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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



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WEST VIRGINIA LEGISLATURE
CHARLESTON, WEST VIRGINIA

HOUSE BILL No. 4481

(By Delegates LOVE, ELLIS, TOMBLIN,
DEMPSY, FREECE AND WHITMAN)



Passed MARCH 9, 1996

In Effect NINETY DAYS FROM Passage

ENROLLED

H. B. 4481

(BY DELEGATES LOVE, ELLIS, TOMBLIN, DEMPSEY,
PREECE AND WHITMAN)

[Passed March 9, 1996; 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 providing an exception for carrying certain uncased firearms.

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 and other unlawful acts.

1 Except as authorized by the director, it is unlawful at
2 any time for any person to:

3 (1) Shoot at or to shoot any wild bird or animal un-
4 less 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 autho-
8 rized by regulations promulgated by the director or by
9 law;

10 (3) Make use of, or take advantage of, any artificial
11 light in hunting, locating, attracting, taking, trapping or

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

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

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

42 (5) Take any beaver or muskrat by any means other
43 than by trap;

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

47 (7) Destroy or attempt to destroy needlessly or will-
48 fully the nest or eggs of any wild bird or have in his pos-
49 session such nest or eggs unless authorized to do so under
50 regulations or under a permit by the director;

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

61 (9) Except as provided in subdivision (11) below or
62 in section six of this article, carry an uncased or loaded
63 gun after the hour of five o'clock antemeridian on Sunday
64 in any woods or on any highway, railroad right-of-way,
65 public road, field or stream of this state, except at a regu-
66 larly used rifle, pistol, skeet, target or trapshooting ground
67 or range;

68 (10) Have in his possession a loaded firearm or a
69 firearm from the magazine of which all shells and car-
70 tridges have not been removed, in or on any vehicle or
71 conveyance, or its attachments, within the state, except as
72 may otherwise be provided by law or regulation. Except
73 as hereinafter provided, between five o'clock postmeridian
74 of one day and seven o'clock antemeridian, eastern stan-
75 dard time of the day following, any unloaded firearm,
76 being lawfully carried in accordance with the foregoing
77 provisions, shall be so carried only when in a case or taken
78 apart and securely wrapped. During the period from the
79 first day of July to the thirtieth day of September, inclu-
80 sive, of each year, the foregoing requirements relative to
81 carrying certain unloaded firearms shall be permissible
82 only from eight-thirty o'clock postmeridian to five o'clock
83 antemeridian, eastern standard time: *Provided*, That the
84 time periods for carrying unloaded and uncased firearms
85 are extended for one hour after the postmeridian times
86 and one hour before the antemeridian times established
87 above if a hunter is preparing to or in the process of trans-
88 porting or transferring the firearms to or from a hunting
89 site, campsite, home or other place of abode;

90 (11) Hunt, catch, take, kill, trap, injure or pursue with

91 firearms or other implement by which wildlife may be
92 taken after the hour of five o'clock antemeridian on Sun-
93 day any wild animals or wild birds: *Provided*, That traps
94 previously and legally set may be tended after the hour of
95 five o'clock antemeridian on Sunday, and the person so
96 doing may carry only a twenty-two caliber firearm for the
97 purpose of humanely dispatching trapped animals;

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

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

102 (14) Buy raw furs, pelts or skins of fur-bearing ani-
103 mals unless licensed to do so;

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

110 (16) Employ or hire, or induce or persuade, by the
111 use of money or other things of value, or by any means,
112 any person to hunt, take, catch or kill any wild animal or
113 wild bird except those species on which there is no closed
114 season, or to fish for, catch, take or kill any fish, amphibi-
115 an or aquatic life which is protected by the provisions of
116 this chapter or regulations of the director, or the sale of
117 which is prohibited;

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

129 (18) Kill, take, catch or have in his possession, living
130 or dead, any wild bird, other than a game bird; or expose
131 for sale, or transport within or without the state any such
132 bird, except as aforesaid. No part of the plumage, skin or
133 body of any protected bird shall be sold or had in posses-
134 sion for sale, except mounted or stuffed plumage, skin,
135 bodies or heads of such birds legally taken and stuffed or
136 mounted, irrespective of whether such bird was captured
137 within or without this state, except the English or Europe-
138 an sparrow (*Passer domesticus*), starling (*Sturnus vulgaris*),
139 crow (*Corvus brachyrhynchos*) and cowbird (*Molothrus*
140 *ater*), which shall not be protected and the killing thereof
141 at any time is lawful;

142 (19) Use dynamite or any like explosive or poison-
143 ous mixture placed in any waters of the state for the pur-
144 pose of killing or taking fish. Any person violating the
145 provisions of this subdivision shall be guilty of a felony,
146 and, upon conviction thereof, shall be fined not more than
147 five hundred dollars or imprisoned for not less than six
148 months nor more than three years, or both fined and im-
149 prisoned;

150 (20) Have a bow and gun, or have a gun and any
151 arrow or arrows, in the fields or woods at the same time;

152 (21) Have a crossbow in the woods or fields or use a
153 crossbow to hunt for, take or attempt to take any wildlife;

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

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

162 (24) Shoot an arrow across any public highway or
163 from aircraft, motor-driven watercraft, motor vehicle or
164 other land conveyance;

165 (25) Permit any dog owned by him or under his
166 control to chase, pursue or follow upon the track of any

167 wild animal or wild bird, either day or night, between the
168 first day of May and the fifteenth day of August next
169 following: *Provided*, That dogs may be trained on wild
170 animals and wild birds, except deer and wild turkeys, and
171 field trials may be held or conducted on the grounds or
172 lands of the owner or by his bona fide tenant or tenants or
173 upon the grounds or lands of another person with his
174 written permission or on public lands, at any time: *Pro-*
175 *vided, however*, That notwithstanding any of the above
176 provisions, no person may train a dog in any county, or
177 portion thereof, in which a legal bear hunting season has
178 been established prior to the first day of July, one thou-
179 sand nine hundred eighty-eight, except that residents may
180 train dogs in such counties after the twenty-fourth day of
181 August through the end of the legal small game hunting
182 season: *Provided further*, That nonresidents shall not train
183 dogs in this state at any time except during the legal small
184 game hunting season: *And provided further*, That the
185 person training said dogs does not have firearms or other
186 implements in his possession during the closed season on
187 such wild animals and wild birds, whereby wild animals or
188 wild birds could be taken or killed;

189 (26) Conduct or participate in a field trial,
190 shoot-to-retrieve field trial, water race or wild hunt hereaf-
191 ter referred to as trial: *Provided*, That any person, group
192 of persons, club or organization may hold such trial at any
193 time of the year upon obtaining such permit as is provided
194 for in section fifty-six of this article. The person responsi-
195 ble for obtaining said permit shall prepare and keep an
196 accurate record of the names and addresses of all persons
197 participating in said trial, and make same readily available
198 for inspection by any conservation officer upon request;
199 and

200 (27) Except as provided in section four of this article,
201 hunt, catch, take, kill or attempt to hunt, catch, take or kill
202 any wild animal, wild bird or wild fowl except during the
203 open season established by regulation of the director as
204 authorized by subdivision (6), section seven, article one of
205 this chapter.

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

[Handwritten signature]

Chairman Senate Committee

[Handwritten signature]

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Handwritten signature]

Clerk of the Senate

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Clerk of the House of Delegates

[Handwritten signature]

President of the Senate

[Handwritten signature]

Speaker of the House of Delegates

The within is approved this the 15th day of April, 1996.

[Handwritten signature]

Governor

PRESENTED TO THE

GOVERNOR

Date 3/22/06

Time 3:01 pm