

Senate Bill No. 569

(By Senators Maynard, Karnes and Leonhardt)

[Introduced February 23, 2015; referred to the Committee on Natural Resources.]

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9 A BILL to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating
10 to removing provision prohibiting bear hunting with outfitters.

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

12 That §20-2-22a of the Code of West Virginia, 1931, as amended, be amended and reenacted
13 to read as follows:

14 **ARTICLE 2. WILDLIFE RESOURCES.**

15 **§20-2-22a. Hunting, tagging and reporting bear; procedures applicable to property**
16 **destruction by bear; penalties.**

17 (a) A person in any county of this state may not hunt, capture, or kill any bear, or have in his
18 or her possession any bear or bear parts, except during the hunting season for bear and in the manner
19 designated by rules promulgated by the Division of Natural Resources and as provided in this
20 section. For the purposes of this section, bear parts include, but are not limited to, the pelt,
21 gallbladder, skull and claws of bear.

22 (b) A person who kills a bear shall, within twenty-four hours after the killing, deliver the bear

1 or fresh skin to a natural resources police officer or checking station for tagging. A Division of
2 Natural Resources tag shall be affixed to it before any part of the bear may be transported more than
3 seventy-five miles from the point of kill. The Division of Natural Resources tag shall remain on the
4 skin until it is tanned or mounted. Any bear or bear parts not properly tagged shall be forfeited to
5 the state for disposal to a charitable institution, school or as otherwise designated by the Division
6 of Natural Resources.

7 (c) It is unlawful:

8 (1) To hunt bear without a bear damage stamp as prescribed in section forty-four-b of this
9 article, in addition to a hunting license as prescribed in this article;

10 (2) To hunt a bear with:

11 (A) A shotgun using ammunition loaded with more than one solid ball;

12 (B) A rifle of less than twenty-five caliber using rimfire ammunition; or,

13 (C) A crossbow;

14 (3) To kill or attempt to kill any bear through the use of poison, explosives, snares, steel traps
15 or deadfalls other than as authorized in this section;

16 (4) To shoot at or kill:

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

19 (B) Any bear accompanied by a cub; or,

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

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

22 (6) To enter a state game refuge with firearms for the purpose of pursuing or killing a bear

1 except under the direct supervision of division personnel;

2 (7) To hunt bear with dogs or to cause dogs to chase bear during seasons other than those
3 designated by the Division of Natural Resources for the hunting of bear;

4 (8) To pursue a bear with a pack of dogs other than the pack used at the beginning of the hunt
5 once the bear is spotted and the chase has begun;

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

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

12 ~~(11)~~ (10) For any person who is not a resident of this state to hunt bear with dogs or to use
13 dogs in any fashion for the purpose of hunting bear in this state except in legally authorized hunts.

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

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

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

22 (C) If the complaint is found to be justified, the officer or designated person may, together

1 with the owner and other residents, proceed to hunt, destroy or capture the bear that caused the
2 property damage: *Provided*, That only the natural resources police officer or the wildlife biologist
3 may determine whether to destroy or capture the bear and whether to use dogs to capture or destroy
4 the bear: *Provided, however*, That, if out-of-state dogs are used in the hunt, the owners of the dogs
5 are the only nonresidents permitted to participate in hunting the bear.

6 (2) (A) When a property owner has suffered damage to real or personal property as the result
7 of an act by a bear, the owner shall file a report with the Director of the Division of Natural
8 Resources. The report shall state whether or not the bear was hunted and destroyed and, if so, the
9 sex, weight and estimated age of the bear. The report shall also include an appraisal of the property
10 damage occasioned by the bear duly signed by three competent appraisers fixing the value of the
11 property lost.

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

15 (C) The division shall establish the procedures to be followed in presenting and deciding
16 claims under this section in accordance with article three, chapter twenty-nine-a of this code.

17 (D) All claims shall be paid in the first instance from the Bear Damage Fund provided in
18 section forty-four-b of this article. In the event the fund is insufficient to pay all claims determined
19 by the commission to be just and proper, the remainder due to owners of lost or destroyed property
20 shall be paid from the special revenue account of the Division of Natural Resources.

21 (3) In all cases where the act of the bear complained of by the property owner is the killing
22 of livestock, the value to be established is the fair market value of the livestock at the date of death.

1 In cases where the livestock killed is pregnant, the total value is the sum of the values of the mother
2 and the unborn issue, with the value of the unborn issue to be determined on the basis of the fair
3 market value of the issue had it been born.

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

9 (2) Any person who commits a second violation of the provisions of this section is guilty of
10 a misdemeanor and, upon conviction thereof, shall be fined not less than \$2,000 nor more than
11 \$7,500, which fine is not subject to suspension by the court, confined in jail not less than thirty days
12 nor more than one year, or both fined and confined. The person's hunting and fishing licenses shall
13 be suspended for life.

14 (3) Any person who commits a third or subsequent violation of the provisions of this section
15 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than
16 \$10,000, which fine is not subject to suspension by the court, imprisoned in a correctional facility
17 not less than one year nor more than five years, or both fined and imprisoned.

NOTE: The purpose of this bill is to permit bear hunting with a guide.

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