

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2679

BY DELEGATES SUMMERS, FRICH, OVERINGTON,
PAYNTER, HARSHBARGER, MOORE, DEAN, G. FOSTER,
HIGGINBOTHAM, BUTLER AND FAST

[Passed April 8, 2017; in effect ninety days from passage.]

1 AN ACT to repeal §20-2-19a of the Code of West Virginia, 1931, as amended; to amend and
2 reenact §7-11-5 of said code; and to amend and reenact §20-2-5, §20-2-42g and §20-2-
3 42h, all relating to firearms and hunting generally; eliminating authority for trappers to carry
4 certain firearms on Sundays while checking traps; prohibiting county parks and recreation
5 commissions from promulgating or enforcing rules which prohibit possession of firearms
6 in parks; updating antiquated language; allowing the carrying of an uncased or loaded
7 long firearm in the woods of this state and state parks, state forests, state wildlife
8 management areas or state rail trails; excepting recreation facilities therein from areas
9 where uncased or loaded long guns may be possessed; providing exceptions to the
10 prohibition for self-defense purposes; eliminating local option election regarding to hunting
11 on private land on Sundays; permitting Sunday hunting on private land with written
12 permission of the owner or an authorized agent of the owner; clarifying that hunting on
13 public land on Sundays after five o'clock ante meridian is illegal; superseding ballot
14 measures in elections prior to the effective date of legislation making Sunday hunting on
15 private land lawful with the written permission of the landowner or an authorized agent
16 thereof; creating the misdemeanor offense of catching, taking, or killing of fish within two
17 hundred feet of Division of Natural Resources personnel engaged in stocking fish in public
18 waters; and establishing criminal penalties.

Be it enacted by the Legislature of West Virginia:

1 That §20-2-19a of the Code of West Virginia, 1931, as amended, be repealed; that §7-11-
2 15 of said code be amended and reenacted; and that §20-2-5, §20-2-42g and §20-2-42h of said
3 code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 11. COUNTY PARKS AND RECREATION COMMISSIONS.

§7-11-5. General powers of commission; rules; misdemeanor offenses; park police authorized.

1 The commission shall have the necessary powers and authority to manage and control all
2 public parks and recreational properties and facilities owned by the county or commission and
3 used as a part of such public parks and recreation system, including the right to promulgate rules
4 and regulations concerning the management and control of such parks and recreational
5 properties and facilities and to enforce any such rules and regulations so promulgated: *Provided*,
6 That a commission shall not promulgate or enforce rules which prohibit the possession of firearms
7 in such parks.

8 The commission shall also have plenary power and authority to prepare and submit to the
9 county commission for adoption rules regulating the use of any parks and recreational properties
10 and facilities under the control of the commission and prohibiting any type of use of or activities
11 in connection with any such properties or facilities, and any such rules, and regulations if so
12 adopted, shall be duly entered of record in the order book of the county commission. The violation
13 of any such rule and regulation so adopted by the county commission shall constitute a
14 misdemeanor and, any person convicted of any such violation shall be punished by a fine of not
15 less than \$5 nor more than \$100, or by imprisonment in jail for a period not exceeding thirty days,
16 or by both such fine and imprisonment. The magistrate court of the county shall have concurrent
17 jurisdiction with the circuit court and other courts of record (having criminal jurisdiction) of any
18 misdemeanor offenses arising under this article. The violation of any such rule which also
19 constitutes the violation of any state law or municipal ordinance may be prosecuted and punished
20 as a violation of such state law or municipal ordinance rather than under the provisions of this
21 section. To enforce any such rules and regulations, to protect and preserve all properties and
22 facilities under the control of the commission and to preserve law and order in connection
23 therewith, the commission shall have plenary power and authority to provide in its bylaws
24 procedures for the appointment, supervision and discharge of one or more park police officers.
25 Whenever any such appointment is made, a copy of the order of appointment shall be maintained
26 by the commission for review by members of the public.

27 In any area under the jurisdiction and control of the commission, or in connection with any
28 properties or facilities under the jurisdiction and control of the commission, or in pursuit of one or
29 more individuals therefrom, any park police officer so appointed shall have all of the power and
30 authority which a regularly appointed deputy sheriff of such county has in enforcing the criminal
31 laws of the state. Notwithstanding any provisions of this code to the contrary, park police officers
32 appointed as aforesaid shall not be required to obtain a state license to carry a weapon, as
33 required by the provisions of section two, article seven, chapter sixty-one of this code. When any
34 such commission has purchased one or more policies of public liability insurance providing the
35 commission and its officers, agents and employees insurance coverage for legal liability of said
36 commission and its officers, agents and employees for bodily injury, personal injury or damage
37 (including, but not limited to, false arrest and false imprisonment) and property damage, and
38 affording said commission and its officers, agents and employees insurance coverage against
39 any and all legal liability arising from, growing out of, by reason of or in any way connected with,
40 any acts or omissions of said commission, or its officers, agents or employees in the performance
41 of their official duties, and so long as the coverage aforesaid remains in full force and effect as to
42 such park police officers, then the bond specified in section five, article seven of said chapter
43 sixty-one shall not be required as to such park police officers.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts; Sunday hunting.

- 1 (a) Except as authorized by the director or by law, it is unlawful at any time for any person
2 to:
- 3 (1) Shoot at any wild bird or wild animal unless it is plainly visible;
- 4 (2) Dig out, cut out, smoke out, or in any manner take or attempt to take any live wild
5 animal or wild bird out of its den or place of refuge;

6 (3) Use or attempt to use any artificial light or any night vision technology, including image
7 intensification, thermal imaging or active illumination while hunting, locating, attracting, taking,
8 trapping or killing any wild bird or wild animal: *Provided*, That it is lawful to hunt or take coyote,
9 fox, raccoon, opossum or skunk by the use of artificial light or night vision technology. Any person
10 violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, shall for each
11 offense be fined not less than \$100 nor more than \$500, and shall be confined in jail for not less
12 than ten days nor more than one hundred days;

13 (4) Hunt, take, kill, wound or shoot at wild animals or wild birds from an airplane or other
14 airborne conveyance, a drone or other unmanned aircraft, an automobile or other land
15 conveyance, or from a motor-driven water conveyance;

16 (5) Use a drone or other unmanned aircraft to hunt, take or kill a wild bird or wild animal,
17 or to use a drone or other unmanned aircraft to drive or herd any wild bird or wild animal for the
18 purposes of hunting, trapping or killing;

19 (6) Take any beaver or muskrat by any means other than a trap;

20 (7) Catch, capture, take, hunt or kill by seine, net, bait, trap or snare or like device a bear,
21 wild turkey, ruffed grouse, pheasant or quail;

22 (8) Intentionally destroy or attempt to destroy the nest or eggs of any wild bird or have in
23 his or her possession the nest or eggs;

24 (9) Carry an uncased or loaded firearm in the woods of this state or in state parks, state
25 forests, state wildlife management areas or state rail trails with the following permissible
26 exceptions:

27 (A) A person in possession of a valid license or permit during open firearms hunting
28 season for wild animals and nonmigratory wild birds where hunting is lawful;

29 (B) A person hunting or taking unprotected species of wild animals, wild birds and
30 migratory wild birds during the open season, in the open fields, open water and open marshes of
31 the state where hunting is lawful;

32 (C) A person carrying a firearm pursuant to sections six and six-a of this article;

33 (D) A person carrying a handgun for self-defense who is not prohibited from possessing
34 firearms under state or federal law; or

35 (E) A person carrying a rifle or shotgun for self-defense who is not prohibited from
36 possessing firearms under state or federal law: *Provided*, That this exception does not apply to
37 an uncased rifle or shotgun carried in state park, state forest, or state wildlife management area
38 recreational facilities and on marked trails within state park or state forest borders.

39 (10) Have in his or her possession a crossbow with a nocked bolt, or a rifle or shotgun
40 with cartridges that have not been removed or a magazine that has not been detached, in or on
41 any vehicle or conveyance, or its attachments. For the purposes of this section, a rifle or shotgun
42 whose magazine readily detaches is considered unloaded if the magazine is detached and no
43 cartridges remain in the rifle or shotgun itself. Except that between five o'clock post meridian of
44 day one and seven o'clock ante meridian, Eastern Standard Time, of the following day, any
45 unloaded firearm or crossbow may be carried only when in a case or taken apart and securely
46 wrapped. During the period from July 1 to September 30, inclusive, of each year, the requirements
47 relative to carrying unloaded firearms are permissible only from eight-thirty o'clock post meridian
48 to five o'clock ante meridian, Eastern Standard Time: *Provided*, That the time periods for carrying
49 unloaded and uncased firearms are extended for one hour after the post meridian times and one
50 hour before the ante meridian times established in this subdivision, if a person is transporting or
51 transferring the firearms to or from a hunting site, campsite, home or other abode;

52 (11) Hunt, catch, take, kill, injure or pursue a wild animal or wild bird with the use of a
53 ferret;

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

55 (13) Catch, take, kill or attempt to catch, take or kill any fish by any means other than by
56 rod, line and hooks with natural or artificial lures: *Provided*, That snaring of any species of suckers,
57 carp, fallfish and creek chubs is lawful;

58 (14) Employ, hire, induce or persuade, with money, things of value or by any means, any
59 person to hunt, take, catch or kill any wild animal or wild bird except those species in which there
60 is no closed season; or to fish for, catch, take or kill any fish, amphibian or aquatic life that is
61 protected by rule, or the sale of which is otherwise prohibited;

62 (15) Hunt, catch, take, kill, capture, pursue, transport, possess or use any migratory game
63 or nongame birds except as permitted by the Migratory Bird Treaty Act, 16 U. S. C. §703, *et seq.*,
64 and its regulations;

65 (16) Kill, take, catch, sell, transport or have in his or her possession, living or dead, any
66 wild bird other than a game bird including the plumage, skin or body of any protected bird,
67 irrespective of whether the bird was captured in or out of this state, except the English or European
68 sparrow (*Passer domesticus*), starling (*Sturnus vulgaris*) and cowbird (*Molothrus ater*), which may
69 be killed at any time;

70 (17) Use dynamite, explosives or any poison in any waters of the state for the purpose of
71 killing or taking fish. Any person violating this subdivision is guilty of a felony and, upon conviction
72 thereof, shall be fined not more than \$500 or imprisoned for not less than six months nor more
73 than three years, or both fined and imprisoned;

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

76 (19) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take or attempt
77 to take any wildlife except as otherwise provided in sections five-g and forty-two-w of this article;

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

81 (21) Take or attempt to take any wildlife with an arrow having an explosive head or shaft,
82 a poisoned arrow or an arrow which would affect wildlife by any chemical action;

83 (22) Shoot an arrow across any public highway;

84 (23) Permit any dog owned or under his or her control to chase, pursue or follow the tracks
85 of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That dogs
86 may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may
87 be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or
88 upon the grounds or lands of another person with his or her written permission, or on public lands
89 at any time. Nonresidents may not train dogs in this state at any time except during the legal small
90 game hunting season. A person training dogs may not have firearms or other implements in his
91 or her possession during the closed season on wild animals and wild birds;

92 (24) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water
93 race or wild hunt: *Provided*, That any person, group of persons, club or organization may hold a
94 trial upon obtaining a permit pursuant to section fifty-six of this article. The person responsible for
95 obtaining the permit shall prepare and keep an accurate record of the names and addresses of
96 all persons participating in the trial and make the records readily available for inspection by any
97 natural resources police officer upon request;

98 (25) Hunt, catch, take, kill or attempt to hunt, catch, take or kill any wild animal, wild bird
99 or wild fowl except during open seasons;

100 (26) Hunt on public lands on Sunday after five o'clock ante meridian;

101 (27) Hunt or conduct hunts for a fee when the person is not physically present in the same
102 location as the wildlife being hunted within West Virginia.

103 (28) Catch, take, kill, or attempt to catch, take or kill any fish by any means within two
104 hundred feet of division personnel engaged in stocking fish in public waters.

105 (b) Notwithstanding any ballot measure relating to Sunday hunting, it is lawful to hunt
106 throughout the State of West Virginia on private lands on Sundays after the hour of five o'clock
107 ante meridian with the written consent of the private landowner pursuant to section seven, article
108 two of this chapter.

§20-2-42g. Class H nonresident small game hunting license.

1 A Class H license is a nonresident small game hunting license and entitles the licensee to
2 hunt small game in all counties of the State, except as prohibited by rules of the director or Natural
3 Resources Commission and except when additional licenses, stamps or permits are required, for
4 a period of six consecutive hunting days chosen by the licensee. The fee for the license is \$25.
5 This is a base license and does not require the purchase of a prerequisite license to participate
6 in the activities specified in this section, except as noted.

§20-2-42h. Class J nonresident small game shooting preserve license.

1 A Class J license is a nonresident small game shooting preserve license and entitles the
2 licensee to hunt small game on designated shooting preserves, except as prohibited by rules of
3 the director or Natural Resources Commission and except when additional licenses, stamps or
4 permits are required, for a period of six consecutive hunting days chosen by the licensee. The fee
5 for the license is \$10. This is a base license and does not require the purchase of a prerequisite
6 license to participate in the activities specified in this section, except as noted.

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

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2017.

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Governor