

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

RECEIVED
98 APR -8 AM 9:36
OFFICE OF THE CLERK
LEGISLATIVE SECRETARIAT

House Bill No. 4502

(By Delegates Proudfoot, Leggett, Williams,
Willis, Evaris, Stempie and Tillis)



Passed March 14, 1998

In Effect Ninety Days from Passage

RECEIVED

98 APR -0 AM 9:37

OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

ENROLLED

H. B. 4502

(BY DELEGATES PROUDFOOT, LEGGETT, WILLIAMS, WILLIS, EVANS,
STEMPLE AND TILLIS)

[Passed March 14, 1998; in effect ninety days 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; definitions; clarifying that bag limit and creel limit apply to any individual; and providing that game fish includes all game fish hybrids.

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 person.

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

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

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

18 "Commission" means the natural resources
19 commission.

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

22 "Director" means the director of the division of natural
23 resources.

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

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

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

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

39 "Game birds" include: (a) The Anatidae, commonly
40 known as swan, geese, brants and river and sea ducks; (b)
41 the Rallidae, commonly known as rails, sora, coots,
42 mudhens and gallinales; (c) the Limicolae, commonly
43 known as shorebirds, plover, snipe, woodcock, sandpipers,
44 yellow legs and curlews; (d) the Galli, commonly known
45 as wild turkey, grouse, pheasants, quails and partridges

46 (both native and foreign species); and (e) the Columbidae,
47 commonly known as doves, and the Icteridae, commonly
48 known as blackbirds, redwings and grackle.

49 "Game fish" include: (a) Brook trout; (b) brown trout;
50 (c) rainbow trout; (d) golden rainbow trout; (e)
51 largemouth bass; (f) smallmouth bass; (g) spotted bass; (h)
52 striped bass; (i) chain pickerel; (j) muskellunge; (k)
53 walleye (l) northern pike; (m) rock bass; (n) white bass; (o)
54 white crappie; (p) black crappie (q) all sunfish species; (r)
55 channel catfish; (s) flathead catfish; (t) sauger; and (u) all
56 game fish hybrids.

57 "Hunt" means to pursue, chase, catch or take any wild
58 birds or wild animals.

59 "Lands" means land, waters and all other
60 appurtenances connected therewith.

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

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

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

82 "Person" except as otherwise defined elsewhere in this
83 chapter, means the plural "persons" and shall include

84 individuals, partnerships, corporations or other legal
85 entities.

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

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

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

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

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

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

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

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

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

134 "Wildlife refuge" means any land set aside by action of
135 the director as an inviolate refuge or sanctuary for the
136 protection of designated forms of wildlife.

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

Wes Johnson
Chairman Senate Committee

Mike Santaricci
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Russell Adams
Clerk of the Senate

Bryan H. Gray
Clerk of the House of Delegates

Carl Ray Tomblin
President of the Senate

Peri
Speaker of the House of Delegates

The within *approved* this the *7th*
day of *April*, 1998.

Paul D. Anderson
Governor

PRESENTED TO THE

GOVERNOR

Date 4/6/98

Time 12:00 pm