

# HB1138



## 98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1138

by Rep. Edward J. Acevedo

### SYNOPSIS AS INTRODUCED:

520 ILCS 5/2.33

from Ch. 61, par. 2.33

Amends the Wildlife Code. Creates a prohibition on possession of wildlife or parts of wildlife that were taken in a manner that is illegal in the territory where the animal was taken. Additionally defines the statute of limitations on prosecution of violations.

LRB098 04327 MLW 34355 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 2.5.

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, excluding coyotes.

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) (Blank).

18 (kk) Nothing contained in this Section shall prohibit the  
19 Director from issuing permits to paraplegics or to other  
20 disabled persons who meet the requirements set forth in  
21 administrative rule to shoot or hunt from a vehicle as provided  
22 by that rule, provided that such is otherwise in accord with  
23 this Act.

24 (ll) Nothing contained in this Act shall prohibit the  
25 taking of aquatic life protected by the Fish and Aquatic Life  
26 Code or birds and mammals protected by this Act, except deer

1 and fur-bearing mammals, from a boat not camouflaged or  
2 disguised to alter its identity or to further provide a place  
3 of concealment and not propelled by sail or mechanical power.  
4 However, only shotguns not larger than 10 gauge nor smaller  
5 than .410 bore loaded with not more than 3 shells of a shot  
6 size no larger than lead BB or steel T (.20 diameter) may be  
7 used to take species protected by this Act.

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

11 (nn) It shall be unlawful to possess any species of  
12 wildlife or wildlife parts taken unlawfully in Illinois, any  
13 other state, or any other country, whether or not the wildlife  
14 or wildlife parts is indigenous to Illinois. For the purposes  
15 of this subsection, the statute of limitations for unlawful  
16 possession of wildlife or wildlife parts shall not cease until  
17 2 years after the possession has permanently ended.

18 (Source: P.A. 96-390, eff. 8-13-09; 97-645, eff. 12-30-11;  
19 97-907, eff. 8-7-12.)