

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 334**

BY SENATOR KARNES

[Introduced January 20, 2016;

Referred to the Committee on Natural Resources; and then  
to the Committee on Government Organization.]

1 A BILL to amend and reenact §20-1-2 of the Code of West Virginia, 1931, as amended, relating  
2 to classification of certain species; identifying coyote as a fur-bearing animal; identifying  
3 woodchuck as a game animal; identifying coyote, porcupine and all species of cervids as  
4 wild animals; and providing an exception.

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

1 That §20-1-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
2 to read as follows:

**ARTICLE 1. ORGANIZATION AND ADMINISTRATION.**

**§20-1-2. Definitions.**

1 As used in this chapter, unless the context clearly requires a different meaning:

2 AAgency@ means any branch, department or unit of the state government, however  
3 designated or constituted.

4 AAlien@ means any person not a citizen of the United States.

5 ABag limit@ or Acreel limit@ means the maximum number of wildlife which may be taken,  
6 caught, killed or possessed by any person.

7 ABig game@ means elk, deer, black bears, wild boars and wild turkeys.

8 ABona fide resident, tenant or lessee@ means a person who permanently resides on the  
9 land.

10 ACitizen@ means any native-born citizen of the United States and foreign-born persons  
11 who have procured their final naturalization papers.

12 AClosed season@ means the time or period during which it shall be unlawful to take any  
13 wildlife as specified and limited by this chapter.

14 ACommission@ means the Natural Resources Commission.

15 ACommissioner@ means a member of the advisory commission of the Natural Resources  
16 Commission.

17           ADirector@ means the Director of the Division of Natural Resources.

18           AFishing@ or Ato fish@ means the taking, by any means, of fish, minnows, frogs or other  
19 amphibians, aquatic turtles and other forms of aquatic life used as fish bait.

20           AFur-bearing animals@ includes: (a) The mink; (b) the weasel; (c) the muskrat; (d) the  
21 beaver; (e) the opossum; (f) the skunk and civet cat, commonly called polecat; (g) the otter; (h)  
22 the red fox; (i) the gray fox; (j) the wildcat, bobcat or bay lynx; (k) the raccoon; ~~and~~ (l) the fisher;  
23 and (m) the coyote.

24           AGame@ means game animals, game birds and game fish as herein defined.

25           AGame animals@ includes: (a) The elk; (b) the deer; (c) the cottontail rabbits and hares;  
26 (d) the fox squirrels, commonly called red squirrels, and gray squirrels and all their color phases  
27 - red, gray, black or albino; (e) the raccoon; (f) the black bear; ~~and~~ (g) the wild boar; and (h) the  
28 woodchuck or groundhog. The term Agame animals@ does not include captive cervids regulated  
29 pursuant to article two-h, chapter nineteen of this code.

30           AGame birds@ includes: (a) The anatidae, commonly known as swan, geese, brants and  
31 river and sea ducks; (b) the rallidae, commonly known as rails, sora, coots, mudhens and  
32 gallinule; (c) the limicolae, commonly known as shorebirds, plover, snipe, woodcock, sandpipers,  
33 yellow legs and curlews; (d) the galliformes, commonly known as wild turkey, grouse, pheasants,  
34 quails and partridges (both native and foreign species); (e) the columbidae, commonly known as  
35 doves; (f) the icteridae, commonly known as blackbirds, redwings and grackle; and (g) the  
36 corvidae, commonly known as crows.

37           AGame fish@ includes: (a) Brook trout; (b) brown trout; (c) rainbow trout; (d) golden  
38 rainbow trout; (e) largemouth bass; (f) smallmouth bass; (g) spotted bass; (h) striped bass; (i)  
39 chain pickerel; (j) muskellunge; (k) walleye; (l) northern pike; (m) rock bass; (n) white bass; (o)  
40 white crappie; (p) black crappie; (q) all sunfish species; (r) channel catfish; (s) flathead catfish; (t)  
41 blue catfish; (u) sauger; and (v) all game fish hybrids.

42 AHunt@ means to pursue, chase, catch or take any wild birds or wild animals. However,  
43 the definition of Ahunt@ does not include an officially sanctioned and properly licensed field trial,  
44 water race or wild hunt as long as that field trial is not a shoot-to-retrieve field trial.

45 ALands@ means land, waters and all other appurtenances connected therewith.

46 AMigratory birds@ means any migratory game or nongame birds included in the terms of  
47 conventions between the United States and Great Britain and between the United States and  
48 United Mexican States, known as the Migratory Bird Treaty Act, for the protection of migratory  
49 birds and game mammals concluded, respectively, August 16, 1916, and February 7, 1936.

50 ANonresident@ means any person who is a citizen of the United States and who has not  
51 been a domiciled resident of the State of West Virginia for a period of thirty consecutive days  
52 immediately prior to the date of his or her application for a license or permit except any full-time  
53 student of any college or university of this state, even though he or she is paying a nonresident  
54 tuition.

55 AOpen season@ means the time during which the various species of wildlife may be  
56 legally caught, taken, killed or chased in a specified manner and shall include both the first and  
57 the last day of the season or period designated by the director.

58 APerson@, except as otherwise defined elsewhere in this chapter, means the plural  
59 Apersons@ and shall include individuals, partnerships, corporations or other legal entities.

60 APreserve@ means all duly licensed private game farmlands, or private plants, ponds or  
61 areas, where hunting or fishing is permitted under special licenses or seasons other than the  
62 regular public hunting or fishing seasons. The term Apreserve@ does not include captive cervid  
63 farming facilities regulated pursuant to article two-h, chapter nineteen of this code.

64 AProtected birds@ means all wild birds not included within the definitions of Agame birds@  
65 and Aunprotected birds@.

66 AResident@ means any person who is a citizen of the United States and who has been a

67 domiciled resident of the State of West Virginia for a period of thirty consecutive days or more  
68 immediately prior to the date of his or her application for license or permit. However, a member  
69 of the Armed Forces of the United States who is stationed beyond the territorial limits of this state,  
70 but who was a resident of this state at the time of his or her entry into such service and any full-  
71 time student of any college or university of this state, even though he or she is paying a  
72 nonresident tuition, shall be considered a resident under this chapter.

73 A Roadside menagerie means any place of business, other than a commercial game  
74 farm, commercial fish preserve, place or pond, where any wild bird, game bird, unprotected bird,  
75 game animal or fur-bearing animal is kept in confinement for the attraction and amusement of the  
76 people for commercial purposes.

77 A Small game includes all game animals, fur-bearing animals and game birds except elk,  
78 deer, black bears, wild boars and wild turkeys.

79 A Take means to hunt, shoot, pursue, lure, kill, destroy, catch, capture, keep in captivity,  
80 gig, spear, trap, ensnare, wound or injure any wildlife, or attempt to do so. However, the definition  
81 of Atake does not include an officially sanctioned and properly licensed field trial, water race or  
82 wild hunt as long as that field trial is not a shoot-to-retrieve field trial.

83 A Unprotected birds shall include: (a) The English sparrow; (b) the European starling;  
84 and (c) the cowbird.

85 A Wild animals means all mammals native to the State of West Virginia occurring either  
86 in a natural state or in captivity, except house mice or rats, and includes coyotes and porcupines  
87 and all species of cervids. The term Awild animals does not include captive cervids ~~regulated~~  
88 owned and possessed by persons licensed pursuant to article two-h, chapter nineteen of this  
89 code.

90 A Wild birds shall include all birds other than: (a) Domestic poultry — chickens, ducks,  
91 geese, guinea fowl, peafowls and turkeys; (b) psittacidae, commonly called parrots and

92 parakeets; and (c) other foreign cage birds such as the common canary, exotic finches and ring  
93 dove. All wild birds, either: (i) Those occurring in a natural state in West Virginia; or (ii) those  
94 imported foreign game birds, such as waterfowl, pheasants, partridges, quail and grouse,  
95 regardless of how long raised or held in captivity, shall remain wild birds under the meaning of  
96 this chapter.

97         AWildlife@ means wild birds, wild animals, game and fur-bearing animals, fish (including  
98 minnows), reptiles, amphibians, mollusks, crustaceans and all forms of aquatic life used as fish  
99 bait, whether dead or alive. The term Awildlife@ does not include captive cervids regulated  
100 pursuant to article two-h, chapter nineteen of this code.

101         AWildlife refuge@ means any land set aside by action of the director as an inviolate refuge  
102 or sanctuary for the protection of designated forms of wildlife.

NOTE: The purpose of this bill is to identify the coyote as a fur-bearing animal, the woodchuck as a game animal, the coyote, porcupine and all species of cervids as wild animals. The bill provides an exception.

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