

HB5859



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5859

by Rep. Bill Mitchell

SYNOPSIS AS INTRODUCED:

520 ILCS 5/2.33

from Ch. 61, par. 2.33

Amends the Wildlife Code. Changes the definition of "handicapped persons" to include those persons who have a temporary or permanent physical impairment (instead of "permanent physical impairment") due to injury or disease, congenital or acquired, which renders them so severely disabled as to be unable to use a conventional bow and arrow device. Effective immediately.

LRB095 14071 CMK 39923 b

A BILL FOR

1 AN ACT concerning wildlife.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Wildlife Code is amended by changing Section
5 2.33 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
17 wild mammal protected by this Act from its den by means of any
18 mechanical device, spade, or digging device or to use smoke or
19 other gases to dislodge or remove such mammal except as
20 provided in Section 2.37.

21 (d) It is unlawful to use a ferret or any other small
22 mammal which is used in the same or similar manner for which
23 ferrets are used for the purpose of frightening or driving any

1 mammals from their dens or hiding places.

2 (e) (Blank).

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

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

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

9 (i) It is unlawful to take, pursue or intentionally harass
10 or disturb in any manner any wild birds or mammals by use or
11 aid of any vehicle or conveyance, except as permitted by the
12 Code of Federal Regulations for the taking of waterfowl. It is
13 also unlawful to use the lights of any vehicle or conveyance or
14 any light from or any light connected to the vehicle or
15 conveyance in any area where wildlife may be found except in
16 accordance with Section 2.37 of this Act; however, nothing in
17 this Section shall prohibit the normal use of headlamps for the
18 purpose of driving upon a roadway. Striped skunk, opossum, red
19 fox, gray fox, raccoon and coyote may be taken during the open
20 season by use of a small light which is worn on the body or
21 hand-held by a person on foot and not in any vehicle.

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

25 (k) It is unlawful to use or possess in the field any
26 shotgun shell loaded with a shot size larger than lead BB or

1 steel T (.20 diameter) when taking or attempting to take any
2 species of wild game mammals (excluding white-tailed deer),
3 wild game birds, migratory waterfowl or migratory game birds
4 protected by this Act, except white-tailed deer as provided for
5 in Section 2.26 and other species as provided for by subsection
6 (l) or administrative rule.

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

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

21 (n) It is unlawful for any person, except persons who
22 possess a permit to hunt from a vehicle as provided in this
23 Section and persons otherwise permitted by law, to have or
24 carry any gun in or on any vehicle, conveyance or aircraft,
25 unless such gun is unloaded and enclosed in a case, except that
26 at field trials authorized by Section 2.34 of this Act,

1 unloaded guns or guns loaded with blank cartridges only, may be
2 carried on horseback while not contained in a case, or to have
3 or carry any bow or arrow device in or on any vehicle unless
4 such bow or arrow device is unstrung or enclosed in a case, or
5 otherwise made inoperable.

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

9 (p) It is unlawful to take game birds, migratory game birds
10 or migratory waterfowl with a rifle, pistol, revolver or
11 airgun.

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

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

18 (s) It is unlawful to use a silencer or other device to
19 muffle or mute the sound of the explosion or report resulting
20 from the firing of any gun.

21 (t) It is unlawful for any person to trap or hunt, or
22 intentionally or wantonly allow a dog to hunt, within or upon
23 the land of another, or upon waters flowing over or standing on
24 the land of another, without first obtaining permission from
25 the owner or tenant. It shall be prima facie evidence that a
26 person does not have permission of the owner or tenant if the

1 person is unable to demonstrate to the law enforcement officer
2 in the field that permission had been obtained. This provision
3 may only be rebutted by testimony of the owner or tenant that
4 permission had been given. Before enforcing this Section the
5 law enforcement officer must have received notice from the
6 owner or tenant of a violation of this Section. Statements made
7 to the law enforcement officer regarding this notice shall not
8 be rendered inadmissible by the hearsay rule when offered for
9 the purpose of showing the required notice.

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

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

1 (w) It is unlawful for any owner of a dog to knowingly or
2 wantonly allow his or her dog to pursue, harass or kill deer,
3 except that nothing in this Section shall prohibit the tracking
4 of wounded deer with a dog in accordance with the provisions of
5 Section 2.26 of this Code.

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

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

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

1 Migratory waterfowl that are crippled may be taken only with a
2 shotgun as regulated by subsection (j) of this Section using
3 shotgun shells as regulated in subsection (k) of this Section.

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

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

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

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

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

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

1 of blaze orange material.

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

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

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

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

1 the applicant is handicapped as defined above.

2 (kk) Nothing contained in this Section shall prohibit the
3 Director from issuing permits to paraplegics or to other
4 disabled persons who meet the requirements set forth in
5 administrative rule to shoot or hunt from a vehicle as provided
6 by that rule, provided that such is otherwise in accord with
7 this Act.

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

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

21 (Source: P.A. 94-764, eff. 1-1-07; 95-196, eff. 1-1-08; 95-329,
22 eff. 8-21-07; revised 10-25-07.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.