

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 2144**

**2015 Carryover**

(BY DELEGATE HAMILTON, EVANS, A., ROWAN, ROMINE,  
FOLK, FAIRCLOTH, CANTERBURY, FERRO, LYNCH AND  
SPONAUGLE)

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

1 A BILL to repeal §20-2-5q and §20-2-42w of the Code of West Virginia, 1931, as amended; to  
2 amend and reenact §20-1-2 of said code; and to amend and reenact §20-2-5 and  
3 §20-2-22a of said code, all relating to permitting crossbow hunting; and defining terms.

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

1 That §20-2-5q and §20-2-42w of the Code of West Virginia, 1931, as amended, be  
2 repealed; that §20-1-2 of said code be amended and reenacted; and that §20-2-5 and §20-2-22a  
3 of said code be amended and reenacted, all 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 "Agency" means any branch, department or unit of the state government, however  
3 designated or constituted.

4 "Alien" means any person not a citizen of the United States.

5 "Bag limit" or "creel limit" means the maximum number of wildlife which may be taken,  
6 caught, killed or possessed by any person.

7 "Big game" means elk, deer, black bears, wild boars and wild turkeys.

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

10 "Bow" means a longbow, recurve bow or compound bow that is hand drawn, hand-held  
11 and held at full draw without the aide of any mechanical device or crossbow. Triggering devices  
12 and release aids are permitted.

13 "Citizen" means any native-born citizen of the United States and foreign-born persons who  
14 have procured their final naturalization papers.

15 "Closed season" means the time or period during which it shall be unlawful to take any

16 wildlife as specified and limited by the provisions of this chapter.

17 "Commission" means the Natural Resources Commission.

18 "Commissioner" means a member of the advisory commission of the Natural Resources  
19 Commission.

20 "Crossbow" are those crossbows that have a minimum draw weight of one hundred  
21 twenty-five pounds, have working safeties and are used with bolts and arrows that are not less  
22 than eighteen inches in length with a broad head having at least two sharp cutting edges  
23 measuring at least three-fourths of an inch in width.

24 "Director" means the Director of the Division of Natural Resources.

25 "Fishing" or "to fish" means the taking, by any means, of fish, minnows, frogs or other  
26 amphibians, aquatic turtles and other forms of aquatic life used as fish bait.

27 "Fur-bearing animals" include: ~~(a)~~ (A) The mink; ~~(b)~~ (B) the weasel; ~~(c)~~ (C) the  
28 muskrat; ~~(d)~~ (D) the beaver; ~~(e)~~ (E) the opossum; ~~(f)~~ (F) the skunk and civet cat, commonly  
29 called polecat; ~~(g)~~ (G) the otter; ~~(h)~~ (H) the red fox; ~~(i)~~ (I) the gray fox; ~~(j)~~ (J) the wildcat,  
30 bobcat or bay lynx; ~~(k)~~ (K) the raccoon; and ~~(l)~~ (L) the fisher.

31 "Game" means game animals, game birds and game fish as herein defined.

32 "Game animals" include: ~~(a)~~ (A) The elk; ~~(b)~~ (B) the deer; ~~(c)~~ (C) the cottontail rabbits  
33 and hares; ~~(d)~~ (D) the fox squirrels, commonly called red squirrels, and gray squirrels and all their  
34 color phases - red, gray, black or albino; ~~(e)~~ (E) the raccoon; ~~(f)~~ (F) the black bear; and ~~(g)~~ (G)  
35 the wild boar.

36 "Game birds" include: ~~(a)~~ (A) The anatidae, commonly known as swan, geese, brants  
37 and river and sea ducks; ~~(b)~~ (B) the rallidae, commonly known as rails, sora, coots, mudhens and  
38 gallinule; ~~(c)~~ (C) the limicolae, commonly known as shorebirds, plover, snipe, woodcock,  
39 sandpipers, yellow legs and curlews; ~~(d)~~ (D) the galliformes, commonly known as wild turkey,

40 grouse, pheasants, quails and partridges (both native and foreign species); ~~(e)~~ (E) the  
 41 columbidae, commonly known as doves; ~~(f)~~ (F) the icteridae, commonly known as blackbirds,  
 42 redwings and grackle; and ~~(g)~~ (G) the corvidae, commonly known as crows.

43 "Game fish" include: ~~(a)~~ (A) Brook trout; ~~(b)~~ (B) brown trout; ~~(c)~~ (C) rainbow trout; ~~(d)~~  
 44 (D) golden rainbow trout; ~~(e)~~ (E) largemouth bass; ~~(f)~~ (F) smallmouth bass; ~~(g)~~ (G) spotted bass;  
 45 ~~(h)~~ (H) striped bass; ~~(i)~~ (I) chain pickerel; ~~(j)~~ (J) muskellunge; ~~(k)~~ (K) walleye; ~~(l)~~ (L) northern  
 46 pike; ~~(m)~~ (M) rock bass; ~~(n)~~ (N) white bass; ~~(o)~~ (O) white crappie; ~~(p)~~ (P) black crappie; ~~(q)~~ (Q)  
 47 all sunfish species; ~~(r)~~ (R) channel catfish; ~~(s)~~ (S) flathead catfish; ~~(t)~~ (T) blue catfish, ~~(u)~~ (U)  
 48 sauger; and ~~(v)~~ (V) all game fish hybrids.

49 "Hunt" means to pursue, chase, catch or take any wild birds or wild animals: *Provided,*  
 50 That the definition of "hunt" does not include an officially sanctioned and properly licensed field  
 51 trial, water race or wild hunt as long as that field trial is not a shoot-to-retrieve field trial.

52 "Lands" means land, waters and all other appurtenances connected therewith.

53 "Migratory birds" means any migratory game or nongame birds included in the terms of  
 54 conventions between the United States and Great Britain and between the United States and  
 55 United Mexican States, known as the Migratory Bird Treaty Act, for the protection of migratory  
 56 birds and game mammals concluded, respectively, August 16, 1916, and February 7, 1936.

57 "Nonresident" means any person who is a citizen of the United States and who has not  
 58 been a domiciled resident of the State of West Virginia for a period of thirty consecutive days  
 59 immediately prior to the date of his or her application for a license or permit except any full-time  
 60 student of any college or university of this state, even though he or she is paying a nonresident  
 61 tuition.

62 "Open season" means the time during which the various species of wildlife may be legally  
 63 caught, taken, killed or chased in a specified manner and ~~shall~~ include both the first and the last

64 day of the season or period designated by the director.

65 "Person", except as otherwise defined elsewhere in this chapter, means the plural  
66 "persons" and ~~shall include~~ includes individuals, partnerships, corporations or other legal entities.

67 "Preserve" means all duly licensed private game farmlands, or private plants, ponds or  
68 areas, where hunting or fishing is permitted under special licenses or seasons other than the  
69 regular public hunting or fishing seasons.

70 "Protected birds" means all wild birds not included within the definition of "game birds" and  
71 "unprotected birds".

72 "Resident" means any person who is a citizen of the United States and who has been a  
73 domiciled resident of the State of West Virginia for a period of thirty consecutive days or more  
74 immediately prior to the date of his or her application for license or permit: *Provided*, That a  
75 member of the Armed Forces of the United States who is stationed beyond the territorial limits of  
76 this state, but who was a resident of this state at the time of his or her entry into such service and  
77 any full-time student of any college or university of this state, even though he or she is paying a  
78 nonresident tuition, ~~shall be considered~~ is a resident under ~~the provisions of~~ this chapter.

79 "Roadside menagerie" means any place of business, other than a commercial game farm,  
80 commercial fish preserve, place or pond, where any wild bird, game bird, unprotected bird, game  
81 animal or fur-bearing animal is kept in confinement for the attraction and amusement of the people  
82 for commercial purposes.

83 "Small game" includes all game animals, furbearing animals and game birds except elk,  
84 deer, black bears, wild boars and wild turkeys.

85 "Take" means to hunt, shoot, pursue, lure, kill, destroy, catch, capture, keep in captivity,  
86 gig, spear, trap, ensnare, wound or injure any wildlife, or attempt to do so: *Provided*, That the  
87 definition of "take" does not include an officially sanctioned and properly licensed field trial, water

88 race or wild hunt as long as that field trial is not a shoot-to-retrieve field trial.

89 "Unprotected birds" shall include: ~~(a)~~ (A) The English sparrow; ~~(b)~~ (B) the European  
90 starling; and ~~(c)~~ (C) the cowbird.

91 "Wild animals" means all mammals native to the State of West Virginia occurring either in  
92 a natural state or in captivity, except house mice or rats.

93 "Wild birds" shall include all birds other than: ~~(a)~~ (A) Domestic poultry - chickens, ducks,  
94 geese, guinea fowl, peafowls and turkeys; ~~(b)~~ (B) psittacidae, commonly called parrots and  
95 parakeets; and ~~(c)~~ (C) other foreign cage birds such as the common canary, exotic finches and  
96 ring dove. All wild birds, that are either ~~(i)~~ These occurring in a natural state in West Virginia  
97 or ~~(ii)~~ these are imported foreign game birds, such as waterfowl, pheasants, partridges, quail and  
98 grouse, regardless of how long raised or held in captivity, shall remain wild birds under the  
99 meaning of this chapter.

100 "Wildlife" means wild birds, wild animals, game and fur-bearing animals, fish (including  
101 minnows,) reptiles, amphibians, mollusks, crustaceans and all forms of aquatic life used as fish  
102 bait, whether dead or alive.

103 "Wildlife refuge" means any land set aside by action of the director as an inviolate refuge  
104 or sanctuary for the protection of designated forms of wildlife.

**ARTICLE 2. WILDLIFE RESOURCES.**

**§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts.**

1 Except as authorized by the director, it is unlawful at any time for any person to:

2 (1) Shoot at or to shoot any wild bird or animal unless it is plainly visible to him or her;

3 (2) Dig out, cut out or smoke out, or in any manner take or attempt to take, any live wild  
4 animal or wild bird out of its den or place of refuge except as may be authorized by rules  
5 promulgated by the director or by law;

6           (3) Make use of, or take advantage of, any artificial light in hunting, locating, attracting,  
7 taking, trapping or killing any wild bird or wild animal, or to attempt to do so, while having in his or  
8 her possession or subject to his or her control, or for any person accompanying him or her to have  
9 in his or her possession or subject to his or her control, any firearm, whether cased or uncased,  
10 bow, arrow, or both, or other implement or device suitable for taking, killing or trapping a wild bird  
11 or animal: *Provided*, That it is lawful to hunt or take coyote, fox, raccoon, opossum or skunk by  
12 the use of artificial light subject to the restrictions set forth in this subdivision. No person is guilty  
13 of a violation of this subdivision merely because he or she looks for, looks at, attracts or makes  
14 motionless a wild bird or wild animal with or by the use of an artificial light, unless at the time he  
15 or she has in his or her possession a firearm, whether cased or uncased, bow, arrow, or both, or  
16 other implement or device suitable for taking, killing or trapping a wild bird or wild animal, or unless  
17 the artificial light (other than the head lamps of an automobile or other land conveyance) is  
18 attached to, a part of or used from within or upon an automobile or other land conveyance.

19           Any person violating ~~the provisions of~~ this subdivision is guilty of a misdemeanor and,  
20 upon conviction thereof, shall for each offense be fined not less than \$100 nor more than \$500  
21 and shall be confined in jail for not less than ten days nor more than one hundred days;

22           (4) Hunt for, take, kill, wound or shoot at wild animals or wild birds from an airplane, or  
23 other airborne conveyance, an automobile, or other land conveyance, or from a motor-driven  
24 water conveyance, except as authorized by rules promulgated by the director;

25           (5) Take any beaver or muskrat by any means other than by trap;

26           (6) Catch, capture, take or kill by seine, net, bait, trap or snare or like device of any kind  
27 any wild turkey, ruffed grouse, pheasant or quail;

28           (7) Destroy or attempt to destroy needlessly or willfully the nest or eggs of any wild bird or  
29 have in his or her possession the nest or eggs unless authorized to do so under rules promulgated

30 by or under a permit issued by the director;

31 (8) Except as provided in section six of this article, carry an uncased or loaded gun in any  
32 of the woods of this state except during the open firearms hunting season for wild animals and  
33 nonmigratory wild birds within any county of the state unless he or she has in his or her possession  
34 a permit in writing issued to him or her by the director: *Provided*, That this section does not  
35 prohibit hunting or taking of unprotected species of wild animals and wild birds and migratory wild  
36 birds, during the open season, in the open fields, open water and open marshes of the state;

37 (9) Have in his or her possession a crossbow with a nocked bolt, a loaded firearm or a  
38 firearm from the magazine of which all shells and cartridges have not been removed, in or on any  
39 vehicle or conveyance, or its attachments, within the state, except as may otherwise be provided  
40 by law or regulation. Except as hereinafter provided, between five o'clock postmeridian of one  
41 day and seven o'clock antemeridian, eastern standard time of the day following, any unloaded  
42 firearm or crossbow, being lawfully carried in accordance with the foregoing provisions, may be  
43 so carried only when in a case or taken apart and securely wrapped. During the period from July  
44 1 to September 30, inclusive, of each year, the foregoing requirements relative to carrying certain  
45 unloaded firearms are permissible only from eight-thirty o'clock postmeridian to five o'clock  
46 antemeridian, eastern standard time: *Provided*, That the time periods for carrying unloaded and  
47 uncased firearms are extended for one hour after the postmeridian times and one hour before the  
48 antemeridian times established above if a hunter is preparing to or in the process of transporting  
49 or transferring the firearms to or from a hunting site, campsite, home or other place of abode;

50 (10) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which  
51 wildlife may be taken after the hour of five o'clock antemeridian on Sunday on private land without  
52 the written consent of the landowner any wild animals or wild birds except when a big game  
53 season opens on a Monday, the Sunday prior to that opening day will be closed for any taking of

54 wild animals or birds after five o'clock antemeridian on that Sunday: *Provided*, That traps  
55 previously and legally set may be tended after the hour of five o'clock antemeridian on Sunday  
56 and the person so doing may carry only a twenty-two caliber firearm for the purpose of humanely  
57 dispatching trapped animals. Any person violating ~~the provisions of~~ this subdivision is guilty of  
58 a misdemeanor and, upon conviction thereof, in addition to any fines that may be imposed by this  
59 or other sections of this code, is subject to a \$100 fine;

60 (11) Hunt, catch, take, kill, injure or pursue a wild animal or bird with the use of a ferret;

61 (12) Buy raw furs, pelts or skins of fur-bearing animals unless licensed to do so;

62 (13) Catch, take, kill or attempt to catch, take or kill any fish at any time by any means  
63 other than by rod, line and hooks with natural or artificial lures unless otherwise authorized by law  
64 or rules issued by the Director: *Provided*, That snaring of any species of suckers, carp, fallfish  
65 and creek chubs shall at all times be lawful;

66 (14) Employ or hire, or induce or persuade, by the use of money or other things of value,  
67 or by any means, any person to hunt, take, catch or kill any wild animal or wild bird except those  
68 species on which there is no closed season, or to fish for, catch, take or kill any fish, amphibian  
69 or aquatic life which is protected by ~~the provisions of~~ this chapter or rules of the director or the  
70 sale of which is prohibited;

71 (15) Hunt, catch, take, kill, capture, pursue, transport, possess or use any migratory game  
72 or nongame birds included in the terms of conventions between the United States and Great  
73 Britain and between the United States and United Mexican States for the protection of migratory  
74 birds and wild mammals concluded, respectively, August 16, 1916, and February 7, 1936, except  
75 during the time and in the manner and numbers prescribed by the federal Migratory Bird Treaty  
76 Act, 16 U.S.C. §703, et seq., and regulations made thereunder;

77 (16) Kill, take, catch or have in his or her possession, living or dead, any wild bird other

78 than a game bird; or expose for sale or transport within or without the state any bird except as  
79 aforesaid. No part of the plumage, skin or body of any protected bird may be sold or had in  
80 possession for sale except mounted or stuffed plumage, skin, bodies or heads of the birds legally  
81 taken and stuffed or mounted, irrespective of whether the bird was captured within or without this  
82 state, except the English or European sparrow (*passer domesticus*), starling (*sturnus vulgaris*)  
83 and cowbird (*molothrus ater*), which may not be protected and the killing thereof at any time is  
84 lawful;

85 (17) Use dynamite or any like explosive or poisonous mixture placed in any waters of the  
86 state for the purpose of killing or taking fish. Any person violating ~~the provisions of~~ this  
87 subdivision is guilty of a felony and, upon conviction thereof, shall be fined not more than \$500 or  
88 imprisoned for not less than six months nor more than three years, or both fined and imprisoned;

89 (18) Have a bow and gun, or have a gun and any arrow or arrows, in the fields or woods  
90 at the same time;

91 ~~(19) Have a crossbow in the woods or fields or use a crossbow to hunt for, take or attempt~~  
92 ~~to take any wildlife except as otherwise provided in section 42w of this article;~~

93 ~~(20)~~ (19) Take or attempt to take turkey, bear, elk or deer with any arrow unless the arrow  
94 is equipped with a point having at least two sharp cutting edges measuring in excess of three  
95 fourths of an inch wide;

96 ~~(24)~~ (20) Take or attempt to take any wildlife with an arrow having an explosive head or  
97 shaft, a poisoned arrow or an arrow which would affect wildlife by any chemical action;

98 ~~(22)~~ (21) Shoot an arrow across any public highway or from aircraft, motor-driven  
99 watercraft, motor vehicle or other land conveyance;

100 ~~(23)~~ (22) Permit any dog owned by him or her or under his or her control to chase, pursue  
101 or follow upon the track of any wild animal or wild bird, either day or night, between May 1 and

102 the August 15 next following: *Provided*, That dogs may be trained on wild animals and wild birds,  
103 except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands  
104 of the owner or by his or her bona fide tenant or tenants or upon the grounds or lands of another  
105 person with his or her written permission or on public lands at any time: *Provided, however*, That  
106 nonresidents may not train dogs in this state at any time except during the legal small game  
107 hunting season: *Provided further*, That the person training said dogs does not have firearms or  
108 other implements in his or her possession during the closed season on wild animals and wild  
109 birds, whereby wild animals or wild birds could be taken or killed;

110 ~~(24)~~ (23) Conduct or participate in a field trial, shoot-to-retrieve field trial, water race or  
111 wild hunt hereafter referred to as trial: *Provided*, That any person, group of persons, club or  
112 organization may hold the trial at any time of the year upon obtaining a permit as is provided in  
113 section fifty-six of this article. The person responsible for obtaining the permit shall prepare and  
114 keep an accurate record of the names and addresses of all persons participating in said trial and  
115 make same readily available for inspection by any natural resources police officer upon request;

116 ~~(25)~~ (24) Except as provided in section four of this article, hunt, catch, take, kill or attempt  
117 to hunt, catch, take or kill any wild animal, wild bird or wild fowl except during the open season  
118 established by rule of the director as authorized by subdivision (6), section seven, article one of  
119 this chapter;

120 ~~(26)~~ (25) Hunting on public lands on Sunday after five o'clock antemeridian is prohibited;

121 ~~(27)~~ (26) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement  
122 which wildlife can be taken, on private lands on Sunday after the hour of five o'clock antemeridian:  
123 *Provided*, That ~~the provisions of this subdivision do~~ does not apply in any county until the county  
124 commission of the county holds an election on the question of whether ~~the provisions of this~~  
125 subdivision prohibiting hunting on Sunday shall apply within the county and the voters approve

126 the allowance of hunting on Sunday in the county. The election is determined by a vote of the  
127 resident voters of the county in which the hunting on Sunday is proposed to be authorized. The  
128 county commission of the county in which Sunday hunting is proposed shall give notice to the  
129 public of the election by publication of the notice as a Class II-0 legal advertisement in compliance  
130 with ~~the provisions of~~ article three, chapter fifty-nine of this code and the publication area for the  
131 publication is the county in which the election is to be held. The date of the last publication of  
132 the notice shall fall on a date within the period of the fourteen consecutive days next preceding  
133 the election.

134 On the local option election ballot shall be printed the following:

135 Shall hunting on Sunday be authorized in \_\_\_\_\_ County?

136  Yes  No

137 (Place a cross mark in the square opposite your choice.)

138 Any local option election to approve or disapprove of the proposed authorization of Sunday  
139 hunting within a county shall be in accordance with procedures adopted by the commission. The  
140 local option election may be held in conjunction with a primary or general election or at a special  
141 election. Approval shall be by a majority of the voters casting votes on the question of approval  
142 or disapproval of Sunday hunting at the election.

143 If a majority votes against allowing Sunday hunting, no election on the issue may be held  
144 for a period of one hundred four weeks. If a majority votes "yes," no election reconsidering the  
145 action may be held for a period of five years. A local option election may thereafter be held if a  
146 written petition of qualified voters residing within the county equal to at least five percent of the  
147 number of persons who were registered to vote in the next preceding general election is received  
148 by the county commission of the county in which Sunday hunting is authorized. The petition may  
149 be in any number of counterparts. The election shall take place at the next primary or general

150 election scheduled more than ninety days following receipt by the county commission of the  
 151 petition required by this subsection: *Provided*, That the issue may not be placed on the ballot  
 152 until all statutory notice requirements have been met. No local law or regulation providing any  
 153 penalty, disability, restriction, regulation or prohibition of Sunday hunting may be enacted and ~~the~~  
 154 ~~provisions of this article preempt all regulations, rules, ordinances and laws of any county or~~  
 155 municipality in conflict with this subdivision; ~~and~~

156 ~~(28)~~ (27) Hunt or conduct hunts for a fee where the hunter is not physically present in  
 157 the same location as the wildlife being hunted within West Virginia; and

158 (28) Beginning on July 1, 2015 any person who meets all the requirements of this chapter  
 159 to lawfully hunt may hunt with a crossbow during those times when it is lawful to hunt with a bow.

**§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 during the hunting season for bear and in  
 3 the manner designated by rules promulgated by the Division of Natural Resources and as  
 4 provided in this section. For the purposes of this section, bear parts include, but are not limited  
 5 to, the pelt, gallbladder, skull and claws of bear.

6 (b) A person who kills a bear shall, within twenty-four hours after the killing, deliver the  
 7 bear or fresh skin to a natural resources police officer or checking station for tagging. A Division  
 8 of Natural Resources tag shall be affixed to it before any part of the bear may be transported more  
 9 than seventy-five miles from the point of kill. The Division of Natural Resources tag shall remain  
 10 on the skin until it is tanned or mounted. Any bear or bear parts not properly tagged shall be  
 11 forfeited to the state for disposal to a charitable institution, school or as otherwise designated by  
 12 the Division of Natural Resources.

- 13 (c) It is unlawful:
- 14 (1) To hunt bear without a bear damage stamp as prescribed in section forty-four-b of this
- 15 article, in addition to a hunting license as prescribed in this article;
- 16 (2) To hunt a bear with:
- 17 (A) A shotgun using ammunition loaded with more than one solid ball; or
- 18 (B) A rifle of less than twenty-five caliber using rimfire ammunition. ~~or,~~
- 19 ~~(C) A crossbow;~~
- 20 (3) To kill or attempt to kill any bear through the use of poison, explosives, snares, steel
- 21 traps or deadfalls other than as authorized in this section;
- 22 (4) To shoot at or kill:
- 23 (A) A bear weighing less than seventy-five pounds live weight or fifty pounds field dressed
- 24 weight, after removal of all internal organs;
- 25 (B) Any bear accompanied by a cub; or,
- 26 (C) Any bear cub so accompanied, regardless of its weight;
- 27 (5) To possess any part of a bear not tagged in accordance with ~~the provisions of this~~
- 28 section;
- 29 (6) To enter a state game refuge with firearms for the purpose of pursuing or killing a bear
- 30 except under the direct supervision of division personnel;
- 31 (7) To hunt bear with dogs or to cause dogs to chase bear during seasons other than
- 32 those designated by the Division of Natural Resources for the hunting of bear;
- 33 (8) To pursue a bear with a pack of dogs other than the pack used at the beginning of the
- 34 hunt once the bear is spotted and the chase has begun;
- 35 (9) To possess, harvest, sell or purchase bear parts obtained from bear killed in violation
- 36 of this section;

37 (10) To organize for commercial purposes or to professionally outfit a bear hunt or to give  
38 or receive any consideration whatsoever or any donation in money, goods or services in  
39 connection with a bear hunt notwithstanding the provisions of sections twenty-three and  
40 twenty-four of this article; or

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

43 (d) The following provisions apply to bear destroying property:

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

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

51 (C) If the complaint is found to be justified, the officer or designated person may, together  
52 with the owner and other residents, proceed to hunt, destroy or capture the bear that caused the  
53 property damage: *Provided*, That only the natural resources police officer or the wildlife biologist  
54 may determine whether to destroy or capture the bear and whether to use dogs to capture or  
55 destroy the bear: *Provided, however*, That, if out-of-state dogs are used in the hunt, the owners  
56 of the dogs are the only nonresidents permitted to participate in hunting the bear.

57 (2) (A) When a property owner has suffered damage to real or personal property as the  
58 result of an act by a bear, the owner shall file a report with the Director of the Division of Natural  
59 Resources. The report shall state whether or not the bear was hunted and destroyed and, if so,  
60 the sex, weight and estimated age of the bear. The report shall also include an appraisal of the

61 property damage occasioned by the bear duly signed by three competent appraisers fixing the  
62 value of the property lost.

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

66 (C) The division shall establish the procedures to be followed in presenting and deciding  
67 claims under this section in 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. In the event the fund is insufficient to pay all claims determined  
70 by the commission to be just and proper, the remainder due to owners of lost or destroyed  
71 property shall be paid from the special revenue account of the Division of Natural Resources.

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

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

82 (2) Any person who commits a second violation ~~of the provisions~~ of this section is guilty of  
83 a misdemeanor and, upon conviction thereof, shall be fined not less than \$2,000 nor more than  
84 \$7,500, which fine is not subject to suspension by the court, confined in jail not less than thirty

85 days nor more than one year, or both fined and confined. The person's hunting and fishing  
86 licenses shall be suspended for life.

87 (3) Any person who commits a third or subsequent violation ~~of the provisions~~ of this section  
88 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than  
89 \$10,000, which fine is not subject to suspension by the court, imprisoned in a correctional facility  
90 not less than one year nor more than five years, or both fined and imprisoned.

NOTE: The purpose of this bill is to permit hunting with a cross bow. The bill also defines two terms.

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