WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

ENROLLED

SENATE BILL NO. 266

(By Senator 

PASSED April 14, 1989

In Effect July 1, 1989)
ENROLLED

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 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;
(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 has 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 automobile 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 conveyance, 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 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) Hunt, catch, take, kill, injure or pursue a wild animal or bird with the use of 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, trans-
port, 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 thou-
sand 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
(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 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 notwithstanding any of the above provisions, no person may train a dog in any county, or portion thereof, in which a legal bear hunting season has been established prior to the first day of July, one thousand nine hundred eighty-eight, 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, shoot-to-retrieve 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.

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

No person participating in a field trial, shoot-to-
retrieve field trial, water race or wild hunt being held
under a permit authorized by this section shall be
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 W. Kelly
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1989.

J.G. Artz
Clerk of the Senate

Donald J. Vogt
Clerk of the House of Delegates

Sam J. Jett
President of the Senate

Paul C. Scheck
Speaker House of Delegates

The within is approved this the 21st day of April, 1989.

Gaston Caperton
Governor