



Filed: 3/9/2010

09600HB5799ham001

LRB096 19043 JDS 38275 a

1 AMENDMENT TO HOUSE BILL 5799

2 AMENDMENT NO. _____. Amend House Bill 5799 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Wildlife Code is amended by changing
5 Sections 2.33 and 3.5 as follows:

6 (520 ILCS 5/2.33) (from Ch. 61, par. 2.33)

7 Sec. 2.33. Prohibitions.

8 (a) It is unlawful to carry or possess any gun in any State
9 refuge unless otherwise permitted by administrative rule.

10 (b) It is unlawful to use or possess any snare or
11 snare-like device, deadfall, net, or pit trap to take any
12 species, except that snares not powered by springs or other
13 mechanical devices may be used to trap fur-bearing mammals, in
14 water sets only, if at least one-half of the snare noose is
15 located underwater at all times.

16 (c) It is unlawful for any person at any time to take a

1 wild mammal protected by this Act from its den by means of any
2 mechanical device, spade, or digging device or to use smoke or
3 other gases to dislodge or remove such mammal except as
4 provided in Section 2.37.

5 (d) It is unlawful to use a ferret or any other small
6 mammal which is used in the same or similar manner for which
7 ferrets are used for the purpose of frightening or driving any
8 mammals from their dens or hiding places.

9 (e) (Blank).

10 (f) It is unlawful to use spears, gigs, hooks or any like
11 device to take any species protected by this Act.

12 (g) It is unlawful to use poisons, chemicals or explosives
13 for the purpose of taking any species protected by this Act.

14 (h) It is unlawful to hunt adjacent to or near any peat,
15 grass, brush or other inflammable substance when it is burning.

16 (i) It is unlawful to take, pursue or intentionally harass
17 or disturb in any manner any wild birds or mammals by use or
18 aid of any vehicle or conveyance, except as permitted by the
19 Code of Federal Regulations for the taking of waterfowl. It is
20 also unlawful to use the lights of any vehicle or conveyance or
21 any light from or any light connected to the vehicle or
22 conveyance in any area where wildlife may be found except in
23 accordance with Section 2.37 of this Act; however, nothing in
24 this Section shall prohibit the normal use of headlamps for the
25 purpose of driving upon a roadway. Striped skunk, opossum, red
26 fox, gray fox, raccoon and coyote may be taken during the open

1 season by use of a small light which is worn on the body or
2 hand-held by a person on foot and not in any vehicle.

3 (j) It is unlawful to use any shotgun larger than 10 gauge
4 while taking or attempting to take any of the species protected
5 by this Act.

6 (k) It is unlawful to use or possess in the field any
7 shotgun shell loaded with a shot size larger than lead BB or
8 steel T (.20 diameter) when taking or attempting to take any
9 species of wild game mammals (excluding white-tailed deer),
10 wild game birds, migratory waterfowl or migratory game birds
11 protected by this Act, except white-tailed deer as provided for
12 in Section 2.26 and other species as provided for by subsection
13 (l) or administrative rule.

14 (l) It is unlawful to take any species of wild game, except
15 white-tailed deer, with a shotgun loaded with slugs unless
16 otherwise provided for by administrative rule.

17 (m) It is unlawful to use any shotgun capable of holding
18 more than 3 shells in the magazine or chamber combined, except
19 on game breeding and hunting preserve areas licensed under
20 Section 3.27 and except as permitted by the Code of Federal
21 Regulations for the taking of waterfowl. If the shotgun is
22 capable of holding more than 3 shells, it shall, while being
23 used on an area other than a game breeding and shooting
24 preserve area licensed pursuant to Section 3.27, be fitted with
25 a one piece plug that is irremovable without dismantling the
26 shotgun or otherwise altered to render it incapable of holding

1 more than 3 shells in the magazine and chamber, combined.

2 (n) It is unlawful for any person, except persons who
3 possess a permit to hunt from a vehicle as provided in this
4 Section and persons otherwise permitted by law, to have or
5 carry any gun in or on any vehicle, conveyance or aircraft,
6 unless such gun is unloaded and enclosed in a case, except that
7 at field trials authorized by Section 2.34 of this Act,
8 unloaded guns or guns loaded with blank cartridges only, may be
9 carried on horseback while not contained in a case, or to have
10 or carry any bow or arrow device in or on any vehicle unless
11 such bow or arrow device is unstrung or enclosed in a case, or
12 otherwise made inoperable.

13 (o) It is unlawful to use any crossbow for the purpose of
14 taking any wild birds or mammals, except as provided for in
15 Section 2.33.

16 (p) It is unlawful to take game birds, migratory game birds
17 or migratory waterfowl with a rifle, pistol, revolver or
18 airgun.

19 (q) It is unlawful to fire a rifle, pistol, revolver or
20 airgun on, over or into any waters of this State, including
21 frozen waters.

22 (r) It is unlawful to discharge any gun or bow and arrow
23 device along, upon, across, or from any public right-of-way or
24 highway in this State.

25 (s) It is unlawful to use a silencer or other device to
26 muffle or mute the sound of the explosion or report resulting

1 from the firing of any gun.

2 (t) It is unlawful for any person to ~~trap or~~ hunt, or
3 intentionally or wantonly allow a dog to hunt, within or upon
4 the land of another, or upon waters flowing over or standing on
5 the land of another, without first obtaining permission from
6 the owner or tenant. It shall be prima facie evidence that a
7 person does not have permission of the owner or tenant if the
8 person is unable to demonstrate to the law enforcement officer
9 in the field that permission had been obtained. This provision
10 may only be rebutted by testimony of the owner or tenant that
11 permission had been given. Before enforcing this Section the
12 law enforcement officer must have received notice from the
13 owner or tenant of a violation of this Section. Statements made
14 to the law enforcement officer regarding this notice shall not
15 be rendered inadmissible by the hearsay rule when offered for
16 the purpose of showing the required notice.

17 (t-5) It is unlawful for any person to trap within or upon
18 the land of another, or upon waters flowing over or standing on
19 the land of another, without first obtaining permission from
20 the owner or tenant. It shall be prima facie evidence that a
21 person does not have permission of the owner or tenant if the
22 person was unable to demonstrate to the law enforcement officer
23 in the field that permission had been obtained. This provision
24 may only be rebutted by testimony of the owner or tenant that
25 permission had been given. Before enforcing this subsection,
26 the law enforcement officer must have received notice from the

1 owner or tenant of a violation of this subsection. Statements
2 made to the law enforcement officer regarding this notice shall
3 not be rendered inadmissible by the hearsay rule when offered
4 for the purpose of showing the required notice.

5 (u) It is unlawful for any person to discharge any firearm
6 for the purpose of taking any of the species protected by this
7 Act, or hunt with gun or dog, or intentionally or wantonly
8 allow a dog to hunt, within 300 yards of an inhabited dwelling
9 without first obtaining permission from the owner or tenant,
10 except that, while ~~trapping,~~ hunting with bow and arrow,
11 hunting with dog and shotgun using shot shells only, or hunting
12 with shotgun using shot shells only, ~~or~~ on licensed game
13 breeding and hunting preserve areas, as defined in Section
14 3.27, on property operated under a Migratory Waterfowl Hunting
15 Area Permit, on federally owned and managed lands, and on
16 Department owned, managed, leased, or controlled lands, a
17 100-yard restriction shall apply.

18 (u-5) It is unlawful for any person to trap within 100
19 yards of an inhabited dwelling without first obtaining
20 permission from the owner or tenant.

21 (v) It is unlawful for any person to remove fur-bearing
22 mammals from, or to move or disturb in any manner, the traps
23 owned by another person without written authorization of the
24 owner to do so.

25 (w) It is unlawful for any owner of a dog to knowingly or
26 wantonly allow his or her dog to pursue, harass or kill deer,

1 except that nothing in this Section shall prohibit the tracking
2 of wounded deer with a dog in accordance with the provisions of
3 Section 2.26 of this Code.

4 (x) It is unlawful for any person to wantonly or carelessly
5 injure or destroy, in any manner whatsoever, any real or
6 personal property on the land of another while engaged in
7 hunting or trapping thereon.

8 (y) It is unlawful to hunt wild game protected by this Act
9 between one half hour after sunset and one half hour before
10 sunrise, except that hunting hours between one half hour after
11 sunset and one half hour before sunrise may be established by
12 administrative rule for fur-bearing mammals.

13 (z) It is unlawful to take any game bird (excluding wild
14 turkeys and crippled pheasants not capable of normal flight and
15 otherwise irretrievable) protected by this Act when not flying.
16 Nothing in this Section shall prohibit a person from carrying
17 an uncased, unloaded shotgun in a boat, while in pursuit of a
18 crippled migratory waterfowl that is incapable of normal
19 flight, for the purpose of attempting to reduce the migratory
20 waterfowl to possession, provided that the attempt is made
21 immediately upon downing the migratory waterfowl and is done
22 within 400 yards of the blind from which the migratory
23 waterfowl was downed. This exception shall apply only to
24 migratory game birds that are not capable of normal flight.
25 Migratory waterfowl that are crippled may be taken only with a
26 shotgun as regulated by subsection (j) of this Section using

1 shotgun shells as regulated in subsection (k) of this Section.

2 (aa) It is unlawful to use or possess any device that may
3 be used for tree climbing or cutting, while hunting fur-bearing
4 mammals, excluding coyotes.

5 (bb) It is unlawful for any person, except licensed game
6 breeders, pursuant to Section 2.29 to import, carry into, or
7 possess alive in this State any species of wildlife taken
8 outside of this State, without obtaining permission to do so
9 from the Director.

10 (cc) It is unlawful for any person to have in his or her
11 possession any freshly killed species protected by this Act
12 during the season closed for taking.

13 (dd) It is unlawful to take any species protected by this
14 Act and retain it alive except as provided by administrative
15 rule.

16 (ee) It is unlawful to possess any rifle while in the field
17 during gun deer season except as provided in Section 2.26 and
18 administrative rules.

19 (ff) It is unlawful for any person to take any species
20 protected by this Act, except migratory waterfowl, during the
21 gun deer hunting season in those counties open to gun deer
22 hunting, unless he or she wears, when in the field, a cap and
23 upper outer garment of a solid blaze orange color, with such
24 articles of clothing displaying a minimum of 400 square inches
25 of blaze orange material.

26 (gg) It is unlawful during the upland game season for any

1 person to take upland game with a firearm unless he or she
2 wears, while in the field, a cap of solid blaze orange color.
3 For purposes of this Act, upland game is defined as Bobwhite
4 Quail, Hungarian Partridge, Ring-necked Pheasant, Eastern
5 Cottontail and Swamp Rabbit.

6 (hh) It shall be unlawful to kill or cripple any species
7 protected by this Act for which there is a daily bag limit
8 without making a reasonable effort to retrieve such species and
9 include such in the daily bag limit.

10 (ii) This Section shall apply only to those species
11 protected by this Act taken within the State. Any species or
12 any parts thereof, legally taken in and transported from other
13 states or countries, may be possessed within the State, except
14 as provided in this Section and Sections 2.35, 2.36 and 3.21.

15 (jj) Nothing contained in this Section shall prohibit the
16 use of bow and arrow, prohibit the use of a crossbow by persons
17 age 62 or older, or prevent the Director from issuing permits
18 to use a crossbow to handicapped persons as provided by
19 administrative rule. As used herein, "handicapped persons"
20 means those persons who have a permanent physical impairment
21 due to injury or disease, congenital or acquired, which renders
22 them so severely disabled as to be unable to use a conventional
23 bow and arrow device. Permits will be issued only after the
24 receipt of a physician's statement confirming the applicant is
25 handicapped as defined above.

26 (kk) Nothing contained in this Section shall prohibit the

1 Director from issuing permits to paraplegics or to other
2 disabled persons who meet the requirements set forth in
3 administrative rule to shoot or hunt from a vehicle as provided
4 by that rule, provided that such is otherwise in accord with
5 this Act.

6 (ll) Nothing contained in this Act shall prohibit the
7 taking of aquatic life protected by the Fish and Aquatic Life
8 Code or birds and mammals protected by this Act, except deer
9 and fur-bearing mammals, from a boat not camouflaged or
10 disguised to alter its identity or to further provide a place
11 of concealment and not propelled by sail or mechanical power.
12 However, only shotguns not larger than 10 gauge nor smaller
13 than .410 bore loaded with not more than 3 shells of a shot
14 size no larger than lead BB or steel T (.20 diameter) may be
15 used to take species protected by this Act.

16 (mm) Nothing contained in this Act shall prohibit the use
17 of a shotgun, not larger than 10 gauge nor smaller than a 20
18 gauge, with a rifled barrel.

19 (Source: P.A. 95-196, eff. 1-1-08; 95-329, eff. 8-21-07;
20 95-876, eff. 8-21-08; 96-390, eff. 8-13-09.)

21 (520 ILCS 5/3.5) (from Ch. 61, par. 3.5)

22 Sec. 3.5. Penalties; probation.

23 (a) Any person who violates any of the provisions of
24 Section 2.36a, including administrative rules, shall be guilty
25 of a Class 3 felony, except as otherwise provided in subsection

1 (b) of this Section and subsection (a) of Section 2.36a.

2 (b) Whenever any person who has not previously been
3 convicted of, or placed on probation or court supervision for,
4 any offense under Section 1.22, 2.36, or 2.36a or subsection
5 (i) or (cc) of Section 2.33, the court may, without entering a
6 judgment and with the person's consent, sentence the person to
7 probation for a violation of Section 2.36a.

8 (1) When a person is placed on probation, the court
9 shall enter an order specifying a period of probation of 24
10 months and shall defer further proceedings in the case
11 until the conclusion of the period or until the filing of a
12 petition alleging violation of a term or condition of
13 probation.

14 (2) The conditions of probation shall be that the
15 person:

16 (A) Not violate any criminal statute of any
17 jurisdiction.

18 (B) Perform no less than 30 hours of community
19 service, provided community service is available in
20 the jurisdiction and is funded and approved by the
21 county board.

22 (3) The court may, in addition to other conditions:

23 (A) Require that the person make a report to and
24 appear in person before or participate with the court
25 or courts, person, or social service agency as directed
26 by the court in the order of probation.

1 (B) Require that the person pay a fine and costs.

2 (C) Require that the person refrain from
3 possessing a firearm or other dangerous weapon.

4 (D) Prohibit the person from associating with any
5 person who is actively engaged in any of the activities
6 regulated by the permits issued or privileges granted
7 by the Department of Natural Resources.

8 (4) Upon violation of a term or condition of probation,
9 the court may enter a judgment on its original finding of
10 guilt and proceed as otherwise provided.

11 (5) Upon fulfillment of the terms and conditions of
12 probation, the court shall discharge the person and dismiss
13 the proceedings against the person.

14 (6) A disposition of probation is considered to be a
15 conviction for the purposes of imposing the conditions of
16 probation, for appeal, and for administrative revocation
17 and suspension of licenses and privileges; however,
18 discharge and dismissal under this Section is not a
19 conviction for purposes of disqualification or
20 disabilities imposed by law upon conviction of a crime.

21 (7) Discharge and dismissal under this Section may
22 occur only once with respect to any person.

23 (8) If a person is convicted of an offense under this
24 Act within 5 years subsequent to a discharge and dismissal
25 under this Section, the discharge and dismissal under this
26 Section shall be admissible in the sentencing proceeding

1 for that conviction as a factor in aggravation.

2 (9) The Circuit Clerk shall notify the Department of
3 State Police of all persons convicted of or placed under
4 probation for violations of Section 2.36a.

5 (c) Any person who violates any of the provisions of
6 Sections 2.9, 2.11, 2.16, 2.18, 2.24, 2.25, 2.26, 2.29, 2.30,
7 2.31 (except while trapping), 2.32, 2.33 (except subsections
8 (g), (i), (o), (p), (t-5), (u-5), (y), and (cc)), 2.33-1,
9 2.33a, 3.3, 3.4, 3.11 through 3.16, 3.19, 3.20, 3.21 (except
10 subsections (b), (c), (d), (e), (f), (f.5), (g), (h), and (i)),
11 3.24, 3.25, and 3.26 (except subsection (f)), including
12 administrative rules, shall be guilty of a Class B misdemeanor.

13 A person who violates Section 2.33b by using any computer
14 software or service to remotely control a weapon that takes
15 wildlife by remote operation is guilty of a Class B
16 misdemeanor. A person who violates Section 2.33b by
17 facilitating a violation of Section 2.33b, including an owner
18 of land in which remote control hunting occurs, a computer
19 programmer who designs a program or software to facilitate
20 remote control hunting, or a person who provides weapons or
21 equipment to facilitate remote control hunting, is guilty of a
22 Class A misdemeanor.

23 Any person who violates any of the provisions of Sections
24 1.22, 2.4, 2.36 and 2.38, including administrative rules, shall
25 be guilty of a Class A misdemeanor. Any second or subsequent
26 violations of Sections 2.4 and 2.36 shall be a Class 4 felony.

1 Any person who violates any of the provisions of this Act,
2 including administrative rules, during such period when his
3 license, privileges, or permit is revoked or denied by virtue
4 of Section 3.36, shall be guilty of a Class A misdemeanor.

5 Any person who violates subsection (g), (i), (o), (p), (y),
6 or (cc) of Section 2.33 shall be guilty of a Class A
7 misdemeanor and subject to a fine of no less than \$500 and no
8 more than \$5,000 in addition to other statutory penalties. In
9 addition, the Department shall suspend the privileges, under
10 this Act, of any person found guilty of violating Section
11 2.33(cc) for a period of not less than one year.

12 Any person who violates Section 2.31 while trapping or
13 subsection (t-5) or (u-5) of Section 2.33 shall be guilty of a
14 Class B misdemeanor. Any person who violates Section 2.31 while
15 trapping or subsection (t-5) or (u-5) of Section 2.33 and who,
16 during the commission of that offense, also kills or injures a
17 pet, sporting, or working dog shall be guilty of a Class B
18 misdemeanor for which a fine of at least \$150 must be imposed.

19 Any person who violates any other of the provisions of this
20 Act including administrative rules, unless otherwise stated,
21 shall be guilty of a petty offense. Offenses committed by
22 minors under the direct control or with the consent of a parent
23 or guardian may subject the parent or guardian to the penalties
24 prescribed in this Section.

25 In addition to any fines imposed pursuant to the provisions
26 of this Section or as otherwise provided in this Act, any

1 person found guilty of unlawfully taking or possessing any
2 species protected by this Act, shall be assessed a civil
3 penalty for such species in accordance with the values
4 prescribed in Section 2.36a of this Act. This civil penalty
5 shall be imposed by the Circuit Court for the county within
6 which the offense was committed at the time of the conviction.
7 All penalties provided for in this Section shall be remitted to
8 the Department in accordance with the same provisions provided
9 for in Section 1.18 of this Act.

10 (Source: P.A. 94-222, eff. 7-14-05; 95-13, eff. 1-1-08; 95-196,
11 eff. 1-1-08; 95-283, eff. 8-20-07; 95-876, eff. 8-21-08.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law."