

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 3051

(By Mr. Speaker, Mr. Kiss, and Delegates Varner,
Stemple, Beach, Michael, Tabb and Pino)



Passed April 9, 2005

In Effect Ninety Days from Passage

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H. B. 3051

(BY MR. SPEAKER, MR. KISS, AND DELEGATES VARNER,
STEMPLE, BEACH, MICHAEL, TABB AND PINO)

[Passed April 9, 2005; in effect ninety days from passage]

AN ACT to amend and reenact §20-1-2 of the Code of West Virginia, 1931, as amended, relating to adding and modifying definitions of certain terms relative to natural resources.

Be it enacted by the Legislature of West Virginia:

That §20-1-2 of the Code of West Virginia, 1931, 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
- 2 a different meaning:

3 “Agency” means any branch, department or unit of the state
4 government, however designated or constituted.

5 “Alien” means any person not a citizen of the United States.

6 “Bag limit” or “creel limit” means the maximum number of
7 wildlife which may be taken, caught, killed or possessed by any
8 person.

9 “Big game” means elk, deer, black bears, wild boars and
10 wild turkeys.

11 “Bona fide resident, tenant or lessee” means a person who
12 permanently resides on the land.

13 “Citizen” means any native born citizen of the United
14 States and foreign born persons who have procured their final
15 naturalization papers.

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

19 “Commission” means the Natural Resources Commission.

20 “Commissioner” means a member of the advisory commis-
21 sion 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, of
25 fish, minnows, frogs or other amphibians, aquatic turtles and
26 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; (f) the
29 skunk and civet cat, commonly called polecat; (g) the otter; (h)

30 the red fox; (i) the gray fox; (j) the wildcat, bobcat or bay lynx;
31 (k) the raccoon; and (l) the fisher.

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

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

39 “Game birds” include: (a) The anatidae, commonly known
40 as swan, geese, brants and river and sea ducks; (b) the rallidae,
41 commonly known as rails, sora, coots, mudhens and gallinule;
42 (c) the limicolae, commonly known as shorebirds, plover, snipe,
43 woodcock, sandpipers, yellow legs and curlews; (d) the
44 galliformes, commonly known as wild turkey, grouse, pheas-
45 ants, quails and partridges (both native and foreign species); (e)
46 the columbidae, commonly known as doves; (f) the icteridae,
47 commonly known as blackbirds, redwings and grackle; and (g)
48 the corvidae, commonly known as crows.

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

56 “Hunt” means to pursue, chase, catch or take any wild birds
57 or wild animals: *Provided*, That the definition of “hunt” does
58 not include an officially sanctioned and properly licensed field
59 trial, water race or wild hunt as long as that field trial is not a
60 shoot-to-retrieve field trial.

61 “Lands” means land, waters and all other appurtenances
62 connected therewith.

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

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

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

82 “Person,” except as otherwise defined elsewhere in this
83 chapter, means the plural “persons” and shall include individu-
84 als, partnerships, corporations or other legal entities.

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

89 “Protected birds” means all wild birds not included within
90 the definition of “game birds” and “unprotected birds”.

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

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

108 “Small game” includes all game animals, furbearing
109 animals and game birds except, elk, deer, black bears, wild
110 boars and wild turkeys.

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: *Provided*,
114 That the definition of “take” does not include an officially
115 sanctioned and properly licensed field trial, water race or wild
116 hunt as long as that field trial is not a shoot-to-retrieve field
117 trial.

118 “Unprotected birds” shall include: (a) The English sparrow;
119 (b) the European starling; and (c) the cowbird.

120 “Wild animals” means all mammals native to the State of
121 West Virginia occurring either in a natural state or in captivity,
122 except house mice or rats.

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

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

137 “Wildlife refuge” means any land set aside by action of the
138 Director as an inviolate refuge or sanctuary for the protection
139 of designated forms of wildlife.

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

Thomas White

Chairman Senate Committee

D. Rich Berry
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Darrel E. Salmer

Clerk of the Senate

Bryce M. Boy

Clerk of the House of Delegates

Carl Roy Tomblin

President of the Senate

[Signature]

Speaker of the House of Delegates

The within is approved this the 3rd
day of May, 2005.

[Signature]
Governor

PRESENTED TO THE
GOVERNOR

MAY 2 2005

Time 10:05 a.m.