**South Carolina General Assembly**

122nd Session, 2017-2018

**A88, R79, S443**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Campsen, Young, McElveen, Williams and Corbin

Document Path: l:\s-res\gec\011nigh.dmr.gec.docx

Introduced in the Senate on February 21, 2017

Introduced in the House on March 9, 2017

Last Amended on May 10, 2017

Passed by the General Assembly on May 10, 2017

Governor's Action: May 19, 2017, Signed

Summary: Night hunting

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/21/2017 Senate Introduced and read first time ([Senate Journal‑page 5](file:///h%3A%5Csj%5C20170221.docx))

 2/21/2017 Senate Referred to Committee on **Fish, Game and Forestry** ([Senate Journal‑page 5](file:///h%3A%5Csj%5C20170221.docx))

 3/1/2017 Senate Committee report: Favorable with amendment **Fish, Game and Forestry** ([Senate Journal‑page 12](file:///h%3A%5Csj%5C20170301.docx))

 3/2/2017 Scrivener's error corrected

 3/7/2017 Senate Committee Amendment Adopted ([Senate Journal‑page 16](file:///h%3A%5Csj%5C20170307.docx))

 3/7/2017 Senate Read second time ([Senate Journal‑page 16](file:///h%3A%5Csj%5C20170307.docx))

 3/7/2017 Senate Roll call Ayes‑38 Nays‑0 ([Senate Journal‑page 16](file:///h%3A%5Csj%5C20170307.docx))

 3/8/2017 Senate Read third time and sent to House ([Senate Journal‑page 28](file:///h%3A%5Csj%5C20170308.docx))

 3/9/2017 House Introduced and read first time ([House Journal‑page 3](file:///h%3A%5Chj%5C20170309.docx))

 3/9/2017 House Referred to Committee on **Agriculture, Natural Resources and Environmental Affairs** ([House Journal‑page 3](file:///h%3A%5Chj%5C20170309.docx))

 4/27/2017 House Committee report: Favorable with amendment **Agriculture, Natural Resources and Environmental Affairs** ([House Journal‑page 5](file:///h%3A%5Chj%5C20170427.docx))

 5/3/2017 House Amended ([House Journal‑page 18](file:///h%3A%5Chj%5C20170503.docx))

 5/3/2017 House Read second time ([House Journal‑page 18](file:///h%3A%5Chj%5C20170503.docx))

 5/3/2017 House Roll call Yeas‑103 Nays‑0 ([House Journal‑page 23](file:///h%3A%5Chj%5C20170503.docx))

 5/4/2017 House Read third time and returned to Senate with amendments ([House Journal‑page 13](file:///h%3A%5Chj%5C20170504.docx))

 5/10/2017 Senate House amendment amended ([Senate Journal‑page 77](file:///h%3A%5Csj%5C20170510.docx))

 5/10/2017 Senate Returned to House with amendments ([Senate Journal‑page 77](file:///h%3A%5Csj%5C20170510.docx))

 5/10/2017 House Concurred in Senate amendment and enrolled ([House Journal‑page 62](file:///h%3A%5Chj%5C20170510.docx))

 5/10/2017 House Roll call Yeas‑96 Nays‑0 ([House Journal‑page 63](file:///h%3A%5Chj%5C20170510.docx))

 5/15/2017 Ratified R 79

 5/19/2017 Signed By Governor

 5/30/2017 Effective date 05/19/17

 5/31/2017 Act No. 88

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=443&session=122&summary=B) at the website

**VERSIONS OF THIS BILL**

[2/21/2017](file:///p%3A%5Cpprever%5C2017-18%5C443_20170221.docx)

[3/1/2017](file:///p%3A%5Cpprever%5C2017-18%5C443_20170301.docx)

[3/2/2017](file:///p%3A%5Cpprever%5C2017-18%5C443_20170302.docx)

[3/7/2017](file:///p%3A%5Cpprever%5C2017-18%5C443_20170307.docx)

[3/7/2017](file:///p%3A%5Cpprever%5C2017-18%5C443_20170307.docx)

[4/27/2017](file:///p%3A%5Cpprever%5C2017-18%5C443_20170427.docx)

[5/3/2017](file:///p%3A%5Cpprever%5C2017-18%5C443_20170503.docx)

[5/10/2017](file:///p%3A%5Cpprever%5C2017-18%5C443_20170510.docx)

(A88, R79, S443)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 50‑11‑700, 50‑11‑705, 50‑11‑715, AND 50‑11‑717 SO AS TO PROVIDE DEFINITIONS FOR CERTAIN TERMS RELATING TO NIGHT HUNTING OF CERTAIN WILDLIFE, TO PROVIDE PENALTIES FOR VIOLATING THE PROVISIONS THAT RESTRICT NIGHT HUNTING OF CERTAIN WILDLIFE, TO PROVIDE FOR THE LAWFUL NIGHT HUNTING OF CERTAIN WILDLIFE, AND TO PROVIDE FOR THE USE OF ARTIFICIAL LIGHTS FOR THE PURPOSE OF OBSERVING OR HARASSING WILDLIFE UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 50‑11‑710, AS AMENDED, RELATING TO NIGHT HUNTING OF CERTAIN WILDLIFE, SO AS TO PROVIDE THAT IT IS UNLAWFUL TO NIGHT HUNT RACCOONS, OPOSSUMS, FOXES, MINKS, OR SKUNKS UNDER CERTAIN CIRCUMSTANCES, TO REVISE THE PENALTY PROVISIONS, AND TO DELETE THE PROVISIONS RELATING TO NIGHT HUNTING OF FERAL HOGS, COYOTES, AND ARMADILLOS, A TERM AND ITS DEFINITIONS, AND THE USE OF ARTIFICIAL LIGHTS AT NIGHT; TO AMEND SECTIONS 50‑11‑740, 50‑11‑745, AND 50‑9‑1120, ALL AS AMENDED, RELATING TO THE CONFISCATION AND RELEASE OF CERTAIN PROPERTY USED FOR HUNTING, AND THE POINT SYSTEM USED TO ASSESS HUNTING VIOLATIONS, SO AS TO ADD TURKEY TO THE LIST OF ANIMALS COVERED BY THE PROVISIONS RELATING TO THE UNLAWFUL HUNTING OF WILDLIFE; AND TO REPEAL SECTIONS 50‑11‑708 AND 50‑11‑720 RELATING TO THE USE OF ARTIFICIAL LIGHTS TO OBSERVE OR HARASS WILDLIFE AND PENALTIES ASSOCIATED WITH NIGHT HUNTING OF DEER AND BEAR.**

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

**Night hunting of wildlife**

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 less than five hundred dollars nor 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 less than five hundred dollars nor 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)(1) Feral hogs, coyotes, and armadillos may be hunted at night on registered property on which a person has a lawful right to hunt:

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

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

 (2) It is unlawful to:

 (a) hunt feral hogs, coyotes, or armadillos at night with a firearm within three hundred yards of a residence without the permission of the occupant. The provisions of this subsection do not apply to a landowner hunting on his own land or a person taking feral hogs, coyotes, or armadillos pursuant to a department depredation permit; or

 (b) shoot or attempt to shoot a feral hog, coyote, or armadillo, at night, from, on, or across any public paved road.

 (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.

 (F) In order to assess the night hunting program, the person registering the property must report to the department the number of feral hogs, coyotes, and armadillos taken under the provisions of this section within thirty days following the end of the twelve‑month registration period, or prior to registering the property again. Properties for which reports have not been submitted will not be registered again until such time that reports are submitted.

 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.”

**Night hunting of wildlife**

SECTION 2. Section 50‑11‑710 of the 1976 Code, as last amended by Act 53 of 2015, is further amended to read:

 “Section 50‑11‑710. (A) It is unlawful to night hunt for raccoons, opossums, foxes, minks, or skunks in violation of the provisions of this section.

 (B) Raccoons, opossums, foxes, minks, and skunks may be hunted at night on property on which a person has a lawful right to hunt; however, 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.”

**Confiscation of property**

SECTION 3. Section 50‑11‑740 of the 1976 Code, as last amended by Act 54 of 2013, is further 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, 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, bear, or turkey which has been unlawfully killed at night.

 (C)(1) For purposes of this section, a conviction for unlawfully hunting deer, 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.”

**Release of property**

SECTION 4. Section 50‑11‑745(A) of the 1976 Code, as last amended by Act 54 of 2013, is further amended to read:

 (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, bear, or turkey at night to an innocent owner or lienholder of the property.”

**Point system**

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

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

**Repeal**

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

**Time effective**

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

Ratified the 15th day of May, 2017.

Approved the 19th day of May, 2017.

\_\_\_\_\_\_\_\_\_\_