WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1969

ENROLLED

HOUSE BILL No. 910

(By Mrs. Withrow and Mrs. Kendall)

PASSED March 4, 1969

In Effect thirty days from Passage

910

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-12-69
ENROLLED

House Bill No. 910
(By Mrs. Withrow and Miss Crandall)

[Passed March 4, 1969: in effect ninety days from passage.]

AN ACT to amend and reenact section two, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section twenty-two, article two of said chapter; and to further amend said article two by adding thereto a new section, designated section twenty-two-a, relating to definitions of game animals and game fish; the hunting, tagging and reporting of black bear; and permission to hunt black bear during closed season.

Be it enacted by the Legislature of West Virginia:

That section two, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section twenty-
two, article two of said chapter be amended and reenacted; and that said article two be further amended by adding thereto a new section, designated section twenty-two-a, all to read as follows:

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

§20-1-2. Definitions.

1 As used in this chapter, unless the context clearly requires a different meaning:

2 “Agency” means any branch, department or unit of the state government, however designated or constituted.

3 “Alien” means any person not a citizen of the United States.

4 “Bag limit” or “creel limit” means the maximum number of wildlife which may be taken, caught, killed or possessed by any licensee.

5 “Board” means the water resources board of the department of natural resources.

6 “Citizen” means any native born citizen of the United States, and foreign born persons who have procured their final naturalization papers.

7 “Closed season” means the time or period during which
it shall be unlawful to take any wildlife as specified and limited by the provisions of this chapter.

“Commission” means the natural resources commission.

“Commissioner” means a member of the advisory commission of the natural resources commission.

“Director” means the director of the department of natural resources.

“Fishing” or “to fish” means the taking, by any means, of fish, minnows, frogs, or other amphibians, aquatic turtles, and other forms of aquatic life used as fish bait.

“Fur-bearing animals” shall include (a) the mink, (b) the weasel, (c) the muskrat, (d) the beaver, (e) the opossum, (f) the skunk, and civet cat, commonly called polecat, (g) the otter, (h) the red fox, (i) the gray fox, (j) the wildcat, bobcat or bay lynx, (k) the raccoon and (l) the fisher.

“Game” means game animals, game birds and game fish as herein defined.

“Game animals” shall include (a) the elk, (b) the deer, (c) the cottontail rabbits and hares, (d) the fox squirrels, commonly called red squirrels, and gray squirrels, and
all their color phases—red, gray, black or albino, (e) the raccoon, and (f) the black bear.

"Game birds" shall include (a) the anatidae, commonly known as swan, geese, brants and river and sea ducks, (b) the rallidae, commonly known as rails, sora, coots, mudhens, and gallinales, (c) the limicolae, commonly known as shorebirds, plover, snipe, woodcock, sandpipers, yellowlegs, and curlews, (d) the galli, commonly known as wild turkey, grouse, pheasants, quails and partridges (both native and foreign species), and (e) the columbidae, commonly known as doves and the icteridae, commonly known as blackbirds, redwings and grackle.

"Game fish" shall include (a) brook trout, (b) brown trout, (c) rainbow trout, (d) golden rainbow trout, (e) Kokanee salmon, (f) largemouth bass, (g) smallmouth bass, (h) Kentucky or spotted bass, (i) striped bass, (j) pickerel, (k) muskellunge, (l) walleye pike, or pike perch, (m) northern pike, (n) rock bass, (o) white bass, (p) white and black crappie, (q) all sunfish and (r) channel and flathead catfish.
“Hunt” means to pursue, chase, catch or take any wild birds or wild animals.

“Lands” means land, waters, and all other appurtenances connected therewith.

“Migratory birds” means any migratory game or non-game birds included in the terms of conventions between the United States and Great Britain and between the United States and United Mexican States, known as the “Migratory Bird Treaty Act,” for the protection of migratory birds and game mammals concluded, respectively, August sixteen, one thousand nine hundred sixteen, and February seven, one thousand nine hundred thirty-six.

“Nonresident” means any person who is a citizen of the United States and who has not resided continuously in the state of West Virginia for a period of six months immediately prior to the date of his application for a license or permit except any full-time student of any college or university of this state, even though he be paying a nonresident tuition.

“Open season” means the time during which the various species of wildlife may be legally caught, taken,
killed or chased in a specified manner, and shall include both the first and the last day of the season or period designated by the director.

"Person," except as otherwise defined elsewhere in this chapter, means the plural "persons," and shall include individuals, partnerships, corporations, or other legal entity.

"Preserve" means all duly licensed private game farm lands, or private plants, ponds or areas, where hunting or fishing is permitted under special licenses or seasons other than the regular public hunting or fishing seasons.

"Protected birds" means all wild birds not included within the definition of "game birds" and "unprotected birds."

"Resident" means any person who is a citizen of the United States and who has resided continuously in the state of West Virginia for a period of six months or more immediately prior to the date of his application for a license or permit: Provided, That a member of the armed forces of the United States who is stationed beyond the territorial limits of this state, but who was a resident
of this state at the time of his entry into such service,
and any full-time student of any college or university
of this state, even though he be paying a nonresident
tuition, shall be considered a resident under the pro-
visions of this chapter.
“Roadside menagerie” means any place of business,
other than a commercial game farm, commercial fish
preserve, place or pond, where any wild bird, game bird,
unprotected bird, game animal or fur-bearing animal is
kept in confinement for the attraction and amusement
of the people for commercial purposes.
“Take” means to hunt, shoot, pursue, lure, kill, destroy,
catch, capture, keep in captivity, gig, spear, trap, ensnare,
wound or injure any wildlife, or attempt to do so.
“Unprotected birds” shall include (a) the English spar-
row, (b) the European starling, (c) the cowbird, and (d)
the crow.
“Wild animals” means all mammals native to the state
of West Virginia occurring either in a natural state or
in captivity, except house mice or rats.
“Wild birds” shall include all birds other than (a)
domestic poultry—chickens, ducks, geese, guinea fowl, peafowls and turkeys, (b) psittacidae, commonly called parrots and paraquets, and (c) other foreign cage birds such as the common canary, exotic finches and ring dove. All wild birds, either (a) those occurring in a natural state in West Virginia or (b) those imported foreign game birds, such as waterfowl, pheasants, partridges, quail and grouse, regardless of how long raised or held in captivity, shall remain wild birds under the meaning of this chapter.

“Wildlife” means wild birds, wild animals, game and furbearing animals, fish (including minnows), frogs and other amphibians, aquatic turtles and all forms of aquatic life used as fish bait, whether dead or alive. “Wildlife refuge” means any land set aside by action of the director as an inviolate refuge or sanctuary for the protection of designated forms of wildlife.

ARTICLE 2. GAME AND FISH.
§20-2-22. Tagging, removing, transporting and reporting deer and wild turkey.

Each person killing a deer or wild turkey found in a wild state shall immediately after removing the entrails,
but in any event, within one hour, and before trans-
porting or removing the carcass in any manner from
where it was killed, complete and attach thereto the
game tag supplied with his or her hunting license. The
game tag shall remain on the carcass until it is dressed
for consumption.

If such game bird or game animal has been lawfully
killed by a person not required to secure a license, or
by a person who has previously killed another species
of game bird or game animal for which a game tag is
required, or by a person who has lost the tag supplied
with his or her license, such person shall make and
attach a tag to the carcass within the time specified
after such killing. The tag shall bear in plain English,
the name and address of the hunter, and the date of
killing, or, if holding a license, the license number and
the date and county where the game was killed.
The carcass of such game bird or game animal shall
be delivered to a conservation officer or an official check-
ing station for checking and retagging before it is either
skinned or transported beyond the boundaries of the county adjacent to that in which the kill was made. Every failure to have said tag or tags attached, or removing or transporting such animal in any manner, or failure to deliver the carcass to a conservation officer or an official checking station for checking, as herein provided, shall subject the person so neglecting to the penalties provided in this article.

Any deer or wild turkey found and not tagged as herein provided shall be forfeited to the state of West Virginia to be disposed of as hereinafter provided and may be seized by any officer whose duty it is to enforce the game laws.

§20-2-22a. Hunting, tagging and reporting black bear; killing bear destroying property; penalties.

No person in any county of this state shall hunt, capture, or kill any black bear, or have in his possession any black bear, or any part thereof, including fresh pelt, except during the open season or as authorized by the director, or as hereinafter provided. A person on killing a bear shall within twenty-four hours after killing,
7 deliver the bear or fresh skin to a conservation officer
8 or checking station for tagging. The bear shall have
9 affixed thereto an appropriate tag provided by the depart-
10 ment before any part of the bear may be transported
11 more than seventy-five miles from the point of kill. Any
12 bear not properly tagged, or any part of such bear, shall
13 be forfeited to the state for disposal to a charitable
14 institution, or school, or as otherwise designated by the
15 department of natural resources.
16 It shall be unlawful:
17 (1) To hunt a bear with (a) a shotgun using am-
18 munition loaded with more than one solid ball, or (b)
19 a rifle of less than twenty-five caliber using rimfire
20 ammunition or (c) a crossbow;
21 (2) To kill or attempt to kill any bear through the
22 use of poison, or explosives, or through the use of
23 snares, steel traps or deadfalls other than as authorized
24 herein;
25 (3) To shoot at or kill a cub bear weighing less than
26 one hundred pounds;
27 (4) To have in possession any part of a bear not
tagged in accordance with the provisions of this section;

(5) To enter a state game refuge with firearms for the purpose of pursuing or killing a bear except under the direct supervision of department personnel: Provided, That the following shall apply to bear destroying property:

(a) Nothing in this article shall be construed to prevent any person, as hereinafter defined, from killing in any legal manner provided by this article, any black bear which such person may find actually engaged in the material destruction of livestock on the property under the control of such person. Notwithstanding the definition of "person" contained in section two, article one of this chapter, the word "person" as used in this section shall mean any person residing on any lands as either the owner or lessee of such lands or as a member of the family of such owner or lessee or as an agent or employee regularly assisting in the care and maintenance of such lands.

Any person suffering damage to livestock may organize
a hunt and summon aid from other residents of the state, or nonresidents with prior approval of a representative of the department, for the purpose of destroying the black bear causing said livestock damage: Provided, That a notice of intention to carry out such hunt, containing the names and addresses of all participants, has been given to a representative of the department prior to the beginning of such hunt or within twenty-four hours of the experiencing of said damage. Any such person shall, upon demand of any representative of the department, produce satisfactory evidence that material damage to livestock was caused by a black bear. If such person makes a bona fide attempt to give such notice to a representative of the department without success, he may then proceed with the hunt.

During the progress of a legally organized hunt, the authorized participants may, if necessary, pursue said black bear into any game refuge area, including state forests and state wildlife areas. Said black bear when killed shall be reported within twenty-four hours of
killing to a conservation officer or an official state checking station, and the report shall state the weight, sex, date and location of kill of the animal. Any black bear killed and reported in accordance with the provisions of this section may be retained for food by the person organizing the hunt.

(b) Any person who kills a bear in violation of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than one hundred nor more than three hundred dollars, or confinement in the county jail for not less than thirty nor more than one hundred days, or both fined and imprisoned within the limitations aforesaid. Any person who violates any other provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty nor more than one hundred dollars. The unlawful killing or capturing of each bear shall be deemed a separate offense: Provided, however, That any person who kills a bear illegally during the open season therefor, and voluntarily reports same to a conservation officer or other officer shall be
fined not less than fifty dollars nor more than one hundred dollars.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tongue  
Chairman Senate Committee

Clayton C. Davidson  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Thayer  
Clerk of the Senate

C. A. Brinklow  
Clerk of the House of Delegates

Ray Durham  
President of the Senate

Jim T. Bradby  
Speaker House of Delegates

The within...........this the 12th

day of .............., 1969.

Arch D. Moore, Jr.  
Governor