WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1977

ENROLLED

SENATE BILL NO. 394

(By Mr. \\

PASSED April 5, 1977

In Effect ninety days from Passage)
ENROLLED
Senate Bill No. 394
(By Mr. Gainer)

[Passed April 5, 1977; 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 when it is unlawful to carry uncased or loaded guns in woods; making it unlawful to pursue, take, kill, etc., wild mammals protected by conventions between United States, Great Britain and United Mexican States; and setting forth when it is unlawful to train dogs on wild animals or wild birds.

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.

PART I. WILDLIFE MANAGEMENT.

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

1. Except as authorized by the director, it is unlawful at any time for any person to:

2. (1) Shoot at or to shoot any wild bird or animal unless it is plainly visible to him;

3. (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;

4. (3) Make use of, or take advantage of, any artificial light in hunting, locating, attracting, taking, trapping, or
12 killing any wild bird or wild animal, or to attempt to do
13 so, while having in his possession or subject to his con-
14 trol, or for any person accompanying him to have in his
15 possession or subject to his control, any firearm, whether
cased or uncased, bow, arrow, or both, or other implement
16 or device suitable for taking, killing or trapping a wild
17 bird or animal: Provided, That it shall not be unlawful
18 to hunt or take raccoon, opossum or skunk by the use of
19 artificial lights. No person shall be guilty of a violation
20 of this subdivision merely because he looks for, looks at,
21 attracts or makes motionless a wild bird or wild animal
22 with or by the use of an artificial light, unless at such
23 time he has in his possession a firearm, whether cased or
24 uncased, bow, arrow, or both, or other implement or device
25 suitable for taking, killing or trapping a wild bird or wild
26 animal, or unless such artificial light (other than the head
27 lamps of an automobile or other land conveyance) is
28 attached to, a part of, or used from within or upon an
29 automobile or other land conveyance.
30
31 Any person violating the provisions of this subdivision
32 shall be guilty of a misdemeanor, and, upon conviction
33 thereof, shall for each offense be fined not less than
34 hundred dollars nor more than five hundred dollars and
35 shall be imprisoned in the county jail for not less than
36 ten days nor more than one hundred days;
37
38 (4) Hunt for, take, kill, wound or shoot at wild animals
39 or wild birds from an airplane, or other airborne con-
40 veyance, an automobile, or other land conveyance, or from
41 a motor-driven water conveyance, except as may be
42 authorized by regulations promulgated by the director;
43 (5) Take any beaver or muskrat by any means other
44 than by trap;
45 (6) Catch, capture, take or kill by seine, net, bait, trap
46 or snare or like device of any kind, any wild turkey, ruffed
47 grouse, pheasant or quail;
48 (7) Destroy or attempt to destroy needlessly or will-
49 fully the nest or eggs of any wild bird or have in his
50 possession such nest or eggs unless authorized to do so
51 under regulations or under a permit by the director;
52 (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 wild animals and nonmigratory wild 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 wild 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 trapshooting ground or range;

(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 wild 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;

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 wild animal or wild bird, either day or night, between the first day of May and the fifteenth day of August next following: Provided, That dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field
trials may be held or conducted on the grounds of 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 notwithstanding any of the above provi-
sions, no person may train a dog in any county in which
there is a legal bear hunting season, except that residents
may train dogs in such counties after the twenty-fourth
day of August through the end of the legal small game
hunting season: Provided further, That nonresidents shall
not train dogs in this state at any time except during the
legal small game hunting season: And provided further,
That the person training said dogs does not have firearms
or other implements in his possession during the closed
season on such wild animals and wild birds, whereby wild
animals or wild 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 organiza-
tion 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 in-
spection 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.

James L. Davis  
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

J.L. Wilson Jr.  
Clerk of the Senate

Clerk of the House of Delegates

W.T. Brentnall  
President of the Senate

Donald L. Dopp  
Speaker House of Delegates

The within _____________ improved this the ________

day of April _____________, 1977.  

Governor