The petition may be
15 in any number of counterparts. The election shall take place at the next primary or general election
16 scheduled more than ninety days following receipt by the county commission of the petition required
17 by this subsection: *Provided*, That the issue may not be placed on the ballot until all statutory notice
18 requirements have been met. No local law or regulation providing any penalty, disability, restriction,
19 regulation or prohibition of Sunday hunting may be enacted and the provisions of this article preempt
20 all regulations, rules, ordinances and laws of any county or municipality in conflict with this
21 subdivision.

1 Amendments to this subdivision promulgated during the 2015 regular session of the
2 Legislature shall have no effect upon the results of elections held prior to their enactment; and

3 (29) Hunt or conduct hunts for a fee when the person is not physically present in the same
4 location as the wildlife being hunted within West Virginia.

5 **§20-2-5a. Forfeiture by person causing injury or death of game or protected species of animal;**
6 **additional replacement costs for antlered deer; forfeiture procedures and costs.**

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

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

13 (2) For each bear,, \$500;

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

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

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

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

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

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

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

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

1 (11) For each elk, \$4,500; and

2 (12) For any other game or protected species of animal, \$100.

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

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

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

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

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

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

17 (c) Upon conviction, the court shall order the person to forfeit to the state the amount set
18 forth in this section for the injury or death of the game or protected species of animal. If two or more
19 defendants are convicted for the same violation causing the injury or death of game or protected
20 species of animal, the forfeiture shall be paid by each person in an equal amount. The forfeiture shall
21 be paid by the person so convicted within the time prescribed by the court not to exceed sixty days.

1 In each instance, the court shall pay the forfeiture to the Division of Natural Resources to be
2 deposited into the License Fund-Wildlife Resources and used only for the replacement, habitat
3 management or enforcement programs for injured or killed game or protected species of animal.

4 **§20-2-5g. Use of a crossbow to hunt.**

5 (a) Notwithstanding any other provision of this code to the contrary, any person lawfully
6 entitled to hunt may hunt with a crossbow during big game firearms season. A person who possesses
7 a valid Class Y permit may also hunt with a crossbow in accordance with section forty-two-w of this
8 article. Further, the director shall designate a separate season for crossbow hunting and identify
9 which species of wildlife may be hunted with a crossbow.

10 (b) Only crossbows meeting all of the following specifications may be used for hunting in
11 West Virginia:

12 (1) The crossbow has a minimum draw weight of one hundred twenty-five pounds;

13 (2) The crossbow has a working safety; and

14 (3) The crossbow is used with bolts and arrows not less than eighteen inches in length with
15 a broad head having at least two sharp cutting edges, measuring at least three fourths of an inch in
16 width.

17 **§20-2-5h. Elk management area; elk damage fund; criminal penalties; rule-making.**

18 (a) *Findings.* -- The Legislature finds that Eastern Elk were once a common, native species
19 in the state prior to and following its formation, but historical records indicate native elk were
20 extirpated from the state around 1875. Until recently, free roaming elk have not been present in the
21 state. However, elk are now migrating to the state from Kentucky, which has an active elk

1 restoration program. Therefore, the Division of Natural Resources has established an active elk
2 restoration program in Southern West Virginia.

3 (b) *Elk management area.* -- The division has established an elk restoration management plan
4 to reintroduce elk to all of Logan County, Mingo County, McDowell County and Wyoming County,
5 and part of Boone County, Lincoln County and Wayne County. The director and the division may
6 not expand the elk management area without statutory authorization.

7 (c) *Elk damage fund.* -- There is hereby created a special revenue account in the State
8 Treasury to be known as the Elk Damage Fund to be administered by the division. Ten percent from
9 all application fees for the hunting of elk are to be deposited into the Elk Damage Fund.”
10 Expenditures from the fund shall be for the payment of damages caused to agricultural crops,
11 agricultural fences and personal gardens by elk.

12 (d) *Criminal penalties.* -- It shall be unlawful for any person to hunt, capture or kill any elk,
13 or have in his or her possession elk or elk parts, except for elk lawfully taken, killed or obtained
14 during an established open hunting season for elk or by permit.

15 (1) Any person who commits a violation of the provisions of this section is guilty of a
16 misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000,
17 or confined in jail not less than thirty nor more than one hundred days, or both fined and confined.

18 (2) Any person who commits a second violation of the provisions of this section is guilty of
19 a misdemeanor and, upon conviction thereof, shall be fined not less than \$2,000 nor more than
20 \$7,500, or confined in jail not less than thirty days nor more than one year, or both fined and
21 confined.

1 (3) Any person who commits a third or subsequent violation of the provisions of this section
2 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than
3 \$10,000, or imprisoned in a state correctional facility not less than one year nor more than five years,
4 or both fined and imprisoned.

5 (e) *Rulemaking.* -- The director shall propose rules for promulgation in accordance with the
6 provisions of article three, chapter twenty-nine-a of this code to:

7 (1) Set forth the parameters of the elk management plan;

8 (2) Establish the procedures for the issuance of depredation permits to persons suffering
9 damage from elk;

10 (3) Establish protocols for the control of elk outside the elk management area;

11 (4) Establish hunting application fees and procedures;

12 (5) Establish procedures for reimbursement from the elk damage fund to those with damage
13 to agricultural crops, agricultural fences and personal gardens caused by elk; and

14 (6) Establish protocols for ensuring elk imported to the state are healthy, tested for
15 tuberculosis, brucellosis and other diseases of critical concern, and from an area where chronic
16 wasting disease has not been detected.

17 **§20-2-22a. Hunting, tagging and reporting bear; procedures applicable to property**
18 **destruction by bear; penalties.**

19 (a) A person may not hunt, capture, or kill any bear, or have in his or her possession any bear
20 or bear parts, except during the hunting season for bear in the manner designated by rule or law, and
21 as provided in this section. For the purposes of this section, bear parts include, but are not limited

1 to, the pelt, gallbladder, skull and claws of bear.

2 (b) A person who kills a bear shall, within twenty-four hours after the killing, electronically
3 register the bear. A game tag number shall be issued to the person and recorded in writing with the
4 person's name and address, or on a field tag and shall remain on the skin until it is tanned or
5 mounted. Any bear or bear parts not properly tagged shall be forfeited to the state for disposal to a
6 charitable institution, school or as otherwise designated by the director.

7 (c) It is unlawful:

8 (1) To hunt bear without a bear damage stamp, as prescribed in section forty-four-b of this
9 article, in addition to a hunting license as prescribed in this article;

10 (2) To hunt a bear with:

11 (A) A shotgun using ammunition loaded with more than one solid ball; or

12 (B) A rifle of less than twenty-five caliber using rimfire ammunition;

13 (3) To kill or attempt to kill any bear through the use of poison, explosives, snares, steel traps
14 or deadfalls;

15 (4) To shoot at or kill:

16 (A) A bear weighing less than seventy-five pounds live weight or fifty pounds field dressed
17 weight, after removal of all internal organs;

18 (B) Any bear accompanied by a cub; or

19 (C) Any bear cub so accompanied, regardless of its weight;

20 (5) To possess any part of a bear not tagged in accordance with the provisions of this section;

21 (6) To enter a state game refuge with firearms for the purpose of pursuing or killing a bear

1 except under the direct supervision of division personnel;

2 (7) To hunt bear with dogs or to cause dogs to chase bear during seasons other than those
3 designated by the division for the hunting of bear;

4 (8) To pursue a bear with a pack of dogs other than the pack used at the beginning of the hunt
5 once the bear is spotted and the chase has begun;

6 (9) To possess, harvest, sell or purchase bear parts obtained from bear killed in violation of
7 this section;

8 (10) To organize for commercial purposes or to professionally outfit a bear hunt, or to give
9 or receive any consideration whatsoever or any donation in money, goods or services in connection
10 with a bear hunt, notwithstanding the provisions of sections twenty-three and twenty-four of this
11 article; or

12 (11) For any person who is not a resident of this state to hunt bear with dogs or to use dogs
13 in any fashion for the purpose of hunting bear in this state except in legally authorized hunts.

14 (d) The following provisions apply to bear destroying property:

15 (1) (A) Any property owner or lessee who has suffered damage to real or personal property,
16 including loss occasioned by the death or injury of livestock or the unborn issue of livestock, caused
17 by an act of a bear may complain to any natural resources police officer of the division for protection
18 against the bear.

19 (B) Upon receipt of the complaint, the officer shall immediately investigate the circumstances
20 of the complaint. If the officer is unable to personally investigate the complaint, he or she shall
21 designate a wildlife biologist to investigate on his or her behalf.

1 (C) If the complaint is found to be justified, the officer or designated person may, together
2 with the owner and other residents, proceed to hunt, destroy or capture the bear that caused the
3 property damage: *Provided*, That only the natural resources police officer or the wildlife biologist
4 may determine whether to destroy or capture the bear and whether to use dogs to capture or destroy
5 the bear: *Provided, however*, That, if out-of-state dogs are used in the hunt, the owners of the dogs
6 are the only nonresidents permitted to participate in hunting the bear.

7 (2) (A) When a property owner has suffered damage to real or personal property as the result
8 of an act by a bear, the owner shall file a report with the director of the division. The report shall
9 state whether or not the bear was hunted and destroyed and, if so, the sex, weight and estimated age
10 of the bear. The report shall also include an appraisal of the property damage occasioned by the bear
11 duly signed by three competent appraisers fixing the value of the property lost.

12 (B) The report shall be ruled upon and the alleged damages examined by a commission
13 comprised of the complaining property owner, an officer of the division and a person to be jointly
14 selected by the officer and the complaining property owner.

15 (C) The division shall establish the procedures to be followed in presenting and deciding
16 claims under this section in accordance with article three, chapter twenty-nine-a of this code.

17 (D) All claims shall be paid in the first instance from the Bear Damage Fund provided in
18 section forty-four-b of this article. In the event the fund is insufficient to pay all claims determined
19 by the commission to be just and proper, the remainder due to owners of lost or destroyed property
20 shall be paid from the special revenue account of the division.

21 (3) In all cases where the act of the bear complained of by the property owner is the killing

1 of livestock, the value to be established is the fair market value of the livestock at the date of death.
2 In cases where the livestock killed is pregnant, the total value is the sum of the values of the mother
3 and the unborn issue, with the value of the unborn issue to be determined on the basis of the fair
4 market value of the issue had it been born.

5 (e) *Criminal penalties.* – (1) Any person who commits a violation of the provisions of this
6 section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000
7 nor more than \$5,000, which is not subject to suspension by the court, confined in jail not less than
8 thirty nor more than one hundred days, or both fined and confined. Further, the person’s hunting and
9 fishing licenses shall be suspended for two years.

10 (2) Any person who commits a second violation of the provisions of this section is guilty of
11 a misdemeanor and, upon conviction thereof, shall be fined not less than \$2,000 nor more than
12 \$7,500, which is not subject to suspension by the court, confined in jail not less than thirty days nor
13 more than one year, or both fined and confined. The person’s hunting and fishing licenses shall be
14 suspended for life.

15 (3) Any person who commits a third or subsequent violation of the provisions of this section
16 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than
17 \$10,000, which is not subject to suspension by the court, imprisoned in a correctional facility not less
18 than one year nor more than five years, or both fined and imprisoned.

19 **§20-2-42w. Class Y special crossbow hunting permit for certain disabled persons.**

20 (a) A Class Y permit is a special statewide hunting permit entitling a person to hunt all
21 wildlife during established archery and firearm seasons if the person meets the following

1 requirements:

2 (1) He or she holds a Class Q permit;

3 (2) He or she has a permanent and substantial loss of function in one or both hands while
4 failing to meet the minimum standards of the upper extremity pinch, grip and nine-hole peg tests
5 administered under the direction of a licensed physician; or

6 (3) He or she has a permanent and substantial loss of function in one or both shoulders while
7 failing to meet the minimum standards of the shoulder strength test administered under the direction
8 of a licensed physician.

9 (b) The application form shall include a written statement or report prepared by the physician
10 conducting the test no more than six months preceding the application and verifying that the
11 applicant is physically disabled as described in this section. As part of the application, the applicant
12 shall authorize, by written release, an examination of all medical records regarding his or her
13 qualifying disability. When completed, the permit form constitutes a Class Y permit. The Class Y
14 permit and a completed license application shall be submitted to the Division, which will issue a
15 wallet-sized card to the permittee. The card and all other documents and identification required to
16 be carried by this article shall be in the permittee's possession when hunting.

17 (c) A Class Y permit must be accompanied by a valid statewide hunting license or the
18 applicant must be exempt from hunting licenses as provided in this chapter.