

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2011



**ENROLLED**

**House Bill No. 3000**

(By Delegates Shaver, Crosier, Stowers, Varner,  
Williams, Andes, Pethel, Ferro, Romine,  
Evans and Walker)



Passed March 11, 2011

In Effect Ninety Days From Passage

# ENROLLED

## H. B. 3000

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(BY DELEGATES SHAVER, CROSIER, STOWERS, VARNER,  
WILLIAMS, ANDES, PETHTEL, FERRO, ROMINE,  
EVANS AND WALKER)

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[Passed March 11, 2011; in effect ninety days from passage.]

AN ACT 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 director;

52 (8) Except as provided in section six of this article, carry  
53 an uncased or loaded gun in any of the woods of this state  
54 except during the open firearms hunting season for wild  
55 animals and nonmigratory wild birds within any county of  
56 the state unless he or she has in his or her possession a permit  
57 in writing issued to him or her by the director: *Provided,*  
58 That this section does not prohibit hunting or taking of  
59 unprotected species of wild animals and wild birds and  
60 migratory wild birds, during the open season, in the open  
61 fields, open water and open marshes of the state;

62 (9) Have in his or her possession a crossbow with a  
63 nocked bolt, a loaded firearm or a firearm from the magazine  
64 of which all shells and cartridges have not been removed, in  
65 or on any vehicle or conveyance, or its attachments, within

66 the state, except as may otherwise be provided by law or  
67 regulation. Except as hereinafter provided, between five  
68 o'clock postmeridian of one day and seven o'clock  
69 antemeridian, eastern standard time of the day following, any  
70 unloaded firearm or crossbow, being lawfully carried in  
71 accordance with the foregoing provisions, may be so carried  
72 only when in a case or taken apart and securely wrapped.  
73 During the period from July 1 to September 30, inclusive, of  
74 each year, the foregoing requirements relative to carrying  
75 certain unloaded firearms are permissible only from eight-  
76 thirty o'clock postmeridian to five o'clock antemeridian,  
77 eastern standard time: *Provided*, That the time periods for  
78 carrying unloaded and uncased firearms are extended for one  
79 hour after the postmeridian times and one hour before the  
80 antemeridian times established above if a hunter is preparing  
81 to or in the process of transporting or transferring the  
82 firearms to or from a hunting site, campsite, home or other  
83 place of abode;

84 (10) Hunt, catch, take, kill, trap, injure or pursue with  
85 firearms or other implement by which wildlife may be taken  
86 after the hour of five o'clock antemeridian on Sunday on  
87 private land without the written consent of the landowner any  
88 wild animals or wild birds except when a big game season  
89 opens on a Monday, the Sunday prior to that opening day will  
90 be closed for any taking of wild animals or birds after five  
91 o'clock antemeridian on that Sunday: *Provided*, That traps  
92 previously and legally set may be tended after the hour of  
93 five o'clock antemeridian on Sunday and the person so doing  
94 may carry only a twenty-two caliber firearm for the purpose  
95 of humanely dispatching trapped animals. Any person  
96 violating the provisions of this subdivision is guilty of a  
97 misdemeanor and, upon conviction thereof, in addition to any  
98 fines that may be imposed by this or other sections of this  
99 code, is subject to a \$100 fine;

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

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

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

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

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

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

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

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

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

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

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

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

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

163 (24) Permit any dog owned by him or her or under his or  
164 her control to chase, pursue or follow upon the track of any  
165 wild animal or wild bird, either day or night, between May 1  
166 and the August 15 next following: *Provided*, That dogs may  
167 be trained on wild animals and wild birds, except deer and  
168 wild turkeys, and field trials may be held or conducted on the  
169 grounds or lands of the owner or by his or her bona fide  
170 tenant or tenants or upon the grounds or lands of another  
171 person with his or her written permission or on public lands  
172 at any time: *Provided, however*, That nonresidents may not  
173 train dogs in this state at any time except during the legal  
174 small game hunting season: *Provided further*, That the  
175 person training said dogs does not have firearms or other  
176 implements in his or her possession during the closed season  
177 on wild animals and wild birds, whereby wild animals or  
178 wild birds could be taken or killed;

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

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



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

196 (28) Hunt, catch, take, kill, trap, injure or pursue with  
197 firearms or other implement which wildlife can be taken, on  
198 private lands on Sunday after the hour of five o'clock  
199 antemeridian: *Provided*, That the provisions of this  
200 subdivision do not apply in any county until the county  
201 commission of the county holds an election on the question  
202 of whether the provisions of this subdivision prohibiting  
203 hunting on Sunday shall apply within the county and the  
204 voters approve the allowance of hunting on Sunday in the  
205 county. The election is determined by a vote of the resident  
206 voters of the county in which the hunting on Sunday is  
207 proposed to be authorized. The county commission of the  
208 county in which Sunday hunting is proposed shall give notice  
209 to the public of the election by publication of the notice as a  
210 Class II-0 legal advertisement in compliance with the  
211 provisions of article three, chapter fifty-nine of this code and  
212 the publication area for the publication is the county in which  
213 the election is to be held. The date of the last publication of  
214 the notice shall fall on a date within the period of the fourteen  
215 consecutive days next preceding the election.

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

218 Shall hunting on Sunday be authorized in \_\_\_\_\_  
219 County?

220  Yes  No

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

222 Any local option election to approve or disapprove of the  
223 proposed authorization of Sunday hunting within a county  
224 shall be in accordance with procedures adopted by the

225 commission. The local option election may be held in  
226 conjunction with a primary or general election or at a special  
227 election. Approval shall be by a majority of the voters casting  
228 votes on the question of approval or disapproval of Sunday  
229 hunting at the election.

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

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



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

\_\_\_\_\_  
*Chairman, House Committee*

\_\_\_\_\_  
*Chairman, Senate Committee*

Originating in the House.

To take effect ninety days from passage.

\_\_\_\_\_  
*Clerk of the House of Delegates*

\_\_\_\_\_  
*Clerk of the Senate*

\_\_\_\_\_  
*Speaker of the House of Delegates*

\_\_\_\_\_  
*President of the Senate*

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
*Governor*