WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1992

ENROLLED

Com.녹. Sub. for
HOUSE BILL No. 2121

(By Delegates Love & Bettsel)

Passed Feb. 13, 1992

In Effect 90 Days From Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2121
(BY DELEGATES LOVE AND PETHTEL)

[Passed February 13, 1992; 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; and to further amend said article two by adding thereto a new section, designated section nineteen-a, relating to authorizing trappers checking traps on Sundays to carry only a twenty-two caliber firearm for the purpose of humanely dispatching trapped animals.

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; and that said article be further amended by adding thereto a new section, designated section nineteen-a, 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 promul-
gated 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,
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86  eastern standard time;

87  (11) Hunt, catch, take, kill, trap, injure or pursue with
88  firearms or other implement by which wildlife may be
89  taken after the hour of five o'clock antemeridian on
90  Sunday any wild animals or wild birds: Provided, That
91  traps previously and legally set may be tended after the
92  hour of five o'clock antemeridian on Sunday, and the
93  person so doing may carry only a twenty-two caliber
94  firearm for the purpose of humanely dispatching
95  trapped animals.

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

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

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

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

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

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

(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 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.

§20-2-19a. Trappers authorized to possess only twenty-two caliber firearm on Sundays.

Any person authorized by the provisions of this article to trap any game or fur-bearing animal is also authorized, if that person is checking his or her traps on Sunday, to carry only a twenty-two caliber firearm for the purpose of humanely dispatching trapped animals.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Homer Bleck  
Chairman Senate Committee

Ernest Moore  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Marshall V. Shank  
Clerk of the Senate

Donald L. Hopp  
Clerk of the House of Delegates

Jeff Bardette  
President of the Senate

Bob Clay  
Speaker of the House of Delegates

The within is approved this the 31st day of July 1992.

Jaston Caperton  
Governor
PRESENTED TO THE
GOVERNOR
Date 2/19/92
Time 2:30 PM