

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1947



ENROLLED

HOUSE BILL No. 362

(By Mr. Drunbo and Mr. Hall)



PASSED March 8, 1947

In Effect July 1, 1947 Passage



362

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**House Bill No. 362**

(BY MR. TRUMBO and MR. HALL)

[Passed March 8, 1947; in effect July 1, 1947.]

AN ACT to amend chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section nine, article one-a; section one, article two; sections one, four, seven, eight, nine, ten and twelve, article three; sections one, four, five, six and twelve, article four; sections one, three, four, five, six, eight and eleven, article five; sections one and five, article six; sections one, two, three and seven, article seven; and by adding section seven-f to article three; sections six-a, fourteen-a, fourteen-b and fourteen-c to article four; section seven-a to article five; and section two-i to article seven, all relating to the wild animals, wild birds, fish and frogs of the state.

*Be it enacted by the Legislature of West Virginia:*

That chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended

by amending and reenacting section nine, article one-a; section one, article two; sections one, four, seven, eight, nine, ten and twelve, article three; sections one, four, five, six and twelve, article four; sections one, three, four, five, six, eight and eleven, article five; sections one and five, article six; sections one, two, three and seven, article seven; and by adding section seven-f to article three; sections six-a, fourteen-a, fourteen-b and fourteen-c to article four; section seven-a to article five; and section two-i to article seven; all to read as follows:

**Article 1-A, Director of Conservation**

Section 9. *Legal Services by Attorney General and*  
2 *Prosecuting Attorneys; Employment of Other Attorneys.*  
3 —The attorney general and his assistants and the prose-  
4 cuting attorneys of the several counties shall render to  
5 the director, without additional compensation, such legal  
6 services as he shall require of them in the discharge of  
7 his duties under the provisions of this chapter. The  
8 director may, in any emergency and with prior approval  
9 of the attorney general, employ an attorney to act in  
10 proceedings wherein criminal charges are brought against  
11 an employee or appointee of the commission because of

12 action taken in the line of duty. An amount not to exceed  
13 three hundred dollars may be expended by the director  
14 for any one case.

## Article 2, Conservation Officers.

Section 1. *Appointment; Compensation; Qualifica-*  
2 *tions; Uniforms.*—The director shall, in accordance with  
3 other provisions of general law relating to the appoint-  
4 ment and compensations of the personnel of the state  
5 government, appoint conservation officers and fix their  
6 compensation. Conservation officers shall be accorded  
7 rights of tenure and advancement so long as they dis-  
8 charge their duties in a satisfactory manner. The director  
9 may also appoint special conservation officers to serve  
10 for such periods of time as may be necessary.

11 Preference in making appointments shall be given  
12 wherever possible to honorably discharged soldiers, sail-  
13 ors and marines of the United States Army and Navy.

14 Persons appointed as conservation officers shall be  
15 men, between the ages of twenty-one and forty years,  
16 at least five feet nine inches (5'9") tall (barefoot), but  
17 not over six feet six inches (6'6"), weight in proportion  
18 to height, of good physical condition, good moral char-

19 acter, and shall have passed the necessary written and  
20 oral tests conducted by the West Virginia State Merit  
21 System Council.

22 No person shall be barred from being appointed a  
23 conservation officer because of his religious or political  
24 convictions.

25 All applications shall be accompanied by the certificate  
26 of the judge of the circuit court, the sheriff, and the  
27 prosecuting attorney of the county in which the applicant  
28 resides to the effect that the applicant is a person of  
29 good moral character, not of intemperate habits, and  
30 has never been convicted of a felony and not more than  
31 once of a misdemeanor.

32 The director shall prescribe the kind, style and material  
33 of uniforms to be worn by conservation officers. Uni-  
34 forms and other equipment furnished to the conserva-  
35 tion officers shall be and remain the property of the  
36 state.

37 Wherever the words "game protector" or "game pro-  
38 tectors" shall appear or be mentioned in any section of  
39 this chapter, or any other general law relating to con-

40 servation, game, fish or forestry, the same shall be  
41 deemed to mean and shall mean "conservation officer"  
42 or "conservation officers," whichever the case may be.

**Article 3, General Provisions Respecting Game, Birds, Fish  
or Frogs.**

Section 1. *State Ownership of Wildlife.*—The owner-  
2 ship of, and the title to, all wild animals, wild birds,  
3 both resident and migratory, and all fish and frogs, and  
4 all other aquatic life, in the state of West Virginia, are  
5 hereby declared to be in the state, as trustee for the  
6 people, and no such wild animals, wild birds, fish or  
7 frogs, or other aquatic life, shall be taken or killed in  
8 any manner, or at any time, except the person so taking  
9 or killing the same shall consent that the title thereto  
10 shall be and remain in the state of West Virginia, for  
11 the purpose of regulating the taking, use and disposition  
12 of the same after such taking or killing; and the taking  
13 or killing of wild animals, birds, fish or frogs, and all  
14 other aquatic life, at any time or in any manner by any  
15 person, shall be deemed such consent: *Provided, however,*  
16 That all fish, frogs and other aquatic life in privately owned

17 ponds are, and shall remain, the private property of the  
18 owner or owners of such privately owned ponds, and that  
19 such fish, frogs and other aquatic life in such privately  
20 owned ponds may be caught, taken or killed by such owner  
21 or owners at any time. But nothing herein contained shall  
22 make unlawful the bringing in of game, fowl or fish ac-  
23 quired lawfully in another state.

Sec. 4. *Acts Forbidden on Sunday.*—It shall be un-

2 lawful on Sunday to:

3 (1) Carry an uncased gun in any woods, in or on  
4 any highway, railroad right-of-way, public road, fields,  
5 or streams of this state, except at a regularly used rifle,  
6 pistol, skeet, target or trap shooting ground or range;

7 (2) Hunt, catch, kill, trap, injure or pursue with  
8 intent to catch, kill, trap or injure any wild animals, or  
9 wild birds: *Provided, however,* That traps previously,  
10 and legally set may be tended on Sunday, if the person  
11 or persons so doing, shall not have firearms of any  
12 description in their possession.

Sec. 7. *Possession of Wild Animals, Wild Birds, Fish*

2 *or Frogs.*—No person shall have in his possession, except

3 during the open season therefor, any wild animals, wild  
4 birds, fish or frogs, protected under the provisions of  
5 this chapter, unless such possession is in accordance  
6 with a permit issued by the director under section seven-a  
7 to seven-d inclusive, of this article, or of section three-b  
8 of article four: *Provided, however,* That game animals,  
9 game birds, fish or frogs, lawfully taken during the open  
10 season, may be had in possession during the open season  
11 therefor, and for sixty days thereafter: *Provided further,*  
12 That any person upon application to the director may be  
13 issued a permit, authorizing the possession of the flesh of a  
14 lawfully-killed deer or bear or any part thereof, for an  
15 additional period not to exceed four months.

16 Game animals, game birds, fish or frogs, lawfully taken  
17 outside of this state, may be possessed sixty days after  
18 the date such game animals, game birds, fish or frogs were  
19 legally brought into the state, and for an additional period  
20 thereafter by securing a permit issued by the director.

21 Migratory game shall be possessed only in accordance  
22 with the "Migratory Bird Treaty Act" and regulations  
23 thereunder.

24 The director, or his duly authorized agents, may hunt,  
25 kill, capture or maintain in captivity, at any time, any wild  
26 animals, wild birds, fish or frogs, for the purpose of scien-  
27 tific research, propagation, protection or distribution.

Sec. 7-f. *Sealing Beaver Pelts or Skins.*—Each licensee  
2 holding a resident state-wide beaver trapping license  
3 shall present for sealing, within thirty days after the  
4 close of a legal open season, all beaver pelts or skins  
5 taken under said license to a designated representative  
6 of the conservation commission. The resident state-  
7 wide beaver trapping license, countersigned by the  
8 owner, lessee or other person entitled to the possession  
9 of such lands, on which beaver were trapped, shall ac-  
10 company all such pelts or skins. A seal provided by the  
11 conservation commission shall be affixed to each beaver  
12 pelt or skin and shall remain attached to the skin until  
13 such pelt or skin has been tanned and processed into  
14 commercial fur. The sealing fee shall be three dollars  
15 per pelt.

Sec. 8. *Open Seasons and Bag Limits; Powers of*  
2 *the Director; Sectional Meetings.*—The director shall,

3 by regulation fix the open seasons with respect to wild  
4 animals, fur-bearing animals, wild birds, fish and frogs.  
5 He may prescribe different open seasons of varying  
6 length in the several counties, or parts thereof, of the  
7 state. The director shall fix the open seasons for hunting  
8 and fishing in the several counties, or parts thereof, of  
9 the state as soon as possible after the first of each calendar  
10 year. Open seasons so fixed, shall be published, upon  
11 determination, in four newspapers of general circula-  
12 tion throughout the state, at least once each week for  
13 two successive weeks.

14 The director may:

15 (1) When he finds such action necessary to protect  
16 the forests or the wildlife of the state, change the bag  
17 limits on wild animals, wild birds, fur-bearing animals,  
18 fish and frogs. Before a change becomes effective, the  
19 director shall give notice by publication of the order in  
20 two newspapers of general circulation throughout the  
21 state, once each week for two successive weeks, with the  
22 last publication not later than two weeks prior to the  
23 date the change becomes effective;

24 (2) Omit or suspend for a fixed and definite period,  
25 or change the date of open seasons for the catching of  
26 fish in a stream or part of a stream in this state. The  
27 order shall definitely fix the stream, or part thereof,  
28 by a proper description. Before the suspension becomes  
29 effective, the director shall give notice by publication  
30 of the order once each week for two successive weeks  
31 in a newspaper of the county in which the stream is  
32 located;

33 (3) Omit, limit, or suspend for a fixed and definite  
34 period, open seasons for the killing of any wild animals  
35 or wild birds in any county. The order shall state the  
36 species and kinds of birds or animals and the period of  
37 limitation or suspension. Before the order becomes ef-  
38 fective, the director shall give notice by publication of  
39 the order in four newspapers of general circulation  
40 throughout the state, once each week for two successive  
41 weeks, with the last publication at least two weeks prior  
42 to the effective date of the order.

43 For the purpose of giving the various sections of the  
44 state an opportunity to be heard concerning open seasons

45 for their respective areas, the director shall, and before  
46 such seasons are fixed for the various counties of the  
47 state as soon as practical after the beginning of each  
48 calendar year, hold meetings at Beckley, Charleston,  
49 Elkins, Martinsburg, Morgantown and Parkersburg.

Sec. 9. *Transportation of Game, Birds, Fish or Frogs*  
2 *Out of State.*—No person shall at any time transport or  
3 kill or have in his possession with the intention of trans-  
4 porting beyond the limits of the state, any elk, deer,  
5 raccoon (except the pelt thereof), quail, woodcock, pheas-  
6 ant, ruffed grouse, wild turkey, squirrel, wild duck or  
7 wild goose, or any part thereof, or any game, birds, fish  
8 or frogs killed, caught or captured within this state:  
9 *Provided, however,* That a non-resident licensee may  
10 take with him personally, when leaving the state, any  
11 game animals, game birds, fish or frogs, that he has  
12 lawfully taken or killed, not exceeding, during the sea-  
13 son, the number that any person may lawfully take or  
14 kill in any two days.

Sec. 10. *Sale of Game, Birds, Fish or Frogs.*—No  
2 person shall purchase or offer to purchase, sell, or offer

3 to sell, expose for sale, or have in his possession for the  
4 purpose of sale:

5 (1) Any, or any part of, elk, deer, raccoon, squirrel,  
6 rabbit, wild turkey, ruffed grouse, pheasant, quail, wood-  
7 cock, wild duck, wild goose, wild swan, wild brant, snipe,  
8 sandpiper, or any of the song or insectivorous birds of  
9 the state, except as permitted by section twelve-a, article  
10 three of this chapter: *Provided, however,* That raccoon  
11 pelts taken during the legal season may be sold: *Provided*  
12 *further,* That the hide, head, antlers and feet of a legally  
13 killed deer may be sold.

14 (2) Any, or any part of, trout of any species, black  
15 bass of any species, perch of any species (including wall-  
16 eyed pike-perch), sunfish of any species, pickerel of any  
17 species, muskellunge of any species, catfish of any species,  
18 suckers of any species, or any frog, caught or captured  
19 within this state, except as permitted by section thirteen,  
20 article six of this chapter.

21 No person, including a common carrier, shall (except  
22 as permitted by section thirteen, article six of this chap-  
23 ter) transport, carry or convey, or receive for such pur-

24 poses, any of the animals or birds, or of the fish or frogs,  
25 listed under (1) and (2) above, caught, or killed in this  
26 state, if such person knows, or has reason to believe, that  
27 such animals, birds, fish or frogs have been or are to be  
28 sold.

29 The selling or exposing for sale, having in possession  
30 for sale, transporting or carrying in violation of this sec-  
31 tion shall each constitute a separate offense.

32 The director may extend the application of this section  
33 to animals, birds, fish or frogs not listed under (1) and  
34 (2) above, if he finds that such additional species require  
35 the protection accorded by this section.

36 The provisions of this section shall not apply to animals,  
37 birds, fish or frogs raised under the authority of the license  
38 issued in accordance with section twelve-a of this article.

Sec. 12. *Serving Game, Birds, Fish or Frogs at Public*

2 *Eating Place.*—No person shall serve for pay, either  
3 directly or indirectly, at any hotel, restaurant, or other  
4 licensed eating place in this state, or in any public eating  
5 place in this state, any game animal, game bird, or game  
6 fowl, or any part thereof, whether caught within or

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

#### Article 4, Game and Fur-Bearing Animals.

Section 1. *Game and Fur-Bearing Animals.*—For the  
2 purpose of this chapter, the following are game animals:  
3 Elk (*Cervus canadensis*), deer, (*Odocoileus virginia-*  
4 *nus*), cottontail rabbit (*Sylvilagus* spp.), varying hare  
5 or snowshoe rabbit (*Lepus americanus*), gray, black al-  
6 bino and fox squirrel (*Sciurus* spp.) and raccoon (*Pro-*  
7 *cyon lotor*); and the following are fur-bearing animals:  
8 Opossum (*Didelphis virginiana*), beaver (*Castor cana-*  
9 *densis*), otter (*Lutra canadensis*), mink (*Mustela vi-*  
10 *son*), raccoon (*Procyon lotor*), muskrat (*Ondatra zibe-*  
11 *thica*), striped skunk (*Mephitis* spp.), spotted skunk  
12 (*Spilogale putorius*) and red fox (*Vulpes fulva*).

13 Whenever the director finds that the application of this  
14 chapter is necessary to the protection and preservation  
15 of any other species of wild animals, he may, by formal  
16 order, include such other species within the definition of

17 game or fur-bearing animals, as the case may be, for  
18 the purposes of this chapter. The director shall give  
19 notice of this order by publication once each week for  
20 two successive weeks in two newspapers of general  
21 circulation throughout the state.

Sec. 4. *Hunting Rabbits.*—No person shall, in any  
2 county of this state, hunt, capture, kill or have in his  
3 possession, any cottontail rabbit or varying hare (com-  
4 monly known as snowshoe rabbit) or any part thereof,  
5 including fresh pelts, except as provided in article three,  
6 section seven of this chapter: *Provided*, That it shall be  
7 lawful for a bona fide resident landowner of this state,  
8 his resident children or his bona fide resident tenant to  
9 hunt, capture or kill at any time any rabbit upon his  
10 own land or any land of which he may be a bona fide  
11 resident tenant.

Sec. 5. *Hunting Squirrels.*—No person shall, in any  
2 county of this state, hunt, capture or kill, gray, black,  
3 albino, or fox squirrels, or have in his possession a  
4 squirrel or any part thereof, including fresh pelts, except  
5 as provided in article three, section seven of this chapter.

Sec. 6. *Hunting Fur-Bearing Animals.*—No person  
2 shall in any county of this state, hunt, capture, trap,  
3 or kill any fur-bearing animals as defined by section one  
4 of this article, or have in his possession any fur-bearing  
5 animal or part thereof, except during the open season  
6 for that county. A person shall not have in his possession  
7 the fresh skin, or part thereof, of any fur-bearing  
8 animal, except beaver, within the period beginning ten  
9 days after the end of the open season and ending with  
10 the first day of the next succeeding open season for such  
11 animal in that county. No person shall disturb the traps  
12 of another person, kill, remove or take a fur-bearing  
13 animal, raccoon or predator from the trap of another  
14 person without specific authorization of the owner of  
15 said trap, except upon land where the owner of such  
16 trap may have placed it without right or permission.

17 It shall be unlawful for any person to place a trap or  
18 traps upon the lands of another without the written per-  
19 mission required under section six, article three of this  
20 chapter.

2       Sec. 6-a. *Trapping Beaver*.—No person shall, at any  
time:

3       (1) Set or maintain more than the number of beaver  
4 traps established as the season limit in any one year by  
5 the director.

6       (2) Set any trap for beavers within fifteen feet of  
7 the water line on the structure of any beaver dam or  
8 house, or on a beaver dam or house.

9       (3) Have in his possession an unsealed beaver hide,  
10 or part thereof, within the period beginning thirty days  
11 after the end of the open season and ending with the  
12 first day of the next succeeding open season for beavers.

13       (4) Destroy, disturb, or in any manner, interfere with  
14 dams, houses or burrows of beavers while trapping for,  
15 or attempting to trap for beavers.

16       If any person shall unintentionally trap and kill more  
17 beavers than fixed by regulation as the season bag limit,  
18 he shall, within twenty-four hours, deliver said beaver  
19 or beavers to a representative of the conservation com-  
20 mission.

Sec. 12. *Forbidden Methods of Hunting.*—It shall be

2 unlawful at any time for any person to:

3 (1) Shoot at, or to shoot for any wild bird or wild  
4 animal unless it is plainly visible to him or to dig out,  
5 cut out, or smoke out, or in any other manner take any  
6 live wild birds or wild animals, other than a predator,  
7 out of its den or place of refuge, except that woodchucks  
8 may be dug out of their dens in cultivated fields or  
9 pastures, under the conditions stipulated in regulations  
10 set up by the director; or to make use of, or take advant-  
11 age of, any artificial light, battery or other contrivance or  
12 device, in hunting for, catching, taking, wounding, or  
13 killing any wild animals or wild birds, except that arti-  
14 ficial lights such as are ordinarily carried in the hand or  
15 on the person, may be used for the purpose of taking  
16 raccoons, opossums and skunks.

17 (2) It shall be unlawful for any person, or one or  
18 more of a group of persons together, to throw or cast  
19 the rays of a spotlight, headlight, or other artificial  
20 light, from any vehicle, on any highway, or in any field,  
21 woodland, or forest upon any game animal, or game

22 bird, while having in his or their possession or under  
23 their control, or in any vehicle in which they may be  
24 traveling, a firearm or other implement whereby any  
25 game animal or game bird could be killed, even though  
26 such animal be not shot at, injured or killed. The pro-  
27 visions of this paragraph shall not apply if it shall be  
28 proven that the headlights of a motor vehicle while  
29 traveling on a highway in the usual way, cast a light  
30 upon such animal, on, or adjacent to such highway, and  
31 there was no attempt, or intent to locate such animal.

32 (3) Kill wild animals or wild birds from an airplane,  
33 automobile, or other land conveyance, or from a motor-  
34 driven craft upon any of the waters of the state.

35 (4) Kill squirrels from a craft upon any waters of  
36 the state.

37 (5) Kill or take any beaver or muskrat by any means  
38 other than by trap.

Sec. 14-a. *Types of Traps.*—The director shall have  
2 the power and authority to regulate the number, kind  
3 and types, of traps to be used in the catching or trapping  
4 of any game or fur-bearing animal.

Sec. 14-b. *Marking of Traps.*—All traps used for  
2 taking of any game or fur-bearing animal shall be marked  
3 with a metallic plate or tag, attached to the trap, trap  
4 chain, or set, bearing in plain English, the name and  
5 address of the owner of said trap.

Section 14-c. *Possession of Loaded Firearms in Ve-*  
2 *hicles.*—(1) Except as otherwise provided by law, it shall  
3 be unlawful for any person, or persons, to have in their  
4 possession a loaded firearm or a firearm from the maga-  
5 zine of which all shells and cartridges have not been re-  
6 moved, in or on any vehicle or conveyance, or its attach-  
7 ments, while standing upon or along, or being driven upon  
8 or along, any public highway, or a highway open to use  
9 or used by the public, within this state: *Provided, how-*  
10 *ever,* That except as hereafter provided, between five  
11 o'clock postmeridian of one day and seven o'clock ante-  
12 meridian, eastern standard time, of the day following,  
13 any unloaded firearm, being lawfully carried in accord-  
14 ance with the foregoing provisions, shall be so carried  
15 only when in a case or taken apart and securely wrapped:  
16 (2) *Provided, however,* That during the period from

17 July first to September thirtieth, inclusive, of each year,  
18 the foregoing requirements relative to carrying certain  
19 unloaded firearms shall be applicable only from eight-  
20 thirty o'clock postmeridian to five o'clock antemeridian,  
21 eastern standard time.

22 (3) The provisions of this section shall not be con-  
23 strued to apply to a conservation officer or to a public  
24 police officer engaged in the performance of his official  
25 duty, or to a paid special officer whose duty it is to enforce  
26 the game, fish and forestry laws of the state of West Vir-  
27 ginia and engaged in the performance of his official duties.

#### **Article 5, Birds and Fowls.**

Section 1. *Game Birds and Fowls Defined.*—For the  
2 purpose of this chapter the following are game birds or  
3 game fowls; The anatidae, commonly known as ducks,  
4 geese, brants, and swans; the rallidea, commonly known  
5 as mud hens, rails, coots, and gallinules; the charadii,  
6 commonly known as shore birds, plovers, snipes, wood-  
7 cocks, curlews, and sandpipers; and the galli, commonly  
8 known as wild turkeys, ruffed grouse or pheasant; ring-  
9 necked pheasant and quail or bob-whites.

Section 3. *Hunting Wood Ducks.*—No person shall  
2 hunt, pursue, catch, capture or kill any wood duck (*Aix*  
3 sponsa) at any time within this state.

Sec. 4. *Wild Turkeys; Report.*—No person shall, in  
2 any county of this state, hunt, capture, pursue, wound or  
3 kill any wild turkey (*Meleagris gallopavo*) or have in his  
4 possession any wild turkey, or part thereof, except as  
5 provided in article three, section seven of this chapter.  
6 No person shall, during the open season, hunt, pursue,  
7 catch or kill any wild turkey between sunset of one day  
8 and sunrise of the next day or kill more than one wild  
9 turkey in any open season.

10 A person who kills a wild turkey in this state shall  
11 report to the director in writing, within ten days after  
12 the kill, setting forth the date, time and place where  
13 killed, and whether the turkey was male or female.

Sec. 5. *Hunting Ruffed Grouse.*—No person shall  
2 hunt, pursue, catch, capture or kill or have in his posses-  
3 sion in any county of this state any ruffed grouse (*Bonasa*  
4 *Umbellus*) except as provided in article three, section  
5 seven of this chapter.

Sec. 6. *Hunting Quail or Bob-White*.—No person  
2 shall hunt, pursue, catch, capture, kill or have in his  
3 possession in any county of this state, any quail, or bob-  
4 white, (*Colinus virginianus*) except as provided in  
5 article three, section seven of this chapter.

Sec. 7-a. *Hunting Ring-necked Pheasant*.—No person  
2 shall hunt, pursue, catch, capture, kill or have in his  
3 possession in any county of this State any ring-necked  
4 pheasant (*Phasianus colchicus torquatus*) except as pro-  
5 vided in article three, section seven of this chapter.

6 No person shall kill a female ring-necked pheasant in  
7 this state.

8 A person who kills a male ring-necked pheasant in this  
9 state shall report to the director, in writing, within ten  
10 days after the kill, setting forth the date, time and place  
11 where killed.

Sec. 8. *Hunting Song or Insectivorous Birds*.—No per-  
2 son shall at any time hunt, pursue, catch, capture or kill,  
3 any song or insectivorous birds, unless such person shall  
4 be acting under a permit issued by the director in accord-  
5 ance with section seven-a, article three of this chapter.

Sec. 11. *Unlawful to Kill, Possess, Purchase, Sell or*  
2 *Transport Certain Wild Birds or their Plumage; Birds*  
3 *Not Protected by Chapter.*—No person shall, within this  
4 state, kill, catch, or have in his possession living or dead,  
5 any wild bird, other than a game bird or wild bird for  
6 which a bounty has been offered by the director; or  
7 expose for sale, or transport within or without the state,  
8 any such bird, except as aforesaid. No part of the plum-  
9 age, skin or body of any bird protected by this section  
10 shall be sold or had in possession for sale, except mounted  
11 or stuffed plumage, skin, bodies or heads of such birds  
12 legally taken and stuffed or mounted, irrespective of  
13 whether such bird was captured within or without this  
14 state, except the English or European sparrow (*Passer*  
15 *domesticus*), starling (*Sturnus vulgaris*), sharp-shinned  
16 hawk (*Accipiter velox*), Cooper's hawk (*Accipiter coop-*  
17 *eri*), goshawk (*Astur atricapillus*), great horned owl (*Bubo*  
18 *virginianus*), crow (*Corvus brachyrhynchos*), fish crow  
19 (*Corvus ossifragus*), and cowbird (*Molothrus ater*), which  
20 are not included among the birds protected by this chapter,  
21 and the killing thereof at any time is lawful.

**Article 6, Fish and Other Aquatic Life.**

Section 1. *Game Fish Defined; Open Seasons for*  
2 *Fishing.*—For the purpose of this chapter the following  
3 are game fish: Brook trout, Brown trout, Rainbow trout,  
4 Large-mouth bass, small-mouth bass, Kentucky or spotted  
5 bass, Pickerel, Muskellunge, Walleyed pike or Pike-Perch,  
6 Rock bass, white and Black Crappie and Blue-Gill sunfish  
7 and other bream.

8 The director, for the purpose of protecting and con-  
9 serving the fish and other aquatic animal life of the state,  
10 as provided by section eight, article three of this chapter,  
11 may establish open and closed seasons and creel limits on  
12 any or all fish, and regulate the taking and use of all  
13 other aquatic life. But water dogs and big salamander  
14 shall not be protected at any time.

15 The director may prescribe and enforce special regu-  
16 lations to apply to a stream or any part thereof, that  
17 he places under observation for scientific purposes.

18 Regulations may include the filling out and filing of  
19 special reports by persons fishing in the stream.

Sec. 5. *Unlawful Fishing*.—No person shall kill, catch,

2 or attempt to kill or catch any fish at any time by :

3 (1) The use of seines, nets or traps, or devices of  
4 like nature without the written consent of the director.

5 A person may use a seine not more than six feet in length,  
6 nor more than four feet in depth for securing minnows  
7 for angling, other than game fish or protected non-game  
8 fish; except any person may use a minnow trap, for the  
9 purpose of securing bait, provided the opening is not  
10 larger than one inch in diameter. A dip net so used shall  
11 not exceed thirty-six square feet in over-all area, and its  
12 mesh shall not be smaller than one-quarter inch;

13 (2) Draining water out of any pool, pond, or stream  
14 with intent to take or injure fish;

15 (3) The use of dynamite, or any like explosive or  
16 explosive mixture;

17 (4) The use of a poisonous drug or substance;

18 (5) The use of electricity or lime;

19 (6) The use of firearms;

20 (7) Giggling, spearing, gaffing, snaring or grappling,  
21 except the director may permit giggling of non-game fish

22 in a stream under the supervision of a representative  
23 of the director, other than during the months of April,  
24 May and June;

25 (8) Any other means other than by rod, line and hooks,  
26 with natural or artificial lures;

27 A person shall not sell or purchase a seine more than  
28 six feet in length without the prior written permission  
29 of the director.

30 The provisions of this section shall not prevent the  
31 director from using such methods of catching fish as he  
32 shall find necessary and proper for the purpose of propa-  
33 gation, protection, or scientific investigation.

#### **Article 7, Hunting and Fishing Licenses.**

Section 1. *Necessity for Licenses.*—No person above  
2 the age of fifteen years, who is a citizen of the United  
3 States, shall at any time hunt, pursue, trap for, kill,  
4 catch or chase for sport any wild animals or wild birds,  
5 or fish for, kill, or catch any frogs, turtles or fish of  
6 any kind whatsoever, without first having secured a  
7 license and then only during the respective open seasons.  
8 A bona fide resident land owner of this state, or his

9 resident children, or his bona fide resident tenant, may  
10 hunt, kill, pursue, catch, or chase for sport any wild  
11 animals or wild birds, or fish for, capture or kill any of  
12 the fish, frogs or turtles of this state on his own land  
13 during the open season therefore in accordance with  
14 regulations and provisions of law applying to such hunt-  
15 ing or fishing, without obtaining a license so to do; so  
16 long as said land shall not have been designated and  
17 made, in manner provided by law, a state game refuge  
18 or reserve. No person, who is a resident of this state,  
19 under the age of fifteen years, shall hunt upon the lands  
20 of another unless accompanied by a licensed adult. A  
21 resident or non-resident member of any club or or-  
22 ganization or association of persons owning or leasing  
23 a game or fish reserve in this state shall not hunt or fish  
24 therein without securing a license.

Sec. 2. *Licenses Conditioned on Payment of Fees; Age*  
2 *Exemption.*—Licenses to hunt and fish shall be of the kinds  
3 and classes and shall be conditioned upon the payment of  
4 the fees set forth in sections two-a through two-i of this  
5 article. A resident of the state sixty years of age or over

6 shall not be required to obtain a license to fish with hook  
7 and line in the waters of the state.

Sec. 2-i. *Class H; Resident State-wide Beaver Trapping License.*—A class H license shall be a state-wide  
2 beaver trapping license and shall entitle the licensee to  
3 trap beaver only, in all counties of the state. It shall be  
4 issued only to a citizen of the United States who is a  
5 bona fide resident of West Virginia. This license shall  
6 become valid only when countersigned, in a space provided  
7 on face of license, by landowner, lessee, or person who  
8 has legal possession of land upon which the trapper is  
9 operating. Setting beaver traps upon the lands of another  
10 person without obtaining permission and signature in  
11 space provided on license shall be considered an illegal  
12 act. The licensee shall not be required to hold any other  
13 class of license to trap beavers; nor shall said license  
14 be required of any bona fide resident landowner, resident  
15 child, or bona fide resident tenant. The fee shall be two  
16 dollars.

Sec. 3. *Application for; To Whom Made.*—A person  
2 eligible for a license under sections two-a to two-i, in-

3 clusive, of this article shall make applications as follows:

4 (1) A resident of this state shall make application to  
5 the clerk of the county court in any county of the state;

6 (2) A non-resident of this state may make application  
7 to the clerk of the county court of any county in this  
8 state;

9 (3) A citizen of Ohio applying for a class E license  
10 shall make application to the clerk of the county court of  
11 a county bordering upon the state of Ohio;

12 (3-a) Persons eligible for class H license shall make  
13 application to the clerk of the county court in any county  
14 of this state.

15 (4) An alien, making application for a class F license,  
16 shall first apply to the director for the issuance of a permit  
17 to obtain a class F license. The director shall issue the  
18 permit if he is satisfied that the applicant is legally entitled  
19 to a class F license and has bona fide intentions to exercise  
20 the license in accordance with the provisions of this chap-  
21 ter. After issuance of the permit an alien may apply to the  
22 clerk of the county court of any county in the state for the  
23 issuance of a class F license in the same manner as a non-

24 resident of this state. A permit shall remain in force until  
25 revoked.

Sec. 7. *When License to be Exhibited; Display of Bag  
2 and Creel Limits.*—No person to whom license is granted  
3 shall hunt, pursue, trap for, kill, catch or chase for sport  
4 any wild animals, or wild birds, or fish for, kill or catch  
5 any frogs, turtles or fish of any kind whatsoever, in this  
6 state, unless at the time thereof, such person shall, on  
7 demand, exhibit such license to any officer of this state,  
8 or to the owner, tenant or lessee of any land on which  
9 such person is hunting, fishing, or chasing for sport.

10 Any person having in his or her possession, in the fields  
11 or woods, in, on or about the streams or waters of this  
12 state, any gun or hunting paraphernalia or any fishing  
13 rod or other fishing paraphernalia, except he or she be  
14 owner of such fields, woods, streams or waters, or the  
15 child, tenant or lessee of such owner, shall upon demand  
16 of any officer mentioned in this chapter, or of the owner,  
17 tenant, lessee or agent of the owner of such fields or  
18 woods, produce and exhibit his or her proper license  
19 to such officer or person for inspection, and shall give

20 to such officer or person his or her correct name and  
21 address.

22 It shall be the duty of any fisherman or hunter, upon  
23 request or demand of any officer mentioned in this  
24 chapter, to exhibit fully to such officer, all game and fish  
25 such hunter or fisherman may have in his coat, game bag,  
26 fishing creel, fish basket or which such hunter or fisher-  
27 man may otherwise have in his immediate possession.

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

Forest L. McNeer  
Chairman Senate Committee

R. L. Matthews  
Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1947 passage.

Howard Myers  
Clerk of the Senate

Phillip  
Clerk of the House of Delegates

Arnold M. Wickers  
President of the Senate

John E. Arno  
Speaker House of Delegates

The within Approved this the 14<sup>th</sup>  
day of March, 1947.

Clarence Madison  
Governor.



Filed in the Office of the Secretary of State  
of West Virginia. MAR 14 1947  
WM. S. O'BRIEN,  
SECRETARY OF STATE