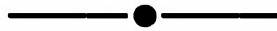


FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2009



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 3063**

(By Delegates Talbott, Argento and Shaver)



Passed April 11, 2009

In Effect Ninety Days from Passage

HB 3063

**FILED**

**ENROLLED**  
2009 MAY -6 PM 1:29

COMMITTEE SUBSTITUTE  
FOR OFFICE WEST VIRGINIA  
SECRETARY OF STATE

## H. B. 3063

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(BY DELEGATES TALBOTT, ARGENTO AND SHAVER)

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[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating to hunting, tagging and reporting bear; changing and clarifying lawful weight limits; clarifying that it is unlawful to shoot at or kill any bear while it is accompanied by a cub; making it unlawful to shoot at or kill a cub regardless of its weight, if it is accompanied by another bear; and penalties.

*Be it enacted by the Legislature of West Virginia:*

That §20-2-22a of the Code of West Virginia, 1931, 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) A person in any county of this state may not hunt,  
2 capture, or kill any bear, or have in his or her possession any  
3 bear or bear parts, except during the hunting season for bear  
4 and in the manner designated by rules promulgated by the  
5 Division of Natural Resources and as provided in this section.  
6 For the purposes of this section, bear parts include, but are  
7 not limited to, the pelt, gallbladder, skull and claws of bear.

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

19 (c) It is unlawful:

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

23 (2) To hunt a bear with:

24 (A) A shotgun using ammunition loaded with more than  
25 one solid ball;

26 (B) a rifle of less than twenty-five caliber using rimfire  
27 ammunition; or,

28 (C) a crossbow;

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

32 (4) To shoot at or kill:

33 (A) A bear weighing less than seventy-five pounds live  
34 weight or fifty pounds field dressed weight, after removal of  
35 all internal organs;

36 (B) Any bear accompanied by a cub; or,

37 (C) Any bear cub so accompanied, regardless of its  
38 weight;

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

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

44 (7) To hunt bear with dogs or to cause dogs to chase bear  
45 during seasons other than those designated by the Division of  
46 Natural Resources for the hunting of bear;

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

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

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

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

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

64 (1) (A) Any property owner or lessee who has suffered  
65 damage to real or personal property, including loss  
66 occasioned by the death or injury of livestock or the unborn  
67 issue of livestock, caused by an act of a bear may complain  
68 to any conservation officer of the Division of Natural  
69 Resources for protection against the bear.

70 (B) Upon receipt of the complaint, the officer shall  
71 immediately investigate the circumstances of the complaint.  
72 If the officer is unable to personally investigate the  
73 complaint, he or she shall designate a wildlife biologist to  
74 investigate on his or her behalf.

75 (C) If the complaint is found to be justified, the officer or  
76 designated person may, together with the owner and other  
77 residents, proceed to hunt, destroy or capture the bear that  
78 caused the property damage: *Provided*, That only the  
79 conservation officer or the wildlife biologist shall determine

80 whether to destroy or capture the bear and whether to use  
81 dogs to capture or destroy the bear: *Provided, however*, That,  
82 if out-of-state dogs are used in the hunt, the owners of the  
83 dogs are the only nonresidents permitted to participate in  
84 hunting the bear.

85 (2) (A) When a property owner has suffered damage to  
86 real or personal property as the result of an act by a bear, the  
87 owner shall file a report with the Director of the Division of  
88 Natural Resources. The report shall state whether or not the  
89 bear was hunted and destroyed and, if so, the sex, weight and  
90 estimated age of the bear. The report shall also include an  
91 appraisal of the property damage occasioned by the bear duly  
92 signed by three competent appraisers fixing the value of the  
93 property lost.

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

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

103 (D) All claims shall be paid in the first instance from the  
104 Bear Damage Fund provided in section forty-four-b of this  
105 article. In the event the fund is insufficient to pay all claims  
106 determined by the commission to be just and proper, the  
107 remainder due to owners of lost or destroyed property shall  
108 be paid from the special revenue account of the Division of  
109 Natural Resources.


110 (3) In all cases where the act of the bear complained of by  
111 the property owner is the killing of livestock, the value to be  
112 established is the fair market value of the livestock at the date  
113 of death. In cases where the livestock killed is pregnant, the  
114 total value shall be the sum of the values of the mother and  
115 the unborn issue, with the value of the unborn issue to be  
116 determined on the basis of the fair market value of the issue  
117 had it been born.

118 (e) *Criminal penalties.* — (1) Any person who commits  
119 a violation of the provisions of this section is guilty of a  
120 misdemeanor and, upon conviction thereof, shall be fined not  
121 less than \$1,000 nor more than \$5,000, which fine is not  
122 subject to suspension by the court, confined in jail not less  
123 than thirty nor more than one hundred days, or both fined and  
124 confined. Further, the person's hunting and fishing licenses  
125 shall be suspended for two years.

126 (2) Any person who commits a second violation of the  
127 provisions of this section is guilty of a misdemeanor and,  
128 upon conviction thereof, shall be fined not less than \$2,000  
129 nor more than \$7,500, which fine is not subject to suspension  
130 by the court, confined in jail not less than thirty days nor  
131 more than one year, or both fined and confined. The person's  
132 hunting and fishing licenses shall 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 felony  
135 and, upon conviction thereof, shall be fined not less than  
136 \$5,000 nor more than \$10,000, which fine is not subject to  
137 suspension by the court, imprisoned in a correctional facility  
138 not less than one year nor more than five years, or both fined  
139 and imprisoned.

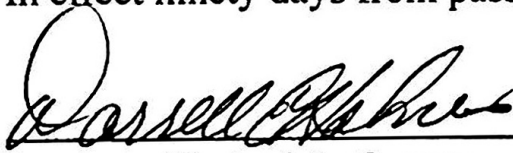
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
\_\_\_\_\_  
Chairman Senate Committee

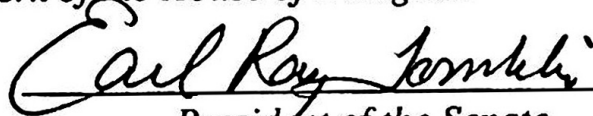
  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In 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 is approved this the 6<sup>th</sup>  
day of May, 2009.

  
\_\_\_\_\_  
Governor



PRESENTED TO THE  
GOVERNOR

MAY 4 2009

Time 10:05 AM