

# WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

**ENROLLED**

**Committee Substitute**

**for**

**Committee Substitute**

**for**

**Senate Bill 345**

SENATORS MAYNARD, JEFFRIES, MULLINS, TAKUBO,

CLINE, WELD AND MARONEY, *original sponsors*

[Passed April 7, 2017; in effect 90 days from passage]



1 AN ACT to repeal §20-2-19a of the Code of West Virginia, 1931, as amended; and to amend and  
2 reenact §20-2-5, §20-2-42g and §20-2-42h of said code, all relating to hunting; repealing  
3 limitations on trappers on Sundays; eliminating local option election regarding hunting on  
4 Sunday on private land; permitting hunting on Sunday on private land; clarifying hunting  
5 on Sunday on public lands is unlawful; and superseding ballot measures relating to  
6 Sunday hunting that have passed or failed prior to the effective date of the amendments.

*Be it enacted by the Legislature of West Virginia:*

1 That §20-2-19a of the Code of West Virginia, 1931, as amended, be repealed; and that  
2 §20-2-5, §20-2-42g and §20-2-42h of said code be amended and reenacted, all to read as follows:

**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;

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

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

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

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

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

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

24 (9) Carry an uncased or loaded firearm in the woods of this state with the following  
25 permissible exceptions:

26 (A) A person in possession of a valid license or permit during open firearms hunting  
27 season for wild animals and nonmigratory wild birds;

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

31 (C) A person carrying a firearm pursuant to sections six and six-a of this article; or

32 (D) A person carrying a firearm for self-defense who is not prohibited from possessing  
33 firearms by section seven, article seven, chapter sixty-one of this code;

34 (10) Have in his or her possession a crossbow with a nocked bolt, or a rifle or shotgun  
35 with cartridges that have not been removed or a magazine that has not been detached, in or on  
36 any vehicle or conveyance, or its attachments. For the purposes of this section, a rifle or shotgun  
37 whose magazine readily detaches is considered unloaded if the magazine is detached and no  
38 cartridges remain in the rifle or shotgun itself. Except that between five o'clock post meridian of  
39 day one and seven o'clock ante meridian, Eastern Standard Time, of the following day, any  
40 unloaded firearm or crossbow may be carried only when in a case or taken apart and securely  
41 wrapped. During the period from July 1 to September 30, inclusive, of each year, the requirements

42 relative to carrying unloaded firearms are permissible only from eight-thirty o'clock post meridian  
43 to five o'clock ante meridian, Eastern Standard Time: *Provided*, That the time periods for carrying  
44 unloaded and uncased firearms are extended for one hour after the post meridian times and one  
45 hour before the ante meridian times established in this subdivision, if a person is transporting or  
46 transferring the firearms to or from a hunting site, campsite, home or other abode;

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

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

50 (13) Catch, take, kill or attempt to catch, take or kill any fish by any means other than by  
51 rod, line and hooks with natural or artificial lures: *Provided*, That snaring of any species of suckers,  
52 carp, fallfish and creek chubs is lawful;

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

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

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

65 (17) Use dynamite, explosives or any poison in any waters of the state for the purpose of  
66 killing or taking fish. Any person violating this subdivision is guilty of a felony and, upon conviction

67 thereof, shall be fined not more than \$500 or imprisoned for not less than six months nor more  
68 than three years, or both fined and imprisoned;

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

71 (19) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take or attempt  
72 to take any wildlife except as otherwise provided in sections five-g and forty-two-w of this article;

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

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

78 (22) Shoot an arrow across any public highway;

79 (23) Permit any dog owned or under his or her control to chase, pursue or follow the tracks  
80 of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That dogs  
81 may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may  
82 be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or  
83 upon the grounds or lands of another person with his or her written permission, or on public lands  
84 at any time. Nonresidents may not train dogs in this state at any time except during the legal small  
85 game hunting season. A person training dogs may not have firearms or other implements in his  
86 or her possession during the closed season on wild animals and wild birds;

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

93 (25) Hunt, catch, take, kill or attempt to hunt, catch, take or kill any wild animal, wild bird  
94 or wild fowl except during open seasons;

95 (26) Hunt on public lands on Sunday after five o'clock ante meridian; and

96 (27) Hunt or conduct hunts for a fee when the person is not physically present in the same  
97 location as the wildlife being hunted within West Virginia.

98 (b) Notwithstanding any ballot measure relating to Sunday hunting, it is lawful to hunt  
99 throughout the State of West Virginia on private lands on Sundays after the hour of five o'clock  
100 ante meridian with the written consent of the private landowner pursuant to section seven, article  
101 two of this chapter.

**§20-2-42g. Class H nonresident small game hunting license.**

1 A Class H license is a nonresident small game hunting license and entitles the licensee to  
2 hunt small game in all counties of the state, except as prohibited by rules of the director or Natural  
3 Resources Commission and except when additional licenses, stamps or permits are required, for  
4 a period of six consecutive hunting days chosen by the licensee. The fee for the license is \$25.  
5 This is a base license and does not require the purchase of a prerequisite license to participate  
6 in the activities specified in this section, except as noted.

**§20-2-42h. Class J nonresident small game shooting preserve license.**

1 A Class J license is a nonresident small game shooting preserve license and entitles the  
2 licensee to hunt small game on designated shooting preserves, except as prohibited by rules of  
3 the director or Natural Resources Commission and except when additional licenses, stamps or  
4 permits are required, for a period of six consecutive hunting days chosen by the licensee. The fee  
5 for the license is \$10. This is a base license and does not require the purchase of a prerequisite  
6 license to participate in the activities specified in this section, except as noted.



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

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2017.

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*Governor*