

1 **H. B. 4431**

2
3 (By Delegates Swartzmiller, Diserio, D. Poling,
4 Jones, Boggs, Lynch, Young, R. Phillips, Marcum,
5 Manypenny and Ferro)
6

7 [Introduced February 6, 2014; referred to the
8 Committee on Agriculture & Natural Resources then the
9 Judiciary.]

10 A BILL to amend and reenact §20-2-37 of the Code of West Virginia,
11 1931, as amended, relating to clarifying that persons who
12 possess firearms, hunting dogs or other indicia of hunting or
13 taking wildlife in or near fields, woods or streams do not
14 necessarily need to have a hunting license; and requiring the
15 totality of the circumstances be considered before it can be
16 concluded that a person has been hunting, fishing, trapping or
17 taking wildlife.

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

19 That §20-2-37 of the Code of West Virginia, 1931, as amended,
20 be amended and reenacted to read as follows:

21 **ARTICLE 2. WILDLIFE RESOURCES.**

22 **§20-2-37. Display of license, etc., by persons in possession of**
23 **hunting, fishing, etc., paraphernalia.**

24 (a) Any person having in his or her possession in or near the
25 fields or woods, or about the streams of this state, any wildlife,

1 ~~hunting dog gun, fishing rod~~ or other hunting, fishing or trapping
2 paraphernalia, implements or devices suitable for taking wildlife
3 under circumstances indicating he or she has been hunting,
4 trapping, fishing or otherwise taking wildlife, shall, upon demand
5 of any officer authorized to enforce ~~the provisions of this~~
6 chapter:

7 ~~state~~ (1) State his or her correct name and address; ~~and shall~~
8 ~~exhibit~~

9 (2) Exhibit for inspection all license and documents or other
10 lawful authorization for hunting, fishing, trapping or otherwise
11 taking wildlife required to be carried pursuant to this chapter;
12 ~~and (a) All applicable licenses and documents set forth in section~~
13 ~~thirty six of this article; and (b) all firearms and wildlife which~~
14 ~~he or she may have in his or her possession.~~

15 (3) Exhibit for inspection all such wildlife, paraphernalia,
16 implements or devices which he or she has in his or her possession.

17 (b) Mere possession of a firearm does not, in and of itself,
18 indicate that a person has been hunting, fishing, trapping or
19 taking wildlife, but may be considered along with other evidence in
20 a determination as to whether a person has been hunting, fishing,
21 trapping or otherwise taking wildlife.

22 (c) Nothing in this section may be construed as authorizing
23 searches that violate article three, section six of the West
24 Virginia Constitution or the Fourth Amendment to the Constitution

1 of the United States, nor may anything in this section be construed
2 as effecting a waiver of these Constitutional provisions.

NOTE: The purpose of this bill is to clarify that persons who possess firearms, hunting dogs or other indicia of hunting or taking wildlife in or near fields, woods or streams do not necessarily need to have a hunting license. The bill requires the totality of the circumstances be considered before it can be concluded that a person has been hunting, fishing, trapping or taking wildlife.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.