

# House Bill 2537

Sponsored by Representative WITT (Presession filed.)

## 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**.

Increases damages for unlawful taking or killing of wildlife.  
Creates rebuttable presumption of intent to sell, barter, trade, import or export wildlife parts.  
Punishes violation of wildlife laws with intent to sell, barter, trade, import or export wildlife parts by maximum five years' imprisonment, \$125,000 fine, or both.  
Increases punishment for second and subsequent convictions for certain violations of wildlife laws to maximum 10 years' imprisonment, \$250,000 fine, or both.  
Imposes additional mandatory fines for certain convictions.  
Adds certain black bear, cougar and sturgeon parts to list of parts unlawful to be removed from wildlife.

## A BILL FOR AN ACT

1  
2 Relating to violations of wildlife laws; amending ORS 496.690, 496.705, 496.992 and 498.042.

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

4 **SECTION 1.** ORS 496.705 is amended to read:

5 496.705. (1) The State Fish and Wildlife Commission may institute suit for the recovery of dam-  
6 ages for the unlawful taking or killing of any of the wildlife referred to in subsection (2) of this  
7 section that are the property of the state.

8 (2)(a) The damages referred to in subsection (1) of this section are as follows:

9 (A) Each game mammal other than moose, mountain sheep, mountain goat, elk, **black bear,**  
10 **cougar** or silver gray squirrel, or deer or antelope described in subparagraphs [(D) and (E)] **(F) and**  
11 **(G)** of this paragraph, [\$1,000] **\$5,000.**

12 (B) Each moose, mountain sheep or mountain goat, other than those described in subparagraphs  
13 [(F), (G) and] (H), **(I) and (J)** of this paragraph, [\$10,000] **\$15,000.**

14 (C) Each elk, other than those described in subparagraph [(I)] **(K)** of this paragraph, \$1,500.

15 **(D) Each black bear, \$15,000.**

16 **(E) Each cougar, \$15,000.**

17 [(D)] **(F)** Each deer with at least four points on one antler, \$7,500.

18 [(E)] **(G)** Each antelope with at least one horn equal to or greater than 14 inches, \$7,500.

19 [(F)] **(H)** Each moose with antlers, \$25,000.

20 [(G)] **(I)** Each mountain sheep that has at least one horn equal to or greater than one half curl,  
21 \$25,000.

22 [(H)] **(J)** Each mountain goat that has at least one horn equal to or greater than six inches,  
23 \$25,000.

24 [(I)] **(K)** Each elk with at least six points on one antler, \$15,000.

25 [(J)] **(L)** Each silver gray squirrel, \$20.

26 [(K)] **(M)** Each game bird other than wild turkey, \$20.

27 [(L)] **(N)** Each wild turkey, \$100.

**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        [(M)] (O) Each game fish other than salmon, steelhead trout, halibut or sturgeon, [\$10] **\$100.**
- 2        [(N)] (P) Each sturgeon other than those specified in subparagraph [(O)] (Q) of this paragraph,
- 3 salmon, steelhead trout or halibut, [\$250] **\$1,500.**
- 4        [(O)] (Q) Each oversized sturgeon, as specified by the commission by rule, **and each salmon**
- 5 **or steelhead that is not fin clipped or otherwise marked returning,** [\$1,000] **\$10,000.**
- 6        [(P)] (R) Each fur-bearing mammal other than bobcat or fisher, [\$100] **\$1,500.**
- 7        [(Q)] (S) Each bobcat or fisher, [\$700] **\$2,500.**
- 8        [(R)] (T) Each specimen of any wildlife species whose survival is specified by the wildlife laws
- 9 or the laws of the United States as threatened or endangered, [\$1,000] **\$10,000.**
- 10       [(S)] (U) Each specimen of any wildlife species otherwise protected by the wildlife laws or the
- 11 laws of the United States, but not otherwise referred to in this subsection, [\$50] **\$5,000.**
- 12       [(T)] (V) Each bald eagle, golden eagle, goshawk, osprey, peregrine falcon or any other raptor
- 13 listed as a threatened species or an endangered species by the commission by rule, [\$5,000]
- 14 **\$10,000.**
- 15       [(U)] (W) Each raptor except those specified in subparagraph [(T)] (V) of this paragraph,
- 16 [\$2,000] **\$5,000.**
- 17       (b) For purposes of this subsection:
- 18       (A) A point must be at least one inch, measured from the main beam of the antler to the tip of
- 19 the point.
- 20       (B) Horn length must be measured from the base of the hairline to the tip of the horn.
- 21       (3) In any such action, the court shall award to the prevailing party, in addition to costs and
- 22 disbursements, reasonable attorney fees.
- 23       (4) Such civil damages shall be in addition to other penalties prescribed by the wildlife laws for
- 24 the unlawful taking or killing of wildlife.
- 25       (5) Any circuit or justice court has jurisdiction to try any case for the recovery of damages for
- 26 the unlawful taking or killing of any of the wildlife as provided by this section.
- 27       **(6) Each taking or killing of a single animal referred to in subsection (2) of this section**
- 28 **shall constitute a separate unlawful taking or killing for purposes of this section.**
- 29       **SECTION 2.** ORS 496.690 is amended to read:
- 30       496.690. (1) The fact that any person has any wildlife, or any part thereof, in possession when
- 31 it is illegal to take or have same is prima facie evidence that such person killed such wildlife ille-
- 32 gally.
- 33       **(2) The fact that any person has in possession parts that have been removed from the**
- 34 **carcasses of two or more game mammals, game birds or fish when it is illegal to remove the**
- 35 **wildlife parts creates a rebuttable presumption of an intent to sell, barter, trade, import or**
- 36 **export the wildlife parts so removed.**
- 37       **SECTION 3.** ORS 496.992, as amended by section 3, chapter 517, Oregon Laws 2011, is amended
- 38 to read:
- 39       496.992. (1) Except as otherwise provided by this section or other law, a violation of any pro-
- 40 vision of the wildlife laws, or any rule adopted pursuant to the wildlife laws, is a Class A
- 41 misdemeanor if the offense is committed with a culpable mental state.
- 42       (2) Except as otherwise provided by this section or other law, a violation of a provision of the
- 43 wildlife laws, or a rule adopted pursuant to the wildlife laws, that does not involve the taking of
- 44 wildlife is a Class D violation if the offense is committed without a culpable mental state.
- 45       (3) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws,

1 that involves the taking of wildlife, other than nongame mammals and game birds, is a Class A vi-  
2 olation if the offense is committed without a culpable mental state.

3 (4) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws,  
4 that involves the taking of nongame mammals or game birds is a Class C violation if the offense is  
5 committed without a culpable mental state.

6 (5) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws,  
7 that involves the size or quantity limits for salmon, steelhead trout and sturgeon is a Class A vi-  
8 olation if the offense is committed without a culpable mental state.

9 (6) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws,  
10 relating to the size or quantity limits for fish or shellfish, other than size and quantity limits for  
11 salmon, steelhead trout and sturgeon, is a Class C violation if the offense is committed without a  
12 culpable mental state.

13 (7) A violation of the nonresident licensing provisions of ORS 497.102 or 497.121 is a Class A  
14 violation if the offense is committed without a culpable mental state.

15 (8) A violation of ORS 496.994 is a Class A violation if the offense is committed without a cul-  
16 pable mental state.

17 **(9) A violation of a provisions of the wildlife laws, or any rule adopted pursuant to the**  
18 **wildlife laws, is a Class C felony if the offense is committed with the intent to sell, barter,**  
19 **trade, import or export the wildlife, or parts thereof, or involves the selling, bartering,**  
20 **trading, importing or exporting unlawfully taken wildlife or parts thereof.**

21 [(9)] **(10)** The second and each subsequent conviction within a 10-year period for the taking of  
22 a raptor or the taking of game fish with a total value of \$200 or more or the taking of antelope,  
23 black bear, cougar, deer, elk, moose, mountain goat or mountain sheep, **or the taking of wildlife**  
24 **or any part thereof with the intent to sell or exchange the wildlife or parts thereof** in vio-  
25 lation of any provision of the wildlife laws, or any rule adopted pursuant thereto, [*which occurs more*  
26 *than one hour prior to or more than one hour subsequent to a season established for the lawful taking*  
27 *of such game mammals or game fish is a Class C felony)] **is a Class B felony** if the offense is com-  
28 mitted with a culpable mental state.*

29 **(11) If a person is convicted of a Class A misdemeanor under subsection (1) of this sec-**  
30 **tion, a Class C felony under subsection (9) of this section or a Class B felony under sub-**  
31 **section (10) of this section, in addition to any other penalty authorized by law, the court shall**  
32 **impose a fine that is:**

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

36 **(b) Not less than one-half of the maximum fine described in ORS 161.635 (1)(a), if the of-**  
37 **fense involves:**

38 **(A) Failing to release a sturgeon more than six feet in length; or**

39 **(B) Taking a raptor and the person has a previous conviction for taking a raptor.**

40 [(10)] **(12)** As used in this section[,]:

41 **(a)** "Culpable mental state" has the meaning given that term in ORS 161.085.

42 **(b)** "Previous conviction" includes a conviction entered in the same sentencing proceed-  
43 ing if the conviction is for a separate criminal episode as defined in ORS 131.505.

44 **(c)** "Raptor" means a member of the order Falconiformes or Strigiformes and includes  
45 owns, hawks, falcons, eagles, osprey and harriers.

1       **SECTION 4.** ORS 498.042 is amended to read:

2       498.042. *[(1) No person shall remove from the carcass of any game mammal or game bird, the head,*  
3 *antlers, horns, hide or plumage, and utilize only those parts so removed, except:]*

4       **(1) Except as provided in subsection (2) of this section, no person shall remove the fol-**  
5 **lowing parts from the carcass of any wildlife and utilize only those parts so removed:**

6       **(a) From the carcass of any game mammal or game bird, the head, antlers, horns, hide**  
7 **or plumage.**

8       **(b) From the carcass of a black bear or cougar, the paws, gallbladder, sex organs or**  
9 **bones.**

10       **(c) From the carcass of a sturgeon, the eggs.**

11       **(2) Subsection (1) of this section does not apply to the removal of wildlife parts by a**  
12 **person:**

13       (a) When engaged in lawful trapping activities.

14       (b) When utilizing those game mammals or game birds that the State Fish and Wildlife Com-  
15 mission by rule declares to be inedible.

16       ~~[(2)]~~ **(3)** No person shall waste any edible portion of any game mammal, game bird or game fish  
17 or the pelt of any fur-bearing mammal.

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