

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



ENROLLED

Committee Substitute for
SENATE BILL NO. 298

(By Senator *Sundell, Mr. President*)



PASSED March 8, 1990

In Effect 90 days from Passage

No. 298

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 298

(BY SENATOR BURDETTE, MR. PRESIDENT,
BY REQUEST, *original sponsor*)

[Passed March 8, 1990; in effect ninety days from passage.]

AN ACT to amend chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-c, relating to an interstate wildlife violator compact.

Be it enacted by the Legislature of West Virginia:

That chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article two-c, to read as follows:

ARTICLE 2C. INTERSTATE WILDLIFE VIOLATOR COMPACT.

§20-2C-1. Governor's authority to execute.

1 The governor of West Virginia, on behalf of this
2 state, is hereby authorized to execute a compact in
3 substantially the following form with any one or more
4 of the states of the United States and the Legislature
5 hereby signifies in advance its approval and ratifica-
6 tion of such compact:

INTERSTATE WILDLIFE VIOLATOR COMPACT

ARTICLE I. FINDINGS AND DECLARATION OF POLICY AND PURPOSE.

1 (a) The participating states find that:

2 (1) Wildlife resources are managed in trust by the
3 respective states for the benefit of all residents and
4 visitors.

5 (2) The protection of the wildlife resources of a state
6 is materially affected by the degree of compliance with
7 state statutes, rules, regulations and ordinances relating
8 to the management of such resources.

9 (3) The preservation, protection, management and
10 restoration of wildlife resources contributes immea-
11 surably to the aesthetic, recreational and economic
12 values of a state.

13 (4) Wildlife resources are valuable without regard to
14 political boundaries; therefore, every person should be
15 required to comply with wildlife preservation, protec-
16 tion, management and restoration statutes, rules,
17 regulations and ordinances of the participating states
18 as a condition precedent to the continuance or issu-
19 ance of any license to hunt, trap, fish or otherwise
20 possess wildlife.

21 (5) The violation of wildlife laws interferes with the
22 management of wildlife resources and may endanger
23 the safety of people and property.

24 (6) The mobility of many wildlife law violators
25 necessitates the maintenance of channels of communi-
26 cation among the participating states.

27 (7) In most instances, a person who is cited for a
28 wildlife violation in a state other than his home state
29 is required to post collateral or a bond to secure
30 appearance for trial at a later date, is taken into
31 custody until the collateral or bond is posted or is
32 taken directly to court for an immediate appearance.

33 (8) The purpose of the aforementioned enforcement
34 practices is to ensure compliance with the terms of the

35 wildlife citation by the cited person who, if permitted
36 to continue on his way after receiving the citation,
37 could return to his home state and disregard his duty
38 under the terms of the citation.

39 (9) In most instances, a person receiving a wildlife
40 citation in his home state is permitted to accept the
41 citation from the officer at the scene of the violation
42 and immediately continue on his way after agreeing or
43 being instructed to comply with the terms of the
44 citation.

45 (10) The aforementioned enforcement practices
46 cause unnecessary inconvenience and, at times, a
47 hardship for the person who is unable at the time to
48 post collateral, furnish a bond, stand trial or pay a fine
49 and thus is compelled to remain in custody until some
50 alternative arrangement is made.

51 (11) The aforementioned enforcement practices
52 consume an undue amount of law enforcement time.

53 (b) It is the policy of the participating states to:

54 (1) Promote compliance with the statutes, rules,
55 regulations and ordinances relating to the manage-
56 ment of wildlife resources in their respective states;

57 (2) Recognize the suspension of wildlife license
58 privileges of any person whose license privileges have
59 been suspended by a participating state and treat such
60 suspension as if it occurred in their state.

61 (3) Allow a violator, except as provided in subsection
62 (b) of article III of this compact, to accept a wildlife
63 citation and, without delay, proceed on his way
64 regardless of his state of residence: *Provided*, That the
65 violator's home state is party to this compact.

66 (4) Report to the appropriate participating state, as
67 provided in the compact manual, any conviction
68 recorded against any person whose home state was not
69 the issuing state.

70 (5) Allow the home state to recognize and treat
71 convictions recorded against its residents which
72 occurred in a participating state as though they had
73 occurred in the home state.

74 (6) Extend cooperation to its fullest extent among
75 the participating states for enforcing compliance with
76 the terms of a wildlife citation issued in one participat-
77 ing state to a resident of another participating state.

78 (7) Maximize the effective use of law enforcement
79 personnel and information.

80 (8) Assist court systems in the efficient disposition of
81 wildlife violations.

82 (c) The purpose of this compact is to:

83 (1) Provide a means through which participating
84 states may join in a reciprocal program to effectuate
85 the policies enumerated in subsection (b) of article I of
86 this compact in a uniform and orderly manner.

87 (2) Provide for the fair and impartial treatment of
88 wildlife violators operating within participating states
89 in recognition of the violator's right to due process and
90 the sovereign status of a participating state.

ARTICLE II. DEFINITIONS.

1 Unless the context in which used clearly requires a
2 different meaning, as used in this compact:

3 (a) "Citation" means any summons, complaint,
4 summons and complaint, ticket, penalty assessment or
5 other official document issued to a person by a wildlife
6 officer or other peace officer for a wildlife violation
7 which contains an order requiring the person to
8 respond.

9 (b) "Collateral" means any cash or other security
10 deposited to secure an appearance for trial in connec-
11 tion with the issuance by a wildlife officer or other
12 peace officer of a citation for a wildlife violation.

13 (c) "Compliance" with respect to a citation means
14 the act of answering a citation through an appearance
15 in a court or tribunal or through the payment of fines,
16 costs and surcharges, if any.

17 (d) "Conviction" means a conviction, including any
18 court conviction, for any offense related to the preser-
19 vation, protection, management or restoration of

20 wildlife which is prohibited by state statute, rule,
21 regulation or ordinance. The term "conviction" shall
22 also include the forfeiture of any bail, bond or other
23 security deposited to secure appearance by a person
24 charged with having committed any such offense, the
25 payment of a penalty assessment, a plea of nolo
26 contendere or the imposition of a deferred or sus-
27 pended sentence by the court.

28 (e) "Court" means a court of law, including magis-
29 trate's court.

30 (f) "Home state" means the state of primary resi-
31 dence of a person.

32 (g) "Issuing state" means the participating state
33 which issues a wildlife citation to the violator.

34 (h) "License" means any license, permit or other
35 public document which conveys to the person to
36 whom it was issued the privilege of pursuing, possess-
37 ing or taking any wildlife regulated by statute, rule,
38 regulation or ordinance of a participating state.

39 (i) "Licensing authority" means the governmental
40 agency within each participating state that is autho-
41 rized by law to issue or approve licenses or permits to
42 hunt, trap, fish or otherwise possess wildlife.

43 (j) "Participating state" means any state which
44 enacts legislation to become a member of this wildlife
45 compact.

46 (k) "Personal recognizance" means an agreement by
47 a person made at the time of issuance of the wildlife
48 citation that such person will comply with the terms
49 of the citation.

50 (l) "State" means any state, territory or possession
51 of the United States, including the District of Colum-
52 bia and the Commonwealth of Puerto Rico.

53 (m) "Suspension" means any revocation, denial or
54 withdrawal of any or all license privileges, including
55 the privilege to apply for, purchase or exercise the
56 benefits conferred by any license.

57 (n) "Terms of the citation" means those conditions
58 and options expressly stated upon the citation.

59 (o) "Wildlife" means all species of animals including,
60 but not limited to, mammals, birds, fish, reptiles,
61 amphibians, mollusks and crustaceans which are
62 defined as "wildlife" and are protected or otherwise
63 regulated by statute, rule, regulation or ordinance in a
64 participating state. Species included in the definition
65 of "wildlife" vary from state to state and determina-
66 tion of whether a species is "wildlife" for the purposes
67 of this compact shall be based on the law in the issuing
68 state.

69 (p) "Wildlife law" means any statute, rule, regula-
70 tion or ordinance developed and enacted for the
71 management of wildlife resources and the uses thereof.

72 (q) "Wildlife officer" means any individual autho-
73 rized by a participating state to issue a citation for a
74 wildlife violation.

75 (r) "Wildlife violation" means any cited violation of
76 a statute, rule, regulation or ordinance developed and
77 enacted for the management of wildlife resources and
78 the uses thereof.

ARTICLE III. PROCEDURES FOR ISSUING STATE.

1 (a) When issuing a citation for a wildlife violation, a
2 wildlife officer shall issue a citation to any person
3 whose primary residence is in a participating state in
4 the same manner as though the person were a resi-
5 dent of the issuing state and shall not require such
6 person to post collateral to secure appearance, subject
7 to the exceptions noted in subsection (b) of article III
8 of this compact, if the officer receives the recognizance
9 of such person that he will comply with the terms of
10 the citation.

11 (b) Personal recognizance is acceptable if not pro-
12 hibited by law in the issuing state or by the compact
13 manual and if the violator provides adequate proof of
14 identification to the wildlife officer.

15 (c) Upon conviction or failure of a person to comply

16 with the terms of a wildlife citation, the appropriate
17 official shall report the conviction or failure to comply
18 to the licensing authority of the participating state in
19 which the wildlife citation was issued. The report shall
20 be made in accordance with procedures specified by
21 the issuing state and shall contain information as
22 specified in the compact manual as minimum require-
23 ments for effective processing by the home state.

24 (d) Upon receipt of the report of conviction or
25 noncompliance pursuant to subsection (c) of article III
26 of this compact, the licensing authority of the issuing
27 state shall transmit to the licensing authority of the
28 home state of the violator the information in form and
29 content as prescribed in the compact manual.

ARTICLE IV. PROCEDURES FOR HOME STATE.

1 (a) Upon receipt of a report from the licensing
2 authority of the issuing state reporting the failure of a
3 violator to comply with the terms of a citation, the
4 licensing authority of the home state shall notify the
5 violator and shall initiate a suspension action in
6 accordance with the home state's suspension proce-
7 dures and shall suspend the violator's license privi-
8 leges until satisfactory evidence of compliance with
9 the terms of the wildlife citation has been furnished
10 by the issuing state to the home state licensing
11 authority. Due process safeguards shall be accorded.

12 (b) Upon receipt of a report of conviction from the
13 licensing authority of the issuing state, the licensing
14 authority of the home state shall enter such conviction
15 in its records and shall treat such conviction as though
16 it occurred in the home state for the purposes of the
17 suspension of license privileges.

18 (c) The licensing authority of the home state shall
19 maintain a record of actions taken and shall make
20 reports to issuing states as provided in the compact
21 manual.

ARTICLE V. RECIPROCAL RECOGNITION OF SUSPENSION.

1 (a) All participating states shall recognize the sus-
2 pension of license privileges of any person by any

3 participating state as though the violation resulting in
4 the suspension had occurred in their state and could
5 have been the basis for suspension of license privileges
6 in their state.

7 (b) Each participating state shall communicate
8 suspension information to other participating states in
9 form and content as contained in the compact manual.

ARTICLE VI. APPLICABILITY OF OTHER LAWS.

1 Except as expressly required by the provisions of
2 this compact, nothing herein shall be construed to
3 affect the right of any participating state to apply any
4 of its laws relating to license privileges to any person
5 or circumstance or to invalidate or prevent any
6 agreement or other cooperative arrangement between
7 a participating state and a nonparticipating state
8 concerning wildlife law enforcement.

ARTICLE VII. BOARD OF COMPACT ADMINISTRATORS.

1 (a) For the purpose of administering the provisions
2 of this compact and to serve as a governing body for
3 the resolution of all matters relating to the operation
4 of this compact, a board of compact administrators is
5 established. The board shall be composed of one
6 representative from each of the participating states to
7 be known as the compact administrator. The compact
8 administrator shall be appointed by the head of the
9 licensing authority of each participating state and shall
10 serve and be subject to removal in accordance with
11 the laws of the state he represents. A compact admin-
12 istrator may provide for the discharge of his duties
13 and the performance of his functions as a board
14 member by an alternate. An alternate shall not be
15 entitled to serve unless written notification of his
16 identity has been given to the board.

17 (b) Each member of the board of compact adminis-
18 trators shall be entitled to one vote. No action of the
19 board shall be binding unless taken at a meeting at
20 which a majority of the total number of the board's
21 votes are cast in favor thereof. Action by the board
22 shall be only at a meeting at which a majority of the
23 participating states are represented.

24 (c) The board shall elect annually from its member-
25 ship a chairman and vice-chairman.

26 (d) The board shall adopt bylaws not inconsistent
27 with the provisions of this compact or the laws of a
28 participating state for the conduct of its business and
29 shall have the power to amend and rescind its bylaws.

30 (e) The board may accept for any of its purposes and
31 functions under this compact any and all donations
32 and grants of moneys, equipment, supplies, materials
33 and services, conditional or otherwise, from any state
34 and may receive, utilize and dispose of same.

35 (f) The board may contract with or accept services of
36 personnel from any governmental or intergovernmen-
37 tal agency, individual, firm or corporation or from any
38 private nonprofit organization or institution.

39 (g) The board shall formulate all necessary proce-
40 dures and develop uniform forms and documents for
41 administering the provisions of this compact. All
42 procedures and forms adopted pursuant to board
43 action shall be contained in the compact manual.

ARTICLE VIII. ENTRY INTO COMPACT AND WITHDRAWAL.

1 (a) This compact shall become effective at such time
2 as it is adopted in a substantially similar form by two
3 or more states.

4 (b) (1) Entry into the compact shall be made by
5 resolution of ratification executed by the authorized
6 officials of the applying state and submitted to the
7 chairman of the board.

8 (2) The resolution shall substantially be in the form
9 and content as provided in the compact manual and
10 shall include the following:

11 (A) A citation of the authority from which the state
12 is empowered to become a party to this compact;

13 (B) An agreement of compliance with the terms and
14 provisions of this compact; and

15 (C) An agreement that compact entry is with all
16 states participating in the compact and with all

17 additional states legally becoming a party to the
18 compact.

19 (3) The effective date of entry shall be specified by
20 the applying state but shall not be less than sixty days
21 after notice has been given by the chairman of the
22 board of compact administrators or by the secretariat
23 of the board of each participating state that the
24 resolution from the applying state has been received.

25 (c) A participating state may withdraw from this
26 compact by official written notice to each member
27 state but withdrawal shall not become effective until
28 ninety days after the notice of withdrawal is given.
29 The notice shall be directed to the compact adminis-
30 trator of each member state. No withdrawal of any
31 state shall affect the validity of this compact as to the
32 remaining participating states.

ARTICLE IX. AMENDMENTS TO THE COMPACT.

1 (a) This compact may be amended from time to
2 time. Each proposed amendment shall be presented in
3 resolution form to the chairman of the board of
4 compact administrators and shall be initiated by one
5 or more participating states.

6 (b) Adoption of an amendment shall require
7 endorsement by all participating states and shall
8 become effective thirty days after the date of the last
9 endorsement.

10 (c) Failure of a participating state to respond to the
11 compact chairman within one hundred twenty days
12 after receipt of a proposed amendment shall constitute
13 endorsement thereof.

ARTICLE X. CONSTRUCTION AND SEVERABILITY.

1 This compact shall be liberally construed so as to
2 effectuate the purposes stated herein. The provisions
3 of this compact shall be severable and if any phrase,
4 clause, sentence or provision of this compact is
5 declared to be contrary to the constitution of any
6 participating state or of the United States, or the
7 applicability thereof to any government, agency,

8 individual or circumstance is held invalid, the validity
9 of the remainder of this compact shall not be affected
10 thereby. If this compact shall be held contrary to the
11 constitution of any participating state, the compact
12 shall remain in full force and effect as to the remain-
13 ing states and in full force and effect as to the
14 participating state affected as to all severable matters.

§20-2C-2. When and how compact becomes operative.

1 When the governor shall have executed said compact
2 on behalf of this state and shall have caused a verified
3 copy thereof to be filed with the secretary of state and
4 when said compact shall have been ratified by one or
5 more other states, then said compact shall become
6 operative and effective between this state and such
7 other state or states. The governor is hereby autho-
8 rized and directed to take such action as may be
9 necessary to complete the exchange of official docu-
10 ments between this state and any other state ratifying
11 said compact.

§20-2C-3. Compensation and expenses of compact administrator.

1 The compact administrator representing this state,
2 as provided for in article VII of the Interstate Wildlife
3 Violator Compact, shall not be entitled to any addi-
4 tional compensation for his duties and responsibilities
5 as said administrator but shall be entitled to reimbur-
6 sement for reasonable expenses actually incurred in
7 connection with his duties and responsibilities as said
8 administrator in the same manner as for expenses
9 incurred in connection with other duties and respon-
10 sibilities of his office or employment.

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

Frederick L. Kees
.....
Chairman Senate Committee

Bonard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell E. Palmer
.....
Clerk of the Senate

Donald L. Kopp
.....
Clerk of the House of Delegates

Walter F. Hunter
.....
President of the Senate

Robert C. Beaman
.....
Speaker House of Delegates

The within *is approved* this the *19th* day of *March*

Walter G. Weston
.....
Governor 1990.

PRESENTED TO THE

GOVERNOR

Date 3/13/90

Time 2:51 pm

RECEIVED

1530 MAR 19 PM 4:49

OFFICE OF THE GOVERNOR
SECRETARY OF STATE

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

3/19/90
THIS DATE