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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session 1 2001

ENROLLED

Committee Substitute for Committee Substitute for
SENATE BILL NO. 40

(By Senator Love, et al)

PASSED April 12, 2001

In Effect 90 days from Passage

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COMMITTEE SUBSTITUTE

FOR

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FOR

Senate Bill No. 40

(SENATORS LOVE, HUNTER, MITCHELL
AND BURNETTE, *original sponsors*)

[Passed April 12, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-two-a, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to making it illegal to possess, sell or buy bear parts under certain circumstances; and increasing fines and penalties for unlawfully hunting or killing bear.

Be it enacted by the Legislature of West Virginia:

That section twenty-two-a, article two, 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 2. WILDLIFE RESOURCES.

§20-2-22a. Hunting, tagging and reporting bear; procedures applicable to property destruction by bear; penalties.

1 (a) No person in any county of this state shall hunt,
2 capture, or kill any bear, or have in his or her possession
3 any bear or bear parts, except during the hunting season
4 for bear and in the manner designated by rules promul-
5 gated by the division of natural resources and as provided
6 for in this section. For the purposes of this section, bear
7 parts include, but are not limited to, the pelt, gall bladder,
8 skull and claws of bear.

9 (b) A person who kills a bear shall, within twenty-four
10 hours after the killing, deliver the bear or fresh skin to a
11 conservation officer or checking station for tagging. A
12 division of natural resources tag shall be affixed to it
13 before any part of the bear may be transported more than
14 seventy-five miles from the point of kill. The division of
15 natural resources tag shall remain on the skin until it is
16 tanned or mounted. Any bear or bear parts not properly
17 tagged shall be forfeited to the state for disposal to a
18 charitable institution, school or as otherwise designated by
19 the division of natural resources.

20 (c) It is unlawful:

21 (1) To hunt bear without a bear damage stamp as
22 prescribed in section forty-four-b of this article, in addi-
23 tion to a hunting license as prescribed in this article;

24 (2) To hunt a bear with: (A) A shotgun using ammuni-
25 tion loaded with more than one solid ball; (B) a rifle of less
26 than twenty-five caliber using rimfire ammunition; or (C)
27 a crossbow;

28 (3) To kill or attempt to kill any bear through the use of
29 poison, explosives, snares, steel traps or deadfalls other
30 than as authorized in this section;

31 (4) To shoot at or kill a bear cub weighing less than one
32 hundred pounds or to kill any bear accompanied by a cub;

33 (5) To possess any part of a bear not tagged in accor-
34 dance with the provisions of this section;

35 (6) To enter a state game refuge with firearms for the
36 purpose of pursuing or killing a bear except under the
37 direct supervision of division personnel;

38 (7) To hunt bear with dogs or to cause dogs to chase bear
39 during seasons other than those designated by the division
40 of natural resources for the hunting of bear;

41 (8) To pursue a bear with a pack of dogs other than the
42 pack used at the beginning of the hunt once the bear is
43 spotted and the chase has begun;

44 (9) To possess, harvest, sell or purchase bear parts
45 obtained from bear killed in violation of this section;

46 (10) To organize for commercial purposes or to profes-
47 sionally outfit a bear hunt or to give or receive any consid-
48 eration whatsoever or any donation in money, goods or
49 services in connection with a bear hunt notwithstanding
50 the provisions of sections twenty-three and twenty-four of
51 this article; or

52 (11) For any person who is not a resident of this state to
53 hunt bear with dogs or to use dogs in any fashion for the
54 purpose of hunting bear in this state except in legally
55 authorized hunts.

56 (d) The following provisions apply to bear destroying
57 property:

58 (1)(A) Any property owner or lessee who has suffered
59 damage to real or personal property, including loss
60 occasioned by the death or injury of livestock or the
61 unborn issue of livestock, caused by an act of a bear may
62 complain to any conservation officer of the division of
63 natural resources for protection against the bear.

64 (B) Upon receipt of the complaint, the officer shall
65 immediately investigate the circumstances of the com-
66 plaint. If the officer is unable to personally investigate the
67 complaint, he or she shall designate a wildlife biologist to
68 investigate on his or her behalf.

69 (C) If the complaint is found to be justified, the officer
70 or designated person may, together with the owner and
71 other residents, proceed to hunt, destroy or capture the
72 bear that caused the property damage: *Provided*, That
73 only the conservation officer or the wildlife biologist shall
74 determine whether to destroy or capture the bear and
75 whether to use dogs to capture or destroy the bear:
76 *Provided, however*, That, in the event out-of-state dogs are
77 used in the hunt, the owners of the dogs are the only
78 nonresidents permitted to participate in hunting the bear.

79 (2)(A) When a property owner has suffered damage to
80 real or personal property as the result of an act by a bear,
81 the owner shall file a report with the director of the
82 division of natural resources. The report shall state
83 whether or not the bear was hunted and destroyed and, if
84 so, the sex, weight and estimated age of the bear. The
85 report shall also include an appraisal of the property
86 damage occasioned by the bear duly signed by three
87 competent appraisers fixing the value of the property lost.

88 (B) The report shall be ruled upon and the alleged
89 damages examined by a commission comprised of the
90 complaining property owner, an officer of the division and
91 a person to be jointly selected by the officer and the
92 complaining property owner.

93 (C) The division shall establish the procedures to be
94 followed in presenting and deciding claims under this
95 section in accordance with article three, chapter twenty-
96 nine-a of this code.

97 (D) All claims shall be paid in the first instance from the
98 bear damage fund provided for in section forty-four-b of

99 this article. In the event the fund is insufficient to pay all
100 claims determined by the commission to be just and
101 proper, the remainder due to owners of lost or destroyed
102 property shall be paid from the special revenue account of
103 the division of natural resources.

104 (3) In all cases where the act of the bear complained of
105 by the property owner is the killing of livestock, the value
106 to be established is the fair market value of the livestock
107 at the date of death. In cases where the livestock killed is
108 pregnant, the total value shall be the sum of the values of
109 the mother and the unborn issue, with the value of the
110 unborn issue to be determined on the basis of the fair
111 market value of the issue had it been born. In no event
112 shall the fair market value of the livestock exceed twice
113 the assessed value of the livestock for personal property
114 taxes.

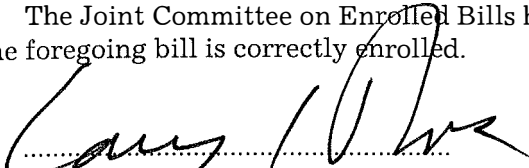
115 (e) *Criminal penalties.* – (1) Any person who commits a
116 violation of the provisions of this section is guilty of a
117 misdemeanor and, upon conviction thereof, shall be fined
118 not less than one thousand dollars nor more than five
119 thousand dollars, which fine is not subject to suspension
120 by the court, imprisoned in a county or regional jail not
121 less than thirty nor more than one hundred days, or both
122 fined and imprisoned. Further, the person's hunting and
123 fishing licenses shall be suspended for two years.

124 (2) Any person who commits a second violation of the
125 provisions of this section is guilty of a misdemeanor and,
126 upon conviction thereof, shall be fined not less than two
127 thousand dollars nor more than seven thousand five
128 hundred dollars, which fine is not subject to suspension by
129 the court, imprisoned in a county or regional jail not less
130 than thirty days nor more than one year, or both fined and
131 imprisoned. The person's hunting and fishing licenses shall
132 be suspended for life.

133 (3) Any person who commits a third or subsequent
134 violation of the provisions of this section is guilty of a

135 felony and, upon conviction thereof, shall be fined not less
136 than five thousand dollars nor more than ten thousand
137 dollars, which fine is not subject to suspension by the
138 court, imprisoned in a correctional facility not less than
139 one year nor more than five years, or both fined and
140 imprisoned.

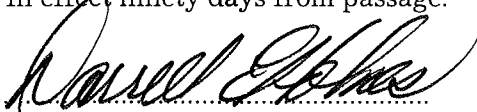
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

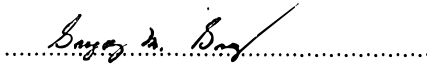

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Chairman Senate Committee



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Chairman House Committee

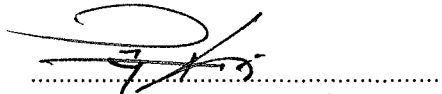
Originated in the Senate.

In effect ninety days from passage.

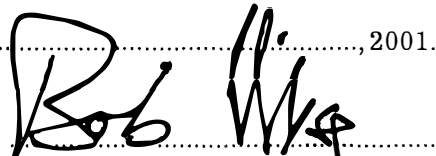

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within 15 Approved this the 2nd
Day of May....., 2001.


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Governor

PRESENTED TO THE
GOVERNOR

Date 4/24/01

Time 11:05 am