

**WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION**

Form #6

Do Not Mark In This Box

**FILED**

APR 16 1 39 PM '98

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: Division of Natural Resources TITLE NUMBER: 58

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 49

TITLE OF RULE BEING AMENDED: General Hunting Regulations

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

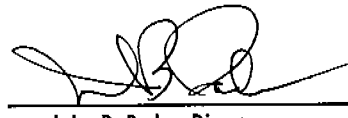
TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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

**AUTHORIZATION IS CITED IN (house or senate bill number)** SB 320

**SECTION** §64-10-1(c) **PASSED ON** March 10, 1998

**THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS BILL BECOMES EFFECTIVE ON THE  
FOLLOWING DATE:** April 16, 1998



John B. Rader, Director

\$2.40

**TITLE 58  
LEGISLATIVE RULE  
BUREAU OF COMMERCE  
DIVISION OF NATURAL RESOURCES**

**SERIES 49  
GENERAL HUNTING**

Promulgation History

Filed May 27, 1997 - Form #2 Notice of Comment Period of a Proposed Rule

Filed July 25, 1997 - Form #3 Notice of Agency Approval of a Proposed Rule & Filing  
With Legislative Rule Making Committee

August 19, 1998 - Legislative Rule Making Committee Approved Rule

Filed August 28, 1997 - Form #4 Notice of Rule Modification of a Proposed Rule

**TITLE 58  
LEGISLATIVE RULE  
BUREAU OF COMMERCE  
DIVISION OF NATURAL RESOURCES**

**SERIES 49  
GENERAL HUNTING**

**FILED**

**APR 16 1 39 PM '98**

**OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE**

**§58-49-1. General.**

1.1. Scope. -- The purpose of this rule is to establish general hunting regulations that will provide for the safety of the hunter and the proper management of wildlife within the boundaries of this State.

1.2. Authority. -- W.Va. Code §20-1-7(30).

1.3. Filing Date. -- April 16, 1998

1.4. Effective Date. -- April 16, 1998

**§58-49-2. Definitions.**

2.1. All terms have the meaning prescribed to them in the Division of Natural Resources Rule, Regulations Defining The Terms To Be Used Concerning All Hunting and Trapping Regulations (58 C.S.R. 46).

**§58-49-3. General Hunting Rules.**

3.1. A hunter may use a long bow or compound bow instead of a firearm during any season for which firearms are legal except during the muzzle-loading firearms deer season.

3.2. Each person killing a bear or wild boar found in a wild state must immediately after removing its entrails, but in any event within one hour and before transporting or removing the carcass in any manner from where it was killed, complete and attach a game tag. The tag must bear, in plain English, the name and address of the hunter, the date and county where the game was killed, and, unless he or she is legally exempted from the licensing requirements of this State, the license number of the hunter.

3.3. Any youth under fifteen (15) years of age who participates in a special youth hunt approved by the Commission and published annually by the director must be accompanied by an adult licensed hunter twenty-one (21) years or older. The accompanying adult shall not hunt or possess implements for the taking of wildlife.

3.4. No person under the age of fifteen (15) years may hunt or chase wild animals or wild birds on the lands of another unless he or she is accompanied by a licensed adult who remains in a position near enough to him or her to render advice and assistance.

3.5. A hunter may only use bows, single-shot muzzle-loading firearms, or shotguns loaded with T or smaller shot to hunt wildlife within the boundaries of the Green Bottom Wildlife Management Area.

3.6. A hunter shall deliver each deer or wild turkey to a conservation officer or an official game checking station for checking and retagging within 72 hours of the time of kill or within 24 hours of the close of the respective hunting season, whichever comes first.

3.7. All hunters must wear at least 400 square inches of blaze orange over their outer clothing during any deer firearms season. Persons engaged in agricultural activities and waterfowl hunters are exempt from this requirement.

3.8. Any hunter who, while hunting, shoots another person, shall render immediate aid and assistance to the victim.

H817  
58-49

H. B. 4184

1 Bill-DNR,

2

(By Delegates Hunt, Linch, Compton, Jenkins,  
Faircloth and Riggs)

3

4

[Introduced January 30, 1998; referred to the  
Committee on Agriculture and Natural Resources  
then the Judiciary.]

5

6

7

8

9

10 A BILL to amend and reenact section one, article ten,  
11 chapter sixty-four of the code of West Virginia, one  
12 thousand nine hundred thirty-one, as amended, relating  
13 to authorizing the division of natural resources to  
14 promulgate a legislative rule relating to general  
15 hunting.

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

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

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

23 §64-10-1. Division of natural resources.

4184

1       (a) The legislative rule filed in the state register  
2 on the sixteenth day of August, one thousand nine hundred  
3 ninety-six, authorized under the authority of section five-  
4 d, article two, chapter twenty of this code, modified by  
5 the division of natural resources to meet the objections of  
6 the legislative rule-making review committee and refiled  
7 in the state register on the twenty-seventh day of  
8 September, one thousand nine hundred ninety-six, relating  
9 to the division of natural resources (fertility control of  
10 free roaming wildlife, 58 CSR 66), is authorized.

11       (b) The legislative rule filed in the state register  
12 on the sixteenth day of August, one thousand nine hundred  
13 ninety-six, authorized under the authority of section  
14 seven, article one, chapter twenty of this code, modified  
15 by the division of natural resources to meet the objections  
16 of the legislative rule-making review committee and  
17 refiled in the state register on the twenty-seventh day  
18 of September, one thousand nine hundred ninety-six,  
19 relating to the division of natural resources (prohibitions  
20 when hunting and trapping, 58 CSR 47), is authorized.

21       (c) The legislative rule filed in the state register  
22 on the sixteenth day of August, one thousand nine hundred  
23 ninety-six, authorized under the authority of section

1 seven, article one, chapter twenty of this code, modified  
2 by the division of natural resources to meet the objections  
3 of the legislative rule-making review committee and  
4 refiled in the state register on the twenty-seventh day of  
5 September, one thousand nine hundred ninety-six, relating  
6 to the division of natural resources (falconry, 58 CSR 65),  
7 is authorized.

8 (d) The legislative rule filed in the state register  
9 on the twenty-fifth day of July, one thousand nine hundred  
10 ninety-seven, authorized under the authority of section  
11 seven, article one, chapter twenty, of this code, modified  
12 by the division of natural resources to meet the objections  
13 of the legislative rule-making review committee and refiled  
14 in the state register on the twenty-eighth day of August,  
15 one thousand nine hundred ninety-seven, relating to the  
16 division of natural resources (general hunting, 58 CSR 49),  
17 is authorized.

18

19 NOTE: The purpose of this bill is to authorize the  
20 Division of Natural Resources to promulgate a legislative  
21 rule relating to general hunting.

22

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

Senate Bill No. 320

58-49

(By Senator(s) Ross, Anderson, Bowman,  
Macnaughtan, Boley and Buckalew)

[Introduced January 30, 1998; referred to the  
Committee on Natural Resources; and then to the  
Committee on the Judiciary.]

10 A BILL to amend and reenact section one, article ten,  
11 chapter sixty-four of the code of West Virginia, one  
12 thousand nine hundred thirty-one, as amended, relating  
13 to authorizing the division of natural resources to  
14 promulgate a legislative rule relating to general  
15 hunting.

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

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

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

23 §64-10-1. Division of natural resources.

1           (a) The legislative rule filed in the state register  
2 on the sixteenth day of August, one thousand nine hundred  
3 ninety-six, authorized under the authority of section five-  
4 d, article two, chapter twenty of this code, modified by  
5 the division of natural resources to meet the objections of  
6 the legislative rule-making review committee and refiled  
7 in the state register on the twenty-seventh day of  
8 September, one thousand nine hundred ninety-six, relating  
9 to the division of natural resources (fertility control of  
10 free roaming wildlife, 58 CSR 66), is authorized.

11           (b) The legislative rule filed in the state register  
12 on the sixteenth day of August, one thousand nine hundred  
13 ninety-six, authorized under the authority of section  
14 seven, article one, chapter twenty of this code, modified  
15 by the division of natural resources to meet the objections  
16 of the legislative rule-making review committee and  
17 refiled in the state register on the twenty-seventh day  
18 of September, one thousand nine hundred ninety-six,  
19 relating to the division of natural resources (prohibitions  
20 when hunting and trapping, 58 CSR 47), is authorized.

21           (c) The legislative rule filed in the state register  
22 on the sixteenth day of August, one thousand nine hundred  
23 ninety-six, authorized under the authority of section

1 seven, article one, chapter twenty of this code, modified  
2 by the division of natural resources to meet the objections  
3 of the legislative rule-making review committee and  
4 refiled in the state register on the twenty-seventh day of  
5 September, one thousand nine hundred ninety-six, relating  
6 to the division of natural resources (falconry, 58 CSR 65),  
7 is authorized.

8 (d) The legislative rule filed in the state register  
9 on the twenty-fifth day of July, one thousand nine hundred  
10 ninety-seven, authorized under the authority of section  
11 seven, article one, chapter twenty, of this code, modified  
12 by the division of natural resources to meet the objections  
13 of the legislative rule-making review committee and refiled  
14 in the state register on the twenty-eighth day of August,  
15 one thousand nine hundred ninety-seven, relating to the  
16 division of natural resources (general hunting, 58 CSR 49),  
17 is authorized.

18

19 NOTE: The purpose of this bill is to authorize the  
20 Division of Natural Resources to promulgate a legislative  
21 rule relating to general hunting.

22

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

ANALYSIS OF PROPOSED LEGISLATIVE RULES

**Agency:** Division of Natural Resources

**Subject:** General Hunting, 58CSR49

---

PERTINENT DATES

Filed for public comment: May 30, 1997  
Public comment period ended: July 1, 1997  
Filed following public comment period: July 25, 1997  
Filed LRMRC: July 25, 1997  
Filed as emergency:

Fiscal Impact: None

ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Section 3.3 is new. It requires youth participating in a special youth hunt to be accompanied by an adult licensed hunter who is at least 21 years of age. The accompanying adult may not hunt or possess hunting implements.

Section 3.6 has been amended to require hunters to check each deer or wild turkey within 72 hours of the time of kill or within 24 hours of the close of that hunting season, whichever comes first.

Section 3.7 is new. It requires hunters to wear at least 400 square inches of blaze orange during any deer firearms season. Persons engaged in agricultural activities and waterfowl hunters are exempt from this requirement.

Section 3.8 is new. It requires a hunter who shoots another person to render immediate aid and assistance to the victim.

---

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

AUG 13 9 30 AM '97

FILED

## AUTHORITY

Statutory authority: W.Va. Code, §20-1-7, which provides, in part, as follows:

In addition to all other powers, duties and responsibilities granted and assigned to the director in this chapter and elsewhere by law, the director is hereby authorized and empowered to:

...(30) Promulgate rules, in accordance with the provisions of chapter twenty-nine-a of this code, to implement and make effective the powers and duties vested in him or her by the provisions of this chapter and take such other steps as may be necessary in his or her discretion for the proper and effective enforcement of the provisions of this chapter

---

## ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS

AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has minor technical modifications to suggest.