WEST VIRGINIA LEGISLATURE

Regular Session 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

FILED

2001 MAY 2 P 11:31

OFFICE WEST VIRGINIA
SECRETARY OF STATE
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.

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

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

(c) It is unlawful:

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

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

(3) To kill or attempt to kill any bear through the use of poison, explosives, snares, steel traps or deadfalls other than as authorized in this section;
(4) To shoot at or kill a bear cub weighing less than one hundred pounds or to kill any bear accompanied by a cub;

(5) To possess any part of a bear not tagged in accordance with the provisions of this section;

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

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

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

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

(10) To organize for commercial purposes or to professionally outfit a bear hunt or to give or receive any consideration whatsoever or any donation in money, goods or services in connection with a bear hunt notwithstanding the provisions of sections twenty-three and twenty-four of this article; or

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

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

(A) Any property owner or lessee who has suffered damage to real or personal property, including loss occasioned by the death or injury of livestock or the unborn issue of livestock, caused by an act of a bear may complain to any conservation officer of the division of natural resources for protection against the bear.
(B) Upon receipt of the complaint, the officer shall immediately investigate the circumstances of the complaint. If the officer is unable to personally investigate the complaint, he or she shall designate a wildlife biologist to investigate on his or her behalf.

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

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

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

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

(D) All claims shall be paid in the first instance from the bear damage fund provided for in section forty-four-b of
this article. In the event the fund is insufficient to pay all
claims determined by the commission to be just and
proper, the remainder due to owners of lost or destroyed
property shall be paid from the special revenue account of
the division of natural resources.

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

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

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

(3) Any person who commits a third or subsequent
violation of the provisions of this section is guilty of a
felony and, upon conviction thereof, shall be fined not less than five thousand dollars nor more than ten thousand dollars, which fine is not subject to suspension by the court, imprisoned in a correctional facility not less than one year nor more than five years, or both fined and imprisoned.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Originated in the Senate.

In effect ninety days 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 2nd Day of May, 2001.

Governor
PRESENTED TO THE
GOVERNOR
Date 12/06/1
Time 11:05 AM