WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

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ENROLLED

HOUSE BILL No. __2707_

Proudfoot, Collins, Everson, Williams, Evans, Claypole and Faircloth

(By Delegate 3)

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Passed ___________________________ April 7, ___________________________ 1997

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 making uniform statewide the seasons in which dogs can be trained in the hunting or tracking of wild 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 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 or her;

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 rules 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 or her possession or subject to his or her control, or for any person accompanying him or her to have in his or her possession or subject to his or her 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 may 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 or she 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 or she has in his or her 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 rules 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 or her possession such nest or eggs unless authorized to do so under rules promulgated by or under a permit issued 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 or she has in his or her possession a permit in writing issued to him or her by the director: Provided, That this section may 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 or her 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 rules 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 rules 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 six-
teenth day of August, one thousand nine hundred sixteen,
and the seventh day of February, one thousand nine hun-
dred 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 or her 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 may not be protected and the
killing thereof at any time is lawful;

(19) Use dynamite or any like explosive or poison-
ous mixture placed in any waters of the state for the pur-
pose 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 im-
prisoned;

(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 ex-
cess 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
(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 her or under
his or her 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 or her bona
fide tenant or tenants or upon the grounds or lands of
another person with his or her written permission or on
public lands, at any time: Provided, however, That non-
residents may not train dogs in this state at any time ex-
cept during the legal small game hunting season: Provided
further, That the person training said dogs does not have
firearms or other implements in his or her 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 herea-
ter 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 responsi-
ble 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 rule of the director as author-
ized by subdivision (6), section seven, article one of 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 18th day of April, 1997.

Governor