

1 HB152
2 173380-1
3 By Representatives Ingram and Polizos
4 RFD: Agriculture and Forestry
5 First Read: 09-FEB-16

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8 SYNOPSIS: Under existing law, nighttime hunting of
9 protected birds and animals is generally prohibited
10 unless otherwise specially provided by law.
11 Nighttime hunting of raccoons and opossums may be
12 authorized pursuant to rule of the Department of
13 Conservation and Natural Resources.

14 This bill would prohibit nighttime hunting
15 of protected birds and animals unless authorized by
16 rule of the Department of Conservation and Natural
17 Resources. The bill would also clarify the
18 definition of nighttime hours and delete references
19 to nighttime hunting of raccoons and opossums.

20 Amendment 621 of the Constitution of Alabama
21 of 1901, now appearing as Section 111.05 of the
22 Official Recompilation of the Constitution of
23 Alabama of 1901, as amended, prohibits a general
24 law whose purpose or effect would be to require a
25 new or increased expenditure of local funds from
26 becoming effective with regard to a local
27 governmental entity without enactment by a 2/3 vote

1 unless: it comes within one of a number of
2 specified exceptions; it is approved by the
3 affected entity; or the Legislature appropriates
4 funds, or provides a local source of revenue, to
5 the entity for the purpose.

6 The purpose or effect of this bill would be
7 to require a new or increased expenditure of local
8 funds within the meaning of the amendment. However,
9 the bill does not require approval of a local
10 governmental entity or enactment by a 2/3 vote to
11 become effective because it comes within one of the
12 specified exceptions contained in the amendment.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To amend Section 9-11-235, Code of Alabama 1975, to
19 prohibit the nighttime hunting of protected birds and animals
20 unless authorized by rule of the Department of Conservation
21 and Natural Resources; to further define nighttime hours; and
22 in connection therewith would have as its purpose or effect
23 the requirement of a new or increased expenditure of local
24 funds within the meaning of Amendment 621 of the Constitution
25 of Alabama of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of Alabama of 1901,
27 as amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 9-11-235, Code of Alabama 1975,
3 is amended to read as follows:

4 "§9-11-235.

5 "(a) It shall be unlawful, except ~~as to trapping~~ as
6 otherwise provided by law or rule of the commissioner, for a
7 person to take, capture, or kill, or attempt to take, capture,
8 or kill any bird or animal protected by the laws of this state
9 ~~between sunset and daylight of the following day, except that~~
10 ~~the Commissioner of Conservation and Natural Resources may by~~
11 ~~a duly promulgated regulation, allow the taking, catching, or~~
12 ~~killing of raccoons and opossums between sunset and daylight~~
13 ~~in any county or counties within the state. In any county~~
14 ~~where the taking, catching, or killing of raccoons and~~
15 ~~opossums is permitted during nighttime hours by regulations of~~
16 ~~the commissioner, the animals may only be legally taken with~~
17 ~~the use of a light and/or a shotgun using shot no larger than~~
18 ~~number eight, and the person or persons so hunting shall be~~
19 ~~accompanied by a dog or dogs and, if hunting on the lands of~~
20 ~~another, shall have the written permission of the landowner~~
21 during nighttime hours.

22 "(b) Any person violating this section shall be
23 guilty of a Class B misdemeanor and, upon conviction thereof,
24 shall be punished for the first offense by a fine of not less
25 than two thousand dollars (\$2,000) nor more than three
26 thousand dollars (\$3,000) and may be imprisoned in the county
27 jail for a period not to exceed six months. In addition, the

1 court shall revoke all hunting license privileges for a period
2 of three years from the date of conviction.

3 "(c) For purposes of this chapter, the words
4 "nighttime hours" or "between daylight and sunset" shall be
5 defined as 30 minutes after sunset and 30 minutes before
6 sunrise of the following day, as sunrises and sunsets are
7 recorded by the United States Naval Observatory.

8 ~~"No provision of this section shall be construed to~~
9 ~~prohibit the nighttime hunting of foxes with dogs."~~

10 Section 2. Although this bill would have as its
11 purpose or effect the requirement of a new or increased
12 expenditure of local funds, the bill is excluded from further
13 requirements and application under Amendment 621, now
14 appearing as Section 111.05 of the Official Recompilation of
15 the Constitution of Alabama of 1901, as amended, because the
16 bill defines a new crime or amends the definition of an
17 existing crime.

18 Section 3. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.