

Enrolled
Senate Bill 924

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

CHAPTER

AN ACT

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

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

SECTION 1. ORS 496.992 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(4) As used in this section:

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

(b) “Previous conviction” includes a conviction entered in the same sentencing proceeding if the conviction is for a separate criminal episode as defined in ORS 131.505.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. The amendments to ORS 496.992 by section 3 of this 2011 Act become operative on January 2, 2015.

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

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

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

Passed by Senate April 26, 2011

Received by Governor:

Repassed by Senate June 10, 2011

.....M.,....., 2011

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Robert Taylor, Secretary of Senate

Approved:

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Peter Courtney, President of Senate

.....M.,....., 2011

Passed by House June 8, 2011

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John Kitzhaber, Governor

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Bruce Hanna, Speaker of House

Filed in Office of Secretary of State:

.....M.,....., 2011

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Arnie Roblan, Speaker of House

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Kate Brown, Secretary of State