

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 2730**

**2015 Carryover**

(BY DELEGATE SPONAUGLE (BY REQUEST))

[Introduced January 13, 2016; referred to the  
Committee on Agriculture and Natural Resources  
then the Judiciary.]

1 A BILL to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating  
2 to bear hunting and bear damage.

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

1 That §20-2-22a of the Code of West Virginia, 1931, as amended, be amended and  
2 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, capture, or kill any bear, or have in  
2 his or her possession any bear or bear parts, except bears lawfully taken, killed or obtained during  
3 the hunting season for bear and in the manner designated by rules promulgated by the Division  
4 of Natural Resources and as provided in this section or section four of this article. For the  
5 purposes of this section, bear parts include, but are not limited to, the pelt, gallbladder, skull and  
6 claws of bear.

7 (b) A person who kills a bear shall, within twenty-four hours after the killing, ~~deliver the~~  
8 ~~bear or fresh skin to a natural resources police officer or checking station for tagging.~~ A Division  
9 ~~of Natural Resources tag shall be affixed to it before any part of the bear may be transported more~~  
10 ~~than seventy-five miles from the point of kill.~~ The Division of Natural Resources tag electronically  
11 register the bear. A game tag number shall be issued to the hunter and shall be recorded on a  
12 sheet of paper with the hunter's name and address or on the field tag and shall remain on the skin  
13 until it is tanned or mounted. Any bear or bear parts not properly tagged shall be forfeited to the  
14 state for disposal to a charitable institution, school or as otherwise designated by the Division of  
15 Natural Resources.

16           (c) Training dogs on bears or pursuing bears with dogs is considered hunting and is  
17 therefore subject to all rules and license requirements for bear hunting.

18           ~~(e)~~ (d) It is unlawful:

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

21           (2) To hunt a bear with:

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

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

24           (C) A crossbow, except as otherwise provided in section forty-two-w of this article;

25           (3) To kill or attempt to kill wound any bear through the use of bait, poison, explosives,  
26 ~~snare~~, ~~steel~~ traps or deadfalls other than as authorized in this section, or to feed bears at any  
27 time. For purposes of this section, bait includes, but is not limited to, corn and other grains, animal  
28 carcasses or animal remains, grease, sugars in any form, scent attractants and other edible  
29 enticements, and an area is considered baited for ten days after all bait has been removed;

30           (4) To shoot at or kill:

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

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

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

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

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

39           ~~(7) To hunt bear with dogs or to cause dogs to chase bear during seasons other than~~

40 ~~those designated by the Division of Natural Resources for the hunting of bear;~~

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

43 ~~(9) (6) To possess, harvest, sell or purchase bear parts obtained from bear killed in~~  
44 ~~violation of this section; or~~

45 ~~(10) (7) To organize for commercial purposes or to professionally outfit a bear hunt or to~~  
46 ~~give or receive any consideration whatsoever or any donation in money, goods or services in~~  
47 ~~connection with a bear hunt notwithstanding the provisions of sections twenty-three and~~  
48 ~~twenty-four of this article. ~~or~~~~

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

51 ~~(d) (e) The following provisions apply to bear damaging or destroying property:~~

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

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

59 (C) If the complaint is found to be justified, the officer or designated person may ~~together~~  
60 ~~with~~ issue a permit to kill the bear that caused the property damage or, may authorize the owner  
61 and other residents, to proceed to hunt, destroy or capture the bear that caused the property  
62 damage: *Provided*, That only the natural resources police officer or the wildlife biologist may  
63 ~~determine whether to destroy or capture the bear and whether to use dogs to capture or destroy~~

64 ~~the bear~~ recommend other measures to end or minimize property damage: *Provided, however,*  
65 That, if out-of-state dogs are used in the hunt, the owners of the dogs are the only nonresidents  
66 permitted to participate in hunting the bear.

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

81 (B) The report shall be ruled upon and the alleged damages examined by a commission  
82 comprised of the complaining property owner, an officer of the division and a person to be jointly  
83 selected by the officer and the complaining property owner.

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

87 (D) All claims shall be paid in the first instance from the Bear Damage Fund provided in

88 section forty-four-b of this article. In the event the fund is insufficient to pay all claims determined  
89 by the commission to be just and proper, the remainder due to owners of lost or destroyed  
90 property shall be paid from the special revenue account of the Division of Natural Resources.

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

96 ~~(e)~~ (f) *Criminal penalties.* -- (1) Any person who commits a violation of the provisions of  
97 this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than  
98 \$1,000 nor more than \$5,000, which fine is not subject to suspension by the court, confined in jail  
99 not less than thirty nor more than one hundred days, or both fined and confined. Further, the  
100 person's hunting and fishing licenses shall be suspended for two years.

101 (2) Any person who commits a second violation of the provisions of this section is guilty of  
102 a misdemeanor and, upon conviction thereof, shall be fined not less than \$2,000 nor more than  
103 \$7,500, which fine is not subject to suspension by the court, confined in jail not less than thirty  
104 days nor more than one year, or both fined and confined. The person's hunting and fishing  
105 licenses shall be suspended for life.

106 (3) Any person who commits a third or subsequent violation of the provisions of this section  
107 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than  
108 \$10,000, which fine is not subject to suspension by the court, imprisoned in a correctional facility  
109 not less than one year nor more than five years, or both fined and imprisoned.

NOTE: The purpose of this bill is to update unlawful methods of bear hunting and to clarify the process for bear damage claims.

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