

No. 266

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



ENROLLED

SENATE BILL NO. 266

(By Senator Tucker, Mr. President et al.)



PASSED April 4, 1989

In Effect July 1, 1989 ~~██████████~~

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OFFICE OF THE SECRETARY OF STATE

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Senate Bill No. 266

(BY SENATORS TUCKER, MR. PRESIDENT, AND HARMAN,
BY REQUEST OF THE EXECUTIVE)

[Passed April 4, 1989; to take effect July 1, 1989.]

AN ACT to amend and reenact sections five and fifty-six, 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; and permit to hold a field trial, water race or wild hunt.

Be it enacted by the Legislature of West Virginia:

That sections five and fifty-six, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all 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
- 2 at any time for any person to:
 - 3 (1) Shoot at or to shoot any wild bird or animal
 - 4 unless 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) Make use of, or take advantage of, any artificial
11 light in hunting, locating, attracting, taking, trapping,
12 or killing any wild bird or wild animal, or to attempt
13 to do so, while having in his possession or subject to
14 his control, or for any person accompanying him to
15 have in his possession or subject to his control, any
16 firearm, whether cased or uncased, bow, arrow, or
17 both, or other implement or device suitable for taking,
18 killing or trapping a wild bird or animal: *Provided*,
19 That it shall not be unlawful to hunt or take raccoon,
20 opossum or skunk by the use of artificial lights. No
21 person shall be guilty of a violation of this subdivision
22 merely because he looks for, looks at, attracts or makes
23 motionless a wild bird or wild animal with or by the
24 use of an artificial light, unless at such time he has in
25 his possession a firearm, whether cased or uncased,
26 bow, arrow, or both, or other implement or device
27 suitable for taking, killing or trapping a wild bird or
28 wild animal, or unless such artificial light (other than
29 the head lamps of an automobile or other land convey-
30 ance) is attached to, a part of, or used from within or
31 upon an automobile or other land conveyance.

32 Any person violating the provisions of this subdivi-
33 sion shall be guilty of a misdemeanor, and, upon
34 conviction thereof, shall for each offense be fined not
35 less than one hundred dollars nor more than five
36 hundred dollars and shall be imprisoned in the county
37 jail for not less than ten days nor more than one
38 hundred days;

39 (4) Hunt for, take, kill, wound or shoot at wild
40 animals or wild birds from an airplane, or other
41 airborne conveyance, an automobile, or other land
42 conveyance, or from a motor-driven water convey-
43 ance, except as may be authorized by regulations
44 promulgated by the director;

45 (5) Take any beaver or muskrat by any means other
46 than by trap;

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

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

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

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

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

88 (11) Hunt, catch, take, kill, trap, injure or pursue
89 with firearms or other implement by which wildlife

90 may be taken after the hour of five o'clock
91 antemeridian on Sunday any wild animals or wild
92 birds: *Provided*, That traps previously and legally set
93 may be tended after the hour of five o'clock
94 antemeridian on Sunday, if the person so doing shall
95 not have firearms or long bow of any description in his
96 possession;

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

99 (13) Hunt, catch, take, kill, injure or pursue a wild
100 animal or bird with the use of a ferret;

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

103 (15) Have in his possession or about his premises,
104 without the written permission of the director, any
105 hunting or fishing paraphernalia which cannot be used
106 lawfully in this state for hunting or fishing, and any
107 conservation officer shall remove and destroy such
108 hunting and fishing paraphernalia, whenever found in
109 this state, and the person or persons claiming owner-
110 ship shall have no recourse at law against such
111 confiscation and destruction;

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

119 (17) Employ or hire, or induce or persuade, by the
120 use of money or other things of value, or by any
121 means, any person to hunt, take, catch or kill, any wild
122 animal or wild bird except those species on which
123 there is no closed season, or to fish for, catch, take or
124 kill any fish, amphibian or aquatic life which is
125 protected by the provisions of this chapter or
126 regulations of the director, or the sale of which is
127 prohibited;

128 (18) Hunt, catch, take, kill, capture, pursue, trans-

129 port, possess or use any migratory game or nongame
130 birds included in the terms of conventions between
131 the United States and Great Britain and between the
132 United States and United Mexican States for the
133 protection of migratory birds and wild mammals
134 concluded, respectively, August sixteen, one thousand
135 nine hundred sixteen, and February seven, one thou-
136 sand nine hundred thirty-six, except during the time
137 and in the manner and numbers prescribed by the
138 Federal Migratory Bird Treaty Act and regulations
139 made thereunder;

140 (19) Kill, take, catch or have in his possession, living
141 or dead, any wild bird, other than a game bird; or
142 expose for sale, or transport within or without the
143 state any such bird, except as aforesaid. No part of the
144 plumage, skin or body of any protected bird shall be
145 sold or had in possession for sale, except mounted or
146 stuffed plumage, skin, bodies or heads of such birds
147 legally taken and stuffed or mounted, irrespective of
148 whether such bird was captured within or without this
149 state, except the English or European sparrow (*Passer*
150 *domesticus*), starling (*Sturnus vulgaris*), crow (*Corvus*
151 *brachyrhynchos*) and cowbird (*Molothrus ater*), which
152 shall not be protected and the killing thereof at any
153 time is lawful;

154 (20) Use dynamite or any like explosive or poisonous
155 mixture placed in any waters of the state for the
156 purpose of killing or taking fish. Any person violating
157 the provisions of this subdivision shall be guilty of a
158 felony, and, upon conviction thereof, shall be fined not
159 more than five hundred dollars or imprisoned for not
160 less than six months nor more than three years, or
161 both fined and imprisoned;

162 (21) Have a bow and gun, or have a gun and any
163 arrow or arrows, in the fields or woods at the same
164 time;

165 (22) Have a crossbow in the woods or fields or use a
166 crossbow to hunt for, take or attempt to take any
167 wildlife;

168 (23) Take or attempt to take turkey, bear, elk or deer

169 with any arrow unless the same is equipped with a
170 point having at least two sharp cutting edges
171 measuring in excess of three fourths of an inch wide;

172 (24) Take or attempt to take any wildlife with an
173 arrow having an explosive head or shaft, a poisoned
174 arrow, or an arrow which would affect wildlife by any
175 chemical action;

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

179 (26) Permit any dog owned by him or under his
180 control to chase, pursue or follow upon the track of
181 any wild animal or wild bird, either day or night,
182 between the first day of May and the fifteenth day of
183 August next following: *Provided*, That dogs may be
184 trained on wild animals and wild birds, except deer
185 and wild turkeys, and field trials may be held or
186 conducted on the grounds or lands of the owner or by
187 his bona fide tenant or tenants or upon the grounds or
188 lands of another person with his written permission or
189 on public lands, at any time: *Provided, however*, That
190 notwithstanding any of the above provisions, no
191 person may train a dog in any county, or portion
192 thereof, in which a legal bear hunting season has been
193 established prior to the first day of July, one thousand
194 nine hundred eighty-eight, except that residents may
195 train dogs in such counties after the twenty-fourth day
196 of August through the end of the legal small game
197 hunting season: *Provided further*, That nonresidents
198 shall not train dogs in this state at any time except
199 during the legal small game hunting season: *And*
200 *provided further*, That the person training said dogs
201 does not have firearms or other implements in his
202 possession during the closed season on such wild
203 animals and wild birds, whereby wild animals or wild
204 birds could be taken or killed;

205 (27) Conduct or participate in a field trial, shoot-to-
206 retrieve field trial, water race or wild hunt hereafter
207 referred to as trial: *Provided*, That any person, group
208 of persons, club or organization may hold such trial at

209 any time of the year upon obtaining such permit as is
210 provided for in section fifty-six of this article. The
211 person responsible for obtaining said permit shall
212 prepare and keep an accurate record of the names and
213 addresses of all persons participating in said trial, and
214 make same readily available for inspection by any
215 conservation officer upon request; and

216 (28) Except as provided in section four of this article,
217 hunt, catch, take, kill or attempt to hunt, catch, take
218 or kill any wild animal, wild bird or wild fowl except
219 during the open season established by regulation of
220 the director as authorized by subdivision six, section
221 seven, article one of this chapter.

**§20-2-56. Permit to hold a field trial, shoot-to-retrieve field
trial, water race or wild hunt; license
exemption.**

1 The director may issue a permit to any person,
2 group of persons, club or organization to hold or
3 conduct a field trial, shoot-to-retrieve field trial, water
4 race or wild hunt, hereinafter referred to as a trial,
5 upon receipt of a written application setting forth: (1)
6 The name of the person, group of persons, club or
7 organization; (2) the type or kind of trial; (3) the place
8 and county in which the trial is to be held; and (4) the
9 period or date on which the trial is to be held. The fee
10 for the permit shall be five dollars.

11 No person participating in a field trial, shoot-to-
12 retrieve field trial, water race or wild hunt being held
13 under a permit authorized by this section shall be
14 required to possess a state hunting license.

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

Frederick L. Parker
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1989.

Judd C. Smith
Clerk of the Senate

Donald L. Hepp
Clerk of the House of Delegates

Larry R. Tucker
President of the Senate

Robert A. Bell
Speaker House of Delegates

The within is approved this the 12th day of April 1989.

Easton Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date 4/7/89

Time 5:13