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**SECRETARY OF STATE**  
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**ADMINISTRATIVE LAW DIVISION**

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OFFICE OF WEST VIRGINIA  
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Form #4

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: Bureau of Commerce, Division of Natural Resources TITLE NUMBER: 58

CITE AUTHORITY §§ 20-2-11, 20-2-47, 20-2-48

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 23

TITLE OF RULE BEING AMENDED: Commercial Sale of Wildlife

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



Charles B. Felton, Jr., Director

TITLE 47 58  
LEGISLATIVE RULES  
~~DEPARTMENT OF COMMERCE, LABOR AND ENVIRONMENTAL RESOURCES~~  
BUREAU OF COMMERCE  
DIVISION OF NATURAL RESOURCES

SERIES 23  
COMMERCIAL SALE OF WILDLIFE

§ 47 58-23-1. General.

1.1. Scope. -- This legislative rule establishes regulations to govern the sale or transfer of wildlife raised or captured under licenses issued by the ~~Department~~ Division pursuant to W. Va. Code §§ 20-2-11, 20-2-47 and 20-2-48.

1.2. Authority. -- W. Va. Code §§ 20-2-11.

1.3. Filing Date. --

1.4. Effective Date. --

§ 47 58-23-2. 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 rule 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 ~~Department~~ 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). The Division will issue three categories of this license:

2.2.1.a. Commercial game farm license. This license authorizes the licensee to breed or raise wild animals and wild birds as specified by the license, to sell wild animals and wild birds dead or alive, or to sell the eggs of birds in accordance with the provisions of this rule and under the terms and

conditions of the license. This license does not include the acquisition or holding of foxes or raccoons trapped from the wild by a legal trapper (W. Va. Code 20-2-11);

2.2.1.b. Hound coursing/training pen game farm license. This license authorizes the licensee to purchase, hold, and release into hound coursing/training pens in accordance with the provisions of this rule and under terms and conditions of the license, live foxes or raccoons obtained from the wild by a legal trapper (W. Va. Code 20-2-11) or live wildlife obtained by means specified under Rule Title 58 CSR 23 Section 3; and

2.2.1.c. Incorporated sportsmen club game farm license. This license authorizes incorporated sportsmen clubs in West Virginia to purchase, hold, and release in accordance with the provisions of this rule and under terms and conditions of the license, live foxes and raccoons obtained from the wild by a legal trapper (W. Va. Code 20-2-11) or other means specified under Rule Title 58 CSR 23 Section 3 for the purpose of restocking; and

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 licensee to breed or raise such species as specified by the license and to buy and sell those species dead or alive or the eggs of the species in accordance with the provisions of this rule.

2.3. "Wildlife" means wild animals, wild birds, fish, frogs and other amphibians, turtles reptiles, amphibians, mollusks, crustaceans, and all forms of aquatic life used as fish bait, whether dead or alive.

2.4. "Legal Trapper" means a trapper possessing a valid West Virginia trapping license or its equivalent (W. Va. Code 20-2-27,20-2-28).

2.5. "Hound Coursing/Training Pen" means a permanent enclosure of no less than forty (40) acres from which there is no reasonable expectation of escape of the animals placed within, except that fox hound coursing/training pens must enclose no less than 100 acres.

2.6. "Incorporated Sportsmen Club" means a club, organization,

or group formed for a common purpose to further the tradition of hunting, fishing, or trapping and registered with the Secretary of State for that purpose.

2.7. "Native" means commonly accepted and documented in scientific literature to live in the wild as part of the present or historic natural fauna of this State.

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

**§ 47 58-23-3. Wildlife Acquisition.**

3.1. Wildlife held by a licensee shall have been:

3.1.1. Obtained from a person licensed by the Department Division 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; or

3.1.4. Obtained from a legal trapper under the provisions of W. Va. Code 20-2-11 and the animal captured within the county in which the licensee is to hold and release the animal or captured from counties specified by the Director for which inter-county sale or possession transfer may occur under terms and conditions of the license.

3.2. If a licensee acquires wildlife in the manner specified in Section 3.1.1 of this rule, 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 rule, the importation permit issued by the Department 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 rule, a record must be kept by the

licensee in accordance with the provisions of Section 5 of this rule.

3.5. If a licensee acquires wildlife in the manner specified in Section 3.1.4 of this rule the foxes and raccoons must be ear tagged by the licensee with a tag supplied by the Division within 3 days of purchase and before release into the wild or a hound coursing/training pen and a record must be kept by the licensee in accordance with the provisions of Section 5 of this rule.

3.6. If a legal trapper acquires live foxes and raccoons under provisions of W. Va. Code 20-2-11 for the purpose of sale or any other form of possession transfer, the live foxes and raccoons shall only be possessed by the trapper during the trapping season and sixty (60) days thereafter. Live foxes and raccoons held for thirty (30) days or less shall be held according to temporary or permanent cage/pen/housing requirements as specified under Rule Title 58 CSR 48a and foxes or raccoons held over thirty (30) days shall be held according to permanent cage/pen/housing requirements as specified under Rule Title 58 CSR 48a.

**§ 47 58-23-4. Wildlife Sales or Transfer.**

4.1. The licensee and legal trapper that sells or transfers possession of wildlife shall provide a bill of sale or document to each person who purchases or receives the licensee's wildlife. The bill of sale or document shall, at a minimum, contain the following information:

4.1.1. The licensee's or legal trapper's name and address;

4.1.2. The licensee's or legal trapper's license number;

4.1.3. The date of the sale or transfer;

4.1.4. The purchaser's or receiver's name and address;  
and

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

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

4.2. Legal trappers which acquire live foxes and raccoons under the provisions of W. Va. Code 20-2-11 shall only sell or transfer possession of live foxes or raccoons to licensed hound coursing/ training pens or incorporated sportsmens clubs located within the County from which the fox or raccoon was captured or located in the counties specified by the Director for which inter-county sale or possession transfer may occur.

4.3. The licensee under the provisions of Section 2.2.1.b. and 2.2.1.c. of this rule shall not transfer possession or resell any foxes or raccoons acquired under Section 3.1.4 of this rule.

4.4. The Director shall in October of each year publish a list of specified counties for which the inter-county sale or possession transfer of live foxes and raccoons obtained under provisions of W. Va. Code 20-2-11 may occur.

4.5. The Director shall suspend the sale or any other form of relocation of live foxes and raccoons acquired under the provisions of W. Va. Code 20-2-11 in any county or portions thereof to protect public health and the welfare of native wildlife.

§ 47 58-23-5. Record Keeping.

5.1. Accurate and current records of all wildlife acquisitions and sales or possession transfers shall be maintained by the licensee. Records on all wildlife born at the licensee's facility shall also be maintained. 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 the licensee has conducted a wildlife transaction. The records shall contain the ear tag number, county of origin, date, and disposition for all live foxes and raccoons acquired in the manner specified in Section 3.1.4. shall be recorded. All records shall be maintained by the licensee at his or her facility for a minimum period of three (3) years.

§ 47 58-23-6. 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 rule or by the terms and conditions of the licensee's permit or license.

§ 47 58-23-7. 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 §§ 20-2-11, 20-2-47 or 20-2-48 of the W. Va. Code.~~

~~7.1. It is illegal to catch, capture, sell, trade, take or kill by seine, net, bait, trap, or any other means. Except persons possessing a license or permit issued for such purpose or specifically designated by authority of W. Va. Code 20-2-11, it is illegal for any person to take, or attempt to take, from the wild or possess for commercial purposes any species of wildlife native to this State, either dead or alive, or to take or attempt to take by any means, or to sell, trade, barter, expose or offer for sale, trade or barter, or to possess or transport, or to have in one's possession with the intent, or to transport into or out of the state any native wildlife, of the following species of turtles or their eggs, or part thereof 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).~~

§ 47 58-23-8. Penalties.

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