

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1965



ENROLLED

HOUSE BILL No. 644

(By Mr. Myler and Mr. Goodwin)



PASSED March 11, 1965

In Effect from Passage



FILED IN THE OFFICE OF
JOE F. DURDETT
SECRETARY OF STATE
THIS DATE 3-18-65

644

ENROLLED
House Bill No. 644

(By MR. MYLES and MR. GOODWIN)

[Passed March 11, 1965; in effect from passage.]

AN ACT to amend and reenact section five, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the taking of game animals.

Be it enacted by the Legislature of West Virginia:

That section five, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 2. Game and Fish.

Section 5. Unlawful Methods of Hunting and Fish-

2 **ing.**—Except as authorized by the director, it shall be
3 unlawful 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;

Handwritten: OK, [unclear], [unclear]
11 (3) Make use^e 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
15 the purpose of taking raccoon, opossum or skunk; or to
16 throw or cast the rays of a spotlight, headlight, or other
17 artificial light, from any vehicle, on any animal or game
18 bird, or attempt to do so, while having in his or their
19 possession or under their control, or in any vehicle or
20 conveyance in which they may be traveling, a cased or
21 uncased firearm or other implement whereby any wild
22 animal or wild bird could be killed, even though such
23 animal be not shot at, injured or killed. The provision
24 of this subdivision shall not apply if it shall be proven

25 that the headlights of a motor vehicle while traveling on
26 a highway in the usual way, cast a light upon such animal,
27 on 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
32 from 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,
37 trap 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
48 a permit in writing issued to him by the director: *Pro-*
49 *vided, however,* That this section shall not prohibit hunt-
50 ing or taking of unprotected species of wild animals and
51 wild birds and migratory game birds, during the open
52 season, in the open fields, open water and open marshes
53 of the state;

54 (9) Except as provided in section six of this article,
55 carry an uncased or loaded gun after the hour of five
56 o'clock antemeridian on Sunday in any woods or on any
57 highway, railroad right of way, public road, field or
58 stream of this state, except at a regularly used rifle,
59 pistol, skeet, target or trap shooting ground or range
60 and nothing contained in section eighteen, article eight,
61 chapter sixty-one of the code shall prohibit the use of a
62 gun by a licensed hunter before the hour of five o'clock
63 antemeridian on Sunday;

64 (10) To have in his possession a loaded firearm or a
65 firearm from the magazine of which all shells and car-
66 tridges have not been removed, in or on any vehicle or

67 conveyance, or its attachments, within the state, except
68 as may otherwise be provided by law or regulation. Ex-
69 cept as hereinafter provided, between five o'clock post-
70 meridian of one day and seven o'clock antemeridian,
71 eastern standard time of the day following, any unloaded
72 firearm, being lawfully carried in accordance with the
73 foregoing provisions, shall be so carried only when in a
74 case or taken apart and securely wrapped. During the
75 period from July first to September thirtieth, inclusive
76 of each year, the foregoing requirements relative to car-
77 rying certain unloaded firearms shall be permissible only
78 from eight-thirty o'clock postmeridian to five o'clock ante-
79 meridian, eastern standard time;

80 (11) Hunt, catch, take, kill, trap, injure or pursue with
81 firearms or other implement by which wildlife may be
82 taken after the hour of five o'clock antemeridian on Sun-
83 day any wild animals or wild birds: *Provided, however,*
84 That traps previously and legally set may be tended after
85 the hour of five o'clock antemeridian on Sunday, if the
86 person so doing shall not have firearms or long bow of
87 any description in his possession;

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

90 (13) Possess a ferret;

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

93 (15) Have in his possession or about his premises,
94 without the written permission of the director, any hunt-
95 ing or fishing paraphernalia which cannot be used law-
96 fully in this state for hunting or fishing, and any con-
97 servation officer shall remove and destroy such hunting
98 and fishing paraphernalia, whenever found in this state,
99 and the person or persons claiming ownership shall have
100 no recourse at law against such confiscation and destruc-
101 tion;

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

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

117 (18) Hunt, catch, take, kill, capture, pursue, transport,
118 possess or use any migratory game or nongame birds in-
119 cluded in the terms of conventions between the United
120 States and Great Britain and between the United States
121 and United Mexican States for the protection of migra-
122 tory birds and game mammals concluded, respectively,
123 August sixteen, one thousand nine hundred sixteen, and
124 February seven, one thousand nine hundred thirty-six,
125 except during the time and in the manner and numbers
126 prescribed by the federal migratory bird treaty act and
127 regulations made thereunder;

128 (19) Kill, take, catch, or have in his possession living
129 or dead, any wild bird, other than a game bird; or expose

130 for sale, or transport within or without the state any such
131 bird, except as aforesaid. No part of the plumage, skin
132 or body of any protected bird shall be sold or had in
133 possession for sale, except mounted or stuffed plumage,
134 skin, bodies or heads of such birds legally taken and
135 stuffed or mounted, irrespective of whether such bird was
136 captured within or without this state, except the English
137 or European sparrow (*passer domesticus*), starling
138 (*sturnus vulgaris*), sharp-shinned hawk (*accipiter stri-*
139 *atus*), cooper's hawk (*accipiter cooperii*), goshawk (*acci-*
140 *piter gentilis*), crow (*corvus brachyrhynchos*) and cow-
141 bird (*molothrus ater*), which shall not be protected and
142 the killing thereof at any time is lawful;

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

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

153 (22) Have a crossbow in the woods or fields or use a
154 crossbow to hunt for, take or attempt to take any wild-
155 life;

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

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

164 (25) Shoot an arrow across any public highway or
165 from aircraft, motor-driven watercraft, motor vehicle
166 or other land conveyance; and

167 (26) Permit any dog owned by him or under his
168 control to chase, pursue or follow upon the track of any
169 game animal or game bird, either day or night, between
170 the first day of May and the fifteenth day of August next
171 following: *Provided, however,* That dogs may be trained

172 on game animals and game birds, except deer and wild
173 turkeys, and field trials may be held or conducted on
174 the grounds or lands of the owner or by his bona fide
175 tenant or tenants or upon the grounds or lands of another
176 person with his written permission or on public lands,
177 at any time: *Provided further*, That the person training
178 said dogs does not have firearms or other implements
179 in his possession during the closed season on such game
180 animals and game birds, whereby game animals or game
181 birds could be taken or killed; and

182 (27) Conduct or participate in a field trial, water race
183 or wild hunt hereafter referred to as trial: *Provided*,
184 *however*, That any person, group of persons, club or or-
185 ganization may hold such trial at any time of the year
186 upon obtaining such permit as is provided for in section
187 fifty-six of this article. The person responsible for ob-
188 taining said permit shall prepare and keep an accurate
189 record of the names and addresses of all persons partici-
190 pating in said trial, and make same readily available for
191 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

James W. Long
Chairman House Committee

Originated in the House.

Takes effect from passage.

J Howard Hayes
Clerk of the Senate

A Blankenship
Clerk of the House of Delegates

Howard H. Cannon
President of the Senate

H. Laban White
Speaker House of Delegates

The within *approved* this the *18*
day of *March*, 1965.

Stewart C. Smith
Governor

