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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992



ENROLLED

Com. Sub. for
HOUSE BILL NO. 2121

(By Delegates Love & Peltel)



Passed Feb. 13, 1992

In Effect 90 Days From Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2121

(By DELEGATES LOVE AND PETHTEL)

[Passed February 13, 1992; 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; and to further amend said article two by adding thereto a new section, designated section nineteen-a, relating to authorizing trappers checking traps on Sundays to carry only a twenty-two caliber firearm for the purpose of humanely dispatching trapped animals.

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; and that said article be further amended by adding thereto a new section, designated section nineteen-a, all 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 is unlawful
- 2 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
7 bird out of its den or place of refuge, except as may be
8 authorized by regulations promulgated by the director
9 or by law;

10 (3) Make use of, or take advantage of, any artificial
11 light in hunting, locating, attracting, taking, trapping,
12 or killing any wild bird or wild animal, or to attempt
13 to do so, while having in his possession or subject to his
14 control, or for any person accompanying him to have in
15 his possession or subject to his control, any firearm,
16 whether cased or uncased, bow, arrow, or both, or other
17 implement or device suitable for taking, killing or
18 trapping a wild bird or animal: *Provided*, That it shall
19 not be unlawful to hunt or take raccoon, opossum or
20 skunk by the use of artificial lights. No person shall be
21 guilty of a violation of this subdivision merely because
22 he looks for, looks at, attracts or makes motionless a wild
23 bird or wild animal with or by the use of an artificial
24 light, unless at such time he has in his possession a
25 firearm, whether cased or uncased, bow, arrow, or both,
26 or other implement or device suitable for taking, killing
27 or trapping a wild bird or wild animal, or unless such
28 artificial light (other than the head lamps of an
29 automobile or other land conveyance) is attached to, a
30 part of, or used from within or upon an automobile or
31 other land conveyance.

32 Any person violating the provisions of this subdivision
33 shall be guilty of a misdemeanor, and, upon conviction
34 thereof, shall for each offense be fined not less than one
35 hundred dollars nor more than five hundred dollars and
36 shall be imprisoned in the county jail for not less than
37 ten days nor more than one hundred days;

38 (4) Hunt for, take, kill, wound or shoot at wild
39 animals or wild birds from an airplane, or other
40 airborne conveyance, an automobile, or other land
41 conveyance, or from a motor-driven water conveyance,
42 except as may be authorized by regulations promul-
43 gated by the director;

44 (5) Take any beaver or muskrat by any means other
45 than by trap;

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

49 (7) Destroy or attempt to destroy needlessly or
50 willfully the nest or eggs of any wild bird or have in
51 his possession such nest or eggs unless authorized to do
52 so under regulations or under a permit by the director;

53 (8) Except as provided in section six of this article,
54 carry an uncased or loaded gun in any of the woods of
55 this state except during the open firearms hunting
56 season for wild animals and nonmigratory wild birds
57 within any county of the state, unless he has in his
58 possession a permit in writing issued to him by the
59 director: *Provided*, That this section shall not prohibit
60 hunting or taking of unprotected species of wild animals
61 and wild birds and migratory wild birds, during the
62 open season, in the open fields, open water and open
63 marshes of the state;

64 (9) Except as provided in section six of this article,
65 carry an uncased or loaded gun after the hour of five
66 o'clock antemeridian on Sunday in any woods or on any
67 highway, railroad right-of-way, public road, field or
68 stream of this state, except at a regularly used rifle,
69 pistol, skeet, target or trapshooting ground or range;

70 (10) Have in his possession a loaded firearm or a
71 firearm from the magazine of which all shells and
72 cartridges have not been removed, in or on any vehicle
73 or conveyance, or its attachments, within the state,
74 except as may otherwise be provided by law or regu-
75 lation. Except as hereinafter provided, between five
76 o'clock postmeridian of one day and seven o'clock
77 antemeridian, eastern standard time of the day follow-
78 ing, any unloaded firearm, being lawfully carried in
79 accordance with the foregoing provisions, shall be so
80 carried only when in a case or taken apart and securely
81 wrapped. During the period from July first to Sep-
82 tember thirtieth, inclusive, of each year, the foregoing
83 requirements relative to carrying certain unloaded
84 firearms shall be permissible only from eight-thirty
85 o'clock postmeridian to five o'clock antemeridian,

86 eastern standard time;

87 (11) Hunt, catch, take, kill, trap, injure or pursue with
88 firearms or other implement by which wildlife may be
89 taken after the hour of five o'clock antemeridian on
90 Sunday any wild animals or wild birds: *Provided*, That
91 traps previously and legally set may be tended after the
92 hour of five o'clock antemeridian on Sunday, and the
93 person so doing may carry only a twenty-two caliber
94 firearm for the purpose of humanely dispatching
95 trapped animals.

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

98 (13) Hunt, catch, take, kill, injure or pursue a wild
99 animal or bird with the use of a ferret;

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

102 (15) Have in his possession or about his premises,
103 without the written permission of the director, any
104 hunting or fishing paraphernalia which cannot be used
105 lawfully in this state for hunting or fishing, and any
106 conservation officer shall remove and destroy such
107 hunting and fishing paraphernalia, whenever found in
108 this state, and the person or persons claiming ownership
109 shall have no recourse at law against such confiscation
110 and destruction;

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

118 (17) Employ or hire, or induce or persuade, by the use
119 of money or other things of value, or by any means, any
120 person to hunt, take, catch or kill, any wild animal or
121 wild bird except those species on which there is no
122 closed season, or to fish for, catch, take or kill any fish,
123 amphibian or aquatic life which is protected by the
124 provisions of this chapter or regulations of the director,

125 or the sale of which is prohibited;

126 (18) Hunt, catch, take, kill, capture, pursue, trans-
127 port, possess or use any migratory game or nongame
128 birds included in the terms of conventions between the
129 United States and Great Britain and between the
130 United States and United Mexican States for the
131 protection of migratory birds and wild mammals
132 concluded, respectively, August sixteen, one thousand
133 nine hundred sixteen, and February seven, one thousand
134 nine hundred thirty-six, except during the time and in
135 the manner and numbers prescribed by the Federal
136 Migratory Bird Treaty Act and regulations made
137 thereunder;

138 (19) Kill, take, catch or have in his possession, living
139 or dead, any wild bird, other than a game bird; or
140 expose for sale, or transport within or without the state
141 any such bird, except as aforesaid. No part of the
142 plumage, skin or body of any protected bird shall be sold
143 or had in possession for sale, except mounted or stuffed
144 plumage, skin, bodies or heads of such birds legally
145 taken and stuffed or mounted, irrespective of whether
146 such bird was captured within or without this state,
147 except the English or European sparrow (*Passer*
148 *domesticus*), starling (*Sturnus vulgaris*), crow (*Corvus*
149 *brachyrhynchos*) and cowbird (*Molothrus ater*), which
150 shall not be protected and the killing thereof at any time
151 is lawful;

152 (20) Use dynamite or any like explosive or poisonous
153 mixture placed in any waters of the state for the purpose
154 of killing or taking fish. Any person violating the
155 provisions of this subdivision shall be guilty of a felony,
156 and, upon conviction thereof, shall be fined not more
157 than five hundred dollars or imprisoned for not less than
158 six months nor more than three years, or both fined and
159 imprisoned;

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

162 (22) Have a crossbow in the woods or fields or use a
163 crossbow to hunt for, take or attempt to take any
164 wildlife;

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

169 (24) Take or attempt to take any wildlife with an
170 arrow having an explosive head or shaft, a poisoned
171 arrow, or an arrow which would affect wildlife by any
172 chemical action;

173 (25) Shoot an arrow across any public highway or
174 from aircraft, motor-driven watercraft, motor vehicle or
175 other land conveyance;

176 (26) Permit any dog owned by him or under his
177 control to chase, pursue or follow upon the track of any
178 wild animal or wild bird, either day or night, between
179 the first day of May and the fifteenth day of August next
180 following: *Provided*, That dogs may be trained on wild
181 animals and wild birds, except deer and wild turkeys,
182 and field trials may be held or conducted on the grounds
183 or lands of the owner or by his bona fide tenant or
184 tenants or upon the grounds or lands of another person
185 with his written permission or on public lands, at any
186 time: *Provided, however*, That notwithstanding any of
187 the above provisions, no person may train a dog in any
188 county, or portion thereof, in which a legal bear hunting
189 season has been established prior to the first day of July,
190 one thousand nine hundred eighty-eight, except that
191 residents may train dogs in such counties after the
192 twenty-fourth day of August through the end of the legal
193 small game hunting season: *Provided further*, That
194 nonresidents shall not train dogs in this state at any time
195 except during the legal small game hunting season: *And*
196 *provided further*, That the person training said dogs does
197 not have firearms or other implements in his possession
198 during the closed season on such wild animals and wild
199 birds, whereby wild animals or wild birds could be
200 taken or killed;

201 (27) Conduct or participate in a field trial, shoot-to-
202 retrieve field trial, water race or wild hunt hereafter
203 referred to as trial: *Provided*, That any person, group
204 of persons, club or organization may hold such trial at

205 any time of the year upon obtaining such permit as is
206 provided for in section fifty-six of this article. The
207 person responsible for obtaining said permit shall
208 prepare and keep an accurate record of the names and
209 addresses of all persons participating in said trial, and
210 make same readily available for inspection by any
211 conservation officer upon request; and

212 (28) Except as provided in section four of this article,
213 hunt, catch, take, kill or attempt to hunt, catch, take or
214 kill any wild animal, wild bird or wild fowl except
215 during the open season established by regulation of the
216 director as authorized by subdivision six, section seven,
217 article one of this chapter.

**§20-2-19a. Trappers authorized to possess only twenty-
two caliber firearm on Sundays.**

1 Any person authorized by the provisions of this article
2 to trap any game or fur-bearing animal is also autho-
3 rized, if that person is checking his or her traps on
4 Sunday, to carry only a twenty-two caliber firearm for
5 the purpose of humanely dispatching trapped animals.

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

Homer Fleck

Chairman Senate Committee

Bruce C. Moore

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Harrell G. Adams

Clerk of the Senate

Donald L. Hoop

Clerk of the House of Delegates

Walt Burdette

President of the Senate

Bob Child

Speaker of the House of Delegates

The within *is approved* this the *21st*
day of *February* 1992.

Yaston Caperton

Governor

PRESENTED TO THE

GOVERNOR

Date 2/19/92

Time 2:30 pm