

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4236

BY DELEGATES HAMILTON, A. EVANS, ROMINE, WAGNER,
AMBLER, ELDRIDGE, PETHTEL, SPONAUGLE AND GUTHRIE

[Introduced January 22, 2016; Referred
to the Committee on Agriculture and Natural
Resources then Government Organization]

1 A BILL to amend and reenact §20-1-2 of the Code of West Virginia, 1931, as amended, relating
2 to the classification of certain species; identifying the coyote as a fur-bearing animal;
3 identifying the woodchuck as a game animal; identifying the coyote, porcupine and all
4 species of cervids as 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 “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 “Citizen” means any native-born citizen of the United States and foreign-born persons who
11 have procured their final naturalization papers.

12 “Closed 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 “Commission” means the Natural Resources Commission.

15 “Commissioner” means a member of the advisory commission of the Natural Resources
16 Commission.

17 “Director” means the Director of the Division of Natural Resources.

18 “Fishing” or “to 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 “Fur-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 “Game” means game animals, game birds and game fish as herein defined.

25 “Game animals” includes: (a) The elk; (b) the deer; (c) the cottontail rabbits and hares; (d)
26 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 “game animals” does not include captive cervids regulated
29 pursuant to article two-h, chapter nineteen of this code.

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

42 “Hunt” means to pursue, chase, catch or take any wild birds or wild animals. However, the

43 definition of “hunt” does not include an officially sanctioned and properly licensed field trial, water
44 race or wild hunt as long as that field trial is not a shoot-to-retrieve field trial.

45 “Lands” means land, waters and all other appurtenances connected therewith.

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

58 “Person”, except as otherwise defined elsewhere in this chapter, means the plural
59 “persons” and shall include individuals, partnerships, corporations or other legal entities.

60 “Preserve” 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 “preserve” does not include captive cervid
63 farming facilities regulated pursuant to article two-h, chapter nineteen of this code.

64 “Protected birds” means all wild birds not included within the definitions of “game birds”
65 and “unprotected birds”.

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

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

79 “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 “take” 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 “Unprotected birds” shall include: (a) The English sparrow; (b) the European starling; and
84 (c) the cowbird.

85 “Wild animals” means all mammals native to the State of West Virginia occurring either in
86 a natural state or in captivity, except house mice or rats, and includes coyotes and porcupines
87 and all species of cervids. The term “wild 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 “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 "Wildlife" 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 "wildlife" does not include captive cervids regulated pursuant
100 to article two-h, chapter nineteen of this code.

101 "Wildlife 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, and 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.