

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4346**

BY DELEGATES HAMILTON, A. EVANS, ROMINE, WAGNER,

AND GUTHRIE

[Introduced February 1, 2016; referred  
to the Committee on Agriculture and Natural resources  
then the Judiciary.]

1 A BILL to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating  
 2 to bear hunting; providing that training dogs on or pursuing bears with dogs is hunting  
 3 bear; providing that it is unlawful to kill, attempt to kill, or wound or attempt to wound any  
 4 bear using bait; providing examples of what constitutes bait; providing period of time after  
 5 removal of bait an area is still considered baited; providing that it is unlawful to feed bears  
 6 at any time; providing that it is unlawful to transport or possess any part of a bear not  
 7 lawfully tagged; deleting certain bear hunting prohibitions; revising provisions relating to  
 8 bears damaging or destroying property; permitting Division of Natural Resources officer  
 9 or designated wildlife biologist to issue bear depredation permit or authorize hunting of  
 10 bears to owners or lessees suffering damage to real or personal property from bears;  
 11 permitting officer or wildlife biologist to recommend other measures to end or minimize  
 12 property damage by bears; providing requirements for bear damage reports by the  
 13 Division of Natural Resources for bear damage claims; providing bear damage claim limit  
 14 for property covered by insurance policy; providing for establishment of procedures by  
 15 Division of Natural Resources to issue bear depredation permits and organizing bear  
 16 hunts; and decreasing criminal penalties.

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

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

**ARTICLE 2. WILDLIFE RESOURCES.**

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

1 (a) A person may not hunt, capture, or kill any bear, or have in his or her possession any  
 2 bear or bear parts, except during the hunting season for bear in the manner designated by rule  
 3 or law. ~~and as provided in this section.~~ For the purposes of this section, bear parts include, but  
 4 are not limited to, the pelt, gallbladder, skull and claws of bear.

5 (b) A person who kills a bear shall, within twenty-four hours after the killing, electronically  
6 register the bear. A game tag number shall be issued to the person and recorded in writing with  
7 the person's name and address, or on a field tag and shall remain on the skin until it is tanned or  
8 mounted. Any bear or bear parts not properly tagged shall be forfeited to the state for disposal to  
9 a charitable institution, school or as otherwise designated by the director.

10 (c) Training dogs on bears or pursuing bears with dogs is the hunting of bear for all  
11 purposes of this chapter, including all applicable regulations and license requirements.

12 ~~(e)~~ (d) It is unlawful:

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

15 (2) To hunt a bear with:

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

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

18 (3) To kill or attempt to kill, or wound or attempt to wound, any bear through the use of  
19 bait, poison, explosives, snares, steel traps or deadfalls or to feed bears at any time. For purposes  
20 of this section, bait includes, but is not limited to, corn and other grains, animal carcasses or  
21 animal remains, grease, sugars in any form, scent attractants and other edible enticements, and  
22 an area is considered baited for ten days after all bait has been removed;

23 (4) To shoot at or kill:

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

26 (B) Any bear accompanied by a cub; or

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

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

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

31 ~~except under the direct supervision of division personnel;~~

32 ~~(7) To hunt bear with dogs or to cause dogs to chase bear during seasons other than~~  
33 ~~those designated by the division for the hunting of bear;~~

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

36 ~~(9) (6) To possess, harvest, sell or purchase bear parts obtained from bear killed in~~  
37 ~~violation of this section; or~~

38 ~~(10) (7) To organize for commercial purposes or to professionally outfit a bear hunt, or to~~  
39 ~~give or receive any consideration whatsoever or any donation in money, goods or services in~~  
40 ~~connection with a bear hunt, notwithstanding the provisions of sections twenty-three and twenty-~~  
41 ~~four of this article. or~~

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

44 ~~(d) (e) The following provisions apply to bear damaging or destroying property:~~

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

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

52 (C) If the complaint is found to be justified, the officer or designated ~~person~~ wildlife biologist  
53 ~~may together with~~ issue a permit to kill the bear that caused the property damage or may authorize  
54 the owner and other residents to proceed to hunt, destroy or capture the bear that caused the  
55 property damage: *Provided*, That only the natural resources police officer or the wildlife biologist  
56 may ~~determine whether to destroy or capture the bear and whether to use dogs to capture or~~

57 ~~destroy the bear~~ recommend other measures to end or minimize property damage: Provided,  
58 however, That, if out-of-state dogs are used in the hunt, the owners of the dogs are the only  
59 nonresidents permitted to participate in hunting the bear.

60 (2) (A) When a property owner has suffered damage to real or personal property as the  
61 result of an act by a bear, the owner shall file a report with the director of the division. ~~The~~ A bear  
62 damage report shall be completed by a representative of the division and shall state whether or  
63 not the bear was hunted and destroyed or killed under authorization of a depredation permit and,  
64 if so, the sex and weight shall be recorded and ~~estimated age of a~~ premolar tooth collected from  
65 the bear, all of which shall be submitted with the report. The report shall also include an appraisal  
66 of the property damage occasioned by the bear ~~duly signed by three competent appraisers~~ fixing  
67 the value of the property lost. Bear damage claims will not be accepted for personal and real  
68 property which is commonly used for the purposes of feeding, baiting, observing or hunting  
69 wildlife, including, but not limited to, hunting blinds, tree stands, artificial feeders, game or trail  
70 cameras and crops planted for the purposes of feeding or baiting wildlife. In addition, in the event  
71 that a bear damages property which is covered under any insurance policy of the property owner,  
72 the claim may not exceed the amount of the deductible for the applicable policy.

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

76 (C) The division shall establish the procedures to be followed in presenting and deciding  
77 claims, issuing bear depredation permits and organizing bear hunts under this section in  
78 accordance with article three, chapter twenty-nine-a of this code.

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

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

88 ~~(e)~~ (f) Criminal penalties. (1) Any person who commits a violation of the provisions of this  
89 section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ~~\$4,000~~  
90 \$500 nor more than ~~\$5,000~~ \$1,000, which is not subject to suspension by the court, confined in  
91 jail not less than ~~thirty~~ ten nor more than ~~one hundred~~ thirty days, or both fined and confined.  
92 Further, the person's hunting and fishing licenses shall be assigned six points, however, the  
93 hunting and fishing licenses of any person convicted of a violation of this section which results in  
94 the killing or death of a bear shall be suspended for two years.

95 (2) Any person who commits a second violation of the provisions of this section is guilty of  
96 a misdemeanor and, upon conviction thereof, shall be fined not less than ~~\$2,000~~ \$1,000 nor more  
97 than ~~\$7,500~~ \$3,000, which is not subject to suspension by the court, confined in jail not less than  
98 thirty days nor more than ~~one year~~ hundred days, or both fined and confined. The persons hunting  
99 and fishing licenses shall be suspended for ~~life~~ five years.

100 (3) Any person who commits a third or subsequent violation of the provisions of this section  
101 is guilty of a ~~felony~~ misdemeanor and, upon conviction thereof, shall be fined not less than ~~\$5,000~~  
102 \$2,500 nor more than ~~\$10,000~~ \$5,000, which is not subject to suspension by the court, ~~imprisoned~~  
103 ~~in a correctional facility~~ confined in jail not less than ~~one year~~ six months nor more than ~~five years~~  
104 one year, or both fined and ~~imprisoned~~ confined. The person's hunting and fishing licenses shall  
105 be suspended for ten years.

NOTE: The purpose of this bill is to reduce certain penalties for offenses not resulting in the illegal killing of bear and to clarify language associated with reviewing and approving bear damage claims, issuing bear depredation permits, dog training and baiting definitions,

and to make technical corrections.

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