

1 **Senate Bill No. 395**

2 (By Senators Barnes, Blair, Cole, Williams, D. Hall, M. Hall,
3 Beach, Nohe and McCabe)

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5 [Introduced February 28, 2013; referred to the Committee on
6 Natural Resources; and then to the Committee on the Judiciary.]

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11 A BILL to amend and reenact §20-2-7 of the Code of West Virginia,
12 1931, as amended, relating to hunting, trapping or fishing on
13 lands of another person; and absolving the landowner and his
14 or her tenant or agent of civil liability for injuries
15 suffered by a person hunting, trapping or fishing on his or
16 her lands with or without written permission.

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

18 That §20-2-7 of the Code of West Virginia, 1931, as amended,
19 be amended and reenacted to read as follows:

20 **ARTICLE 2. WILDLIFE RESOURCES.**

21 **§20-2-7. Hunting, trapping or fishing on lands of another; damages**
22 **and restitution.**

1 (a) It is unlawful for any person to shoot, hunt, fish or trap
2 upon the fenced, enclosed or posted lands of another person; or to
3 peel trees or timber, build fires or do any other act in connection
4 with shooting, hunting, fishing or trapping on the lands without
5 written permission in his or her possession from the owner, tenant
6 or agent of the owner. The owner, tenant or agent of the owner who
7 has given written permission is not liable in civil damages for any
8 injuries received on the lands by the person or persons to whom
9 permission was given. An owner, tenant or agent of the owner also
10 is not liable in civil damages for injuries received by persons
11 shooting, hunting, fishing or trapping on the grounds or lands
12 without written permission.

13 (b) Any person who hunts, traps or fishes on land without the
14 permission of the owner, tenant or agent of the owner is guilty of
15 a misdemeanor and, liable to the owner or person suffering damage
16 for all costs and damages for: (1) Killing or injuring any
17 domestic animal, fowl, or private game farm animal; (2) cutting,
18 destroying or damaging any bars, gates or fence or any part of the
19 property; or (3) leaving open any bars or gates resulting in damage
20 to the property.

21 (c) Restitution of the value of the property or animals
22 injured, damaged or destroyed shall be required upon conviction
23 pursuant to sections four and five, article eleven-a, chapter

1 sixty-one of this code. The restitution ordered for private game
2 farm animals shall be equivalent to or greater than the replacement
3 values for deer listed in section five-a in this article.

4 (d) The owner, tenant or agent of the owner may arrest a
5 person violating this section and immediately take him or her
6 before a magistrate. The owner, tenant or agent of the owner is
7 vested with the powers and rights of a natural resources police
8 officer for these purposes. The officers charged with the
9 enforcement of the provisions of this chapter shall enforce the
10 provisions of this section if requested to do so by the owner,
11 tenant or agent of the owner, but not otherwise.

12 (e) The provisions of subsections (b) and (d) of this section
13 related to criminal penalties and being subject to arrest are
14 inapplicable to a person whose dog, without the person's direction
15 or encouragement, travels onto the fenced, enclosed or posted land
16 of another in pursuit of an animal or wild bird: *Provided*, That
17 the pursuit does not result in the taking of game from the fenced,
18 enclosed or posted land and does not result in the killing of
19 domestic animals or fowl or other damage to or on the fenced,
20 enclosed or posted land.

NOTE: The purpose of this bill is to absolve the landowner,
tenant or agent of the landowner from any civil liability for
injuries to any persons hunting, trapping or fishing on the

landowner`s land with or without written permission.

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