WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED
Committee Substitute for
SENATE BILL NO. 325

(By Senator Dettmar)

PASSED March 10, 1994
In Effect 90 days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 325

(SENATOR DITTMAR, original sponsor)

[Passed March 10, 1994; in effect ninety days from passage.]

AN ACT to amend and reenact sections five and thirty-a, article two, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the regulation of wildlife resources; removing prohibitions against possession of certain fishing equipment; obtaining certain training prior to the issuance of hunting license; prohibiting certain misrepresentations or uses of documents regarding the training requirement; and criminal penalties.

Be it enacted by the Legislature of West Virginia:

That sections five and thirty-a, 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 and other unlawful acts.

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

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

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 subdivision (11) below or 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 the first day of July to the thirtieth day of
September, 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, and the
person so doing may carry only a twenty-two caliber
firearm for the purpose of humanely dispatching trapped
animals;

(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) 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;

(16) 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;

(17) 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, the sixteenth day of August, one thousand nine hundred sixteen, and the seventh day of February, 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;

(18) 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;

(19) 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;

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

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

(22) 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;

(23) 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;

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

(25) 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;

(26) 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

(27) 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 (6), section seven, article one of this chapter.

§20-2-30a. Certificate of training; falsifying, altering, forging, counterfeiting or uttering training certificate; penalties.

(a) Notwithstanding any other provisions of this article, no hunting license may be issued to any person who was born on or after the first day of January, one thousand nine hundred seventy-five, unless the person submits to the person authorized to issue hunting licenses a certificate of training as provided for in this section or proof of completion of any course which promotes as a major objective, safety in the handling of firearms and of bow and arrows and which course is approved by the hunter education association or the
(b) The director shall establish a course in the safe handling of firearms and of bows and arrows, such as the course approved by the hunter education association. This course shall be given at least once per year in each county in this state and shall be taught by instructors certified by the director. In establishing and conducting this course, the director may cooperate with any reputable association or organization which promotes as a major objective, safety in the handling of firearms and of bows and arrows: Provided, That any person holding a Class A-L or AB-L lifetime resident license obtained prior to his or her fifteenth birthday shall be required to obtain a certificate of training as provided for in this section before hunting or trapping pursuant to said license. This course of instruction shall be offered without charge, except for materials or ammunition consumed. Upon satisfactory completion of the course, each person instructed in the course shall be issued a certificate of training for the purposes of complying with the requirements of subsection (a) of this section. The certificate shall be in the form prescribed by the director and shall be valid for hunting license application purposes.

(c) (1) Upon satisfactory completion of this course, any person whose hunting license has been revoked for a violation of the provisions of this chapter may petition the director for a reduction of his revocation time. However, under no circumstances may the time be reduced to less than one year.

(2) Successful completion of this course shall be required to consider the reinstatement of a hunting license of any person whose license has been revoked due to a conviction for negligent shooting of a human being or of livestock under the provisions of section fifty-seven of this article or of section eleven, article seven, chapter sixty-one of this code, and who petitions the director for an early reinstatement of his hunting
privileges. Such a petitioner shall also comply with the other requirements for consideration of reinstatement contained in section thirty-eight of this article.

(d) It is unlawful for any person to falsify, alter, forge, counterfeit or utter a certificate of training. Any person who violates the provisions of this subsection is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred dollars nor more than one thousand dollars, or confined in jail for a period not to exceed one year, or both fined and imprisoned.

(e) Nothing herein contained shall mandate that any county school district in the state be responsible for implementing hunter safety education programs.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 30th

day of , 1994.

Governor