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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

Senate Bill No. 389

(BY SENATORS FANNING, BOWMAN AND BARNES)

[Passed March 5, 2007; in effect ninety days from passage.] .

SB 389 S

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AN ACT to amend and reenact §20-1-2 of the Code of West Virginia, 1931, as amended, relating to including blue catfish in the definition of game fish.

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
2 requires a different meaning:

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

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

8 "Bag limit" or "creel limit" means the maximum
9 number of wildlife which may be taken, caught, killed
10 or possessed by any person.

11 "Big game" means elk, deer, black bears, wild boars
12 and wild turkeys.

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

15 "Citizen" means any native-born citizen of the United
16 States and foreign-born persons who have procured
17 their final naturalization papers.

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

21 "Commission" means the Natural Resources
22 Commission.

23 "Commissioner" means a member of the advisory
24 commission of the Natural Resources Commission.

25 "Director" means the Director of the Division of

26 Natural Resources.

27 "Fishing" or "to fish" means the taking, by any
28 means, of fish, minnows, frogs or other amphibians,
29 aquatic turtles and other forms of aquatic life used as
30 fish bait.

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

36 "Game" means game animals, game birds and game
37 fish as herein defined.

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

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

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

63 "Hunt" means to pursue, chase, catch or take any wild
64 birds or wild animals: *Provided*, That the definition of
65 "hunt" does not include an officially sanctioned and
66 properly licensed field trial, water race or wild hunt as
67 long as that field trial is not a shoot-to-retrieve field
68 trial.

69 "Lands" means land, waters and all other
70 appurtenances connected therewith.

71 "Migratory birds" means any migratory game or
72 nongame birds included in the terms of conventions
73 between the United States and Great Britain and
74 between the United States and United Mexican States,
75 known as the Migratory Bird Treaty Act, for the
76 protection of migratory birds and game mammals
77 concluded, respectively, the sixteenth day of August,
78 one thousand nine hundred sixteen, and the seventh day
79 of February, one thousand nine hundred thirty-six.

80 "Nonresident" means any person who is a citizen of
81 the United States and who has not been a domiciled
82 resident of the State of West Virginia for a period of
83 thirty consecutive days immediately prior to the date of
84 his or her application for a license or permit except any
85 full-time student of any college or university of this

86 state, even though he or she is paying a nonresident
87 tuition.

88 "Open season" means the time during which the
89 various species of wildlife may be legally caught, taken,
90 killed or chased in a specified manner and shall include
91 both the first and the last day of the season or period
92 designated by the director.

93 "Person", except as otherwise defined elsewhere in
94 this chapter, means the plural "persons" and shall
95 include individuals, partnerships, corporations or other
96 legal entities.

97 "Preserve" means all duly licensed private game
98 farmlands, or private plants, ponds or areas, where
99 hunting or fishing is permitted under special licenses or
100 seasons other than the regular public hunting or fishing
101 seasons.

102 "Protected birds" means all wild birds not included
103 within the definition of "game birds" and "unprotected
104 birds".

105 "Resident" means any person who is a citizen of the
106 United States and who has been a domiciled resident of
107 the State of West Virginia for a period of thirty
108 consecutive days or more immediately prior to the date
109 of his or her application for license or permit: *Provided*,
110 That a member of the armed forces of the United States
111 who is stationed beyond the territorial limits of this
112 state, but who was a resident of this state at the time of
113 his or her entry into such service and any full-time
114 student of any college or university of this state, even
115 though he or she is paying a nonresident tuition, shall

116 be considered a resident under the provisions of this
117 chapter.

118 "Roadside menagerie" means any place of business,
119 other than a commercial game farm, commercial fish
120 preserve, place or pond, where any wild bird, game bird,
121 unprotected bird, game animal or fur-bearing animal is
122 kept in confinement for the attraction and amusement
123 of the people for commercial purposes.

124 "Small game" includes all game animals, furbearing
125 animals and game birds except elk, deer, black bears,
126 wild boars and wild turkeys.

127 "Take" means to hunt, shoot, pursue, lure, kill,
128 destroy, catch, capture, keep in captivity, gig, spear,
129 trap, ensnare, wound or injure any wildlife, or attempt
130 to do so: *Provided*, That the definition of "take" does
131 not include an officially sanctioned and properly
132 licensed field trial, water race or wild hunt as long as
133 that field trial is not a shoot-to-retrieve field trial.

134 "Unprotected birds" shall include: (a) The English
135 sparrow; (b) the European starling; and (c) the cowbird.

136 "Wild animals" means all mammals native to the
137 State of West Virginia occurring either in a natural
138 state or in captivity, except house mice or rats.

139 "Wild birds" shall include all birds other than: (a)
140 Domestic poultry - chickens, ducks, geese, guinea fowl,
141 peafowls and turkeys; (b) psittacidae, commonly called
142 parrots and parakeets; and (c) other foreign cage birds
143 such as the common canary, exotic finches and ring
144 dove. All wild birds, either: (i) Those occurring in a

145 natural state in West Virginia; or (ii) those imported
146 foreign game birds, such as waterfowl, pheasants,
147 partridges, quail and grouse, regardless of how long
148 raised or held in captivity, shall remain wild birds
149 under the meaning of this chapter.

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

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

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this
the *27th* Day of *March*, 2007.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 20 2007

Time 5:30p