

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4048

BY DELEGATES HORST, HOUSEHOLDER, HOWELL,
LINVILLE, FAST, B. WARD, DEAN, KIMBLE, MCGEEHAN,
BARRETT AND STEELE

[Introduced January 12, 2022; 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 clarifying that persons may lawfully possess loaded rifles and shotguns in their vehicles
3 unless the totality of the circumstances indicate that those persons are attempting to take
4 wildlife.

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. Any person violating this subdivision
11 is guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not less
12 than \$100 nor more than \$500, and shall be confined in jail for not less than 10 days nor more
13 than 100 days;

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

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

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

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

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

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

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

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

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

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

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

40 (10) Possess a loaded rifle or shotgun, a bow with a nocked arrow, or crossbow with a
41 nocked bolt, in or on any vehicle or conveyance, or its attachments while under a totality of
42 circumstances indicating that said person is presently attempting or has recently attempted, to
43 unlawfully take wildlife. A rifle or shotgun with cartridges that have not been removed or a
44 magazine that has not been detached is considered loaded. For the purposes of this section, a
45 rifle or shotgun whose magazine readily detaches is considered unloaded if the magazine is

46 detached and no cartridges remain in the rifle or shotgun itself. For the purposes of this
47 subsection, possession of a rifle or shotgun is presumed to be lawful unless rebutted by the totality
48 of circumstances that the person is presently attempting or has recently attempted, to unlawfully
49 take wildlife;

50 (11) Carry any unloaded ~~firearm~~ rifle or shotgun, bow, or crossbow in or on any vehicle or
51 conveyance, or its attachments, that is not in a case or taken apart and securely wrapped between
52 30 minutes after sunset until 30 minutes before sunrise, while under circumstances indicating that
53 said person is presently, has been recently, or is preparing to hunt or otherwise unlawfully take
54 wildlife: Provided, That the time periods for carrying unloaded and uncased firearms or crossbows
55 are extended for one hour after sunset as established in this subdivision, if a person is transporting
56 or transferring the ~~firearms or crossbows~~ rifle, shotgun or crossbows to or from a hunting site,
57 campsite, home, or other abode; and for the purposes of this subsection, possession of a rifle or
58 shotgun is presumed to be lawful unless rebutted by the totality of circumstances that the person
59 is presently attempting or has recently attempted, to unlawfully take wildlife;

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

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

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

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

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

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

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

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

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

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

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

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

94 (24) Permit any dog owned or under his or her control to chase, pursue, or follow the
95 tracks of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That
96 dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials
97 may be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant,

98 or upon the grounds or lands of another person with his or her written permission, or on public
99 lands at any time. Nonresidents may not train dogs in this state at any time except during the legal
100 small game hunting season. A person training dogs may not have firearms or other implements
101 for taking wildlife in his or her possession during the closed season on wild animals and wild birds,
102 except a person carrying a firearm for self-defense who is not prohibited from possessing firearms
103 under state or federal law;

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

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

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

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

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

Introduced HB 4048

NOTE: The purpose of this bill is to clarify that individuals may possess loaded rifles and shotguns in their vehicles unless they are there for the purpose to take wildlife.

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