

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2011



ENROLLED

House Bill No. 3000

(By Delegates Shaver, Crosier, Stowers, Varner,
Williams, Andes, Pethel, Ferro, Romine,
Evans and Walker)



Passed March 11, 2011

In Effect Ninety Days From Passage

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H. B. 3000

(BY DELEGATES SHAVER, CROSIER, STOWERS, VARNER,
WILLIAMS, ANDES, PETHTEL, FERRO, ROMINE,
EVANS AND WALKER)

[Passed March 11, 2011; in effect ninety days from passage.]

AN ACT to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating to making it lawful to hunt coyotes with a green colored light.

Be it enacted by the Legislature of West Virginia:

That §20-2-5 of the Code of West Virginia, 1931, 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 any
2 time for any person to:

3 (1) Shoot at or to shoot any wild bird or animal unless it
4 is plainly visible to him or her;

5 (2) Dig out, cut out or smoke out, or in any manner take
6 or attempt to take, any live wild animal or wild bird out of its
7 den or place of refuge except as may be authorized by rules
8 promulgated by the director or by law;

9 (3) Make use of, or take advantage of, any artificial light
10 in hunting, locating, attracting, taking, trapping or killing any
11 wild bird or wild animal, or to attempt to do so, while having
12 in his or her possession or subject to his or her control, or for
13 any person accompanying him or her to have in his or her
14 possession or subject to his or her control, any firearm,
15 whether cased or uncased, bow, arrow, or both, or other
16 implement or device suitable for taking, killing or trapping a
17 wild bird or animal: *Provided*, That it is lawful to hunt or
18 take raccoon, opossum or skunk by the use of artificial light
19 subject to the restrictions set forth in this subdivision:
20 *Provided, however*, That it is lawful to hunt or take coyotes
21 by the use of amber, green or red-colored artificial light
22 subject to the restrictions set forth in this subdivision. No
23 person is guilty of a violation of this subdivision merely
24 because he or she looks for, looks at, attracts or makes
25 motionless a wild bird or wild animal with or by the use of an
26 artificial light, unless at the time he or she has in his or her
27 possession a firearm, whether cased or uncased, bow, arrow,
28 or both, or other implement or device suitable for taking,
29 killing or trapping a wild bird or wild animal, or unless the
30 artificial light (other than the head lamps of an automobile or
31 other land conveyance) is attached to, a part of or used from
32 within or upon an automobile or other land conveyance.

33 Any person violating the provisions of this subdivision is
34 guilty of a misdemeanor and, upon conviction thereof, shall
35 for each offense be fined not less than \$100 nor more than

36 \$500 and shall be confined in jail for not less than ten days
37 nor more than one hundred days;

38 (4) Hunt for, take, kill, wound or shoot at wild animals or
39 wild birds from an airplane, or other airborne conveyance, an
40 automobile, or other land conveyance, or from a motor-
41 driven water conveyance, except as authorized by rules
42 promulgated by the director;

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

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

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

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

62 (9) Have in his or her possession a crossbow with a
63 nocked bolt, a loaded firearm or a firearm from the magazine
64 of which all shells and cartridges have not been removed, in
65 or on any vehicle or conveyance, or its attachments, within

66 the state, except as may otherwise be provided by law or
67 regulation. Except as hereinafter provided, between five
68 o'clock postmeridian of one day and seven o'clock
69 antemeridian, eastern standard time of the day following, any
70 unloaded firearm or crossbow, being lawfully carried in
71 accordance with the foregoing provisions, may be so carried
72 only when in a case or taken apart and securely wrapped.
73 During the period from July 1 to September 30, inclusive, of
74 each year, the foregoing requirements relative to carrying
75 certain unloaded firearms are permissible only from eight-
76 thirty o'clock postmeridian to five o'clock antemeridian,
77 eastern standard time: *Provided*, That the time periods for
78 carrying unloaded and uncased firearms are extended for one
79 hour after the postmeridian times and one hour before the
80 antemeridian times established above if a hunter is preparing
81 to or in the process of transporting or transferring the
82 firearms to or from a hunting site, campsite, home or other
83 place of abode;

84 (10) Hunt, catch, take, kill, trap, injure or pursue with
85 firearms or other implement by which wildlife may be taken
86 after the hour of five o'clock antemeridian on Sunday on
87 private land without the written consent of the landowner any
88 wild animals or wild birds except when a big game season
89 opens on a Monday, the Sunday prior to that opening day will
90 be closed for any taking of wild animals or birds after five
91 o'clock antemeridian on that Sunday: *Provided*, That traps
92 previously and legally set may be tended after the hour of
93 five o'clock antemeridian on Sunday and the person so doing
94 may carry only a twenty-two caliber firearm for the purpose
95 of humanely dispatching trapped animals. Any person
96 violating the provisions of this subdivision is guilty of a
97 misdemeanor and, upon conviction thereof, in addition to any
98 fines that may be imposed by this or other sections of this
99 code, is subject to a \$100 fine;

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

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

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

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

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

119 (16) Hunt, catch, take, kill, capture, pursue, transport,
120 possess or use any migratory game or nongame birds
121 included in the terms of conventions between the United
122 States and Great Britain and between the United States and
123 United Mexican States for the protection of migratory birds
124 and wild mammals concluded, respectively, August 16, 1916,
125 and February 7, 1936, except during the time and in the
126 manner and numbers prescribed by the federal Migratory
127 Bird Treaty Act, 16 U.S.C. §703, *et seq.*, and regulations
128 made thereunder;

129 (17) Kill, take, catch or have in his or her possession,
130 living or dead, any wild bird other than a game bird; or
131 expose for sale or transport within or without the state any
132 bird except as aforesaid. No part of the plumage, skin or
133 body of any protected bird may be sold or had in possession
134 for sale except mounted or stuffed plumage, skin, bodies or
135 heads of the birds legally taken and stuffed or mounted,
136 irrespective of whether the bird was captured within or
137 without this state, except the English or European sparrow
138 (passer domesticus), starling (sturnus vulgaris) and cowbird
139 (molothrus ater), which may not be protected and the killing
140 thereof at any time is lawful;

141 (18) Use dynamite or any like explosive or poisonous
142 mixture placed in any waters of the state for the purpose of
143 killing or taking fish. Any person violating the provisions of
144 this subdivision is guilty of a felony and, upon conviction
145 thereof, shall be fined not more than \$500 or imprisoned for
146 not less than six months nor more than three years, or both
147 fined and imprisoned;

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

150 (20) Have a crossbow in the woods or fields or use a
151 crossbow to hunt for, take or attempt to take any wildlife,
152 unless the person possesses a Class Y permit;

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

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

160 (23) Shoot an arrow across any public highway or from
161 aircraft, motor-driven watercraft, motor vehicle or other land
162 conveyance;

163 (24) Permit any dog owned by him or her or under his or
164 her control to chase, pursue or follow upon the track of any
165 wild animal or wild bird, either day or night, between May 1
166 and the August 15 next following: *Provided*, That dogs may
167 be trained on wild animals and wild birds, except deer and
168 wild turkeys, and field trials may be held or conducted on the
169 grounds or lands of the owner or by his or her bona fide
170 tenant or tenants or upon the grounds or lands of another
171 person with his or her written permission or on public lands
172 at any time: *Provided, however*, That nonresidents may not
173 train dogs in this state at any time except during the legal
174 small game hunting season: *Provided further*, That the
175 person training said dogs does not have firearms or other
176 implements in his or her possession during the closed season
177 on wild animals and wild birds, whereby wild animals or
178 wild birds could be taken or killed;

179 (25) Conduct or participate in a field trial, shoot-to-
180 retrieve field trial, water race or wild hunt hereafter referred
181 to as trial: *Provided*, That any person, group of persons, club
182 or organization may hold the trial at any time of the year
183 upon obtaining a permit as is provided in section fifty-six of
184 this article. The person responsible for obtaining the permit
185 shall prepare and keep an accurate record of the names and
186 addresses of all persons participating in said trial and make
187 same readily available for inspection by any natural resources
188 police officer upon request;

189 (26) Except as provided in section four of this article,
190 hunt, catch, take, kill or attempt to hunt, catch, take or kill
191 any wild animal, wild bird or wild fowl except during the
192 open season established by rule of the director as authorized
193 by subdivision (6), section seven, article one of this chapter;

194 (27) Hunting on public lands on Sunday after five o'clock
195 antemeridian is prohibited; and

196 (28) Hunt, catch, take, kill, trap, injure or pursue with
197 firearms or other implement which wildlife can be taken, on
198 private lands on Sunday after the hour of five o'clock
199 antemeridian: *Provided*, That the provisions of this
200 subdivision do not apply in any county until the county
201 commission of the county holds an election on the question
202 of whether the provisions of this subdivision prohibiting
203 hunting on Sunday shall apply within the county and the
204 voters approve the allowance of hunting on Sunday in the
205 county. The election is determined by a vote of the resident
206 voters of the county in which the hunting on Sunday is
207 proposed to be authorized. The county commission of the
208 county in which Sunday hunting is proposed shall give notice
209 to the public of the election by publication of the notice as a
210 Class II-0 legal advertisement in compliance with the
211 provisions of article three, chapter fifty-nine of this code and
212 the publication area for the publication is the county in which
213 the election is to be held. The date of the last publication of
214 the notice shall fall on a date within the period of the fourteen
215 consecutive days next preceding the election.

216 On the local option election ballot shall be printed the
217 following:

218 Shall hunting on Sunday be authorized in _____
219 County?

220 [] Yes [] No

221 (Place a cross mark in the square opposite your choice.)

222 Any local option election to approve or disapprove of the
223 proposed authorization of Sunday hunting within a county
224 shall be in accordance with procedures adopted by the

225 commission. The local option election may be held in
226 conjunction with a primary or general election or at a special
227 election. Approval shall be by a majority of the voters casting
228 votes on the question of approval or disapproval of Sunday
229 hunting at the election.

230 If a majority votes against allowing Sunday hunting, no
231 election on the issue may be held for a period of one hundred
232 four weeks. If a majority votes “yes”, no election
233 reconsidering the action may be held for a period of five
234 years. A local option election may thereafter be held if a
235 written petition of qualified voters residing within the county
236 equal to at least five percent of the number of persons who
237 were registered to vote in the next preceding general election
238 is received by the county commission of the county in which
239 Sunday hunting is authorized. The petition may be in any
240 number of counterparts. The election shall take place at the
241 next primary or general election scheduled more than ninety
242 days following receipt by the county commission of the
243 petition required by this subsection: *Provided*, That the issue
244 may not be placed on the ballot until all statutory notice
245 requirements have been met. No local law or regulation
246 providing any penalty, disability, restriction, regulation or
247 prohibition of Sunday hunting may be enacted and the
248 provisions of this article preempt all regulations, rules,
249 ordinances and laws of any county or municipality in conflict
250 with this subdivision.

251 (29) Hunt or conduct hunts for a fee where the hunter is
252 not physically present in the same location as the wildlife
253 being hunted within West Virginia.

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

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2011.

Governor