

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1969

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**ENROLLED**

SENATE BILL NO. 137

(By Mr. Genie and Mr. Fanning)

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PASSED Feb 26, 1969

In Effect from Passage

FILED IN THE OFFICE  
JOHN D. ROCKEFELLER, IV  
SECRETARY OF STATE  
THIS DATE 3-10-69

#137

**ENROLLED**

**Senate Bill No. 137**

(By MR. GAINER and MR. FANNING)

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[Passed February 26, 1969; 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:

**ARTICLE 2. GAME AND FISH.**

**§20-2-5. Unlawful methods of hunting and fishing.**

1 Except as authorized by the director, it shall be un-  
2 lawful at any time for any person to:

3 (1) Shoot at or to shoot any wild bird or animal un-  
4 less it is plainly visible to him;

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

10 (3) (a) Make use of, or take advantage of, any arti-  
11 ficial light in hunting for, locating, taking, trapping,  
12 or killing any wild bird or wild animal; or (b) make  
13 use of, or take advantage of, any artificial light in hunt-  
14 ing for, taking, attracting, trapping, or killing any wild  
15 bird or wild animal, or to attempt to do so, while having  
16 in his possession or subject to his control any firearm,  
17 whether cased or uncased, or other implement or de-  
18 vice suitable for taking, killing, trapping, skinning, or  
19 dressing such wild bird or animal. Any person violat-  
20 ing the provisions of division (b) of this subdivision  
21 three shall be guilty of a misdemeanor, and, upon  
22 conviction thereof, shall for each offense be fined not  
23 less than one hundred dollars nor more than five hun-

24 dred dollars and shall be imprisoned for not less than  
25 ten days nor more than one hundred days: *Provided*,  
26 That it shall not be unlawful to hunt or take raccoon,  
27 opossum or skunk by the use of artificial lights;

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

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

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

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

42 (8) Except as provided in section six of this article,  
43 carry an uncased or loaded gun in any of the woods of  
44 this state except during the open firearms hunting season

45 for game animals and nonmigratory game birds within  
46 any county of the state, unless he has in his possession  
47 a permit in writing issued to him by the director: *Pro-*  
48 *vided*, That this section shall not prohibit hunting or  
49 taking of unprotected species of wild animals and wild  
50 birds and migratory game birds, during the open sea-  
51 son, in the open fields, open water and open marshes of  
52 the state;

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

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

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

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

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

89 (13) Possess a ferret;

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

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

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

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

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

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

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

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

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

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

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

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

162 (25) Shoot an arrow across any public highway or  
163 from aircraft, motordriven watercraft, motor vehicle or  
164 other land conveyance;

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

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

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

191 (28) Except as provided in section four of this article  
192 no person shall hunt, catch, take, kill or attempt to hunt,  
193 catch, take or kill any wild animal, wild bird or wild fowl  
194 except during the open season established by regulation  
195 of the director as authorized by subdivision six, section  
196 seven, article one of this chapter.

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

*William Tompos*

Chairman Senate Committee

*Clayton C. Davidson*

Chairman House Committee

Originated in the Senate.

To take effect from passage.

*Howard Myers*

Clerk of the Senate

*C. B. Blankenship*

Clerk of the House of Delegates

*Leopoldo*

President of the Senate

*Gov. F. B. Rainey*

Speaker House of Delegates

The within *is approved* this the *7<sup>th</sup>*  
day of *March*, 1969.

*Arch. A. Shaare, Jr.*

Governor



PRESENTED TO THE  
GOVERNOR

Date 3/3/69  
Time 3:05 p.m.

~~RECEIVED~~

MAR 10 10 45 AM '69

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA