

# 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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[Introduced February 3, 2011; referred to the  
Committee on Natural Resources then the Judiciary.]

A BILL 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  
52   director;

53           (8) Except as provided in section six of this article, carry  
54   an uncased or loaded gun in any of the woods of this state  
55   except during the open firearms hunting season for wild  
56   animals and nonmigratory wild birds within any county of

57 the state unless he or she has in his or her possession a permit  
58 in writing issued to him or her by the director: *Provided,*  
59 That this section does not prohibit hunting or taking of  
60 unprotected species of wild animals and wild birds and  
61 migratory wild birds, during the open season, in the open  
62 fields, open water and open marshes of the state;

63 (9) Have in his or her possession a crossbow with a  
64 nocked bolt, a loaded firearm or a firearm from the magazine  
65 of which all shells and cartridges have not been removed, in  
66 or on any vehicle or conveyance, or its attachments, within  
67 the state, except as may otherwise be provided by law or  
68 regulation. Except as hereinafter provided, between five  
69 o'clock postmeridian of one day and seven o'clock  
70 antemeridian, eastern standard time of the day following, any  
71 unloaded firearm or crossbow, being lawfully carried in  
72 accordance with the foregoing provisions, may be so carried  
73 only when in a case or taken apart and securely wrapped.  
74 During the period from July 1 to September 30, inclusive, of  
75 each year, the foregoing requirements relative to carrying

76 certain unloaded firearms are permissible only from eight-  
77 thirty o'clock postmeridian to five o'clock antemeridian,  
78 eastern standard time: *Provided*, That the time periods for  
79 carrying unloaded and uncased firearms are extended for one  
80 hour after the postmeridian times and one hour before the  
81 antemeridian times established above if a hunter is preparing  
82 to or in the process of transporting or transferring the  
83 firearms to or from a hunting site, campsite, home or other  
84 place of abode;

85 (10) Hunt, catch, take, kill, trap, injure or pursue with  
86 firearms or other implement by which wildlife may be taken  
87 after the hour of five o'clock antemeridian on Sunday on  
88 private land without the written consent of the landowner any  
89 wild animals or wild birds except when a big game season  
90 opens on a Monday, the Sunday prior to that opening day  
91 will be closed for any taking of wild animals or birds after  
92 five o'clock antemeridian on that Sunday: *Provided*, That  
93 traps previously and legally set may be tended after the hour  
94 of five o'clock antemeridian on Sunday and the person so

95 doing may carry only a twenty-two caliber firearm for the  
96 purpose of humanely dispatching trapped animals. Any  
97 person violating the provisions of this subdivision is guilty of  
98 a misdemeanor and, upon conviction thereof, in addition to  
99 any fines that may be imposed by this or other sections of  
100 this code, is subject to a \$100 fine;

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

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

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

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

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

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

130           (17) Kill, take, catch or have in his or her possession,  
131    living or dead, any wild bird other than a game bird; or

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

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

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

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

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

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

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

164           (24) Permit any dog owned by him or her or under his or  
165 her control to chase, pursue or follow upon the track of any  
166 wild animal or wild bird, either day or night, between May 1  
167 and the August 15 next following: *Provided*, That dogs may  
168 be trained on wild animals and wild birds, except deer and  
169 wild turkeys, and field trials may be held or conducted on the

170 grounds or lands of the owner or by his or her bona fide  
171 tenant or tenants or upon the grounds or lands of another  
172 person with his or her written permission or on public lands  
173 at any time: *Provided, however,* That nonresidents may not  
174 train dogs in this state at any time except during the legal  
175 small game hunting season: *Provided further,* That the  
176 person training said dogs does not have firearms or other  
177 implements in his or her possession during the closed season  
178 on wild animals and wild birds, whereby wild animals or  
179 wild birds could be taken or killed;

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

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

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

197           (28) Hunt, catch, take, kill, trap, injure or pursue with  
198    firearms or other implement which wildlife can be taken, on  
199    private lands on Sunday after the hour of five o'clock  
200    antemeridian: *Provided*, That the provisions of this  
201    subdivision do not apply in any county until the county  
202    commission of the county holds an election on the question  
203    of whether the provisions of this subdivision prohibiting  
204    hunting on Sunday shall apply within the county and the  
205    voters approve the allowance of hunting on Sunday in the  
206    county. The election is determined by a vote of the resident  
207    voters of the county in which the hunting on Sunday is  
208    proposed to be authorized. The county commission of the

209 county in which Sunday hunting is proposed shall give notice  
 210 to the public of the election by publication of the notice as a  
 211 Class II-0 legal advertisement in compliance with the  
 212 provisions of article three, chapter fifty-nine of this code and  
 213 the publication area for the publication is the county in which  
 214 the election is to be held. The date of the last publication of  
 215 the notice shall fall on a date within the period of the fourteen  
 216 consecutive days next preceding the election.

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

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

221  Yes  No

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

223 Any local option election to approve or disapprove of the  
 224 proposed authorization of Sunday hunting within a county  
 225 shall be in accordance with procedures adopted by the  
 226 commission. The local option election may be held in  
 227 conjunction with a primary or general election or at a special

228 election. Approval shall be by a majority of the voters  
229 casting votes on the question of approval or disapproval of  
230 Sunday hunting at the election.

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

247 providing any penalty, disability, restriction, regulation or  
248 prohibition of Sunday hunting may be enacted and the  
249 provisions of this article preempt all regulations, rules,  
250 ordinances and laws of any county or municipality in conflict  
251 with this subdivision.

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

NOTE: The purpose of this bill is to make it lawful to hunt coyotes with a green colored light.

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