

S
HB 2908

FILED

2007 MAR 13 PM 4: 26

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007



ENROLLED

House Bill No. 2908

(By Delegates Talbott, Argento, Fragale,
Iaquinta, Caputo and Manchin)



Passed March 2, 2007

In Effect Ninety Days from Passage

FILED

ENROLLMENT 13 PM 4: 26

H. B. 2908
OFFICE WEST VIRGINIA
SECRETARY OF STATE

(BY DELEGATES TALBOTT, ARGENTO, FRAGALE,
IAQUINTA, CAPUTO AND MANCHIN)

[Passed March 2, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating to removing an outdated reference to the assessed value of livestock used to determine the value of livestock killed by a bear.

Be it enacted by the Legislature of West Virginia:

That §20-2-22a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

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

- 1 (a) No person in any county of this state shall hunt,
- 2 capture, or kill any bear, or have in his or her possession any
- 3 bear or bear parts, except during the hunting season for bear
- 4 and in the manner designated by rules promulgated by the

5 Division of Natural Resources and as provided in this section.
6 For the purposes of this section, bear parts include, but are
7 not limited to, the pelt, gallbladder, skull and claws of bear.

8 (b) A person who kills a bear shall, within twenty-four
9 hours after the killing, deliver the bear or fresh skin to a
10 conservation officer or checking station for tagging. A
11 Division of Natural Resources tag shall be affixed to it before
12 any part of the bear may be transported more than
13 seventy-five miles from the point of kill. The Division of
14 Natural Resources tag shall remain on the skin until it is
15 tanned or mounted. Any bear or bear parts not properly
16 tagged shall be forfeited to the state for disposal to a
17 charitable institution, school or as otherwise designated by
18 the Division of Natural Resources.

19 (c) It is unlawful:

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

23 (2) To hunt a bear with: (A) A shotgun using
24 ammunition loaded with more than one solid ball; (B) a rifle
25 of less than twenty-five caliber using rimfire ammunition; or
26 (C) a crossbow;

27 (3) To kill or attempt to kill any bear through the use of
28 poison, explosives, snares, steel traps or deadfalls other than
29 as authorized in this section;

30 (4) To shoot at or kill a bear cub weighing less than one
31 hundred pounds or to kill any bear accompanied by a cub;

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

34 (6) To enter a state game refuge with firearms for the
35 purpose of pursuing or killing a bear except under the direct
36 supervision of division personnel;

37 (7) To hunt bear with dogs or to cause dogs to chase bear
38 during seasons other than those designated by the Division of
39 Natural Resources for the hunting of bear;

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

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

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

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

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

57 (1) (A) Any property owner or lessee who has suffered
58 damage to real or personal property, including loss
59 occasioned by the death or injury of livestock or the unborn
60 issue of livestock, caused by an act of a bear may complain
61 to any conservation officer of the Division of Natural
62 Resources for protection against the bear.

63 (B) Upon receipt of the complaint, the officer shall
64 immediately investigate the circumstances of the complaint.
65 If the officer is unable to personally investigate the
66 complaint, he or she shall designate a wildlife biologist to
67 investigate on his or her behalf.

68 (C) If the complaint is found to be justified, the officer or
69 designated person may, together with the owner and other

70 residents, proceed to hunt, destroy or capture the bear that
71 caused the property damage: *Provided*, That only the
72 conservation officer or the wildlife biologist shall determine
73 whether to destroy or capture the bear and whether to use
74 dogs to capture or destroy the bear: *Provided, however*, That,
75 in the event out-of-state dogs are used in the hunt, the owners
76 of the dogs are the only nonresidents permitted to participate
77 in hunting the bear.

78 (2) (A) When a property owner has suffered damage to
79 real or personal property as the result of an act by a bear, the
80 owner shall file a report with the Director of the Division of
81 Natural Resources. The report shall state whether or not the
82 bear was hunted and destroyed and, if so, the sex, weight and
83 estimated age of the bear. The report shall also include an
84 appraisal of the property damage occasioned by the bear duly
85 signed by three competent appraisers fixing the value of the
86 property lost.

87 (B) The report shall be ruled upon and the alleged
88 damages examined by a commission comprised of the
89 complaining property owner, an officer of the division and a
90 person to be jointly selected by the officer and the
91 complaining property owner.

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

96 (D) All claims shall be paid in the first instance from the
97 Bear Damage Fund provided in section forty-four-b of this
98 article. In the event the fund is insufficient to pay all claims
99 determined by the commission to be just and proper, the
100 remainder due to owners of lost or destroyed property shall
101 be paid from the special revenue account of the Division of
102 Natural Resources.

103 (3) In all cases where the act of the bear complained of by
104 the property owner is the killing of livestock, the value to be
105 established is the fair market value of the livestock at the date

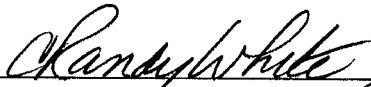
106 of death. In cases where the livestock killed is pregnant, the
107 total value shall be the sum of the values of the mother and
108 the unborn issue, with the value of the unborn issue to be
109 determined on the basis of the fair market value of the issue
110 had it been born.

111 (c) *Criminal penalties.* -- (1) Any person who commits a
112 violation of the provisions of this section is guilty of a
113 misdemeanor and, upon conviction thereof, shall be fined not
114 less than one thousand dollars nor more than five thousand
115 dollars, which fine is not subject to suspension by the court,
116 imprisoned in jail not less than thirty nor more than one
117 hundred days, or both fined and imprisoned. Further, the
118 person's hunting and fishing licenses shall be suspended for
119 two years.

120 (2) Any person who commits a second violation of the
121 provisions of this section is guilty of a misdemeanor and,
122 upon conviction thereof, shall be fined not less than two
123 thousand dollars nor more than seven thousand five hundred
124 dollars, which fine is not subject to suspension by the court,
125 imprisoned in jail not less than thirty days nor more than one
126 year, or both fined and imprisoned. The person's hunting and
127 fishing licenses shall be suspended for life.

128 (3) Any person who commits a third or subsequent
129 violation of the provisions of this section is guilty of a felony
130 and, upon conviction thereof, shall be fined not less than five
131 thousand dollars nor more than ten thousand dollars, which
132 fine is not subject to suspension by the court, imprisoned in
133 a correctional facility not less than one year nor more than
134 five years, or both fined and imprisoned.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.




Chairman Senate Committee



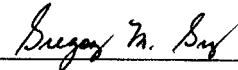
Chairman House Committee

Originating in the House.

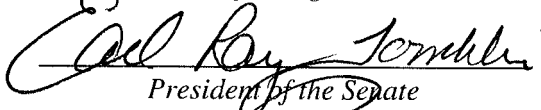
In effect ninety days from passage.



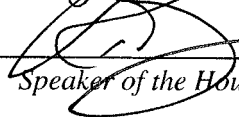
Clerk of the Senate



Clerk of the House of Delegates

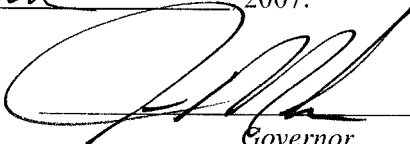


President of the Senate



Speaker of the House of Delegates

The within is approved this the 13th
day of March 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 0 8 2007

Time

4:35pm