

E N R O L L E D

COMMITTEE SUBSTITUTE

for

H. B. 2515

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[Passed March 14, 2015;
in effect ninety days from passage.]

AN ACT to amend and reenact §20-2-4, §20-2-5, §20-2-5a, §20-2-5g, §20-2-22a and §20-2-42w of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §20-2-5h, all relating to wildlife; disallowing elk to be possessed if struck by motor vehicle; requiring persons required to deliver wildlife to official checking station to electronically register wildlife; increasing fine for illegal taking of elk; prohibiting hunting wildlife with night vision technology, drone or

other unmanned aircraft; clarifying when a person may carry certain firearms; permitting a person to carry firearm for self defense while in the woods; clarifying when a shotgun or rifle is unloaded; permitting hunting with crossbows during certain seasons and with certain limitations; establishing elk management area in Southern West Virginia; establishing elk damage fund; providing for criminal penalties for the illegal taking of elk; clarifying bear laws and Class Y permits; authorizing director to propose legislative rules; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

That §20-2-4, §20-2-5, §20-2-5a, §20-2-5g, §20-2-22a and §20-2-42w of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §20-2-5h, all to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-4. Possession of wildlife.

1 (a) Except for wildlife, lawfully taken, killed or obtained, no
2 person may have in his or her possession any wildlife, or parts
3 thereof, during closed seasons. It is unlawful to possess any
4 wildlife, or parts thereof, which have been illegally taken, killed
5 or obtained. Any wildlife illegally taken, killed or possessed
6 shall be forfeited to the state and shall be counted toward the
7 daily, seasonal, bag, creel and possession limit of the person in
8 possession of, or responsible for, the illegal taking or killing of
9 any wildlife.

10 (b) Wildlife lawfully taken outside of this state is subject to
11 the same laws and rules as wildlife taken within this state.

12 (c) Migratory wild birds may be possessed only in
13 accordance with the Migratory Bird Treaty Act, 16 U. S. C.
14 §703, *et seq.*, and its regulations.

15 (d) The restrictions in this section do not apply to the
16 director or duly authorized agents, who may take or maintain in
17 captivity any wildlife for the purpose of carrying out the
18 provisions of this chapter.

19 (e) Wildlife, except protected birds, elk, spotted fawn, and
20 bear cubs, killed or mortally wounded as a result of being
21 accidentally or inadvertently struck by a motor vehicle may be
22 lawfully possessed if the possessor of the wildlife provides
23 notice of the claim within twelve hours to a relevant
24 law-enforcement agency, and obtains a nonhunting game tag
25 within twenty-four hours of possession. The director shall
26 propose administrative policy which addresses the means,
27 methods and administrative procedures for implementing the
28 provisions of this section.

29 (f) Persons required to deliver wildlife to an official
30 checking station shall, in accordance with rules promulgated by
31 the director, electronically register the wildlife in lieu of the
32 delivery to an official checking station. "Electronically register"
33 means submission of all necessary and relevant information to
34 the division, in the manner designated by rule, in lieu of delivery
35 of the wildlife to an official checking station. The director may
36 promulgate rules, pursuant to article three, chapter twenty-nine-a
37 of this code, governing the electronic registration of wildlife.

**§20-2-5. Unlawful methods of hunting and fishing and other
unlawful acts.**

1 Except as authorized by the director or by law, it is unlawful
2 at any time for any person to:

3 (1) Shoot at any wild bird or wild animal unless it is plainly
4 visible;

5 (2) Dig out, cut out, smoke out, or in any manner take or
6 attempt to take any live wild animal or wild bird out of its den or
7 place of refuge;

8 (3) Use or attempt to use any artificial light or any night
9 vision technology, including image intensification, thermal
10 imaging or active illumination while hunting, locating,
11 attracting, taking, trapping or killing any wild bird or wild
12 animal: *Provided*, That it is lawful to hunt or take coyote, fox,
13 raccoon, opossum or skunk by the use of artificial light or night
14 vision technology.

15 Any person violating this subdivision is guilty of a
16 misdemeanor and, upon conviction thereof, shall for each
17 offense be fined not less than \$100 nor more than \$500, and shall
18 be confined in jail for not less than ten days nor more than one
19 hundred days;

20 (4) Hunt, take, kill, wound or shoot at wild animals or wild
21 birds from an airplane or other airborne conveyance, a drone or
22 other unmanned aircraft, an automobile or other land
23 conveyance, or from a motor-driven water conveyance;

24 (5) Use a drone or other unmanned aircraft to hunt, take or
25 kill a wild bird or wild animal, or to use a drone or other
26 unmanned aircraft to drive or herd any wild bird or wild animal
27 for the purposes of hunting, trapping or killing;

28 (6) Take any beaver or muskrat by any means other than a
29 trap;

30 (7) Catch, capture, take, hunt or kill by seine, net, bait, trap
31 or snare or like device a bear, wild turkey, ruffed grouse,
32 pheasant or quail;

33 (8) Intentionally destroy or attempt to destroy the nest or
34 eggs of any wild bird or have in his or her possession the nest or
35 eggs;

36 (9) Carry an uncased or loaded firearm in the woods of this
37 state with the following permissible exceptions:

38 (A) A person in possession of a valid license or permit
39 during open firearms hunting season for wild animals and
40 nonmigratory wild birds;

41 (B) A person hunting or taking unprotected species of wild
42 animals, wild birds and migratory wild birds during the open
43 season, in the open fields, open water and open marshes of the
44 state;

45 (C) A person carrying a firearm pursuant to sections six and
46 six-a of this article; or

47 (D) A person carrying a firearm for self defense who is not
48 prohibited from possessing firearms by section seven, article
49 seven, chapter sixty-one of this code;

50 (10) Have in his or her possession a crossbow with a nocked
51 bolt, or a rifle or shotgun with cartridges that have not been
52 removed or a magazine that has not been detached, in or on any
53 vehicle or conveyance, or its attachments,. For the purposes of
54 this section, a rifle or shotgun whose magazine readily detaches
55 is considered unloaded if the magazine is detached and no
56 cartridges remain in the rifle or shotgun itself. Except that
57 between five o'clock post meridian of day one and seven o'clock
58 ante meridian, Eastern Standard Time, of the following day, any
59 unloaded firearm or crossbow may be carried only when in a case
60 or taken apart and securely wrapped. During the period from
61 July 1 to September 30, inclusive, of each year, the requirements
62 relative to carrying unloaded firearms are permissible only from
63 eight-thirty o'clock post meridian to five o'clock ante meridian,
64 Eastern Standard Time: *Provided*, That the time periods for
65 carrying unloaded and uncased firearms are extended for one
66 hour after the post meridian times and one hour before the ante
67 meridian times established in this subdivision, if a person is
68 transporting or transferring the firearms to or from a hunting site,
69 campsite, home or other abode;

70 (11) Hunt, catch, take, kill, trap, injure or pursue with
71 firearms or other implement by which wildlife may be taken
72 after the hour of five o'clock ante meridian on Sunday on private
73 land without the written consent of the landowner any wild
74 animals or wild birds except when a big game season opens on
75 a Monday, the Sunday prior to that opening day will be closed
76 for any taking of wild animals or birds after five o'clock ante
77 meridian on that Sunday: *Provided*, That traps previously and
78 legally set may be tended after the hour of five o'clock ante
79 meridian on Sunday and the person tending the traps may carry
80 firearms for the purpose of humanely dispatching trapped
81 animals. Any person violating this subdivision is guilty of a
82 misdemeanor and, upon conviction thereof, in addition to any
83 fines that may be imposed by this or other sections of this code,
84 is subject to a \$100 fine;

85 (12) Hunt, catch, take, kill, injure or pursue a wild animal or
86 wild bird with the use of a ferret;

87 (13) Buy raw furs, pelts or skins of fur-bearing animals
88 unless licensed to do so;

89 (14) Catch, take, kill or attempt to catch, take or kill any fish
90 by any means other than by rod, line and hooks with natural or
91 artificial lures: *Provided*, That snaring of any species of suckers,
92 carp, fallfish and creek chubs is lawful;

93 (15) Employ, hire, induce or persuade, with money, things
94 of value or by any means, any person to hunt, take, catch or kill
95 any wild animal or wild bird except those species in which there
96 is no closed season; or to fish for, catch, take or kill any fish,
97 amphibian or aquatic life that is protected by rule, or the sale of
98 which is otherwise prohibited;

99 (16) Hunt, catch, take, kill, capture, pursue, transport,
100 possess or use any migratory game or nongame birds except as

101 permitted by the Migratory Bird Treaty Act, 16 U. S. C. §703, *et*
102 *seq.*, and its regulations;

103 (17) Kill, take, catch, sell, transport or have in his or her
104 possession, living or dead, any wild bird other than a game bird
105 including the plumage, skin or body of any protected bird,
106 irrespective of whether the bird was captured in or out of this
107 state, except the English or European sparrow (*Passer*
108 *domesticus*), starling (*Sturnus vulgaris*) and cowbird (*Molothrus*
109 *ater*), which may be killed at any time;

110 (18) Use dynamite, explosives or any poison in any waters
111 of the state for the purpose of killing or taking fish. Any person
112 violating this subdivision is guilty of a felony and, upon
113 conviction thereof, shall be fined not more than \$500 or
114 imprisoned for not less than six months nor more than three
115 years, or both fined and imprisoned;

116 (19) Have a bow and gun, or have a gun and any arrow, in
117 the fields or woods at the same time;

118 (20) Have a crossbow in the woods or fields, or use a
119 crossbow to hunt for, take or attempt to take any wildlife except
120 as otherwise provided in sections five-g and forty-two-w of this
121 article;

122 (21) Take or attempt to take turkey, bear, elk or deer with
123 any arrow unless the arrow is equipped with a point having at
124 least two sharp cutting edges measuring in excess of three
125 fourths of an inch wide;

126 (22) Take or attempt to take any wildlife with an arrow
127 having an explosive head or shaft, a poisoned arrow or an arrow
128 which would affect wildlife by any chemical action;

129 (23) Shoot an arrow across any public highway;

130 (24) Permit any dog owned or under his or her control to
131 chase, pursue or follow the tracks of any wild animal or wild
132 bird, day or night, between May 1 and August 15: *Provided*,
133 That dogs may be trained on wild animals and wild birds, except
134 deer and wild turkeys, and field trials may be held or conducted
135 on the grounds or lands of the owner, or by his or her bona fide
136 tenant, or upon the grounds or lands of another person with his
137 or her written permission, or on public lands at any time.
138 Nonresidents may not train dogs in this state at any time except
139 during the legal small game hunting season. A person training
140 dogs may not have firearms or other implements in his or her
141 possession during the closed season on wild animals and wild
142 birds;

143 (25) Conduct or participate in a trial, including a field trial,
144 shoot-to-retrieve field trial, water race or wild hunt: *Provided*,
145 That any person, group of persons, club or organization may
146 hold a trial upon obtaining a permit pursuant to section fifty-six
147 of this article. The person responsible for obtaining the permit
148 shall prepare and keep an accurate record of the names and
149 addresses of all persons participating in the trial and make the
150 records readily available for inspection by any natural resources
151 police officer upon request;

152 (26) Hunt, catch, take, kill or attempt to hunt, catch, take or
153 kill any wild animal, wild bird or wild fowl except during open
154 seasons;

155 (27) Hunting on public lands on Sunday after five o'clock
156 ante meridian is prohibited;

157 (28) Hunt, catch, take, kill, trap, injure or pursue with
158 firearms or other implement which wildlife can be taken, on
159 private lands on Sunday after the hour of five o'clock ante
160 meridian: *Provided*, That the provisions of this subdivision do
161 not apply in any county until the county commission of the

162 county holds an election on the question of whether the
163 provisions of this subdivision prohibiting hunting on Sunday
164 shall apply within the county and the voters approve the
165 allowance of hunting on Sunday in the county. The election is
166 determined by a vote of the resident voters of the county in
167 which the hunting on Sunday is proposed to be authorized. The
168 county commission of the county in which Sunday hunting is
169 proposed shall give notice to the public of the election by
170 publication of the notice as a Class II-0 legal advertisement in
171 compliance with the provisions of article three, chapter fifty-nine
172 of this code and the publication area for the publication is the
173 county in which the election is to be held. The date of the last
174 publication of the notice shall fall on a date within the period of
175 the fourteen consecutive days next preceding the election.

176 On the local option election ballot shall be printed the
177 following:

178 Shall hunting on Sunday be authorized on private lands only
179 with the consent of the land owner in _____ County?

180 [] Yes

181 [] No

182 (Place a cross mark in the square opposite your choice.)

183 Any local option election to approve or disapprove of the
184 proposed authorization of Sunday hunting within a county shall
185 be in accordance with procedures adopted by the commission.
186 The local option election may be held in conjunction with a
187 primary or general election or at a special election. Approval
188 shall be by a majority of the voters casting votes on the question
189 of approval or disapproval of Sunday hunting at the election.

190 If a majority votes against allowing Sunday hunting, an
191 election on the issue may not be held for a period of one hundred

192 four weeks. If a majority votes “yes”, an election reconsidering
193 the action may not be held for a period of five years. A local
194 option election may thereafter be held if a written petition of
195 qualified voters residing within the county equal to at least five
196 percent of the number of persons who were registered to vote in
197 the next preceding general election is received by the county
198 commission of the county in which Sunday hunting is
199 authorized. The petition may be in any number of counterparts.
200 The election shall take place at the next primary or general
201 election scheduled more than ninety days following receipt by
202 the county commission of the petition required by this
203 subsection: *Provided*, That the issue may not be placed on the
204 ballot until all statutory notice requirements have been met. No
205 local law or regulation providing any penalty, disability,
206 restriction, regulation or prohibition of Sunday hunting may be
207 enacted and the provisions of this article preempt all regulations,
208 rules, ordinances and laws of any county or municipality in
209 conflict with this subdivision.

210 Amendments to this subdivision promulgated during the
211 2015 regular session of the Legislature shall have no effect upon
212 the results of elections held prior to their enactment; and

213 (29) Hunt or conduct hunts for a fee when the person is not
214 physically present in the same location as the wildlife being
215 hunted within West Virginia.

**§20-2-5a. Forfeiture by person causing injury or death of game or
protected species of animal; additional replacement
costs for antlered deer; forfeiture procedures and
costs.**

1 (a) Any person who is convicted of violating a criminal law
2 of this state that results in the injury or death of game, as defined
3 in section two, article one of this chapter, or a protected species
4 of animal, in addition to any other penalty to which he or she is

5 subject, shall forfeit the cost of replacing the game or protected
6 species of animal to the state as follows:

7 (1) For each game fish or each fish of a protected species
8 taken illegally other than by pollution kill, \$10 for each pound
9 and any fraction thereof;

10 (2) For each bear, \$500;

11 (3) For each deer or raven, \$200;

12 (4) For each wild turkey, hawk or owl, \$100;

13 (5) For each beaver, otter or mink, \$25;

14 (6) For each muskrat, raccoon, skunk or fox, \$15;

15 (7) For each rabbit, squirrel, opossum, duck, quail,
16 woodcock, grouse or pheasant, \$10;

17 (8) For each wild boar, \$200;

18 (9) For each bald eagle, \$5,000;

19 (10) For each golden eagle, \$5,000;

20 (11) For each elk, \$4,500; and

21 (12) For any other game or protected species of animal,
22 \$100.

23 (b) In addition to the replacement value for deer in
24 subdivision (3), subsection (a) of this section, the following cost
25 shall also be forfeited to the state by any person who is convicted
26 of violating any criminal law of this state and the violation
27 causes the injury or death of antlered deer:

28 (1) For any deer in which the inside spread of the main
29 beams of the antlers measured at the widest point equals 14
30 inches or greater but less than 16 inches, \$1,000;

31 (2) For any deer in which the inside spread of the main
32 beams of the antlers measured at the widest point equals 16
33 inches or greater but less than 18 inches, \$1,500;

34 (3) For any deer in which the inside spread of the main
35 beams of the antlers measured at the widest point equals 18
36 inches or greater but less than 20 inches, \$2,000; and

37 (4) For any deer in which the inside spread of the main
38 beams of the antlers measured at the widest point equals 20
39 inches or greater, \$2,500.

40 (5) Any person convicted of a second or subsequent
41 violation of any criminal law of this state which violation causes
42 the injury or death of antlered deer is subject to double the
43 authorized range of cost to be forfeited.

44 (c) Upon conviction, the court shall order the person to
45 forfeit to the state the amount set forth in this section for the
46 injury or death of the game or protected species of animal. If
47 two or more defendants are convicted for the same violation
48 causing the injury or death of game or protected species of
49 animal, the forfeiture shall be paid by each person in an equal
50 amount. The forfeiture shall be paid by the person so convicted
51 within the time prescribed by the court not to exceed sixty days.
52 In each instance, the court shall pay the forfeiture to the Division
53 of Natural Resources to be deposited into the License
54 Fund-Wildlife Resources and used only for the replacement,
55 habitat management or enforcement programs for injured or
56 killed game or protected species of animal.

§20-2-5g. Use of a crossbow to hunt.

1 (a) Notwithstanding any other provision of this code to the
2 contrary, any person lawfully entitled to hunt may hunt with a
3 crossbow during big game firearms season. A person who

4 possesses a valid Class Y permit may also hunt with a crossbow
5 in accordance with section forty-two-w of this article. Further,
6 the director shall designate a separate season for crossbow
7 hunting and identify which species of wildlife may be hunted
8 with a crossbow.

9 (b) Only crossbows meeting all of the following
10 specifications may be used for hunting in West Virginia:

11 (1) The crossbow has a minimum draw weight of one
12 hundred twenty-five pounds;

13 (2) The crossbow has a working safety; and

14 (3) The crossbow is used with bolts and arrows not less than
15 eighteen inches in length with a broad head having at least two
16 sharp cutting edges, measuring at least three fourths of an inch
17 in width.

§20-2-5h. Elk management area; elk damage fund; criminal penalties; rule-making.

1 (a) *Findings.* — The Legislature finds that Eastern Elk were
2 once a common, native species in the state prior to and following
3 its formation, but historical records indicate native elk were
4 extirpated from the state around 1875. Until recently, free
5 roaming elk have not been present in the state. However, elk are
6 now migrating to the state from Kentucky, which has an active
7 elk restoration program. Therefore, the Division of Natural
8 Resources has established an active elk restoration program in
9 Southern West Virginia.

10 (b) *Elk management area.* — The division has established an
11 elk restoration management plan to reintroduce elk to all of
12 Logan County, Mingo County, McDowell County and Wyoming
13 County, and part of Boone County, Lincoln County and Wayne

14 County. The director and the division may not expand the elk
15 management area without statutory authorization.

16 (c) *Elk damage fund.* — There is hereby created a special
17 revenue account in the State Treasury to be known as the Elk
18 Damage Fund to be administered by the division. Ten percent
19 from all application fees for the hunting of elk are to be
20 deposited into the Elk Damage Fund.” Expenditures from the
21 fund shall be for the payment of damages caused to agricultural
22 crops, agricultural fences and personal gardens by elk.

23 (d) *Criminal penalties.* — It shall be unlawful for any person
24 to hunt, capture or kill any elk, or have in his or her possession
25 elk or elk parts, except for elk lawfully taken, killed or obtained
26 during an established open hunting season for elk or by permit.

27 (1) Any person who commits a violation of the provisions of
28 this section is guilty of a misdemeanor and, upon conviction
29 thereof, shall be fined not less than \$1,000 nor more than \$5,000,
30 or confined in jail not less than thirty nor more than one hundred
31 days, or both fined and confined.

32 (2) Any person who commits a second violation of the
33 provisions of this section is guilty of a misdemeanor and, upon
34 conviction thereof, shall be fined not less than \$2,000 nor more
35 than \$7,500, or confined in jail not less than thirty days nor more
36 than one year, or both fined and confined.

37 (3) Any person who commits a third or subsequent violation
38 of the provisions of this section is guilty of a felony and, upon
39 conviction thereof, shall be fined not less than \$5,000 nor more
40 than \$10,000, or imprisoned in a state correctional facility not
41 less than one year nor more than five years, or both fined and
42 imprisoned.

43 (e) *Rulemaking.* — The director shall propose rules for
44 promulgation in accordance with the provisions of article three,
45 chapter twenty-nine-a of this code to:

- 46 (1) Set forth the parameters of the elk management plan;
- 47 (2) Establish the procedures for the issuance of depredation
48 permits to persons suffering damage from elk;
- 49 (3) Establish protocols for the control of elk outside the elk
50 management area;
- 51 (4) Establish hunting application fees and procedures;
- 52 (5) Establish procedures for reimbursement from the elk
53 damage fund to those with damage to agricultural crops,
54 agricultural fences and personal gardens caused by elk; and
- 55 (6) Establish protocols for ensuring elk imported to the state
56 are healthy, tested for tuberculosis, brucellosis and other diseases
57 of critical concern, and from an area where chronic wasting
58 disease has not been detected.

**§20-2-22a. Hunting, tagging and reporting bear; procedures
applicable to property destruction by bear;
penalties.**

- 1 (a) A person may not hunt, capture, or kill any bear, or have
2 in his or her possession any bear or bear parts, except during the
3 hunting season for bear in the manner designated by rule or law,
4 and as provided in this section. For the purposes of this section,
5 bear parts include, but are not limited to, the pelt, gallbladder,
6 skull and claws of bear.
- 7 (b) A person who kills a bear shall, within twenty-four hours
8 after the killing, electronically register the bear. A game tag
9 number shall be issued to the person and recorded in writing
10 with the person's name and address, or on a field tag and shall
11 remain on the skin until it is tanned or mounted. Any bear or
12 bear parts not properly tagged shall be forfeited to the state for

13 disposal to a charitable institution, school or as otherwise
14 designated by the director.

15 (c) It is unlawful:

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

19 (2) To hunt a bear with:

20 (A) A shotgun using ammunition loaded with more than one
21 solid ball; or

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

24 (3) To kill or attempt to kill any bear through the use of
25 poison, explosives, snares, steel traps or deadfalls;

26 (4) To shoot at or kill:

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

30 (B) Any bear accompanied by a cub; or

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

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

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

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

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

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

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

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

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

56 (1) (A) Any property owner or lessee who has suffered
57 damage to real or personal property, including loss occasioned
58 by the death or injury of livestock or the unborn issue of
59 livestock, caused by an act of a bear may complain to any natural
60 resources police officer of the division for protection against the
61 bear.

62 (B) Upon receipt of the complaint, the officer shall
63 immediately investigate the circumstances of the complaint. If
64 the officer is unable to personally investigate the complaint, he
65 or she shall designate a wildlife biologist to investigate on his or
66 her behalf.

67 (C) If the complaint is found to be justified, the officer or
68 designated person may, together with the owner and other
69 residents, proceed to hunt, destroy or capture the bear that
70 caused the property damage: *Provided*, That only the natural
71 resources police officer or the wildlife biologist may determine
72 whether to destroy or capture the bear and whether to use dogs
73 to capture or destroy the bear: *Provided, however*, That, if out-
74 of-state dogs are used in the hunt, the owners of the dogs are the
75 only nonresidents permitted to participate in hunting the bear.

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

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

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

92 (D) All claims shall be paid in the first instance from the
93 Bear Damage Fund provided in section forty-four-b of this
94 article. In the event the fund is insufficient to pay all claims
95 determined by the commission to be just and proper, the
96 remainder due to owners of lost or destroyed property shall be
97 paid from the special revenue account of the division.

98 (3) In all cases where the act of the bear complained of by
99 the property owner is the killing of livestock, the value to be
100 established is the fair market value of the livestock at the date of
101 death. In cases where the livestock killed is pregnant, the total
102 value is the sum of the values of the mother and the unborn
103 issue, with the value of the unborn issue to be determined on the
104 basis of the fair market value of the issue had it been born.

105 (e) *Criminal penalties.* – (1) Any person who commits a
106 violation of the provisions of this section is guilty of a
107 misdemeanor and, upon conviction thereof, shall be fined not
108 less than \$1,000 nor more than \$5,000, which is not subject to
109 suspension by the court, confined in jail not less than thirty nor
110 more than one hundred days, or both fined and confined.
111 Further, the person’s hunting and fishing licenses shall be
112 suspended for two years.

113 (2) Any person who commits a second violation of the
114 provisions of this section is guilty of a misdemeanor and, upon
115 conviction thereof, shall be fined not less than \$2,000 nor more
116 than \$7,500, which is not subject to suspension by the court,
117 confined in jail not less than thirty days nor more than one year,
118 or both fined and confined. The person’s hunting and fishing
119 licenses shall be suspended for life.

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

§20-2-42w. Class Y special crossbow hunting permit for certain disabled persons.

1 (a) A Class Y permit is a special statewide hunting permit
2 entitling a person to hunt all wildlife during established archery

3 and firearm seasons if the person meets the following
4 requirements:

5 (1) He or she holds a Class Q permit;

6 (2) He or she has a permanent and substantial loss of
7 function in one or both hands while failing to meet the minimum
8 standards of the upper extremity pinch, grip and nine-hole peg
9 tests administered under the direction of a licensed physician; or

10 (3) He or she has a permanent and substantial loss of
11 function in one or both shoulders while failing to meet the
12 minimum standards of the shoulder strength test administered
13 under the direction of a licensed physician.

14 (b) The application form shall include a written statement or
15 report prepared by the physician conducting the test no more
16 than six months preceding the application and verifying that the
17 applicant is physically disabled as described in this section. As
18 part of the application, the applicant shall authorize, by written
19 release, an examination of all medical records regarding his or
20 her qualifying disability. When completed, the permit form
21 constitutes a Class Y permit. The Class Y permit and a
22 completed license application shall be submitted to the Division,
23 which will issue a wallet-sized card to the permittee. The card
24 and all other documents and identification required to be carried
25 by this article shall be in the permittee's possession when
26 hunting.

27 (c) A Class Y permit must be accompanied by a valid
28 statewide hunting license or the applicant must be exempt from
29 hunting licenses as provided in this chapter.

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

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2015.

Governor

