

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

Do Not Mark in this box

FILED

MAY 10 3 02 PM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Bureau of Commerce, Division of Natural Resources TITLE NUMBER: 58

AMENDMENT TO AN EXISTING RULE: YES x, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 47

TITLE OF RULE BEING AMENDED: Prohibitions When Hunting and Trapping

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

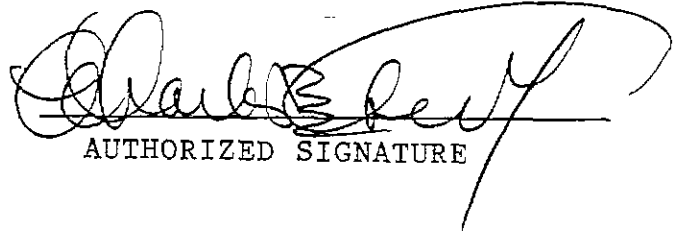
TITLE OF RULE BEING PROPOSED:

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) H.B. 4268

SECTION §64-10-2, PASSED ON March 8, 1996

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: May 10, 1996


AUTHORIZED SIGNATURE

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
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WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

(Plus all the volunteer
help we can get)

March 12, 1996

Bernard F Dowler
Natural Resources
Wildlife Resources Section
State Capitol Bldg 3 RM 812
Charleston, WV 25305

HB 4268 authorizing, Title 58, Series 47, Prohibitions When Hunting & Trapping passed the Legislature on **March 8, 1996**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **HB 4268** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **HB 4268 Section 64-10-2(g)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. If the agency fails to return this within ten (10) working days, the rule will be filed in the data base with a disclaimer attached stating that the agency failed to review the rule. Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,
Administrative Law Division

TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 47
PROHIBITIONS WHEN HUNTING AND TRAPPING

§58-47-1. General.

1.1. Scope and Purpose. -- This rule establishes prohibitions in the pursuit or taking of wildlife within the boundaries of this State.

1.2. Authority. -- West Virginia Code §20-1-7(30).

1.3. Filing Date. -- May 10, 1996

1.4. Effective Date. -- May 10, 1996

§58-47-2. Definitions.

2.1. All terms have the meaning prescribed in the rule defining the terms to be used concerning all Hunting and Trapping Regulations (58 C.S.R. 46).

§58-47-3. Prohibitions.

3.1. Hunting is prohibited in State parks and wildlife refuges, in safety zones in State forests, and in safety zones in State Wildlife Management Areas.

3.1.1. Federal regulations prohibit hunting in Harpers Ferry National Historical Park.

3.2. Notwithstanding the provisions of W. Va. Code §20-2-5(2), woodchucks may be controlled by digging them out, cutting them out or smoking them out on private land by the landowner, his or her resident children or resident parents, or a bona fide resident tenant.

3.3. Except as provided in Subdivisions 3.3.1 and 3.3.2 of this rule, it is illegal to use poisons, chemicals, or explosives in taking any furbearing animal, game animal, game bird, protected bird, or protected mammal.

3.3.1. Woodchucks may be controlled by poison, chemical or explosives on private land by the landowner, his or her resident children or resident parents, or a bona fide resident tenant during the period commencing each year on April 1 and ending on September 30.

3.3.2. Redwing blackbirds, grackles, pigeons, starlings, brownheaded cowbirds and English sparrows may be controlled by chemicals registered with the West Virginia Department of Agriculture and the United States Environmental Protection Agency when prescribed and authorized by the director in writing. Authorized users must follow avicide label instructions and take all possible precautions in order to protect nontarget species of wildlife.

3.4. It is illegal to hunt from, or by means of, a motorized watercraft unless the motor has been completely shutoff and the watercraft's progress from the motor has ceased.

3.5. It is illegal to hunt, catch, take, kill, injure, or pursue a wild animal or wild bird by means of falconry or hawking.

3.6. The use or possession of a fully automatic, rifle, shotgun, or pistol is prohibited while hunting or pursuing wildlife at any time.

3.7. It is illegal to catch, capture, take, or kill, or attempt to do so, by seine, net, bait, trap, deadfall, snare, or like device of any kind, any bear, migratory bird, protected bird, protected mammal, or wild boar.

3.7.1. No person may take, or attempt to take, the species listed under Subsection 3.7 of this rule, by the aid of baiting. The Director considers an area to be baited for 10 days after the removal of the bait.

3.8. It is illegal for a person to have in his or her possession solid ball ammunition and lead or steel shot larger than No. 4 during the muzzleloading season, except for those persons legally hunting bear or legally hunting deer with a muzzleloader firearm. The use of .22 caliber rimfire for small game hunting is legal during the muzzleloading season.

3.9. No person may use tree stands, except for portable tree stands, on public lands.

3.10. No person may transport wildlife or parts thereof, which were killed by another hunter unless the wildlife is accompanied by a paper or tag filled out in plain English bearing the following information from the hunter killing the wildlife:

3.10.1. The hunter's signature, address, hunting license number (if required), official game checking tag number (if required), date of kill, species, number, and/or quantity of wildlife.

3.11. It is illegal for any person to feed bears.

6277

H. B. 4279

(By Delegates Douglas, Gallagher, Faircloth, Compton,
Linch and Riggs)

(Introduced January 29, 1996 ; referred to the
Committee on Agriculture and Natural Resources then)
the Judiciary)

58-47.

A BILL to amend and reenact section two, article ten,
chapter sixty-four of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to authorizing the division of natural resources to
promulgate legislative rules relating to prohibitions
when hunting and trapping.

Be it enacted by the Legislature of West Virginia:

That section two, article ten, chapter sixty-four of
the code of West Virginia, one thousand nine hundred
thirty-one, as amended, be amended and reenacted, to read
as follows:

ARTICLE 10. AUTHORIZATION FOR BUREAU OF COMMERCE TO
PROMULGATE LEGISLATIVE RULES.

§64-10-2. Division of natural resources.

(a) The legislative rules filed in the state register

4279

1 on the fourteenth day of July, one thousand nine hundred
2 ninety-four, authorized under the authority of section
3 five-a, article eleven, chapter twenty, of this code,
4 modified by the division of natural resources to meet the
5 objections of the legislative rule-making review committee
6 and refiled in the state register on the eighth day of
7 September, one thousand nine hundred ninety-four, relating
8 to the division of natural resources (recycling assistance
9 fund grant program, 58 CSR 43 5), are authorized.

10 (b) The legislative rules filed in the state register
11 on the twelfth day of August, one thousand nine hundred
12 ninety-four, authorized under the authority of section
13 seven, article one, chapter twenty, of this code, modified
14 by the division of natural resources to meet the objections
15 of the legislative rule-making review committee and refiled
16 in the state register on the fourteenth day of October, one
17 thousand nine hundred ninety-four, relating to the division
18 of natural resources (West Virginia wildlife management
19 areas, 58 CSR 6 43), are authorized with the following
20 amendments:

21 On page four, section 6.4.3, before the word "No" by
22 inserting "Except for persons who are under sixteen years
23 of age and who have a valid West Virginia hunting
24 license,";

1 And,

2 On page four, section 6.4.3, by deleting the capital
3 letter "N" and substituting in lieu thereof the lower case
4 "n."

5 (c) The legislative rules filed in the state register
6 on the twelfth day of August, one thousand nine hundred
7 ninety-four, authorized under the authority of section
8 seven, article one, chapter twenty, of this code, modified
9 by the division of natural resources to meet the objections
10 of the legislative rule-making review committee and refiled
11 in the state register on the fourteenth day of October, one
12 thousand nine hundred ninety-four, relating to the division
13 of natural resources (special bear hunting regulations, 58
14 CSR ~~48~~ 48), are authorized.

15 (d) The legislative rules filed in the state register
16 on the twelfth day of August, one thousand nine hundred
17 ninety-four, authorized under the authority of section
18 seven, article one, chapter twenty, of this code, modified
19 by the division of natural resources to meet the objections
20 of the legislative rule-making review committee and refiled
21 in the state register on the fourteenth day of October, one
22 thousand nine hundred ninety-four, relating to the division
23 of natural resources (wild boar hunting regulations, 58 CSR
24 ~~52~~ 52), are authorized.

1 (e) The legislative rules filed in the state register
2 on the fifteenth day of August, one thousand nine hundred
3 ninety-four, authorized under the authority of section
4 seven, article one, chapter twenty, of this code, modified
5 by the division of natural resources to meet the objections
6 of the legislative rule-making review committee and refiled
7 in the state register on the fourteenth day of October, one
8 thousand nine hundred ninety-four, relating to the division
9 of natural resources (special fishing rule, 58 CSR 21 61),
10 are authorized with the following amendment:

11 On page four, section 58-21-5, paragraph 5.1.1, by
12 deleting the numeral "15" and inserting in lieu thereof the
13 numeral "13".

14 (f) The legislative rules filed in the state register
15 on the second day of December, one thousand nine hundred
16 ninety-four, authorized under the authority of section
17 seven, article one, chapter twenty, of this code, modified
18 by the division of natural resources to meet the objections
19 of the legislative rule-making review committee and refiled
20 in the state register on the sixteenth day of December, one
21 thousand nine hundred ninety-four, relating to the division
22 of natural resources (rules governing public use of West
23 Virginia state parks, state forests and state wildlife
24 management areas under the division of natural resources,

1 58 CSR ~~58~~ 31), are authorized with the following amendment:

2 On page five, section 2.23, line four, before the word
3 "chartered" by inserting the word "A" and by deleting the
4 letter "s" at the end of the word "foundations".

5 (g) The legislative rules filed in the state register
6 on the ~~twelfth~~ thirty-first day of ~~August~~ July, one
7 thousand nine hundred ~~ninety-four~~ ninety-five, authorized
8 under the authority of section seven, article one, chapter
9 twenty, of this code, modified by the division of natural
10 resources to meet the objections of the legislative rule-
11 making review committee and refiled in the state register
12 on the ~~fourteenth~~ twentieth day of ~~October~~ September, one
13 thousand nine hundred ~~ninety-four~~ ninety-five, relating to
14 the division of natural resources (prohibitions when
15 hunting and trapping, 58 CSR ~~41B~~ 47) are authorized. ~~with~~
16 ~~the following amendments:~~

17 ~~On page two, by striking out section 3.5 and~~
18 ~~renumbering the remaining sections;~~

19 ~~In section 3.7, after the word "net" by inserting the~~
20 ~~word "bait" and after the word "any" by inserting the word~~
21 ~~"deer";~~

22 ~~And,~~

23 ~~By striking out subsection 3.7.1 and renumbering the~~
24 ~~remaining sections.~~

1

2 NOTE: The purpose of this bill is to authorize the
3 Division of Natural Resources to promulgate legislative
4 rules relating to prohibitions when hunting and trapping.

5

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

SENATE BILL NO. 213

(By Senators Ross, Anderson, Boley,
Buckalew, Grubb and Macnaughtan)

[Introduced January 29, 1996; referred
to the Committee on

*Natural Resources;
Judiciary*

58-47

6
7
8
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23 of natural resources (wild boar hunting regulations, 58 CSR
24 ~~11G~~ 52), are authorized.

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KEN HECHLER
Secretary of State

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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Charleston, WV 25305-0770

FILED

WILLIAM H. HARRINGTON
Chief of Staff

OCT 17 1 53 PM '96 JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

(Plus all the volunteer
help we can get)

TO: ~~BILL DANIEL~~ Gordon C. Robertson

AGENCY: NATURAL RESOURCES -- Wildlife Resources

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 3, 1996

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 47 TITLE: 58 NATURAL RESOURCES

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Gordon C. Robertson

TITLE OF PERSON SIGNING: Deputy Chief, Wildlife Resources

DATE: 10/17/96

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.