

SB 334

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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

SENATE BILL NO. 334

(By Senator Ditmar, et al)



PASSED March 11, 1994

In Effect from **Passage**

E N R O L L E D

Senate Bill No. 334

(BY SENATORS DITTMAR, CHERNENKO AND ANDERSON)

[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
- 2 requires a different meaning:
- 3 "Agency" means any branch, department or unit of the
- 4 state government, however designated or constituted.
- 5 "Alien" means any person not a citizen of the United
- 6 States.

7 "Bag limit" or "creel limit" means the maximum
8 number of wildlife which may be taken, caught, killed or
9 possessed by any licensee.

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

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

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

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

20 "Commission" means the natural resources commis-
21 sion.

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

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

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

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

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

37 "Game animals" shall include: (a) The elk; (b) the deer;
38 (c) the cottontail rabbits and hares; (d) the fox squirrels,
39 commonly called red squirrels, and gray squirrels and all
40 their color phases — red, gray, black or albino; (e) the

41 raccoon; (f) the black bear; and (g) the wild boar.

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

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

61 "Hunt" means to pursue, chase, catch or take any wild
62 birds or wild animals.

63 "Lands" means land, waters and all other appurte-
64 nances connected therewith.

65 "Migratory birds" means any migratory game or
66 nongame birds included in the terms of conventions
67 between the United States and Great Britain and
68 between the United States and United Mexican States,
69 known as the "Migratory Bird Treaty Act", for the
70 protection of migratory birds and game mammals
71 concluded, respectively, the sixteenth day of August, one
72 thousand nine hundred sixteen, and the seventh day of
73 February, one thousand nine hundred thirty-six.

74 "Nonresident" means any person who is a citizen of the
75 United States and who has not been a domiciled resident
76 of the state of West Virginia for a period of thirty
77 consecutive days immediately prior to the date of his or

78 her application for a license or permit except any
79 full-time student of any college or university of this
80 state, even though he or she is paying a nonresident
81 tuition.

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

87 “Person”, except as otherwise defined elsewhere in this
88 chapter, means the plural “persons”, and shall include
89 individuals, partnerships, corporations or other legal
90 entities.

91 “Preserve” means all duly licensed private game
92 farmlands, or private plants, ponds or areas, where
93 hunting or fishing is permitted under special licenses or
94 seasons other than the regular public hunting or fishing
95 seasons.

96 “Protected birds” means all wild birds not included
97 within the definition of “game birds” and “unprotected
98 birds”.

99 “Resident” means any person who is a citizen of the
100 United States and who has been a domiciled resident of
101 the state of West Virginia for a period of thirty consecu-
102 tive days or more immediately prior to the date of his
103 application for a license or permit: *Provided*, That a
104 member of the armed forces of the United States who is
105 stationed beyond the territorial limits of this state, but
106 who was a resident of this state at the time of his entry
107 into such service, and any full-time student of any
108 college or university of this state, even though he or she
109 is paying a nonresident tuition, shall be considered a
110 resident under the provisions of this chapter.

111 “Roadside menagerie” means any place of business,
112 other than commercial game farm, commercial fish
113 preserve, place or pond, where any wild bird, game bird,
114 unprotected bird, game animal or fur-bearing animal is

115 kept in confinement for the attraction and amusement of
116 the people for commercial purposes.

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

121 “Unprotected birds” shall include: (a) The English
122 sparrow; (b) the European starling; (c) the cowbird; and
123 (d) the crow.

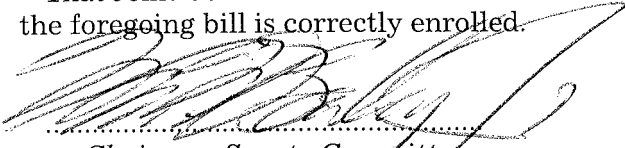
124 “Wild animals” means all mammals native to the state
125 of West Virginia occurring either in a natural state or in
126 captivity, except house mice or rats.

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

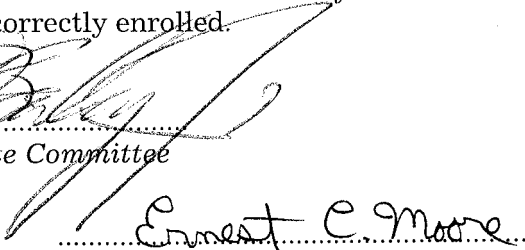
138 “Wildlife” means wild birds, wild animals, game and
139 fur-bearing animals, fish (including minnows), reptiles,
140 amphibians, mollusks, crustaceans and all forms of
141 aquatic life used as fish bait, whether dead or alive.

142 “Wildlife refuge” means any land set aside by action of
143 the director as an inviolate refuge or sanctuary for the
144 protection of designated forms of wildlife.

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



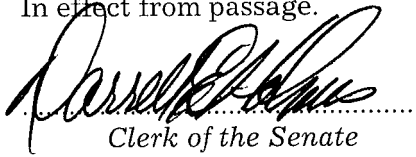
Chairman Senate Committee



Chairman House Committee

Originated in the Senate.

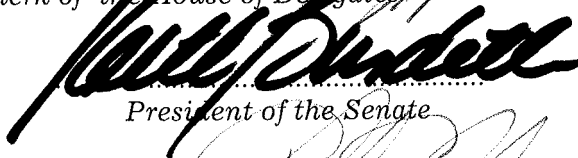
In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates




President of the Senate



Speaker House of Delegates

The within *is approved* this the *25th* day of *March*, 1994.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/94

Time 4:34 pm