

Bill 29 - The Wildlife Amendment Act (Safe Hunting and Shared Management)

Questions and Answers

1. What is night hunting?

Night hunting means to hunt at night for game using lighting equipment that can reveal animals by reflecting the light from their eyes and can 'freeze' them in place.

2. What are the applicable laws related to night hunting in Manitoba?

- Under The Wildlife Act, night hunting is unlawful in Manitoba for safety reasons; however the current law does not apply to First Nation subsistence hunters.
- It is illegal for anyone to hunt in a dangerous manner, including First Nation subsistence hunters.
- Night hunting is unlawful in Manitoba for First Nations where Treaty and Aboriginal rights do not apply (e.g. private land without permission, provincial roadways, and conservation closure areas).

3. What is the department's mandate pertaining to unsafe and unsustainable night hunting practices?

The Department of Sustainable Development has a mandate to curtail unsustainable and unsafe hunting practices such as night hunting to keep all Manitobans safe. Anytime someone discharges a firearm at night, particularly in populated areas of the province, it poses significant risk to the safety of Manitobans. Some big game populations are at risk of decline and overharvesting is identified as one of the factors that has an adverse effect on these populations. Hunting regulation plays an important role in the conservation of game species.

4. What is Bill 29, The Wildlife Amendment Act (Safe Hunting and Shared Management)?

- The Bill delineates the province to set out restrictions to night hunting in both the south and the north. In the south, persons exercising an aboriginal right may night hunt under a permit if they are hunting on approved public lands set out in the permit. These public lands are determined by taking into account their use as well as input from adjacent land owners and local governments and communities. Indigenous persons may exercise night hunting rights in northern Manitoba as long as they comply with restrictions in regulation that restrict night hunting near developed areas including roads and highways
- The Bill promotes the government to work with municipalities, organizations, and Indigenous communities and land owners to promote access to Indigenous hunters to trap on private lands during daylight hours.
- The Bill enables the creation of shared management committees with membership from hunting and outfitting organizations, local landowners and representatives from Indigenous communities in the area that will make recommendations on measures to conserve and manage species of wildlife in specific areas.

5. Why is the Wildlife Act being amended?

Many Manitobans are concerned for their well-being and safety as a result of an increasing number of night hunting incidents, particularly in western Manitoba. Current legislation does not adequately restrict an Aboriginal right to hunt at night. Therefore, amendments are

required to clearly outline where the practice may and may not occur. Bill 29 will curtail unsafe and unsustainable night hunting practices in addition to creating new shared management committees with Indigenous communities.

6. What do Manitobans need to understand about the Aboriginal and Treaty rights to hunt at night?

- Treaty and Aboriginal Rights relating to hunting, fishing and trapping are recognized and affirmed as part of the Constitution of Canada by Section 35 of the Constitution Act, 1982.
- The Natural Resources Transfer Agreement (NRTA), which forms part of the Constitution Act, 1930, provides that Indian people “have the right, which the province hereby assures them, of hunting, trapping, and fishing game and fish for food at all season of the year on all unoccupied Crown lands and on any other lands to which (they) may have a right of access.”
- The Supreme Court of Canada, in the 2006 Morris decision, determined that it is lawful for rights based hunters to hunt at night provided that it is not in a dangerous manner.

7. Did Manitoba consider impacts to Aboriginal and Treaty rights?

- The Government of Manitoba recognizes it has a duty to consult in a meaningful way with First Nations, Métis communities and other Indigenous communities when any proposed provincial law, regulation, decision or action may infringe upon or adversely affect the exercise of a Treaty or Aboriginal right.
- The province sought to better understand the tradition of night hunting by supporting two First Nations Elders’ gatherings and engaged more than 20 First Nations communities in coordination with the following organizations: Southeast Resource Development Council Corp., Swampy Cree Tribal Council, Anishinaabe Agoowidiwinan (Treaty 2).
- Letters were sent to other First Nations communities to engage in the consultation process. Sustainable Development has made a commitment to continue to engage and consult throughout the summer and fall with those that want us to come to their communities.
- The province supported nine regional consultation sessions on night hunting with Manitoba Metis Federation.
- Manitoba also consulted the Metis Rights Coalition.

8. How will the permitting process and areas in southern Manitoba for hunting be defined?
Indigenous communities will be continuously involved in the process. Input from Indigenous communities and other stakeholders will be considered in the development of regulations related to permitting process and prescribing areas of Crown land for night hunting.

9. What changes are proposed to compliance and enforcement practices?

The Bill clearly defines what constitutes night hunting. This includes establishing criteria such as: the use of artificial lights to search for wildlife, having ready access to firearm and having ammunition readily available. It also establishes a new minimum fine of \$3,000 for persons convicted of a dangerous hunting offence such as illegal night hunting.

10. What are the recent developments in relation with dangerous night hunting in Manitoba?
In 2017, there were 23 charges for night hunting and two for dangerous hunting. In 2016, 44 charges and in 2015, 25 charges respectively.