

This legislative rule is filed for technical purposes

by the

Division of Natural Resources Wildlife Resources Section

All changes are shown by strike-throughs for deleted
language and underline for new language

August 1, 1995

TECHNICAL CHANGES TO

TITLE 58 CSR 23

Commercial Sale of Wildlife - 58 CSR 23

1. On page 1, in the title of the rule the agency name Bureau of Commerce has been added.
2. 58 CSR 23 is changed to 58 CSR 63 and renumbered accordingly throughout the rule.

TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES

FILED

AUG 1 4 14 PM '95

SERIES 2363
COMMERCIAL SALE OF WILDLIFE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§58-2363-1. General.

1.1. Scope. -- This legislative rule establishes regulations to govern the sale of wildlife raised under licenses issued by the Department killing, taking, trapping, possession, buying, selling, offering to buy or sell, barter, or attempt to take, trap, possess or barter any wildlife, as defined in section 2.3 of this regulation or any other species designated by the director, from the wild, or the eggs of any wildlife or designated species from the wild for commercial purposes pursuant to W. Va. Code §§20-2-11, 20-2-47 and 20-2-48.

1.2. Authority. -- W. Va. Code §20-2-11, 20-2-47, and 20-2-48.

1.3. Filing Date. -- June 24, 1993

1.4. Effective Date. -- July 1, 1993

§58-2363-2. Definitions.

2.1. "Facility" means the property on which a person engages in an activity for which one of the licenses listed in Section 2.2 of this regulation is required by statute and includes, but is not limited to, buildings, enclosures, grounds, impoundments, and ponds.

2.2. "Licensee" means a person who has been granted one of the following permits and licenses issued by the Division:

2.2.1. A license for the operation of a private game preserve for the propagation of wild animals or wild birds for commercial purposes (W. Va. Code §20-2-47). This license authorizes the holder to breed or raise such animals and birds as specified by the license, to sell the wild animals or wild birds, dead or alive, or to sell the eggs of birds in accordance with the provisions of this regulation.

2.2.2. A license for the operation of a private plant, pond, or business for the propagation, sale, or purchase of fish, frogs, turtles, or other forms of aquatic life for commercial purposes (W. Va. Code §20-2-48). This license authorizes the holder to breed or raise such species as specified by the license and to buy and sell

the fish, frogs, turtles or other form of aquatic life, dead or alive or the eggs thereof in accordance with the provisions of this regulation.

2.3. "Wildlife" means wild animals, wild birds, fish, frogs and other amphibians, turtles, and all forms of aquatic life used as fish bait.

2.4. All other terms have the meaning prescribed in W. Va. Code §20-1-2.

§58-2363-3. Wildlife Acquisition.

3.1. Wildlife held by a licensee shall have been:

3.1.1. Obtained from a person licensed by the Department to sell wildlife in this State;

3.1.2. Imported into this State under the provisions of W. Va. Code §20-2-13; or

3.1.3. Born at the licensee's facility, the offspring of wildlife legally held by the licensee.

3.2. If a licensee acquires wildlife in the manner specified in Section 3.1.1 of this regulation, a bill of sale from the supplying vendor must be retained by the licensee as proof of legal acquisition.

3.3. If a licensee acquires wildlife in the manner specified in Section 3.1.2 of this regulation, the importation permit issued by the Division must be retained by the licensee as proof of legal acquisition.

3.4. If a licensee acquires wildlife in the manner specified in Section 3.1.3 of this regulation, a record must be kept by the licensee in accordance with the provisions of Section 5 of this regulation.

§58-2363-4. Wildlife Sales.

4.1. The licensee shall provide a bill of sale to each person who purchases the licensee's wildlife. The bill of sale shall, at a minimum, contain the following information:

4.1.1. The seller's name and address;

4.1.2. The seller's license number;

4.1.3. The date of the sale;

4.1.4. The purchaser's name and address; and

4.1.5. A description of the wildlife sold, including the number of each species sold.

a. For sales of fish, this description shall include the number of pounds of each species sold.

§58-2363-5. Record Keeping.

5.1. Accurate and current records of all wildlife acquisitions and sales shall be maintained by the licensee. The licensee shall also maintain records on all wildlife born at the licensee's facility. All records shall be either typed or written in plain and legible English and shall include the full name, address, and telephone number of each person with whom a wildlife transaction has been conducted. All records shall be maintained by the licensee at his or her facility for a minimum period of three (3) years.

§58-2363-6. Inspections.

6.1. A licensee's facility, records, or wildlife may be inspected by an authorized representative of the director, on a case by case basis, to assure compliance with all requirements mandated by statute or regulation or by the terms and conditions of the licensee's permit or license.

§58-2363-7. Possession for Commercial Purposes Prohibited.

The following species shall not be taken from the wild or possessed for any commercial purpose except as authorized pursuant to W. Va. Code §§20-2-11, 20-2-47 or 20-2-48.

7.1. It is illegal to catch, capture, sell, trade, take or kill by seine, net, bait, trap, or any other means, or to have in one's possession, or to transport into or out of the state any of the following species of turtles or their eggs for commercial purposes:

Common snapping turtle (*Chelydra serpentina serpentina*),

Eastern painted turtle (*Chrysemys picta picta*),

Eastern river cooter (*Pseudemys concinna concinna*),

Eastern spiny softshell (*Apalone spinifera spinifera*),

Hieroglyphic turtle (*Pseudemys concinna hieroglyphica*),
Map turtle (*Graptemys geographica*),
Midland painted turtle (*Chrysemys picta marginata*),
Midland smooth softshell (*Apalone mutica*),
Ouachita map turtle (*Graptemys pseudogeographica ouachitensis*),
Redbelly turtle (*Pseudemys rubriventris*),
Red-eared slider (*Trachemys scripta elegans*),
Spotted turtle (*Clemmys guttata*),
Stinkpot (*Sternotherus odoratus*), and
Wood turtle (*Clemmys insculpta*).

§58-2363-8. Penalties.

A violation of this regulation constitutes a misdemeanor for each offense in accordance with W. Va. Code §20-2-11 and each misdemeanor offense is subject to the penalties provided for in W. Va. Code §20-7-9.