

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974



ENROLLED

HOUSE BILL No. 913

(By Mr. Butcher of Mr. House)



PASSED March 9 1974

In Effect 90 days Passage



913

FILED IN THE OFFICE
FRANK T. WELDON III
SECRETARY OF STATE
THIS DATE 3-19-74

ENROLLED

H. B. 913

(By MR. BUTCHER and MR. HAWSE)

[Passed March 9, 1974; in effect ninety days 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 unlawful methods of hunting and fishing; clarifying what constitutes unlawful use of an artificial light to hunt, locate, attract, take, trap or kill a wild bird or wild animal and specifying offense and penalty therefor.

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. WILDLIFE RESOURCES.

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

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

3 (1) Shoot at or to shoot any wild bird or animal unless
4 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 bird
7 out of its den or place of refuge, except as may be authorized
8 by regulations promulgated by the director or by law;

9 (3) Make use of, or take advantage of, any artificial light in
10 hunting, locating, attracting, taking, trapping, or killing any

11 wild bird or wild animal, or to attempt to do so, while having
12 in his possession or subject to his control, or for any person
13 accompanying him to have in his possession or subject to his
14 control, any firearm, whether cased or uncased, bow, arrow, or
15 both, or other implement or device suitable for taking, killing
16 or trapping a wild bird or animal: *Provided*, That it shall not
17 be unlawful to hunt or take raccoon, opossum or skunk by the
18 use of artificial lights. No person shall be guilty of a violation
19 of this subdivision merely because he looks for, looks at,
20 attracts or makes motionless a wild bird or wild animal with or
21 by the use of an artificial light, unless at such time he shall
22 have in his possession a firearm, whether cased or uncased,
23 bow, arrow, or both, or other implement or device suitable for
24 taking, killing or trapping a wild bird or wild animal, or unless
25 such artificial light (other than the head lamps of an automo-
26 bile or other land conveyance) is attached to, a part of, or used
27 from within or upon an automobile or other land conveyance.

28 Any person violating the provisions of this subdivision shall
29 be guilty of a misdemeanor, and, upon conviction thereof,
30 shall for each offense be fined not less than one hundred dollars
31 nor more than five hundred dollars and shall be imprisoned in
32 the county jail for not less than ten days nor more than one
33 hundred days.

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

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

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

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

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

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

66 (10) Have in his possession a loaded firearm or a firearm
67 from the magazine of which all shells and cartridges have not
68 been removed, in or on any vehicle or conveyance, or its attach-
69 ments, within the state, except as may otherwise be provided by
70 law or regulation. Except as hereinafter provided, between five
71 o'clock postmeridian of one day and seven o'clock antemerian,
72 eastern standard time of the day following, any unloaded fire-
73 arm, being lawfully carried in accordance with the foregoing
74 provisions, shall be so carried only when in a case or taken
75 apart and securely wrapped. During the period from July first
76 to September thirtieth, inclusive, of each year, the foregoing
77 requirements relative to carrying certain unloaded firearms
78 shall be permissible only from eight-thirty o'clock postmeridian
79 to five o'clock antemeridian, eastern standard time;

80 (11) Hunt, catch, take, kill, trap, injure or pursue with fire-
81 arms or other implement by which wildlife may be taken after
82 the hour of five o'clock antemeridian on Sunday any wild ani-
83 mals or wild birds: *Provided*, That traps previously and legally
84 set may be tended after the hour of five o'clock antemeridian
85 on Sunday, if the person so doing shall not have firearms or
86 long bow of any 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, with-
93 out the written permission of the director, any hunting
94 or fishing paraphernalia which cannot be used lawfully in
95 this state for hunting or fishing, and any conservation officer
96 shall remove and destroy such hunting and fishing para-
97 phernalia, whenever found in this state, and the person or
98 persons claiming ownership shall have no recourse at law
99 against such confiscation and destruction;
- 100 (16) Catch, take, kill, or attempt to catch, take or kill
101 any fish at any time by any means other than by rod, line,
102 and hooks with natural or artificial lures unless other-
103 wise authorized by law or regulation issued by the director:
104 *Provided*, That snaring of any species of suckers, carp,
105 fallfish and creek chubs shall at all times be lawful;
- 106 (17) Employ or hire, or induce or persuade, by the use
107 of money or other things of value, or by any means, any
108 person to hunt, take, catch or kill, any wild animal or wild
109 bird except those species on which there is no closed sea-
110 son, or to fish for, catch, take or kill any fish, amphibian
111 or aquatic life which is protected by the provisions of this
112 chapter or regulations of the director, or the sale of which
113 is prohibited;
- 114 (18) Hunt, catch, take, kill, capture, pursue, transport,
115 possess or use any migratory game or nongame birds in-
116 cluded in the terms of conventions between the United
117 States and Great Britain and between the United States
118 and United Mexican States for the protection of migratory
119 birds and game mammals concluded, respectively, August
120 sixteen, one thousand nine hundred sixteen, and February
121 seven, one thousand nine hundred thirty-six, except during
122 the time and in the manner and numbers prescribed by
123 the Federal Migratory Bird Treaty Act and regulations made
124 thereunder;

125 (19) Kill, take, catch, or have in his possession living
126 or dead, any wild bird, other than a game bird; or expose
127 for sale, or transport within or without the state any such
128 bird, except as aforesaid. No part of the plumage, skin
129 or body of any protected bird shall be sold or had in
130 possession for sale, except mounted or stuffed plumage, skin,
131 bodies or heads of such birds legally taken and stuffed
132 or mounted, irrespective of whether such bird was captured
133 within or without this state, except the English or European
134 sparrow (*Passer domesticus*), starling (*Sturnus vulgaris*),
135 crow (*Corvus brachyrhynchos*) and cowbird (*Molothrus ater*),
136 which shall not be protected and the killing thereof at any
137 time is lawful;

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

145 (21) Have a bow and gun, or have a gun and any arrow or
146 arrows, in the fields or woods 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 wildlife;

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

153 (24) Take or attempt to take any wildlife with an arrow
154 having an explosive head or shaft, a poisoned arrow, or an
155 arrow which would affect wildlife by any chemical action;

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

159 (26) Permit any dog owned by him or under his control
160 to chase, pursue or follow upon the track of any game animal
161 or game bird, either day or night, between the first day of
162 May and the fifteenth day of August next following: *Pro-*

163 *vided*, That dogs may be trained on game animals and game
164 birds, except deer and wild turkeys, and field trials may be
165 held or conducted on the grounds or lands of the owner or by
166 his bona fide tenant or tenants or upon the grounds or lands
167 of another person with his written permission or on public
168 lands, at any time: *Provided, however*, That the person
169 training said dogs does not have firearms or other implements
170 in his possession during the closed season on such game
171 animals and game birds, whereby game animals or game
172 birds could be taken or killed;

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

183 (28) Except as provided in section four of this article,
184 hunt, catch, take, kill or attempt to hunt, catch, take or
185 kill any wild animal, wild bird or wild fowl except during the
186 open season established by regulation of the director as
187 authorized by subdivision six, section seven, article one of
188 this chapter.

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

H. David Darty

Chairman Senate Committee

Clarence C. Chutkan Jr.

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard W. Carson

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

W. P. Brotherton Jr.

President of the Senate

Lewis F. McManus

Speaker House of Delegates

The within *approved* this the *18th*
March day of _____, 1974.

Ans. A. Shaver Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/15/74

Time 2:50 p.m.