

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 416

BY SENATORS SYPOLT (BY REQUEST), SMITH, MAYNARD,

BOSO, AND MARONEY

[Introduced January 24, 2019; Referred
to the Committee on Natural Resources]

1 A BILL to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating
 2 to permitting a bona fide resident land owner to hunt and kill a bear on the land owner's
 3 private property through the use of bait.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. WILDLIFE RESOURCES.

**§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 in his or her possession any
 2 bear or bear parts, except during the hunting season for bear in the manner designated by rule
 3 or law. For the purposes of this section, bear parts include, but are not limited to, the pelt,
 4 gallbladder, skull and claws of bear.

5 (b) A person who kills a bear shall, within 24 hours after the killing, electronically register
 6 the bear. A game tag number shall be issued to the person and recorded in writing with the
 7 person's name and address, or on a field tag and shall remain on the skin until it is tanned or
 8 mounted. Any bear or bear parts not properly tagged shall be forfeited to the state for disposal to
 9 a charitable institution, school or as otherwise designated by the director.

10 (c) Training dogs on bears or pursuing bears with dogs is the hunting of bear for all
 11 purposes of this chapter, including all applicable regulations and license requirements.

12 (d) It is unlawful:

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

15 (2) To hunt a bear with:

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

17 (B) A rifle of less than 25 caliber using rimfire ammunition;

18 (3) To kill or attempt to kill, or wound or attempt to wound, any bear through the use of
 19 bait, poison, explosives, traps or deadfalls or to feed bears at any time: Provided, That this

20 provision does not apply to a bona fide resident landowner on the owner's own private property.

21 For purposes of this section, bait includes, but is not limited to, corn and other grains, animal
22 carcasses or animal remains, grease, sugars in any form, scent attractants and other edible
23 enticements, and an area is considered baited for 10 days after all bait has been removed;

24 (4) To shoot at or kill:

25 (A) A bear weighing less than 75 pounds live weight or 50 pounds field dressed weight,
26 after removal of all internal organs;

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

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

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

31 (6) To possess, harvest, sell or purchase bear parts obtained from bear killed in violation
32 of this section; or

33 (7) To organize for commercial purposes or to professionally outfit a bear hunt, or to give
34 or receive any consideration whatsoever or any donation in money, goods or services in
35 connection with a bear hunt, notwithstanding the provisions of §20-2-23 and §20-2-24 of this code.

36 (e) The following provisions apply to bear damaging or destroying property:

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

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

44 (C) If the complaint is found to be justified, the officer or designated wildlife biologist may
45 issue a permit to kill the bear that caused the property damage or may authorize the owner and

46 other residents to proceed to hunt, destroy or capture the bear that caused the property damage:
47 *Provided*, That only the natural resources police officer or the wildlife biologist may recommend
48 other measures to end or minimize property damage: *Provided, however*, That if out-of-state dogs
49 are used in the hunt, the owners of the dogs are the only nonresidents permitted to participate in
50 hunting the bear.

51 (2) (A) When a property owner has suffered damage to real or personal property as the
52 result of an act by a bear, the owner shall file a report with the director of the division. A bear
53 damage report shall be completed by a representative of the division and shall state whether or
54 not the bear was hunted and destroyed or killed under authorization of a depredation permit and,
55 if so, the sex and weight shall be recorded and a premolar tooth collected from the bear, all of
56 which shall be submitted with the report. The report shall also include an appraisal of the property
57 damage occasioned by the bear fixing the value of the property lost. Bear damage claims will not
58 be accepted for personal and real property which is commonly used for the purposes of feeding,
59 baiting, observing or hunting wildlife, including, but not limited to, hunting blinds, tree stands,
60 artificial feeders, game or trail cameras and crops planted for the purposes of feeding or baiting
61 wildlife.

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

65 (C) The division shall establish the procedures to be followed in presenting and deciding
66 claims, issuing bear depredation permits and organizing bear hunts under this section in
67 accordance with article three, chapter 29-a of this code.

68 (D) All claims shall be paid in the first instance from the Bear Damage Fund provided in
69 section 44-b of this article: *Provided*, That the claimant shall submit accurate information as to
70 whether he or she is insured for the damages caused by the acts of bear on forms prescribed by
71 the director, and all damage claims shall first be made by the claimant against any insurance

72 policies before payment may be approved from the Bear Damage Fund. Claims for an award of
73 compensation from the Bear Damage Fund shall be reduced or denied in the amount the claimant
74 is actually reimbursed by insurance for the economic loss upon which the claim is based. In the
75 event the fund is insufficient to pay all claims determined by the commission to be just and proper,
76 the remainder due to owners of lost or destroyed property shall be paid from the special revenue
77 account of the division.

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

83 (f) *Criminal penalties.* –(1) Any person who commits a violation of the provisions of this
84 section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500
85 nor more than \$1,000, which is not subject to suspension by the court, confined in jail not less
86 than 10 nor more than 30 days, or both fined and confined. Further, the person's hunting and
87 fishing licenses shall be assigned six points, however, the hunting and fishing licenses of any
88 person convicted of a violation of this section which results in the killing or death of a bear shall
89 be suspended for two years.

90 (2) Any person who commits a second violation of the provisions of this section is guilty of
91 a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than
92 \$3,000, which is not subject to suspension by the court, confined in jail not less than 30 days nor
93 more than 100 days, or both fined and confined. The persons hunting and fishing licenses shall
94 be suspended for five years.

95 (3) Any person who commits a third or subsequent violation of the provisions of this section
96 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$2,500 nor
97 more than \$5,000, which is not subject to suspension by the court, confined in jail not less than

- 98 six months nor more than one year, or both fined and confined. The person's hunting and fishing
99 licenses shall be suspended for 10 years.

NOTE: The purpose of this bill is to permit a bona fide resident land owner to hunt and kill a bear on the landowner's private property through the use of bait.

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