WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994

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ENROLLED

SENATE BILL NO. 334

(By Senator Ditmar, et al)

PASSED March 11, 1994

In Effect 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; and including reptiles, mollusks and crustaceans in the definition of "wildlife".

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 different meaning:

3 "Agency" means any branch, department or unit of the state government, however designated or constituted.

5 "Alien" means any person not a citizen of the United States.
"Bag limit" or "creel limit" means the maximum number of wildlife which may be taken, caught, killed or possessed by any licensee.

"Board" means the water resources board of the department of natural resources.

"Bona fide resident, tenant or lessee" means a person who permanently resides on the land.

"Citizen" means any native born citizen of the United States, and foreign born persons who have procured their final naturalization papers.

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

"Commission" means the natural resources commission.

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

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

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

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

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

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

“Game birds” shall include: (a) The Anatidae, commonly known as swan, geese, brants and river and sea ducks; (b) the Rallidae, commonly known as rails, sora, coots, mudhens and gallinales; (c) the Limicolae, commonly known as shorebirds, plover, snipe, woodcock, sandpipers, yellow legs and curlews; (d) the Galli, commonly known as wild turkey, grouse, pheasants, quails and partridges (both native and foreign species); and (e) the Columbidae, commonly known as doves, and the Icteridae, commonly known as blackbirds, redwings and grackle.

“Game fish” shall include: (a) Brook trout; (b) brown trout; (c) rainbow trout; (d) golden rainbow trout; (e) Kokanee salmon; (f) largemouth bass; (g) smallmouth bass; (h) Kentucky or spotted bass; (i) striped bass; (j) pickerel; (k) muskellunge; (l) walleye pike or pike perch; (m) northern pike; (n) rock bass; (o) white bass; (p) white and black crappie; (q) all sunfish; (r) channel and flathead catfish; and (s) sauger.

“Hunt” means to pursue, chase, catch or take any wild birds or wild animals.

“Lands” means land, waters and all other appurtenances connected therewith.

“Migratory birds” means any migratory game or nongame birds included in the terms of conventions between the United States and Great Britain and between the United States and United Mexican States, known as the “Migratory Bird Treaty Act”, for the protection of migratory birds and game mammals concluded, respectively, the sixteenth day of August, one thousand nine hundred sixteen, and the seventh day of February, one thousand nine hundred thirty-six.

“Nonresident” means any person who is a citizen of the United States and who has not been a domiciled resident of the state of West Virginia for a period of thirty consecutive days immediately prior to the date of his or
her application for a license or permit except any full-time student of any college or university of this state, even though he or she is paying a nonresident tuition.

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

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

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

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

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

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

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

"Unprotected birds" shall include: (a) The English
sparrow; (b) the European starling; (c) the cowbird; and
(d) the crow.

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

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

"Wildlife" means wild birds, wild animals, game and
fur-bearing animals, fish (including minnows), reptiles,
amphibians, mollusks, crustaceans and all forms of
aquatic life used as fish bait, whether dead or alive.

"Wildlife refuge" means any land set aside by action of
the director as an inviolate refuge or sanctuary for the
protection of designated forms of wildlife.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 21st day of _______ 1994.

Governor