WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

ENROLLED

SENATE BILL NO. 396

(By Mr. Benson and Mr. James)

PASSED March 9, 1974

In Effect sixty days from Passage

396

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 3/10/74
ENROLLED

Senate Bill No. 396
(By Mr. Benson and Mr. Gainer)

[Passed March 9, 1974; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-two-a, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section forty-four-b, relating to bear protection within the state.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. WILDLIFE RESOURCES.

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

(a) No person in any county of this state shall hunt, capture, or kill any bear, or have in his possession any bear, or any part thereof, including fresh pelt, except during the hunting season for bear designated by rules and regulations to be promulgated by the department of natural resources and at no other time nor in any other way than as herein and therein provided. A person on killing a bear shall within twenty-four hours after killing, deliver the bear or fresh skin to a conservation officer or checking station for tagging. The bear shall have affixed thereto an appropriate tag provided by the department before any part of the bear may be transported more than
seventy-five miles from the point of kill. Any bear not properly tagged, or any part of such bear, shall be forfeited to the state for disposal to a charitable institution, or school, or as otherwise designated by the department of natural resources.

It shall be 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 or (c) a crossbow;

(3) To kill or attempt to kill any bear through the use of poison, or explosives, or through the use of snares, steel traps or deadfalls other than as authorized herein;

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

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

(6) 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.

(7) To hunt bear with dogs during seasons other than those designated for such purpose by the department of natural resources; after a bear is spotted and the chase has begun, to pursue the bear with other than the pack of dogs in use at the beginning of the hunt.

(8) To train bear hunting dogs on bear or to cause dogs to chase bear at times other than those designated by the department of natural resources for the hunting of bear.

(9) Notwithstanding the provisions of sections twenty-three and twenty-four of this article, for any person 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.

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

(b) The following shall apply to bear destroying prop-
erty:

Any property owner including a lessee, who has suffered
damage to real or personal property including loss occa-
sioned by the death of livestock or the injury thereto or
the unborn issue thereof, caused by an act of a bear may
complain to any conservation officer of the department of
natural resources, for the protection against such bear.

Upon receipt of the complaint, such officer shall imme-
diately proceed to investigate the circumstances giving
rise to such complaint, and if such officer is unable to
personally investigate the complaint, he shall designate
a wildlife biologist to investigate on his behalf and if the
complaint is found to be justified, such officer or desig-
nated person, may, together with the owner and other
residents, proceed to hunt and destroy or capture the bear
which is determined to have caused the property damage:

Provided, That only the conservation officer or the wild-
life biologist shall determine whether the bear shall be
destroyed or captured. Notwithstanding any provision of
this article, if it is determined that the complaint is justi-
ﬁed, the officer or designated person may summons or use
dogs from within or without this state to effectuate the
hunting and destruction or capture of such bear: Provi-
ded, That in the event dogs from without this state are used
in such hunt, the owners thereof shall be the only non-
residents permitted to participate in hunting such bear.

(c) When a property owner has suffered damage as the
result of an act by a bear, such owner shall ﬁle a report
with the director of the department of natural resources,
stating whether or not such bear was hunted and des-
stroyed and if so, the sex, weight and estimated age of
subject bear, and also submit to the department an ap-
praisal of the property damage occasioned by subject bear
duly signed by three competent appraisers, ﬁxing the val-
ue of the property lost. Such report shall be ruled upon
and the alleged damages examined by a commission to
which it shall be referred by the department. The com-
mision shall be composed of the complaining property
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owner, an officer of the department, and a person to be
selected by the officer of the department and the complain-
ing property owner. The department shall by rules and
regulations to be promulgated, establish the procedures
to be followed in presenting and deciding claims under
this section and all such claims shall be paid in the first
instance from the bear damage fund provided in section
forty-four (b) of this article, and in the event such fund is
insufficient to pay all claims determined by the commis-
sion 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 department of natural resources.

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, and in cases where livestock killed
is pregnant, the total value shall be 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.

(d) Any person who kills a bear in violation of the
provisions of this section shall be guilty of a misde-
meanor, and, upon conviction thereof, shall be fined not
less than two hundred dollars nor more than five hundred
dollars, or imprisoned in the county jail not less than
thirty nor more than one hundred days, or both fined and
imprisoned.

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

Any hunter licensed to hunt bear in this state shall in
addition to a hunting license of either Class A, or AB,
in the case of a resident, or C, E, L or M, in the case of a
nonresident, have a bear damage stamp which shall be
issued by the department of natural resources and which
shall be sold at places where hunting and fishing licenses
are sold. The fees for a bear damage stamp shall be four
dollars and all proceeds from the sale of such stamps
shall be paid into the bear damage fund which shall be
maintained by the department of natural resources for
the purposes of paying claims of property owners for damages to real and personal property caused by acts of bear and to cover the expense of hunting, capturing and removing offending bear to remote areas.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Daniel Dabney
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Howard W. Cannon
Clerk of the Senate

Clerk of the House of Delegates

W. P. Brodhead, Jr.
President of the Senate

Speaker House of Delegates

The within approved this the 26th day of March, 1974.

Aub A. Sharp, Jr.
Governor
PRESENTED TO THE
GOVERNOR

Date 3/14/74
Time 2:15 p.m.