

B-Engrossed
Senate Bill 924

Ordered by the House June 3
Including Senate Amendments dated April 18 and House Amendments
dated June 3

Sponsored by Senators BOQUIST, DINGFELDER; Senator DEVLIN, Representatives HOLVEY, KENNEMER

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.

[Changes provisions related to revocation and denial of licenses, tags and permits.] Modifies penalty provisions related to wildlife laws. **Sunsets modifications on January 2, 2015. Requires State Department of Fish and Wildlife to submit report on modifications to Legislative Assembly no later than January 1, 2014.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to wildlife; creating new provisions; amending ORS 496.992; and declaring an emergency.

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

4 **SECTION 1.** ORS 496.992 is amended to read:

5 496.992. (1)(a) Except as otherwise provided by **subsection (3) of this section** and ORS 153.022
6 and other law, violation of any provision of the wildlife laws, or any rule promulgated pursuant
7 thereto, is a Class A misdemeanor when the offense is committed with a culpable mental state *[as*
8 *defined in ORS 161.085. If the defendant is sentenced to pay a fine, failure to pay the fine, or any*
9 *portion thereof, shall be treated as provided in ORS 161.685].*

10 **(b) When a person is convicted of a Class A misdemeanor described in paragraph (a) of**
11 **this subsection, in addition to any other penalty authorized by law, the court shall impose a**
12 **fine that is:**

13 **(A) Equal to the maximum fine described in ORS 161.635 (1)(a), if the person has two or**
14 **more previous convictions for a Class A misdemeanor described in paragraph (a) of this**
15 **subsection or if the offense involves taking three or more times the daily bag limit of any**
16 **wildlife.**

17 **(B) Not less than one-half of the maximum fine described in ORS 161.635 (1)(a), if the**
18 **offense involves:**

19 **(i) Failing to release a sturgeon more than six feet in length;**

20 **(ii) Unlawfully taking wildlife with the intent to sell, barter, trade, import or export the**
21 **wildlife, or parts thereof, or selling, bartering, trading, importing or exporting unlawfully**
22 **taken wildlife, or parts thereof; or**

23 **(iii) Taking a raptor and the person has a previous conviction for taking a raptor.**

24 **(C) Not less than one-fourth of the maximum fine described in ORS 161.635 (1)(a), if the**
25 **offense involves taking a raptor and the person does not have a previous conviction for**
26 **taking a raptor.**

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 **(c) If more than one minimum fine described in paragraph (b) of this subsection applies,**
2 **the court shall impose a fine in an amount that is not less than the highest of the applicable**
3 **minimum fines.**

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

8 (3) The second and each subsequent conviction within a 10-year period for the taking of a raptor
9 or the taking of game fish with a total value of \$200 or more or the taking of antelope, black bear,
10 cougar, deer, elk, moose, mountain goat or mountain sheep in violation of the wildlife laws, or any
11 rule promulgated pursuant thereto which occurs more than one hour prior to or more than one hour
12 subsequent to a season established for the lawful taking of such game mammals or game fish, is a
13 Class C felony when the offense is committed with a culpable mental state *[as defined in ORS*
14 *161.085]*.

15 **(4) As used in this section:**

16 **(a) “Culpable mental state” has the meaning given that term in ORS 161.085.**

17 **(b) “Previous conviction” includes a conviction entered in the same sentencing proceed-**
18 **ing if the conviction is for a separate criminal episode as defined in ORS 131.505.**

19 **(c) “Raptor” means a member of the order Falconiformes or Strigiformes and includes**
20 **owls, hawks, falcons, eagles, osprey and harriers.**

21 **SECTION 2. The amendments to ORS 496.992 by section 1 of this 2011 Act apply to:**

22 **(1) Persons sentenced for a crime committed on or after the effective date of this 2011**
23 **Act; and**

24 **(2) Previous convictions entered before, on or after the effective date of this 2011 Act.**

25 **SECTION 3. ORS 496.992, as amended by section 1 of this 2011 Act, is amended to read:**

26 496.992. (1)[(a)] Except as otherwise provided by subsection (3) of this section and ORS 153.022
27 and other law, violation of any provision of the wildlife laws, or any rule promulgated pursuant
28 thereto, is a Class A misdemeanor when the offense is committed with a culpable mental state.

29 *[(b) When a person is convicted of a Class A misdemeanor described in paragraph (a) of this*
30 *subsection, in addition to any other penalty authorized by law, the court shall impose a fine that is:]*

31 *[(A) Equal to the maximum fine described in ORS 161.635 (1)(a), if the person has two or more*
32 *previous convictions for a Class A misdemeanor described in paragraph (a) of this subsection or if the*
33 *offense involves taking three or more times the daily bag limit of any wildlife.]*

34 *[(B) Not less than one-half of the maximum fine described in ORS 161.635 (1)(a), if the offense in-*
35 *volves:]*

36 *[(i) Failing to release a sturgeon more than six feet in length;]*

37 *[(ii) Unlawfully taking wildlife with the intent to sell, barter, trade, import or export the wildlife,*
38 *or parts thereof, or selling, bartering, trading, importing or exporting unlawfully taken wildlife, or*
39 *parts thereof; or]*

40 *[(iii) Taking a raptor and the person has a previous conviction for taking a raptor.]*

41 *[(C) Not less than one-fourth of the maximum fine described in ORS 161.635 (1)(a), if the offense*
42 *involves taking a raptor and the person does not have a previous conviction for taking a raptor.]*

43 *[(c) If more than one minimum fine described in paragraph (b) of this subsection applies, the court*
44 *shall impose a fine in an amount that is not less than the highest of the applicable minimum fines.]*

45 (2) Except as otherwise provided by ORS 153.022 and other law, violation of any provision of the

1 wildlife laws or any rule promulgated pursuant thereto is punishable as a Class A violation in the
2 manner prescribed in ORS chapter 153 when the offense is committed with no culpable mental state.

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

9 (4) As used in this section[.],

10 [(a)] "culpable mental state" has the meaning given that term in ORS 161.085.

11 [(b)] "*Previous conviction*" includes a conviction entered in the same sentencing proceeding if the
12 conviction is for a separate criminal episode as defined in ORS 131.505.]

13 [(c)] "*Raptor*" means a member of the order *Falconiformes* or *Strigiformes* and includes owls,
14 hawks, falcons, eagles, osprey and harriers.]

15 **SECTION 4. The amendments to ORS 496.992 by section 3 of this 2011 Act become oper-**
16 **ative on January 2, 2015.**

17 **SECTION 5. No later than January 1, 2014, the State Department of Fish and Wildlife and**
18 **the Department of State Police shall each submit a report to the Legislative Assembly in the**
19 **manner provided in ORS 192.245 on the effects of the amendments to ORS 496.992 by section**
20 **1 of this 2011 Act. The report shall include the number of persons convicted of an offense**
21 **described in ORS 496.992 (1)(a) and sentenced to pay a minimum fine described in ORS 496.992**
22 **(1)(b).**

23 **SECTION 6. Section 5 of this 2011 Act is repealed on January 2, 2014.**

24 **SECTION 7. This 2011 Act being necessary for the immediate preservation of the public**
25 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
26 **on its passage.**

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