

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2117

By Delegate McGeehan

[Introduced January 11, 2023; Referred to the
Committee on Agriculture and 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 the hunting of coyotes; permitting year-round hunting of coyotes using artificial light or night vision technology and permitting hunting of coyotes at any hour.

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.

(a) Except as authorized by the director or by law, it is unlawful at any time for any person to:

(1) Shoot at any wild bird or wild animal unless it is plainly visible;

(2) Dig out, cut out, smoke out, or in any manner take or attempt to take any live wild animal or wild bird out of its den or place of refuge;

(3) Use or attempt to use any artificial light or any night vision technology, including image intensification, thermal imaging, or active illumination while hunting, locating, attracting, taking, trapping, or killing any wild bird or wild animal: *Provided*, That it is lawful to hunt or take coyote, fox, raccoon, opossum, or skunk by the use of artificial light or night vision technology, including image intensification, thermal imaging, or active illumination: *Provided, however, That notwithstanding any provision of this code or agency rule to the contrary, it is lawful to hunt or take coyote by the use of artificial light or night vision technology at any hour and at all times throughout the year.* Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not less than \$100 nor more than \$500, and shall be confined in jail for not less than 10 days nor more than 100 days;

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

5) Use a drone or other unmanned aircraft to hunt, take, wound, harass, transport, or kill (a wild bird or wild animal, or to use a drone or other unmanned aircraft to drive or herd any wild bird

or wild animal for the purposes of hunting, trapping, or killing;

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

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

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

(9) Carry an uncased or loaded firearm in the woods of this state or in state parks, state forests, state wildlife management areas, or state rail trails with the following permissible exceptions:

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

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

(C) A person carrying a firearm pursuant to §20-2-6 of this code;

(D) A person carrying a firearm for self-defense who is not prohibited from possessing firearms under state or federal law; or

(E) A person carrying a rifle or shotgun for self-defense who is not prohibited from possessing firearms under state or federal law: *Provided*, That this exception does not apply to an uncased rifle or shotgun carried specifically in state park or state forest recreational facilities and marked trails within state park or state forest borders.

(10) Possess a loaded rifle or shotgun, a bow with a nocked arrow, or crossbow with a nocked bolt, in or on any vehicle or conveyance, or its attachments. A rifle or shotgun with cartridges that have not been removed or a magazine that has not been detached is considered loaded. For the purposes of this section, a rifle or shotgun whose magazine readily detaches is considered unloaded if the magazine is detached and no cartridges remain in the rifle or shotgun

47 itself;

48 (11) Carry any unloaded firearm, bow, or crossbow in or on any vehicle or conveyance, or
49 its attachments, that is not in a case or taken apart and securely wrapped between 30 minutes
50 after sunset until 30 minutes before sunrise: *Provided*, That the time periods for carrying unloaded
51 and uncased firearms or crossbows are extended for one hour after sunset as established in this
52 subdivision, if a person is transporting or transferring the firearms or crossbows to or from a
53 hunting site, campsite, home, or other abode;

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

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

57 (14) Catch, take, kill, or attempt to catch, take, or kill any fish by any means other than by
58 rod, line, and hooks with natural or artificial lures, unless otherwise authorized by the director:
59 *Provided*, That snaring of any species of sucker, carp, fallfish, and creek chub and catching catfish
60 by hand are lawful if done by a holder of a valid license issued pursuant to §20-2-1 *et seq.* of this
61 code or is exempted from licensure pursuant to §20-2-27 or §20-2-28 of this code;

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

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

69 (17) Kill, take, catch, sell, transport, or have in his or her possession, living or dead, any
70 wild bird other than a game bird, including the plumage, skin, or body of any protected bird,
71 irrespective of whether the bird was captured in or out of this state, except the English or European
72 sparrow (*Passer domesticus*), starling (*Sturnus vulgaris*), and cowbird (*Molothrus ater*), which

73 may be killed at any time;

74 (18) Use dynamite, explosives, or any poison in any waters of the state for the purpose of
75 killing or taking fish. Any person violating this subdivision is guilty of a felony and, upon conviction
76 thereof, shall be fined not more than \$500 or confined for not less than six months nor more than
77 three years, or both fined and confined;

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

80 (20) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take, or attempt
81 to take any wildlife except as otherwise provided in §20-2-5g and §20-2-42w of this code;

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

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

87 (23) Shoot an arrow across any public highway;

88 (24) Permit any dog owned or under his or her control to chase, pursue, or follow the tracks
89 of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That dogs
90 may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be
91 held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or upon
92 the grounds or lands of another person with his or her written permission, or on public lands at any
93 time. Nonresidents may not train dogs in this state at any time except during the legal small game
94 hunting season. A person training dogs may not have firearms or other implements for taking
95 wildlife in his or her possession during the closed season on wild animals and wild birds, except a
96 person carrying a firearm for self-defense who is not prohibited from possessing firearms under
97 state or federal law;

98 (25) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water

99 race, or wild hunt: *Provided*, That any person, group of persons, club, or organization may hold a
100 trial upon obtaining a permit pursuant to §20-2-56 of this code. The person responsible for
101 obtaining the permit shall prepare and keep an accurate record of the names and addresses of all
102 persons participating in the trial and make the records readily available for inspection by any
103 natural resources police officer upon request;

104 (26) Hunt, catch, take, kill, or attempt to hunt, catch, take, or kill any wild animal, wild bird,
105 or wild fowl except during open seasons;

106 (27) Hunt or conduct hunts for a fee when the person is not physically present in the same
107 location as the wildlife being hunted within West Virginia; and

108 (28) Catch, take, kill, or attempt to catch, take, or kill any fish by any means within 200 feet
109 of division personnel engaged in stocking fish in public waters.

110 (b) Notwithstanding any ballot measure relating to Sunday hunting, it is lawful to hunt
111 throughout the State of West Virginia on private lands on Sundays with the written consent of the
112 private landowner pursuant to §20-2-7 of this code, and it is lawful to hunt throughout the State of
113 West Virginia on federal land where hunting is permitted, in state forests, on land owned or leased
114 by the state for wildlife purposes, and on land managed by the state for wildlife purposes pursuant
115 to a cooperative agreement.

116 (3) Use or attempt to use any artificial light or any night vision technology, including image
117 intensification, thermal imaging or active illumination while hunting, locating, attracting, taking,
118 trapping or killing any wild bird or wild animal; *Provided*, That it is lawful to hunt or take coyote, fox,
119 raccoon, opossum or skunk by the use of artificial light or night vision technology: *Provided,*
120 *however, That notwithstanding any provision of this code or agency rule to the contrary, it is lawful*
121 *to hunt or take coyote by the use of artificial light or night vision technology at any hour and at all*
122 *times throughout the year.* Any person violating this subdivision is guilty of a misdemeanor and,
123 upon conviction thereof, shall for each offense be fined not less than \$100 nor more than \$500,
124 and shall be confined in jail for not less than 10 days nor more than 100 days;

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

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

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

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

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

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

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

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

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

(D) A person carrying a firearm for self-defense who is not prohibited from possessing firearms by §61-7-7 of this code;

(10) Have in his or her possession a crossbow with a nocked bolt, or a rifle or shotgun with cartridges that have not been removed or a magazine that has not been detached, in or on any vehicle or conveyance, or its attachments. For the purposes of this section, a rifle or shotgun whose magazine readily detaches is considered unloaded if the magazine is detached and no cartridges remain in the rifle or shotgun itself. Except that between five o'clock post meridian of day

one and seven o'clock ante meridian, Eastern Standard Time, of the following day, any unloaded firearm or crossbow may be carried only when in a case or taken apart and securely wrapped. During the period from July 1 to September 30, inclusive, of each year, the requirements relative to carrying unloaded firearms are permissible only from eight-thirty o'clock post meridian to five o'clock ante meridian, Eastern Standard Time: *Provided*, That the time periods for carrying unloaded and uncased firearms are extended for one hour after the post meridian times and one hour before the ante meridian times established in this subdivision, if a person is transporting or transferring the firearms to or from a hunting site, campsite, home or other abode;

(11) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which wildlife may be taken after the hour of five o'clock ante meridian on Sunday on private land without the written consent of the landowner any wild animals or wild birds except when a big game season opens on a Monday, the Sunday prior to that opening day will be closed for any taking of wild animals or birds after five o'clock ante meridian on that Sunday: *Provided*, That traps previously and legally set may be tended after the hour of five o'clock ante meridian on Sunday and the person tending the traps may carry firearms for the purpose of humanely dispatching trapped animals. Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, in addition to any fines that may be imposed by this or other sections of this code, is subject to a \$100 fine;

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

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

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

(15) Employ, hire, induce or persuade, with money, things of value or by any means, any person to hunt, take, catch or kill any wild animal or wild bird except those species in which there is no closed season; or to fish for, catch, take or kill any fish, amphibian or aquatic life that is

177 protected by rule, or the sale of which is otherwise prohibited;

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

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

186 (18) Use dynamite, explosives or any poison in any waters of the state for the purpose of
187 killing or taking fish. Any person violating this subdivision is guilty of a felony and, upon conviction
188 thereof, shall be fined not more than \$500 or imprisoned for not less than six months nor more than
189 three years, or both fined and imprisoned;

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

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

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

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

199 (23) Shoot an arrow across any public highway;

200 (24) Permit any dog owned or under his or her control to chase, pursue or follow the tracks
201 of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That dogs
202 may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be

held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or upon the grounds or lands of another person with his or her written permission, or on public lands at any time. Nonresidents may not train dogs in this state at any time except during the legal small game hunting season. A person training dogs may not have firearms or other implements in his or her possession during the closed season on wild animals and wild birds;

(25) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water race or wild hunt: *Provided*, That any person, group of persons, club or organization may hold a trial upon obtaining a permit pursuant to §20-2-56 of this code. The person responsible for obtaining the permit shall prepare and keep an accurate record of the names and addresses of all persons participating in the trial and make the records readily available for inspection by any natural resources police officer upon request;

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

(27) Hunting on public lands on Sunday after five o'clock ante meridian is prohibited;

(28) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement which wildlife can be taken, on private lands on Sunday after the hour of five o'clock ante meridian: *Provided*, That the provisions of this subdivision do not apply in any county until the county commission of the county holds an election on the question of whether the provisions of this subdivision prohibiting hunting on Sunday shall apply within the county and the voters approve the allowance of hunting on Sunday in the county. The election is determined by a vote of the resident voters of the county in which the hunting on Sunday is proposed to be authorized. The county commission of the county in which Sunday hunting is proposed shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* this code and the publication area for the publication is the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the 14 consecutive days next preceding the election.

229 On the local option election ballot shall be printed the following:

230 Shall hunting on Sunday be authorized on private lands only with the consent of the land
231 owner in _____ County?

232 ☐ Yes

233 ☐ No

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

235 Any local option election to approve or disapprove of the proposed authorization of Sunday
236 hunting within a county shall be in accordance with procedures adopted by the commission. The
237 local option election may be held in conjunction with a primary or general election or at a special
238 election. Approval shall be by a majority of the voters casting votes on the question of approval or
239 disapproval of Sunday hunting at the election.

240 If a majority votes against allowing Sunday hunting, an election on the issue may not be
241 held for a period of one hundred four weeks. If a majority votes "yes", an election reconsidering the
242 action may not be held for a period of five years. A local option election may thereafter be held if a
243 written petition of qualified voters residing within the county equal to at least five percent of the
244 number of persons who were registered to vote in the next preceding general election is received
245 by the county commission of the county in which Sunday hunting is authorized. The petition may
246 be in any number of counterparts. The election shall take place at the next primary or general
247 election scheduled more than 90 days following receipt by the county commission of the petition
248 required by this subsection: *Provided*, That the issue may not be placed on the ballot until all
249 statutory notice requirements have been met. No local law or regulation providing any penalty,
250 disability, restriction, regulation or prohibition of Sunday hunting may be enacted and the
251 provisions of this article preempt all regulations, rules, ordinances and laws of any county or
252 municipality in conflict with this subdivision.

253 Amendments to this subdivision promulgated during the 2015 regular session of the
254 Legislature shall have no effect upon the results of elections held prior to their enactment; and

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

NOTE: The purpose of this bill is to permit year-round hunting of coyotes using artificial light or night vision technology and to permit hunting of coyotes at any hour.

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