

No. 1995

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985



# ENROLLED

HOUSE BILL No. 1995

(By Mr. Del. M. Harman)



Passed April 9, 1985

In Effect From Passage



**ENROLLED**  
**H. B. 1995**

(By DELEGATE M. HARMAN)

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[Passed April 9, 1985; in effect 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, relating to hunting, tagging and reporting bear; procedures applicable to property destruction by bear; penalties.

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

13 not properly tagged, or any part of such bear, shall be forfeited  
14 to the state for disposal to a charitable institution, or school,  
15 or as otherwise designated by the department of natural  
16 resources.

17 It shall be unlawful:

18 (1) To hunt bear without a bear damage stamp as prescribed  
19 in section forty-four-b of this article, in addition to a hunting  
20 license as prescribed in this article;

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

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

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

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

31 (6) To enter a state game refuge with firearms for the  
32 purpose of pursuing or killing a bear except under the direct  
33 supervision of department personnel;

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

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

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

48 (10) For any person, who is not a resident of this state, to  
49 hunt bear with dogs or to use dogs in any fashion for the

50 purpose of hunting bear in this state, except in legally  
51 authorized hunts.

52 (b) The following shall apply to bear destroying property:

53 (1) Any property owner including a lessee, who has suffered  
54 damage to real or personal property including loss occasioned  
55 by the death of livestock or the injury thereto or the unborn  
56 issue thereof, caused by an act of a bear may complain to any  
57 conservation officer of the department of natural resources, for  
58 the protection against such bear. Upon receipt of the  
59 complaint, such officer shall immediately proceed to investi-  
60 gate the circumstances giving rise to such complaint, and if  
61 such officer is unable to personally investigate the complaint,  
62 he shall designate a wildlife biologist to investigate on his  
63 behalf and if the complaint is found to be justified, such officer  
64 or designated person, may, together with the owner and other  
65 residents, proceed to hunt and destroy or capture the bear  
66 which is determined to have caused the property damage:  
67 *Provided*, That only the conservation officer or the wildlife  
68 biologist shall determine whether the bear shall be destroyed  
69 or captured. Notwithstanding any provision of this article, if  
70 it is determined that the complaint is justified, the officer or  
71 designated person may summon or use dogs from within or  
72 without this state to effectuate the hunting and destruction or  
73 capture of such bear. *Provided, however*, That in the event  
74 dogs from without this state are used in such hunt, the owners  
75 thereof shall be the only nonresidents permitted to participate  
76 in hunting such bear.

77 (2) When a property owner has suffered damage as the  
78 result of an act by a bear, such owner shall file a report with  
79 the director of the department of natural resources, stating  
80 whether or not such bear was hunted and destroyed and if so,  
81 the sex, weight and estimated age of subject bear, and also  
82 submit to the department an appraisal of the property damage  
83 occasioned by subject bear duly signed by three competent  
84 appraisers, fixing the value of the property lost. Such report  
85 shall be ruled upon and the alleged damages examined by a  
86 commission to which it shall be referred by the department.  
87 The commission shall be composed of the complaining  
88 property owner, an officer of the department and a person to  
89 be selected by the officer of the department and the  
90 complaining property owner. The department shall by rules

91 and regulations to be promulgated, establish the procedures  
92 to be followed in presenting and deciding claims under this  
93 section and all such claims shall be paid in the first instance  
94 from the bear damage fund provided in section forty-four-b  
95 of this article, and in the event such fund is insufficient to pay  
96 all claims determined by the commission to be just and proper  
97 the remainder due to owners of lost or destroyed property shall  
98 be paid from the special revenue account of the department  
99 of natural resources.

100 (3) In all cases where the act of the bear complained of by  
101 the property owner is the killing of livestock, the value to be  
102 established is the fair market value of the livestock at the date  
103 of death, and in cases where livestock killed is pregnant, the  
104 total value shall be the sum of the values of the mother and  
105 the unborn issue, with the value of the unborn issue to be  
106 determined on the basis of the fair market value of the issue,  
107 had it been born. In no event shall the fair market value of  
108 the livestock exceed twice the assessed value of the livestock  
109 for personal property taxes.

110 (c) Any person who kills a bear in violation of the  
111 provisions of this section shall be guilty of a misdemeanor,  
112 and, upon conviction thereof, shall be fined not less than two  
113 hundred dollars nor more than five hundred dollars, or  
114 imprisoned in the county jail not less than thirty nor more than  
115 one hundred days, or both fined and imprisoned.

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

*Harrell E. Akman*  
Chairman Senate Committee

*Floyd Fuller*  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*Todd C. Weiler*  
Clerk of the Senate

*Donald L. Hopp*  
Clerk of the House of Delegates

*Dan Tomlin*  
President of the Senate

*Joseph P. Allright*  
Speaker of the House of Delegates

The within *approved* this the *2<sup>nd</sup>*  
day of *May*, 1985.

*Luha Shaufer*  
Governor



PRESENTED TO THE

GOVERNOR

Date 4/19/85

Time 7:09 p.m.