

# House Bill 3089

Sponsored by Representatives KRIEGER, SCHAUFLEER; Representatives BARKER, BOONE, BRUUN, WEIDNER, WITT, Senator METSGER (at the request of Oregon Anglers)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows State Fish and Wildlife Commission to adopt by rule schedule of civil penalties for violations of wildlife laws. Establishes damages for unlawful taking or killing of certain wildlife. Specifies cases in which taking of certain wildlife is punishable by maximum of five years' imprisonment, \$125,000 fine, or both. Changes provisions related to revocation and denial of licenses, tags and permits.

## A BILL FOR AN ACT

1  
2 Relating to wildlife; creating new provisions; amending ORS 496.146, 496.705, 496.992, 497.415 and  
3 497.441; and repealing ORS 497.435.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 496.146 is amended to read:

6 496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife  
7 Commission:

8 (1) May accept, from whatever source, appropriations, gifts or grants of money or other property  
9 for the purposes of wildlife management, and use such money or property for wildlife management  
10 purposes.

11 (2) May sell or exchange property owned by the state and used for wildlife management pur-  
12 poses when the commission determines that such sale or exchange would be advantageous to the  
13 state wildlife policy and management programs.

14 (3) May acquire, introduce, propagate and stock wildlife species in such manner as the com-  
15 mission determines will carry out the state wildlife policy and management programs.

16 (4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking,  
17 hunting and trapping and may prescribe such tagging and sealing procedures as the commission  
18 determines necessary to carry out the provisions of the wildlife laws or to obtain information for  
19 use in wildlife management. Permits issued pursuant to this subsection may include special hunting  
20 permits for a person and immediate family members of the person to hunt on land owned by that  
21 person in areas where permits for deer or elk are limited by quota. As used in this subsection,  
22 "immediate family members" means husband, wife, father, mother, brothers, sisters, sons, daughters,  
23 stepchildren and grandchildren. A landowner who is qualified to receive landowner preference tags  
24 from the commission may request two additional tags for providing public access and two additional  
25 tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with  
26 supporting evidence that the access is significant and the habitat programs benefit wildlife. The  
27 board may recommend that the commission grant the request. When a landowner is qualified under  
28 landowner preference rules adopted by the commission and receives a controlled hunt tag for that  
29 unit or a landowner preference tag for the landowner's property and does not use the tag during the

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 regular season, the landowner may use that tag to take an antlerless animal, when approved by the  
2 State Department of Fish and Wildlife, to alleviate damage that is presently occurring to the land-  
3 owner's property.

4 (5) May by rule prescribe procedures requiring the holder of any license, tag or permit issued  
5 pursuant to the wildlife laws to keep records and make reports concerning the time, manner and  
6 place of taking wildlife, the quantities taken and such other information as the commission deter-  
7 mines necessary for proper enforcement of the wildlife laws or to obtain information for use in  
8 wildlife management.

9 (6) May establish special hunting and angling areas or seasons in which only persons less than  
10 18 years of age or over 65 years of age are permitted to hunt or angle.

11 (7) May acquire by purchase, lease, agreement or gift real property and all appropriate interests  
12 therein for wildlife management and wildlife-oriented recreation purposes.

13 (8) May acquire by purchase, lease, agreement, gift, exercise of eminent domain or otherwise  
14 real property and all interests therein and establish, operate and maintain thereon public hunting  
15 areas.

16 (9) May establish and develop wildlife refuge and management areas and prescribe rules gov-  
17 erning the use of such areas and the use of wildlife refuge and management areas established and  
18 developed pursuant to any other provision of law.

19 (10) May by rule prescribe fees for licenses, tags, permits and applications issued or required  
20 pursuant to the wildlife laws, and user charges for angling, hunting or other recreational uses of  
21 lands owned or managed by the commission, unless such fees or user charges are otherwise pre-  
22 scribed by law. Except for licenses issued pursuant to subsection (14) of this section, no fee or user  
23 charge prescribed by the commission pursuant to this subsection shall exceed \$100.

24 (11) May enter into contracts with any person or governmental agency for the development and  
25 encouragement of wildlife research and management programs and projects.

26 (12) May perform such acts as may be necessary for the establishment and implementation of  
27 cooperative wildlife management programs with agencies of the federal government.

28 (13) May offer and pay rewards for the arrest and conviction of any person who has violated  
29 any of the wildlife laws. No such reward shall exceed \$100 for any one arrest and conviction.

30 (14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless  
31 such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this sub-  
32 section shall be based on actual or projected costs of administering falconry regulations and shall  
33 not exceed \$250.

34 (15) May establish special fishing and hunting seasons and bag limits applicable only to persons  
35 with disabilities.

36 (16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These popu-  
37 lation levels shall be reviewed at least once every five years.

38 (17) Shall establish a preference system so that individuals who are unsuccessful in controlled  
39 hunt permit drawings for deer and elk hunting have reasonable assurance of success in those  
40 drawings in subsequent years.

41 (18) May sell advertising in State Department of Fish and Wildlife publications, including annual  
42 hunting and angling regulation publications.

43 (19) May, notwithstanding the fees required by ORS 497.112, provide free hunting tags to an  
44 organization that sponsors hunting trips for terminally ill children.

45 (20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting

1 the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to  
 2 remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or  
 3 other mammal. The rules may exempt the State Department of Fish and Wildlife or agents of the  
 4 department from the prohibition.

5 **(21) May adopt rules establishing a schedule of civil penalties, not to exceed \$\_\_\_\_\_ per**  
 6 **violation, for violations of provisions of the wildlife laws or rules adopted by the commission**  
 7 **under the wildlife laws. Civil penalties established under this subsection must be imposed in**  
 8 **the manner provided by ORS 183.745 and must be deposited in the State Wildlife Fund es-**  
 9 **tablished by ORS 496.300.**

10 **SECTION 2.** ORS 496.705 is amended to read:

11 496.705. (1) The State Fish and Wildlife Commission may institute suit for the recovery of dam-  
 12 ages for the unlawful taking or killing of any of the wildlife referred to in subsection (2) of this  
 13 section that are the property of the state.

14 (2) The damages referred to in subsection (1) of this section [*shall be*] **are** as follows:

15 (a) Each game mammal other than mountain sheep, mountain goat, elk or silver gray squirrel  
 16 **or mule deer, blacktail deer, whitetail deer or antelope described in paragraphs (d), (e), (f)**  
 17 **and (g) of this subsection, \$800.**

18 (b) Each mountain sheep or mountain goat, **other than those described in paragraphs (h) and**  
 19 **(i) of this subsection, \$6,800.**

20 (c) Each elk, **other than those described in paragraph (j) of this subsection, \$1,500.**

21 **(d) Each mature mule deer with at least four points on one antler, \$7,500.**

22 **(e) Each mature blacktail deer with at least three points on one antler, \$7,500.**

23 **(f) Each mature whitetail deer, other than the Columbia whitetail deer, with at least four**  
 24 **points on one antler, \$7,500.**

25 **(g) Each mature antelope with at least one horn equal to or greater than 14 inches,**  
 26 **\$7,500.**

27 **(h) Each mature mountain sheep that has at least one horn equal to or greater than one**  
 28 **half curl, \$25,000.**

29 **(i) Each mature mountain goat that has at least one horn equal to or greater than five**  
 30 **inches, \$25,000.**

31 **(j) Each mature elk with at least five points on one antler, \$15,000.**

32 [*d*] **(k) Each silver gray squirrel, \$20.**

33 [*e*] **(L) Each game bird other than wild turkey, \$20.**

34 [*f*] **(m) Each wild turkey, \$100.**

35 [*g*] **(n) Each game fish other than salmon, steelhead trout, halibut or sturgeon, \$10.**

36 [*h*] **(o) Each salmon, steelhead trout[,] or halibut or sturgeon other than those described in**  
 37 **paragraph (p) of this subsection, \$250.**

38 **(p) Each sturgeon, as specified in rule adopted by the commission, \$1,000.**

39 [*i*] **(q) Each fur-bearing mammal other than bobcat or fisher, \$100.**

40 [*j*] **(r) Each bobcat or fisher, \$700.**

41 [*k*] **(s) Each specimen of any wildlife species whose survival is specified by the wildlife laws**  
 42 **or the laws of the United States as threatened or endangered, \$1,000.**

43 [*L*] **(t) Each specimen of any wildlife species otherwise protected by the wildlife laws or the**  
 44 **laws of the United States, but not otherwise referred to in this subsection, \$50.**

45 (3) In any such action, the court shall award to the prevailing party, in addition to costs and

1 disbursements, reasonable attorney fees.

2 (4) Such civil damages shall be in addition to other penalties prescribed by the wildlife laws for  
3 the unlawful taking or killing of wildlife.

4 (5) Any circuit or justice court has jurisdiction to try any case for the recovery of damages for  
5 the unlawful taking or killing of any of the wildlife as provided by this section.

6 **SECTION 3.** ORS 496.992 is amended to read:

7 496.992. (1) Except as otherwise provided by ORS 153.022 and other law, violation of any pro-  
8 vision of the wildlife laws, or any rule promulgated pursuant thereto, is a Class A misdemeanor  
9 when the offense is committed with a culpable mental state as defined in ORS 161.085. If the de-  
10 fendant is sentenced to pay a fine, failure to pay the fine, or any portion thereof, shall be treated  
11 as provided in ORS 161.685.

12 (2) Except as otherwise provided by ORS 153.022 and other law, violation of any provision of the  
13 wildlife laws or any rule promulgated pursuant thereto is punishable as a Class A violation in the  
14 manner prescribed in ORS chapter 153 when the offense is committed with no culpable mental state  
15 as defined in ORS 161.085.

16 (3) The second and each subsequent conviction within a 10-year period for the taking of game  
17 fish with a total value of \$200 or more or the taking of antelope, black bear, cougar, deer, elk,  
18 moose, mountain goat or mountain sheep in violation of the wildlife laws or any rule promulgated  
19 pursuant thereto which occurs more than one hour prior to or more than one hour subsequent to  
20 a season established for the lawful taking of such game mammals or game fish is a Class C felony  
21 when the offense is committed with a culpable mental state as defined in ORS 161.085.

22 **(4) Notwithstanding subsections (1) to (3) of this section, a person commits a Class C**  
23 **felony if the person knowingly and unlawfully:**

24 **(a) Takes an elk with antlers.**

25 **(b) Takes a deer with antlers.**

26 **(c) Releases wildlife not native to Oregon.**

27 **(d) Takes an endangered species or a threatened species.**

28 **(e) Takes a raptor.**

29 **(f) Gaffs, nets or snags game fish.**

30 **SECTION 4.** ORS 497.415 is amended to read:

31 497.415. (1) [*Except as provided in ORS 497.435,*] When any person is convicted of a violation  
32 of law or any rule adopted pursuant thereto or otherwise fails to comply with the requirements of  
33 a citation in connection with such violation as provided in subsection (2) of this section, the court  
34 [*may*] **shall** order the State Fish and Wildlife Commission to revoke [*such of the*] **all** licenses, tags  
35 and permits issued to that person pursuant to the wildlife laws [*as the court considers appropriate*].  
36 Revocation of licenses, tags and permits is in addition to and not in lieu of other penalties provided  
37 by law.

38 (2) The license, tag and permit revocation provisions of subsection (1) of this section apply to  
39 the following persons:

40 (a) Any person who is convicted of a violation of the wildlife laws, or any rule adopted pursuant  
41 thereto, or who otherwise fails to comply with the requirements of a citation in connection with any  
42 such offense when the base fine amount for the offense is \$50 or more.

43 (b) Any person who is convicted of a violation of ORS 164.245, 164.255, 164.265, 164.345, 164.354  
44 or 164.365 committed while the person was angling, taking shellfish, hunting or trapping or who  
45 otherwise fails to comply with the requirements of a citation in connection with any such offense

1 when the base fine amount for the offense is \$50 or more.

2 (c) Any person who is convicted of a violation of ORS 166.630 or 166.638 committed while  
 3 hunting or who otherwise fails to comply with the requirements of a citation in connection with any  
 4 such offense when the base fine amount for the offense is \$50 or more.

5 (3) When a court orders the revocation of a license, tag or permit pursuant to this section [*or*  
 6 *ORS 497.435*], the court shall take up any such licenses, tags and permits and forward them, to-  
 7 gether with a copy of the revocation order, to the commission. Upon receipt thereof, the commission  
 8 shall cause revocation of the appropriate licenses, tags and permits in accordance with the court  
 9 order.

10 (4) For purposes of the Wildlife Violator Compact:

11 (a) The commission shall suspend a violator’s license as defined in ORS 496.750 for failure to  
 12 comply with the terms of a citation from a party state. A copy of a report of failure to comply from  
 13 the licensing authority of the issuing state shall be conclusive evidence. Suspension under this par-  
 14 agraph commences on the date the commission issues a final order pursuant to the provisions of  
 15 ORS chapter 183 to suspend the license in this state. The period of suspension under this paragraph  
 16 is the period provided by Oregon law or such longer period as provided by commission rule based  
 17 on the period of suspension imposed by the party state.

18 (b) The commission shall revoke a violator’s license as defined in ORS 496.750 for a conviction  
 19 in a party state. A report of conviction from the licensing authority of the issuing state shall be  
 20 conclusive evidence. Revocation under this paragraph commences on the date the commission issues  
 21 a final order pursuant to the provisions of ORS chapter 183 to revoke the license in this state. The  
 22 period of revocation under this paragraph is the period provided by Oregon law or such longer pe-  
 23 riod as provided by commission rule based on the period of revocation imposed by the party state.

24 (5)(a) No person who has had a license, tag or permit revoked pursuant to this section for the  
 25 first time shall apply for or obtain another such license, tag or permit for the period of [24] **36**  
 26 months from the date the court or commission ordered the revocation.

27 (b) Upon having a license, tag or permit revoked for a second time pursuant to this section, no  
 28 person shall apply for or obtain another such license, tag or permit for the period of [*three*] **five**  
 29 years.

30 (c) Upon having a license, tag or permit revoked for a third or subsequent time pursuant to this  
 31 section, [*no*] **a person [*shall apply for or obtain*] is prohibited from applying for or obtaining** an-  
 32 other such license, tag or permit [*for the period of five years*].

33 (6)(a) If a person convicted of conduct described in subsection (2) of this section does not possess  
 34 at the time of conviction those licenses, tags and permits issued pursuant to the wildlife laws that  
 35 the court would have revoked pursuant to this section, the court shall specify by order those li-  
 36 censes, tags and permits that would have been revoked and shall forward a copy of the order to the  
 37 commission. No person who is the subject of such a court order shall apply for, possess or obtain  
 38 another such license, tag or permit for the period of [24] **36** months from the date of the order.

39 (b) Upon being the subject of a court order under this subsection for a second time, no person  
 40 shall apply for or obtain another such license, tag or permit for the period of [*three*] **five** years.

41 (c) Upon being the subject of a court order under this subsection for a third [*or subsequent*] time,  
 42 [*no*] **a person [*shall apply for or obtain*] is prohibited from applying for or obtaining** another such  
 43 license, tag or permit [*for the period of five years*].

44 **SECTION 5.** ORS 497.441 is amended to read:

45 497.441. No person who has had a license, tag or permit revoked pursuant to ORS 497.415 [*or*

1 497.435] shall engage in the activity for which the license, tag or permit is required:

2 (1) During the remainder of the period for which the license, tag or permit was issued; or

3 (2) During the period for which the person is prohibited by law from applying for or obtaining  
4 another such license, tag or permit.

5 **SECTION 6. ORS 497.435 is repealed.**

6 **SECTION 7. (1) The amendments to ORS 496.705 by section 2 of this 2009 Act apply to the  
7 unlawful taking or killing of wildlife occurring on or after the effective date of this 2009 Act.**

8 **(2) The amendments to ORS 496.992 by section 3 of this 2009 Act apply to acts or conduct  
9 occurring on or after the effective date of this 2009 Act.**

10 **(3) The amendments to ORS 497.415 by section 4 of this 2009 Act apply to offenses com-  
11 mitted on or after the effective date of this 2009 Act.**

12 **(4) The repeal of ORS 497.435 by section 6 of this 2009 Act does not effect the revocation  
13 of hunting licenses, tags and permits ordered before the effective date of this 2009 Act.**

14