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Date 3-30-82

SENATE BILL NO. 337

(By Mr. Colombo: MR. CHINER)

PASSED MARCH 13, 1982

In Effect ninety days from Passage



ENROLLED
Senate Bill No. 337

(BY MR. COLOMBO AND MR. GAINER)

[Passed March 13, 1982; 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, relating to natural resources; definitions; and defining "bona fide resident tenant or lessee," "wild boar" and "sauger."

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 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
- 2 different meaning:
- 3 "Agency" means any branch, department or unit of the
- 4 state government, however designated or constituted.
- 5 "Alien" means any person not a citizen of the United States.
- 6 "Bag limit" or "creel limit" means the maximum number of
- 7 wildlife which may be taken, caught, killed or possessed by
- 8 any licensee.
- 9 "Board" means the water resources board of the
- 10 department of natural resources.
- 11 "Bona fide resident tenant or lessee" means a person who
- 12 permanently resides on the land.
- 13 "Citizen" means any native born citizen of the United
- 14 States, and foreign-born persons who have procured their
- 15 final naturalization papers.

16 "Closed season" means the time or period during which it
17 shall be unlawful to take any wildlife as specified and limited
18 by the provisions of this chapter.

19 "Commission" means the natural resources commission.

20 "Commissioner" means a member of the advisory
21 commission of the natural resources commission.

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

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

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

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

34 "Game animals" shall include (a) the elk, (b) the deer, (c) the
35 cottontail rabbits and hares, (d) the fox squirrels, commonly
36 called red squirrels, and gray squirrels, and all their color
37 phases—red, gray, black or albino, (e) the raccoon, (f) the
38 black bear and (g) the wild boar.

39 "Game birds" shall include (a) the Anatidae, commonly
40 known as swan, geese, brants and river and sea ducks, (b) the
41 Rallidae, commonly known as rails, sora, coots, mudhens,
42 and gallinales, (c) the Limicolae, commonly known as
43 shorebirds, plover, snipe, woodcock, sandpipers, yellow legs,
44 and curlews, (d) the Galli, commonly known as wild turkey,
45 grouse, pheasants, quails and partridges (both native and
46 foreign species), and (e) the Columbidae, commonly known
47 as doves and the Icteridae, commonly known as blackbirds,
48 redwings and grackle.

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

56 "Hunt" means to pursue, chase, catch or take any wild birds
57 or wild animals.

58 "Lands" means land, waters, and all other appurtenances
59 connected therewith.

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

68 "Nonresident" means any person who is a citizen of the
69 United States and who has not been a domiciled resident of
70 the state of West Virginia for a period of thirty consecutive
71 days immediately prior to the date of his application for a
72 license or permit except any full-time student of any college
73 or university of this state, even though he be paying a
74 nonresident tuition.

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

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

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

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

89 "Resident" means any person who is a citizen of the United
90 States and who has been a domiciled resident of the state of
91 West Virginia for a period of thirty consecutive days or more
92 immediately prior the date of his application for a license or
93 permit: *Provided*, That a member of the armed forces of the
94 United States who is stationed beyond the territorial limits of
95 this state, but who was a resident of this state at the time of
96 his entry into such service, and any full-time student of any
97 college or university of this state, even though he be paying a
98 nonresident tuition, shall be considered a resident under the
99 provisions of this chapter.

100 "Roadside menagerie" means any place of business, other
101 than commercial game farm, commercial fish preserve, place
102 or pond, where any wild bird, game bird, unprotected bird,
103 game animal or fur-bearing animal is kept in confinement for
104 the attraction and amusement of the people for commercial
105 purposes.

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

109 "Unprotected birds" shall include (a) the English sparrow,
110 (b) the European starling, (c) the cowbird, and (d) the crow.

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

114 "Wild birds" shall include all birds other than (a) domestic
115 poultry—chickens, ducks, geese, guinea fowl, peafowls and
116 turkeys, (b) psittacidae, commonly called parrots and
117 parakeets, and (c) other foreign cage birds such as the
118 common canary, exotic finches and ring dove. All wild birds,
119 either (a) those occurring in a natural state in West Virginia or
120 (b) those imported foreign game birds, such as waterfowl,
121 pheasants, partridges, quail and grouse, regardless of how
122 long raised or held in captivity, shall remain wild birds under
123 the meaning of this chapter.

124 "Wildlife" means wild birds, wild animals, game and
125 fur-bearing animals, fish (including minnows), frogs and
126 other amphibians, aquatic turtles and all forms of aquatic life
127 used as fish bait, whether dead or alive.

128 "Wildlife refuge" means any land set aside by action of the
129 director as an inviolate refuge or sanctuary for the protection
130 of designated forms of wildlife.

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

R. P. Bayle
Chairman Senate Committee

Long E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Ed C. Wallis
Clerk of the Senate

C. A. Blenkinship
Clerk of the House of Delegates

Walter R. McSwain
President of the Senate

Walter M. Lee, Jr.
Speaker House of Delegates

The within *is approved* this the *30*

day of *March*, 1982.

John B. Ray
Governor

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