

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 924

By COMMITTEE ON JUDICIARY

June 3

1 On page 1 of the printed A-engrossed bill, line 2, delete the first “and” and delete “and
2 497.415” and insert “; and declaring an emergency”.

3 Delete lines 4 through 28 and delete pages 2 and 3 and insert:

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
6 153.022 and other law, violation of any provision of the wildlife laws, or any rule promulgated pur-
7 suant thereto, is a Class A misdemeanor when the offense is committed with a culpable mental state
8 [as 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**
14 **or 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.**

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

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

34 “(3) The second and each subsequent conviction within a 10-year period for the taking of a
35 raptor or the taking of game fish with a total value of \$200 or more or the taking of antelope, black

1 bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of the wildlife laws,
2 or any rule promulgated pursuant thereto which occurs more than one hour prior to or more than
3 one hour subsequent to a season established for the lawful taking of such game mammals or game
4 fish, is a Class C felony when the offense is committed with a culpable mental state *[as defined in*
5 *ORS 161.085]*.

6 **“(4) As used in this section:**

7 **“(a) ‘Culpable mental state’ has the meaning given that term in ORS 161.085.**

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

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

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

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

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

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

17 **“496.992. (1)[(a)] Except as otherwise provided by subsection (3) of this section and ORS 153.022**
18 **and other law, violation of any provision of the wildlife laws, or any rule promulgated pursuant**
19 **thereto, is a Class A misdemeanor when the offense is committed with a culpable mental state.**

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

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

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

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

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

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

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

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

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

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

1 “(4) As used in this section[:],
2 “[(a)] ‘culpable mental state’ has the meaning given that term in ORS 161.085.
3 “[(b)] ‘Previous conviction’ includes a conviction entered in the same sentencing proceeding if the
4 conviction is for a separate criminal episode as defined in ORS 131.505.]
5 “[(c)] ‘Raptor’ means a member of the order Falconiformes or Strigiformes and includes owls,
6 hawks, falcons, eagles, osprey and harriers.]
7 “**SECTION 4. The amendments to ORS 496.992 by section 3 of this 2011 Act become op-**
8 **erative on January 2, 2015.**
9 “**SECTION 5. No later than January 1, 2014, the State Department of Fish and Wildlife**
10 **and the Department of State Police shall each submit a report to the Legislative Assembly**
11 **in the manner provided in ORS 192.245 on the effects of the amendments to ORS 496.992 by**
12 **section 1 of this 2011 Act. The report shall include the number of persons convicted of an**
13 **offense described in ORS 496.992 (1)(a) and sentenced to pay a minimum fine described in**
14 **ORS 496.992 (1)(b).**
15 “**SECTION 6. Section 5 of this 2011 Act is repealed on January 2, 2014.**
16 “**SECTION 7. This 2011 Act being necessary for the immediate preservation of the public**
17 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
18 **on its passage.”.**
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