

SB 613 S

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2007**

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**ENROLLED**

**Senate Bill No. 613**

(BY SENATORS FANNING, BOWMAN AND BARNES)

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[Passed March 10, 2007; in effect ninety days from passage.]

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## Senate Bill No. 613

(BY SENATORS FANNING, BOWMAN AND BARNES)

[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating to restrictions on carrying a crossbow afield and in a vehicle.

*Be it enacted by the Legislature of West Virginia:*

That §20-2-5 of the Code of West Virginia, 1931, 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.**

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

3       (1) Shoot at or to shoot any wild bird or animal unless  
4       it is plainly visible to him or her;

5       (2) Dig out, cut out or smoke out, or in any manner  
6       take or attempt to take, any live wild animal or wild  
7       bird out of its den or place of refuge except as may be  
8       authorized by rules promulgated by the director or by  
9       law;

10       (3) Make use of, or take advantage of, any artificial  
11       light in hunting, locating, attracting, taking, trapping or  
12       killing any wild bird or wild animal, or to attempt to do  
13       so, while having in his or her possession or subject to his  
14       or her control, or for any person accompanying him or  
15       her to have in his or her possession or subject to his or  
16       her control, any firearm, whether cased or uncased,  
17       bow, arrow, or both, or other implement or device  
18       suitable for taking, killing or trapping a wild bird or  
19       animal: *Provided*, That it is lawful to hunt or take  
20       raccoon, opossum or skunk by the use of artificial light  
21       subject to the restrictions set forth in this subdivision:  
22       *Provided, however*, That it is lawful to hunt or take  
23       coyotes by the use of amber- or red-colored artificial  
24       light subject to the restrictions set forth in this  
25       subdivision. No person is guilty of a violation of this  
26       subdivision merely because he or she looks for, looks at,  
27       attracts or makes motionless a wild bird or wild animal  
28       with or by the use of an artificial light, unless at the  
29       time he or she has in his or her possession a firearm,  
30       whether cased or uncased, bow, arrow, or both, or other  
31       implement or device suitable for taking, killing or  
32       trapping a wild bird or wild animal, or unless the

33 artificial light (other than the head lamps of an  
34 automobile or other land conveyance) is attached to, a  
35 part of or used from within or upon an automobile or  
36 other land conveyance.

37 Any person violating the provisions of this subdivision  
38 is guilty of a misdemeanor and, upon conviction thereof,  
39 shall for each offense be fined not less than one hundred  
40 dollars nor more than five hundred dollars and shall be  
41 imprisoned in jail for not less than ten days nor more  
42 than one hundred days;

43 (4) Hunt for, take, kill, wound or shoot at wild animals  
44 or wild birds from an airplane, or other airborne  
45 conveyance, an automobile, or other land conveyance,  
46 or from a motor-driven water conveyance, except as  
47 authorized by rules promulgated by the director;

48 (5) Take any beaver or muskrat by any means other  
49 than by trap;

50 (6) Catch, capture, take or kill by seine, net, bait, trap  
51 or snare or like device of any kind any wild turkey,  
52 ruffed grouse, pheasant or quail;

53 (7) Destroy or attempt to destroy needlessly or  
54 willfully the nest or eggs of any wild bird or have in his  
55 or her possession the nest or eggs unless authorized to  
56 do so under rules promulgated by or under a permit  
57 issued by the director;

58 (8) Except as provided in section six of this article,  
59 carry an uncased or loaded gun in any of the woods of  
60 this state except during the open firearms hunting  
61 season for wild animals and nonmigratory wild birds

62 within any county of the state unless he or she has in his  
63 or her possession a permit in writing issued to him or  
64 her by the director: *Provided*, That this section shall  
65 not prohibit hunting or taking of unprotected species of  
66 wild animals and wild birds and migratory wild birds,  
67 during the open season, in the open fields, open water  
68 and open marshes of the state;

69 (9) Have in his or her possession a crossbow with a  
70 nocked bolt, a loaded firearm or a firearm from the  
71 magazine of which all shells and cartridges have not  
72 been removed, in or on any vehicle or conveyance, or its  
73 attachments, within the state, except as may otherwise  
74 be provided by law or regulation. Except as hereinafter  
75 provided, between five o'clock postmeridian of one day  
76 and seven o'clock antemeridian, eastern standard time  
77 of the day following, any unloaded firearm or crossbow,  
78 being lawfully carried in accordance with the foregoing  
79 provisions, shall be so carried only when in a case or  
80 taken apart and securely wrapped. During the period  
81 from the first day of July to the thirtieth day of  
82 September, inclusive, of each year, the foregoing  
83 requirements relative to carrying certain unloaded  
84 firearms are permissible only from eight-thirty o'clock  
85 postmeridian to five o'clock antemeridian, eastern  
86 standard time: *Provided*, That the time periods for  
87 carrying unloaded and uncased firearms are extended  
88 for one hour after the postmeridian times and one hour  
89 before the antemeridian times established above if a  
90 hunter is preparing to or in the process of transporting  
91 or transferring the firearms to or from a hunting site,  
92 campsite, home or other place of abode;

93 (10) Hunt, catch, take, kill, trap, injure or pursue with  
94 firearms or other implement by which wildlife may be

95 taken after the hour of five o'clock antemeridian on  
96 Sunday on private land without the written consent of  
97 the landowner any wild animals or wild birds except  
98 when a big game season opens on a Monday, the Sunday  
99 prior to that opening day will be closed for any taking  
100 of wild animals or birds after five o'clock antemeridian  
101 on that Sunday: *Provided*, That traps previously and  
102 legally set may be tended after the hour of five o'clock  
103 antemeridian on Sunday and the person so doing may  
104 carry only a twenty-two caliber firearm for the purpose  
105 of humanely dispatching trapped animals. Any person  
106 violating the provisions of this subdivision is guilty of a  
107 misdemeanor and, upon conviction thereof, in addition  
108 to any fines that may be imposed by this or other  
109 sections of this code, shall be subject to a one hundred-  
110 dollar fine;

111 (11) Hunt with firearms or long bow while under the  
112 influence of intoxicating liquor;

113 (12) Hunt, catch, take, kill, injure or pursue a wild  
114 animal or bird with the use of a ferret;

115 (13) Buy raw furs, pelts or skins of fur-bearing  
116 animals unless licensed to do so;

117 (14) Catch, take, kill or attempt to catch, take or kill  
118 any fish at any time by any means other than by rod,  
119 line and hooks with natural or artificial lures unless  
120 otherwise authorized by law or rules issued by the  
121 Director: *Provided*, That snaring of any species of  
122 suckers, carp, fallfish and creek chubs shall at all times  
123 be lawful;

124 (15) Employ or hire, or induce or persuade, by the use

125 of money or other things of value, or by any means, any  
126 person to hunt, take, catch or kill any wild animal or  
127 wild bird except those species on which there is no  
128 closed season, or to fish for, catch, take or kill any fish,  
129 amphibian or aquatic life which is protected by the  
130 provisions of this chapter or rules of the director or the  
131 sale of which is prohibited;

132 (16) Hunt, catch, take, kill, capture, pursue, transport,  
133 possess or use any migratory game or nongame birds  
134 included in the terms of conventions between the  
135 United States and Great Britain and between the  
136 United States and United Mexican States for the  
137 protection of migratory birds and wild mammals  
138 concluded, respectively, the sixteenth day of August,  
139 one thousand nine hundred sixteen, and the seventh day  
140 of February, one thousand nine hundred thirty-six,  
141 except during the time and in the manner and numbers  
142 prescribed by the federal Migratory Bird Treaty Act, 16  
143 U. S. C. §703, *et seq.*, and regulations made thereunder;

144 (17) Kill, take, catch or have in his or her possession,  
145 living or dead, any wild bird other than a game bird; or  
146 expose for sale or transport within or without the state  
147 any bird except as aforesaid. No part of the plumage,  
148 skin or body of any protected bird shall be sold or had  
149 in possession for sale except mounted or stuffed  
150 plumage, skin, bodies or heads of the birds legally taken  
151 and stuffed or mounted, irrespective of whether the bird  
152 was captured within or without this state, except the  
153 English or European sparrow (*passer domesticus*),  
154 starling (*sturnus vulgaris*) and cowbird (*molothrus ater*),  
155 which may not be protected and the killing thereof at  
156 any time is lawful;

157 (18) Use dynamite or any like explosive or poisonous  
158 mixture placed in any waters of the state for the  
159 purpose of killing or taking fish. Any person violating  
160 the provisions of this subdivision is guilty of a felony  
161 and, upon conviction thereof, shall be fined not more  
162 than five hundred dollars or imprisoned for not less  
163 than six months nor more than three years, or both  
164 fined and imprisoned;

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

167 (20) Have a crossbow in the woods or fields or use a  
168 crossbow to hunt for, take or attempt to take any  
169 wildlife, unless the person possesses a Class Y permit;

170 (21) Take or attempt to take turkey, bear, elk or deer  
171 with any arrow unless the arrow is equipped with a  
172 point having at least two sharp cutting edges measuring  
173 in excess of three fourths of an inch wide;

174 (22) Take or attempt to take any wildlife with an  
175 arrow having an explosive head or shaft, a poisoned  
176 arrow or an arrow which would affect wildlife by any  
177 chemical action;

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

181 (24) Permit any dog owned by him or her or under his  
182 or her control to chase, pursue or follow upon the track  
183 of any wild animal or wild bird, either day or night,  
184 between the first day of May and the fifteenth day of  
185 August next following: *Provided*, That dogs may be

186 trained on wild animals and wild birds, except deer and  
187 wild turkeys, and field trials may be held or conducted  
188 on the grounds or lands of the owner or by his or her  
189 bona fide tenant or tenants or upon the grounds or  
190 lands of another person with his or her written  
191 permission or on public lands at any time: *Provided,*  
192 *however,* That nonresidents may not train dogs in this  
193 state at any time except during the legal small game  
194 hunting season: *Provided further,* That the person  
195 training said dogs does not have firearms or other  
196 implements in his or her possession during the closed  
197 season on wild animals and wild birds, whereby wild  
198 animals or wild birds could be taken or killed;

199 (25) Conduct or participate in a field trial,  
200 shoot-to-retrieve field trial, water race or wild hunt  
201 hereafter referred to as trial: *Provided,* That any  
202 person, group of persons, club or organization may hold  
203 the trial at any time of the year upon obtaining a permit  
204 as is provided in section fifty-six of this article. The  
205 person responsible for obtaining the permit shall  
206 prepare and keep an accurate record of the names and  
207 addresses of all persons participating in said trial and  
208 make same readily available for inspection by any  
209 conservation officer upon request;

210 (26) Except as provided in section four of this article,  
211 hunt, catch, take, kill or attempt to hunt, catch, take or  
212 kill any wild animal, wild bird or wild fowl except  
213 during the open season established by rule of the  
214 director as authorized by subdivision (6), section seven,  
215 article one of this chapter;

216 (27) Hunting on public lands on Sunday after five  
217 o'clock antemeridian is prohibited; and

218 (28) Hunt, catch, take, kill, trap, injure or pursue with  
219 firearms or other implement which wildlife can be  
220 taken, on private lands on Sunday after the hour of five  
221 o'clock antemeridian: *Provided*, That the provisions of  
222 this subdivision do not apply in any county until the  
223 county commission of the county holds an election on  
224 the question of whether the provisions of this  
225 subdivision prohibiting hunting on Sunday shall apply  
226 within the county and the voters approve the allowance  
227 of hunting on Sunday in the county. The election is  
228 determined by a vote of the resident voters of the county  
229 in which the hunting on Sunday is proposed to be  
230 authorized. The county commission of the county in  
231 which Sunday hunting is proposed shall give notice to  
232 the public of the election by publication of the notice as  
233 a Class II-0 legal advertisement in compliance with the  
234 provisions of article three, chapter fifty-nine of this  
235 code and the publication area for the publication shall  
236 be the county in which the election is to be held. The  
237 date of the last publication of the notice shall fall on a  
238 date within the period of the fourteen consecutive days  
239 next preceding the election.

240 On the local option election ballot shall be printed the  
241 following:

242 Shall hunting on Sunday be authorized in \_\_\_\_\_  
243 County?

244  Yes  No

245 (Place a cross mark in the square opposite your  
246 choice.)

247 Any local option election to approve or disapprove of

248 the proposed authorization of Sunday hunting within a  
249 county shall be in accordance with procedures adopted  
250 by the commission. The local option election may be  
251 held in conjunction with a primary or general election  
252 or at a special election. Approval shall be by a majority  
253 of the voters casting votes on the question of approval  
254 or disapproval of Sunday hunting at the election.

255 If a majority votes against allowing Sunday hunting,  
256 no election on the issue may be held for a period of one  
257 hundred four weeks. If a majority votes "yes", no  
258 election reconsidering the action may be held for a  
259 period of five years. A local option election may  
260 thereafter be held if a written petition of qualified  
261 voters residing within the county equal to at least five  
262 percent of the number of persons who were registered to  
263 vote in the next preceding general election is received  
264 by the county commission of the county in which  
265 Sunday hunting is authorized. The petition may be in  
266 any number of counterparts. The election shall take  
267 place at the next primary or general election scheduled  
268 more than ninety days following receipt by the county  
269 commission of the petition required by this subsection:  
270 *Provided*, That the issue may not be placed on the ballot  
271 until all statutory notice requirements have been met.  
272 No local law or regulation providing any penalty,  
273 disability, restriction, regulation or prohibition of  
274 Sunday hunting may be enacted and the provisions of  
275 this article preempt all regulations, rules, ordinances  
276 and laws of any county or municipality in conflict with  
277 this subdivision.

278 (29) Hunt or conduct hunts for a fee where the hunter  
279 is not physically present in the same location as the  
280 wildlife being hunted within West Virginia.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within ..... *is approved* ..... this  
the *3rd* Day of *April* ....., 2007.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 03 2007

Time 1:40 pm