WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1963

ENROLLED

SENATE BILL NO. 134

(By Mr. GAINER)

PASSED Feb. 14, 1963

In Effect From Passage

Filed in Office of the Secretary of State of West Virginia 2-21-63.

JOE F. BURDETT
SECRETARY OF STATE
AN ACT to amend and reenact section five, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to unlawful methods of hunting and fishing.

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:

Section 5. Unlawful Methods of Hunting and Fishing.

2 —Except as authorized by the director, it shall be unlawful at any time for any person to:

3 (1) Shoot at or to shoot any wild bird or animal unless

5 it is plainly visible to him;
(2) Dig out, cut out or smoke out, or in any manner
take or attempt to take any live wild animal or wild bird
out of its den or place of refuge, except as may be au-
thorized by regulations promulgated by the director or
by law;

(3) Make use of, or take advantage of, any artificial
light in hunting for, or taking any wild animals or wild
birds, except that artificial lights such as are ordinarily
carried in the hand or on the person may be used for the
purpose of taking raccoon, opossum or skunk; or to throw
or cast the rays of a spotlight, headlight, or other artificial
light, from any vehicle, on any animal or game bird, or
attempt to do so, while having in his or their possession
or under their control, or in any vehicle or conveyance
in which they may be traveling, a cased or uncased fire-
arm or other implement whereby any wild animal or
wild bird could be killed, even though such animal be
not shot at, injured or killed. The provisions of this sub-
division shall not apply if it shall be proven that the
headlights of a motor vehicle while traveling on a high-
way in the usual way, cast a light upon such animal, on
or adjacent to such highway, and there was no attempt
or intent to locate such animal;

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

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

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

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

(8) Except as provided in section six of this article,
carry an uncased or loaded gun in any of the woods of
this state except during the open firearms hunting season
for game animals and nonmigratory game birds within
any county of the state, unless he has in his possession a
permit in writing issued to him by the director: Provided, that this section shall not prohibit hunting or taking of unprotected species of wild animals and wild birds and migratory game birds, during the open season, in the open fields, open waters and open marshes of the state;

(9) Except as provided in section six of this article, carry an uncased or loaded gun on Sunday in any woods or on any highway, railroad right of way, public road, field or stream of this state, except at a regularly used rifle, pistol, skeet, target or trap shooting ground or range;

(10) To have in his possession a loaded firearm or a firearm from the magazine of which all shells and cartridges have not been removed, in or on any vehicle or conveyance, or its attachments, within the state, except as may otherwise be provided by law or regulation.

Except as hereinafter provided, between five o'clock post-meridian of one day and seven o'clock antemeridian, eastern standard time of the day following, any unloaded firearm, being lawfully carried in accordance with the foregoing provisions, shall be so carried only when in a
case or taken apart and securely wrapped. During the period from July first to September thirtieth, inclusive, of each year, the foregoing requirements relative to carrying certain unloaded firearms shall be permissible only from eight-thirty o'clock postmeridian to five o'clock ante-
meridian eastern standard time;

(11) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which wildlife may be taken, on Sunday, any wild animals or wild birds: Provided, however, That traps previously and legally set may be tended on Sunday, if the person so doing shall not have firearms or long bow of any description in his possession;

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

(13) Possess a ferret;

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

(15) Have in his possession or about his premises, without the written permission of the director, any hunting or fishing paraphernalia which cannot be used law-


fully in this state for hunting or fishing, and any con-
servation officer shall remove and destroy such hunting
and fishing paraphernalia, whenever found in this state,
and the person or persons claiming ownership shall have
no recourse at law against such confiscation and destruc-
tion;
(16) Catch, take, kill, or attempt to catch, take or kill
any fish at any time by any means other than by rod,
line, and hooks with natural or artificial lures unless
otherwise authorized by law or regulation issued by the
director: Provided further, That snaring of any species
of suckers, carp, fallfish and creek chubs through the ice
shall at all times be lawful;
(17) 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, take, catch or kill, any wild animal
or wild bird except those species on which there is no
closed season, or to fish for, catch, take or kill any fish,
amphibian or aquatic life which is protected by the pro-
visions of this chapter or regulations of the director, or
the sale of which is prohibited;
(18) Hunt, catch, take, kill, capture, pursue, transport, possess or use any migratory game or nongame birds included in the terms of conventions between the United States and Great Britain and between the United States and United Mexican States for the protection of migratory birds and game mammals concluded, respectively, August sixteen, one thousand nine hundred sixteen, and February seven, one thousand nine hundred thirty-six, except during the time and in the manner and numbers prescribed by the Federal Migratory Bird Treaty Act and regulations made thereunder;

(19) Kill, take, catch or have in his possession living or dead, any wild bird, other than a game bird; or expose for sale, or transport within or without the state any bird, except as aforesaid. No part of the plumage, skin or body of any protected bird shall be sold or had in possession for sale, except mounted, or stuffed plumage, skin, bodies or heads of such birds legally taken and stuffed or mounted, irrespective of whether such bird was captured within or without this state, except the English or European sparrow (Passer domesticus), starling (Sturnus
vulgaris), sharpshinned hawk (Accipiter striatus), Cooper's hawk (Accipiter cooperii), goshawk (Accipiter gentilis), crow (Corvus brachyrhynchos) and cowbird (Molothrus ater), which shall not be protected and the killing thereof at any time is lawful;

(20) Use dynamite or any like explosives or poisonous mixture placed in any waters of the state for the purpose of killing or taking fish. Any person violating the provisions of this subdivision shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned for not less than six months nor more than three years, and, in the discretion of the court, may be fined not more than five hundred dollars;

(21) Have both a bow and a gun in the fields or woods at the same time;

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

(23) Take or attempt to take turkey, bear, elk or deer with any arrow unless the same is equipped with a point having at least two sharp cutting edges measuring in excess of three fourths of an inch wide;
(24) Take or attempt to take any wildlife with an arrow having an explosive head or shaft;
(25) Shoot an arrow across any public highway or from aircraft, motordriven, watercraft, motor vehicle or other land conveyance; and
(26) Permit any dog owned by him or under his control to chase, pursue or follow upon the track of any game animal or game bird, either day or night, between the first day of May and the fifteenth day of August next following: Provided, however, That dogs may be trained on game animals and game birds, except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands of the owner or by his bona fide tenant or tenants or upon the grounds or lands of another person with his written permission or on public lands, at any time: Provided further, That the person training said dogs does not have firearms or other implements in his possession during the closed season on such game animals and game birds, whereby game animals or game birds could be taken or killed.
(27) Conduct or participate in a field trial, water race
or wild hunt hereafter referred to as a trial: Provided, however, That any person, group of persons, club or organization may hold such a trial at any time of the year upon obtaining such permit as is provided for in section fifty-six of this article. The person responsible for obtaining said permit shall prepare and keep an accurate record of the names and addresses of all persons participating in said trial, and make same readily available for inspection by any conservation officer upon request.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

O. Roy Parker
Chairman Senate Committee

Ethel L. Randall
Chairman House Committee

Originated in the Senate.

Takes effect FROM passage.

Howard W. McKeen
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

Julius W. Shugofar Jr.
Speaker House of Delegates

The within approved this the 26th day of February, 1963.

Governor