WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1998

ENROLLED

House Bill No. 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 requires a different meaning:

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

3 "Alien" means any person not a citizen of the United States.

4 "Bag limit" or "creel limit" means the maximum number of wildlife which may be taken, caught, killed or possessed by any person.
"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 division 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" 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" 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" 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" include: (a) Brook trout; (b) brown trout; (c) rainbow trout; (d) golden rainbow trout; (e) largemouth bass; (f) smallmouth bass; (g) spotted bass; (h) striped bass; (i) chain pickerel; (j) muskellunge; (k) walleye (l) northern pike; (m) rock bass; (n) white bass; (o) white crappie; (p) black crappie (q) all sunfish species; (r) channel catfish; (s) flathead catfish; (t) sauger; and (u) all game fish hybrids.

"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 or her
application for 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 or her 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

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

Governor