WEST VIRGINIA CODE CHAPTER 20 ARTICLE 2

WV Legislature

§20-2-1. Declaration of policy.

It is declared to be the public policy of the State of West Virginia that the wildlife resources of this state shall be protected for the use and enjoyment of all the citizens of this state. All species of wildlife shall be maintained for values which may be either intrinsic or ecological or of benefit to man. Such benefits shall include (1) hunting, fishing and other diversified recreational uses; (2) economic contributions in the best interests of the people of this state; and (3) scientific and educational uses.

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§20-2-1a. Wildlife resources division; organization and administration.

The chief of the division of wildlife resources shall be primarily responsible for the execution and administration of the provisions of this article as an integral part of the natural resources program of the state as defined and constituted in this chapter. He shall organize the division and select competent and qualified personnel therefor so as to effect an orderly, efficient and economical division organization.

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§20-2-2. Violations of article.

When no specific punishment or penalty is otherwise provided for violations of the provisions of this article, any person violating any provision hereof shall be guilty of a misdemeanor offense, and, upon conviction thereof, shall be subject to the punishment and penalties prescribed in section nine, article seven of this chapter.

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§20-2-2a. Interference with hunters, trappers and fishermen.

A person may not willfully obstruct or impede the participation of any individual in the lawful activity of hunting, fishing or trapping. Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $100 nor more than $500 or imprisoned in the county jail for not less than ten days nor more than one hundred days or both fined and imprisoned. Also, any person convicted of a subsequent violation of this section shall be fined not more than $1,000 or imprisoned in the county jail not more than one year or both fined and imprisoned. For the purpose of this section a subsequent violation is one which has occurred within two years of any prior violation of this section and which arises out of a separate set of circumstances. Any person convicted of any violation of this section shall be liable to the person, whom they interfered with, for all costs and damages resulting therefrom and if such offender holds a West Virginia hunting, fishing or trapping license at the time of conviction, such license shall be revoked.

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§20-2-3. State ownership of wildlife.

The ownership of and title to all wildlife in the State of West Virginia is hereby declared to be in the state, as trustee for the people. A person shall not take or hunt wildlife in any manner, or at any time, unless the person taking or hunting the wildlife consents that the title to the wildlife is and remains in the State of West Virginia for the purpose of regulating the taking, hunting, using, and disposing of the wildlife. The taking or hunting of wildlife at any time or in any manner by any person is considered consent: Provided, That, all fish, frogs, and other aquatic life in privately-owned ponds are, and remain, the private property of the owner or owners of the privately-owned ponds, and that the fish, frogs, and other aquatic life in the privately-owned ponds may be caught, taken or killed by the owner or owners at any time.

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§20-2-4. Possession of wildlife.

(a) Except for wildlife lawfully taken, killed or obtained, no person may have in his or her possession any wildlife, or parts thereof, during closed seasons. It is unlawful to possess any wildlife, or parts thereof, which have been illegally taken, killed or obtained. This does not include the possession of deer antlers that are naturally shed and collected by a person from his or her own land, from public lands unless prohibited by law, or from private lands with the written permission of the landowner in hand. Any wildlife illegally taken, killed or possessed shall be forfeited to the state and shall be counted toward the daily, seasonal, bag, creel and possession limit of the person in possession of, or responsible for, the illegal taking or killing of any wildlife. It is unlawful to take, obtain, purchase, possess or maintain in captivity any live wildlife, wild animals, wild birds, game or fur-bearing animals except as provided by this chapter or any rule promulgated thereunder.

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

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

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

(e) Wildlife, except protected birds, elk, spotted fawn and bear cubs, killed or mortally wounded as a result of being accidentally or inadvertently struck by a motor vehicle may be lawfully possessed if the possessor of the wildlife provides notice of the claim within twelve hours to a relevant law-enforcement agency and obtains a nonhunting game tag within twenty-four hours of possession. The director shall propose administrative policy which addresses the means, methods and administrative procedures for implementing the provisions of this section.

(f) Persons are required to electronically register deer, bear, turkey, wild boar, bobcat, beaver, otter and fisher in accordance with rules promulgated by the director. "Electronically register" means submission of all necessary and relevant information to the division, in the manner designated by rule governing the electronic registration of wildlife. The director may promulgate rules, pursuant to article three, chapter twenty-nine-a of this code, governing the electronic registration of wildlife: Provided, That the rules shall include a procedure for persons who are not required to obtain licenses or permits under section twenty-eight of this article to register wildlife using identification other than a social security number. The rules may use a system of a combination of the last four digits of the social security number, date of birth and last name of the person.

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§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts; Sunday hunting.

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

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

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

(3) Use or attempt to use any artificial light or any night vision technology, including image intensification, thermal imaging, or active illumination while hunting, locating, attracting, taking, trapping, or killing any wild bird or wild animal: *Provided*, That it is lawful to hunt or take coyote, fox, raccoon, opossum, or skunk by the use of artificial light or night vision technology, including image intensification, thermal imaging, or active illumination. Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not less than $100 nor more than $500, and shall be confined in jail for not less than 10 days nor more than 100 days;

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

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

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

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

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

(9) Carry an uncased or loaded firearm in the woods of this state or in state parks, state forests, state wildlife management areas, or state rail trails with the following permissible exceptions:

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

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

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(C) A person carrying a firearm pursuant to §20-2-6 of this code;

(D) A person carrying a firearm for self-defense who is not prohibited from possessing firearms under state or federal law; or

(E) A person carrying a rifle or shotgun for self-defense who is not prohibited from possessing firearms under state or federal law: *Provided*, That this exception does not apply to an uncased rifle or shotgun carried specifically in state park or state forest recreational facilities and marked trails within state park or state forest borders;

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

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

(12) Catch, take, kill, or attempt to catch, take, or kill any fish by any means other than by rod, line, and hooks with natural or artificial lures, unless otherwise authorized by the director: *Provided*, That snaring of any species of sucker, carp, fallfish, and creek chub and catching catfish by hand are lawful if done by a holder of a valid license issued pursuant to §20-2-1 *et seq*. of this code or is exempted from licensure pursuant to §20-2-27 or §20-2-28 of this code;

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

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

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

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

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

(18) Have a crossbow in the woods or fields, or use a crossbow to hunt, take, or attempt to

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take any wildlife except as otherwise provided in §20-2-5g and §20-2-42w of this code;

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

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

(21) Shoot an arrow across any public highway;

(22) Permit any dog owned or under his or her control to chase, pursue, or follow the tracks of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or upon the grounds or lands of another person with his or her written permission, or on public lands at any time. Nonresidents may not train dogs in this state at any time except during the legal small game hunting season. A person training dogs may not have firearms or other implements for taking wildlife in his or her possession during the closed season on wild animals and wild birds, except a person carrying a firearm for self-defense who is not prohibited from possessing firearms under state or federal law;

(23) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water race, or wild hunt: *Provided*, That any person, group of persons, club, or organization may hold a trial upon obtaining a permit pursuant to §20-2-56 of this code. The person responsible for obtaining the permit shall prepare and keep an accurate record of the names and addresses of all persons participating in the trial and make the records readily available for inspection by any natural resources police officer upon request;

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

(25) Hunt or conduct hunts for a fee when the person is not physically present in the same location as the wildlife being hunted within West Virginia; and

(26) Catch, take, kill, or attempt to catch, take, or kill any fish by any means within 200 feet of division personnel engaged in stocking fish in public waters.

(b) Notwithstanding any ballot measure relating to Sunday hunting, it is lawful to hunt throughout the State of West Virginia on private lands on Sundays with the written consent of the private landowner pursuant to §20-2-7 of this code, and it is lawful to hunt throughout the State of West Virginia on federal land where hunting is permitted, in state forests, on land owned or leased by the state for wildlife purposes, and on land managed by the state for wildlife purposes pursuant to a cooperative agreement.

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

(a) Any person who is convicted of violating a criminal law of this state that results in the injury or death of game, as defined in §20-1-2 of this code, or a protected species of animal, in addition to any other penalty to which he or she is subject, shall forfeit the replacement cost of the game or protected species of animal to the state as follows:

(1) For each game fish or each fish of a protected species taken illegally other than by pollution kill, $20 for each pound and any fraction thereof: *Provided,* That for each native brook trout that exceeds the creel limit, $100 each for the first five illegally taken and $20 for each thereafter;

(2) For each bear, $1,000;

(3) For each deer, $500;

(4) For each wild turkey, $250;

(5) For each beaver, otter or mink, $100;

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

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

(8) For each wild boar, $500;

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

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

(11) For each elk, $10,000;

(12) For each raven, hawk, or owl $200; and

(13) For any other game or protected species of animal, $100.

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

(1) For any deer in which the inside spread of the main beams of the antlers measured at the widest point equals 14 inches or greater but less than 16 inches, $2,500;

(2) For any deer in which the inside spread of the main beams of the antlers measured at the

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widest point equals 16 inches or greater but less than 18 inches, $5,000;

(3) For any deer in which the inside spread of the main beams of the antlers measured at the widest point equals 18 inches or greater but less than 20 inches, $7,500; and

(4) For any deer in which the inside spread of the main beams of the antlers measured at the widest point equals 20 inches or greater, $10,000.

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

(c) Upon conviction, the court shall order the person to forfeit to the state the amount set forth in this section for the injury or death of the game or protected species of animal. If two or more defendants are convicted for the same violation causing the injury or death of game or protected species of animal, the replacement costs shall be paid by each person in an equal amount. The replacement costs shall be paid by the person so convicted within the time prescribed by the court not to exceed 60 days. In each instance, the court shall pay the replacement costs to the Division of Natural Resources to be deposited into the License Fund-Wildlife Resources and used only for the replacement, habitat management or enforcement programs for injured or killed game or protected species of animal.

(d) Any person convicted of an offense described in subsection (a) of this section and subject to the replacement cost provisions of subsection (b) or subdivision (a)(11) of this section shall also be subject to a revocation of hunting and fishing license for a period of five years pursuant to §20-2-38 of this code and such person shall not be issued any other hunting license for a period of five years.

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§20-2-5b. Exceeding creel limit on trout; other violations of code or rules and regulations for trout fishing; penalties.

Any person who exceeds the creel limit on trout or who otherwise violates any provisions of this code or any rules and regulations relating to trout fishing is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $50 nor more than $300, or imprisoned in the county jail not less than ten nor more than one hundred days, or both fined and imprisoned.

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§20-2-5c. Protection of bald eagles and golden eagles; unlawful acts; criminal penalties; forfeitures; license revocation.

(a) It is unlawful at any time for any person to take, possess, transport, import, export or process, sell or offer for sale, buy, barter or trade or offer to buy, barter or trade at any time or in any manner, any bald eagle, also commonly known as the American eagle, or any golden eagle, alive or dead, or any part, nest or egg thereof of the foregoing eagles, or to attempt to do any of these acts.

(b) Anyone who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $5,000 or imprisoned in the county jail not less than sixty days nor more than one year, or both fined and imprisoned. One half of any fine imposed shall be paid to any person or persons providing information that leads to the arrest and conviction of anyone violating the provisions of this section.

(c) For a second or subsequent conviction for a violation of this section, a person is guilty of a felony and, shall be fined not less than $5,000 nor more than $10,000 and imprisoned in the penitentiary for not less than one year nor more than two years. An amount equal to one half of the fine imposed, not exceeding $2,500, shall be paid to the person or persons providing information that leads to the arrest and conviction of anyone for a second or subsequent violation of the provisions of this section.

(d) "Take" is defined as including any means to pursue, hunt, wound, kill, capture, collect, poison, or molest any bald eagle or golden eagle, or any part, nest or egg thereof, or to knowingly and willfully destroy the nest or eggs of any such eagles.

(e) Nothing in this section may be construed to prohibit the taking, possession or transportation of bald or golden eagles legally under the current federal Eagle Protection Act, 16 USC § 668a, and the current federal regulations, 50 CFR 22.1 et seq.

(f) All wildlife, merchandise, guns, traps, nets and other equipment, vessels, vehicles, aircraft and other means of transportation used in taking, possessing, transporting, importing, exporting, selling or offering for sale, purchasing or bartering or offering to purchase or barter any bald or golden eagle or part, nest, or egg thereof, or in attempting to do any of these acts in violation of this section shall be forfeited, at the time of conviction, to the state.

(g) Upon conviction of taking, possessing, transporting, importing, exporting or processing, selling or offering for sale, buying, bartering or trading or offering to buy, barter or trade any bald or golden eagle, alive or dead, or any part, nest or egg thereof of the foregoing eagles, or of attempting to do any of these acts, the hunting licenses of such person or persons may be revoked and such person or persons shall not be issued any new hunting licenses for a period of ten years from the date of conviction.

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§20-2-5d. Use of chemicals, biological compounds or devices on free roaming wildlife populations for fertility control.

Notwithstanding any other provisions of this code and except as specifically authorized by the director in consultation with the wildlife resources section of the division, it is unlawful for anyone to administer any chemical, biological compound or device to free roaming or noncaptive wildlife for the purpose of fertility control. The director shall promulgate legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code whereby the director may issue such authorization.

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§20-2-5e. Assessment fee for decoy animals.

Any person convicted for the violation of any law involving the Division of Natural Resources' use of a decoy animal shall, in addition to any fines and costs for the criminal violation, pay a $50 civil penalty to the Division of Natural Resources, law-enforcement section. The civil penalty shall be collected by the court in which the person is convicted and forwarded to the Division of Natural Resources, law-enforcement section. All funds collected are to be placed in a special account and used for: (1) The purchase or repair of decoy animals; and (2) the purchase of equipment for use with decoy animals.

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§20-2-5f. Nonresident dog training for coon hunting; training season.

Notwithstanding subdivision (24), section five of this article or any other provision to the contrary, the director is authorized to allow a nonresident to train dogs for coon hunting in West Virginia, if the state in which the nonresident resides allows residents from West Virginia to train dogs for coon hunting. The dog training season for a nonresident to train dogs for coon hunting is from the fifteenth day of August of each year through the legal small game hunting season.

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§20-2-5g. Use of a crossbow to hunt.

(a) Notwithstanding any other provision of this code to the contrary, any person lawfully entitled to hunt may hunt with a crossbow during big game firearms season. A person who possesses a valid Class Y permit may also hunt with a crossbow in accordance with §20-2-42w of this code. Further, the director shall designate a separate season for crossbow hunting and identify which species of wildlife may be hunted with a crossbow.

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

(1) The crossbow has a minimum draw weight of 125 pounds;

(2) The crossbow has a working safety; and

(3) The crossbow is used with bolts and arrows not less than 16 inches in length as measured from the leading end of the shaft, including the insert, to the trailing end of the shaft, including the nock, with a broad head having at least two sharp cutting edges, measuring at least three fourths of an inch in width.

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

(a) Findings. -- The Legislature finds that Eastern Elk were once a common, native species in the state prior to and following its formation, but historical records indicate native elk were extirpated from the state around 1875. Until recently, free roaming elk have not been present in the state. However, elk are now migrating to the state from Kentucky, which has an active elk restoration program. Therefore, the Division of Natural Resources has established an active elk restoration program in Southern West Virginia.

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

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

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

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

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

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

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

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

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

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

(4) Establish hunting application fees and procedures;

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

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

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§20-2-5i. Waste of game animals, game birds, or game fish; penalties.

(a) It is unlawful for any person to cause through carelessness, neglect, or otherwise to let any edible portion of any big game or game fish to go to waste needlessly.

(b) For purposes of this section, "edible portion" means, with respect to:

(1) Big game. — One or more of the following: (A) the meat of the front quarters to the knee; (B) the meat of the hind-quarters to the hock; or (C) the meat along the backbone between the front quarters and hind quarters: Provided, That an edible portion of a wild turkey is the meat of the breast only.

(2) Game fish. — The fillet meat from the gill plate to the tail fin.

(3) Edible portion does not include bones, sinew, viscera, meat from the head or neck, meat that has been damaged or rendered inedible by method of taking, or meat that is reasonably lost as a result of boning or close trimming of bones.

(c) It is unlawful for any person to take any big game and detach or remove from the carcass the head, hide, antlers, tusks, paws, claws, gallbladder, teeth, beards, or spurs only and leave the carcass to waste.

(d) Any person who through no carelessness, neglect, or otherwise, is unable to locate the carcass of any lawfully taken big game prior to the spoilage or decay of any or all edible portions may detach or remove from the carcass the head, hide, antlers, tusks, paws, claws, gall bladder, teeth, beards, or spurs: Provided, That the big game is registered and shall be counted toward the daily, seasonal, bag, and possession limit of the person in possession of, or responsible for taking the big game.

(e) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be subject to the following penalties, with respect to:

(1) Big game violations. —

(A) A fine of not less than $500 nor more than $2,500, or confinement in jail not less than 10 days nor more than 100 days, or both fined and confined;

(B) Suspension of hunting and fishing license for a period of five years; and

(C) All applicable forfeiture and replacement provisions in §20-2-5a of this code.

(2) Game fish violations. —

(A) A fine of not less than $100 nor more than $500, or confinement in jail not less than 10 days nor more than 100 days, or both fined and confined;

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(B) Suspension of hunting and fishing license for a period of two years; and

(C) All applicable forfeiture and replacement provisions in §20-2-5a of this code.

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§20-2-5j. Leashed dogs and unmanned aerial vehicles for tracking or locating mortally wounded deer, elk, turkey, wild boar, or bear.

(a) Notwithstanding any provision of this chapter to the contrary, a person who is legally hunting and reasonably believes he or she has mortally wounded a deer, elk, turkey, wild boar, or bear may use a leashed dog or a unmanned aerial vehicles as defined in West Virginia Code §61-16-1(3) (hereafter "UAV") or both, to track and locate the mortally wounded deer, elk, turkey, wild boar, or bear. The hunter is also permitted to use a dog handler of a leashed dog and/or a licensed UAV operator to track and locate the mortally wounded deer, elk, turkey, wild boar, or bear. The hunter or the dog handler shall always maintain physical control of the leashed dog. Only one leashed dog per handler may be used and, if the hunter is using a dog handler, the hunter may not handle additional dogs for the handler.

(b) The act of tracking a mortally wounded deer, elk, turkey, wild boar, or bear with a dog, or locating with a UAV, is hunting and the hunter, handler, or licensed UAV operator are subject to all applicable laws and rules. It is unlawful for a hunter, licensed UAV operator, or dog handler to track or locate deer, elk, turkey, wild boar, or bear with leashed dogs or a UAV under the provisions of this section unless he or she is in possession of a valid hunting license issued pursuant to this article or is a person excepted from licensing requirements pursuant to this article, and all other lawful authorizations as prescribed in this article. The hunter shall accompany the dog handler and only the hunter may kill a mortally wounded deer, elk, turkey, wild boar, or bear. However, any hunter who is physically unable to accompany the handler in the tracking and locating of the mortally wounded deer, elk, turkey, wild boar, or bear may designate the handler to kill the deer, elk, turkey, wild boar, or bear when located by the handler. The deer, elk, turkey, wild boar, or bear shall count toward the bag limit of the hunter who fired the initial shot.

(c) Any dog handler or any UAV operator providing tracking services for profit must be licensed as an outfitter or guide pursuant to §20-2-23 of this code. Any UAV operator not operating on property they own or lease must be licensed according to FAA Part 107. The Director shall provide a list of licensed outfitters and guides who provide dog tracking or UAV tracking services pursuant to this section to the public prior to September 1st of each year.

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§20-2-5k. Use of air rifles to hunt.

(a) Notwithstanding any other provision of this code to the contrary, any person lawfully entitled to hunt may hunt with an air rifle during small game and big game firearms season: *Provided*, That air rifles may only be used for deer hunting in counties open to firearm deer hunting.

(b) An air rifle may not be substituted for a muzzleloader during any muzzleloader season or during the Mountaineer Heritage season.

(c) No person may be afield with an air rifle and bow, or with an air rifle or any arrow at the same time.

(d) No person may hunt with an air bow at any time.

(e) Any person hunting with an air rifle is subject to all other rifle and firearm hunting regulations according to this chapter and rules promulgated thereunder.

(f) Only air rifles meeting the following specifications may be used for hunting big game:

(1) No person may hunt big game with an air rifle of less than .45 caliber and with a bullet of less than 200 grains, except that wild turkey may be hunted with an air rifle of .22 caliber or larger.

(2) No person may hunt small game with an air rifle of less than .22 caliber.

(g) Air rifles may be shot within 500 feet of a dwelling.

WV Legislature

§20-2-5l. Use of certain rifles to hunt in muzzleloader season.

Notwithstanding any other provision of this code or any rule promulgated thereunder to the contrary, any person lawfully entitled to hunt may hunt with a singleshot muzzleloading pistol or singleshot muzzleloading rifle, having a bore diameter of not less than thirty-eight one-hundredths of an inch, using an encapsulated propellant charge that loads from the breech, with the projectile loaded from the muzzle, during any established muzzleloader season: *Provided*, That such muzzleloading pistol or muzzleloading rifle may not be used for hunting during the Mountaineer Heritage season.

WV Legislature

§20-2-6. Carrying gun on landowner's land.

Notwithstanding any other provisions of this chapter, it shall be lawful for a bona fide resident landowner of this state, any member of said landowner's family and any bona fide tenant of said landowner, to carry an uncased gun at any time, whether accompanied by or without a dog, in their regular pursuits in caring for and looking after such landowner's livestock or poultry on his land and on any lands leased or rented by him for livestock or poultry husbandry purposes.

WV Legislature

§20-2-6a

Repealed.

Acts, 2016 Reg. Sess., Ch. 252

WV Legislature

§20-2-7. Hunting, trapping or fishing on lands of another; damages and restitution.

(a) It is unlawful for any person to shoot, hunt, fish or trap upon the fenced, enclosed or posted lands of another person; or to peel trees or timber, build fires or do any other act in connection with shooting, hunting, fishing or trapping on the lands without written permission in his or her possession from the owner, tenant or agent of the owner.

(b) Any person who hunts, traps or fishes on land without the permission of the owner, tenant or agent of the owner is guilty of a misdemeanor and, liable to the owner or person suffering damage for all costs and damages for: (1) Killing or injuring any domestic animal, fowl, or private game farm animal; (2) cutting, destroying or damaging any bars, gates or fence or any part of the property; or (3) leaving open any bars or gates resulting in damage to the property.

(c) Restitution of the value of the property or animals injured, damaged or destroyed shall be required upon conviction pursuant to sections four and five, article eleven-a, chapter sixty-one of this code. The restitution ordered for private game farm animals shall be equivalent to or greater than the replacement values for deer listed in section five-a in this article.

(d) The owner, tenant or agent of the owner may arrest a person violating this section and immediately take him or her before a magistrate. The owner, tenant or agent of the owner is vested with the powers and rights of a natural resources police officer for these purposes. The officers charged with the enforcement of the provisions of this chapter shall enforce the provisions of this section if requested to do so by the owner, tenant or agent of the owner, but not otherwise.

(e) The provisions of subsections (b) and (d) of this section related to criminal penalties and being subject to arrest are inapplicable to a person whose dog, without the person's direction or encouragement, travels onto the fenced, enclosed or posted land of another in pursuit of an animal or wild bird: Provided, That the pursuit does not result in the taking of game from the fenced, enclosed or posted land and does not result in the killing of domestic animals or fowl or other damage to or on the fenced, enclosed or posted land.

WV Legislature

§20-2-8. Posting unenclosed lands; hunting, etc., on posted land.

The owner, lessee or other person entitled to possession of unenclosed lands may have erected and maintained signs or placards legibly printed, easily discernible, conspicuously posted and reasonably spaced or, alternatively, may mark the posted land as set forth in section one, article three-b, chapter sixty-one of this code, so as to indicate the territory in which hunting, trapping or fishing is prohibited.

Any person who enters upon the unenclosed lands of another which have been lawfully posted, for the purpose of hunting, trapping or fishing, shall be guilty of a misdemeanor. The officers charged with the enforcement of the provisions of this chapter shall have the duty to enforce the provisions of this section if requested to do so by such owner, lessee, person or agent, but not otherwise.

WV Legislature

§20-2-9. Unlawful posting of lands.

It shall be unlawful and shall constitute a misdemeanor offense for any person or his agent or employee wilfully to post any notice or warning or wilfully to ward, drive or attempt to drive any person off, or prevent his hunting or fishing on, any land not owned or lawfully occupied by such person, his agent, or employee, unless such land is a lawfully established game or fish preserve.

WV Legislature

§20-2-10. Destruction, etc., of signs posted under chapter.

It shall be unlawful and shall constitute a misdemeanor offense for any person to destroy, tear down, shoot at, deface or erase any printed matter or signs placed or posted by or under the authority of this chapter: Provided, however, That this section shall not apply to the owner, his agents, tenants or lessees, of the lands on which such signs or printed matter are posted. Each such sign so destroyed, torn down, shot at, defaced or erased shall be considered a separate offense under this section.

WV Legislature

§20-2-11. Sale of wildlife; transportation of same.

(a) A person, except those legally licensed to operate private game preserves for the purpose of propagating game for commercial purposes and those legally licensed to propagate or sell fish, amphibians and other forms of aquatic life, may not purchase or offer to purchase, sell or offer to sell, trade or offer to trade, barter or offer to barter, expose for sale, trade or barter or have in his or her possession for the purpose of sale, trade or barter any wildlife, or part thereof, which has been designated as game animals, fur-bearing animals, game birds, game fish or amphibians, or any of the song or insectivorous birds of the state, or any other species of wildlife which the director may designate, except for captive cervids regulated pursuant to the provisions of §19-2H-1 et seq. of this code. However, pelts of game or fur-bearing animals, fur-bearer parts, including carcasses for the making of lures and baits, carcass parts, including glands, skulls, claws, and bones, and fur-bearer urine taken during the legal season may be sold, traded or bartered and live red and gray foxes and raccoon taken by legal methods during legal and established trapping seasons may be sold, traded or bartered within the state. In addition, the hide, head, antlers and feet of a legally killed deer, lawfully collected and possessed naturally shed deer antlers, the hide, head and skull of a legally killed black bear, and the hide and tails of legally killed squirrels may be sold, traded or bartered.

(b) A person, including a common carrier, may not transport, carry or convey, or receive for such purposes, any wildlife, the sale, trade or bartering of which is prohibited, if such person knows or has reason to believe that such wildlife has been or is to be sold, traded or bartered in violation of this section.

(c) Each separate act of selling or exposing for sale, trading or exposing for trade or bartering or exposing for barter or having in possession for sale, trade, barter, transporting or carrying in violation of this section constitutes a separate misdemeanor offense. Notwithstanding this or any other section of this chapter, any game birds or game bird meats sold by licensed retailers may be served at any hotel, restaurant or other licensed eating place in this state.

(d) The director may propose rules for promulgation in accordance with §29A-3-1 et seq. of this code dealing with the sale of wildlife and the skins thereof.

WV Legislature

§20-2-12. Transportation of wildlife out of state; penalties.

(a) A person may not transport or have in his or her possession with the intention of transporting beyond the limits of the state any species of wildlife or any part thereof killed, taken, captured or caught within this state, except as provided in this section.

(1) A person legally entitled to hunt and fish in this state may take with him or her personally, when leaving the state, any wildlife that he or she has lawfully taken or killed, not exceeding, during the open season, the number that any person may lawfully possess.

(2) Licensed resident hunters and trappers and resident and nonresident fur dealers may transport beyond the limits of the state pelts of game and fur-bearing animals, fur-bearer parts, including carcasses for the making of lures and baits, carcass parts, including glands, skulls, claws, and bones, and fur-bearer urine taken during the legal season.

(3) A person may transport the hide, head, antlers and feet of a legally killed deer and the hide, head, skull, organs and feet of a legally killed black bear beyond the limits of the state.

(4) A person legally entitled to possess an animal according to §20-2-4 of this code may transport that animal, including the parts or urine of that animal, beyond the limits of the state.

(b) The director may promulgate rules in accordance with §29A-3-1 et seq. of this code dealing with the transportation and tagging of wildlife, parts, urine and skins.

(c) A person who violates this section by transporting or possessing with the intention of transporting beyond the limits of this state deer or wild boar shall be considered to have committed a separate offense for each animal so transported or possessed. This section does not apply to captive cervids regulated pursuant to §19-2H-1 et seq. of this code.

(d) A person violating this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $20 nor more than $300 or be confined in jail not less than 10 nor more than 60 days, or both.

(e) This section does not apply to persons legally entitled to propagate and sell wild animals, wild birds, fish, amphibians and other forms of aquatic life beyond the limits of the state.

WV Legislature

§20-2-13. Importation of wildlife; certification and inspection of imported wildlife.

No person shall transport into or have in his possession within this state any live wildlife or viable eggs thereof from without the state, except as authorized by an importation permit issued by the director: Provided, That the director shall not be authorized to issue a permit to any person to transport into this state any coyotes (Canis latrans). The director may issue at his discretion such permit as he is authorized to issue, fix the terms thereof and revoke it at his pleasure. Importers of fish or viable eggs of the family salmondiae (trout, char, salmon) shall furnish a statement from a recognized fish pathologist certifying the source to be free of whirling disease, infectious pancreatic necrosis, viral hemorrhagic septicemia or other diseases which may threaten fish stocks within the state.

Importers of wildlife species shall furnish disease free certification from pathologists, or veterinarians, as the director deems necessary to protect native populations.

All imported wildlife shall be subject to inspection by authorized agents of the department and such inspections may include biological examinations and the removal of a reasonable sample of fish or eggs for such purposes.

Any person violating any of the provisions of this section concerning coyotes shall be guilty of a misdemeanor, and, upon conviction thereof, shall for each offense be fined not less than one hundred nor more than $300, or confined in jail not less than ten nor more than one hundred days, or be both fined and imprisoned within the limitations aforesaid.

WV Legislature

§20-2-14. Propagation of wildlife for commercial purposes.

No person shall propagate wildlife for commercial purposes except when licensed to do so as provided in section forty-seven of this article.

WV Legislature

§20-2-15. Permit to kill deer or other wildlife causing damage to cultivated crops, trees, commercial nurseries, homeowners' shrubbery and vegetable gardens; weapon restrictions.

(a) Whenever it is found that deer or other wildlife are causing damage to cultivated crops, fruit trees, commercial nurseries, homeowners' trees, shrubbery or vegetable gardens, the owner or lessee of the lands on which damage is done may report the finding to the natural resources police officer or biologist of the county in which the lands are located or to the director. The director shall then investigate the reported damage and if found substantial, shall issue a permit to the owner or lessee to kill one or more deer or other wildlife in the manner prescribed by the director.

(b) In addition to the foregoing, the director shall establish procedures for the issuance of permits or other authorization necessary to control deer or other wildlife causing property damage.

(c) All persons attempting to kill deer or other wildlife pursuant to this section are subject to the same minimum caliber restrictions and other firearm restrictions and the same minimum bow poundage and other bow and arrow restrictions that apply when hunting the same animal species during the regular hunting seasons.

WV Legislature

§20-2-16. Dogs chasing deer.

Except as provided in §20-2-5j of this code, no person may permit or use his or her dog to hunt or chase deer. A natural resources police officer shall take into possession any dog known to have unlawfully hunted or chased deer. If the owner of the dog can be determined, the dog shall be returned to the owner. If the owner of the dog cannot be determined, the natural resources police officer shall deliver the dog to the appropriate county humane officer or facility consistent with the provisions of this code.

WV Legislature

§20-2-17. Hunting fur-bearing animals; possession of fur; disturbing traps of another.

No person shall hunt, capture, trap, take or kill fur-bearing animals except as authorized by regulation of the director. Except as authorized by the director, no person shall have in his possession the fresh skin, or part thereof, of any fur-bearing animal, except beaver, within the period beginning ten days after the end of the open season on such fur-bearing animal and ending with the first day of the next succeeding open season. No person shall disturb properly marked traps of another person, kill, remove or take a fur-bearing animal from the trap of another person without specific authorization of the owner of the trap, except upon land where the owner of such trap may have placed it without right or permission.

WV Legislature

§20-2-18. Number and types of traps.

The director shall have the power and authority to regulate the number, kind and type of traps to be used in the catching or trapping of any game or fur-bearing animals.

WV Legislature

§20-2-19. Marking of traps.

All traps used for taking game or fur-bearing animals shall be marked with a durable plate or tag, attached to the snare, trap, or trap chain, bearing either the name and address of the owner of the trap or the Division of Natural Resources identification number of the owner of the trap.

WV Legislature

§20-2-19A

Repealed

Acts, 2017 Reg. Sess., Ch. 163

WV Legislature

§20-2-20. Trapping beaver.

A person may not have in his possession an untagged beaver hide, or part thereof, within the period beginning thirty days after the end of the open season and ending with the first day of the next succeeding open season for beavers.

WV Legislature

§20-2-21. Reporting beaver and otter pelts taken and tagged.

Each trapper shall electronically register each beaver and otter, or each pelt, to a game checking station or representative of the division within thirty days after the close of a legal season. A game tag number shall be issued to the person and recorded in writing with the person's name and address, or on a field tag, and shall be affixed to each otter and remain attached to the animal or pelt until it is processed into commercial fur. A game tag number for each beaver shall be issued to the person and recorded in writing with the person's name and address and either attached to each beaver or pelt, or the tag number shall be retained by the person in possession of the beavers. The game tag numbers shall remain attached to the animal or pelt or retained by the owner until it is processed into commercial fur.

WV Legislature

§20-2-22. Tagging, removing, transporting and reporting bear, deer, wild boar and wild turkey.

(a) Each person killing a bear, deer, wild boar or wild turkey found in a wild state shall either attach a completed field tag to the animal or remain with the animal and have upon his or her person a completed field tag before removing the carcass in any manner from where it was killed.

(b) While transporting the carcass of a bear, deer, wild boar or wild turkey from where it was killed, each person shall either attach a completed field tag to the animal or have upon his or her person a completed field tag.

(c) Upon arriving at a residence, camp, hunting lodge, vehicle or vessel each person shall attach a field tag to the killed bear, deer, wild boar or wild turkey. The field tag shall remain on the carcass until the animal is electronically registered. A game tag number shall be issued to the person and recorded in writing with the person's name and address, or on a field tag, and shall remain on the carcass until it is dressed for consumption. The game tag number shall remain on the skin or hide until it is tanned or mounted.

(d) If a person who does not possess a field tag kills a bear, deer, wild boar or wild turkey, he or she shall make a tag. The field tag shall bear the name, address and, if applicable, the license number of the hunter and the time, date and county of killing.

(e) A person who kills a bear shall treat the carcass and remains in accordance with the provisions of section twenty-two-a of this article.

(f) For each violation of this section a person is subject to the penalties provided in this article.

WV Legislature

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

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

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

(c) Training dogs on bears or pursuing bears with dogs is the hunting of bear for all purposes of this chapter, including all applicable regulations and license requirements.

(d) It is unlawful:

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

(2) To hunt a bear with:

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

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

(3) To kill or attempt to kill, or wound or attempt to wound, any bear through the use of bait, poison, explosives, traps or deadfalls or to feed bears at any time. For purposes of this section, bait includes, but is not limited to, corn and other grains, animal carcasses or animal remains, grease, sugars in any form, scent attractants and other edible enticements, and an area is considered baited for ten days after all bait has been removed;

(4) To shoot at or kill:

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

(B) Any bear accompanied by a cub; or

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

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

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

(7) Except as provided in §20-2-5j of this code, to organize for commercial purposes or to professionally outfit a bear hunt, or to give or receive any consideration whatsoever or any donation in money, goods or services in connection with a bear hunt, notwithstanding the provisions of sections twenty-three and twenty-four of this article.

(e) The following provisions apply to bear damaging or destroying property:

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

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

(C) If the complaint is found to be justified, the officer or designated wildlife biologist may issue a permit to kill the bear that caused the property damage or may authorize the owner and other residents to proceed to hunt, destroy or capture the bear that caused the property damage: *Provided*, That only the natural resources police officer or the wildlife biologist may recommend other measures to end or minimize property damage: *Provided, however,* That, if out-of-state dogs are used in the hunt, the owners of the dogs are the only nonresidents permitted to participate in hunting the bear.

(2)(A) When a property owner has suffered damage to real or personal property as the result of an act by a bear, the owner shall file a report with the director of the division. A bear damage report shall be completed by a representative of the division and shall state whether or not the bear was hunted and destroyed or killed under authorization of a depredation permit and, if so, the sex and weight shall be recorded and a premolar tooth collected from the bear, all of which shall be submitted with the report. The report shall also include an appraisal of the property damage occasioned by the bear fixing the value of the property lost. Bear damage claims will not be accepted for personal and real property which is commonly used for the purposes of feeding, baiting, observing or hunting wildlife, including, but not limited to, hunting blinds, tree stands, artificial feeders, game or trail cameras and crops planted for the purposes of feeding or baiting wildlife.

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

(C) The division shall establish the procedures to be followed in presenting and deciding claims, issuing bear depredation permits and organizing bear hunts under this section in

WV Legislature

accordance with §29A-3-1 *et seq*. of this code.

(D) All claims shall be paid in the first instance from the Bear Damage Fund provided in section forty-four-b of this article: *Provided*, That the claimant shall submit accurate information as to whether he or she is insured for the damages caused by the acts of bear on forms prescribed by the director, and all damage claims shall first be made by the claimant against any insurance policies before payment may be approved from the Bear Damage Fund. Claims for an award of compensation from the Bear Damage Fund shall be reduced or denied in the amount the claimant is actually reimbursed by insurance for the economic loss upon which the claim is based. In the event the fund is insufficient to pay all claims determined by the commission to be just and proper, the remainder due to owners of lost or destroyed property shall be paid from the special revenue account of the division.

(3) In all cases where the act of the bear complained of by the property owner is the killing of livestock, the value to be established is the fair market value of the livestock at the date of death. In cases where the livestock killed is pregnant, the total value is the sum of the values of the mother and the unborn issue, with the value of the unborn issue to be determined on the basis of the fair market value of the issue had it been born.

(f) *Criminal penalties*. (1) Any person who commits a violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $1,000, which is not subject to suspension by the court, confined in jail not less than 10 nor more than 30 days, or both fined and confined. Further, the person’s hunting and fishing licenses shall be assigned six points, however, the hunting and fishing licenses of any person convicted of a violation of this section which results in the killing or death of a bear shall be suspended for two years.

(2) Any person who commits a second violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $1,000 nor more than $3,000, which is not subject to suspension by the court, confined in jail not less than 30 days nor more than 100 days, or both fined and confined. The person’s hunting and fishing licenses shall be suspended for five years.

(3) Any person who commits a third or subsequent violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $2,500 nor more than $5,000, which is not subject to suspension by the court, confined in jail not less than six months nor more than one year, or both fined and confined. The person’s hunting and fishing licenses shall be suspended for 10 years.

WV Legislature

§20-2-23. Outfitters and guides -- Generally; definitions.

(a) Services of outfitters and guides for the benefit and convenience of hunters, fishermen and others in this state are recognized as essential, and such outfitters and guides may be licensed and authorized to serve as provided in this article. The director is hereby authorized to promulgate rules and regulations on services of outfitters and guides as herein authorized and defined.

(b) The term "outfitter," as used herein, means and includes any person who, operating from any temporary or permanent camp, private or public lodge, or private or incorporated home situate within this state, provides for monetary profit or gain, saddle or pack animals or other animals, vehicles, boats, conveyances or equipment, or guide services for any person or persons hunting game animals, game birds, fishing or taking expeditions, both land and water, in this state. The term "outfitter" shall not include, however, any person who occasionally for accommodation or favor rather than profit or gain, rents equipment to hunters, fishermen or others as a service incidental to his principal occupation or business without advertising outfitter or guide services or holding out to the public the offering of such services. The term "guide," as used herein, includes and embraces outfitter services and the term "outfitter" includes and embraces guide services, but the applicant for any license hereunder may in his or her application elect to be designated as an outfitter or guide.

(c) The term "commercial whitewater outfitter," as used herein, means any person, partnership, corporation or other organization, or any combination thereof, duly authorized and operating from within or from without the state, which for monetary profit or gain, provides whitewater expeditions or rents whitewater craft or equipment for use in whitewater expeditions on any river, portions of rivers or waters of the state in accordance with this article.

The term "commercial whitewater guide," as used herein, means any person who is an owner, agent or employee of a commercial whitewater outfitter, and who is qualified and authorized to provide services for whitewater expeditions in the state in accordance with this article.

WV Legislature

§20-2-23a. Whitewater commission; powers and duties of commission and Division of Natural Resources; allocations; civil and criminal penalties for violations.

(a) There is hereby created a whitewater commission within the Division of Natural Resources. The commission shall consist of the director of the Division of Natural Resources or his or her designee; the director of the Division of Parks and Tourism or his or her designee; three representatives of private river users who have no affiliation with any commercial river enterprise to be appointed by the Governor: Provided, That no more than one representative of the private river users may be from each whitewater zone; and four persons representing four different licensed commercial whitewater outfitters currently operating within the state to be appointed by the Governor. The superintendent of the New River Gorge National Park or his or her designee shall be a nonvoting member of the commission. All appointed members of the commission shall be citizens and residents of West Virginia. Of the four representatives of commercial outfitters, two persons shall represent commercial whitewater outfitters holding or controlling through corporate affiliation or common ownership multiple licenses in West Virginia and two persons shall represent commercial whitewater outfitters in West Virginia who hold only a single license and who have no common ownership or corporate affiliation with another licensee, the director of the Division of Natural Resources shall serve as chairperson of the commission. Of the seven members of the commission first appointed by the Governor, two shall be appointed for a term of one year, two for a term of two years and three for a term of three years. Thereafter, the terms of all appointed members of the commission are for three years. Members shall serve until their successors have been appointed and any vacancy in the office of a member shall be filled by appointment for the unexpired term. Members representing commercial outfitters who have served at least two years on the commission are not eligible for reappointment to a successive term.

(b) The commission has the following powers and duties:

(1) To investigate and study commercial whitewater rafting, outfitting and activities related thereto which take place along the rivers or waters of the state;

(2) To designate any such rivers or waters or any portions thereof as "whitewater zones" for which commercial whitewater rafting, outfitting and activities are to be investigated and studied, and to determine the order and the periods of time within which the investigations and studies are to be conducted. The commission shall first investigate and study those whitewater zones which it finds to present serious problems requiring immediate regulation, including, without limitation, safety hazards and problems of overcrowding or environmental misuse;

(3) To restrict, deny or postpone the issuance of licenses to additional commercial whitewater outfitters seeking to operate in areas and portions of rivers and waters in this state designated whitewater zones by action of the director of the Division of Natural Resources as authorized under prior enactment of this section and so designated by the filing of a written notice entered upon the records of the division containing the designation

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and reasonable description of the whitewater zone: Provided, That in consideration of the consolidation occurring among outfitting companies providing rafting services on the Gauley River, the commission shall grant one additional whitewater rafting license for the Gauley River on or before July 1, 1999, with preference being given in the selection process to the applicant best satisfying the following criteria: (i) The applicant demonstrates a record of providing commercial rafting and related whitewater services in a safe and lawful manner on the New River and other rivers; (ii) the applicant has continuously engaged for three or more years in the commercial rafting business on the New River and has, or can obtain, the necessary equipment and facilities to support Gauley River operations; (iii) the seniority of the application as measured by the length of time the applicant has sought a Gauley River license with the more senior application given preference; (iv) that the applicant is not affiliated with, operated or owned by an existing Gauley River licensee; (v) that the applicant has no common ownership with an existing Gauley River licensee; and (vi) that the economic benefit represented by the award of a Gauley River license will serve to assist the promotion of tourism and the delivery of outfitting services beyond Fayette and Nicholas counties. In authorizing the issuance of an additional Gauley River license, it is the intention of the Legislature that the commission not increase the carrying capacity of a current Gauley River licensee, but that the commission promote and maintain competition among licensees by increasing the number of independent outfitters operating on the Gauley;

(4) To commission such studies as are necessary to determine the physical carrying capacity and monitor the levels of use on the New, Gauley, Cheat, Shenandoah and Tygart rivers and how each relates to the overall quality of the rafting experience, the economic impact of rafting, tourism and employment in the state and the safety of the general public: Provided, That if, during a study period, the commission deems that overcrowding is not a problem on any whitewater zone on the Cheat, Shenandoah and Tygart rivers, or on the New River upstream of the confluence of the Greenbrier and New rivers and on the Gauley River upstream of the Summersville Dam, then it may issue a license;

(5) Based on the findings of a study of the carrying capacity of a river, to formulate rational criteria for an allocation methodology for the river subject to the study, including, but not limited to, a minimum allocation for each river studied;

(6) To immediately implement a freeze on mandated changes in use allocations for the licenses of existing licensees on moratorium sections of the Gauley and New rivers as defined in subsection (d) of this section. All such licenses shall carry the use allocation in effect on May 2, 1992. The commission shall implement allocation methodologies for other rivers as the commission, after appropriate study, may deem necessary with all such allocation methodologies implemented by rules promulgated pursuant to chapter twenty-nine-a of this code;

(7) To determine administrative policies relating to regulation of the whitewater industry and to administer such policies, except that the commission shall delegate to the director of the Division of Natural Resources or his or her designee the authority to administer the day-to-day responsibilities of the commission pursuant to this section and may vest in the

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director of the Division of Natural Resources or his or her designee the authority to make determinations with respect to which it is not practicable to convene or to poll the commission, within guidelines established by the commission;

(8) To review all contracts or agreements with governmental agencies related to whitewater studies or regulation, and any negotiations related thereto;

(9) To verify reports by outfitters of numbers of river users and guides, to monitor the extent of the crowding conditions on the rivers and to establish a system for reporting the number of river users and guides on each whitewater expedition;

(10) To regulate the issuance, transfer, and renewal of licenses. However, licenses issued to commercial whitewater outfitters or use allocations or other privileges conferred by a license may be transferred, sold, offered as security to financial institutions or otherwise encumbered, upon notice in writing to the commission and the director of the Division of Natural Resources, subject to the following limitations: (i) The commission may refuse a transfer upon a finding that there is reasonable cause to believe that the safety of members of the public may be adversely affected by the transfer; and (ii) the commission shall require that taxes, workers' compensation and other obligations due the state be paid prior to any transfer;

(11) To collect, for the duration of a study period established in subdivision (4) of this subsection, an annual license fee of $500 for each river on which a commercial whitewater outfitter operates. The annual per river license fee is limited to the Cheat, Gauley, New, Shenandoah and Tygart rivers. The annual license fee for a commercial whitewater outfitter operating on a river not so designated is $500 regardless of the number of rivers operated on. A commercial whitewater outfitter who is operating on a river designated in this subdivision and who has paid the annual per river license fee may not be required to pay an additional annual license fee to operate on a nondesignated river. The commercial whitewater outfitter license shall be issued by the commission and is for a period of ten years: Provided, That an outfitter pays the required annual license fee. If an outfitter fails to pay the license fee, then the license shall be suspended until the license fee is paid. Licenses are subject to the bonding provisions set forth in section twenty-three-d of this article and the revocation provisions set forth in the rules promulgated by the director of the Division of Natural Resources. License fees shall be used by the Division of Natural Resources for the purpose of enforcing and administering the provisions of this section;

(12) To establish a special study and improvement fee to be paid by outfitters and to establish procedures for the collection and enforcement of the special study and improvement fee;

(13) To establish a procedure for hearings on violations of this section and rules promulgated thereunder and to establish civil penalties for violations of this section and rules promulgated thereunder; and

(14) To approve rules promulgated by the director of the Division of Natural Resources pursuant to chapter twenty-nine-a of this code, with respect to commercial whitewater outfitters operating upon the waters of the state, whether or not such waters have been designated whitewater zones, which relate to: (i) Minimum safety requirements for equipment; (ii) standards for the size of rafts and number of persons which may be transported in any one raft; (iii) qualifications of commercial whitewater guides; and with respect to waters designated whitewater zones; (iv) standards for the number of rafts and number of persons transported in rafts.

(c) The commission shall meet upon the call of the chairperson or a majority of the members of the commission. However, the commission shall meet at least quarterly and shall conduct business when a majority of the members are present. At the meetings, the commission shall review all data, materials and relevant findings compiled relating to any investigation and study then under consideration and, as soon as practicable thereafter, the commission may recommend rules to govern and apply to the designated whitewater zone(s). The commission may meet at its discretion for the purpose of considering and adjusting allocations and review fees and proposed expenditures. A budget shall be approved for each fiscal year for the expenditure of funds subject to the commission's control. The commission may not limit the number of commercial whitewater outfitters operating on rivers not designated as whitewater zones, nor may the commission limit the number of rafts or total number of persons transported in rafts by commercial whitewater outfitters on rivers not designated as whitewater zones. Commission members shall be reimbursed all reasonable and necessary expenses incurred in the exercise of their duties.

(d) Special provisions for the New River and the Gauley River:

(1) After the issuance of the Gauley River rafting license provided for in subdivision (3), subsection (b) of this section, a moratorium shall be imposed by the commission upon the issuance of additional commercial rafting licenses on whitewater zones of the New River between the confluence of the Greenbrier and New rivers and the confluence of the New and Gauley rivers and upon whitewater zones of the Gauley River from the Summersville Dam to the confluence of the New and Gauley rivers. The moratorium hereby imposed shall continue until such time as the commission is authorized by the Legislature to discontinue the moratorium.

(2) For the portions of the Gauley and New rivers subject to the moratorium imposed by this section, the minimum use allocation conferred by a license is one hundred twenty for each designated section of a whitewater zone on the Gauley and one hundred fifty for each designated section of a whitewater zone on the New River. A licensee who held a use allocation on May 2, 1992, with a use allocation greater than the minimum allocation established in this subdivision shall retain such use allocation on each designated section of a whitewater zone on the moratorium portions of the New and Gauley rivers subject only to the sale, loss or forfeiture of the license or to a subsequent action of the commission imposing a reduction in use allocations pursuant to subdivision (4) of this subsection. The commission is authorized to increase or decrease minimum use allocations for the

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moratorium sections of the New and Gauley rivers only in accordance with the provisions of subdivisions (4) and (5) of this subsection. The commission may permit additional allocations or licenses for whitewater outfitters which are nonprofit entities operating upon the waters of the state upon the effective date of this section. Except as provided in subdivision (4), subsection (d) of this section, nothing in this section shall be deemed to require the reduction of a use allocation granted under an existing license or to prohibit a commercial whitewater outfitter from acquiring a license with a use allocation in excess of the minimum allocations hereby established: Provided, That if a licensee has sold, leased or assigned his license, or sold or leased a portion of the use allocation under his license, nothing herein shall be deemed to have the effect of increasing the use allocation assigned to such license.

(3) The commission may permit peak-day variances from license limitations not exceeding ten percent of the use allocation granted under a license. The commission may permit off-peak-day variances from license limitations not exceeding twenty-five percent of the use allocation granted under a license.

(4) If, as result of a study employing the limits of acceptable change process, the whitewater commission acts to reduce the aggregate maximum daily use limit for all commercial rafting licenses on a section of the New River or Gauley River subject to the license moratorium, the reduction shall be distributed on a prorata basis among all licenses granted for the section in proportion to an individual license's relative share of the total use allocation for such river section.

(5) If the limits of acceptable change process results in an increase in the aggregate maximum daily use limit for all commercial rafting licenses on any section of the New River or Gauley River subject to a moratorium on new licenses, such increase shall be divided by the total number of commercial rafting licenses issued for the relevant section of river and the minimum use allocation for each such license shall be increased by the nearest whole number resulting from the division.

(6) If any party contracts to purchase a license containing a use allocation for a moratorium section of the New River or the Gauley River, or if a licensee has obtained, or in the future shall obtain additional use allocations for a moratorium section by lease or purchase from another licensee, the commission shall permit the transfer of such license rights in accordance with the provisions of subdivision (10), subsection (b) of this section. Unless the owners of a license otherwise agree, when two or more licensees share ownership or control of the use allocation assigned to a license, any increase or decrease in use allocations which results from an action of the commission under subdivisions (4) and (5) of this subsection shall be distributed by the commission between such owners in proportion to their ownership or control of the use allocation assigned to such license.

(e) In the event the commission determines through an appropriate study and the limits of acceptable change process that a whitewater zone or a designated section of a whitewater zone on waters other than the moratorium sections of the New and Gauley rivers requires implementation of use allocations, all whitewater rafting licenses issued for such zone or

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section thereof shall be given the same use allocation.

(f) Violation of this section or any rule promulgated pursuant to this section constitutes a misdemeanor punishable by the penalties set forth in section twenty-three-d of this article.

(g) The director of the Division of Natural Resources shall promulgate, pursuant to the provisions of chapter twenty-nine-a of this code, all rules necessary to effectuate the purposes of this section and these rules must be approved by the commission. The Division of Natural Resources shall enforce the provisions of this section and rules promulgated pursuant to this section, and shall provide necessary staff and support services to the commission to effectuate the purposes of this section.

(h) All orders, determinations, rules, permits, grants, contracts, certificates, licenses, waivers, bonds, authorizations and privileges which have been issued, made, granted or allowed to become effective pursuant to any prior enactments of this section by the Governor, the secretary of the Department of Commerce, labor and environmental resources, the director of the Division of Natural Resources, the whitewater advisory board or by a court of competent jurisdiction, and which are in effect on the effective date of this section, shall continue in effect according to their terms until modified, terminated, superseded, set aside or revoked by the Governor, secretary, director or commission pursuant to this section, by a court of competent jurisdiction, or by operation of law.

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§20-2-23b. Whitewater study and improvement fund.

There is hereby created in the State Treasury a special revenue account, which shall be an appropriated, interest-bearing account, designated as the whitewater study and improvement fund. All proceeds from this fund shall be used exclusively for the purposes of the administration, regulation, promotion and study of the whitewater industry.

The special study and assessment fee collected by the commission pursuant to the provisions of section twenty-three-a of this article shall be deposited, within fifteen days after receipt, to the whitewater study and improvement fund and dedicated to the purposes of this section.

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§20-2-23c. Voluntary contributions to whitewater advertising and promotion fund.

There is hereby created in the State Treasury a special revenue account, which shall be an appropriated, interest-bearing account designated as the "whitewater advertising and promotion fund". Each whitewater license holder may contribute any sum desired to this fund, which fund shall be used for the purpose of advertising and promoting whitewater in West Virginia.

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§20-2-23d. Bond; revocation of license; licensing carrying requirement; criminal penalties.

(a) Immediately upon the issuance of a whitewater outfitter's license and before any whitewater outfitter's services are offered or rendered thereunder, the licensee shall execute a surety bond in the penal sum of $1,000 payable to the State of West Virginia and conditioned upon the faithful and reliable discharge of his or her services under and pursuant to the license. The bond shall be approved as to form by the Attorney General and as to surety by the director, and when so executed and approved, shall be filed in the office of the director of the Division of Natural Resources. The bond shall be for the life of the license.

(b) The whitewater commission is hereby authorized to revoke and cancel any whitewater outfitter's license for failure of the licensee to give the bond required by this section, for a licensee's violation or disregard of any of the provisions of this chapter, upon a licensee's conviction of a crime, or for any other reason or cause justifying refusal of the whitewater outfitter's license to the licensee upon a new application therefor. The commission shall afford a licensee an opportunity to be heard upon the revocation and cancellation of the license.

(c) No person shall act or serve as a whitewater outfitter, as defined in this article, without procuring and having on his or her person at the time a valid whitewater outfitter's license from the commission authorizing them to do so.

(d) Any person who violates any of the provisions of this section or of section twenty-three-a of this article, or any rule promulgated by the director of the Division of Natural Resources or who misrepresents any material fact in an application, record, report or other document filed or required to be maintained under the provisions of this article, or any rules promulgated hereunder by the director of the Division of Natural Resources, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $500 per violation not to exceed a total penalty of $7,500 or by imprisonment in the county jail not exceeding six months, or both fined and imprisoned.

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§20-2-23e. Implementation of allocation methodology.

Other provisions of this article notwithstanding, the implementation of an allocation methodology for the nonmoratorium whitewater zones of the New, Gauley, Cheat, Shenandoah and Tygart rivers, shall be made based upon criteria identified in existing or future studies of carrying capacity, the overall economic impact on the state and the safety of the general public as identified in section twenty-three-a of this article, and shall be implemented at such time as the commission deems appropriate, by rules promulgated pursuant to chapter twenty-nine-a of this code. In determining whether to increase or decrease existing use allocations on the portions of the New and Gauley rivers subjected to a moratorium on new licenses by this article, the commission may continue existing studies and undertake new studies of the carrying capacity of whitewater zones, the quality of the rafting experience, the economic impact of rafting and the safety of the general public.

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§20-2-23f.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

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§20-2-24. Outfitters and guides -- Qualifications.

Each outfitter and guide licensed under the provisions hereof shall be a financially responsible citizen of the United States of America. He shall possess and inventory proper and adequate materials and equipment to provide for hunters, fishermen and others the services and conveniences he advertises. All such materials and equipment shall be safe and free of infection and conditions inimical to the health and well-being of hunters, fishermen, their traveling, camping and lodging companions.

The director shall cause all outfitter and guide applicants to be investigated and shall make a determination of their qualifications prior to the issuance or refusal of licenses thereto.

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§20-2-25. Same -- License applications; national forest requirements.

Each applicant for an outfitter or guide license shall file with the director a verified application setting forth the applicant's name, his address, the property possessed and to be used in the proposed outfitter and guide services, the area within which he proposes to serve, his citizenship, his age and such other data and information as may be prescribed and required by the director on the application forms to be furnished by the department. Each such application, when filed by the applicant, shall be approved and signed by three resident real property owners of the county in which such applicant resides.

Before any outfitter or guide license shall be issued for serving hunters, fishermen or others in any national forest areas within this state, the applicant shall obtain from the supervisor of such national forest area a designation of the camp site or other site from which the outfitter or guide proposes to operate therein and shall likewise obtain from such supervisor any other authority or permit to so operate in such national forest area, together with copies of any rules and regulations of the forest incident to maintenance of camps, sanitary conditions, and prevention of forest fires and water pollution. The applicant shall satisfy the director that he has obtained such designation, permit, authority and rules and regulations, as may be required, as a prerequisite to the director's consideration of the applicant's license application.

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§20-2-26. Same -- License fee; bond; revocation of license; penalties.

When satisfied as to the applicant's qualifications for an outfitter's or guide's license and upon receipt of a fee of $10 therefor, the director shall issue such license which shall be for the calendar year therein designated.

Immediately upon the issuance of an outfitter's or guide's license and before any outfitter's or guide's services are offered or rendered thereunder, the licensee shall execute a surety bond in the penal sum of $1,000 payable to the State of West Virginia and conditioned upon the faithful and reliable discharge of his services under and pursuant to such license. Such bond shall be approved as to form by the Attorney General and as to surety by the director, and when so executed and approved, shall be filed in the office of the director. Such bond shall be for the life of the license.

The director is hereby authorized to revoke and cancel any such license for failure of the licensee to give the bond herein required, for licensee's violation or disregard of any of the provisions of this chapter, upon licensee's conviction of crime, or for any other reason or cause justifying refusal of the license to the licensee upon a new application therefor. The director shall afford a licensee an opportunity to be heard upon the revocation and cancellation of the license.

No person shall act or serve as a guide or outfitter, as defined in this article, without procuring and having on his person at the time a valid license from the director authorizing him so to do. Any person violating this provision shall be guilty of a misdemeanor, and, upon conviction thereof, may be fined not exceeding $100 or confined in the county jail not exceeding ninety days, or, in the discretion of the court, be both fined and imprisoned within the limits herein prescribed.

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§20-2-27. Necessity for license.

(a) Except as otherwise provided by law, no resident who has reached his or her 15th birthday and who has not reached his or her 65th birthday before January 1, 2012, and no nonresident shall at any time take, hunt, pursue, trap for, kill or chase any wild animals, wild birds, or fish for, take, kill or catch any fish, amphibians or aquatic life of any kind whatsoever in this state without first having secured a license or permit and then only during the respective open seasons, except that a nonresident who has not reached his or her 15th birthday may fish for, take, kill or catch any fish, amphibians or aquatic life of any kind whatsoever in this state without first having secured a license or permit. A person under the age of 15 years shall not hunt or chase any wild animals or wild birds upon lands of another unless accompanied by a licensed adult.

(b) A resident or nonresident member of any club, organization, or association or persons owning or leasing a game preserve or fish preserve, plant, or pond in this state shall not hunt or fish therein without first securing a license or permit as required by law: Provided, That resident landowners or their resident children, or bona fide resident tenants of land, may, without a permit or license, hunt and fish on their own land during open seasons in accordance with laws and rules applying to such hunting and fishing unless the lands have been designated as a wildlife refuge or preserve.

(c) Licenses and permits shall be of the kinds and classes set forth in this article and shall be conditioned upon the payment of the fees established for the licenses and permits.

(d) The list of names, addresses and other contact information of all licensees compiled and maintained by the division as a result of the sale and issuance of any resident or nonresident licenses or stamps under this chapter is exempt from disclosure under the Freedom of Information Act, §29B-1-1, et seq., of this code: Provided, That the records specified in this section shall be available to all law-enforcement agencies and other governmental entities authorized to request or receive such records.

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§20-2-28. When licenses or permits not required.

Persons in the following categories are not required to obtain licenses or permits as indicated:

(a) Bona fide resident landowners or their resident children, or resident parents, or bona fide resident tenants of the land may hunt, trap or fish on their own land during open season in accordance with the laws and rules applying to the hunting, trapping and fishing without obtaining a license, unless the lands have been designated as a wildlife refuge or preserve.

(b) Any bona fide resident of this state who is totally blind may fish in this state without obtaining a fishing license. A written statement or certificate from a duly licensed physician of this state showing the resident to be totally blind shall serve in lieu of a fishing license and shall be carried on the person of the resident at all times while he or she is fishing in this state.

(c) All residents of West Virginia on active duty in the armed forces of the United States of America, while on leave or furlough, may hunt, trap or fish in season in West Virginia without obtaining a license. Leave or furlough papers shall serve in lieu of any license and shall be carried on the person at all times while trapping, hunting or fishing.

(d) In accordance with the provisions of section twenty-seven of this article, any resident sixty-five years of age or older before January 1, 2012, is not required to have a license to hunt, trap or fish during the legal seasons in West Virginia, but in lieu of the license the person shall at all times while hunting, trapping or fishing carry on his or her person a valid West Virginia driver's license or nondriver identification card issued by the Division of Motor Vehicles.

(e) Except as otherwise provided for in this section, residents of states that share river borders with the State of West Virginia who carry hunting or fishing licenses valid in that state may hunt or fish without obtaining licenses, but the hunting or fishing shall be confined to the fish and waterfowl of the river proper and not on its tributaries: Provided, That the state shall first enter into a reciprocal agreement with the director extending a like privilege of hunting and fishing to licensed residents of West Virginia without requiring the residents to obtain that state's hunting and fishing licenses.

(f) Residents of the State of Ohio who carry hunting or fishing licenses valid in that state may hunt or fish on the Ohio River or from the West Virginia banks of the river without obtaining licenses, but the hunting or fishing shall be confined to fish and waterfowl of the river proper and to points on West Virginia tributaries and embayments identified by the director: Provided, That the State of Ohio shall first enter into a reciprocal agreement with the director extending a like privilege of hunting and fishing from the Ohio banks of the river to licensed residents of West Virginia without requiring the residents to obtain Ohio hunting and fishing licenses.

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(g) Any resident of West Virginia who was honorably discharged from the Armed Forces of the United States of America and who receives a veteran's pension based on total permanent service-connected disability as certified to by the Veterans Administration may hunt, trap or fish in this state without obtaining a license. The director shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code setting forth the procedure for the certification of the veteran, manner of applying for and receiving the certification and requirements as to identification while the veteran is hunting, trapping or fishing.

(h) Any disabled veteran who is a resident of West Virginia and who, as certified to by the Commissioner of Motor Vehicles, is eligible to be exempt from the payment of any fee on account of registration of any motor vehicle owned by the disabled veteran as provided in section eight, article ten, chapter seventeen-a of this code shall be permitted to hunt, trap or fish in this state without obtaining a license. The director shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code setting forth the procedure for the certification of the disabled veteran, manner of applying for and receiving the certification and requirements as to identification while the disabled veteran is hunting, trapping or fishing.

(i) Any resident or inpatient in any state mental health, health or benevolent institution or facility may fish in this state, under proper supervision of the institution involved, without obtaining a fishing license. A written statement or certificate signed by the superintendent of the mental health, health or benevolent institution or facility in which the resident or inpatient, as the case may be, is institutionalized shall serve in lieu of a fishing license and shall be carried on the person of the resident or inpatient at all times while he or she is fishing in this state.

(j) Any resident who is developmentally disabled, as certified by a physician and the Director of the Division of Health, may fish in this state without obtaining a fishing license. As used in this section, "developmentally disabled" means a person with a severe, chronic disability which:

(1) Is attributable to a mental or physical impairment or a combination of mental and physical impairments;

(2) Is manifested before the person attains age twenty-two;(3) Results in substantial functional limitations in three or more of the following areas of major life activity:

(A) Self-care;

(B) Receptive and expressive language;

(C) Learning;

(D) Mobility;

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(E) Self-direction;

(F) Capacity for independent living; and

(G) Economic self-sufficiency; and

(4) Reflects the person's need for a combination and sequence of care, treatment or supportive services which are of lifelong or extended duration and are individually planned and coordinated.

(k) A student eighteen years of age or younger receiving instruction in fly fishing in a public, private, parochial or Christian school in this state may fly fish in the state for catch and release only without obtaining a fishing license while under the supervision of an instructor authorized by the school.

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§20-2-29. Conservation of species and request for public records.

(a) The director may exempt from disclosure under the Freedom of Information Act, article one, chapter twenty-nine-b of this code, any record concerning the site-specific location of an animal species protected under the Endangered Species Act of 1973, 7 U.S.C. §136, a plant protected under the Plant Variety Protection Act, 7 U.S.C. §2321:2583 and any plant or animal species native to West Virginia determined by the director to be sensitive and in need of conservation to maintain viability or existence.

(b) The director may not deny the release of records under subsection (a) of this section if requested:

(1) By the owner of the land upon which the resource is located;

(2) By an entity which can take the land through the right of eminent domain; or

(3) For scientific purposes which include, but are not limited to, conservation and education, by a person or entity that demonstrates to the director's satisfaction that the request for information is necessary, will not cause harm to the plant or animal species, and that the person or entity will use the information only for the limited purpose which is the basis for the request of information. The director retains the right to provide any such data in a form which in his or her opinion, is of sufficient resolution to satisfy that request and is not obligated to provide exact coordinate data.

(c) Persons or entities receiving records under this subsection may not release the information to the public or release the information to another entity for commercial purposes.

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§20-2-30. Application and statement of eligibility for licenses or permits; procuring license or permit in violation of chapter.

(a) Each person who applies for any class of license or permit must state to the issuing agent that he or she is eligible for and has satisfied all prerequisites required by this chapter for that class of license or permit.

(b) It is unlawful for a person to make a false statement when applying for any license or permit issued pursuant to the provisions of this chapter.

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§20-2-30a. Certificate of training; falsifying, altering, forging, counterfeiting or uttering training certificate; penalties.

(a) Notwithstanding any other provisions of this article, no base hunting license may be issued to any person who was born on or after January 1, 1975, unless the person submits to the person authorized to issue hunting licenses a certificate of training as provided in this section or proof of completion of any course which promotes as a major objective safety in the handling of firearms and of bow and arrows and which course is approved by the hunter education association or the director, or provides a State of West Virginia resident or nonresident hunting license from the previous hunting season that displays a certification of training, or attests that a hunter training course has been completed when purchasing a license or stamp online: Provided, That after January 1, 2013, a person may be issued a Class AH, Class AHJ, Class AAH and Class AAHJ apprentice hunting and trapping license pursuant to the provisions of section forty-two-y of this article and is exempt from the hunter training requirements set forth herein.

(b) The director shall establish a course in the safe handling of firearms and of bows and arrows, such as the course approved by the Hunter Education Association. This course shall be given at least once per year in each county in this state and shall be taught by instructors certified by the director. In establishing and conducting this course, the director may cooperate with any reputable association or organization which promotes as a major objective safety in the handling of firearms and of bows and arrows: Provided, That any person holding a Class A-L or AB-L lifetime resident license obtained prior to his or her fifteenth birthday shall be required to obtain a certificate of training as provided in this section before hunting or trapping pursuant to said license. This course of instruction shall be offered without charge, except for materials or ammunition consumed. Upon satisfactory completion of the course, each person instructed in the course shall be issued a certificate of training for the purposes of complying with the requirements of subsection (a) of this section. The certificate shall be in the form prescribed by the director and shall be valid for hunting license application purposes.

(c) (1) Upon satisfactory completion of this course, any person whose hunting license has been revoked for a violation of the provisions of this chapter may petition the director for a reduction of his or her revocation time. However, under no circumstances may the time be reduced to less than one year.

(2) Successful completion of this course shall be required to consider the reinstatement of a hunting license of any person whose license has been revoked due to a conviction for negligent shooting of a human being or of livestock under the provisions of section fifty-seven of this article, and who petitions the director for an early reinstatement of his or her hunting privileges. Such a petitioner shall also comply with the other requirements for consideration of reinstatement contained in section thirty-eight of this article.

(d) It is unlawful for any person to falsify, alter, forge, counterfeit or utter a certificate of training. Any person who violates the provisions of this subsection is guilty of a misdemeanor

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and, upon conviction thereof, shall be fined not less than $500 nor more than $1,000, or confined in jail for a period not to exceed one year, or both fined and imprisoned.

(e) Nothing herein contained shall mandate that any county school district in the state be responsible for implementing hunter safety education programs.

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§20-2-31. Size and form of license and tag; contents; unlawful to alter licenses or permits; penalty.

(a) The size, content, and form of all licenses, tags, and permits shall be prescribed by the director. The information which a licensee is required to furnish shall be placed upon the license by the license issuing authority before delivery of such license to the licensee: Provided, That all hunting or fishing licenses as defined in §16-19-3 of this code include document of gift indicating the applicant has made an anatomical gift, as defined in §16-19-3 of this code.

(b) It is unlawful for any person to alter, mutilate, or deface any license, tag, or permit, or the entries thereon, for the purpose of evading the provisions of this chapter.

Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $20 nor more than $300; and upon a second and subsequent conviction thereof, shall be fined not less than $20 nor more than $300, or confined in jail not less than 10 nor more than 100 days, or both fined and confined.

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§20-2-32. Issuance of licenses; duplicate licenses.

(a) The clerk of the county commission in each county requesting designation and other persons, designated by the director pursuant to section thirty-three of this article, are license-issuing authorities authorized to issue a license to an applicant if the applicant is legally entitled to obtain the license and pays the proper fee.

(b) Materials and supplies for the issuance of licenses shall be furnished by the director to each license-issuing authority as needed.

(c) Each license shall bear a serial number and shall be signed by the licensee. The license-issuing authority shall keep an accurate record of licenses issued and fees collected as prescribed by the director.

(d) Any license-issuing authority may issue a duplicate license to replace a lost, destroyed or damaged license upon receipt of a verified application executed by the original licensee and payment of a duplicate license fee of $1.

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§20-2-33. Authority of director to designate agents to issue licenses; bonds; fees.

(a) The director may appoint, in addition to the clerk of the county commission, agents to issue licenses under the provisions of this article to serve the convenience of the public. Each person appointed shall, before issuing any license, file with the director a bond payable to the state of West Virginia, in the amount to be fixed by the director, conditioned upon the faithful performance of his or her obligation to issue licenses only in conformity with the provisions of this article and to account for all license fees received by him or her. The form of the bond shall be prescribed by the Attorney General. No person, other than those designated as issuing agents by the director, may sell licenses or buy licenses for the purpose of resale.

(b) Except when a license is purchased from a state official, every person making application for a license shall pay, in addition to the license fee prescribed in this article, an additional fee of $3 to any county official issuing the license and all fees collected by county officials must be paid by them into the general fund of the county treasury or, in the case of an agent issuing the license, an additional fee of $3 as compensation: *Provided*, That only one issuing fee of $3 may be collected by county officials or authorized agents, respectively, for issuing two or more licenses at the same time for use by the same person or for issuing combination resident statewide hunting, trapping and fishing licenses: *Provided, however*, That a person with a lifetime license or a person who has paid the original additional fee of $3 to a county official or issuing agent for a license shall only be charged an additional fee of $1 as additional compensation when subsequently purchasing an additional license from a county official or issuing agent: *Provided further*, That licenses may be issued electronically in a manner prescribed by the director and persons purchasing electronically issued licenses may be assessed, in addition to the license fee prescribed in this article, an electronic issuance fee to be prescribed by the director: *And provided further*, That, notwithstanding any provision of this code to the contrary, an electronic issuance fee of at least $2 shall be assessed on each electronic licensing system transaction, except as provided in subsection (e) of this section. The electronic issuance fee shall be dedicated to the administration and maintenance of the electronic license system. The director may propose rules for legislative approval in accordance with §29A-3-1 *et seq*. of this code related to the license issuing fees authorized by this section.

(c) In lieu of the license issuance fee prescribed in subsection (b) of this section, the director shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code governing the application for and issuance of licenses by telephone and other electronic methods.

(d) The director may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code governing the management of issuing agents.

(e) The director may establish an auto-renewal program through which purchasers of eligible wildlife licenses, stamps, and permits under the jurisdiction of the division may select to enroll in the automatic renewal of the same selection of licenses, stamps, and

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permits in subsequent years. Eligible licenses, stamps, and permits renewed through this program will not be assessed the electronic license fee referenced in subsection (b) of this section: *Provided*, That the fee is paid when the original eligible license, stamp, or permit was purchased in the electronic license system and enrollment in the auto-renewal program accompanied the sale.

(1) Licenses, stamps, and permits purchased through this program may qualify for discounts on fees established at the discretion of the director.

(2) The director may propose rules for legislative approval in accordance with §29A-3-1 *et seq*. of this code.

WV Legislature

§20-2-33a. Electronic application to apprise applicant of hunters helping the hungry program; check-off donations; special fund continued; authorized expenditures.

(a) (1) Every application for electronic license shall include a solicitation for a voluntary donation to the division's previously established hunters helping the hungry program.

(2) The license applicant will be offered an opportunity to designate a donation in any amount to the hunters helping the hungry program.

(b) There is hereby created a subaccount, designated the "hunters helping the hungry fund", within the special revenue account established in section thirty-four of this article, into which all donations derived under this section shall be deposited. Moneys in the subaccount shall be expended solely for the purposes set forth in subsection (c) of this section. Funds paid into the subaccount may also be derived from the following sources: (1) All interest or return on investment accruing to the subaccount; (2) Any gifts, grants, bequests, transfers, appropriations or other donations which may be received from any governmental entity or unit or any person, firm, foundation, or corporation; and (3) any appropriations by the Legislature which may be made for the purposes of this section. Any balance including accrued interest and other earnings at the end of any fiscal year shall not revert to the General Fund but shall remain in the fund for the purposes set forth in this section.

(c) The moneys in the fund will be paid out, at the direction of the director, to eligible participants for the butchering of game carcasses and for the expenses related to the acquisition and distribution of food to the needy residents of West Virginia.

(d) For purposes of this section, "eligible participant" means a nonprofit organization that coordinates, with the Division of Natural Resources and other entities, a statewide system for the distribution of meat products derived from the butchering of donated game carcasses by a person licensed under the provisions of article two-b, chapter nineteen of this code.

WV Legislature

§20-2-33b. Electronic application donation to fund the Coyote Management Program.

(a) (1) Effective January 1, 2006, every application for a hunting or fishing electronic license shall include a solicitation for a voluntary donation to the division's established Coyote Management Program.

(2) The license applicant will be offered an opportunity to designate a donation in the amount of $2 for the Coyote Management Program.

(b) There is hereby created a special revenue account, designated the "Coyote Management Fund" into which all donations derived under this section shall be deposited. Moneys in this account shall be expended solely for the purposes set forth in subsection (c) of this section. Funds paid into this account may also be derived from the following sources: (1) All interest or return on investment accruing to this account; (2) Any gifts, grants, bequests, transfers, appropriations or other donations which may be received from any governmental entity or unit or any person, firm, foundation, or corporation; and (3) any appropriations by the Legislature which may be made for the purposes of this section. Any balance including accrued interest and other earnings at the end of any fiscal year shall not revert to the General Fund but shall remain in the fund for the purposes set forth in this section.

(c) The moneys in the fund shall be paid out, at the sole discretion and direction of the director, to address coyote management issues.

WV Legislature

§20-2-33c. Electronic application donation to West Virginia University Rifle Team; special fund created; authorized disbursements.

(a) Every electronic application for a hunting or fishing license shall include a solicitation for a voluntary donation to the West Virginia University Rifle Team.

(b) The license applicant will be offered an opportunity to designate a donation in any amount to the West Virginia University Rifle Team. The Director of the Division of Natural Resources shall deposit any donations made by an applicant to the special revenue account created in subsection (c) of this section.

(c) There is created in the State Treasury a special revenue fund known as the West Virginia University Rifle Team Program Fund. The fund shall be comprised of all moneys donated through an electronic application for a hunting or fishing license as authorized by this section, any moneys appropriated by the Legislature, and any income from the investment of money held in the fund. The fund shall operate as a special revenue fund and all deposits and payments into the fund do not expire to the General Revenue Fund but shall remain in the account and be available for expenditure in succeeding fiscal years.

(d) Expenditures from the West Virginia University Rifle Team Program Fund shall be for the purposes set forth in this section. The moneys in the West Virginia University Rifle Team Program Fund will be paid out at least annually by the Director of the Division of Natural Resources to the West Virginia University Rifle Team Account: *Provided*, That the Division of Natural Resources shall deduct no more than five percent of donations derived under this section as an administrative fee to recover processing costs prior to transferring any money to the West Virginia University Rifle Team Account: *Provided, however*, That the Division of Natural Resources is absolved of all responsibilities established pursuant to this section if the West Virginia University Rifle Team ceases to exist.

(e) The Division of Natural Resources shall, following the close of each fiscal year for the two years following the creation of the fund, prepare an annual report detailing the categories of expenditures from the West Virginia University Rifle Team Program Fund and listing all sources of revenue as well as a closing balance for the year. The report shall be submitted in an electronic format to the Joint Committee on Government and Finance no later than eight weeks after the close of the fiscal year.

WV Legislature

§20-2-34. Disposition of license fees and donations; reports of agents; special funds and uses.

(a) All persons in this state who receive money for licenses and permits required by this chapter, or as donations for the hunters helping the hungry program, shall deposit the moneys into an account at a financial institution at intervals designated by the director with the approval of the State Treasurer. The payment shall be accompanied by a sales report. The form and content of the sales report shall be prescribed by the director.

(b) Except where other provisions of this chapter specifically require direct payment of moneys into designated funds for specific uses and purposes, all license fees received by the director shall be promptly paid into the State Treasury and credited to the Division of Natural Resources "license fund--wildlife resources" which shall be used and paid out, upon order of the director, solely for law enforcement and for other purposes directly relating to the conservation, protection, propagation and distribution of wildlife in this state pursuant to the provisions of this chapter.

No funds from the "license fund--wildlife resources" may be expended for recreational facilities or activities that are used by or for the benefit of the general public, rather than purchasers of hunting and fishing licenses.

The director shall retain ten percent of the "license fund–wildlife resources" for capital improvements and land purchases benefitting state wildlife, forty percent shall be budgeted to the wildlife resources division, forty percent to law enforcement and ten percent apportioned by the director within provisions of this section. Any unexpended moneys for capital improvements and land purchases shall be carried forward.

All interest generated from game and fish license fees shall be used by the director for the Division of Natural Resources in the same manner as is provided for the use of license fees.

(c) Moneys received as donations to the hunters helping the hungry program shall be deposited in the subaccount designated "hunters helping the hungry fund".

WV Legislature

§20-2-35. Period during which license valid.

Licenses and permits provided by this chapter shall be valid through the last day of the calendar year for which they are issued unless otherwise provided by law.

WV Legislature

§20-2-36. When license, related documents, and picture identification to be carried; using license of another; transferring license to another.

(a) A person who is required by this article to be licensed may not hunt, take, pursue, trap for, kill, catch or chase for sport any wild animal or wild bird; or fish for, take, kill or catch any fish or amphibians of any kind whatsoever in this state unless he or she shall have on his or her person: (1) A valid license issued to him or her, or other proof that a valid license has been issued to him or her in accordance with this article; (2) all applicable stamps, permits, and written consents required by this article; (3) a driver's license, passport, or picture identification issued to him or her by his or her state of residence; and (4) a certificate of training or other proof of hunter safety education as required by section thirty-a of this article.

As an alternative to the identification required by subsection (a)(3) of this section, the name, address and birthdate of a licensee under the age of fifteen years may be established by the averment of an accompanying licensed adult.

(b) It is unlawful for any person to use at any time any license other than those valid licenses legally issued to him or her in accordance with this article.

(c) Except as expressly provided by this article, it is unlawful for any person to transfer a license to any other person.

WV Legislature

§20-2-36a. Hunting or fishing when license revoked; penalty.

Any person whose license to hunt or fish has been revoked, who hunts or fishes during the period of revocation, shall be guilty of a misdemeanor, and, upon conviction thereof, shall for each offense be fined not less than $100 nor more than $500, or be imprisoned in the county jail for not less than ten days nor more than one hundred days, or both fined and imprisoned.

WV Legislature

§20-2-37. Display of license, etc., by persons in possession of hunting, fishing, etc., paraphernalia.

(a) Any person having in his or her possession in or near the fields or woods, or about the streams of this state, any wildlife, hunting dog or other hunting, fishing or trapping paraphernalia, implements or devices suitable for taking wildlife under circumstances indicating he or she has been hunting, trapping, fishing or otherwise taking wildlife, shall, upon demand of any officer authorized to enforce this chapter:

(1) State his or her correct name and address;

(2) Exhibit for inspection all license and documents or other lawful authorization for hunting, fishing, trapping or otherwise taking wildlife required to be carried pursuant to this chapter; and

(3) Exhibit for inspection all such wildlife, paraphernalia, implements or devices which he or she has in his or her possession.

(b) Mere possession of a firearm does not, in and of itself, indicate that a person has been hunting, fishing, trapping or taking wildlife, but may be considered along with other evidence in a determination as to whether a person has been hunting, fishing, trapping or otherwise taking wildlife.

(c) Nothing in this section may be construed as authorizing searches that violate article three, section six of the West Virginia Constitution or the Fourth Amendment to the Constitution of the United States, nor may anything in this section be construed as effecting a waiver of these Constitutional provisions.

WV Legislature

§20-2-38. Refusal or revocation of license or permit.

The director may, for cause, refuse a license or permit to any person or revoke a license or permit which had been granted.

In case the director desires to refuse a license to any person, he shall notify personnel authorized to issue licenses, in counties where it is expected such license may be sought, of the name and address of such person and such other information in relation thereto as he may desire to give, and such issuing authority shall not issue a license to such person thereafter, and shall report to the director any application made therefor. In case any issuing authority shall, after receiving such notice knowingly issue such license, he shall be guilty of a misdemeanor. The director may revoke any such license so wrongfully issued. The violation of any of the provisions of this chapter by any person holding a license shall be sufficient cause for the director to refuse or revoke a license.

All licenses and permits authorized by this chapter to be granted shall be deemed to have been granted by the director, and the power and authority to revoke such licenses is vested in the director. Upon the revocation of any license, the one to whom the same was issued shall, upon having knowledge of such revocation, forthwith deliver the license and tag so issued to him to the director, his agent, or the clerk of any county court. A clerk shall transmit the same to the director.

The hunting license of any person convicted under section fifty-seven, article two, chapter twenty of the Code of West Virginia, 1931, as amended, shall be revoked, and such person shall not be issued any other hunting license for a period of five years: Provided, That any person heretofore or hereafter convicted of any offense under section eleven, article seven, chapter sixty-one, or under section fifty-seven, article two, chapter twenty, other than a negligent shooting which has resulted in the killing of a human being, after the expiration of two years may petition the director for reinstatement of all hunting license privileges and if the director upon a hearing and full investigation finds that the applicant has paid and satisfied all claims against him if any, and the circumstances at the time and the nature of the offense indicate that he is not likely again to commit a like or similar offense and that the public good does not require that the applicant's hunting privileges remain revoked or suspended, the director may enter an order restoring full hunting privileges to the applicant.

WV Legislature

§20-2-38a. Suspension of license or permit for failure to pay fines or penalties imposed by magistrate court.

The director shall suspend the license or permit of any person to whom a license or permit has been granted upon receiving notice from a magistrate court of this state, pursuant to subsection (b), section two-a, article three, chapter fifty of this code, that such person has defaulted on the payment of costs, fines, forfeitures or penalties which were imposed on the person by the magistrate court upon conviction of any hunting or fishing violation, after ninety days following such conviction.

Any reinstatement of a license or permit under this section shall be subject to a reinstatement fee, in an amount to be prescribed by the director of the department of natural resources, which fee shall be collected by the department of natural resources and deposited into the law-enforcement division account to be utilized by the law-enforcement division in administering the provisions of this section.

WV Legislature

§20-2-39.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-40.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-40a.

Repealed.

Acts, 2001 Reg. Sess., Ch. 216.

WV Legislature

§20-2-40b.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-41.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-42. Indexing of license and stamp fees.

The director may propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code, changing any license or stamp fee set forth in this article or in §20-2B-1 *et seq.* of this code. All increases in license and stamp fees in this article or in §20-2B-1 *et seq.* of this code, set forth in rule, shall be computed in a manner that indexes the increases to the Consumer Price Index (All Items) published by the United States Department of Labor rounded down to the nearest dollar.

WV Legislature

§20-2-42a. Class A resident hunting and trapping license.

A Class A license is a resident hunting and trapping license and entitles the licensee to hunt and trap all legal species of wild animals and wild birds in all counties of the state, except, big game as provided in §20-2-42v of this code, and except as prohibited by rules of the director or Natural Resources Commission and when additional licenses, stamps, or permits are required. It shall be issued only to residents or aliens lawfully residing in the United States who have been domiciled residents of West Virginia for a period of 30 consecutive days or more immediately prior to the date of their application for a license. The fee for the license is $18. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

WV Legislature

§20-2-42b. Class B resident fishing license.

A Class B license is a resident fishing license and entitles the licensee to fish for all legal fish except trout and to take frogs in all counties of the state, except as prohibited by rules of the Director or Natural Resources Commission and when additional licenses, stamps or permits are required. It shall be issued only to residents or aliens lawfully residing in the United States who have been domiciled residents of West Virginia for a period of thirty consecutive days or more immediately prior to the date of their application for a license. The fee for the license is $18. To fish for trout, a Class B license holder must purchase and carry a valid Class O stamp or Class O-L license. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

WV Legislature

§20-2-42c. Class C courtesy statewide hunting and fishing license.

A Class C license is a courtesy hunting and fishing license and entitles the licensee to hunt and fish in all counties of this state. It may be issued by the Director upon application made to him or her and without fee to:

(1) Members and agents of the United States Fish and Wildlife Service;

(2) Members of State Commissions of other states extending similar courtesies;

(3) Diplomatic and consular representatives of foreign countries;

(4) Persons engaged in scientific wildlife research;

(5) Nonresident outdoor writers and other nonresidents engaged in promoting an interest in the Natural Resources of the State of West Virginia.

Not more than one hundred courtesy licenses shall be issued in one year. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

WV Legislature

§20-2-42d. Class E nonresident hunting and trapping license.

A Class E license is a nonresident hunting and trapping license and entitles the licensee to hunt and trap all legal species of wild animals and wild birds in all counties of the state except as prohibited by rules of the Director or Natural Resources Commission and except when other licenses, stamps or permits are required. The fee for the license is one hundred $10. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

WV Legislature

§20-2-42e. Class EE nonresident bear hunting license.

A Class EE license is a nonresident bear hunting license and entitles the licensee to hunt bear in all counties of the state, except as prohibited by rules of the Director or Natural Resources Commission and except when additional licenses, stamps or permits are required. The fee for the license is $150. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

WV Legislature

§20-2-42f. Class F nonresident fishing license.

A Class F license is a nonresident fishing license and entitles the licensee to fish for all legal fish except trout and to take frogs, in all counties of the state except as prohibited by rules of the Director or Natural Resources Commission and except when additional licenses, stamps or permits are required. The fee for the license is $35. To fish for trout, a Class F license holder must purchase and carry a valid Class OO trout stamp. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

WV Legislature

§20-2-42g. Class H nonresident small game hunting license.

A Class H license is a nonresident small game hunting license and entitles the licensee to hunt small game in all counties of the state, except as prohibited by rules of the Director or Natural Resources Commission and except when additional licenses, stamps or permits are required, for a period of six consecutive hunting days chosen by the licensee. The fee for the license is $25. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

WV Legislature

§20-2-42h. Class J nonresident small game shooting preserve license.

A Class J license is a nonresident small game shooting preserve license and entitles the licensee to hunt small game on designated shooting preserves, except as prohibited by rules of the Director or Natural Resources Commission and except when additional licenses, stamps or permits are required, for a period of six consecutive hunting days chosen by the licensee. The fee for the license is $10. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

WV Legislature

§20-2-42i. Class LL nonresident one-day fishing license.

A Class LL license is a nonresident fishing license and entitles the licensee to fish for all legal fish except trout and to take frogs in all counties of the state for the calendar date chosen by the buyer and which will be specified on the license, except as prohibited by rules of the Director or Natural Resources Commission and except when additional licenses, stamps or permits are required. To fish for trout, a Class LL licensee must purchase and carry a valid Class OO trout stamp. The fee for the license is $3. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

WV Legislature

§20-2-42j. Class X resident hunting, fishing and trapping license.

A Class X license is a resident hunting, fishing and trapping license and entitles the licensee to hunt and trap for all legal species of wild animals and wild birds, to fish for all legal species of fish except trout and to take frogs in all counties of the state, except as prohibited by the rules of the Director or Natural Resources Commission and when additional licenses, stamps or permits are required. No additional fees shall be required of Class X licensees for a Class CS stamp. To fish for trout, a Class X licensee must purchase and carry a valid Class O stamp or Class O-L license. The Class X license shall be issued only to residents or aliens lawfully residing in the United States who have been domiciled residents of West Virginia for a period of thirty consecutive days or more immediately prior to the date of their application for a license. The fee for the license is $33. The portion of the Class X license fee equal to the annual fee for the Class CS stamp shall be designated as conservation stamp revenue and expended pursuant to section nine, article two-b of this code. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

WV Legislature

§20-2-42k. Class XJ resident junior and Class XXJ nonresident junior hunting, fishing and trapping license.

A Class XJ license is a resident junior hunting, fishing and trapping license and a Class XXJ license is a nonresident junior hunting, fishing and trapping license. These licenses entitle the licensee to hunt and trap for all legal species of wild animals and wild birds, to fish for all legal species of fish except trout and to take frogs in all counties of the state, except as prohibited by the rules of the Director or Natural Resources Commission and when additional licenses, stamps and permits are required. No additional fees are required of Class XJ licensees for a Class CS stamp. No additional fees are required of Class XXJ licensees for Class I, UU, VV or WW stamps. To fish for trout, Class XJ or XXJ licensees must purchase and carry a valid Class O or OO stamp or O-L license. The Class XJ license may be issued only to a resident who has not reached his or her eighteenth birthday and is otherwise required by section twenty-seven of this article to purchase a license. The Class XXJ license may be issued to a nonresident who has not reached his or her eighteenth birthday and is at least eight years old and is otherwise required by section twenty-seven of this article to purchase a license. The fee for the Class XJ license is $15. The portion of the Class XJ license fee equal to the annual fee for the Class CS stamp shall be designated as conservation stamp revenue and expended pursuant to section nine of article two-b. The fee for the Class XXJ license is $15. In addition to buying a Class XXJ license, a nonresident must purchase a Class CS/LE stamp as required in section ten of article two-b. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

WV Legislature

§20-2-42L. Class A-1 small arms hunting stamp.

[Repealed].

WV Legislature

§20-2-42m. Class I nonresident national forest hunting, trapping and fishing stamp.

A Class I stamp is a nonresident national forest hunting, trapping and fishing stamp and entitles the licensee, when within national forest land in West Virginia, to hunt legal species in season; to trap fur-bearing animals in season; and to fish in the waters therein. The stamp shall be issued only to a nonresident holding a Class E, EE, F, H or LL license. The fee for the stamp is $2. This stamp requires that the licensee purchase the appropriate base license before participating in the activities specified in this section, except as noted.

WV Legislature

§20-2-42n. Class N resident and Class NN nonresident antlerless deer hunting stamp.

A Class N stamp is a resident deer hunting stamp for antlerless deer. A Class NN stamp is a nonresident deer hunting stamp for antlerless deer. These stamps entitle the licensee to hunt and take antlerless deer of either sex during the Class N season. The fee for a Class N stamp is $10 and the fee for a Class NN stamp is $25. Class N and NN stamps may be issued only for the purpose of removing antlerless deer when the Director determines it essential for proper management of the wildlife resources. The Director may promulgate rules governing the issuance and use of the Class N and NN stamps as deemed necessary to limit, on a fair and equitable basis, the number of persons who may hunt for antlerless deer in a county, or part of a county. When the Director determines it essential that a Class N or NN season be held in a particular county or part of a county, that season shall be set by the Natural Resources Commission as provided in section seventeen, article one of this chapter. Bona fide resident landowners or their resident children, or resident parents, bona fide resident tenants of such land and bona fide resident stockholders of resident corporations which are formed for the primary purpose of hunting or fishing and which are the fee simple owners of no less than one thousand acres of land upon which the antlerless deer may be hunted are not required to have a Class N stamp in their possession while hunting antlerless deer on their own land during the Class N season. A resident hunter, including those not required to purchase a license pursuant to section twenty-seven of this article, must purchase and carry a valid Class N stamp. A nonresident hunter must purchase and carry a valid Class NN stamp. These stamps require that the licensee purchase the appropriate base license before participating in the activities specified in this section, except as noted.

WV Legislature

§20-2-42o. Class O resident and Class OO nonresident trout fishing stamp.

A Class O stamp is a resident trout fishing stamp. A Class OO stamp is a nonresident trout fishing stamp. These stamps entitle the licensee to fish for trout in all counties of the state, except as prohibited by rules of the director or Natural Resources Commission. The fee for a Class O stamp is $10 and the fee for a Class OO stamp is $15. The revenue derived from the sale of these stamps shall be deposited in the State Treasury and credited to the Division of Natural Resources and shall be used and paid out, upon order of the director, for state trout program expenses. These stamps, issued in a form prescribed by the director, shall be in addition to a Class AB-L, B, B-L, F, L, LL, X, XJ or XXJ license or Class Q permit. These stamps require that the licensee purchase the appropriate base license before participating in the activities specified in this section, except as noted.

WV Legislature

§20-2-42p. Class RG resident and Class RRG nonresident gun deer hunting stamp for an additional deer.

The Director has the authority to issue a Class RG resident and a Class RRG nonresident gun deer hunting stamp when deemed essential for the proper management of the wildlife resources. These stamps allow the licensee to hunt and take an additional deer as designated by the Director. The fee for a Class RG stamp is $20 and the fee for a Class RRG stamp is $40. The Director may promulgate rules in accordance with article three, chapter twenty-nine-a of this code governing the issuance and use of these stamps. These stamps require that the licensee purchase the appropriate base license before participating in the activities specified in this section, except as noted.

WV Legislature

§20-2-42q. Class RB resident and Class RRB nonresident archery deer hunting stamp for an additional deer.

The director may issue a Class RB resident and a Class RRB nonresident archery deer hunting stamp when considered essential for the proper management of the wildlife resources. This stamp allows the licensee to hunt and take an additional deer during the deer archery or crossbow seasons as designated by the director. The fee for a Class RB stamp is $20 and the fee for a Class RRB stamp is $35. The director may propose rules for promulgation in accordance with §29A-3-1 et seq. of this code governing the issuance and use of these stamps. These stamps require that the licensee purchase the appropriate base license before participating in the activities specified in this section.

WV Legislature

§20-2-42r. Class RM resident and Class RRM nonresident muzzle-loader deer hunting stamp for an additional deer.

The Director shall have the authority to issue a Class RM resident and a Class RRM nonresident muzzle-loader deer hunting stamp when deemed essential for the proper management of the wildlife resources. These stamps allow the licensee to hunt and take an additional deer as designated by the Director. The fee for a Class RM stamp is $15 and the fee for a Class RRM stamp is $35. The Director may promulgate rules in accordance with article three, chapter twenty-nine-a of this code governing the issuance and use of these stamps. These stamps require that the licensee purchase the appropriate base license before participating in the activities specified in this section, except as noted.

WV Legislature

§20-2-42s. Class UU nonresident archery deer hunting stamp.

A Class UU stamp is a nonresident archery deer hunting stamp and entitles the licensee to hunt and take deer with a bow during the archery deer season or with a crossbow in the crossbow deer season in all counties of the state, except as prohibited by the rules of the director or Natural Resources Commission. The fee for a Class UU stamp is $30. The stamp, issued in a form prescribed by the director, is in addition to a Class E license. This stamp requires that the licensee purchase the appropriate base license before participating in the activities specified in this section.

WV Legislature

§20-2-42t. Class VV nonresident muzzle-loading deer hunting stamp.

A Class VV stamp is a nonresident muzzle-loading deer hunting stamp and entitles the licensee to hunt and take deer with a muzzle-loader during muzzle-loading deer seasons in all counties the state, or parts thereof, excluding Logan, McDowell, Mingo and Wyoming counties, as set by the Natural Resources Commission in accordance with section seventeen, article one of this chapter. The Director may promulgate rules in accordance with article three, chapter twenty-nine-a of this code governing the issuance and use of this stamp. The stamp, issued in a form prescribed by the Director, shall be in addition to a Class E license. The fee for a Class VV stamp is $30. This stamp requires that the licensee purchase the appropriate base license before participating in the activities specified in this section, except as noted.

WV Legislature

§20-2-42u. Class WW nonresident turkey hunting stamp.

A Class WW stamp is a nonresident turkey hunting stamp and entitles the licensee to hunt and take turkey during any turkey hunting season, except as prohibited by the rules of the Director or Natural Resources Commission. The fee for a Class WW stamp is $30. The stamp, issued in a form prescribed by the Director, shall be in addition to a Class E license. This stamp requires that the licensee purchase the appropriate base license before participating in the activities specified in this section, except as noted.

WV Legislature

§20-2-42v. Class BG resident big game stamp.

A Class BG stamp is a resident big game stamp and entitles the Class A licensee to hunt deer during the deer archery, crossbow, and muzzleloader seasons, and bear, wild turkey, and wild boar during the respective seasons, except as prohibited by rules of the director or Natural Resources Commission: Provided, That the licensee possesses all other required permits and stamps. The fee for the stamp is $10. The stamp, issued in a form prescribed by the director, shall be in addition to a Class A license. This stamp requires that the licensee purchase the appropriate base license before participating in the activities specified in this section.

WV Legislature

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

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

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

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

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

(b) The application form shall include a written statement or report prepared by the physician conducting the test no more than six months preceding the application and verifying that the applicant is physically disabled as described in this section. The completed Class Y permit application shall be submitted to the division, which shall issue a wallet-sized card to the permittee. The card and all other documents and identification required to be carried by this article shall be in the permittee's possession when hunting.

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

WV Legislature

§20-2-42x. Class XS resident senior hunting, fishing and trapping license.

(a) A Class XS license is a resident senior hunting, fishing and trapping license and entitles the licensee to hunt and trap for all legal species of wild animals and wild birds, to fish for all legal species of fish and to take frogs in all counties of the state, except as prohibited by the rules of the Director or Natural Resources Commission and when additional licenses, stamps or permits are required. No additional fees shall be required of Class XS licensees for a Class CS stamp or a Class O stamp.

(b) A Class XS license is required for residents or aliens lawfully residing in the United States who have been domiciled residents of West Virginia for a period of 30 consecutive days or more immediately prior to the date of their application for a license and who reach 65 years of age on or after January 1, 2012.

(c) A Class XS license may be voluntarily purchased by residents or aliens lawfully residing in the United States and who have been domiciled residents of West Virginia for a period of 30 consecutive days or more immediately prior to the date of their application for a license and who reach 65 years of age on or before December 31, 2011, entitling those persons to the same privileges and subjecting them to the same restrictions as any Class XS licensee.

(d) The fee for the Class XS license is $25.

(e) A Class XS license is valid for the lifetime of the purchaser without payment of additional fees for the privileges associated with the Class X license, Class CS stamp and the Class O stamp. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

(f) The Division of Natural Resources shall coordinate with the Department of Motor Vehicles to adopt and implement a program whereby the senior hunting license provided for in this section shall be identified by an appropriate decal, sticker or other marking to be affixed to the drivers' or chauffeurs' license of such person.

(g) On or before July 1 annually, the Division of Natural Resources shall file an annual report with the joint committee on government and finance describing its implementation of the senior license program as set forth in this section. The report shall include the number of licenses issued, any increase in state funds as a result of the senior license created by this section, any federal funds received as a result of the implementation of the senior license created by this section and the intended use of those funds.

WV Legislature

§20-2-42y. Class AH, AHJ, AAH, AAHJ apprentice hunting and trapping licenses; penalties.

(a) Except for persons otherwise exempted, Class AH, AHJ, AAH, and AAHJ licenses are apprentice hunting and trapping licenses and entitle the licensee to hunt and trap for all legal species of wild animals and wild birds. The licenses shall be base licenses and entitle the licensee to a deferral of the proof of a certificate of training required under §20-2-30a of this code.

(b) The apprentice hunting and trapping licensee may not hunt or trap unless he or she is in possession of all other required documentation and stamps and is accompanied and directly supervised by an adult 18 years of age or older who either possesses a valid West Virginia hunting license or has the lawful privilege to hunt pursuant to the provisions of this chapter. For purposes of this section, "accompanied and directly supervised" means that a person maintains a close visual and verbal contact with, provides adequate direction to, and can assume control of the firearm from the apprentice hunter.

(c) The cost of the Class AH license for residents who have reached their 18th birthday shall be $19 and shall have the same privileges associated with Class A base license. The cost of the Class AAH license for nonresidents who have reached their 18th birthday shall be $119 and shall have the same privileges associated with a Class E base license. The cost of the Class AHJ license shall be $16 for residents who have reached their 15th birthday and who have not reached their 18th birthday, and shall have the same privileges associated with Class XJ base license. The cost of the Class AAHJ license shall be $16 for nonresidents who have not reached their 18th birthday and shall have the same privileges associated with a Class XXJ base license.

(d) An apprentice hunting and trapping license is a yearly license and may only be purchased electronically in a manner designated by the director. No person who has ever had a valid base hunting license, other than a Class AH, Class AHJ, Class AAH, or Class AAHJ license, may be issued one of the apprentice hunting and trapping licenses.

(e) The director may promulgate rules in accordance with §29A-3-1 *et seq.* of this code regulating the issuance of apprentice hunting and trapping licenses.

(f) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, is subject to the punishment and penalties prescribed in §20-7-9 of this code.

WV Legislature

§20-2-42z. Class L resident five-day fishing license.

A Class L license is a resident fishing license and entitles the licensee to fish for all legal fish except trout and to take frogs in all counties of the state for five consecutive calendar dates chosen by the buyer and which will be specified on the license, except as prohibited by rules of the director or Natural Resources Commission and except when additional licenses, stamps or permits are required. To fish for trout, a Class L licensee must purchase and carry a valid Class O trout stamp. The fee for the license is $8. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

WV Legislature

§20-2-43.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-44. Free fishing days.

The Director may designate up to two days each year as free sport fishing days. On a designated free fishing day, an individual is entitled to fish for all legal fish in all counties of the state without having a valid West Virginia fishing license and without the payment of any license fee, subject to the same privileges and restrictions applicable to a holder of any such license.

WV Legislature

§20-2-44a.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-44b. Bear damage stamp; proceeds to be paid into bear damage fund; purposes, etc.

To hunt bear in this state, a licensed hunter shall have, in addition to a Class A, A-L, AB-L, X or XJ, in the case of a resident, or a Class C or EE, in the case of a nonresident, a bear damage stamp issued by the Division of Natural Resources. The fee for the stamp is $10. All proceeds from the sale of stamps shall be paid into the bear damage fund which shall be maintained by the Division of Natural Resources for paying claims of property owners for damages to real and personal property caused by acts of bear and to cover the expense of black bear research programs within the state. This stamp requires that the licensee purchase the appropriate base license before participating in the activities specified in this section, except as noted.

WV Legislature

§20-2-45.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-46.

Repealed.

Acts, 1983 Reg. Sess., Ch. 111.

WV Legislature

§20-2-46a.

Repealed.

Acts, 1999 Reg. Sess., Ch. 51.

WV Legislature

§20-2-46b.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-46c.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-46d.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-46e. Class Q special hunting permit for disabled persons.

(a) A Class Q permit is a special statewide hunting permit entitling the permittee to hunt all legal species of game during the designated hunting seasons from a motor vehicle in accordance with the provisions of this section.

(b) The director shall furnish an application and a Class Q permit will be issued to applicants who meet one of the following conditions of permanent disability:

(1) Permanent or irreversible physical disability that prevents ability to ambulate without use of a wheelchair, walker, crutches, one leg brace or external prosthesis above the knee, or two leg braces or external prostheses below the knees for mobility.

(2) Multiple conditions that result in a minimum of 90 percent loss of use of a lower extremity.

(3) Lung disease to the extent that forced expiratory volume for one second when measured by spirometry is less than one liter or the arterial oxygen tension less than 60 millimeters of mercury on room air at rest.

(4) Cardiovascular disease to the extent that functional limitations are classified in severity as class 3 or 4, according to standards set by the American Heart Association and where ordinary physical activity causes palpitation, dyspnea or anginal pain.

(c) A licensed physician, physician assistant, advanced practice registered nurse or chiropractic physician must certify the applicant’s permanent disability by completing the permit application. The Class Q permit application shall be submitted to the division, which will issue a wallet sized card to the permittee.

(d) A person with a Class Q permit may not hunt or trap under the provisions of this section unless he or she is in possession of the Class Q permit card, a valid hunting license issued pursuant to §20-2-1 et seq. of this code or is a person excepted from licensing requirements pursuant to §20-2-27 and §20-2-28 of this code, and all documents or other lawful authorizations as prescribed in §20-2-37 of this code.

(e) A Class Q permit entitles the holder to hunt from a motor vehicle and, notwithstanding the provisions of §20-2-5 of this code, to possess a loaded firearm in a motor vehicle, but only under the following circumstances:

(1) The motor vehicle is stationary;

(2) The engine of the motor vehicle is not operating;

(3) The permittee and one individual, who is at least 16 years of age, to assist the permittee are the only occupants of the vehicle;

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(4) The individual assisting the permittee may not hunt with a firearm, bow, or cross-bow while assisting the permittee;

(5) The vehicle is not parked on the right-of-way of any public road or highway; and

(6) The permittee observes all other pertinent laws and regulations.

(f) The director may propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code setting forth the qualifications of applicants and the permitting process.

WV Legislature

§20-2-46f. Class DT special hunting and fishing license for persons with a life-threatening condition.

(a) A Class DT license is a special statewide hunting and fishing license for residents of the State of West Virginia and nonresidents, as permitted in subsection (e) of this section, entitling the licensee to fish or hunt all legal species of game at no charge, in accordance with the provisions of this section.

(b) A license form shall be furnished by the director to an applicant who meets the following requirements:

(1) He or she has been diagnosed by a licensed physician with a life-threatening condition; and

(2) He or she is under twenty-one years of age.

(c) A licensed physician must certify the applicant's life-threatening condition by completing the license form. A "life-threatening condition" means a terminal condition or illness that according to current diagnosis has a high probability of death within two years, even with treatment with an existing generally accepted protocol. When completed, the license form constitutes a Class DT license. The Class DT license and a completed license application shall be submitted to the division, which will issue a wallet sized card to the licensee. The card and all other documents and identification required to be carried by this article shall be in the licensee's possession when hunting or fishing.

(d) A Class DT license entitles the holder to hunt and fish only under the following circumstances:

(1) The licensee is accompanied by a parent, guardian or, with written consent of the parent or guardian, any other competent adult at least twenty-one years of age;

(2) The individual assisting the licensee must hold a valid fishing or hunting license appropriate to the situation;

(3) The licensee and the individual assisting observe all other pertinent laws and regulations.

(e) The director shall provide licenses to nonresidents at no charge who:

(1) Meet the requirements of subsections (b) and (c) of this section; and

(2) Are recommended by qualifying nonprofit organizations who offer hunting and fishing experiences.

(f) The director shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code setting forth the qualifications of applicants and nonprofit organizations and the licensing process.

WV Legislature

§20-2-46g.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-46h.

Repealed.

Acts, 2002 Reg. Sess., Ch. 228.

WV Legislature

§20-2-46i.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-46j.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-46k.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-46l.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-46m.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-47. License for private game farm for propagating animals and birds for commercial purposes.

(a) The director may issue a license for the operation of a private game preserve for propagation of wild animals and wild birds for commercial purposes. The license shall authorize the holder to breed or raise animals and birds as specified by the license, to sell the same dead or alive, or to sell the eggs of birds in accordance with regulations prescribed by the director.

(b) Application for a license under this section shall designate the property whereon the preserve is to be established. Before the license is issued, the director shall determine that the property is properly enclosed, that the provisions for housing and sanitation are proper and adequate, and that the safety of the public is protected.

(c) The annual license fee shall be $10.

(d) (1) For purposes of this section, domesticated poultry possessed for agricultural purposes are not considered wild birds and are not subject to the licensure requirements for a private game preserve. Any quail or partridge that will be released into the wild are not possessed for agricultural purposes and are not exempt from said licensure requirements.

(2) As used in this subsection:

(A) "Domesticated poultry" means non-native quail or partridge.

(B) "Agricultural purposes" means use of domesticated poultry for purposes including, but not limited to, meat and egg production, propagation for meat and egg production, and sales for meat and egg production.

WV Legislature

§20-2-48. License for private plant or pond for propagating fish, frogs, turtles and other forms of aquatic life for commercial purposes.

The director may issue a license for the operation of a private plant, pond or business for the propagation, sale or purchase of fish, frogs, turtles and other forms of aquatic life for commercial purposes. The license shall authorize the holder to breed or raise fish, frogs, turtles and other forms of aquatic life as specified by the license and to buy and sell the same dead or alive or the eggs thereof in accordance with regulations prescribed by the director.

Application for a license under this section shall designate the size, character and location of the plant or pond. Before the license is issued, the director shall determine that the pond or plant will not interfere with the free passage of fish; that any water diverted to such plant or pond does not violate the riparian rights of other landowners and that such plant, pond or diversion will not interfere with the public stocking or propagation of fish frequenting such waters.

A licensee selling fish shall furnish the purchaser with a certificate or invoice of sale, bearing date of sale, the number of the license under which sold, the number of fish and number of pounds sold, and such other information which the director may require.

The certificate or invoice shall be shown by the holder on demand of any person authorized under the provisions of this chapter to enforce the provisions hereof.

The annual license fee shall be $10.

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§20-2-49. Licenses for dealers in furs, pelts, etc.

The director may issue licenses for buying or dealing in raw furs, pelts or skins, and carcasses for the making of lures and baits, carcass parts, including glands, skulls, claws, and bones, and fur-bearer urine of fur-bearing animals as follows:

(1) A resident county license, which shall apply only to the county or counties designated on the license and shall be issued only to persons who have been bona fide residents of this state for a period of at least six months prior to the date of application, and of a county in which the privilege is to be exercised. A license shall apply to the county for which issued and to such adjacent counties as are designated in the license. A fee of $1 for each county shall accompany the application;

(2) A resident statewide license, which shall apply to all counties in the state and shall be issued only to persons who have been bona fide residents of this state for a period of at least six months prior to the date of application. A fee of $10 shall accompany the application;

(3) A nonresident statewide license, which shall apply to all counties in the state and shall be issued only to nonresidents. A fee of $50 shall accompany the application; and

(4) An agent’s permit which shall apply to a person employed by a licensee under subsections (1), (2) or (3) above, to buy or deal as an agent of the licensee other than at the place of business of the licensee. A fee of $2.50 for each such agent shall accompany the application.

WV Legislature

§20-2-50. Permit to hunt, kill, etc., wildlife for scientific or propagation purposes.

The director may issue a permit to a person to hunt, kill, take, capture or maintain in captivity wildlife exclusively for scientific purposes, but not for any commercial purposes. Any person desiring to collect or procure any wildlife, including any body tissue, organ or other portion thereof, eggs, nesting materials or other materials from the habitat of such wildlife shall be required to make application to the director for a scientific collecting permit. The director shall promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code regarding the issuance of the permits. A permit may be issued only upon written application to the director setting forth at least:

(1) The number and kind of wildlife to be taken;

(2) The purpose and manner of taking;

(3) The name, residence, profession and educational or scientific affiliation of the person applying for the permit; and

(4) The geographic location where the collection or procurement is planned to take place.

A fee, to be set at the discretion of the director, shall accompany the application. No permit may be issued for the purpose of killing deer and bear.

WV Legislature

§20-2-50a. Wildlife damage control agents; licensing.

The director may issue a license to a person to act as a wildlife damage control agent. Unless otherwise prohibited by law, any person licensed as a wildlife damage control agent, acting pursuant to the license and subject to the rules promulgated by the director, is authorized to take and dispose of wildlife found by the wildlife damage control agent to be creating a nuisance in or around homes, businesses and other places where the presence of wildlife may be a nuisance. The director is authorized to impose and collect fees when issuing this license and the fees shall be deposited in the nongame wildlife fund. The director shall promulgate rules, pursuant to article three, chapter twenty-nine-a of this code, governing the issuance and use of the license and setting fees.

WV Legislature

§20-2-51. Permit for keeping pets.

The director may issue a permit to a person to keep and maintain in captivity as a pet, a wild animal or wild bird that has been acquired from a commercial dealer or during the legal open season. The fee therefor shall be $2.

WV Legislature

§20-2-52. Permits for roadside menageries.

The director may issue a permit for the keeping and maintaining in captivity of wild animals, wild birds, amphibians or reptiles as a roadside menagerie. A permit shall not be issued unless:

(1) The animals, birds, amphibians or reptiles have been purchased from a licensed commercial dealer, either within or without the state, or have been taken legally; or

(2) The director is satisfied that provisions for housing and care of wildlife to be kept in captivity and for the protection of the public are proper and adequate.

A fee of $25 shall accompany each application for such permit.

WV Legislature

§20-2-53. License for privately owned commercial fishing preserve.

The director may issue a license for the operation of a private pond or privately owned pond or impoundment to be used as a commercial fishing preserve, provided such impoundments meet the requirements of section twenty-seven of this article: Provided, however, That only one license shall be required where more than one private pond or privately owned pond or impoundment is operated under one ownership and management and on one separate commercial fishing preserve. The licensee shall have the authority to establish the fishing seasons, size and creel limits for such licensed pond or impoundment. A person fishing in such lake shall not be required to possess the same statewide fishing license as would be required of him if he were fishing in any of the public waters of this state.

The annual fee for the commercial fishing preserve license shall be $25.

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§20-2-54. License for privately-owned commercial shooting preserves.

(1) The director may issue a license for privately-owned commercial shooting preserves to any person who meets the following requirements:

(a) Each commercial shooting preserve shall contain a minimum of three hundred acres in one tract of leased or owned land (including water area, if any) and shall be restricted to no more than three thousand contiguous acres (including water area, if any), except that preserves confined to the releasing of ducks only shall be authorized to operate with a minimum of fifty contiguous acres (including water area); and

(b) The exterior boundaries of each commercial shooting preserve shall be clearly defined and posted with signs erected around the extremity at intervals of one hundred fifty yards or less.

(2) The director shall designate the game which may be hunted under this section on which a more liberal season may be allowed.

(3) The operating licenses or permits issued by the director shall entitle holders thereof, and their guests or customers, to recover not more than eighty percent of the total number of each species of game bird released on the premises each year, except mallard, black duck, ringnecked pheasant, chukar partridge and other nonnative game species upon which a one hundred percent recovery may be allowed.

(4) Except for the required compliance with the restriction on the maximum number of released birds that may be recovered from each preserve each year, as provided in subsections (3) and (8) of this section, shooting preserve operators may establish their own shooting limitations and restrictions on the age, sex and number of birds that may be taken by each person.

(5) In order to give a reasonable opportunity for a fair return on a sizeable investment, a liberal season shall be designated by the director during the nine-month period, beginning August 1, and ending April 30.

(6) All harvested game shall be tagged with a numbered tag prior to being either consumed on the premises or removed therefrom, such tags to remain affixed until the game actually is delivered to the point of consumption.

(7) Each shooting preserve operator shall maintain a registration book listing all names, addresses and hunting license numbers of all shooters; the date on which they hunted; the amount of game and the species taken; and the tag numbers affixed to each carcass. An accurate record likewise must be maintained of the total number, by species, of game birds and ducks raised and/or purchased, and the date and number of all species released. These records shall be open to inspection by a delegated representative of the director at any reasonable time, and shall be the basis upon which the game recovery limits in subsection

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(3) of this section shall be determined.

(8) Any wild game found on commercial shooting preserves may be harvested in accordance with applicable game and hunting laws pertaining to open seasons, bag and possession limits, and so forth, as are established regularly by the director and the United States fish and wildlife service.

(9) State hunting licenses shall be required of all persons hunting or shooting on shooting preserves.

(10) The fee for such commercial shooting preserve license shall be $50 per fiscal year for the first three hundred acres of the shooting preserve area, plus $25 per fiscal year for each additional three hundred acres or part thereof.

WV Legislature

§20-2-55. License to catch and sell minnows or other bait fish.

The director shall have the power and authority to issue a license to any person to catch and sell minnows or other bait fish upon written application therefor, signed by the applicant. The fee for such license shall be $10. All licenses issued under this section shall expire on January 1, following the date of issue. Any such license may be renewed from year to year upon paying to the director the sum of $1 for each such renewal.

WV Legislature

§20-2-56. Permit to hold a field trial, shoot-to-retrieve field trial, water race or wild hunt; license exemption.

The director may issue a permit to any person, group of persons, club or organization to hold or conduct a field trial, shoot-to-retrieve field trial, water race or wild hunt, hereinafter referred to as a trial, upon receipt of a written application setting forth: (1) The name of the person, group of persons, club or organization; (2) the type or kind of trial; (3) the place and county in which the trial is to be held; and (4) the period or date on which the trial is to be held. The fee for the permit shall be $5.

No person participating in a field trial, shoot-to-retrieve field trial, water race or wild hunt being held under a permit authorized by this section shall be required to possess a state hunting license.

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§20-2-56a. Bird dog training permit.

The director may issue a permit to train bird dogs on wild birds or game birds, provided:

(1) The fee for the permit is $10.

(2) The training shall be on private land containing a minimum of five acres in a single tract. The permittee must own the land, lease the land or have written permission of landowner for the training.

(3) The birds permitted to be used for the training of dogs are quail and pigeons. The quail must be purchased from a licensed commercial game farm. Pigeons may be purchased from a licensed commercial game farm or trapped within the state at any time as long as the person conducting the trapping is legally licensed to do so and also holds the appropriate permit. Each trap must be identified by a waterproof tag attached to the trap that bears the name, address and telephone number of the trapper.

(4) The permittee must retain the receipt for two years of all birds purchased from a commercial game farm licensee.

(5) The location where the birds are held and all records pertaining to the purchase and dates of training may be inspected by a natural resources police officer.

(6) No more than thirty birds may be held by the permittee at any given time. All birds must have a uniquely numbered leg band attached. The leg band must remain with the birds until consumption or until the birds are legally disposed.

(7) Birds held under this permit shall be housed and cared for in accordance with the requirements of applicable rules.

(8) The use of the birds held under this permit shall include the release, recapture and/or the shooting of the birds in conjunction with the training of bird dogs.

(9) The person holding birds in captivity under the authority of this permit and the person training his or her bird dog must possess a bird dog training permit.

(10) All other laws and rules governing hunting, trapping, shooting and training apply.

(11) The director may propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code, to further restrict bird dog training.

(12) Any person violating any provision of this law is subject to the penalties prescribed in section nine, article seven, chapter twenty of this code.

WV Legislature

§20-2-57. Negligent shooting, wounding or killing of livestock while hunting; criminal violations; penalty.

(a) It is unlawful for any person, while engaged in hunting, pursuing, taking or killing wild animals or wild birds, to carelessly or negligently shoot, wound or kill livestock, or to destroy or injure any other chattels or property.

Any person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or confined in jail not more than ninety days, or both fined and confined. Restitution of the value of the livestock, chattel or property injured, damaged or destroyed shall be required upon conviction.

WV Legislature

§20-2-57a. Negligent shooting, wounding or killing of another person while hunting; duty to render aid; criminal violations; suspension of hunting and fishing license; criminal penalties; administrative penalties.

(a) It is unlawful for any person, while engaged in the act of hunting, pursuing, taking or killing wild animals or wild birds, to carelessly or negligently shoot, wound or kill another person.

(b) Anyone who negligently shoots, wounds or injures another person while hunting, not resulting in serious bodily injury or death, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or confined in jail not more than six months, or both fined and confined.

(c) Anyone who negligently shoots and injures another person while hunting, resulting in serious bodily injury or death, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $2,500 or confined in jail for not more than one year, or both fined and confined.

(d) For purposes of this section, serious bodily injury means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(e) (1) Any person who, while hunting, discharges a firearm or arrow and knows or has reason to know that the discharge has caused bodily harm to another person shall:

(A) Immediately investigate the extent of the person's injuries; and

(B) Render immediate reasonable assistance to the injured person.

(2) As used in this subsection, "reasonable assistance" means aid appropriate to the circumstances, including by not limited to obtaining or attempting to obtain assistance from a natural resources police officer, law-enforcement officer, 911 dispatchers, emergency medical providers and medical personnel.

(f) Any person who fails to render aid and assistance to an injured person as required by subsection (e), to an injured party who has not sustained a serious bodily injury is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $2,500 and confined in jail for not more than one year, or both fined and confined.

(g) Any person who fails to render aid as required by subsection (e) to an injured party who has sustained a serious bodily injury or dies as a result of their injuries is guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned in a correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(h) Any person found guilty of committing a misdemeanor under this section shall have their

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hunting and fishing licenses suspended for a period of five years from the date of conviction or the date of release from confinement, whichever is later.

(i) Any person found guilty of committing a felony offense under this section shall have their hunting and fishing licenses suspended for a period of ten years from the date of conviction or the date of release from incarceration, whichever is later.

WV Legislature

§20-2-57b. Prohibition against hunting while intoxicated; offense of hunting while intoxicated, creating offense of shooting another person when hunting while intoxicated; creating misdemeanor and, felony offenses for the same; defining suspension of hunting and fishing license; criminal penalties; administrative penalties.

(a) It is unlawful for any person to hunt, pursue, take or kill wild animals or wild birds while the person:

(1) Is under the influence of alcohol; or

(2) Is under the influence of any controlled substance; or

(3) Is under the influence of any other drug; or

(4) Is under the combined influence of alcohol and any controlled substance or any other drug; or

(5) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more by weight.

(b) Any person violating subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $500, or confined in jail for not less than 30 days nor more than 100 days, or both fined and confined.

(c) It is unlawful for any person, while engaged in hunting, pursuing, taking or killing wild animals or wild birds, to carelessly or negligently shoot and wound another person while the shooter:

(1) Is under the influence of alcohol; or

(2) Is under the influence of any controlled substance; or

(3) Is under the influence of any other drug; or

(4) Is under the combined influence of alcohol and any controlled substance or any other drug; or

(5) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight.

(d) Any person violating subsection (c) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 nor more than $1,500, or confined in jail for not less than two months nor more than one year, or both fined and confined.

(e) It is unlawful for any person, while engaged in hunting, pursuing, taking or killing wild

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animals or wild birds, to carelessly or negligently shoot and kill another person while the shooter:

(2) Is under the influence of alcohol; or

(3) Is under the influence of any controlled substance; or

(4) Is under the influence of any other drug; or

(5) Is under the combined influence of alcohol and any controlled substance or any other drug; or

(6) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight.

(f) Any person violating subsection (e) of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000, or imprisoned in a state correctional facility for not less than one year nor more than three years, or both fined and imprisoned.

(e) Any person found guilty of committing an offense under this section shall have their hunting and fishing licenses suspended for a period of five years from the date of conviction or the date of release from incarceration, whichever is later.

(f) Any person found guilty of committing a felony offense under this section shall have their hunting and fishing licenses suspended for a period of ten years from the date of conviction or the date of release from incarceration, whichever is later.

(g) Any person who shoots another person while intoxicated in violation of this section has the same duty and obligation to render aid to the injured person as is set forth in section fifty-seven-a of this article, and is subject to the additional penalties set forth therein as a separate and distinct violation, in the event that he or she fails to render aid to the injured person.

WV Legislature

§20-2-58. Shooting across road or near building or crowd; penalty.

(a) In addition to any other prohibitions which may exist by law, it shall be unlawful for any person to shoot or discharge any firearms:

(1) Across or in any public road in this state, at any time;

(2) Within five hundred feet of any school or church; or

(3) Within five hundred feet of any dwelling house: Provided, That a person who is a resident of a dwelling house, and his or her authorized guest, may shoot or discharge a firearm in a lawful manner within five hundred feet of the dwelling house where the person lives, if the firearm is being discharged with the express or implied knowledge and consent of all residents of that dwelling house, and no other dwelling houses are located within five hundred feet of where the firearm is discharged; or

(4) In any state, county or municipal park in areas of which the discharge of firearms is prohibited.

(b) Any person violating this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 nor more than $500 or confined in jail for not more than one hundred days, or both fined and confined.

(c) Notwithstanding the provisions of subsection (a) of this section, any person operating a gun repair shop, licensed to do business in the State of West Virginia and duly licensed under applicable federal statutes, may be exempted from the prohibition established by this section and section twelve, article seven, chapter sixty-one of this code for the purpose of test firing a firearm. The director of the Division of Natural Resources shall prescribe such rules as may be necessary to carry out the purposes of the exemption under this section and section twelve, article seven, chapter sixty-one and shall ensure that any person residing in any dwelling home within five hundred feet of such gun repair shop be given an opportunity to protest the granting of such exemption.

(d) The provisions of this section are not applicable to indoor shooting ranges the owner or operator of which holds all necessary and required licenses and the shooting range is in compliance with all applicable state, county, municipal laws, rules or ordinances regulating the design and operation of such facilities.

WV Legislature

§20-2-59. License to take fish and mussels for commercial purposes in certain waters.

The director may issue a license to any resident of West Virginia or Ohio to take fish or mussels for commercial purposes from any portion or all of the main stem of the Ohio River bordering West Virginia. Said license shall be required of every person engaged at any time in taking fish or mussels for commercial purposes.

All nets, traps or other devices used to take fish or mussels according to the provisions of this section shall be plainly marked with a durable plate or tag bearing the name and address of the owner of said nets, traps or other devices and an accurate report of any fish or mussels caught therein shall be submitted to the director by the license holder. Species of fish which may be taken, seasons for taking, type of gear, catch limitations, and the frequency and content of said report and other necessary requirements shall be determined by the director in his rules and regulations.

The fee for such license shall be $25 for West Virginia residents and $100 for Ohio residents and the license shall expire on January 1, following the date of issue.

WV Legislature

§20-2-60. Required attire for deer hunters; exemption; penalty.

Any person who hunts deer on public lands or the lands of another during the period designated for firearms hunting of deer or muzzleloader hunting of deer shall wear a daylight fluorescent orange outer garment over at least 400 square inches of his or her person: *Provided*, That persons engaged in agricultural occupations shall be exempt from the provisions of this section while hunting deer on their own property. Any person violating any provision of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $5 nor more than $50.

WV Legislature

§20-2-61.

Repealed.

Reserved for future use.

WV Legislature

§20-2-62. Persons exempt from obtaining hunting and fishing licenses; qualification.

Any person who has been a prisoner of war, was honorably discharged from the military forces and is a resident of this state may take, or catch by angling, fish of the kind lawfully permitted to be taken or caught and may hunt or trap wild birds or wild quadrupeds lawfully permitted to be hunted or trapped without procuring a fishing license, hunting license or trapping permit. The person, while taking or catching fish or hunting or trapping wild birds or wild quadrupeds for which he would otherwise be required to have a fishing license, hunting license or trapping permit, shall carry written evidence in the form of a record of separation, a letter from one of the military forces of the United States, or such other evidence as the director of the department of natural resources requires by rule that satisfies the eligibility criteria established by this section.

For purposes of this section, the term "prisoner of war" means any member of the Armed Forces of the United States, including the United States coast guard and National Guard, who was held by any hostile force with which the United States was actually engaged in armed conflict during any period of the incarceration; or any person, military or civilian, assigned to duty on the U.S.S. Pueblo who was captured by the military forces of North Korea on the January 23, 1968, and thereafter held prisoner. Notwithstanding any provision in this section, a prisoner of war shall not include any person who, at any time, voluntarily, knowingly and without duress, gave aid to or collaborated with or in any manner served any such hostile force.

WV Legislature

§20-2-63.

Repealed.

Acts, 2005 Reg. Sess., Ch. 130.

WV Legislature

§20-2-64. Regulating release of fish, water animal and other aquatic organisms; stocking permit.

(a) It is unlawful for any person: (i) To release any fish, water animal or other aquatic organism, alive or dead, or any part, nest or egg thereof into the waters of this state except as authorized by a stocking permit issued by the director; or (ii) to take, give or receive, or agree to take, give or receive, any fish, water animal or other aquatic organism taken from the waters of this state for purposes of stocking any commercial fishing preserve, or other privately owned ponds, for commercial purposes: Provided, That this subsection does not restrict:

(1) The release of fish, water animal or other aquatic organism into the waters of this state from which they were taken by lawful methods; or

(2) The release of native or established species of fish in privately owned ponds for noncommercial purposes.

(b) A stocking permit is not required for the stocking of trout in waters of the state provided that the trout originate from a source within the state or meet the disease-free certification requirements for imported salmondiae set forth in section thirteen of this article.

(c) A stocking permit is not required for the stocking of black bass provided that the Division of Natural Resources is notified prior to stocking and is provided a disease-free certification.

(d) It is unlawful for any person to possess, sell, offer for sale, import, bring or cause to be brought or imported into this state or release into the waters of this state, in a live state, any bighead carp (Hypophthalmichthys nobilis), silver carp (Hypophthalmichthys molitrix), black carp (Mylopharyngodon piceus), largescale silver carp (Hypophthalmichthys harmandi), diploid white amur (Ctenopharyngodon idella) or snakehead (Channa spp.), gametes or eggs of the same, or any hybrids of these species. The director may not issue a stocking permit to any person for the species and their hybrids listed in this subsection, but may issue written authorization for the importation or possession of these species or their hybrids into this state if the importation or possession does not violate any federal law and if the use is limited to scientific research.

WV Legislature