

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963

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ENROLLED

SENATE BILL NO. 134

(By Mr. GAINER)

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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

# 134

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[Passed February 14, 1963; in effect from passage.]

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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 unlaw-  
3 ful at any time for any person to:
- 4 (1) Shoot at or to shoot any wild bird or animal unless  
5 it is plainly visible to him;

6       (2) Dig out, cut out or smoke out, or in any manner  
7 take or attempt to take any live wild animal or wild bird  
8 out of its den or place of refuge, except as may be au-  
9 thorized by regulations promulgated by the director or  
10 by law;

11       (3) Make use of, or take advantage of, any artificial  
12 light in hunting for, or taking any wild animals or wild  
13 birds, except that artificial lights such as are ordinarily  
14 carried in the hand or on the person may be used for the  
15 purpose of taking raccoon, opossum or skunk; or to throw  
16 or cast the rays of a spotlight, headlight, or other artificial  
17 light, from any vehicle, on any animal or game bird, or  
18 attempt to do so, while having in his or their possession  
19 or under their control, or in any vehicle or conveyance  
20 in which they may be traveling, a cased or uncased fire-  
21 arm or other implement whereby any wild animal or  
22 wild bird could be killed, even though such animal be  
23 not shot at, injured or killed. The provisions of this sub-  
24 division shall not apply if it shall be proven that the  
25 headlights of a motor vehicle while traveling on a high-  
26 way in the usual way, cast a light upon such animal, on

27 or adjacent to such highway, and there was no attempt  
28 or intent to locate such animal;

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

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

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

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

43 (8) Except as provided in section six of this article,  
44 carry an uncased or loaded gun in any of the woods of  
45 this state except during the open firearms hunting season  
46 for game animals and nonmigratory game birds within  
47 any county of the state, unless he has in his possession a

48 permit in writing issued to him by the director: *Provided,*  
49 That this section shall not prohibit hunting or taking  
50 of unprotected species of wild animals and wild birds  
51 and migratory game birds, during the open season, in  
52 the open fields, open waters and open marshes of the  
53 state;

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

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

64 Except as hereinafter provided, between five o'clock post-  
65 meridian of one day and seven o'clock antemeridian,  
66 eastern standard time of the day following, any unloaded  
67 firearm, being lawfully carried in accordance with the  
68 foregoing provisions, shall be so carried only when in a

69 case or taken apart and securely wrapped. During the  
70 period from July first to September thirtieth, inclusive,  
71 of each year, the foregoing requirements relative to carry-  
72 ing certain unloaded firearms shall be permissible only  
73 from eight-thirty o'clock postmeridian to five o'clock ante-  
74 meridian eastern standard time;

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

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

84 (13) Possess a ferret;

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

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

90 fully in this state for hunting or fishing, and any con-  
91 servation officer shall remove and destroy such hunting  
92 and fishing paraphernalia, whenever found in this state,  
93 and the person or persons claiming ownership shall have  
94 no recourse at law against such confiscation and destruc-  
95 tion;

96 (16) Catch, take, kill, or attempt to catch, take or kill  
97 any fish at any time by any means other than by rod,  
98 line, and hooks with natural or artificial lures unless  
99 otherwise authorized by law or regulation issued by the  
100 director: *Provided further*, That snaring of any species  
101 of suckers, carp, fallfish and creek chubs through the ice  
102 shall at all times be lawful;

103 (17) Employ or hire, or induce or persuade, by the  
104 use of money or other things of value, or by any means,  
105 any person to hunt, take, catch or kill, any wild animal  
106 or wild bird except those species on which there is no  
107 closed season, or to fish for, catch, take or kill any fish,  
108 amphibian or aquatic life which is protected by the pro-  
109 visions of this chapter or regulations of the director, or  
110 the sale of which is prohibited;

111 (18) Hunt, catch, take, kill, capture, pursue, transport,  
112 possess or use any migratory game or nongame birds in-  
113 cluded in the terms of conventions between the United  
114 States and Great Britain and between the United States  
115 and United Mexican States for the protection of migratory  
116 birds and game mammals concluded, respectively, August  
117 sixteen, one thousand nine hundred sixteen, and Febru-  
118 ary seven, one thousand nine hundred thirty-six, except  
119 during the time and in the manner and numbers pre-  
120 scribed by the Federal Migratory Bird Treaty Act and  
121 regulations made thereunder;

122 (19) Kill, take, catch or have in his possession living or  
123 dead, any wild bird, other than a game bird; or expose  
124 for sale, or transport within or without the state any bird,  
125 except as aforesaid. No part of the plumage, skin or body  
126 of any protected bird shall be sold or had in possession  
127 for sale, except mounted, or stuffed plumage, skin, bodies  
128 or heads of such birds legally taken and stuffed or  
129 mounted, irrespective of whether such bird was captured  
130 within or without this state, except the English or Euro-  
131 pean sparrow (*Passer domesticus*), starling (*Sturnus*

132 vulgaris), sharpshinned hawk (*Accipiter striatus*),  
133 Cooper's hawk (*Accipiter cooperii*), goshawk (*Accipiter*  
134 *gentilis*), crow (*Corvus brachyrhynchos*) and cowbird  
135 (*Molothrus ater*), which shall not be protected and the  
136 killing thereof at any time is lawful;

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

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

147 (22) Have a crossbow in the woods or fields or use a  
148 crossbow to hunt for, take or attempt to take any wild-  
149 life;

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

154 (24) Take or attempt to take any wildlife with an  
155 arrow having an explosive head or shaft;

156 (25) Shoot an arrow across any public highway or  
157 from aircraft, motordriven, watercraft, motor vehicle or  
158 other land conveyance; and

159 (26) Permit any dog owned by him or under his control  
160 to chase, pursue or follow upon the track of any game  
161 animal or game bird, either day or night, between the  
162 first day of May and the fifteenth day of August next  
163 following: *Provided, however,* That dogs may be trained  
164 on game animals and game birds, except deer and wild  
165 turkeys, and field trials may be held or conducted on the  
166 grounds or lands of the owner or by his bona fide tenant  
167 or tenants or upon the grounds or lands of another person  
168 with his written permission or on public lands, at any  
169 time: *Provided further,* That the person training said  
170 dogs does not have firearms or other implements in his  
171 possession during the closed season on such game animals  
172 and game birds, whereby game animals or game birds  
173 could be taken or killed.

174 (27) Conduct or participate in a field trial, water race

175 or wild hunt hereafter referred to as a trial: *Provided,*  
176 *however,* That any person, group of persons, club or or-  
177 ganization may hold such a trial at any time of the year  
178 upon obtaining such permit as is provided for in section  
179 fifty-six of this article. The person responsible for obtain-  
180 ing said permit shall prepare and keep an accurate record  
181 of the names and addresses of all persons participating in  
182 said trial, and make same readily available for inspection  
183 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. Crandall*  
Chairman House Committee

Originated in the Senate.

Takes effect FROM passage.

*Howard Myers*  
Clerk of the Senate

*C. A. Blankenship*  
Clerk of the House of Delegates

*Harvard W. Curson*  
President of the Senate

*Julius W. Singleton Jr.*  
Speaker House of Delegates

The within approved this the 20<sup>th</sup>  
day of February, 1963.

*W. W. Bann*  
Governor

