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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



# ENROLLED

*Committee Substitute for*  
SENATE BILL NO. 325

(By Senator Dittmar)



PASSED March 10, 1994  
In Effect 90 days from Passage

**E N R O L L E D**  
COMMITTEE SUBSTITUTE  
FOR  
**Senate Bill No. 325**

(SENATOR DITTMAR, *original sponsor*)

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

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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.**

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;

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

9 (3) Make use of, or take advantage of, any artificial  
10 light in hunting, locating, attracting, taking, trapping or  
11 killing any wild bird or wild animal, or to attempt to do  
12 so, while having in his possession or subject to his  
13 control, or for any person accompanying him to have in  
14 his possession or subject to his control, any firearm,  
15 whether cased or uncased, bow, arrow, or both, or other  
16 implement or device suitable for taking, killing or  
17 trapping a wild bird or animal: *Provided*, That it shall  
18 not be unlawful to hunt or take raccoon, opossum or  
19 skunk by the use of artificial lights. No person shall be  
20 guilty of a violation of this subdivision merely because  
21 he looks for, looks at, attracts or makes motionless a wild  
22 bird or wild animal with or by the use of an artificial  
23 light, unless at such time he has in his possession a  
24 firearm, whether cased or uncased, bow, arrow, or both,  
25 or other implement or device suitable for taking, killing  
26 or trapping a wild bird or wild animal, or unless such  
27 artificial light (other than the head lamps of an automo-  
28 bile or other land conveyance) is attached to, a part of, or  
29 used from within or upon an automobile or other land  
30 conveyance.

31 Any person violating the provisions of this subdivision  
32 shall be guilty of a misdemeanor, and, upon conviction  
33 thereof, shall for each offense be fined not less than one  
34 hundred dollars nor more than five hundred dollars and

35 shall be imprisoned in the county jail for not less than  
36 ten days nor more than one hundred days;

37 (4) Hunt for, take, kill, wound or shoot at wild animals  
38 or wild birds from an airplane, or other airborne  
39 conveyance, an automobile, or other land conveyance, or  
40 from a motor-driven water conveyance, except as may  
41 be authorized by regulations promulgated by the  
42 director;

43 (5) Take any beaver or muskrat by any means other  
44 than by trap;

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

48 (7) Destroy or attempt to destroy needlessly or willfully  
49 the nest or eggs of any wild bird or have in his possession  
50 such nest or eggs unless authorized to do so under  
51 regulations or under a permit by the director;

52 (8) Except as provided in section six of this article,  
53 carry an uncased or loaded gun in any of the woods of  
54 this state except during the open firearms hunting  
55 season for wild animals and nonmigratory wild birds  
56 within any county of the state, unless he has in his  
57 possession a permit in writing issued to him by the  
58 director: *Provided*, That this section shall not prohibit  
59 hunting or taking of unprotected species of wild animals  
60 and wild birds and migratory wild birds, during the open  
61 season, in the open fields, open water and open marshes  
62 of the state;

63 (9) Except as provided in subdivision (11) below or in  
64 section six of this article, carry an uncased or loaded gun  
65 after the hour of five o'clock antemeridian on Sunday in  
66 any woods or on any highway, railroad right-of-way,  
67 public road, field or stream of this state, except at a  
68 regularly used rifle, pistol, skeet, target or trapshooting  
69 ground or range;

70 (10) Have in his possession a loaded firearm or a

71 firearm from the magazine of which all shells and  
72 cartridges have not been removed, in or on any vehicle or  
73 conveyance, or its attachments, within the state, except  
74 as may otherwise be provided by law or regulation.  
75 Except as hereinafter provided, between five o'clock  
76 postmeridian of one day and seven o'clock antemeridian,  
77 eastern standard time of the day following, any unloaded  
78 firearm, being lawfully carried in accordance with the  
79 foregoing provisions, shall be so carried only when in a  
80 case or taken apart and securely wrapped. During the  
81 period 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 shall be permissible only from eight-thirty  
85 o'clock postmeridian to five o'clock antemeridian,  
86 eastern standard time;

87 (11) Hunt, catch, take, kill, trap, injure or pursue with  
88 firearms or other implement by which wildlife may be  
89 taken after the hour of five o'clock antemeridian on  
90 Sunday any wild animals or wild birds: *Provided*, That  
91 traps previously and legally set may be tended after the  
92 hour of five o'clock antemeridian on Sunday, and the  
93 person so doing may carry only a twenty-two caliber  
94 firearm for the purpose of humanely dispatching trapped  
95 animals;

96 (12) Hunt with firearms or long bow while under the  
97 influence of intoxicating liquor;

98 (13) Hunt, catch, take, kill, injure or pursue a wild  
99 animal or bird with the use of a ferret;

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

102 (15) Catch, take, kill or attempt to catch, take or kill  
103 any fish at any time by any means other than by rod, line  
104 and hooks with natural or artificial lures unless  
105 otherwise authorized by law or regulation issued by the  
106 director: *Provided*, That snaring of any species of  
107 suckers, carp, fallfish and creek chubs shall at all times

108 be lawful;

109 (16) Employ or hire, or induce or persuade, by the use  
110 of money or other things of value, or by any means, any  
111 person to hunt, take, catch or kill any wild animal or  
112 wild bird except those species on which there is no  
113 closed season, or to fish for, catch, take or kill any fish,  
114 amphibian or aquatic life which is protected by the  
115 provisions of this chapter or regulations of the director,  
116 or the sale of which is prohibited;

117 (17) Hunt, catch, take, kill, capture, pursue, transport,  
118 possess or use any migratory game or nongame birds  
119 included in the terms of conventions between the United  
120 States and Great Britain and between the United States  
121 and United Mexican States for the protection of  
122 migratory birds and wild mammals concluded, respec-  
123 tively, the sixteenth day of August, one thousand nine  
124 hundred sixteen, and the seventh day of February, one  
125 thousand nine hundred thirty-six, except during the time  
126 and in the manner and numbers prescribed by the  
127 Federal Migratory Bird Treaty Act and regulations made  
128 thereunder;

129 (18) Kill, take, catch or have in his possession, living or  
130 dead, any wild bird, other than a game bird; or expose  
131 for sale, or transport within or without the state any  
132 such bird, except as aforesaid. No part of the plumage,  
133 skin or body of any protected bird shall be sold or had in  
134 possession for sale, except mounted or stuffed plumage,  
135 skin, bodies or heads of such birds legally taken and  
136 stuffed or mounted, irrespective of whether such bird  
137 was captured within or without this state, except the  
138 English or European sparrow (*Passer domesticus*),  
139 starling (*Sturnus vulgaris*), crow (*Corvus brachyrhyn-*  
140 *chos*) and cowbird (*Molothrus ater*), which shall not be  
141 protected and the killing thereof at any time is lawful;

142 (19) Use dynamite or any like explosive or poisonous  
143 mixture placed in any waters of the state for the purpose  
144 of killing or taking fish. Any person violating the  
145 provisions of this subdivision shall be guilty of a felony,

146 and, upon conviction thereof, shall be fined not more  
147 than five hundred dollars or imprisoned for not less than  
148 six months nor more than three years, or both fined and  
149 imprisoned;

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

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

155 (22) Take or attempt to take turkey, bear, elk or deer  
156 with any arrow unless the same is equipped with a point  
157 having at least two sharp cutting edges measuring in  
158 excess of three fourths of an inch wide;

159 (23) Take or attempt to take any wildlife with an arrow  
160 having an explosive head or shaft, a poisoned arrow or  
161 an arrow which would affect wildlife by any chemical  
162 action;

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

166 (25) Permit any dog owned by him or under his control  
167 to chase, pursue or follow upon the track of any wild  
168 animal or wild bird, either day or night, between the first  
169 day of May and the fifteenth day of August next  
170 following: *Provided*, That dogs may be trained on wild  
171 animals and wild birds, except deer and wild turkeys,  
172 and field trials may be held or conducted on the grounds  
173 or lands of the owner or by his bona fide tenant or  
174 tenants or upon the grounds or lands of another person  
175 with his written permission or on public lands, at any  
176 time: *Provided, however*, That notwithstanding any of  
177 the above provisions, no person may train a dog in any  
178 county, or portion thereof, in which a legal bear hunting  
179 season has been established prior to the first day of July,  
180 one thousand nine hundred eighty-eight, except that  
181 residents may train dogs in such counties after the  
182 twenty-fourth day of August through the end of the legal

183 small game hunting season: *Provided further*, That  
184 nonresidents shall not train dogs in this state at any time  
185 except during the legal small game hunting season: *And*  
186 *provided further*, That the person training said dogs does  
187 not have firearms or other implements in his possession  
188 during the closed season on such wild animals and wild  
189 birds, whereby wild animals or wild birds could be taken  
190 or killed;

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

202 (27) Except as provided in section four of this article,  
203 hunt, catch, take, kill or attempt to hunt, catch, take or  
204 kill any wild animal, wild bird or wild fowl except  
205 during the open season established by regulation of the  
206 director as authorized by subdivision (6), section seven,  
207 article one of this chapter.

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

1 (a) Notwithstanding any other provisions of this  
2 article, no hunting license may be issued to any person  
3 who was born on or after the first day of January, one  
4 thousand nine hundred seventy-five, unless the person  
5 submits to the person authorized to issue hunting  
6 licenses a certificate of training as provided for in this  
7 section or proof of completion of any course which  
8 promotes as a major objective, safety in the handling of  
9 firearms and of bow and arrows and which course is  
10 approved by the hunter education association or the



11 director.

12 (b) The director shall establish a course in the safe  
13 handling of firearms and of bows and arrows, such as the  
14 course approved by the hunter education association.  
15 This course shall be given at least once per year in each  
16 county in this state and shall be taught by instructors  
17 certified by the director. In establishing and conducting  
18 this course, the director may cooperate with any  
19 reputable association or organization which promotes as  
20 a major objective, safety in the handling of firearms and  
21 of bows and arrows: *Provided*, That any person holding  
22 a Class A-L or AB-L lifetime resident license obtained  
23 prior to his or her fifteenth birthday shall be required to  
24 obtain a certificate of training as provided for in this  
25 section before hunting or trapping pursuant to said  
26 license. This course of instruction shall be offered  
27 without charge, except for materials or ammunition  
28 consumed. Upon satisfactory completion of the course,  
29 each person instructed in the course shall be issued a  
30 certificate of training for the purposes of complying with  
31 the requirements of subsection (a) of this section. The  
32 certificate shall be in the form prescribed by the director  
33 and shall be valid for hunting license application  
34 purposes.

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

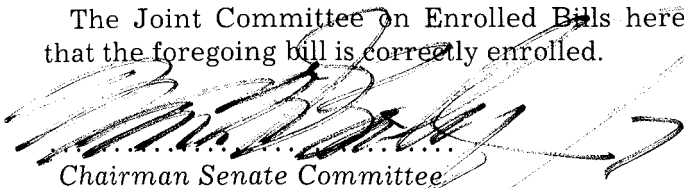
41 (2) Successful completion of this course shall be  
42 required to consider the reinstatement of a hunting  
43 license of any person whose license has been revoked  
44 due to a conviction for negligent shooting of a human  
45 being or of livestock under the provisions of section  
46 fifty-seven of this article or of section eleven, article  
47 seven, chapter sixty-one of this code, and who petitions  
48 the director for an early reinstatement of his hunting

49 privileges. Such a petitioner shall also comply with the  
50 other requirements for consideration of reinstatement  
51 contained in section thirty-eight of this article.

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

59 (e) Nothing herein contained shall mandate that any  
60 county school district in the state be responsible for  
61 implementing hunter safety education programs.

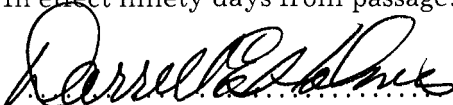
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
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 is approved this the 30<sup>th</sup>.....  
day of March....., 1994.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR  
Date 3/30/94  
Time 1:06 pm