

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1971

ENROLLED

SENATE BILL NO. 20

(By Mr. HUBBARD)

PASSED FEBRUARY 25, 1971

In Effect NINETY DAYS FROM Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-8-71

20

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Senate Bill No. 20

(By MR. HUBBARD)

[Passed February 25, 1971; in effect ninety days from passage.]

AN ACT to amend and reenact section five, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to unlawful methods of hunting and fishing and deleting certain birds from the unprotected status.

Be it enacted by the Legislature of West Virginia:

That section five, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5. Unlawful methods of hunting and fishing.

- 1 Except as authorized by the director, it shall be un-
- 2 lawful at any time for any person to:

3 (1) Shoot at or to shoot any wild bird or animal unless
4 it is plainly visible to him;

5 (2) Dig out, cut out, or smoke out, or in any manner
6 take or attempt to take any live wild animal or wild bird
7 out of its den or place of refuge, except as may be author-
8 ized by regulations promulgated by the director or by
9 law;

10 (3) (a) Make use of, or take advantage of, any artifi-
11 cial light in hunting for, locating, taking, trapping, or
12 killing any wild bird or wild animal; or (b) make use of,
13 or take advantage of, any artificial light in hunting for,
14 taking, attracting, trapping, or killing any wild bird or
15 wild animal, or to attempt to do so, while having in his
16 possession or subject to his control any firearm, whether
17 cased or uncased, or other implement or device suitable
18 for taking, killing, trapping, skinning, or dressing such
19 wild bird or animal. Any person violating the provisions
20 of division (b) of this subdivision three shall be guilty
21 of a misdemeanor, and, upon conviction thereof, shall
22 for each offense be fined not less than one hundred dollars
23 nor more than five hundred dollars and shall be im-

24 prisoned for not less than ten days nor more than one
25 hundred days: *Provided*, That it shall not be unlawful
26 to hunt or take raccoon, opossum or skunk by the use of
27 artificial lights;

28 (4) Hunt for, take, kill, wound or shoot at wild animals
29 or wild birds from an airplane, or other airborne con-
30 veyance, an automobile, or other land conveyance, or
31 from a motor-driven water conveyance, except as may
32 be authorized by regulations promulgated by the director;

33 (5) Take any beaver or muskrat by any means other
34 than by trap;

35 (6) Catch, capture, take or kill by seine, net, bait, trap
36 or snare or like device of any kind, any wild turkey,
37 ruffed grouse, pheasant or quail;

38 (7) Destroy or attempt to destroy needlessly or will-
39 fully the nest or eggs of any wild bird or have in his
40 possession such nest or eggs unless authorized to do so
41 under regulations or under a permit by the director;

42 (8) Except as provided in section six of this article,
43 carry an uncased or loaded gun in any of the woods of
44 this state except during the open firearms hunting season

45 for game animals and nonmigratory game birds within
46 any county of the state, unless he has in his possession
47 a permit in writing issued to him by the director: *Pro-*
48 *vided*, That this section shall not prohibit hunting or
49 taking of unprotected species of wild animals and wild
50 birds and migratory game birds, during the open season,
51 in the open fields, open water and open marshes of the
52 state;

53 (9) Except as provided in section six of this article,
54 carry an uncased or loaded gun after the hour of five
55 o'clock antemeridian on Sunday in any woods or on any
56 highway, railroad right-of-way, public road, field or
57 stream of this state, except at a regularly used rifle, pistol,
58 skeet, target or trap shooting ground or range and nothing
59 contained in section eighteen, article eight, chapter sixty-
60 one of this code shall prohibit the use of a gun by a
61 licensed hunter before the hour of five o'clock antemeri-
62 dian on Sunday;

63 (10) Have in his possession a loaded firearm or a
64 firearm from the magazine of which all shells and car-
65 tridges have not been removed, in or on any vehicle or

66 conveyance, or its attachments, within the state, except
67 as may otherwise be provided by law or regulation. Ex-
68 cept as hereinafter provided, between five o'clock post-
69 meridian of one day and seven o'clock antemeridian,
70 eastern standard time of the day following, any unloaded
71 firearm, being lawfully carried in accordance with the
72 foregoing provisions, shall be so carried only when in a
73 case or taken apart and securely wrapped. During the
74 period from July first to September thirtieth, inclusive,
75 of each year, the foregoing requirements relative to carry-
76 ing certain unloaded firearms shall be permissible only
77 from eight-thirty o'clock postmeridian to five o'clock ante-
78 meridian, eastern standard time;

79 (11) Hunt, catch, take, kill, trap, injure or pursue with
80 firearms or other implement by which wildlife may be
81 taken after the hour of five o'clock antemeridian on Sun-
82 day any wild animals or wild birds: *Provided*, That traps
83 previously and legally set may be tended after the hour
84 of five o'clock antemeridian on Sunday, if the person so
85 doing shall not have firearms or long bow of any descrip-
86 tion in his possession;

87 (12) Hunt with firearms or long bow while under the
88 influence of intoxicating liquor;

89 (13) Possess a ferret;

90 (14) Buy raw furs, pelts or skins or fur-bearing
91 animals unless licensed to do so;

92 (15) Have in his possession or about his premises,
93 without the written permission of the director, any hunt-
94 ing or fishing paraphernalia which cannot be used law-
95 fully in this state for hunting or fishing, and any con-
96 servation officer shall remove and destroy such hunting
97 and fishing paraphernalia, whenever found in this state,
98 and the person or persons claiming ownership shall have
99 no recourse at law against such confiscation and destruc-
100 tion;

101 (16) Catch, take, kill, or attempt to catch, take or kill
102 any fish at any time by any means other than by rod,
103 line, and hooks with natural or artificial lures unless
104 otherwise authorized by law or regulation issued by the
105 director: *Provided*, That snaring of any species of suckers,
106 carp, fallfish and creek chubs shall at all times be lawful;

107 (17) Employ or hire, or induce or persuade, by the use

108 of money or other things of value, or by any means,
109 any person to hunt, take, catch or kill, any wild animal
110 or wild bird except those species on which there is no
111 closed season, or to fish for, catch, take or kill any fish,
112 amphibian or aquatic life which is protected by the pro-
113 visions of this chapter or regulations of the director, or
114 the sale of which is prohibited;

115 (18) Hunt, catch, take, kill, capture, pursue, transport,
116 possess or use any migratory game or nongame birds
117 included in the terms of conventions between the United
118 States and Great Britain and between the United States
119 and United Mexican States for the protection of migra-
120 tory birds and game mammals concluded, respectively,
121 August sixteen, one thousand nine hundred sixteen, and
122 February seven, one thousand nine hundred thirty-six,
123 except during the time and in the manner and numbers
124 prescribed by the Federal Migratory Bird Treaty Act
125 and regulations made thereunder;

126 (19) Kill, take, catch, or have in his possession living
127 or dead, any wild bird, other than a game bird; or expose
128 for sale, or transport within or without the state any

129 such bird, except as aforesaid. No part of the plumage,
130 skin or body of any protected bird shall be sold or had
131 in possession for sale, except mounted or stuffed plumage,
132 skin, bodies or heads of such birds legally taken and
133 stuffed or mounted, irrespective of whether such bird
134 was captured within or without this state, except the
135 English or European sparrow (*Passer domesticus*), star-
136 ling (*Sturnus vulgaris*), crow (*Corvus brachyrhynchos*)
137 and cowbird (*Molothrus ater*), which shall not be pro-
138 tected and the killing thereof at any time is lawful;

139 (20) Use dynamite or any like explosive or poisonous
140 mixture placed in any waters of the state for the purpose
141 of killing or taking fish. Any person violating the pro-
142 visions of this subdivision shall be guilty of a felony, and,
143 upon conviction thereof, shall be fined not more than
144 five hundred dollars or imprisoned for not less than six
145 months nor more than three years, or both fined and
146 imprisoned;

147 (21) Have a bow and gun, or have a gun and any arrow
148 or arrows, in the fields or woods at the same time;

149 (22) Have a crossbow in the woods or fields or use a

150 crossbow to hunt for, take or attempt to take any wild-
151 life;

152 (23) Take or attempt to take turkey, bear, elk or deer
153 with any arrow unless the same is equipped with a point
154 having at least two sharp cutting edges measuring in
155 excess of three fourths of an inch wide;

156 (24) Take or attempt to take any wildlife with an
157 arrow having an explosive head or shaft, a poisoned
158 arrow, or an arrow which would affect wildlife by any
159 chemical action;

160 (25) Shoot an arrow across any public highway or
161 from aircraft, motor-driven watercraft, motor vehicle or
162 other land conveyance;

163 (26) Permit any dog owned by him or under his
164 control to chase, pursue or follow upon the track of any
165 game animal or game bird, either day or night, between
166 the first day of May and the fifteenth day of August next
167 following: *Provided*, That dogs may be trained on game
168 animals and game birds, except deer and wild turkeys, and
169 field trials may be held or conducted on the grounds or
170 lands of the owner or by his bona fide tenant or tenants

171 or upon the grounds or lands of another person with his
172 written permission or on public lands, at any time:
173 *Provided, however,* That the person training said dogs
174 does not have firearms or other implements in his posses-
175 sion during the closed season on such game animals and
176 game birds, whereby game animals or game birds could
177 be taken or killed;

178 (27) Conduct or participate in a field trial, water race
179 or wild hunt hereafter referred to as trial: *Provided,*
180 That any person, group of persons, club or organization
181 may hold such trial at any time of the year upon obtain-
182 ing such permit as is provided for in section fifty-six of
183 this article. The person responsible for obtaining said
184 permit shall prepare and keep an accurate record of the
185 names and addresses of all persons participating in said
186 trial, and make same readily available for inspection by
187 any conservation officer upon request; and

188 (28) Except as provided in section four of this article,
189 hunt, catch, take, kill or attempt to hunt, catch, take or
190 kill any wild animal, wild bird or wild fowl except during
191 the open season established by regulation of the director

192 as authorized by subdivision six, section seven, article

193 one of this chapter.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Russell M. Bean
Chairman Senate Committee

Phyllis Ruetledge
Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

Howard Myers
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Ernest
President of the Senate

Joe F. Brawby
Speaker House of Delegates

The within *approved* this the *5th*
day of *March*, 1971.

Archa Shaver, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/2/71

Time 10:35 a.m.

RECEIVED

MAR 8 9 13 AM '71

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA