

H. B. 3000

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[Introduced February 3, 2011; referred to the
Committee on Natural Resources then the Judiciary.]

A BILL 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
52 director;

53 (8) Except as provided in section six of this article, carry
54 an uncased or loaded gun in any of the woods of this state
55 except during the open firearms hunting season for wild
56 animals and nonmigratory wild birds within any county of

57 the state unless he or she has in his or her possession a permit
58 in writing issued to him or her by the director: *Provided,*
59 That this section does not prohibit hunting or taking of
60 unprotected species of wild animals and wild birds and
61 migratory wild birds, during the open season, in the open
62 fields, open water and open marshes of the state;

63 (9) Have in his or her possession a crossbow with a
64 nocked bolt, a loaded firearm or a firearm from the magazine
65 of which all shells and cartridges have not been removed, in
66 or on any vehicle or conveyance, or its attachments, within
67 the state, except as may otherwise be provided by law or
68 regulation. Except as hereinafter provided, between five
69 o'clock postmeridian of one day and seven o'clock
70 antemeridian, eastern standard time of the day following, any
71 unloaded firearm or crossbow, being lawfully carried in
72 accordance with the foregoing provisions, may be so carried
73 only when in a case or taken apart and securely wrapped.
74 During the period from July 1 to September 30, inclusive, of
75 each year, the foregoing requirements relative to carrying

76 certain unloaded firearms are permissible only from eight-
77 thirty o'clock postmeridian to five o'clock antemeridian,
78 eastern standard time: *Provided*, That the time periods for
79 carrying unloaded and uncased firearms are extended for one
80 hour after the postmeridian times and one hour before the
81 antemeridian times established above if a hunter is preparing
82 to or in the process of transporting or transferring the
83 firearms to or from a hunting site, campsite, home or other
84 place of abode;

85 (10) Hunt, catch, take, kill, trap, injure or pursue with
86 firearms or other implement by which wildlife may be taken
87 after the hour of five o'clock antemeridian on Sunday on
88 private land without the written consent of the landowner any
89 wild animals or wild birds except when a big game season
90 opens on a Monday, the Sunday prior to that opening day
91 will be closed for any taking of wild animals or birds after
92 five o'clock antemeridian on that Sunday: *Provided*, That
93 traps previously and legally set may be tended after the hour
94 of five o'clock antemeridian on Sunday and the person so

95 doing may carry only a twenty-two caliber firearm for the
96 purpose of humanely dispatching trapped animals. Any
97 person violating the provisions of this subdivision is guilty of
98 a misdemeanor and, upon conviction thereof, in addition to
99 any fines that may be imposed by this or other sections of
100 this code, is subject to a \$100 fine;

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

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

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

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

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

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

130 (17) Kill, take, catch or have in his or her possession,
131 living or dead, any wild bird other than a game bird; or

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

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

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

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

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

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

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

164 (24) Permit any dog owned by him or her or under his or
165 her control to chase, pursue or follow upon the track of any
166 wild animal or wild bird, either day or night, between May 1
167 and the August 15 next following: *Provided*, That dogs may
168 be trained on wild animals and wild birds, except deer and
169 wild turkeys, and field trials may be held or conducted on the

170 grounds or lands of the owner or by his or her bona fide
171 tenant or tenants or upon the grounds or lands of another
172 person with his or her written permission or on public lands
173 at any time: *Provided, however,* That nonresidents may not
174 train dogs in this state at any time except during the legal
175 small game hunting season: *Provided further,* That the
176 person training said dogs does not have firearms or other
177 implements in his or her possession during the closed season
178 on wild animals and wild birds, whereby wild animals or
179 wild birds could be taken or killed;

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

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

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

197 (28) Hunt, catch, take, kill, trap, injure or pursue with
198 firearms or other implement which wildlife can be taken, on
199 private lands on Sunday after the hour of five o'clock
200 antemeridian: *Provided*, That the provisions of this
201 subdivision do not apply in any county until the county
202 commission of the county holds an election on the question
203 of whether the provisions of this subdivision prohibiting
204 hunting on Sunday shall apply within the county and the
205 voters approve the allowance of hunting on Sunday in the
206 county. The election is determined by a vote of the resident
207 voters of the county in which the hunting on Sunday is
208 proposed to be authorized. The county commission of the

209 county in which Sunday hunting is proposed shall give notice
 210 to the public of the election by publication of the notice as a
 211 Class II-0 legal advertisement in compliance with the
 212 provisions of article three, chapter fifty-nine of this code and
 213 the publication area for the publication is the county in which
 214 the election is to be held. The date of the last publication of
 215 the notice shall fall on a date within the period of the fourteen
 216 consecutive days next preceding the election.

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

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

221 Yes No

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

223 Any local option election to approve or disapprove of the
 224 proposed authorization of Sunday hunting within a county
 225 shall be in accordance with procedures adopted by the
 226 commission. The local option election may be held in
 227 conjunction with a primary or general election or at a special

228 election. Approval shall be by a majority of the voters
229 casting votes on the question of approval or disapproval of
230 Sunday hunting at the election.

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

247 providing any penalty, disability, restriction, regulation or
248 prohibition of Sunday hunting may be enacted and the
249 provisions of this article preempt all regulations, rules,
250 ordinances and laws of any county or municipality in conflict
251 with this subdivision.

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

NOTE: The purpose of this bill is to make it lawful to hunt coyotes with a green colored light.

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