

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **Senate Bill 287**

By Senators Smith and Woelfel

[Introduced January 18, 2023; referred  
to the committee on Agriculture and Natural  
Resources]

1 A BILL to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating to  
2 prohibiting taking or attempting to take turkeys with a rifle.

*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 animal  
5 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, fox,  
9 raccoon, opossum, or skunk by the use of artificial light or night vision technology, including image  
10 intensification, thermal imaging, or active illumination. Any person violating this subdivision is  
11 guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not less than  
12 \$100 nor more than \$500, and shall be confined in jail for not less than 10 days nor more than 100  
13 days;

14 (4) Hunt, take, kill, wound, harass, or shoot at wild animals or wild birds from an airplane or  
15 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 a  
18 wild bird or wild animal, or to use a drone or other unmanned aircraft to drive or herd any wild bird  
19 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 his  
24 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 season  
29 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 an  
38 uncased rifle or shotgun carried specifically in state park or state forest recreational facilities and  
39 marked trails within state park or state forest borders;

40 (10) Hunt, catch, take, kill, injure, or pursue a wild animal or wild bird with the use of a  
41 ferret;

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

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

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

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

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

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

64 (17) Have a bow and gun, or have a gun and any arrow, in the fields or woods at the same  
65 time;

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

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

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

73 (21) Shoot an arrow across any public highway;

74 (22) Permit any dog owned or under his or her control to chase, pursue, or follow the tracks  
75 of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That dogs  
76 may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be  
77 held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or upon  
78 the grounds or lands of another person with his or her written permission, or on public lands at any  
79 time. Nonresidents may not train dogs in this state at any time except during the legal small game  
80 hunting season. A person training dogs may not have firearms or other implements for taking  
81 wildlife in his or her possession during the closed season on wild animals and wild birds, except a  
82 person carrying a firearm for self-defense who is not prohibited from possessing firearms under  
83 state or federal law;

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

90 (24) Hunt, catch, take, kill, or attempt to hunt, catch, take, or kill any wild animal, wild bird,  
91 or wild fowl except during open seasons;

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

94 (26) Catch, take, kill, or attempt to catch, take, or kill any fish by any means within 200 feet  
95 of division personnel engaged in stocking fish in public waters; and

96 (27) Take or attempt to take turkey with a rifle.

97 (b) Notwithstanding any ballot measure relating to Sunday hunting, it is lawful to hunt  
98 throughout the State of West Virginia on private lands on Sundays with the written consent of the  
99 private landowner pursuant to §20-2-7 of this code, and it is lawful to hunt throughout the State of

100 West Virginia on federal land where hunting is permitted, in state forests, on land owned or leased  
101 by the state for wildlife purposes, and on land managed by the state for wildlife purposes pursuant  
102 to a cooperative agreement.

NOTE: The purpose of this bill is to prohibit taking turkeys with a rifle.

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