

Ad. 2705

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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



ENROLLED

Com. Sub. for
HOUSE BILL No. 2705

(By Mr. Del. Love + Whitt)



Passed April 4, 1989

In Effect Ninety Days From Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2705
(By DELEGATES LOVE AND WHITT)

[Passed April 4, 1989; 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, relating to wildlife resources; hunting, tagging and reporting bear; increasing fines and penalties; suspending licenses for illegal killing.

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,
2 capture, or kill any bear, or have in his possession any
3 bear, or any part thereof, including fresh pelt, except
4 during the hunting season for bear designated by rules
5 and regulations to be promulgated by the department
6 of natural resources and at no other time nor in any
7 other way than as herein and therein provided. A person

8 on killing a bear shall within twenty-four hours after
9 killing, deliver the bear or fresh skin to a conservation
10 officer or checking station for tagging. The bear shall
11 have affixed thereto an appropriate tag provided by the
12 department before any part of the bear may be trans-
13 ported more than seventy-five miles from the point of
14 kill. The checking tag shall remain on the skin until it
15 is tanned or mounted. Any bear not properly tagged, or
16 any part of such bear, shall be forfeited to the state for
17 disposal to a charitable institution, or school, or as
18 otherwise designated by the department of natural
19 resources.

20 It shall be unlawful:

21 (1) To hunt bear without a bear damage stamp as
22 prescribed in section forty-four-b of this article, in
23 addition to a hunting license as prescribed in this
24 article;

25 (2) To hunt a bear with (a) a shotgun using ammu-
26 nition loaded with more than one solid ball, or (b) a rifle
27 of less than twenty-five caliber using rimfire ammu-
28 nition or (c) a crossbow;

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

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

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

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

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

45 (8) To train bear hunting dogs on bear or to cause

46 dogs to chase bear at times other than those designated
47 by the department of natural resources for the hunting
48 of bear;

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

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

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

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

86 be the only nonresidents permitted to participate in
87 hunting such bear.

88 (2) When a property owner has suffered damage as
89 the result of an act by a bear, such owner shall file a
90 report with the director of the department of natural
91 resources, stating whether or not such bear was hunted
92 and destroyed and if so, the sex, weight and estimated
93 age of subject bear, and also submit to the department
94 an appraisal of the property damage occasioned by
95 subject bear duly signed by three competent appraisers,
96 fixing the value of the property lost. Such report shall
97 be ruled upon and the alleged damages examined by a
98 commission to which it shall be referred by the
99 department. The commission shall be composed of the
100 complaining property owner, an officer of the depart-
101 ment and a person to be selected by the officer of the
102 department and the complaining property owner. The
103 department shall by rules and regulations to be
104 promulgated, establish the procedures to be followed in
105 presenting and deciding claims under this section and
106 all such claims shall be paid in the first instance from
107 the bear damage fund provided in section forty-four-b
108 of this article, and in the event such fund is insufficient
109 to pay all claims determined by the commission to be
110 just and proper the remainder due to owners of lost or
111 destroyed property shall be paid from the special
112 revenue account of the department of natural resources.

113 (3) In all cases where the act of the bear complained
114 of by the property owner is the killing of livestock, the
115 value to be established is the fair market value of the
116 livestock at the date of death, and in cases where
117 livestock killed is pregnant, the total value shall be the
118 sum of the values of the mother and the unborn issue,
119 with the value of the unborn issue to be determined on
120 the basis of the fair market value of the issue, had it
121 been born. In no event shall the fair market value of the
122 livestock exceed twice the assessed value of the livestock
123 for personal property taxes.

124 (c) Any person who kills a bear in violation of the
125 provisions of this section shall be guilty of a misdemea-
126 nor, and, upon conviction thereof, shall be fined not less

127 than five hundred dollars nor more than one thousand
128 dollars, or imprisoned in the county jail not less than
129 thirty nor more than one hundred days, or both fined
130 and imprisoned; and the suspension of the person's
131 hunting and fishing licenses for one year.

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

Frederick L Parker
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Isid C. Miller
Clerk of the Senate

Donald S. Hays
Clerk of the House of Delegates

Sam S. Tucker
President of the Senate

Robert C. Bell
Speaker of the House of Delegates

The within *is approved* this the *24th*
day of *April*, 1989.

Gaston Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date 4/11/89

Time 11:46