WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 411

By Senator Sypolt

[Introduced January 17, 2022; referred

to the Committee on the Judiciary]

A BILL to amend and reenact §64-10-1 of the Code of West Virginia, 1931, as amended, relating to authorizing the Division of Natural Resources to promulgate a legislative rule relating to commercial sale of wildlife.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. Authorization for Department of commerce to promulgate legislative rules.

§64-10-1. Division of Natural Resources.

The legislative rule filed in the State Register on July 30, 2021, authorized under the authority of §20-2-11 of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 29, 2021, relating to the Division of Natural Resources (Commercial Sale of Wildlife, [58 CSR 63](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=58-63)), is authorized with the amendments set forth below:

On page 5, section 8.1, by striking out subsection 8.1 in its entirety and inserting in lieu thereof:

“§58-63-8. Penalties.

8.1. Any person accused of violating any provision of this rule may, in the discretion of the Director, be referred to the county prosecutor in the county of the alleged offense for potential prosecution of a misdemeanor or felony. If the county prosecutor determines that a referred violation of this rule meets the act and state of mind requirements for criminal liability under West Virginia law, upon conviction thereof, the violator may be punished by a fine of up to a $500 or up to 30 days of incarceration in the county jail, or a combination of fine and incarceration. As applicable, the violation may, in the discretion of the county prosecutor, be prosecuted pursuant to and sentenced by a court in accordance with W.Va. Code Chapter 61: Provided, That convictions for violations of this rule may only be subject to incarceration if the rule violation convicted of posed a substantial risk to life or public safety, or in fact caused actual substantial harm resulting from the violation.”

NOTE: The purpose of this bill is to authorize the Division of Natural Resources to promulgate a legislative rule relating to Commercial Sale of Wildlife.

This section is new; therefore, strike-throughs and underscoring have been omitted.