

HB 4053

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

Com. Sub. for
HOUSE BILL NO. 4053

(By Delegate *Mr. Speaker, Mr. Chambers, +*
Del. Martin, Michael + Mezzatesta)



Passed March 2, 1994

In Effect 90 Days From Passage

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COMMITTEE SUBSTITUTE

FOR

H. B. 4053

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATES MARTIN,
MICHAEL AND MEZZATESTA)

[Passed March 2, 1994; in effect ninety days from passage.]

AN ACT to amend and reenact section five-a, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section five-c, all relating to protection of bald and golden eagles; establishing replacement values for bald and golden eagles and other game or protected species; making it unlawful at any time for any person to take, possess, transport, import, export, or process, sell or offer for sale, buy, barter or trade or offer to buy, barter or trade any bald eagle or any golden eagle, alive or dead, or any part, nest or egg thereof, or to attempt to do any of these acts; criminal penalties; forfeitures; and license revocation.

Be it enacted by the Legislature of West Virginia:

That section five-a, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section five-c, all to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5a. Forfeiture by person causing injury, death or

destruction of game or protected species of animal; replacement values thereof; forfeiture procedures.

1 Any person who is convicted of violating any criminal
2 law of this state and the violation causes or results in
3 the injury, death or destruction of game, as defined in
4 section two, article one of this chapter, or a protected
5 species of animal, in addition to any other penalty to
6 which he is subject, shall forfeit the cost of replacing
7 such game or protected species of animal to the state.
8 For such purpose, replacement values for game and
9 protected species of animals are as follows:

10 (1) For each game fish or each fish of a protected
11 species taken illegally other than by pollution kill, five
12 dollars for each pound and any fraction thereof;

13 (2) For each bear or elk, five hundred dollars;

14 (3) For each deer or raven, two hundred dollars;

15 (4) For each wild turkey, hawk or owl, one hundred
16 dollars;

17 (5) For each beaver, otter or mink, twenty-five dollars;

18 (6) For each muskrat, raccoon, skunk or fox, fifteen
19 dollars;

20 (7) For each rabbit, squirrel, opossum, duck, quail,
21 woodcock, grouse or pheasant, ten dollars;

22 (8) For each wild boar, two hundred dollars;

23 (9) For each bald eagle, five thousand dollars;

24 (10) For each golden eagle, five thousand dollars; and

25 (11) For any other game or protected species of
26 animal, one hundred dollars each.

27 The court upon convicting such person shall order him
28 to forfeit to the state the proper amount based on the
29 values set forth herein for the game or protected species
30 of animal the injury, death or destruction of which he
31 caused or which resulted from his criminal act. If two
32 or more defendants are convicted for the same violation
33 causing, or resulting in, the injury, death or destruction

34 of game or protected species of animal, the forfeiture
35 shall be declared against them jointly and equally. The
36 forfeiture shall be paid by the person so convicted and
37 ordered to pay the forfeiture within the time prescribed
38 by the court, but not exceeding sixty days. In each
39 instance, the court shall pay such forfeiture to the state
40 treasury where it shall be credited to the department
41 of natural resources to be used only for the replacement,
42 habitat management or enforcement programs for
43 injured, killed or destroyed game or protected species
44 of animal.

**§20-2-5c. Protection of bald eagles and golden eagles;
unlawful acts; criminal penalties; forfeitures;
license revocation.**

1 (a) It is unlawful at any time for any person to take,
2 possess, transport, import, export or process, sell or offer
3 for sale, buy, barter or trade or offer to buy, barter or
4 trade at any time or in any manner, any bald eagle, also
5 commonly known as the American eagle, or any golden
6 eagle, alive or dead, or any part, nest or egg thereof of
7 the foregoing eagles, or to attempt to do any of these
8 acts.

9 (b) Anyone who violates the provisions of this section
10 is guilty of a misdemeanor, and, upon conviction thereof,
11 shall be fined not less than five hundred dollars nor
12 more than five thousand dollars or imprisoned in the
13 county jail not less than sixty days nor more than one
14 year, or both fined and imprisoned. One half of any fine
15 imposed shall be paid to any person or persons providing
16 information that leads to the arrest and conviction of
17 anyone violating the provisions of this section.

18 (c) For a second or subsequent conviction for a
19 violation of this section, a person is guilty of a felony and
20 shall be fined not less than five thousand dollars nor
21 more than ten thousand dollars and imprisoned in the
22 penitentiary for not less than one year nor more than
23 two years. An amount equal to one half of the fine
24 imposed, not exceeding two thousand five hundred
25 dollars, shall be paid to the person or persons providing
26 information that leads to the arrest and conviction of

27 anyone for a second or subsequent violation of the
28 provisions of this section.

29 (d) "Take" is defined as including any means to
30 pursue, hunt, wound, kill, capture, collect, poison, or
31 molest any bald eagle or golden eagle, or any part, nest
32 or egg thereof, or to knowingly and willfully destroy the
33 nest or eggs of any such eagles.

34 (e) Nothing in this section may be construed to
35 prohibit the taking, possession or transportation of bald
36 or golden eagles legally under the current federal Eagle
37 Protection Act, 16 USC § 668a, and the current federal
38 regulations, 50 CFR 22.1 et seq.

39 (f) All wildlife, merchandise, guns, traps, nets and
40 other equipment, vessels, vehicles, aircraft and other
41 means of transportation used in taking, possessing,
42 transporting, importing, exporting, selling or offering
43 for sale, purchasing or bartering or offering to purchase
44 or barter any bald or golden eagle or part, nest, or egg
45 thereof, or in attempting to do any of these acts in
46 violation of this section shall be forfeited, at the time of
47 conviction, to the state.

48 (g) Upon conviction of taking, possessing, transport-
49 ing, importing, exporting or processing, selling or
50 offering for sale, buying, bartering or trading or
51 offering to buy, barter or trade any bald or golden eagle,
52 alive or dead, or any part, nest or egg thereof of the
53 foregoing eagles, or of attempting to do any of these acts,
54 the hunting licenses of such person or persons may be
55 revoked and such person or persons shall not be issued
56 any new hunting licenses for a period of ten years from
57 the date of conviction.

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

[Handwritten Signature]

Chairman Senate Committee

Ernest C. Moore

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Handwritten Signature]

Clerk of the Senate

Donald G. Hoyle
Clerk of the House of Delegates

[Handwritten Signature]
President of the Senate

[Handwritten Signature]

Speaker of the House of Delegates

The within *is approved* this the *16th* day of *March*, 1994.

[Handwritten Signature]
Governor

GOVERNOR

Date 3/10/94

Time 9:30 am