

1 plainly visible to him or her;

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

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

1 an automobile or other land conveyance.

2 Any person violating the provisions of this subdivision is
3 guilty of a misdemeanor and, upon conviction thereof, shall for
4 each offense be fined not less than \$100 nor more than \$500 and
5 shall be confined in jail for not less than ten days nor more than
6 one hundred days;

7 (4) Hunt for, take, kill, wound or shoot at wild animals or
8 wild birds from an airplane, or other airborne conveyance, an
9 automobile, or other land conveyance, or from a motor-driven water
10 conveyance, except as authorized by rules promulgated by the
11 director;

12 (5) Take any beaver or muskrat by any means other than by
13 trap;

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

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

21 (8) Except as provided in section six of this article, carry
22 an uncased or loaded gun in any of the woods of this state except
23 during the open firearms hunting season for wild animals and
24 nonmigratory wild birds within any county of the state unless he or

1 she has in his or her possession a permit in writing issued to him
2 or her by the director: *Provided*, That this section does not
3 prohibit hunting or taking of unprotected species of wild animals
4 and wild birds and migratory wild birds, during the open season, in
5 the open fields, open water and open marshes of the state;

6 (9) Have in his or her possession a crossbow with a nocked
7 bolt, a loaded firearm or a firearm from the magazine of which all
8 shells and cartridges have not been removed, in or on any vehicle
9 or conveyance, or its attachments, within the state, except as may
10 otherwise be provided by law or regulation. Except as hereinafter
11 provided, between five o'clock postmeridian of one day and seven
12 o'clock antemeridian, eastern standard time of the day following,
13 any unloaded firearm or crossbow, being lawfully carried in
14 accordance with the foregoing provisions, may be so carried only
15 when in a case or taken apart and securely wrapped. During the
16 period from July 1 to September 30, inclusive, of each year, the
17 foregoing requirements relative to carrying certain unloaded
18 firearms are permissible only from eight-thirty o'clock
19 postmeridian to five o'clock antemeridian, eastern standard time:
20 *Provided*, That the time periods for carrying unloaded and uncased
21 firearms are extended for one hour after the postmeridian times and
22 one hour before the antemeridian times established above if a
23 hunter is preparing to or in the process of transporting or
24 transferring the firearms to or from a hunting site, campsite, home

1 or other place of abode;

2 (10) Hunt, catch, take, kill, trap, injure or pursue with
3 firearms or other implement by which wildlife may be taken after
4 the hour of five o'clock antemeridian on Sunday on private land
5 without the written consent of the landowner any wild animals or
6 wild birds except when a big game season opens on a Monday, the
7 Sunday prior to that opening day will be closed for any taking of
8 wild animals or birds after five o'clock antemeridian on that
9 Sunday: *Provided*, That traps previously and legally set may be
10 tended after the hour of five o'clock antemeridian on Sunday and
11 the person so doing may carry only a twenty-two caliber firearm for
12 the purpose of humanely dispatching trapped animals. Any person
13 violating the provisions of this subdivision is guilty of a
14 misdemeanor and, upon conviction thereof, in addition to any fines
15 that may be imposed by this or other sections of this code, is
16 subject to a \$100 fine;

17 (11) Hunt, catch, take, kill, injure or pursue a wild animal
18 or bird with the use of a ferret;

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

21 (13) Catch, take, kill or attempt to catch, take or kill any
22 fish at any time by any means other than by rod, line and hooks
23 with natural or artificial lures unless otherwise authorized by law
24 or rules issued by the Director: *Provided*, That snaring of any

1 species of suckers, carp, fallfish and creek chubs shall at all
2 times be lawful;

3 (14) Employ or hire, or induce or persuade, by the use of
4 money or other things of value, or by any means, any person to
5 hunt, take, catch or kill any wild animal or wild bird except those
6 species on which there is no closed season, or to fish for, catch,
7 take or kill any fish, amphibian or aquatic life which is protected
8 by the provisions of this chapter or rules of the director or the
9 sale of which is prohibited;

10 (15) Hunt, catch, take, kill, capture, pursue, transport,
11 possess or use any migratory game or nongame birds included in the
12 terms of conventions between the United States and Great Britain
13 and between the United States and United Mexican States for the
14 protection of migratory birds and wild mammals concluded,
15 respectively, August 16, 1916, and February 7, 1936, except during
16 the time and in the manner and numbers prescribed by the federal
17 Migratory Bird Treaty Act, 16 U.S.C. §703, et seq., and regulations
18 made thereunder;

19 (16) Kill, take, catch or have in his or her possession,
20 living or dead, any wild bird other than a game bird; or expose for
21 sale or transport within or without the state any bird except as
22 aforesaid. No part of the plumage, skin or body of any protected
23 bird may be sold or had in possession for sale except mounted or
24 stuffed plumage, skin, bodies or heads of the birds legally taken

1 and stuffed or mounted, irrespective of whether the bird was
2 captured within or without this state, except the English or
3 European sparrow (*passer domesticus*), starling (*sturnus vulgaris*)
4 and cowbird (*molothrus ater*), which may not be protected and the
5 killing thereof at any time is lawful;

6 (17) Use dynamite or any like explosive or poisonous mixture
7 placed in any waters of the state for the purpose of killing or
8 taking fish. Any person violating the provisions of this
9 subdivision is guilty of a felony and, upon conviction thereof,
10 shall be fined not more than \$500 or imprisoned for not less than
11 six months nor more than three years, or both fined and imprisoned;

12 (18) Have a bow and gun, or have a gun and any arrow or
13 arrows, in the fields or woods at the same time;

14 (19) Have a crossbow in the woods or fields or use a crossbow
15 to hunt for, take or attempt to take any wildlife except as
16 otherwise provided in section 42w of this article;

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

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

24 (22) Shoot an arrow across any public highway or from

1 aircraft, motor-driven watercraft, motor vehicle or other land
2 conveyance;

3 (23) Permit any dog owned by him or her or under his or her
4 control to chase, pursue or follow upon the track of any wild
5 animal or wild bird, either day or night, between May 1 and the
6 August 15 next following: *Provided*, That dogs may be trained on
7 wild animals and wild birds, except deer and wild turkeys, and
8 field trials may be held or conducted on the grounds or lands of
9 the owner or by his or her bona fide tenant or tenants or upon the
10 grounds or lands of another person with his or her written
11 permission or on public lands at any time: *Provided, however*, That
12 nonresidents may not train dogs in this state at any time except
13 during the legal small game hunting season: *Provided further*, That
14 the person training said dogs does not have firearms or other
15 implements in his or her possession during the closed season on
16 wild animals and wild birds, whereby wild animals or wild birds
17 could be taken or killed;

18 (24) Conduct or participate in a field trial, shoot-to-
19 retrieve field trial, water race or wild hunt hereafter referred to
20 as trial: *Provided*, That any person, group of persons, club or
21 organization may hold the trial at any time of the year upon
22 obtaining a permit as is provided in section fifty-six of this
23 article. The person responsible for obtaining the permit shall
24 prepare and keep an accurate record of the names and addresses of

1 all persons participating in said trial and make same readily
2 available for inspection by any natural resources police officer
3 upon request;

4 (25) Except as provided in section four of this article, hunt,
5 catch, take, kill or attempt to hunt, catch, take or kill any wild
6 animal, wild bird or wild fowl except during the open season
7 established by rule of the director as authorized by subdivision
8 (6), section seven, article one of this chapter;

9 (26) Hunting on public lands on Sunday after five o'clock
10 antemeridian is prohibited;

11 (27) Hunt, catch, take, kill, trap, injure or pursue with
12 firearms or other implement which wildlife can be taken, on private
13 lands on Sunday after the hour of five o'clock antemeridian:
14 *Provided*, That the provisions of this subdivision do not apply in
15 any county until the county commission of the county holds an
16 election on the question of whether the provisions of this
17 subdivision prohibiting hunting on Sunday shall apply within the
18 county and the voters approve the allowance of hunting on Sunday in
19 the county. The election is determined by a vote of the resident
20 voters of the county in which the hunting on Sunday is proposed to
21 be authorized. The county commission of the county in which Sunday
22 hunting is proposed shall give notice to the public of the election
23 by publication of the notice as a Class II-0 legal advertisement in
24 compliance with the provisions of article three, chapter fifty-nine

1 of this code and the publication area for the publication is the
2 county in which the election is to be held. The date of the last
3 publication of the notice shall fall on a date within the period of
4 the fourteen consecutive days next preceding the election.

5 On the local option election ballot shall be printed one of
6 the following:

7 Shall hunting on Sunday be authorized in _____ County?

8 [] Yes [] No

9 (Place a cross mark in the square opposite your choice.); or

10 Shall hunting on Sunday upon private lands with the written
11 consent of the landowner be authorized in _____ County?

12 [] Yes [] No

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

14 Any local option election to approve or disapprove of the
15 proposed authorization of Sunday hunting within a county shall be
16 in accordance with procedures adopted by the commission. The local
17 option election may be held in conjunction with a primary or
18 general election or at a special election. Approval shall be by a
19 majority of the voters casting votes on the question of approval or
20 disapproval of Sunday hunting at the election.

21 If a majority votes against allowing Sunday hunting, no
22 election on the issue may be held for a period of one hundred four
23 weeks. If a majority votes "yes," no election reconsidering the
24 action may be held for a period of five years. A local option

1 election may thereafter be held if a written petition of qualified
2 voters residing within the county equal to at least five percent of
3 the number of persons who were registered to vote in the next
4 preceding general election is received by the county commission of
5 the county in which Sunday hunting is authorized. The petition may
6 be in any number of counterparts. The election shall take place at
7 the next primary or general election scheduled more than ninety
8 days following receipt by the county commission of the petition
9 required by this subsection: *Provided*, That the issue may not be
10 placed on the ballot until all statutory notice requirements have
11 been met. No local law or regulation providing any penalty,
12 disability, restriction, regulation or prohibition of Sunday
13 hunting may be enacted and the provisions of this article preempt
14 all regulations, rules, ordinances and laws of any county or
15 municipality in conflict with this subdivision; and

16 (28) Hunt or conduct hunts for a fee where the hunter is not
17 physically present in the same location as the wildlife being
18 hunted within West Virginia.

NOTE: The purpose of this bill is to allow county commissions the option of putting before the voters of the county the question of whether Sunday hunting should be permitted on private lands in the county with the written consent of the landowner.

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

be added.