

**FILED**  
**APR 18 1997**  
IN THE OFFICE OF  
SECRETARY OF STATE  
WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997

— ● —

# ENROLLED

HOUSE BILL No. 2707

Proudfoot, Collins, Everson, Williams,  
(By Delegate **S** Evans, Claypole and Faircloth \_\_\_\_\_ )

— ● —

Passed \_\_\_\_\_ April 7, \_\_\_\_\_ 1997

In Effect \_\_\_\_\_ Ninety Days From \_\_\_\_\_ Passage

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**H. B. 2707**

(BY DELEGATES PROUDFOOT, COLLINS, EVERSON, WILLIAMS,  
EVANS, CLAYPOLE AND FAIRCLOTH)

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[Passed April 7, 1997; in effect ninety days from passage.]

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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.**

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  
4 unless 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 bird  
7 out of its den or place of refuge, except as may be autho-  
8 rized by rules 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 so,  
12 while having in his or her possession or subject to his or  
13 her control, or for any person accompanying him or her  
14 to have in his or her possession or subject to his or her  
15 control, any firearm, whether cased or uncased, bow, ar-  
16 row, or both, or other implement or device suitable for  
17 taking, killing or trapping a wild bird or animal: *Provid-*  
18 *ed*, That it may not be unlawful to hunt or take raccoon,  
19 opossum or skunk by the use of artificial lights. No per-  
20 son shall be guilty of a violation of this subdivision merely  
21 because he or she looks for, looks at, attracts or makes  
22 motionless a wild bird or wild animal with or by the use of  
23 an artificial light, unless at such time he or she has in his  
24 or her possession a firearm, whether cased or uncased,  
25 bow, arrow, or both, or other implement or device suitable  
26 for taking, killing or trapping a wild bird or wild animal,  
27 or unless such artificial light (other than the head lamps of  
28 an automobile or other land conveyance) is attached to, a  
29 part of, or used from within or upon an automobile or  
30 other land conveyance.

31           Any person violating the provisions of this subdivi-  
32 sion shall be guilty of a misdemeanor and, upon convic-  
33 tion thereof, shall for each offense be fined not less than  
34 one hundred dollars nor more than five hundred dollars  
35 and 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 ani-  
38 mals 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 be  
41 authorized by rules promulgated by the director;

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

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

48           (7) Destroy or attempt to destroy needlessly or will-  
49 fully the nest or eggs of any wild bird or have in his or her  
50 possession such nest or eggs unless authorized to do so  
51 under rules promulgated by or under a permit issued by  
52 the director;

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

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

71           (10) Have in his or her possession a loaded firearm  
72 or a firearm from the magazine of which all shells and  
73 cartridges have not been removed, in or on any vehicle or  
74 conveyance, or its attachments, within the state, except as  
75 may otherwise be provided by law or regulation. Except  
76 as hereinafter provided, between five o'clock postmeridian  
77 of one day and seven o'clock antemeridian, eastern stan-  
78 dard time of the day following, any unloaded firearm,  
79 being lawfully carried in accordance with the foregoing  
80 provisions, shall be so carried only when in a case or taken  
81 apart and securely wrapped. During the period from the  
82 first day of July to the thirtieth day of September, inclu-  
83 sive, of each year, the foregoing requirements relative to  
84 carrying certain unloaded firearms shall be permissible  
85 only from eight-thirty o'clock postmeridian to five o'clock  
86 antemeridian, eastern standard time: *Provided*, That the  
87 time periods for carrying unloaded and uncased firearms

87 are extended for one hour after the postmeridian times  
88 and one hour before the antemeridian times established  
89 above if a hunter is preparing to or in the process of trans-  
90 porting or transferring the firearms to or from a hunting  
91 site, campsite, home or other place of abode;

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

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

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

104 (14) Buy raw furs, pelts or skins of fur-bearing ani-  
105 mals unless licensed to do so;

106 (15) Catch, take, kill or attempt to catch, take or kill  
107 any fish at any time by any means other than by rod, line  
108 and hooks with natural or artificial lures unless otherwise  
109 authorized by law or rules issued by the director: *Provid-*  
110 *ed*, That snaring of any species of suckers, carp, fallfish  
111 and creek chubs shall at all times be lawful;

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

120 (17) Hunt, catch, take, kill, capture, pursue, transport,  
121 possess or use any migratory game or nongame birds  
122 included in the terms of conventions between the United  
123 States and Great Britain and between the United States and  
124 United Mexican States for the protection of migratory

126 birds and wild mammals concluded, respectively, the six-  
127 teenth day of August, one thousand nine hundred sixteen,  
128 and the seventh day of February, one thousand nine hun-  
129 dred thirty-six, except during the time and in the manner  
130 and numbers prescribed by the Federal Migratory Bird  
131 Treaty Act and regulations made thereunder;

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

145 (19) Use dynamite or any like explosive or poison-  
146 ous mixture placed in any waters of the state for the pur-  
147 pose of killing or taking fish. Any person violating the  
148 provisions of this subdivision shall be guilty of a felony  
149 and, upon conviction thereof, shall be fined not more than  
150 five hundred dollars or imprisoned for not less than six  
151 months nor more than three years, or both fined and im-  
152 prisoned;

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

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

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

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

164 action;

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

168 (25) Permit any dog owned by him or her or under  
169 his or her control to chase, pursue or follow upon the  
170 track of any wild animal or wild bird, either day or night,  
171 between the first day of May and the fifteenth day of  
172 August next following: *Provided*, That dogs may be  
173 trained on wild animals and wild birds, except deer and  
174 wild turkeys, and field trials may be held or conducted on  
175 the grounds or lands of the owner or by his or her bona  
176 fide tenant or tenants or upon the grounds or lands of  
177 another person with his or her written permission or on  
178 public lands, at any time: *Provided, however*, That non-  
179 residents may not train dogs in this state at any time ex-  
180 cept during the legal small game hunting season: *Provided*  
181 *further*, That the person training said dogs does not have  
182 firearms or other implements in his or her possession  
183 during the closed season on such wild animals and wild  
184 birds, whereby wild animals or wild birds could be taken  
185 or killed;

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

197 (27) Except as provided in section four of this article,  
198 hunt, catch, take, kill or attempt to hunt, catch, take or kill  
199 any wild animal, wild bird or wild fowl except during the  
200 open season established by rule of the director as autho-  
201 rized by subdivision (6), section seven, article one of this  
202 chapter.

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

Randy Schoorver  
Chairman Senate Committee

Nick Fantasia  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Barrett Williams  
Clerk of the Senate

Gregory M. Bony  
Clerk of the House of Delegates

Earl Ray Tomblin  
President of the Senate

[Signature]  
Speaker of the House of Delegates

The within is approved this the 18<sup>th</sup>  
day of April, 1997.

[Signature]  
Governor



PRESENTED TO THE

GOVERNOR

Date 4/14/97

Time 3:15 pm