WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

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ENROLLED

HOUSE BILL No. 913

(By Mr. Butcher of Mr. House)

--- 8 ---

PASSED March 9, 1974

In Effect 90 days Passage

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 3-19-74

C 641
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.

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

(1) Shoot at or to shoot any wild bird or animal unless 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 authorized by regulations promulgated by the director or by law;

(3) Make use of, or take advantage of, any artificial light in hunting, locating, attracting, taking, trapping, or killing any
wild bird or wild animal, or to attempt to do so, while having
in his possession or subject to his control, or for any person
accompanying him to have in his possession or subject to his
control, any firearm, whether cased or uncased, bow, arrow, or
both, or other implement or device suitable for taking, killing
or trapping a wild bird or animal: Provided, That it shall not
be unlawful to hunt or take raccoon, opossum or skunk by the
use of artificial lights. No person shall be guilty of a violation
of this subdivision merely because he looks for, looks at,
attracts or makes motionless a wild bird or wild animal with or
by the use of an artificial light, unless at such time he shall
have in his possession a firearm, whether cased or uncased,
bow, arrow, or both, or other implement or device suitable for
taking, killing or trapping a wild bird or wild animal, or unless
such artificial light (other than the head lamps of an automo-
bile or other land conveyance) is attached to, a part of, or used
from within or upon an automobile or other land conveyance.

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

(4) Hunt for, take, kill, wound or shoot at wild animals
or wild birds from an airplane, or other airborne convey-
ance, 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 willfully
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 water and open marshes of the state;

(9) Except as provided in section six of this article, carry an uncased or loaded gun after the hour of five o'clock antemeridian 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 and nothing contained in section eighteen, article eight, chapter sixty-one of this code shall prohibit the use of a gun by a licensed hunter before the hour of five o'clock antemeridian on Sunday;

(10) 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 postmeridian 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 antemeridian, eastern standard time;

(11) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which wildlife may be taken after the hour of five o'clock antemeridian on Sunday any wild animals or wild birds: Provided, That traps previously and legally set may be tended after the hour of five o'clock antemeridian 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 lawfully in this state for hunting or fishing, and any conservation 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 destruction;

(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, That snaring of any species of suckers, carp, fallfish and creek chubs 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 provisions 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 such 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), 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 explosive 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 fined not more than five hundred dollars or imprisoned for not less than six months nor more than three years, or both fined and imprisoned;

(21) Have a bow and gun, or have a gun and any arrow or arrows, 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, a poisoned arrow, or an arrow which would affect wildlife by any chemical action;

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

(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: Pro-
vided, 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, however, 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 trial: Provided, That any
person, group of persons, club or organization may hold
such 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; and

(28) Except as provided in section four of this article,
hunt, catch, take, kill or attempt to hunt, catch, take or
kill any wild animal, wild bird or wild fowl except during the
open season established by regulation of the director as
authorized by subdivision six, section seven, article one of
this chapter.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.
Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ___________ approved this the 18th day of ____________, 1974.

Governor
PRESENTED TO THE
GOVERNOR

Date  3/15/74
Time   2:50 p.m.