

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 451**

SENATORS MAYNARD, CLEMENTS, FERNS, GAUNCH,  
MARONEY, RUCKER, SMITH, SWOPE, WELD, AND CLINE,

*original sponsors*

[Passed March 6, 2018; in effect 90 days from passage]



1 AN ACT to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended; and to  
2 amend and reenact §20-7-9 of said code, all relating generally to hunting and fishing;  
3 authorizing the use of certain technologies for hunting coyote, fox, racoon, opossum, and  
4 skunk; regulating firearm use and possession in certain places; prohibiting the use of a  
5 drone or unmanned aircraft to wound, harass, or transport wildlife; allowing certain  
6 persons to carry firearms, including handguns, rifles, or shotguns, for self-defense with  
7 certain exceptions; creating a misdemeanor and providing penalties for catching, taking,  
8 killing or attempting to catch, take, or kill any fish by any means within 200 feet of agency  
9 personnel stocking fish into public waters; removing a limitation on the starting time for  
10 Sunday hunting on private lands with the landowner's permission; requiring crossbows  
11 and bows be cased when in a motor vehicle during certain times; prohibiting nocked bows  
12 from being transported in a motor vehicle; providing that the misdemeanor offenses of  
13 hunting, trapping, or fishing on the lands of another person, entering posted lands, hunting  
14 on private land on Sunday without written permission, and destroying posted land signs  
15 will all carry penalties equivalent to the penalty for the offense of criminal trespass;  
16 providing increased penalties upon conviction of second and subsequent violations of  
17 certain natural resources laws; permitting Sunday hunting on public lands; permitting  
18 noodling, or fishing for catfish using one's bare hands; and making technical changes.

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

**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, including  
10 image intensification, thermal imaging, or active illumination. Any person violating this subdivision  
11 is guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not less  
12 than \$100 nor more than \$500, and shall be confined in jail for not less than 10 days nor more  
13 than 100 days;

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

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

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

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

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

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

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

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

33 (C) A person carrying a firearm pursuant to §20-2-6 of this code;

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

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

40 (10) Possess a loaded rifle or shotgun, a bow with a nocked arrow, or crossbow with a  
41 nocked bolt, in or on any vehicle or conveyance, or its attachments. A rifle or shotgun with  
42 cartridges that have not been removed or a magazine that has not been detached is considered  
43 loaded. For the purposes of this section, a rifle or shotgun whose magazine readily detaches is  
44 considered unloaded if the magazine is detached and no cartridges remain in the rifle or shotgun  
45 itself;

46 (11) Carry any unloaded firearm, bow, or crossbow in or on any vehicle or conveyance, or  
47 its attachments, that is not in a case or taken apart and securely wrapped between 30 minutes  
48 after sunset until 30 minutes before sunrise: *Provided*, That the time periods for carrying unloaded  
49 and uncased firearms or crossbows are extended for one hour after sunset as established in this  
50 subdivision, if a person is transporting or transferring the firearms or crossbows to or from a  
51 hunting site, campsite, home, or other abode;

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

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

55           (14) 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, unless otherwise authorized by the director:  
57 *Provided*, That snaring of any species of sucker, carp, fallfish, and creek chub and catching catfish  
58 by hand are lawful if done by a holder of a valid license issued pursuant to §20-2-1 *et seq.* of this  
59 code or is exempted from licensure pursuant to §20-2-27 or §20-2-28 of this code;

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

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

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

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

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

78           (20) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take, or attempt  
79 to take any wildlife except as otherwise provided in §20-2-5g and §20-2-42w of this code;

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

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

85 (23) Shoot an arrow across any public highway;

86 (24) Permit any dog owned or under his or her control to chase, pursue, or follow the  
87 tracks of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That  
88 dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials  
89 may be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant,  
90 or upon the grounds or lands of another person with his or her written permission, or on public  
91 lands at any time. Nonresidents may not train dogs in this state at any time except during the legal  
92 small game hunting season. A person training dogs may not have firearms or other implements  
93 for taking wildlife in his or her possession during the closed season on wild animals and wild birds,  
94 except a person carrying a firearm for self-defense who is not prohibited from possessing firearms  
95 under state or federal law;

96 (25) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water  
97 race, or wild hunt: *Provided*, That any person, group of persons, club, or organization may hold a  
98 trial upon obtaining a permit pursuant to §20-2-56 of this code. The person responsible for  
99 obtaining the permit shall prepare and keep an accurate record of the names and addresses of  
100 all persons participating in the trial and make the records readily available for inspection by any  
101 natural resources police officer upon request;

102 (26) Hunt, catch, take, kill, or attempt to hunt, catch, take, or kill any wild animal, wild bird,  
103 or wild fowl except during open seasons;

104 (27) Hunt or conduct hunts for a fee when the person is not physically present in the same  
105 location as the wildlife being hunted within West Virginia; and

106 (28) Catch, take, kill, or attempt to catch, take, or kill any fish by any means within 200  
107 feet of division personnel engaged in stocking fish in public waters.

108 (b) Notwithstanding any ballot measure relating to Sunday hunting, it is lawful to hunt  
109 throughout the State of West Virginia on private lands on Sundays with the written consent of the  
110 private landowner pursuant to §20-2-7 of this code, and it is lawful to hunt throughout the State of  
111 West Virginia on federal land where hunting is permitted, in state forests, on land owned or leased  
112 by the state for wildlife purposes, and on land managed by the state for wildlife purposes pursuant  
113 to a cooperative agreement.

**ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.**

**§20-7-9. Violations of chapter generally; penalties.**

1 Any person violating any of the provisions of this chapter or rules promulgated under the  
2 provisions of this chapter, the punishment for which is not prescribed, shall be guilty of a  
3 misdemeanor and, upon conviction thereof, shall for each offense be fined not less than \$20 nor  
4 more than \$300, or confined in jail not less than 10 or more than 100 days, or be both fined and  
5 confined within the limitations aforesaid and, in the case of a violation by a corporation, every  
6 officer or agent thereof directing or engaging in such violation shall be guilty of a misdemeanor  
7 and, upon conviction thereof, shall be subject to the same penalties and punishment as herein  
8 provided: *Provided*, That any person violating §20-2-5(b), §20-2-7, §20-2-8, or §20-2-10 of this  
9 code shall be guilty of a misdemeanor and, upon conviction of a first offense thereof, shall be  
10 fined not less than \$100 nor more than \$500, or shall be confined for not less than 10 days nor  
11 more than 100 days, or both fined and confined. A person who is convicted of a second offense  
12 of violation of §20-2-5(b), §20-2-7, §20-2-8, or §20-2-10 of this code is guilty of a misdemeanor  
13 and shall be fined not less than \$500 nor more than \$1,000 or shall be confined for not less than  
14 10 days nor more than 100 days, or both fined and confined. A person who is convicted of a third  
15 and subsequent offense of violation of §20-2-5(b), §20-2-7, §20-2-8, or §20-2-10 of this code is  
16 guilty of a misdemeanor, and shall be fined not less than \$1,000 nor more than \$1,500, or shall

17 be confined for not less than 10 days nor more than 100 days, or both fined and confined:  
18 *Provided, however,* That any person who is in violation of §20-2-27 of this code as a result of their  
19 failure to have a valid Class E nonresident hunting and trapping license, as defined by §20-2-42d  
20 of this code, or a valid Class EE nonresident bear hunting license, as defined by §20-2-42e of this  
21 code, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than  
22 \$250 nor more than \$500, or confined in jail not less than 10 nor more than 100 days, or both  
23 fined and confined: *Provided further,* That any person who is in violation of §20-2-27 of this code  
24 as a result of their failure to have a Class F nonresident fishing license, as defined by §20-2-42f  
25 of this code, shall be guilty of a misdemeanor and, upon conviction thereof, fined not less than  
26 \$100 nor more than \$300 or confined in jail not less than 10 nor more than 100 days, or both fined  
27 and confined: *And provided further,* That any person violating any parking or speeding regulations  
28 as promulgated by the director on any state parks, state forests, public hunting and fishing areas,  
29 and all other lands and waters owned, leased, or under the control of the Division of Natural  
30 Resources shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less  
31 than \$2 nor more than \$100 or confined in jail not more than 10 days, or both fined and confined.



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

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2018.

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*Governor*