

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 473**

BY SENATORS MAYNARD AND CLINE

[Originating in the Committee on Natural Resources;

reported on March 7, 2017]

1 A BILL to amend and reenact §20-2-4 and §20-2-11 of the Code of West Virginia, 1931, as  
2 amended, all relating to wildlife; permitting the collection, possession and sale of naturally  
3 shed deer antlers; and clarifying the sale, trade or barter of wildlife or parts thereof.

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

1 That §20-2-4 and §20-2-11 of the Code of West Virginia, 1931, as amended, be amended  
2 and reenacted, all to read as follows:

**ARTICLE 2. WILDLIFE RESOURCES.**

**§20-2-4. Possession of wildlife.**

1 (a) Except for wildlife lawfully taken, killed or obtained, no person may have in his or her  
2 possession any wildlife, or parts thereof, during closed seasons. It is unlawful to possess any  
3 wildlife, or parts thereof, which have been illegally taken, killed or obtained. This does not include  
4 the possession of deer antlers that are naturally shed and collected by a person from his or her  
5 own land, from public lands unless prohibited by law, or from private lands with the written  
6 permission of the landowner in hand. Any wildlife illegally taken, killed or possessed shall be  
7 forfeited to the state and shall be counted toward the daily, seasonal, bag, creel and possession  
8 limit of the person in possession of, or responsible for, the illegal taking or killing of any wildlife. It  
9 is unlawful to take, obtain, purchase, possess or maintain in captivity any live wildlife, wild animals,  
10 wild birds, game or fur-bearing animals except as provided by this chapter or any rule promulgated  
11 thereunder.

12 (b) Wildlife lawfully taken outside of this state is subject to the same laws and rules as  
13 wildlife taken within this state.

14 (c) Migratory wild birds may be possessed only in accordance with the Migratory Bird  
15 Treaty Act, 16 U. S. C. §703, *et seq.*, and its regulations.

16 (d) The restrictions in this section do not apply to the director or duly authorized agents,  
17 who may take or maintain in captivity any wildlife for the purpose of carrying out the provisions of  
18 this chapter.

19 (e) Wildlife, except protected birds, elk, spotted fawn and bear cubs, killed or mortally  
20 wounded as a result of being accidentally or inadvertently struck by a motor vehicle may be  
21 lawfully possessed if the possessor of the wildlife provides notice of the claim within twelve hours  
22 to a relevant law-enforcement agency and obtains a nonhunting game tag within twenty-four  
23 hours of possession. The director shall propose administrative policy which addresses the means,  
24 methods and administrative procedures for implementing the provisions of this section.

25 (f) Persons are required to electronically register deer, bear, turkey, wild boar, bobcat,  
26 beaver, otter and fisher in accordance with rules promulgated by the director. "Electronically  
27 register" means submission of all necessary and relevant information to the division, in the  
28 manner designated by rule governing the electronic registration of wildlife. The director may  
29 promulgate rules, pursuant to article three, chapter twenty-nine-a of this code, governing the  
30 electronic registration of wildlife: *Provided*, That the rules shall include a procedure for persons  
31 who are not required to obtain licenses or permits under section twenty-eight of this article to  
32 register wildlife using identification other than a social security number. The rules may use a  
33 system of a combination of the last four digits of the social security number, date of birth and last  
34 name of the person.

**§20-2-11. Sale of wildlife; transportation of same.**

1 (a) A person, except those legally licensed to operate private game preserves for the  
2 purpose of propagating game for commercial purposes and those legally licensed to propagate  
3 or sell fish, amphibians and other forms of aquatic life, may not purchase or offer to purchase, sell  
4 or offer to sell, trade or offer to trade, barter or offer to barter, expose for sale, trade or barter or  
5 have in his or her possession for the purpose of sale, trade or barter any wildlife, or part thereof,  
6 which has been designated as game animals, fur-bearing animals, game birds, game fish or  
7 amphibians, or any of the song or insectivorous birds of the state, or any other species of wildlife  
8 which the director may designate, except for captive cervids regulated pursuant to the provisions  
9 of article two-h, chapter nineteen of this code. However, pelts of game or fur-bearing animals

10 taken during the legal season may be sold, traded or bartered and live red and gray foxes and  
11 raccoon taken by legal methods during legal and established trapping seasons may be sold,  
12 traded or bartered within the state. In addition, the hide, head, antlers and feet of a legally killed  
13 deer, lawfully collected and possessed naturally shed deer antlers and the hide, head and skull  
14 of a legally killed black bear may be sold, traded or bartered.

15 (b) A person, including a common carrier, may not transport, carry or convey, or receive  
16 for such purposes, any wildlife, the sale, trade or bartering of which is prohibited, if such person  
17 knows or has reason to believe that such wildlife has been or is to be sold, traded or bartered in  
18 violation of this section.

19 (c) Each separate act of selling or exposing for sale, trading or exposing for trade or  
20 bartering or exposing for barter or having in possession for sale, trade, barter, transporting or  
21 carrying in violation of this section constitutes a separate misdemeanor offense. Notwithstanding  
22 this or any other section of this chapter, any game birds or game bird meats sold by licensed  
23 retailers may be served at any hotel, restaurant or other licensed eating place in this state.

24 (d) The director may propose rules for promulgation in accordance with article three,  
25 chapter twenty-nine-a of this code dealing with the sale of wildlife and the skins thereof.

NOTE: The purpose of this bill is to clarify the circumstances in which naturally shed deer antlers may be lawfully collected, possessed and sold and to clarify that certain wildlife or parts thereof cannot be traded or bartered.

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