~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE AMENDMENT ADOPTED

March 7, 2017

**S. 443**

Introduced by Senators Campsen, Young, McElveen, Williams and Corbin

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Read the first time February 21, 2017.

**A** **BILL**

TO AMEND ARTICLE 4, CHAPTER 11, TITLE 50 OF THE 1976 CODE, RELATING TO NIGHT HUNTING AND HARASSMENT OF WILDLIFE, TO RESTRUCTURE THE EXISTING PROVISIONS THAT REGULATE NIGHT HUNTING, BY ADDING SECTION 50-11-705, TO PROVIDE THAT NIGHT HUNTING ANY ANIMAL EXCEPT DEER, BEAR, TURKEY, OR ANY ANIMAL LISTED IN SECTIONS 50-11-710 OR 50-11-715 IS UNLAWFUL, TO PROVIDE APPROPRIATE PENALTIES, TO PROVIDE THAT NIGHT HUNTING DEER, BEAR, OR TURKEY ON PROPERTY NOT REGISTERED WITH THE DEPARTMENT FOR NIGHT HUNTING FERAL HOGS, COYOTES, OR ARMADILLOS IS UNLAWFUL AND TO PROVIDE APPROPRIATE PENALTIES, TO PROVIDE THAT HUNTING DEER, BEAR, OR TURKEY ON PROPERTY REGISTERED WITH THE DEPARTMENT IS UNLAWFUL AND TO PROVIDE APPROPRIATE PENALTIES, AND TO PROVIDE THAT THE DISPLAY OR USE OF ARTIFICIAL LIGHT AT NIGHT ON PROPERTY NOT REGISTERED WITH THE DEPARTMENT FOR NIGHT HUNTING FERAL HOGS, COYOTES, OR ARMADILLOS, IN A MANNER CAPABLE OF DISCLOSING THE PRESENCE OF DEER, BEAR, OR TURKEY, TOGETHER WITH THE POSSESSION OF OR ACCESS TO A CENTERFIRE RIFLE AND AMMUNITION LARGER THAN CERTAIN WEAPONS, SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF NIGHT HUNTING DEER, BEAR, OR TURKEY; TO AMEND ARTICLE 4, CHAPTER 11, TITLE 50, BY ADDING SECTION 50-11-715, TO PROVIDE THAT IT IS UNLAWFUL TO NIGHT HUNT FOR HOGS, COYOTES, OR ARMADILLOS, AND TO PROVIDE APPROPRIATE PENALTIES; TO AMEND ARTICLE 4, CHAPTER 11, TITLE 50, BY ADDING SECTION 50-11-717, TO PROVIDE THAT THE USE OF ARTIFICIAL LIGHTS FOR THE PURPOSE OF OBSERVING OR HARASSING WILDLIFE IS UNLAWFUL, EXCEPT THAT A PROPERTY OWNER MAY USE ARTIFICIAL LIGHTS TO OBSERVE WILDLIFE PRIOR TO 11:00 P.M., AND TO PROVIDE OTHER APPROPRIATE USES OF ARTIFICIAL LIGHT; TO AMEND SECTION 50-11-710, TO PROVIDE THAT IT IS UNLAWFUL TO NIGHT HUNT FOR RACCOONS, OPOSSUMS, FOXES, MINKS, OR SKUNKS UNLESS OTHERWISE PROVIDED IN THIS SECTION AND TO PROVIDE APPROPRIATE PENALTIES; TO AMEND SECTIONS 50-11-740, 50-11-745(A), AND 50-9-1120(2)(b), TO ADD TURKEY TO THE LISTS THAT INCLUDE DEER OR BEAR; TO REPEAL SECTIONS 50-11-708 AND 50-11-720, AND TO DEFINE NECESSARY TERMS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 4, Chapter 11, Title 50 of the 1976 Code is amended by adding:

“Section 50-11-700. For purposes of this article:

(1) ‘Night’ means the period of time between one hour after official sundown of a day and one hour before official sunrise of the following day.

(2) ‘Night hunting’ means hunting during the period of time between one hour after official sundown of a day and one hour before official sunrise of the following day.

(3) ‘Registered property’ means property annually registered as prescribed by the department for night hunting feral hogs, coyotes, or armadillos pursuant to Section 50‑11‑715.

Section 50‑11‑705. (A) Except as otherwise provided in this article, night hunting in this State is unlawful.

(B) A person who violates this section by night hunting for any animal, except for deer, bear, turkey, or an animal listed in Section 50‑11‑710 or 50‑11‑715, upon conviction, must:

(1) for a first offense, be fined not more than five hundred dollars, be imprisoned for not more than thirty days, or both;

(2) for a second offense within two years from the date of conviction for the first offense, be fined not more than one thousand dollars, be imprisoned as provided for a first offense, or both; and

(3) for a third or subsequent offense within two years of the date of conviction for the last previous offense, be fined not more than one thousand five hundred dollars, be imprisoned as provided for a first offense, or both.

(C) A person who violates this section by night hunting for deer, bear, or turkey on property not registered with the department for night hunting feral hogs, coyotes, or armadillos, upon conviction, must:

(1) for a first offense, be fined not more than two thousand five hundred dollars, be imprisoned for not more than one year, or both;

(2) for a second offense within two years from the date of conviction for the first offense, be fined not less than five hundred dollars nor more than two thousand five hundred dollars, be imprisoned as provided for a first offense, or both; and

(3) for a third or subsequent offense within two years of the date of conviction for the last previous offense, be fined not less than one thousand dollars nor more than three thousand dollars, be imprisoned as provided for a first offense, or both.

(D) A person who violates this section by night hunting for deer, bear, or turkey on property registered with the department for night hunting feral hogs, coyotes, or armadillos, upon conviction, must:

(1) for a first offense, be fined not more than two thousand five hundred dollars, be imprisoned for not more than one year, or both;

(2) for a second offense within two years from the date of conviction for the first offense, be fined not less than one thousand dollars nor more than three thousand five hundred dollars, be imprisoned as provided for a first offense, or both; and

(3) for a third or subsequent offense within two years of the date of conviction for the last previous offense, be fined not less than two thousand five hundred dollars nor more than five thousand dollars, be imprisoned as provided for a first offense, or both.

(E) The display or use of artificial light at night on property not registered with the department for night hunting feral hogs, coyotes, or armadillos, in a manner capable of disclosing the presence of deer, bear, or turkey, together with the possession of or with immediate access to a centerfire rifle and ammunition larger than a twenty‑two caliber rimfire, or a shotgun and ammunition larger than shot size number four, shall constitute prima facie evidence of night hunting for deer, bear, or turkey.

(F) Nothing in this article prohibits a person from acting in accordance with the conditions contained in a depredation permit issued by the department pursuant to Section 50‑11‑2570.

Section 50-11-715. (A) It is unlawful to night hunt for feral hogs, coyotes, or armadillos in violation of the provisions of this section.

(B) Feral hogs, coyotes, and armadillos may be hunted at night on registered property on which a person has a lawful right to hunt:

(1) with any legal firearm, bow and arrow, or crossbow; and

(2) with or without the aid of bait, electronic calls, artificial light, or night vision devices.

(C) Persons who have been convicted of night hunting for deer, bear, or turkey during the previous five years are not eligible to participate in night hunting for feral hogs, coyotes, or armadillos under the provisions of this section.

(D) A person who violates this section, upon conviction, must:

(1) for a first offense, be fined not more than five hundred dollars, be imprisoned for not more than thirty days, or both;

(2) for a second offense within two years from the date of conviction for the first offense, be fined not more than one thousand dollars nor less than four hundred dollars, be imprisoned as provided for a first offense, or both; and

(3) for a third or subsequent offense within two years of the date of conviction for the last previous offense, be fined not more than one thousand five hundred dollars nor less than five hundred dollars, be imprisoned as provided for a first offense, or both.

(E) In addition to any other penalty, any person convicted for a second or subsequent offense under this section within three years of the date of conviction for a first offense may have his privilege to hunt in this State suspended for a period of two years. No hunting license may be issued to an individual while his privilege is suspended, and any license mistakenly issued is invalid.

Section 50-11-717. (A) The use of artificial lights for the purpose of observing or harassing wildlife is unlawful, except that a property owner, or person with permission from the property owner, may use artificial lights to observe wildlife prior to 11:00 p.m. This section does not prohibit:

(1) a property owner from using artificial lights for the purpose of protecting the property;

(2) a person or group, with permission of the property owner, from observing wildlife with the use of artificial lights, while engaged in research or documentary filming;

(3) a person from using artificial lights to night hunt pursuant to this article; or

(4) a person from using remote trail monitors or cameras on a property.

(B) A person who violates this section, upon conviction, must be fined not more than one hundred dollars or be imprisoned for not more than thirty days.”

SECTION 2. Section 50-11-710 of the 1976 Code is amended to read:

“Section 50-11-710. (A) ~~Night hunting in this State is unlawful except that:~~ It is unlawful to night hunt for raccoons, opossums, foxes, minks, or skunks in violation of the provisions of this section.

~~(1)~~(B) Raccoons, opossums, foxes, ~~mink~~ minks, and ~~skunk~~ skunks may be hunted at night on property on which a person has a lawful right to hunt; however, ~~they~~ the animals may not be hunted with artificial lights except when treed or cornered with dogs, and may not be hunted with buckshot or any shot larger than a number four, or any rifle ammunition larger than a twenty‑two caliber rimfire.

(C) A person who violates this section, upon conviction, must:

(1) for a first offense, be fined not more than five hundred dollars, be imprisoned for not more than thirty days, or both;

(2) for a second offense within two years from the date of conviction for the first offense, be fined not more than one thousand dollars, be imprisoned not more than thirty days, or both; and

(3) for a third or subsequent offense within two years of the date of conviction for the last previous offense, be fined not more than one thousand five hundred dollars, be imprisoned for not more than thirty days, or both.

(D) In addition to any other penalty, any person convicted for a second or subsequent offense under this section within three years of the date of conviction for a first offense shall have his privilege to hunt in this State suspended for a period of one year. A hunting license may not be issued to an individual while his privilege is suspended, and any license mistakenly issued is invalid.

~~(2)~~ ~~Feral hogs may be hunted at night with or without the aid of bait, electronic calls, artificial light, or night vision devices:~~

~~(a)~~ ~~at any time of the year with a bow and arrow other than a crossbow, or pistol having iron sights, a barrel length not exceeding nine inches, and which is not equipped with a butt‑stock, scope, or laser site;~~

~~(b)~~ ~~at any time of the year under authority of and pursuant to the conditions contained in a depredation permit issued by the department pursuant to Section 50‑11‑2570; and~~

~~(c)~~ ~~from the last day of February to the first day of July of that same year with any legal firearm, bow and arrow, or crossbow when notice is given to the department pursuant to subsection (D).~~ ~~When hunting at night with a center fire rifle pursuant to this item:~~

~~(i)~~ ~~a hunter using supersonic center fire ammunition must hunt from an elevated position at least ten feet from the ground;~~

~~(ii)~~ ~~a hunter using subsonic center fire ammunition is not required to hunt from an elevated position provided that he is not carrying supersonic center fire ammunition for the same rifle.~~

~~(3)~~ ~~Coyotes and armadillos may be hunted at night with or without the aid of bait, electronic calls, artificial light, or night vision devices:~~

~~(a)~~ ~~at any time of the year with a bow and arrow other than a crossbow, a rimfire rifle, a shotgun with shot size no larger than a BB, or a pistol of any caliber having iron sights, a barrel length not exceeding nine inches, and which is not equipped with a butt‑stock, scope, or laser light;~~

~~(b)~~ ~~at any time of the year under authority of and pursuant to the conditions contained in a depredation permit issued by the department pursuant to Section 50‑11‑2570; and~~

~~(c)~~ ~~from the last day of February to the first day of July of that same year with any legal firearm, bow and arrow, or crossbow when notice is given to the department pursuant to subsection (D). When hunting at night with a center fire rifle pursuant to this item:~~

~~(i)~~ ~~a hunter using supersonic center fire ammunition must hunt from an elevated position at least ten feet from the ground;~~

~~(ii)~~ ~~a hunter using subsonic center fire ammunition is not required to hunt from an elevated position provided that he is not carrying supersonic center fire ammunition for the same rifle.~~

~~(B)~~ ~~The provisions contained in items (2)(c) and (3)(c) of subsection (A) do not apply to a person who has violated any provision contained in Article 4, Chapter 11, Title 50, except Section 50‑11‑708 and Section 50‑11‑750, during the previous five years.~~

~~(C)~~ ~~For the purposes of this section, ‘night’ means that period of time between one hour after official sundown of a day and one hour before official sunrise of the following day.~~

~~(D)~~ ~~For the purposes of this section, ‘notice to the department’ means that the landowner upon which the animals will be taken has either called the department at least forty‑eight hours prior to hunting or registered the property as otherwise prescribed by the department. The notice must include the name of each person participating in the hunt, the hunting license number of each person participating in the hunt, and the location of the hunt. Property must be registered only one time during each season, or annually for year‑round hunts.~~

~~(E)~~ ~~Any person violating the provisions of this section, upon conviction, must be fined for the first offense not more than one thousand dollars, or be imprisoned for not more than one year, or both; for the second offense within two years from the date of conviction for the first offense, not more than two thousand dollars nor less than four hundred dollars, or be imprisoned for not more than one year nor for less than ninety days, or both; for a third or subsequent offense within two years of the date of conviction for the last previous offense, not more than three thousand dollars nor less than five hundred dollars, or be imprisoned for not more than one year nor for less than one hundred twenty days, or both. Any person convicted under this section after more than two years have elapsed since his last conviction must be sentenced as for a first offense.~~

~~(F)(1)~~ ~~A person who violates items (2) and (3) of subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.~~

~~(2)~~ ~~In addition to any other penalty, any person convicted for a second or subsequent offense under this section within three years of the date of conviction for a first offense shall have his privilege to hunt in this State suspended for a period of two years. No hunting license may be issued to an individual while his privilege is suspended, and any license mistakenly issued is invalid. The penalty for hunting in this State during the period of suspension, upon conviction, must be imprisonment for not more than one year nor less than ninety days.~~

~~(G)~~ ~~The provisions of this section may not be construed to prevent any owner of property from protecting the property from destruction by wild game as provided by law.~~

~~(H)~~ ~~It is unlawful for a person to use artificial lights at night, except vehicle headlights while traveling in a normal manner on a public road or highway, while in possession of or with immediate access to both ammunition of a type prohibited for use at night by the first paragraph of this section and a weapon capable of firing the ammunition. A violation of this paragraph is punishable as provided by Section 50‑11‑720.~~”

SECTION 3. Section 50-11-740 of the 1976 Code is amended to read:

“Section 50-11-740. (A) Every vehicle, boat, trailer, other means of conveyance, animal, firearm, or device used in the hunting of deer, ~~or~~ bear, or turkey at night is forfeited to the State and must be seized by any peace officer who shall forthwith deliver it to the department.

(B) ‘Hunting’ as used in this section in reference to a vehicle, boat, or other means of conveyance includes the transportation of a hunter to or from the place of hunting or the transportation of the carcass, or any part of the carcass, of a deer, ~~or~~ bear, or turkey which has been unlawfully killed at night.

(C)(1) For purposes of this section, a conviction for unlawfully hunting deer, ~~or~~ bear, or turkey at night is conclusive as against any owner of the above mentioned property.

(2) In all other instances, forfeiture must be accomplished by the initiation by the State of an action in the circuit court in the county in which the property was seized giving notice to owners of record and lienholders of record or other persons having claimed an interest in the property subject to forfeiture and an opportunity to appear and show, if they can, why the property should not be forfeited and disposed of as provided for by this section. Failure of any person claiming an interest in the property to appear at the above proceeding after having been given notice of the proceeding constitutes a waiver of his claim and the property must be immediately forfeited to the State.

(3) Notice of the above proceedings must be accomplished by:

(a) personal service of the owner of record or lienholder of record by certified copy of the petition or notice of hearing; or

(b) in the case of property for which there is no owner or lienholder of record, publication of notice in a newspaper of local circulation in the county where the property was seized for at least two successive weeks before the hearing.

(D) The department shall sell any confiscated device at public auction for cash to the highest bidder in front of the county courthouse in the county where it is confiscated, after having given ten days' public notice of the sale by posting advertisement thereof on the door or bulletin board of the county courthouse or by publishing the advertisement at least once in a newspaper of general circulation in the county.

(E)(1) If an individual is apprehended for a first offense and the device is of greater value than two thousand five hundred dollars, the owner may at any time before sale redeem it by paying to the department the sum of two thousand five hundred dollars. When the device is of lesser value than two thousand five hundred dollars, the owner may at any time before sale redeem it by paying to the department the retail market value.

(2) If an individual is apprehended for a second offense and the device is of greater value than five thousand dollars, the owner may, at any time before sale, redeem it by paying to the department the sum of five thousand dollars. When the device is of lesser value than five thousand dollars, the owner may, at any time before sale, redeem it by paying to the department the retail market value.

(3) If an individual is apprehended for a third or subsequent offense, the device must be forfeited to the State.

(F) Upon sale or redemption of a confiscated device, the department shall pay over the net proceeds, after payment of any proper costs and expenses of the seizure, advertisement, and sale, including any proper expense incurred for the storage of the confiscated device, to the State Treasurer for deposit in the County Game and Fish Fund.”

SECTION 4. Section 50-11-745(A) of the 1976 Code is amended to read:

“Section 50-11-745. (A) Notwithstanding another provision of law, the Department of Natural Resources may administratively release any vehicle, boat, trailer, other means of conveyance, animal, firearm, or device confiscated from a person charged with hunting of deer, ~~or~~ bear, or turkey at night to an innocent owner or lienholder of the property.”

SECTION 5. Section 50-9-1120(2)(b) of the 1976 Code is amended to read:

“(b) night hunting deer, ~~or~~ bear, or turkey: 18.”

SECTION 6. Sections 50-11-708 and 50-11-720 of the 1976 Code are repealed.

SECTION 7. This act takes effect upon approval by the Governor.

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