

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 451

BY SENATORS MAYNARD, CLEMENTS, FERNS, GAUNCH,
MARONEY, RUCKER, SMITH, SWOPE, WELD, AND CLINE

[Introduced February 1, 2018; Referred
to the Committee on Natural Resources; and then to the
Committee on the Judiciary]

1 A BILL to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating
2 to permitting Sunday hunting on public lands.

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
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 10 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 §61-7-7 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
52 suckers, 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
64 may 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
80 tracks of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That
81 dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials
82 may be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant,
83 or upon the grounds or lands of another person with his or her written permission, or on public
84 lands at any time. Nonresidents may not train dogs in this state at any time except during the legal
85 small game hunting season. A person training dogs may not have firearms or other implements
86 in his 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; and

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

96 ~~(27)~~ (26) Hunt or conduct hunts for a fee when the person is not physically present in the
97 same 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 and it is lawful to hunt throughout the State of West Virginia on public lands on
102 Sundays.

NOTE: The purpose of this bill is to permit Sunday hunting on public lands

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