

Rec., Mar. 11, 1933

152

ENROLLED BILL

(REGULAR SESSION, 1933)

Committee Substitute for
House Bill No. 152

(By Mr. *Committee on Game and Fish*)

Passed March 11, 1933

In Effect ninety days from Passage

Originated in the House Takes effect ninety days from passage

Clerk of the House of Delegates

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Clerk

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Chairman House Committee

James G. Smith
Chairman Senate Committee

ENROLLED BILL

(Com. Sub. for H. B. No. 152)

[Passed March 11, 1933; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two, four and five of article one; sections one, two, three, four and six of article two; sections seven, eight, nine, ten, eleven, twelve and by the addition thereto of section twelve-(a) of article three; sections three, four, five, six and seven of article four; sections four, five and six of article five; sections two, four, five and seventeen of article six; sections two, four, eight and eleven of article seven; sections three and ten of article nine, all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, and as amended by the acts of the legislature of one thousand nine hundred thirty-one, relating to the game, fish and forestry department and commission; its appointment, terms of office and salary; game protectors, their powers and authority; open seasons on game; sale of game animals and

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fish; providing for propagating license for game animals and birds; hunting deer and other game animals; hunting wild turkey and other game birds; closed seasons for fish and frogs; length of fish and unlawful devices and methods of fishing; hunting and fishing licenses and fees therefor; issuance of licenses; carrying uncased guns; expenditure of funds; forest fires and financial assistance for owners of forest lands.

Be it enacted by the Legislature of West Virginia:

That sections one, two, four and five of article one; sections one, two, three, four and six of article two; sections seven, eight, nine, ten, eleven and twelve of article three; all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, and as amended by the legislature of one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows: and that section twelve-(a) of article three be added thereto; that sections three, four, five, six, seven and eleven of article four; sections four, five and six of article five; sections two, four, five and seventeen of article six; sections two, four, eight and eleven of article seven and sections three and ten of article nine; all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, and as amended by the acts of the legislature of one

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thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

ARTICLE 1

Section 1. A state department of game, fish and forestry shall be maintained for the conservation, protection and propagation of wild animals, wild birds and fowls, fish and frogs, and for the conservation and protection of the forests of the state against injury or destruction by fires, insects, fungus or other diseases and for forest culture. The department shall consist of a division of game and fish and a division of forestry, under the charge of the commission.

Sec. 2. The state department of game, fish and forestry shall be under the control, charge and management of a commission known and designated as "West Virginia game, fish and forestry commission," which shall be composed of four members, one of whom shall be designated as the "commissioner," and the other three to be designated as "members" of the commission, and shall be appointed by the governor by and with the advice and consent of the senate, no two of whom shall be residents of the same congressional district and may for cause, be removed by the governor. The commissioner shall be the chief executive officer

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11 of the commission. The commission shall supervise the work
12 of the divisions and shall have charge of the administration
13 and enforcement of all laws which it is the duty of the com-
14 mission to administer and enforce, and shall direct all inspec-
15 tions and investigations.

16 The members of the commission in office on the date this act
17 becomes effective may continue to serve until the first day of
18 July, one thousand nine hundred thirty-three.

19 On or before the first day of July, one thousand nine hundred
20 thirty-three, the governor, by and with the advice and consent
21 of the senate, may appoint four members of said commission,
22 as herein provided for, one of which said members shall be desig-
23 nated as the commissioner, the other three as members of the
24 commission; one of said appointments to be made for the period
25 of one year, one for two years, one for three years, and one for
26 four years. Beginning on the first day of July, one thousand nine
27 hundred thirty-four, and on the first day of July of each year
28 thereafter a member of said commission shall be appointed to
29 serve for a period of three years beginning on said first day of
30 July. Any commissioner shall be eligible for reappointment. A
31 vacancy in the office shall be filled by appointment by the gov-

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32 ernor for the unexpired term.

Sec. 4. The member of the commission designated as the
2 commissioner shall receive an annual salary of three thousand
3 four hundred dollars per year, and the three members of the com-
4 mission designated as members shall receive no salary or other
5 compensation for their services, but each of said members shall
6 be allowed and paid their actual necessary expenses in traveling
7 and other personal expenses incurred in the performance of
8 their duties: *Provided*, That the expenses of the three members
9 of the commission designated as such shall not exceed the sum
10 of five hundred dollars each in any one year; the commissioner
11 to be paid his actual and necessary traveling and other expenses.
12 No expense account shall be paid unless a statement of the
13 items thereof, together with the time of expenditure and the
14 person or persons by whom expended, shall be certified by at
15 least two members of the commission to be a true statement of
16 money actually expended at the time designated for traveling
17 and other personal expenses in the performance of duty as such
18 commissioners.

Sec. 5. The commission shall maintain an office at the capitol
2 of the state, furnish the same, secure necessary supplies for the

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3 keeping of its records, and the conduct of its business, and may
4 employ, with the right to remove summarily, such number of
5 clerks as are necessary.

6 The member of the commission designated as the commissioner
7 shall serve as chairman of the commission.

ARTICLE 2

Section 1. The commission shall have power and authority to
2 appoint game protectors to be regularly assigned to such
3 districts as the commission may fix and determine, which said
4 game protectors shall be men interested and experienced in the
5 work for which they are selected and shall be immediately under
6 the supervision of the commissioner; also game protectors at
7 large to work in any district of the state under the supervision
8 of the commissioner; also trappers whose duties shall be to
9 trap and kill out vermin from established game refuges and
10 open game territory, except in counties wherein the red fox is
11 protected, who shall work under the supervision and direction of
11-a the commissioner.

12 The commission shall provide proper uniforms for the
13 district game protectors and the game protectors at large
14 herein provided for, the kind, material and style of all uniforms

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15 to be prescribed by the commission. All uniforms and all arms,
16 weapons and other property furnished to such protectors shall
17 be and remain the property of the state.

18 The commission shall fix the compensation of the district game
19 protectors, the game protectors at large and the trappers.

20 The game protectors and trappers herein provided for shall
21 be selected and appointed in the following manner: all applica-
22 tions for appointment shall be upon blanks provided by the com-
23 mission and shall contain the certificate of the judge of the
24 circuit court of the county in which the applicant resides and
25 also the sheriff and prosecuting attorney of such county, to the
26 effect that the applicant is a person of good moral character, not
27 of intemperate habits and that he has never been convicted of a
28 felony, nor more than once of a misdemeanor. The applicant
29 shall, before his appointment, be subjected by the commission to
30 an examination touching his qualifications and fitness for the
31 position, the general form and substance of which shall be
32 prescribed by the commission. No person shall be appointed a
33 protector who shall not have passed such an examination in a
34 manner satisfactory to and shall have been recommended by all
35 members of the commission. When there shall be more than one

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36 such applicant eligible to appointment as protector or trapper,
37 they shall be selected by the commission by lot from the quali-
38 fied applicants.

39 The commission shall have power and authority in case of
40 emergency to employ temporarily such additional protectors as
41 may be necessary to meet such emergency.

Sec. 2. Before entering upon the discharge of their duties
2 the game protectors shall each take, sign and execute the oath
3 of office prescribed in section five of article four of the constitu-
4 tion of this state. The oath may be administered to the game
5 protectors by any commissioner or any other person authorized
6 by law to administer oaths, and all such written obligations shall
7 be returned to, and filed with the commission.

Sec. 3. The game protectors and all other officers of the state
2 of West Virginia, while engaged in the enforcement of the pro-
3 visions of this chapter, shall be under the supervision and direc-
4 tion of the commission. The game protectors shall have full
5 power and authority to execute and serve any search warrant,
6 notice or any process of law issued under this chapter or any
7 law enacted relating to game animals, fish, frogs, wild birds and
8 wild fowls, and forests, issued by any justice of the peace or by

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9 any court having jurisdiction thereof, in the same manner, with
10 the same power and authority, and to and with the same legal
11 effect, as any constable or sheriff can serve or execute such
12 search warrant, notice or process. They may arrest on sight,
13 without a warrant or other court process, any person or persons
14 detected by them in the violation of any of the provisions of
15 this chapter or of any law of this state relating to game animals,
16 fish, frogs, wild birds and fowls, and forests; and shall, under
17 the supervision and direction of the commission, do all things
18 necessary to properly carry into effect the provisions of this
19 chapter.

Sec. 4. The authorities, powers and duties of the game pro-
2 tector shall be state wide, and after they are appointed as such,
3 each shall have the right to carry a pistol, or other fire arms,
4 by giving bond, with security approved by the commission, in the
5 sum of three thousand five hundred dollars, conditioned as pro-
6 vided in article seven, chapter sixty-one of this code, and no
7 notice or other application, except the presentation of his com-
8 mission as such game protector, shall be required of him before
9 such license is granted, and no fee shall be charged therefor.
10 Any such license granted shall be valid for one year, or for the

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11 duration of his term of office, if less than one year, unless sooner
12 revoked in the manner provided in said article seven.

Sec. 6. The game protectors, including such sheriffs, deputy
2 sheriffs, constables, state police, forest wardens and police offi-
3 cers, while engaged in the enforcement of any of the provisions of
4 this chapter, shall have the power, in manner provided by law, to
5 search and examine any boat, vehicle, automobile, conveyance, ex-
6 press or railroad car, fish box, fish bucket or creel, game bag or
7 game coat, or any other place in which game birds, game animals,
8 fish or frogs could be packed, concealed or conveyed, whenever
9 they have reason to believe that they will thereby secure or
10 discover evidence of the violation of any provision of this chap-
11 ter, and such officers shall have, in manner provided by law,
12 the same right to execute a search warrant as is now conferred
13 upon sheriffs in their respective counties; and every justice of
14 the peace and every circuit, criminal or intermediate court, or
15 the judge thereof in vacation, and every mayor of any city, town
16 or village, upon information made under oath or affirmation
17 that any person has in his possession or under his control any
18 game animals, game birds, fish or frogs out of season or in viola-
19 tion of the provisions of this chapter, shall issue a warrant re-

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20 quiring the person suspected to be brought before him for ex-
21 amination, or the said house, building or other place to be
22 searched and the parties found therein to be arrested and
23 brought before him, as aforesaid; and in the same warrant shall
24 require the officer to whom it is directed to seize and hold all
25 game animals, game birds, fish or frogs found therein contrary
26 to law.

ARTICLE 3

Section 7. The state game, fish and forestry commission may
2 hunt, capture and maintain in captivity, at any time, for the
3 purpose of propagation, protection and distribution, any of the
4 game animals, fur-bearing animals, game birds, game fowls, fish
5 or frogs or any of the wild animals, wild birds and wild fowls
6 of this state.

7 The commission may issue permits to any person for similar
8 purposes, when satisfied that such person desires to exercise such
9 privilege exclusively for scientific or propagating purposes. Such
10 permit shall be in writing and shall state the number and kind of
11 animals, birds, fowls, fish or frogs to be taken, the purpose and
12 and manner of taking, and the name and place of residence of
13 the person to whom issued, and shall be signed by the commis-

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14 sioner. Such permit shall not be transferable and shall expire
15 on the thirty-first day of December following the date of issue.
16 It shall be unlawful to sell or barter any of the animals, birds,
17 fowls, fish or frogs taken under such permit. A fee of one dol-
18 lar shall accompany each application for a permit. The owner
19 of such permit shall furnish the commissioner, upon the de-
20 mand of the latter, with a detailed list of all animals, birds,
21 fowl, fish or frogs captured.

Sec. 8. The commission shall have the power, by a proper
2 order made and entered in its record book, to omit or suspend,
3 for a fixed and definite period, or change the dates of, the open
4 seasons for the catching of fish in any stream or part of a stream
5 in this state. The order shall definitely fix such stream by a
6 proper description and shall state therein the period of such
7 suspension. Before such suspension shall become effective, the
8 commission shall give notice thereof by the publication of such
9 order once a week for two successive weeks in a newspaper
10 of the county, or each county wherein such stream is located.
11 The commission shall have the power by a proper order made
12 and entered in its record book, to limit or suspend for a defi-
13 nite and fixed period, the open season for the killing of any

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14 game animals or birds, mentioned in this chapter, in any county
15 of this state. Such order shall state the period of such suspen-
16 sion and name the birds and animals the killing of which is
17 prohibited. Before such suspension shall become effective, the
18 commission shall give notice thereof by the publication of such
19 order, in two newspapers of general circulation throughout the
20 state, at least once a week for two successive weeks before the
21 date of the beginning of such suspension.

22 The commission shall also have the power by a proper order
23 made and entered in its record book, when it is deemed neces-
24 sary to protect game animals, fur-bearing animals, fish and
25 frogs, game birds and fowls, and forests, to modify and change
26 the bag limits on game animals, birds, fish and frogs. Before
27 any such change in the open season or bag limits is made ef-
28 fective, the commission shall give notice thereof by publication
29 of such order, in two newspapers of general circulation through-
30 out the state, at least once a week for two successive weeks, the
31 last publication to be not later than two weeks in advance of
32 the date the change shall become effective.

33 The commission shall have the power, by proper order made
34 and entered in its record book, to fix the open seasons for the

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35 hunting of all game animals, game birds and for fish and frogs
36 in the several counties of the state and may, at its discretion,
37 provide for different open seasons in the several counties: *Pro-*
38 *vided*, That the maximum number of days of open season pro-
39 vided for each county shall be uniform throughout the state. The
40 open season for hunting and fishing for the several counties of
41 this state shall be fixed by the commission at a meeting to be held
42 as soon after the first of each year as may be convenient and the
43 open seasons so fixed and determined by the said commission
44 for the said several counties of this state, shall be published in
45 four newspapers of general circulation throughout the state at
46 least once a week for two successive weeks as soon as the same
47 shall have been fixed by the said commission.

48 For the purpose of giving the various sections of the state an
49 opportunity to be heard concerning open seasons for their re-
50 spective areas, the commission shall, and before such seasons
51 are fixed for the various counties of the state, during the month
52 of January of each year hold meetings at Martinsburg, Parkers-
53 burg, Morgantown, Elkins, Charleston and Beckley.

54 When the commission shall have entered any such order and
55 given the notice required herein, then anyone fishing in such

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56 stream, or hunting or killing in such county any of the animals
57 or birds the killing of which is prohibited, or fishing or hunting
58 in violation of such changes made in the open season and bag
59 limits, shall be guilty of a misdemeanor and upon conviction
60 thereof shall be punished as provided in section fourteen of this
61 article.

Sec. 9. No person shall at any time transport or kill or have
2 in his possession with the intention of transporting beyond the
3 limits of the state, any elk, deer, quail, pheasant, ruffed grouse,
4 wild turkey, squirrel, wild duck or wild goose, or any part there-
5 of, or any game fish or frogs killed, caught or captured within
6 this state: *Provided, however,* That a nonresident licensee
7 may take with him personally, when leaving the state, any game
8 animals, game birds or fish that he has lawfully taken or killed,
9 not exceeding during the season, the number that any person
10 may lawfully take or kill in any two days.

Sec. 10. It shall be unlawful for any person at any time
2 to purchase or offer to purchase, sell or offer to sell, expose for
3 sale, or have in his possession for the purpose of selling any
4 elk, deer, squirrel, wild turkey, ruffed grouse, quail, woodcock,
5 wild duck, wild goose, wild swan, wild brant, snipe, sandpiper,

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6 or any of the song or insectivorous birds of this state; or pur-
7 chase, or offer to purchase, sell or expose for sale, any trout of
8 any species, salmon of any species, pike of any species, pike,
9 perch or wall-eyed pike, bass of any species, excepting rock bass
10 and goggle eyes, perch, of any species, pickerel of any species,
11 turtle or any frog, caught or captured within the state, except
12 as provided in section thirteen, article six of this chapter. It
13 shall be unlawful for any person or common carrier, except as
14 provided in said section thirteen, article six of this chapter, to
15 transport, carry or convey, or to receive for such purpose any of
16 the animals, birds, or fowls aforesaid, or any part of the same,
17 or the fish or frogs so caught or killed within the state, knowing
18 or having reason to believe that such animals, birds, fish or frogs
19 had been or were to be sold. The selling or exposing for sale,
20 having in possession for sale, transporting and carrying, con-
21 trary to the provisions of this section, of each and every animal,
22 fish or bird, the sale of which is prohibited in this section, shall
23 constitute and be a separate offense, except this section shall not
24 apply to such game birds, fish or frogs as may be raised by reason
25 of a propagating license as provided for by this act: *Provided*
26 *further*, That the commission may at any time prohibit the sale

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27 of rabbits in any county of this state, upon petition of one hundred
28 duly licensed persons, residents of such county.

Sec. 11. It shall be unlawful for any person, firm or corporation to employ or hire, or induce or persuade, by the use of money or other things of value, or by any means, any person to hunt, catch or kill, for such other person, firm or corporation, any game animal, game bird or game fowl, or any other bird or fowl for which no bounty has been offered by the commission, or to fish for, catch or kill any fish or frog which is protected under any of the provisions of this chapter, or the sale of which is prohibited by this chapter, except that it shall not be unlawful for any person, firm or corporation to employ or hire any person to hunt, catch or kill for such other person, firm or corporation game animals, game birds, fish or frogs which have been raised and are propagated by such person, firm or corporation on their own property, the stock for which has not been furnished by the commission.

Sec. 12. No person shall serve for pay, either directly or indirectly, at any hotel, restaurant, or other licensed eating place in this state, or in any public eating place in this state, any game animal (except rabbit), game bird, or game fowl, or

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5 any part thereof, whether caught within or without this state,
6 or any game fish or frog caught within this state: *Provided*,
7 That black bass shall not be served and it shall be unlawful to
8 purchase the same from any source.

Sec. 12-(a). The commission shall have power and authority
2 to issue a license to any person, firm or corporation for the
3 operation of a private game refuge for the purpose of propa-
4 gating game animals or game birds. The said license shall
5 authorize the holder thereof and his or its assistants to breed
6 or raise game of any kind and to sell the same alive or the eggs
7 of game birds at any time, under the regulations hereinafter
8 provided: *Provided, however*, That persons raising game not for
8-a commercial purposes shall be exempt from the provisions of
8-b this section.

9 All licenses issued by virtue of this section shall expire on
10 the first day of January following the date of issue. A license
11 may be renewed from year to year upon paying to the commis-
12 sion the sum of five dollars for each such renewal. The annual
13 license fee for such license shall be five dollars. The provisions
13-a of this section shall not be construed to include any person,
13-b firm or corporation who is engaged in the business of raising

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13-c and propagating fur-bearing animals for commercial purposes.

14 The application for such propagating license shall design-
15 nate the property whereon such refuge is to be established or
16 such game animals or birds are to be propagated, and before
17 such license shall be issued the commission shall determine
18 whether or not such property is properly enclosed for the pur-
19 pose of excluding therefrom any wild game.

20 Before any game of any kind, raised under authority
21 of any propagating license, is shipped out of the state, it must
22 be first offered for sale to the commission for propagating pur-
23 poses and the secretary of the commission shall, within ten days,
24 advise the licensee whether the commission is desirous of pur-
25 chasing the same. If not purchased by the commission it may
26 then be shipped to any other state under such regulations and
27 provision as may be adopted by the commission.

28 The commission shall make such rules and regulations as they
29 may deem proper for the sale of such game animals or game
30 birds as are raised by any licensee and before any sale of any
31 game animals or game bird is made by any licensee, said sale
32 shall be made in strict conformity and compliance with such
33 rules and regulations as shall be adopted by the commission.

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ARTICLE 4

Section 3. No person shall hunt, capture or kill any deer in
2 this state at any time before the first day of December, one
3 thousand nine hundred thirty, after which it shall be lawful to
4 hunt, capture or kill any buck deer with one or both horns
5 branched, in any county of this state not herein otherwise ex-
6 cepted, and then only during the open season fixed by the com-
7 mission for the hunting of deer in the county in which the same
8 shall be hunted, captured or killed: *Provided*, That the state
9 game, fish and forestry commission may at any time open or
10 close the season against the killing of all deer in manner and
11 form as provided in this chapter: *Provided* further, That the
12 owner of any deer which shall be kept in any park or field suf-
13 ficiently enclosed to reasonably prevent its escape therefrom
14 shall have the right to kill any such deer.

15 No person shall kill more than one deer in any one season
16 of each year; nor shall any person at any time hunt, pursue,
17 shoot or kill any fawn, doe or any other deer than bucks with
18 one or both horns branched, or have the fresh skin or any other
19 part of any doe or fawn or illegally killed buck in his posses-
20 sion. No person shall chase or hunt deer with dogs in this state

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21 at any time nor permit his dogs to hunt or chase deer, and it
22 shall be the duty of the game protectors, or any other duly
23 qualified officer, to take any dog known to have hunted or chased
24 deer into his possession and advertise in some newspaper of gen-
25 eral circulation, published in said county, the fact that he has
26 such dog in his possession, the circumstances under which it was
27 taken, which advertisement shall give as accurate a description
28 of said dog as may be, and he shall hold said dog for a period of
29 ten days to give the owner of said dog an opportunity to claim
30 the same, and if no such owner, within said period, appears to
31 claim said dog, said game protector shall kill the same, and in
32 this event the cost of keep and advertising shall be paid by the
33 commission, but in the event any such owner shall, within such
34 period, appear and claim said dog, he may repossess the same
35 on the payment of the costs of advertisement, and the costs of
36 keep, not to exceed fifty cents per day, and in any event the game
37 protector, or other qualified officer so taking such dog into his
38 possession, shall report the facts to the commissioner. Nor shall
39 any person kill any deer that has been chased by dogs. No per-
40 son shall at any time catch, capture or kill any deer by means
41 of any poison, bait, salt lick, natural or artificial, trap or snare,

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42 or like device of any kind. No person shall hunt, pursue, catch
43 or kill any deer between nightfall on one day and the daylight of
44 the next day, and no one shall kill or wound any deer, while
45 the said deer is in any stream, lake or pond in this state: *Pro-*
46 *vided further*, That no person shall hunt, capture or kill any
47 deer in the counties of Mingo, Marion, Marshall, Pendleton and
48 Mercer of this state until the first day of December, one thou-
49 sand nine hundred thirty-six, and that on and after said date
50 the provisions of this chapter shall govern the hunting, cap-
51 turing or killing of deer in said counties.

Any person violating any provision of the first two paragraphs in this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than three hundred dollars and confined in the

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63 county jail not less than thirty days nor more than sixty days.
64 Any person violating any provision of the third paragraph of
65 this section shall be guilty of a misdemeanor, and upon conviction
66 thereof shall be punished as provided in section fifteen of
67 this article.

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Sec. 4. No person shall hunt, capture, kill or have in his possession in any county of this state, any rabbit or varying hare, commonly known as snowshoe rabbit, except during the open season for such county, as provided for by the commission in the several counties of this state: *Provided*, That it shall be lawful for any person or the children of any person to hunt, catch or kill at any time any rabbit upon his own land or any land of which he may be a tenant. No person shall kill more than six rabbits in any one day nor more than forty in any one season: *Provided*, That this limit shall not apply to persons killing rabbits on their own premises.

Sec. 5. No person shall hunt, capture or kill any gray, black or fox squirrel or have in his possession in any county of this state, any squirrel except during the open season for such county, as provided for by the commission in the several counties of this state. No person shall kill more than five squirrels

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6 in any one day, nor more than thirty in any open season.

Sec. 6. No person shall hunt, capture or kill any raccoon
2 or skunk or have in his possession in any county of this state
3 any raccoon or skunk except during the open season for such
4 county, as provided for by the commission in the several coun-
5 ties of this state.

Sec. 7. No person shall hunt, capture or kill any opossum
2 or have in his possession in any county of this state, any opos-
3 sum except during the open season for such county, as provided
4 for by the commission in the several counties of this state.

Sec. 11. It shall be unlawful for any person to catch, kill or
2 injure, by means of a gun, snare, trap or poison, any red fox,
3 or have in his possession in any county of this state, any red
4 fox except during the open season for such county, as provided
5 for by the commission in the several counties of this state:
6 *Provided*, That the commission may, in its discretion, prohibit
7 the killing of red foxes in any county when it shall deem it
8 proper so to do: *Provided, however*, That it shall be lawful for
9 any person at any time, except by poison, to catch, kill or pur-
10 sue any red fox upon his own land, or on any lands upon which
11 he may be an actual bona fide tenant or resident, and no person

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12 shall blow up a den or burrow of red foxes, in which a red fox
13 has taken refuge in counties of this state wherein the red fox is
14 protected.

ARTICLE 5

Section 4. No person shall hunt, pursue, capture, wound, or
2 kill any wild turkey, or have in his possession in any county of
3 this state any wild turkey, except during the open season pro-
4 vided for such county by the commission; nor shall any person,
5 during the period when it shall be lawful to hunt, pursue, catch
6 and kill wild turkey, engage therein between nightfall of one
7 day and daylight of the next day. No person shall kill more
8 than one wild turkey in any open season. In the month of Decem-
9 ber of each year it shall be the duty of any person who has killed
10 a wild turkey in this state to report to the commission in writ-
11 ing the killing of said turkey, the date, time and place where
12 killed, and whether or not the same was male or female.

Sec. 5. No person shall hunt, pursue, catch, capture or kill
2 or have in his possession in any county of this state any ruffed
3 grouse except during the open season provided for such county
4 by the commission. No person shall kill more than three ruffed
5 grouse in any one day, nor more than twelve ruffed grouse in

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6 any one year.

Sec. 6. No person shall hunt, pursue, catch, capture, kill or
2 have in his possession in any county of this state any quail or
3 Virginia partridge except during the open season provided for
4 such county by the commission. No person shall kill more than
5 eight quail in one day nor more than thirty-five quail in any
6 one open season.

ARTICLE 6

Section 2. Open seasons for fish and frogs shall be fixed by
2 the commission as provided by section eight, article three of this
3 chapter and no person shall fish, catch, take, kill, destroy in
4 any manner or have in possession any of the fish hereinafter
5 enumerated or frogs in any county of the state except during
6 the open season as set by the commission when such fish or
7 frogs may be lawfully caught: black bass, green bass, white
8 bass or willow bass, trout, white salmon, landlocked salmon,
9 jack salmon, jack fish or wall-eyed pike, pike, other than wall-
10 eyed pike, or muskalonge, pickerel, perch or frogs.

Sec. 4. It shall be unlawful for any person to catch and keep
2 or not return to the water immediately after catching, any
3 jack salmon, commonly called jack fish, less than twelve inches in

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4 length, or any pike or pickerel less than twelve inches in length,
5 or any bass or perch less than ten inches in length or any brook
6 trout less than six inches in length, or any brown or rainbow
7 trout less than eight inches in length. Fish less than the length
8 prescribed herein shall be returned to the water, with as little
9 injury as possible, immediately after being caught. The meas-
10 urement of the fish shall be taken from the end of the nose to
11 the center fork of the tail.

Sec. 5. It shall be unlawful for any person to kill, catch or
2 attempt to kill or catch, any fish in this state, at any time, by
3 means of seines, nets, or traps, or devices of like nature, unless
4 written consent shall have been given by the commission for
5 the use of such seines as hereinafter provided; or by draining
6 water out of any pool, pond or stream, with the intent to take
7 or injure the fish therein, or by the use of dynamite, or any like
8 explosive or other explosive mixture, or any poisonous drug
9 or substance; or by the use of electricity or lime; or by the
10 use of a gun, rifle, pistol or any other like weapon; or by any
11 other means whatsoever except by rod, line and hook or hooks
12 with natural or artificial lures: *Provided*, That any person may
13 employ a seine not more than six feet in length for the pur-

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14 pose of securing minnows other than salmon, bass, shad, pike,
15 perch and trout, for use in angling. It shall be unlawful for
16 any person, firm or corporation to sell any seine more than six
17 feet in length without immediately reporting same to the com-
18 mission, giving the name and address of the purchaser: *Provided*
19 *further*, That the commission may at any time catch fish with
20 nets, seines, or otherwise, for the purpose of propagation and
21 protection of the fish of this state. It shall be unlawful for any
22 person at any time to kill or catch game fish by gigging, snaring,
23 spearing, gaffing or grappling except the commissiion may, upon
24 application by petition signed by two hundred citizens of any
25 county, showing the reason or necessity therefor, permit gigging
26 of non-game fish in any stream, or part of such stream in said
27 county, provided said petitioners are holders of fishing license,
28 except that no person shall gig during April, May and June.

Sec. 17. Any person violating any provision of this article,
2 the punishment for which is not prescribed, shall be guilty of
3 a misdemeanor, and upon conviction thereof, shall, for each
4 offense, be fined not less than ten nor more than one hun-
5 dred dollars, or confined in the county jail not exceeding thirty
6 days, or both fined and imprisoned within the limitations afore-

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7 said: *Provided*, That any person convicted of killing fish by
8 dynamite or other explosives, or poisons, shall be guilty of a
9 misdemeanor and upon conviction thereof, shall be fined not
10 less than fifty dollars nor more than two hundred dollars, and
11 confined in the county jail not less than thirty days, nor more
12 than six months.

ARTICLE 7

Section 2. A district resident hunting and fishing license
2 shall entitle the licensee to hunt and fish in the county in which
3 the licensee is a resident and all counties bordering on the
4 county in which such district resident hunting and fishing
5 license is issued. The fee for such license shall be one dollar,
6 which can only be issued in the county of applicant's residence.
7 A statewide resident hunting and fishing license shall entitle
8 the licensee to hunt and fish in all counties in this state. The
9 fee for such license shall be three dollars, except female residents,
10 which shall be one dollar.

11 A nonresident hunting and fishing license shall entitle the
11-a licensee to hunt and fish in all counties of the state. The fee
11-b for such license shall be fifteen dollars.

12 A nonresident fishing license shall entitle the licensee to fish

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13 in all counties of the state. The fee for such license shall be
14 five dollars: *Provided, however,* That a nonresident may be
15 issued a fishing license for one day, for one dollar. Said license
16 shall state exactly the time in hours the said license is good, and
17 said license shall be returned within forty-eight hours after it has
18 expired.

19 A license to residents of the state of Ohio shall entitle the
20 residents of the state of Ohio only to hunt and fish on the Ohio
21 river only, which fee for such license shall be one dollar.

22 The commission is empowered to issue courtesy hunting and
23 fishing license for which there shall be no charge, to members
24 and agents of the United States biological survey and bureau of
25 fisheries and to members of state game, fish and forestry com-
26 missions or conservation commissions of states extending similar
27 courtesies, for the purpose of scientific research: *Provided,*
28 *however,* That such courtesy licenses shall not exceed twenty-
29 five in one year. At least twenty-five per cent of all the moneys
30 derived from the sale of hunting and fishing licenses as provided
31 for in this section shall be utilized for the protection and propa-
32 gation of game and fish.

Sec. 4. The clerk shall issue and deliver to the applicant a

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2 license in the form prescribed by the commission, sign the same,
3 affix thereto the seal of the county court of which he is clerk,
4 and number the license according to the serial order in which
5 it was issued. The clerk shall at the time deliver to each hunt-
6 ing licensee a badge furnished by the commission, free of charge,
7 bearing license number in figures and containing the words
8 "resident" or "nonresident fishing," "nonresident hunting"
9 or "Ohio river," as the case may be, and containing the words
10 "local" or "statewide," as the case may be, which badge hunt-
11 ing licensee is required to display on his outer garment in such
12 manner that it is plainly visible at all times while fishing or
13 hunting, and such licensee shall at all times while hunting or
14 fishing have on his person in addition to the badge herein pro-
15 vided for, his license which shall be kept in the badge in the
16 place therein provided for or in some other place upon his per-
17 son. The license hereinbefore provided for for residents in the
18 state of Ohio shall be issued by the county clerks of the several
19 counties of this state which border upon the state of Ohio. The
20 clerk shall keep an accurate list of all licenses issued by him and
21 of all moneys received therefor for each class of license: *Pro-*
22 *vided*, That any resident of this state of the age of sixty years

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23 or over, shall be permitted to fish with hook and line in any of
24 the waters of this state without procuring or paying for a license
25 therefor.

Sec. 8. No person shall carry an uncased gun in any of the
2 woods of this state except during the open hunting season for
3 game animals and game birds within any county of said state,
4 except that this shall not prohibit the owner of any land, his
5 child or children, tenants or lessees from carrying a gun on his
6 or their premises.

Sec. 11. The commission shall set aside each year ten per
2 cent of the total revenue obtainable from all classes of hunting
3 and fishing licenses for the purpose of purchasing lands upon
4 which to establish forest parks, game and fish refuges as here-
5 inafter provided.

ARTICLE 9

Section 3. The commission shall have authority and power to
2 protect the forests against injury or destruction by fire, and it
3 shall be the duty of the commission, the chief forester and for-
4 est protectors, upon receiving notice of any such forest fire, to
5 employ all the necessary means to confine or extinguish the
6 same. For this purpose authority is given to destroy fences,

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7 plow lands, or, in case of extreme emergency, to set backfires.
8 The chief forester and forest protectors may, under the general
9 supervision of the commission, in case of emergency, summon
10 or employ persons to assist in fighting fires, who shall be paid
11 at the rate of, not to exceed one dollar per day for the actual
12 time so employed in fighting such fires. Any person who shall
13 fail or refuse to assist in the fighting of such fires shall, unless
14 such failure is due to physical inability, be guilty of a mis-
15 demeanor, and, upon conviction, be fined not less than ten nor
16 more than twenty dollars for each offense.

Sec. 10. The commission may cooperate with the owners of
2 forest lands and receive financial assistance from them for the
3 purposes aforesaid and do any and all things necessary therefor,
4 including the establishment and maintenance of patrol and
5 lookout stations: *Provided*, That the commission shall expend
6 for forestry purposes only such moneys as shall be appropriated
7 therefor by the state, and such moneys as may be contributed
8 therefor by the private owners, and such moneys as may be re-
9 covered from persons giving origin to forest fires, and such
10 moneys as may be received from the federal government by ap-
11 propriation under the Weeks and the Clarke-McNary laws, or

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12 otherwise, and in addition for the aforementioned purposes,

13 shall provide twenty-five per cent of the funds derived annually

14 from the sale of game and fish licenses.

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Chairman Senate Committee.

[Signature]

Wm. S. O'Brien
Speaker of the House of Delegates.

Geo. S. Kae
Clerk of the House of Delegates.

Wm. S. O'Brien
President of the Senate.

Ans. P. Miley
Clerk of the Senate.

James I. Smith
Chairman House Committee.

The within is.....

this..... day of..... 1933.

.....
Governor.

Filed in the office of the Secretary of State
of West Virginia. **MAR 18 1933**
Wm. S. O'BRIEN,
Secretary of State