

29.14 TAKING DEER/WILD TURKEY WITH GUN AND LIGHT

§ 379.404(1), Fla. Stat.

To prove the crime of Taking [Deer] [Wild Turkey] with Gun and Light, the State must prove the following two elements beyond a reasonable doubt:

1. (Defendant) **did take any [deer] [wild turkey].**
2. (Defendant) **used a gun and light in such taking.**

Definitions.

Take § 379.101(38), Fla. Stat.

"Take" shall include taking, attempting to take, pursuing, hunting, molesting, capturing, or killing any [deer] [wild turkey, or their nests or eggs], by any means, whether or not such actions result in obtaining possession of such [deer] [wild turkey or their nests or eggs].

Gun: Fla. Admin. Code 68A-1.004(39)

"Gun" means a shotgun, rifle, pistol, revolver, air gun, gas gun, blow gun, bow, crossbow, or any other device mechanically propelling an arrow, spear, or other projectile.

Light: Fla. Admin. Code 68A-1.004(41)

"Light" means any artificial light.

"Possession" means any one of the following:

1. **Manual possession**
2. **Physical possession**
3. **Control or custody**
4. **Possession in one's clothing, attire, or equipment**
5. **Possession in or about a vessel, vehicle, or beast of burden under one's custody or control, including but not limited to compartments, drawers, pockets, trunks, and similar places in and about such vessel, vehicle, or beast of burden.**

§ 379.404(2), Fla.Stat.

If you find from the evidence that the defendant displayed or used a light in a place where deer might be found and in a manner capable of disclosing the presence of deer, and that the defendant possessed a firearm or other weapon customarily used for the taking of deer, between one hour after sunset and one hour before sunrise, then this would be sufficient by itself to establish that the defendant was taking or attempting to take deer by use of a gun and light. However, such evidence may be contradicted or rebutted by other evidence.

Lesser Included Offenses

No lesser included offenses have been identified for this offense.

Comment

This instruction was adopted in March 2000 and amended in 2012.