

H. B. 2783

(By Delegate Sponaugle (By Request))

[Introduced February 17, 2015; referred to the

Committee on Agriculture and Natural Resources then the Judiciary.]

A BILL to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating to procedures available to persons to address bears causing property damage or destruction.

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 damage or destruction by bear; penalties.

(a) A person in any county of this state may not 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 in this section. For the purposes of this section, bear parts include, but are not limited to, the pelt, gallbladder, skull and claws of bear.

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

8 (c) It is unlawful:

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

11 (2) To hunt a bear with:

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

13 (B) A rifle of less than twenty-five caliber using rimfire ammunition; or

14 (C) A crossbow;

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

17 (4) To shoot at or kill:

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

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

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

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

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

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

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

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

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

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

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

16 (1) (A) Any property owner or lessee who has suffered damage to real or personal property,
17 including loss occasioned by the death or injury of livestock or the unborn issue of livestock, caused
18 by an act of a bear may complain to any natural resources police officer of the Division of Natural
19 Resources for protection against the bear.

20 (B) Upon receipt of the complaint, the officer shall immediately investigate the circumstances
21 of the complaint. If the officer is unable to personally investigate the complaint, he or she shall
22 designate a wildlife biologist to investigate on his or her behalf.

1 (C) If the complaint is found to be justified, the officer or designated person may ~~together~~
2 ~~with~~ issue a permit to kill the bear that caused the property damage or, may authorize the owner and
3 other residents, proceed to hunt, destroy or capture the bear that caused the property damage:
4 *Provided*, That only the natural resources police officer or the wildlife biologist may ~~determine~~
5 ~~whether to destroy or capture the bear and whether to use dogs to capture or destroy the bear~~
6 recommend other measures to end or minimize property damage: *Provided, however*, That, if
7 out-of-state dogs are used in the hunt, the owners of the dogs are the only nonresidents permitted to
8 participate in hunting the bear.

9 (2) (A) When a property owner has suffered damage to real or personal property as the result
10 of an act by a bear, the owner shall file a report with the Director of the Division of Natural
11 Resources. ~~The report~~ A bear damage report shall be completed by a representative of the Division
12 of Natural Resources which shall state whether or not the bear was hunted and destroyed or killed
13 under authorization of a depredation permit and, if so, the sex and weight shall be recorded and
14 ~~estimated age of a premolar tooth collected from~~ the bear all of which shall be submitted with the
15 report. The report shall also include an appraisal of the property damage occasioned by the bear ~~and~~
16 ~~signed by three competent appraisers~~ fixing the value of the property lost. Bear damage claims may
17 not be accepted for personal and real property which is commonly used for the purposes of feeding,
18 baiting, observing or hunting wildlife, including, but not limited to, hunting blinds, tree stands,
19 artificial feeders, game or trail cameras and crops planted for the purposes of feeding or baiting
20 wildlife. In addition, if a bear damages property which is covered under any insurance policy of the
21 property owner, the claim may not exceed the amount of the deductible for the applicable policy.

22 (B) The report shall be ruled upon and the alleged damages examined by a commission

1 comprised of the complaining property owner, an officer of the division and a person to be jointly
2 selected by the officer and the complaining property owner.

3 (C) The division shall establish the procedures to be followed in presenting and deciding
4 claims issuing bear depredation permits and organizing bear hunts under this section in accordance
5 with article three, chapter twenty-nine-a of this code.

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

10 (3) In all cases where the act of the bear complained of by the property owner is the killing
11 of livestock, the value to be established is the fair market value of the livestock at the date of death.
12 In cases where the livestock killed is pregnant, the total value is the sum of the values of the mother
13 and the unborn issue, with the value of the unborn issue to be determined on the basis of the fair
14 market value of the issue had it been born.

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

20 (2) Any person who commits a second violation of the provisions of this section is guilty of
21 a misdemeanor and, upon conviction thereof, shall be fined not less than \$2,000 nor more than
22 \$7,500, which fine is not subject to suspension by the court, confined in jail not less than thirty days

1 nor more than one year, or both fined and confined. The person's hunting and fishing licenses shall
2 be suspended for life.

3 (3) Any person who commits a third or subsequent violation of the provisions of this section
4 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than
5 \$10,000, which fine is not subject to suspension by the court, imprisoned in a correctional facility
6 not less than one year nor more than five years, or both fined and imprisoned.

NOTE: The purpose of this bill is to modify procedures available to persons to address bears causing property damage or destruction.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.