



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/23/2019 3:03:07 PM

Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Natural Resources TITLE-SERIES: 58-16
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 58-16 Transporting and Selling Wildlife Pelts and Parts

PRIMARY CONTACT

NAME: Wendy L Greene
ADDRESS: 324 4th Avenue
Room 343
South Charleston, WV 25303
EMAIL: wendy.l.greene@wv.gov
PHONE NUMBER: 304-558-2754

CITE STATUTORY AUTHORITY: §§20-2-11, 20-2-12 and 20-2-49

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

§20-2-11 provides agency authority for the sale and transportation of wildlife; §20-2-12 provides agency authority for the transportation of wildlife out of state and associated penalties; §20-2-49 provides agency authority for licenses for dealers in furs, pelts, etc., and provides rule making authority relating to such.

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/10/2019

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/10/2019

COMMENTS RECEIVED: No
(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No
(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

agency press release

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

The purpose of this rule is to regulate the shipment and sale of raw furs, pelts, and skins of wildlife, and carcasses for the making of lures and baits, carcass parts, including skulls, claws and bones, and urine of furbearing animals.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Revisions to this rule follow passage of HB2521 during the 2019 Regular Legislative Session expanding the permitted parameters of fur-bearer parts that may be sold, traded, or bartered.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

There is no anticipated change in revenue.

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

There is no anticipated changes in administrative costs.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

There is no anticipated change in administrative costs or revenue.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Wesley H White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 16
TRANSPORTING AND SELLING WILDLIFE PELTS AND PARTS

§58-16-1. General.

1.1. Scope and Purpose. -- The purpose of this rule is to regulate the shipment and sale of the raw furs, pelts, and skins of wildlife, and carcasses for the making of lures and baits, carcass parts, including skulls, claws and bones, and urine of furbearing animals.

1.2. Authority. -- W. Va. Code §§20-2-11, ~~and 20-2-12~~ and 20-2-49.

1.3. Filing Date. -- ~~March 29, 1990.~~

1.4. Effective Date. -- ~~May 1, 1990.~~

~~1.5. Repeal of Former Rule. — This legislative rule repeals and replaces 47 CSR 16 "Procedures for Transporting and Dealing in Fur Bearing Animals" that was filed on June 12, 1987 and became effective on July 1, 1987.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

§58-16-2. Definitions.

2.1. "Carcass" means the skinned or unskinned body of an animal.

~~2.1.~~ 2.2. "Division" means the West Virginia Division of Natural Resources.

~~2.2.~~ 2.3. "Director" means the director of the West Virginia Division of Natural Resources.

~~2.3.~~ 2.4. "Fur-Bearing Animal" means an animal of one of the following species: beaver; bobcat; coyote; fisher; gray fox; mink; muskrat; opossum; otter; raccoon; red fox; spotted skunk; striped skunk; or weasel.

~~2.4.~~ 2.5. "Hide" means a fresh or dressed skin that has been stripped from an animal.

~~2.5.~~ 2.6. "Licensed Hunter or Trapper" means a person who takes fur-bearing animals in this State under a valid Class A, AAH, AH, AHJ, AAHJ, A-L, A-L-I, AB, AB-L, AB-L-I, or S, E, X, XJ, XXJ or XS license or who is by statute exempt from such licensing.

~~2.6.~~ 2.7. "Licensee" means a person who has been issued a fur dealer's license or an agent's permit by the Division.

~~2.7.~~ 2.8. "Raw Fur, Pelt, or Skin" means a fresh or dressed skin, with its hair either removed or remaining, that has been either stripped from an animal or left attached to its carcass.

~~2.8. "Series 17" means Title 58, Division of Natural Resources, "Series 17, "Fur Dealer Transactions" (58 CSR 17).~~

§58-16-3. Shipping Tags.

3.1. No person may ship, transport, or carry by any means the raw fur, pelt, or skin, or carcass for the making of lures and baits, carcass parts, including skulls, claws and bones, and urine of a fur-bearing animal taken within this State to a point outside of the State unless such shipment has a Division shipping tag visibly attached.

3.1.1. Shipping tags for commercial fur dealers may be obtained free of charge from any Division of Natural Resources office statewide. Shipping tags for individual hunters and trappers may be obtained free of charge from any Division of Natural Resources office or licensing agent statewide.

3.1.2. One part of the shipping tag must be attached to the outside of the package or container that will be shipped, transported, or otherwise carried. The other part of the tag must be completed and returned to the Division within 24 hours of shipment.

§58-16-4. Fur Dealer Licensing.

4.1. Except as provided in ~~Section~~ subsection 4.1.1 of these regulations, no person may buy or sell in this State the raw fur, pelt, or skin, or carcass for the making of lures and baits, carcass parts, including skulls, claws and bones, and urine of any fur-bearing animal unless he or she has a valid fur dealer's license or agent's permit issued by the Division.

4.1.1. A licensed hunter or trapper need not obtain a fur dealer's license or agent's permit from the Division in order to sell the raw fur, pelt, or skin, or carcass for the making of lures and baits, carcass parts, including skulls, claws and bones, and urine of a fur-bearing animal which ~~he legally trapped~~ was legally taken by him or her in this State.

4.2. Except as provided in ~~Sections~~ subsections 4.2.1 and 4.2.2 of these regulations, no person may have in his or her possession the raw fur, pelt, or skin, or carcass for the making of lures and baits, carcass parts, including skulls, claws and bones, and urine of any fur-bearing animal within the period beginning 10 days after the end of the open season on such fur-bearing animal and ending with the first day of the next succeeding open season unless he or she has a valid fur dealer's license or agent's permit issued by the Division.

4.2.1. No person may have in his possession the untagged raw fur, pelt, or skin, or carcass for the making of lures and baits, carcass parts, including skulls, claws and bones, and urine of a beaver within the period beginning 30 days after the end of the open season on beaver and ending with the first day of the next succeeding open season unless he or she has a valid fur dealer's license or agent's permit issued by the Division.

4.2.2. A licensed hunter or trapper need not obtain a fur dealer's license or agent's permit from the Division, but instead must obtain written permission from the director, in order to retain in his or her

possession the raw fur, pelt, or skin, or carcass for the making of lures and baits, carcass parts, including skulls, claws and bones, and urine of a fur-bearing animal which ~~he legally trapped~~ was legally taken by him or her in this State.

4.3. All fur dealer's licenses and agent's permits will be issued by Division in accordance with the procedures found in ~~Series 17~~ W. Va. Code of State Rules, Title 58 Series 17, Fur Dealer Transactions.

~~'58-16-5.~~ **§58-16-5. Fur Dealer Record Keeping.**

5.1. A person who has been issued a fur dealer's license by the Division must maintain records of all purchases and sales of the raw furs, pelts, or skins, or carcass for the making of lures and baits, carcass parts, including skulls, claws and bones, and urine of furbearing animals and the hides of ~~black bears~~ big game animals.

5.2. The records of any person who has been issued a fur dealer's license by the Division may be inspected during normal business hours by a Division ~~conservation~~ natural resources police officer to assure compliance with all requirements mandated by statute or regulation or by the terms and conditions of the fur dealer's license.

§58-16-6. Fur Dealer Reporting.

6.1. A person who has been issued a fur dealer's license by the Division must file transaction reports detailing all purchases and sales of the raw furs, pelts, or skins, or carcass for the making of lures and baits, carcass parts, including skulls, claws and bones, and urine of fur-bearing animals and the hides of ~~black bears~~ big game animals in accordance with the procedures found in ~~Series 17~~ W. Va. Code of State Rules, Title 58 Series 17, Fur Dealer Transactions.

6.2. Failure by a licensed fur dealer to file transaction reports on time, or refusal to file such reports, constitutes cause for license revocation under Section 7 of these regulations.

6.3. Failure by a licensed fur dealer to file transaction reports which are accurate, legible, and complete constitutes cause for license revocation under Section 7 of these regulations.

§58-16-7. License and Permit Revocations.

7.1. If the director determines that a violation of any requirement of ~~these regulations~~ this rule or any term or condition of a fur dealer's license or an agent's permit exists or has existed, the director may issue an order directing the licensee to show cause why his license or permit should not be revoked.

7.2. The show-cause order will provide the licensee with 30 days in which to respond.

7.3. The licensee must respond to the show-cause order either by submitting a written explanation to the director or by requesting an informal hearing before the director.

7.4. Upon a licensee's failure to show cause why his license or permit should not be revoked, the director may revoke the license or permit upon the issuance of a written decision, and the reasons therefor, concerning the action taken.

§58-16-8. Penalties.

8.1. Penalty for Failure to Attach or Submit Shipping Tag. A person who ships, transports, or carries by any means the raw fur, pelt, or skin, or carcass for the making of lures and baits, carcass parts, including skulls, claws and bones, and urine of a fur-bearing animal taken within this State to a point outside of the State, but fails to follow the provisions of these regulations related to shipping tags, is subject to the penalties prescribed in W. Va. Code §20-2-12.

8.2. Penalty for Failure to Obtain a License or Permit. A person who engages in the purchase or sale in this State of the raw furs, pelts, or skins, or carcass for the making of lures and baits, carcass parts, including skulls, claws and bones, and urine of fur-bearing animals, but fails to obtain the necessary license or permit from the Division, is subject under W. Va. Code §20-2-2 to the penalties prescribed in W. Va. Code §20-7-9.

8.3. Penalty for License or Permit Violation. A person who violates the terms and conditions of his license or permit is subject to the penalties prescribed in W. Va. Code §20-7-9.