

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2097

BY DELEGATES MCGEEHAN, J. KELLY AND PORTERFIELD

[Introduced January 9, 2019; Referred
to the Committee on Agriculture and Natural
Resources then the Judiciary.]

1 A BILL to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating
 2 to the hunting of coyotes; permitting year-round hunting of coyotes using artificial light or
 3 night vision technology and permitting hunting of coyotes at any hour.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts; Sunday hunting.

1 (a) Except as authorized by the director or by law, it is unlawful at any time for any person
 2 to:

3 (1) Shoot at any wild bird or wild animal unless it is plainly visible;

4 (2) Dig out, cut out, smoke out, or in any manner take or attempt to take any live wild
 5 animal or wild bird out of its den or place of refuge;

6 (3) Use or attempt to use any artificial light or any night vision technology, including image
 7 intensification, thermal imaging, or active illumination while hunting, locating, attracting, taking,
 8 trapping, or killing any wild bird or wild animal: *Provided*, That it is lawful to hunt or take coyote,
 9 fox, raccoon, opossum, or skunk by the use of artificial light or night vision technology, including
 10 image intensification, thermal imaging, or active illumination: *Provided however, That*
 11 *notwithstanding any provision of this code or agency rule to the contrary, it is lawful to hunt or*
 12 *take coyote by the use of artificial light or night vision technology at any hour and at all times*
 13 *throughout the year.* Any person violating this subdivision is guilty of a misdemeanor and, upon
 14 conviction thereof, shall for each offense be fined not less than \$100 nor more than \$500, and
 15 shall be confined in jail for not less than 10 days nor more than 100 days;

16 (4) Hunt, take, kill, wound, harass, or shoot at wild animals or wild birds from an airplane
 17 or other airborne conveyance, a drone or other unmanned aircraft, an automobile, or other land
 18 conveyance, or from a motor-driven water conveyance;

19 5) Use a drone or other unmanned aircraft to hunt, take, wound, harass, transport, or kill
20 (a wild bird or wild animal, or to use a drone or other unmanned aircraft to drive or herd any wild
21 bird or wild animal for the purposes of hunting, trapping, or killing;

22 (6) Take any beaver or muskrat by any means other than a trap;

23 (7) Catch, capture, take, hunt, or kill by seine, net, bait, trap, or snare or like device a wild
24 turkey, ruffed grouse, pheasant, or quail;

25 (8) Intentionally destroy or attempt to destroy the nest or eggs of any wild bird or have in
26 his or her possession the nest or eggs;

27 (9) Carry an uncased or loaded firearm in the woods of this state or in state parks, state
28 forests, state wildlife management areas, or state rail trails with the following permissible
29 exceptions:

30 (A) A person in possession of a valid license or permit during open firearms hunting
31 season for wild animals and nonmigratory wild birds where hunting is lawful;

32 (B) A person hunting or taking unprotected species of wild animals, wild birds, and
33 migratory wild birds during the open season, in the open fields, open water, and open marshes of
34 the state where hunting is lawful;

35 (C) A person carrying a firearm pursuant to §20-2-6 of this code;

36 (D) A person carrying a firearm for self-defense who is not prohibited from possessing
37 firearms under state or federal law; or

38 (E) A person carrying a rifle or shotgun for self-defense who is not prohibited from
39 possessing firearms under state or federal law: *Provided*, That this exception does not apply to
40 an uncased rifle or shotgun carried specifically in state park or state forest recreational facilities
41 and marked trails within state park or state forest borders.

42 (10) Possess a loaded rifle or shotgun, a bow with a nocked arrow, or crossbow with a
43 nocked bolt, in or on any vehicle or conveyance, or its attachments. A rifle or shotgun with
44 cartridges that have not been removed or a magazine that has not been detached is considered

45 loaded. For the purposes of this section, a rifle or shotgun whose magazine readily detaches is
46 considered unloaded if the magazine is detached and no cartridges remain in the rifle or shotgun
47 itself;

48 (11) Carry any unloaded firearm, bow, or crossbow in or on any vehicle or conveyance, or
49 its attachments, that is not in a case or taken apart and securely wrapped between 30 minutes
50 after sunset until 30 minutes before sunrise: *Provided*, That the time periods for carrying unloaded
51 and uncased firearms or crossbows are extended for one hour after sunset as established in this
52 subdivision, if a person is transporting or transferring the firearms or crossbows to or from a
53 hunting site, campsite, home, or other abode;

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

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

57 (14) Catch, take, kill, or attempt to catch, take, or kill any fish by any means other than by
58 rod, line, and hooks with natural or artificial lures, unless otherwise authorized by the director:
59 *Provided*, That snaring of any species of sucker, carp, fallfish, and creek chub and catching catfish
60 by hand are lawful if done by a holder of a valid license issued pursuant to §20-2-1 et seq. of this
61 code or is exempted from licensure pursuant to §20-2-27 or §20-2-28 of this code;

62 (15) Employ, hire, induce, or persuade, with money, things of value, or by any means, any
63 person to hunt, take, catch, or kill any wild animal or wild bird except those species in which there
64 is no closed season; or to fish for, catch, take, or kill any fish, amphibian, or aquatic life that is
65 protected by rule, or the sale of which is otherwise prohibited;

66 (16) Hunt, catch, take, kill, capture, pursue, transport, possess, or use any migratory game
67 or nongame birds except as permitted by the Migratory Bird Treaty Act, 16 U.S.C. §703, et seq.,
68 and its regulations;

69 (17) Kill, take, catch, sell, transport, or have in his or her possession, living or dead, any
70 wild bird other than a game bird, including the plumage, skin, or body of any protected bird,

71 irrespective of whether the bird was captured in or out of this state, except the English or European
72 sparrow (*Passer domesticus*), starling (*Sturnus vulgaris*), and cowbird (*Molothrus ater*), which
73 may be killed at any time;

74 (18) Use dynamite, explosives, or any poison in any waters of the state for the purpose of
75 killing or taking fish. Any person violating this subdivision is guilty of a felony and, upon conviction
76 thereof, shall be fined not more than \$500 or confined for not less than six months nor more than
77 three years, or both fined and confined;

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

80 (20) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take, or attempt
81 to take any wildlife except as otherwise provided in §20-2-5g and §20-2-42w of this code;

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

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

87 (23) Shoot an arrow across any public highway;

88 (24) Permit any dog owned or under his or her control to chase, pursue, or follow the
89 tracks of any wild animal or wild bird, day or night, between May 1 and August 15: Provided, That
90 dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials
91 may be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant,
92 or upon the grounds or lands of another person with his or her written permission, or on public
93 lands at any time. Nonresidents may not train dogs in this state at any time except during the legal
94 small game hunting season. A person training dogs may not have firearms or other implements
95 for taking wildlife in his or her possession during the closed season on wild animals and wild birds,

96 except a person carrying a firearm for self-defense who is not prohibited from possessing firearms
97 under state or federal law;

98 (25) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water
99 race, or wild hunt: *Provided*, That any person, group of persons, club, or organization may hold a
100 trial upon obtaining a permit pursuant to §20-2-56 of this code. The person responsible for
101 obtaining the permit shall prepare and keep an accurate record of the names and addresses of
102 all persons participating in the trial and make the records readily available for inspection by any
103 natural resources police officer upon request;

104 (26) Hunt, catch, take, kill, or attempt to hunt, catch, take, or kill any wild animal, wild bird,
105 or wild fowl except during open seasons;

106 (27) Hunt or conduct hunts for a fee when the person is not physically present in the same
107 location as the wildlife being hunted within West Virginia; and

108 (28) Catch, take, kill, or attempt to catch, take, or kill any fish by any means within 200
109 feet of division personnel engaged in stocking fish in public waters.

110 (b) Notwithstanding any ballot measure relating to Sunday hunting, it is lawful to hunt
111 throughout the State of West Virginia on private lands on Sundays with the written consent of the
112 private landowner pursuant to §20-2-7 of this code, and it is lawful to hunt throughout the State of
113 West Virginia on federal land where hunting is permitted, in state forests, on land owned or leased
114 by the state for wildlife purposes, and on land managed by the state for wildlife purposes pursuant
115 to a cooperative agreement.

116 (3) Use or attempt to use any artificial light or any night vision technology, including image
117 intensification, thermal imaging or active illumination while hunting, locating, attracting, taking,
118 trapping or killing any wild bird or wild animal; *Provided*, That it is lawful to hunt or take coyote,
119 fox, raccoon, opossum or skunk by the use of artificial light or night vision technology: *Provided*
120 *however, That notwithstanding any provision of this code or agency rule to the contrary, it is lawful*
121 *to hunt or take coyote by the use of artificial light or night vision technology at any hour and at all*

122 times throughout the year. Any person violating this subdivision is guilty of a misdemeanor and,
123 upon conviction thereof, shall for each offense be fined not less than \$100 nor more than \$500,
124 and shall be confined in jail for not less than 10 days nor more than 100 days;

125 (4) Hunt, take, kill, wound or shoot at wild animals or wild birds from an airplane or other
126 airborne conveyance, a drone or other unmanned aircraft, an automobile or other land
127 conveyance, or from a motor-driven water conveyance;

128 (5) Use a drone or other unmanned aircraft to hunt, take or kill a wild bird or wild animal,
129 or to use a drone or other unmanned aircraft to drive or herd any wild bird or wild animal for the
130 purposes of hunting, trapping or killing;

131 (6) Take any beaver or muskrat by any means other than a trap;

132 (7) Catch, capture, take, hunt or kill by seine, net, bait, trap or snare or like device a bear,
133 wild turkey, ruffed grouse, pheasant or quail;

134 (8) Intentionally destroy or attempt to destroy the nest or eggs of any wild bird or have in
135 his or her possession the nest or eggs;

136 (9) Carry an uncased or loaded firearm in the woods of this state with the following
137 permissible exceptions:

138 (A) A person in possession of a valid license or permit during open firearms hunting
139 season for wild animals and nonmigratory wild birds;

140 (B) A person hunting or taking unprotected species of wild animals, wild birds and
141 migratory wild birds during the open season, in the open fields, open water and open marshes of
142 the state;

143 (C) A person carrying a firearm pursuant to sections six and six-a of this article; or

144 (D) A person carrying a firearm for self-defense who is not prohibited from possessing
145 firearms by §61-7-7 of this code;

146 (10) Have in his or her possession a crossbow with a nocked bolt, or a rifle or shotgun
147 with cartridges that have not been removed or a magazine that has not been detached, in or on

148 any vehicle or conveyance, or its attachments. For the purposes of this section, a rifle or shotgun
149 whose magazine readily detaches is considered unloaded if the magazine is detached and no
150 cartridges remain in the rifle or shotgun itself. Except that between five o'clock post meridian of
151 day one and seven o'clock ante meridian, Eastern Standard Time, of the following day, any
152 unloaded firearm or crossbow may be carried only when in a case or taken apart and securely
153 wrapped. During the period from July 1 to September 30, inclusive, of each year, the requirements
154 relative to carrying unloaded firearms are permissible only from eight-thirty o'clock post meridian
155 to five o'clock ante meridian, Eastern Standard Time: *Provided*, That the time periods for carrying
156 unloaded and uncased firearms are extended for one hour after the post meridian times and one
157 hour before the ante meridian times established in this subdivision, if a person is transporting or
158 transferring the firearms to or from a hunting site, campsite, home or other abode;

159 (11) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which
160 wildlife may be taken after the hour of five o'clock ante meridian on Sunday on private land without
161 the written consent of the landowner any wild animals or wild birds except when a big game
162 season opens on a Monday, the Sunday prior to that opening day will be closed for any taking of
163 wild animals or birds after five o'clock ante meridian on that Sunday: *Provided*, That traps
164 previously and legally set may be tended after the hour of five o'clock ante meridian on Sunday
165 and the person tending the traps may carry firearms for the purpose of humanely dispatching
166 trapped animals. Any person violating this subdivision is guilty of a misdemeanor and, upon
167 conviction thereof, in addition to any fines that may be imposed by this or other sections of this
168 code, is subject to a \$100 fine;

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

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

172 (14) Catch, take, kill or attempt to catch, take or kill any fish by any means other than by
173 rod, line and hooks with natural or artificial lures: *Provided*, That snaring of any species of suckers,

174 carp, fallfish and creek chubs is lawful;

175 (15) Employ, hire, induce or persuade, with money, things of value or by any means, any
176 person to hunt, take, catch or kill any wild animal or wild bird except those species in which there
177 is no closed season; or to fish for, catch, take or kill any fish, amphibian or aquatic life that is
178 protected by rule, or the sale of which is otherwise prohibited;

179 (16) Hunt, catch, take, kill, capture, pursue, transport, possess or use any migratory game
180 or nongame birds except as permitted by the Migratory Bird Treaty Act, 16 U. S. C. §703, *et seq.*,
181 and its regulations;

182 (17) Kill, take, catch, sell, transport or have in his or her possession, living or dead, any
183 wild bird other than a game bird including the plumage, skin or body of any protected bird,
184 irrespective of whether the bird was captured in or out of this state, except the English or European
185 sparrow (*Passer domesticus*), starling (*Sturnus vulgaris*) and cowbird (*Molothrus ater*), which may
186 be killed at any time;

187 (18) Use dynamite, explosives or any poison in any waters of the state for the purpose of
188 killing or taking fish. Any person violating this subdivision is guilty of a felony and, upon conviction
189 thereof, shall be fined not more than \$500 or imprisoned for not less than six months nor more
190 than three years, or both fined and imprisoned;

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

193 (20) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take or attempt
194 to take any wildlife except as otherwise provided in sections five-g and forty-two-w of this article;

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

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

200 (23) Shoot an arrow across any public highway;

201 (24) Permit any dog owned or under his or her control to chase, pursue or follow the tracks
202 of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That dogs
203 may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may
204 be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or
205 upon the grounds or lands of another person with his or her written permission, or on public lands
206 at any time. Nonresidents may not train dogs in this state at any time except during the legal small
207 game hunting season. A person training dogs may not have firearms or other implements in his
208 or her possession during the closed season on wild animals and wild birds;

209 (25) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water
210 race or wild hunt: *Provided*, That any person, group of persons, club or organization may hold a
211 trial upon obtaining a permit pursuant to §20-2-56 of this code. The person responsible for
212 obtaining the permit shall prepare and keep an accurate record of the names and addresses of
213 all persons participating in the trial and make the records readily available for inspection by any
214 natural resources police officer upon request;

215 (26) Hunt, catch, take, kill or attempt to hunt, catch, take or kill any wild animal, wild bird
216 or wild fowl except during open seasons;

217 (27) Hunting on public lands on Sunday after five o'clock ante meridian is prohibited;

218 (28) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement which
219 wildlife can be taken, on private lands on Sunday after the hour of five o'clock ante meridian:
220 *Provided*, That the provisions of this subdivision do not apply in any county until the county
221 commission of the county holds an election on the question of whether the provisions of this
222 subdivision prohibiting hunting on Sunday shall apply within the county and the voters approve
223 the allowance of hunting on Sunday in the county. The election is determined by a vote of the
224 resident voters of the county in which the hunting on Sunday is proposed to be authorized. The
225 county commission of the county in which Sunday hunting is proposed shall give notice to the

226 public of the election by publication of the notice as a Class II-0 legal advertisement in compliance
227 with the provisions of §59-3-1 *et seq.* this code and the publication area for the publication is the
228 county in which the election is to be held. The date of the last publication of the notice shall fall
229 on a date within the period of the 14 consecutive days next preceding the election.

230 On the local option election ballot shall be printed the following:

231 Shall hunting on Sunday be authorized on private lands only with the consent of the land
232 owner in _____ County?

233 Yes

234 No

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

236 Any local option election to approve or disapprove of the proposed authorization of Sunday
237 hunting within a county shall be in accordance with procedures adopted by the commission. The
238 local option election may be held in conjunction with a primary or general election or at a special
239 election. Approval shall be by a majority of the voters casting votes on the question of approval
240 or disapproval of Sunday hunting at the election.

241 If a majority votes against allowing Sunday hunting, an election on the issue may not be
242 held for a period of one hundred four weeks. If a majority votes "yes", an election reconsidering
243 the action may not be held for a period of five years. A local option election may thereafter be
244 held if a written petition of qualified voters residing within the county equal to at least five percent
245 of the number of persons who were registered to vote in the next preceding general election is
246 received by the county commission of the county in which Sunday hunting is authorized. The
247 petition may be in any number of counterparts. The election shall take place at the next primary
248 or general election scheduled more than 90 days following receipt by the county commission of
249 the petition required by this subsection: *Provided*, That the issue may not be placed on the ballot
250 until all statutory notice requirements have been met. No local law or regulation providing any
251 penalty, disability, restriction, regulation or prohibition of Sunday hunting may be enacted and the

252 provisions of this article preempt all regulations, rules, ordinances and laws of any county or
253 municipality in conflict with this subdivision.

254 Amendments to this subdivision promulgated during the 2015 regular session of the
255 Legislature shall have no effect upon the results of elections held prior to their enactment; and

256 (29) Hunt or conduct hunts for a fee when the person is not physically present in the same
257 location as the wildlife being hunted within West Virginia.

NOTE: The purpose of this bill is to permit year-round hunting of coyotes using artificial light or night vision technology and to permit hunting of coyotes at any hour.

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