

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1969



ENROLLED

HOUSE BILL No. 910

(By Mrs. Withrow and Miss Crandall)



PASSED March 4, 1969

In Effect Twenty days for Passage



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

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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 re-
2 quires a different meaning:

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

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

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

10 “Board” means the water resources board of the de-
11 partment of natural resources.

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

15 “Closed season” means the time or period during which

16 it shall be unlawful to take any wildlife as specified and
17 limited by the provisions of this chapter.

18 "Commission" means the natural resources commission.

19 "Commissioner" means a member of the advisory com-
20 mission of the natural resources commission.

21 "Director" means the director of the department of
22 natural resources.

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

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

32 "Game" means game animals, game birds and game
33 fish as herein defined.

34 "Game animals" shall include (a) the elk, (b) the deer,
35 (c) the cottontail rabbits and hares, (d) the fox squirrels,
36 commonly called red squirrels, and gray squirrels, and

37 all their color phases—red, gray, black or albino, (e) the
38 raccoon, and (f) the black bear.

39 “Game birds” shall include (a) the anatidae, commonly
40 known as swan, geese, brants and river and sea ducks,
41 (b) the rallidae, commonly known as rails, sora, coots,
42 mudhens, and gallinales, (c) the limicolae, commonly
43 known as shorebirds, plover, snipe, woodcock, sand-
44 pipers, yellowlegs, and curlews, (d) the galli, commonly
45 known as wild turkey, grouse, pheasants, quails and
46 partridges (both native and foreign species), and (e)
47 the columbidae, commonly known as doves and the
48 icteridae, commonly known as blackbirds, redwings and
49 grackle.

50 “Game fish” shall include (a) brook trout, (b) brown
51 trout, (c) rainbow trout, (d) golden rainbow trout,
52 (e) Kokanee salmon, (f) largemouth bass, (g) small-
53 mouth bass, (h) Kentucky or spotted bass, (i) striped bass,
54 (j) pickerel, (k) muskellunge, (l) walleye pike, or pike
55 perch, (m) northern pike, (n) rock bass, (o) white
56 bass, (p) white and black crappie, (q) all sunfish and
57 (r) channel and flathead catfish.

58 "Hunt" means to pursue, chase, catch or take any wild
59 birds or wild animals.

60 "Lands" means land, waters, and all other appurten-
61 ances connected therewith.

62 "Migratory birds" means any migratory game or non-
63 game birds included in the terms of conventions between
64 the United States and Great Britain and between the
65 United States and United Mexican States, known as the
66 "Migratory Bird Treaty Act," for the protection of migra-
67 tory birds and game mammals concluded, respectively,
68 August sixteen, one thousand nine hundred sixteen, and
69 February seven, one thousand nine hundred thirty-six.

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

77 "Open season" means the time during which the
78 various species of wildlife may be legally caught, taken,

79 killed or chased in a specified manner, and shall include
80 both the first and the last day of the season or period
81 designated by the director.

82 "Person," except as otherwise defined elsewhere in
83 this chapter, means the plural "persons," and shall in-
84 clude individuals, partnerships, corporations, or other
85 legal entity.

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

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

93 "Resident" means any person who is a citizen of the
94 United States and who has resided continuously in the
95 state of West Virginia for a period of six months or more
96 immediately prior to the date of his application for a
97 license or permit: *Provided*, That a member of the armed
98 forces of the United States who is stationed beyond the
99 territorial limits of this state, but who was a resident

100 of this state at the time of his entry into such service,
101 and any full-time student of any college or university
102 of this state, even though he be paying a nonresident
103 tuition, shall be considered a resident under the pro-
104 visions of this chapter.

105 "Roadside menagerie" means any place of business,
106 other than a commercial game farm, commercial fish
107 preserve, place or pond, where any wild bird, game bird,
108 unprotected bird, game animal or fur-bearing animal is
109 kept in confinement for the attraction and amusement
110 of the people for commercial purposes.

111 "Take" means to hunt, shoot, pursue, lure, kill, destroy,
112 catch, capture, keep in captivity, gig, spear, trap, ensnare,
113 wound or injure any wildlife, or attempt to do so.

114 "Unprotected birds" shall include (a) the English spar-
115 row, (b) the European starling, (c) the cowbird, and (d)
116 the crow.

117 "Wild animals" means all mammals native to the state
118 of West Virginia occurring either in a natural state or
119 in captivity, except house mice or rats.

120 "Wild birds" shall include all birds other than (a)

121 domestic poultry—chickens, ducks, geese, guinea fowl,
122 peafowls and turkeys, (b) psittacidae, commonly called
123 parrots and paraquets, and (c) other foreign cage birds
124 such as the common canary, exotic finches and ring dove.
125 All wild birds, either (a) those occurring in a natural
126 state in West Virginia or (b) those imported foreign
127 game birds, such as waterfowl, pheasants, partridges,
128 quail and grouse, regardless of how long raised or held
129 in captivity, shall remain wild birds under the meaning
130 of this chapter.

131 “Wildlife” means wild birds, wild animals, game and
132 furbearing animals, fish (including minnows), frogs and
133 other amphibians, aquatic turtles and all forms of aquatic
134 life used as fish bait, whether dead or alive.

135 “Wildlife refuge” means any land set aside by action
136 of the director as an inviolate refuge or sanctuary for the
137 protection of designated forms of wildlife.

ARTICLE 2. GAME AND FISH.

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

1 Each person killing a deer or wild turkey found in a
2 wild state shall immediately after removing the entrails,

3 but in any event, within one hour, and before trans-
4 porting or removing the carcass in any manner from
5 where it was killed, complete and attach thereto the
6 game tag supplied with his or her hunting license. The
7 game tag shall remain on the carcass until it is dressed
8 for consumption.

9 If such game bird or game animal has been lawfully
10 killed by a person not required to secure a license, or
11 by a person who has previously killed another species
12 of game bird or game animal for which a game tag is
13 required, or by a person who has lost the tag supplied
14 with his or her license, such person shall make and
15 attach a tag to the carcass within the time specified
16 after such killing. The tag shall bear in plain English,
17 the name and address of the hunter, and the date of
18 killing, or, if holding a license, the license number and
19 the date and county where the game was killed.

20 The carcass of such game bird or game animal shall
21 be delivered to a conservation officer or an official check-
22 ing station for checking and retagging before it is either

23 skinned or transported beyond the boundaries of the
24 county adjacent to that in which the kill was made.

25 Every failure to have said tag or tags attached, or
26 removing or transporting such animal in any manner,
27 or failure to deliver the carcass to a conservation officer
28 or an official checking station for checking, as herein
29 provided, shall subject the person so neglecting to the
30 penalties provided in this article.

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

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

1 No person in any county of this state shall hunt, cap-
2 ture, or kill any black bear, or have in his possession
3 any black bear, or any part thereof, including fresh pelt,
4 except during the open season or as authorized by the
5 director, or as hereinafter provided. A person on killing
6 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

28 tagged in accordance with the provisions of this sec-
29 tion;

30 (5) To enter a state game refuge with firearms for
31 the purpose of pursuing or killing a bear except under
32 the direct supervision of department personnel: *Pro-*
33 *vided*, That the following shall apply to bear destroying
34 property:

35 (a) Nothing in this article shall be construed
36 to prevent any person, as hereinafter defined, from kill-
37 ing in any legal manner provided by this article, any
38 black bear which such person may find actually engaged
39 in the material destruction of livestock on the prop-
40 erty under the control of such person. Notwithstanding
41 the definition of "person" contained in section two,
42 article one of this chapter, the word "person" as used
43 in this section shall mean any person residing on any
44 lands as either the owner or lessee of such lands
45 or as a member of the family of such owner or lessee
46 or as an agent or employee regularly assisting in the
47 care and maintenance of such lands.

48 Any person suffering damage to livestock may organize

49 a hunt and summon aid from other residents of
50 the state, or nonresidents with prior approval of a
51 representative of the department, for the purpose of
52 destroying the black bear causing said livestock dam-
53 age: *Provided*, That a notice of intention to carry out
54 such hunt, containing the names and addresses of all
55 participants, has been given to a representative of the
56 department prior to the beginning of such hunt or
57 within twenty-four hours of the experiencing of
58 said damage. Any such person shall, upon demand of
59 any representative of the department, produce satis-
60 factory evidence that material damage to livestock was
61 caused by a black bear. If such person makes a bona
62 fide attempt to give such notice to a representative of
63 the department without success, he may then proceed
64 with the hunt.

65 During the progress of a legally organized hunt, the
66 authorized participants may, if necessary, pursue said
67 black bear into any game refuge area, including state
68 forests and state wildlife areas. Said black bear when
69 killed shall be reported within twenty-four hours of

70 killing to a conservation officer or an official state check-
71 ing station, and the report shall state the weight, sex,
72 date and location of kill of the animal. Any black bear
73 killed and reported in accordance with the provisions
74 of this section may be retained for food by the person
75 organizing the hunt.

76 (b) Any person who kills a bear in violation of
77 the provisions of this section shall be guilty of a mis-
78 demeanor, and, upon conviction, shall be fined not less
79 than one hundred nor more than three hundred dol-
80 lars, or confinement in the county jail for not less than
81 thirty nor more than one hundred days, or both fined
82 and imprisoned within the limitations aforesaid. Any
83 person who violates any other provisions of this section
84 shall be guilty of a misdemeanor, and, upon conviction,
85 shall be fined not less than twenty nor more than one
86 hundred dollars. The unlawful killing or capturing of
87 each bear shall be deemed a separate offense: *Provided,*
88 *however,* That any person who kills a bear illegally dur-
89 ing the open season therefor, and voluntarily reports
90 same to a conservation officer or other officer shall be

91 fined not less than fifty dollars nor more than one hun-
92 dred 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. Blankenship
Clerk of the House of Delegates

Rayburn
President of the Senate

Sam F. Bowers
Speaker House of Delegates

The within approved this the 12th
day of March, 1969.

Arch A. Moore Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 3/8/69
Time 4:50 p.m.

RECEIVED

MAR 17 10 23 AM '69

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA