WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2705

(By Mr. Del. Love & Whittock)

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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, 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
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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 ammuni-
28 tion 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
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 person, 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
property:

(1) Any property owner including a lessee, who has
suffered damage to real or personal property including
loss occasioned 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 immediately 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 designated 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 wildlife 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 justified, the
officer or designated person may summon or use dogs
from within or without this state to effectuate the
hunting and destruction or capture of such bear:
Provided, however, That in the event dogs from without
this state are used in such hunt, the owners thereof shall
be the only nonresidents permitted to participate in hunting such bear.

(2) 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 destroyed and if so, the sex, weight and estimated age of subject bear, and also submit to the department an appraisal of the property damage occasioned by subject bear duly signed by three competent appraisers, fixing the value 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 commission shall be composed of the complaining property owner, an officer of the department and a person to be selected by the officer of the department and the complaining 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 commission 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.

(3) 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. In no event shall the fair market value of the livestock exceed twice the assessed value of the livestock for personal property taxes.

(c) Any person who kills a bear in violation of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less
than five hundred dollars nor more than one thousand
dollars, or imprisoned in the county jail not less than
thirty nor more than one hundred days, or both fined
and imprisoned; and the suspension of the person’s
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.

Fred C. Miller  
Clerk of the Senate

Donald J. Young  
Clerk of the House of Delegates

Larry S. Traynor  
President of the Senate

Robert C. Atchison  
Speaker of the House of Delegates

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

Gaston Caperton  
Governor