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SECRETARY OF STATE

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March 27, 1995

Robert L. Miles
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SB 112 authorizing, **Title 58, Series 11B, Regulations concerning prohibitions and hunting and trapping**, passed the Legislature on **March 11, 1995**. It was signed by the Governor on March 23, 1995.

You have sixty (60) days after the Governor signs SB 112, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 112** section **64-10-2(g)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: YOUR AGENCY MUST SUBMIT A CLEAN COPY OF THE LEGISLATIVE RULE ON DISK, WITH ALL UNDERLINING, STRIKE-THROUGHS AND HEADERS/FOOTERS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. THE DISK MUST BE ON A WORD PERFECT (5.1 OR 5.2 VERSION) OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM 3 1/2" DOUBLE DENSITY DISK. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL ENABLE US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS AND HEADERS/FOOTERS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division

TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 11B
PROHIBITIONS WHEN HUNTING AND TRAPPING

§58-11B-1. General.

1.1. Scope and Purpose. -- This rule establishes prohibitions in the pursuit or taking of wildlife within the boundaries of this State.

1.2. Authority. -- West Virginia Code §20-1-7(30).

1.3. Filing Date. -- May 8, 1995

1.4. Effective Date. -- May 9, 1995

1.5. Repeal of Former Rule. -- These rules repeal and replace 58 C.S.R. 11B "Prohibitions when Hunting and Trapping" that were filed on June 24, 1993 and became effective on June 24, 1993.

§58-11B-2. Definitions.

2.1. All terms have the meaning prescribed in the rule defining the terms to be used concerning all Hunting and Trapping Regulations (47 C.S.R.11A).

§58-11B-3. Prohibitions.

3.1. Hunting is prohibited in State parks and wildlife refuges, in safety zones in State forests, and in safety zones in State Wildlife Management Areas.

3.1.1. Federal regulations prohibit hunting in Harpers Ferry National Historical Park.

3.2. Notwithstanding the provisions of W. Va. Code §20-2-5(2), woodchucks may be controlled by digging them out, cutting them out or smoking them out on private land by the landowner, his or her resident children or resident parents, or a bona fide resident

tenant.

3.3. Except as provided in Subdivisions 3.3.1 and 3.3.2 of this rule, it is illegal to use poisons, chemicals, or explosives in taking any furbearing animal, game animal, game bird, protected bird, or protected mammal.

3.3.1. Woodchucks may be controlled by poison, chemical or explosives on private land by the landowner, his or her resident children or resident parents, or a bona fide resident tenant during the period commencing each year on April 1 and ending on September 30.

3.3.2. Redwing blackbirds, grackles, pigeons, starlings, brownheaded cowbirds and English sparrows may be controlled by chemicals registered with the West Virginia Department of Agriculture and the United States Environmental Protection Agency when prescribed and authorized by the director in writing. Authorized users must follow avicide label instructions and take all possible precautions in order to protect nontarget species of wildlife.

3.4. It is illegal to hunt from, or by means of, a motorized watercraft unless the motor has been completely shutoff and the watercraft's progress from the motor has ceased.

3.5. It is illegal to hunt, catch, take, kill, injure, or pursue a wild animal or wild bird by means of falconry or hawking.

3.6. The use or possession of a fully automatic, rifle, shotgun, or pistol is prohibited while hunting or pursuing wildlife at any time.

3.7. It is illegal to catch, capture, take, or kill, or attempt to do so, by seine, net, bait, trap, deadfall, snare, or like device of any kind, any deer, bear, migratory bird, protected bird, protected mammal, or wild boar.

3.8. It is illegal for a person to have in his or her possession solid ball ammunition and lead or steel shot larger than No. 4 during the muzzleloading season, except for those persons legally hunting bear or legally hunting deer with a muzzleloader firearm. The use of .22 caliber rimfire for small game hunting is

legal during the muzzleloading season.

3.9. No person may use tree stands, except for portable tree stands, on public lands.

3.10. No person may transport wildlife or parts thereof, which were killed by another hunter unless the wildlife is accompanied by a paper or tag filled out in plain English bearing the following information from the hunter killing the wildlife:

3.10.1. The hunter's signature, address, hunting license number (if required), official game checking tag number (if required), date of kill, species, number, and/or quantity of wildlife.

3.11. It is illegal for any person to feed bears.

3.12. It is illegal to hunt between $\frac{1}{2}$ hour after sunset to $\frac{1}{2}$ hour before sunrise with a bow or centerfire firearm or any firearm using larger than .22 caliber rimfire ammunition or shotguns using solid ball ammunition or shot shell containing larger than No. 4 shot.

SENATE BILL NO. 118

(By Senators Marchin, Anderson, Soley, Grubb and
Macnaughtan)

[Introduced January 20 , 1995; referred to the
Committee on Natural Resources; and then to
the Committee on the Judiciary]

58-11B

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10 A BILL to amend chapter sixty-four of the code of West Virginia,
11 one thousand nine hundred thirty-one, as amended, by adding
12 thereto a new article, designated article three-a, relating
13 to authorizing the division of natural resources to
14 promulgate legislative rules relating to prohibitions when
15 hunting and trapping.

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

17 That chapter sixty-four of the code of West Virginia, one
18 thousand nine hundred thirty-one, as amended, be amended by
19 adding thereto a new article, designated article three-a, to read
20 as follows:

21 **ARTICLE 3A. AUTHORIZATION FOR BUREAU OF COMMERCE TO PROMULGATE**
22 **LEGISLATIVE RULES.**

23 **§64-3A-1. Division of natural resources.**

1 The legislative rules filed in the state register on the
2 twelfth day of August, one thousand nine hundred ninety-four,
3 modified by the division of natural resources to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the fourteenth day of October,
6 one thousand nine hundred ninety-four, relating to the division
7 of natural resources (prohibitions when hunting and trapping),
8 are authorized.

9

10 NOTE: The purpose of this bill is to authorize the Division
11 of Natural Resources to promulgate legislative rules relating to
12 prohibitions when hunting and trapping.

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

58-11B

Bill-DNR, Prohibitions (

2812

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H. B. 2187

(By Delegates Gallagher, Douglas, Compton,
Linch, Faircloth and Riggs)

(Introduced January 23, 1995; referred to the
Committee on Agriculture and Natural Resources then
the Judiciary)

A BILL to amend chapter sixty-four of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, by adding
thereto a new article, designated article three-a, relating
to authorizing the division of natural resources to
promulgate legislative rules relating to prohibitions when
hunting and trapping.

Be it enacted by the Legislature of West Virginia:

That chapter sixty-four of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, be amended by
adding thereto a new article, designated article three-a, to read
as follows:

ARTICLE 3A. AUTHORIZATION FOR BUREAU OF COMMERCE TO PROMULGATE
LEGISLATIVE RULES.

§64-3A-1. Division of natural resources.

21

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