

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1974



ENROLLED

SENATE BILL NO. 396

(By Mr. Benson & Mr. Gunnis)



PASSED March 9 1974

In Effect ninety days from Passage



396

FILED IN THE OFFICE  
EDGAR F. HEISKELL III  
SECRETARY OF STATE  
THIS DATE 3/29/74

# ENROLLED

## Senate Bill No. 396

(By MR. BENSON and MR. GAINER)

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

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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.**

- 1 (a) No person in any county of this state shall hunt,
- 2 capture, or kill any bear, or have in his possession any
- 3 bear, or any part thereof, including fresh pelt, except dur-
- 4 ing the hunting season for bear designated by rules and
- 5 regulations to be promulgated by the department of
- 6 natural resources and at no other time nor in any other
- 7 way than as herein and therein provided. A person on
- 8 killing a bear shall within twenty-four hours after killing,
- 9 deliver the bear or fresh skin to a conservation officer or
- 10 checking station for tagging. The bear shall have affixed
- 11 thereto an appropriate tag provided by the department
- 12 before any part of the bear may be transported more than

13 seventy-five miles from the point of kill. Any bear not  
14 properly tagged, or any part of such bear, shall be for-  
15 feited to the state for disposal to a charitable institution,  
16 or school, or as otherwise designated by the department  
17 of natural resources.

18 It shall be unlawful:

19 (1) To hunt bear without a bear damage stamp as  
20 prescribed in section forty-four-b of this article, in addi-  
21 tion to a hunting license as prescribed in this article.

22 (2) To hunt a bear with (a) a shotgun using ammuni-  
23 tion loaded with more than one solid ball, or (b) a rifle  
24 of less than twenty-five caliber using rimfire ammunition  
25 or (c) a crossbow;

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

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

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

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

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

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

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

52 (10) For any <sup>person</sup> reason, who is not a resident of this state,  
53 to hunt bear with dogs or to use dogs in any fashion for

OK  
Hunt

54 the purpose of hunting bear in this state, except in legally  
55 authorized hunts.

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

58 Any property owner including a lessee, who has suffered  
59 damage to real or personal property including loss occa-  
60 sioned by the death of livestock or the injury thereto or  
61 the unborn issue thereof, caused by an act of a bear may  
62 complain to any conservation officer of the department of  
63 natural resources, for the protection against such bear.  
64 Upon receipt of the complaint, such officer shall imme-  
65 diately proceed to investigate the circumstances giving  
66 rise to such complaint, and if such officer is unable to  
67 personally investigate the complaint, he shall designate  
68 a wildlife biologist to investigate on his behalf and if the  
69 complaint is found to be justified, such officer or desig-  
70 nated person, may, together with the owner and other  
71 residents, proceed to hunt and destroy or capture the bear  
72 which is determined to have caused the property damage:  
73 *Provided*, That only the conservation officer or the wild-  
74 life biologist shall determine whether the bear shall be  
75 destroyed or captured. Notwithstanding any provision of  
76 this article, if it is determined that the complaint is justi-  
77 fied, the officer or designated person may summons or use  
78 dogs from within or without this state to effectuate the  
79 hunting and destruction or capture of such bear: *Provid-*  
80 *ed*, That in the event dogs from without this state are used  
81 in such hunt, the owners thereof shall be the only non-  
82 residents permitted to participate in hunting such bear.

83 (c) When a property owner has suffered damage as the  
84 result of an act by a bear, such owner shall file a report  
85 with the director of the department of natural resources,  
86 stating whether or not such bear was hunted and des-  
87 troyed and if so, the sex, weight and estimated age of  
88 subject bear, and also submit to the department an ap-  
89 praisal of the property damage occasioned by subject bear  
90 duly signed by three competent appraisers, fixing the val-  
91 ue of the property lost. Such report shall be ruled upon  
92 and the alleged damages examined by a commission to  
93 which it shall be referred by the department. The com-  
94 mission shall be composed of the complaining property

95 owner, an officer of the department, and a person to be  
96 selected by the officer of the department and the complain-  
97 ing property owner. The department shall by rules and  
98 regulations to be promulgated, establish the procedures  
99 to be followed in presenting and deciding claims under  
100 this section and all such claims shall be paid in the first  
101 instance from the bear damage fund provided in section  
102 forty-four (b) of this article, and in the event such fund is  
103 insufficient to pay all claims determined by the commis-  
104 sion to be just and proper the remainder due to owners of  
105 lost or destroyed property shall be paid from the special  
106 revenue account of the department of natural resources.

107 In all cases where the act of the bear complained of by  
108 the property owner is the killing of livestock, the value  
109 to be established is the fair market value of the livestock  
110 at the date of death, and in cases where livestock killed  
111 is pregnant, the total value shall be the sum of the values  
112 of the mother and the unborn issue, with the value of the  
113 unborn issue to be determined on the basis of the fair  
114 market value of the issue, had it been born.

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

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

1 Any hunter licensed to hunt bear in this state shall in  
2 addition to a hunting license of either Class A, or AB,  
3 in the case of a resident, or C, E, L or M, in the case of a  
4 nonresident, have a bear damage stamp which shall be  
5 issued by the department of natural resources and which  
6 shall be sold at places where hunting and fishing licenses  
7 are sold. The fees for a bear damage stamp shall be four  
8 dollars and all proceeds from the sale of such stamps  
9 shall be paid into the bear damage fund which shall be  
10 maintained by the department of natural resources for

11 the purposes of paying claims of property owners for  
12 damages to real and personal property caused by acts of  
13 bear and to cover the expense of hunting, capturing and  
14 removing offending bear to remote areas.

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

*H. Darrel Darby*

Chairman Senate Committee

*Clarence C. Christian Jr.*

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Howard W. Larson*

Clerk of the Senate

*P. G. Blankenship*

Clerk of the House of Delegates

*H. P. Bruberton Jr.*

President of the Senate

*Levin J. Williams*

Speaker House of Delegates

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

*Arch A. Pearce Jr.*  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/14/74

Time 2:15 p.m.