

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**ENGROSSED**

## **House Bill 4514**

BY DELEGATES ATKINSON, ANDERSON, CADLE,

WESTFALL, TOMBLIN, PORTERFIELD AND HOTT

(BY REQUEST OF THE DIVISION OF NATURAL RESOURCES,

DEPARTMENT OF COMMERCE)

[Introduced January 23, 2020; Referred to the  
Committee on Agriculture and Natural Resources.]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section  
2 designated §20-2-5j; and to amend and reenact §20-2-16 of said code, all relating to  
3 hunting; permitting the use of leashed dogs to track mortally wounded deer or bear; and  
4 setting forth how dogs caught chasing deer are to be handled.

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

**ARTICLE 2. WILDLIFE RESOURCES.**

**§20-2-5j. Leashed dogs for tracking mortally wounded deer or bear.**

1 (a) Notwithstanding any provision of this chapter to the contrary, a person who is legally  
2 hunting and reasonably believes he or she has mortally wounded a deer or bear may use leashed  
3 dogs to track and locate the mortally wounded deer or bear. The hunter is also permitted to use  
4 a dog handler of leashed dogs to track and locate the mortally wounded deer or bear. The hunter  
5 or the dog handler shall maintain physical control of the leashed dogs at all times.

6 (b) The act of tracking a mortally wounded deer or bear with a dog is hunting and the  
7 hunter and handler are subject to all applicable laws and rules, including the requirement to have  
8 written permission to hunt on private property and to hunt during legal hunting hours. It is unlawful  
9 for a hunter or dog handler to track deer or bear with leashed dogs under the provisions of this  
10 section unless he or she is in possession of a valid hunting license issued pursuant to §20-2-1 et  
11 seq. of this code or is a person excepted from licensing requirements pursuant to §20-2-27 and  
12 §20-2-28 of this code, and all other lawful authorizations as prescribed in §20-2-37 of this code.  
13 The hunter shall accompany the dog handler and only the hunter may kill a mortally wounded  
14 deer or bear. The deer or bear shall count toward the bag limit of the hunter.

15 (c) Any dog handler providing tracking services for profit must be licensed as an outfitter  
16 or guide pursuant to §20-2-23 of this code.

**§20-2-16. Dogs chasing deer.**

1           No person may permit or use his or her dog to hunt or chase deer. A Except as provided  
2 in §20-2-5j of this code, a natural resources police officer shall take into possession any dog  
3 known to have hunted or chased deer. ~~and the director shall advertise that the dog is in his or her~~  
4 ~~possession, giving a description of the dog and stating the circumstances under which it was~~  
5 ~~taken. The notice shall be published as a Class I legal advertisement in compliance with the~~  
6 ~~provisions of article three, chapter fifty nine of this code, and the publication area for the~~  
7 ~~publication is the county. He or she shall hold the dog for a period of ten days after the date of~~  
8 ~~the publication. If, within ten days, the owner does not claim the dog, the director shall destroy it.~~  
9 ~~In this event the cost of keeping and advertising shall be paid by the director. If, within ten days,~~  
10 ~~the owner claims the dog, he or she may repossess it on the payment of costs of advertising and~~  
11 ~~the cost of keep, not exceeding 50¢ per day. A natural resources police officer, or any officer or~~  
12 ~~employee of the director authorized to enforce the provisions of this section, after a bona fide but~~  
13 ~~unsuccessful effort to capture dogs detected chasing or pursuing deer, may kill the dogs If the~~  
14 owner of the dog can be determined, the dog shall be returned to the owner. If the owner of the  
15 dog cannot be determined, the natural resources police officer shall deliver the dog to the  
16 appropriate county humane officer or facility consistent with the provision of this code.

**§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 twenty-four hours after the killing, electronically  
6 register the bear. A game tag number shall be issued to the person and recorded in writing with  
7 the 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 twenty-five 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. For purposes of this  
20 section, bait includes, but is not limited to, corn and other grains, animal carcasses or animal  
21 remains, grease, sugars in any form, scent attractants and other edible enticements, and an area  
22 is considered baited for ten days after all bait has been removed;

23 (4) To shoot at or kill:

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

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

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

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

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

32 (7) Except as provided in §20-2-5j of this code, ~~To~~ to organize for commercial purposes  
33 or to professionally outfit a bear hunt, or to give or receive any consideration whatsoever or any

34 donation in money, goods or services in connection with a bear hunt, notwithstanding the  
35 provisions of sections twenty-three and twenty-four of this article.

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  
49 dogs are used in the hunt, the owners of the dogs are the only nonresidents permitted to  
50 participate in 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 twenty-nine-a of this code.

68 (D) All claims shall be paid in the first instance from the Bear Damage Fund provided in  
69 section forty-four-b of this article: *Provided*, That the claimant shall submit accurate information  
70 as to whether he or she is insured for the damages caused by the acts of bear on forms prescribed  
71 by 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 ten nor more than thirty 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 thirty days  
93 nor more than one hundred days, or both fined and confined. The person's hunting and fishing  
94 licenses shall 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 ten years.