

No: 1739

APPROVED AND SIGNED BY THE GOVERNOR

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



ENROLLED

HOUSE BILL No. 1739

(By Mr. Jordan)



Passed March 12, 1983

In Effect Ninety Days From Passage



ENROLLED

H. B. 1739

(By MR. JORDAN)

[Passed March 12, 1983; 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; use of a ferret.

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 is unlawful at any
2 time for any person to:

3 (1) Shoot at or to shoot any wild bird or animal unless it
4 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
10 in hunting, locating, attracting, taking, trapping or killing
11 any wild bird or wild animal, or to attempt to do so, while

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

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

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

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

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

45 (7) Destroy or attempt to destroy needlessly or will-
46 fully the nest or eggs of any wild bird or have in his pos-
47 session such nest or eggs unless authorized to do so under
48 regulations or under a permit by the director;

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

59 (9) Except as provided in section six of this article, carry
60 an uncased or loaded gun after the hour of five o'clock
61 antemeridian on Sunday in any woods or on any highway,
62 railroad right-of-way, public road, field or stream of this
63 state, except at a regularly used rifle, pistol, skeet, target or
64 trapshooting ground or range;

65 (10) Have in his possession a loaded firearm or a fire-
66 arm from the magazine of which all shells and cartridges
67 have not been removed, in or on any vehicle or conveyance,
68 or its attachments, within the state, except as may otherwise
69 be provided by law or regulation. Except as hereinafter
70 provided, between five o'clock postmeridian of one day and
71 seven o'clock antemeridian, eastern standard time of the day
72 following, any unloaded firearm, being lawfully carried in
73 accordance with the foregoing provisions, shall be so carried
74 only when in a case or taken apart and securely wrapped.
75 During the period from July first to September thirtieth, in-
76 clusive, of each year, the foregoing requirements relative to
77 carrying 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 taken
82 after the hour of five o'clock antemeridian on Sunday any
83 wild animals or wild birds: *Provided*, That traps previously
84 and legally set may be tended after the hour of five o'clock
85 antemeridian on Sunday, if the person so doing shall not
86 have firearms or 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) Hunt, catch, take, kill, injure or pursue a wild animal
90 or bird with the use of a ferret;

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

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

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,
103 line, and hooks with natural or artificial lures unless
104 otherwise authorized by law or regulation issued by
105 the director: *Provided*, That snaring of any species of suckers,
106 carp, fallfish and creek chubs shall at all times be lawful;

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

115 (18) Hunt, catch, take, kill, capture, pursue, transport,
116 possess or use any migratory game or nongame birds included
117 in the terms of conventions between the United States and
118 Great Britain and between the United States and United
119 Mexican States for the protection of migratory birds and wild
120 mammals concluded respectively, August sixteen, one thou-
121 sand nine hundred sixteen, and February seven, one thousand
122 nine hundred thirty-six, except during the time and in the

123 manner and numbers prescribed by the Federal Migratory
124 Bird Treaty Act and regulations made 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,
131 skin, bodies or heads of such birds legally taken and
132 stuffed or mounted, irrespective of whether such bird was
133 captured within or without this state, except the English or
134 European sparrow (*Passer domesticus*), starling (*Sturnus vul-*
135 *garis*), crow (*Corvus brachyrhynchos*) and cowbird (*Molothrus*
136 *ater*), which shall not be protected and the killing thereof at
137 any 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
152 of 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 to
160 chase, pursue or follow upon the track of any wild animal or
161 wild bird, either day or night, between the first day of May
162 and the fifteenth day of August next following: *Provided*,
163 That dogs may be trained on wild animals and wild birds,
164 except deer and wild turkeys, and field trials may be held
165 or conducted on the grounds or lands of the owner or by his
166 bona fide tenant or tenants or upon the grounds or lands of
167 another person with his written permission or on public lands,
168 at any time: *Provided, however*, That notwithstanding any of
169 the above provisions, no person may train a dog in any
170 county in which there is a legal bear hunting season, except
171 that residents may train dogs in such counties after the
172 twenty-fourth day of August through the end of the legal small
173 game hunting season: *Provided further*, That nonresidents
174 shall not train dogs in this state at any time except during the
175 legal small game hunting season: *And provided further*, That
176 the person training said dogs does not have firearms or other
177 implements in his possession during the closed season on
178 such wild animals and wild birds, whereby wild animals or wild
179 birds could be 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 hold
183 such trial at any time of the year upon obtaining such permit
184 as is provided for in section fifty-six of this article. The per-
185 son responsible for obtaining said permit shall prepare and
186 keep an accurate record of the names and addresses of all
187 persons participating in said trial, and make same readily
188 available for inspection by any conservation officer upon re-
189 quest; and

190 (28) Except as provided in section four of this article,
191 hunt, catch, take, kill or attempt to hunt, catch, take or
192 kill any wild animal, wild bird or wild fowl except during the
193 open season established by regulation of the director as autho-
194 rized by subdivision six, section seven, article one of this
195 chapter.

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

Harold E. Bell
Chairman Senate Committee

Ronald Anello
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Todd C. Willis
Clerk of the Senate

Donald L. Kapp
Clerk of the House of Delegates

Walter P. Brown
President of the Senate

W. H. Lee, Jr.
Speaker House of Delegates

The within *is approved* this the *29* day of *March*, 1983.

John A. Doughton
Governor

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