

1 plainly visible to him or her;

2 (2) Dig out, cut out or smoke out, or in any manner take or
3 attempt to take, any live wild animal or wild bird out of its den
4 or place of refuge except as may be authorized by rules promulgated
5 by the director or by law;

6 (3) Make use of, or take advantage of, any artificial light in
7 hunting, locating, attracting, taking, trapping or killing any wild
8 bird or wild animal, or to attempt to do so, while having in his or
9 her possession or subject to his or her control, or for any person
10 accompanying him or her to have in his or her possession or subject
11 to his or her control, any firearm, whether cased or uncased, bow,
12 arrow, or both, or other implement or device suitable for taking,
13 killing or trapping a wild bird or animal: *Provided*, That it is
14 lawful to hunt or take coyote, fox, raccoon, opossum or skunk by
15 the use of artificial light subject to the restrictions set forth
16 in this subdivision. No person is guilty of a violation of this
17 subdivision merely because he or she looks for, looks at, attracts
18 or makes motionless a wild bird or wild animal with or by the use
19 of an artificial light, unless at the time he or she has in his or
20 her possession a firearm, whether cased or uncased, bow, arrow, or
21 both, or other implement or device suitable for taking, killing or
22 trapping a wild bird or wild animal, or unless the artificial light
23 (other than the head lamps of an automobile or other land

1 conveyance) is attached to, a part of or used from within or upon
2 an automobile or other land conveyance.

3 Any person violating the provisions of this subdivision is
4 guilty of a misdemeanor and, upon conviction thereof, shall for
5 each offense be fined not less than \$100 nor more than \$500 and
6 shall be confined in jail for not less than ten days nor more than
7 one hundred days;

8 (4) Hunt for, take, kill, wound or shoot at wild animals or
9 wild birds from an airplane, or other airborne conveyance, an
10 automobile, or other land conveyance, or from a motor-driven water
11 conveyance, except as authorized by rules promulgated by the
12 director;

13 (5) Take any beaver or muskrat by any means other than by
14 trap;

15 (6) Catch, capture, take or kill by seine, net, bait, trap or
16 snare or like device of any kind any wild turkey, ruffed grouse,
17 pheasant or quail;

18 (7) Destroy or attempt to destroy needlessly or willfully the
19 nest or eggs of any wild bird or have in his or her possession the
20 nest or eggs unless authorized to do so under rules promulgated by
21 or under a permit issued by the director;

22 (8) Except as provided in section six of this article, carry
23 an uncased or loaded gun in any of the woods of this state except

1 during the open firearms hunting season for wild animals and
2 nonmigratory wild birds within any county of the state unless he or
3 she has in his or her possession a permit in writing issued to him
4 or her by the director: *Provided*, That this section does not
5 prohibit hunting or taking of unprotected species of wild animals
6 and wild birds and migratory wild birds, during the open season, in
7 the open fields, open water and open marshes of the state;

8 (9) Have in his or her possession a crossbow with a nocked
9 bolt, a loaded firearm or a firearm from the magazine of which all
10 shells and cartridges have not been removed, in or on any vehicle
11 or conveyance, or its attachments, within the state, except as may
12 otherwise be provided by law or regulation. Except as hereinafter
13 provided, between five o'clock postmeridian of one day and seven
14 o'clock antemeridian, eastern standard time of the day following,
15 any unloaded firearm or crossbow, being lawfully carried in
16 accordance with the foregoing provisions, may be so carried only
17 when in a case or taken apart and securely wrapped. During the
18 period from July 1 to September 30, inclusive, of each year, the
19 foregoing requirements relative to carrying certain unloaded
20 firearms are permissible only from eight-thirty o'clock
21 postmeridian to five o'clock antemeridian, eastern standard time:
22 *Provided*, That the time periods for carrying unloaded and uncased
23 firearms are extended for one hour after the postmeridian times and

1 one hour before the antemeridian times established above if a
2 hunter is preparing to or in the process of transporting or
3 transferring the firearms to or from a hunting site, campsite, home
4 or other place of abode;

5 (10) Hunt, catch, take, kill, trap, injure or pursue with
6 firearms or other implement by which wildlife may be taken after
7 the hour of five o'clock antemeridian on Sunday on private land
8 without the written consent of the landowner any wild animals or
9 wild birds except when a big game season opens on a Monday, the
10 Sunday prior to that opening day will be closed for any taking of
11 wild animals or birds after five o'clock antemeridian on that
12 Sunday: *Provided*, That traps previously and legally set may be
13 tended after the hour of five o'clock antemeridian on Sunday and
14 the person so doing may carry only a twenty-two caliber firearm for
15 the purpose of humanely dispatching trapped animals. Any person
16 violating the provisions of this subdivision is guilty of a
17 misdemeanor and, upon conviction thereof, in addition to any fines
18 that may be imposed by this or other sections of this code, is
19 subject to a \$100 fine;

20 (11) Hunt, catch, take, kill, injure or pursue a wild animal
21 or bird with the use of a ferret;

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

1 (13) Catch, take, kill or attempt to catch, take or kill any
2 fish at any time by any means other than by rod, line and hooks
3 with natural or artificial lures unless otherwise authorized by law
4 or rules issued by the director: *Provided*, That snaring of any
5 species of suckers, carp, fallfish and creek chubs shall at all
6 times be lawful;

7 (14) Employ or hire, or induce or persuade, by the use of
8 money or other things of value, or by any means, any person to
9 hunt, take, catch or kill any wild animal or wild bird except those
10 species on which there is no closed season, or to fish for, catch,
11 take or kill any fish, amphibian or aquatic life which is protected
12 by the provisions of this chapter or rules of the director or the
13 sale of which is prohibited;

14 (15) Hunt, catch, take, kill, capture, pursue, transport,
15 possess or use any migratory game or nongame birds included in the
16 terms of conventions between the United States and Great Britain
17 and between the United States and United Mexican States for the
18 protection of migratory birds and wild mammals concluded,
19 respectively, August 16, 1916, and February 7, 1936, except during
20 the time and in the manner and numbers prescribed by the federal
21 Migratory Bird Treaty Act, 16 U.S.C. §703, et seq., and regulations
22 made thereunder;

23 (16) Kill, take, catch or have in his or her possession,

1 living or dead, any wild bird other than a game bird; or expose for
2 sale or transport within or without the state any bird except as
3 aforesaid. No part of the plumage, skin or body of any protected
4 bird may be sold or had in possession for sale except mounted or
5 stuffed plumage, skin, bodies or heads of the birds legally taken
6 and stuffed or mounted, irrespective of whether the bird was
7 captured within or without this state, except the English or
8 European sparrow (*passer domesticus*), starling (*sturnus vulgaris*)
9 and cowbird (*molothrus ater*), which may not be protected and the
10 killing thereof at any time is lawful;

11 (17) Use dynamite or any like explosive or poisonous mixture
12 placed in any waters of the state for the purpose of killing or
13 taking fish. Any person violating the provisions of this
14 subdivision is guilty of a felony and, upon conviction thereof,
15 shall be fined not more than \$500 or imprisoned for not less than
16 six months nor more than three years, or both fined and imprisoned;

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

19 (19) Have a crossbow in the woods or fields or use a crossbow
20 to hunt for, take or attempt to take any wildlife except as
21 otherwise provided in section 42w of this article;

22 (20) Take or attempt to take turkey, bear, elk or deer with
23 any arrow unless the arrow is equipped with a point having at least

1 two sharp cutting edges measuring in excess of three fourths of an
2 inch wide;

3 (21) Take or attempt to take any wildlife with an arrow having
4 an explosive head or shaft, a poisoned arrow or an arrow which
5 would affect wildlife by any chemical action;

6 (22) Shoot an arrow across any public highway or from
7 aircraft, motor-driven watercraft, motor vehicle or other land
8 conveyance;

9 (23) Permit any dog owned by him or her or under his or her
10 control to chase, pursue or follow upon the track of any wild
11 animal or wild bird, either day or night, between May 1 and the
12 August 15 next following: *Provided*, That dogs may be trained on
13 wild animals and wild birds, except deer and wild turkeys, and
14 field trials may be held or conducted on the grounds or lands of
15 the owner or by his or her bona fide tenant or tenants or upon the
16 grounds or lands of another person with his or her written
17 permission or on public lands at any time: *Provided, however*, That
18 nonresidents may not train dogs in this state at any time except
19 during the legal small game hunting season: *Provided further*, That
20 the person training said dogs does not have firearms or other
21 implements in his or her possession during the closed season on
22 wild animals and wild birds, whereby wild animals or wild birds
23 could be taken or killed;

1 (24) Conduct or participate in a field trial, shoot-to-
2 retrieve field trial, water race or wild hunt hereafter referred to
3 as trial: *Provided*, That any person, group of persons, club or
4 organization may hold the trial at any time of the year upon
5 obtaining a permit as is provided in section fifty-six of this
6 article. The person responsible for obtaining the permit shall
7 prepare and keep an accurate record of the names and addresses of
8 all persons participating in said trial and make same readily
9 available for inspection by any natural resources police officer
10 upon request;

11 (25) Except as provided in section four of this article, hunt,
12 catch, take, kill or attempt to hunt, catch, take or kill any wild
13 animal, wild bird or wild fowl except during the open season
14 established by rule of the director as authorized by subdivision
15 (6), section seven, article one of this chapter;

16 (26) Hunting on public lands on Sunday after five o'clock
17 antemeridian is prohibited;

18 (27) Hunt, catch, take, kill, trap, injure or pursue with
19 firearms or other implement which wildlife can be taken, on private
20 lands on Sunday after the hour of five o'clock antemeridian:
21 *Provided*, That the provisions of this subdivision do not apply in
22 any county until the county commission of the county holds an
23 election on the question of whether the provisions of this

1 subdivision prohibiting hunting on Sunday shall apply within the
2 county and the voters approve the allowance of hunting on Sunday in
3 the county. The election is determined by a vote of the resident
4 voters of the county in which the hunting on Sunday is proposed to
5 be authorized. The county commission of the county in which Sunday
6 hunting is proposed shall give notice to the public of the election
7 by publication of the notice as a Class II-0 legal advertisement in
8 compliance with the provisions of article three, chapter fifty-nine
9 of this code and the publication area for the publication is the
10 county in which the election is to be held. The date of the last
11 publication of the notice shall fall on a date within the period of
12 the fourteen consecutive days next preceding the election.

13 On the local option election ballot shall be printed one of
14 the following:

15 Shall hunting on Sunday be authorized in _____ County?
16 [] Yes [] No

17 (Place a cross mark in the square opposite your choice.); or
18 Shall hunting on Sunday upon private lands with the written
19 consent of the landowner be authorized in _____ County?
20 [] Yes [] No

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

22 Any local option election to approve or disapprove of the
23 proposed authorization of Sunday hunting within a county shall be

1 in accordance with procedures adopted by the commission. The local
2 option election may be held in conjunction with a primary or
3 general election or at a special election. Approval shall be by a
4 majority of the voters casting votes on the question of approval or
5 disapproval of Sunday hunting at the election.

6 If a majority votes against allowing Sunday hunting, no
7 election on the issue may be held for a period of one hundred four
8 weeks. If a majority votes "yes," no election reconsidering the
9 action may be held for a period of five years. A local option
10 election may thereafter be held if a written petition of qualified
11 voters residing within the county equal to at least five percent of
12 the number of persons who were registered to vote in the next
13 preceding general election is received by the county commission of
14 the county in which Sunday hunting is authorized. The petition may
15 be in any number of counterparts. The election shall take place at
16 the next primary or general election scheduled more than ninety
17 days following receipt by the county commission of the petition
18 required by this subsection: *Provided*, That the issue may not be
19 placed on the ballot until all statutory notice requirements have
20 been met. No local law or regulation providing any penalty,
21 disability, restriction, regulation or prohibition of Sunday
22 hunting may be enacted and the provisions of this article preempt
23 all regulations, rules, ordinances and laws of any county or

1 municipality in conflict with this subdivision; and

2 (28) Hunt or conduct hunts for a fee where the hunter is not
3 physically present in the same location as the wildlife being
4 hunted within West Virginia.

NOTE: The purpose of this bill is to allow county commissions the option of putting before the voters of the county the question of whether Sunday hunting should be permitted on private lands in the county with the written consent of the landowner.

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