WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

HOUSE BILL No. 4481

(By Delegates Love, Ellis, Tomblin, Dempsey, Freece and Whitman)

Passed MARCH 9, 1996

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 providing an exception for carrying certain uncased firearms.

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 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 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:  Provided, That the time periods for carrying unloaded and uncased firearms are extended for one hour after the postmeridian times and one hour before the antemeridian times established above if a hunter is preparing to or in the process of transporting or transferring the firearms to or from a hunting site, campsite, home or other place of abode;

(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
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167 wild animal or wild bird, either day or night, between the
168 first day of May and the fifteenth day of August next
169 following: Provided, That dogs may be trained on wild
170 animals and wild birds, except deer and wild turkeys, and
171 field trials may be held or conducted on the grounds or
172 lands of the owner or by his bona fide tenant or tenants or
173 upon the grounds or lands of another person with his
174 written permission or on public lands, at any time: Pro-
175 vided, however, That notwithstanding any of the above
176 provisions, no person may train a dog in any county, or
177 portion thereof, in which a legal bear hunting season has
178 been established prior to the first day of July, one thou-
179sand nine hundred eighty-eight, except that residents may
180 train dogs in such counties after the twenty-fourth day of
181 August through the end of the legal small game hunting
182 season: Provided further, That nonresidents shall not train
dogs in this state at any time except during the legal small
183 game hunting season: And provided further, That the
184 person training said dogs does not have firearms or other
185 implements in his possession during the closed season on
186 such wild animals and wild birds, whereby wild animals or
187 wild birds could be taken or killed;
188
189 (26) Conduct or participate in a field trial,
190 shoot-to-retrieve field trial, water race or wild hunt hereaf-
191 ter referred to as trial: Provided, That any person, group
192 of persons, club or organization may hold such trial at any
193 time of the year upon obtaining such permit as is provided
194 for in section fifty-six of this article. The person responsi-
195 ble for obtaining said permit shall prepare and keep an
196 accurate record of the names and addresses of all persons
197 participating in said trial, and make same readily available
198 for inspection by any conservation officer upon request;
199 and
200 (27) Except as provided in section four of this article,
hunt, catch, take, kill or attempt to hunt, catch, take or kill
202 any wild animal, wild bird or wild fowl except during the
203 open season established by regulation of the director as
204 authorized by subdivision (6), section seven, article one of
205 this chapter.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 1st day of April, 1996.

Governor