

House Bill 3472

Sponsored by Representative HELM

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**.

Authorizes court to impose specified money award for criminal violation of wildlife laws involving unlawful taking of wildlife.

A BILL FOR AN ACT

1
2 Relating to criminal violations of wildlife laws; creating new provisions; and amending ORS 137.153,
3 137.154 and 496.705.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of the wildlife laws.**

6 **SECTION 2. (1) When a person is convicted of a violation of the wildlife laws constituting**
7 **a crime that involves the unlawful taking of wildlife, the court, in addition to any other**
8 **sentence it may impose, may order the person to pay to the State Fish and Wildlife Com-**
9 **mission an amount of money up to the amount of damages specified in ORS 496.705 for the**
10 **wildlife that was unlawfully taken.**

11 **(2) The commission shall deposit any moneys received under subsection (1) of this section**
12 **in the State Wildlife Fund.**

13 **(3) The commission may not institute suit for the recovery of damages under ORS 496.705**
14 **if a money award has been imposed under subsection (1) of this section.**

15 **SECTION 3. ORS 137.153 is amended to read:**

16 137.153. (1) There are two types of Level II obligations in criminal judgments entered in circuit
17 courts:

18 (a) Type 1 obligations include awards of restitution as defined in ORS 137.103, awards of
19 restitution under ORS 419C.450 and money awards made under ORS 811.706 **or section 2 of this**
20 **2017 Act.**

21 (b) Type 2 obligations include all fines and other monetary obligations payable to the state for
22 which the law does not expressly provide other disposition, including fines payable to the state un-
23 der ORS 153.633, 153.645 and 153.650.

24 (2) If a judgment contains both types of Level II obligations, the circuit court shall apply 50
25 percent of amounts creditable to Level II obligations to Type 1 obligations and 50 percent of the
26 amounts to Type 2 obligations, until all obligations in one of the two types have been paid in full.
27 All subsequent amounts creditable to Level II obligations shall be applied against the other type of
28 obligations until those obligations have been paid in full.

29 (3) If there is more than one person for whose benefit a Type 1 money award has been made,
30 the circuit court shall pay the moneys credited to Type 1 obligations in the following order of pri-
31 ority:

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 (a) If the judgment contains a money award payable to the person or persons against whom the
 2 defendant committed the offense, the court shall first pay all moneys credited to Type 1 obligations
 3 to those persons, and shall continue to do so until all those obligations are paid in full. If there is
 4 more than one person to whom an obligation is payable under this paragraph, the court shall divide
 5 each payment under this paragraph based on each person’s proportionate share of the total amount
 6 of obligations subject to payment under this paragraph.

7 (b) If the judgment contains a money award payable to the Criminal Injuries Compensation Ac-
 8 count, the court shall thereafter transfer moneys credited to Type 1 obligations to the account until
 9 the award is paid in full.

10 (c) If the judgment contains a money award payable to any other victims, as defined in ORS
 11 137.103, the court shall thereafter pay the moneys credited to Type 1 obligations to those victims
 12 until those victims are paid in full.

13 **SECTION 4.** ORS 137.154 is amended to read:

14 137.154. (1) There are two types of Level II obligations in criminal judgments entered in local
 15 courts:

16 (a) Type 1 obligations include awards of restitution as defined in ORS 137.103, awards of
 17 restitution under ORS 419C.450 and money awards made under ORS 811.706 **or section 2 of this**
 18 **2017 Act.**

19 (b) Type 2 obligations include all fines and other monetary obligations payable to the state, a
 20 city or a county, after payment of the amount provided for in ORS 153.633 (2).

21 (2) If a criminal judgment entered in a local court contains both types of Level II obligations,
 22 the court shall apply 50 percent of amounts creditable to Level II obligations to Type 1 obligations
 23 and 50 percent of the amounts to Type 2 obligations, until all obligations in one of the two types
 24 have been paid in full. All subsequent amounts creditable to Level II obligations shall be applied
 25 against the other type of obligations until those obligations have been paid in full.

26 (3) If there is more than one person for whose benefit a Type 1 money award has been made, a
 27 local court shall pay the moneys credited to Type 1 obligations in the following order of priority:

28 (a) If the judgment contains a money award payable to the person or persons against whom the
 29 defendant committed the offense, the court shall first pay all moneys credited to Type 1 obligations
 30 to those persons, and shall continue to do so until all those obligations are paid in full. If there is
 31 more than one person to whom an obligation is payable under this paragraph, the court shall divide
 32 each payment under this paragraph based on each person’s proportionate share of the total amount
 33 of obligations subject to payment under this paragraph.

34 (b) If the judgment contains a money award payable to the Criminal Injuries Compensation Ac-
 35 count, the court shall thereafter transfer moneys credited to Type 1 obligations to the account until
 36 the award is paid in full.

37 (c) If the judgment contains a money award payable to any other victims, as defined in ORS
 38 137.103, the court shall thereafter pay the moneys credited to Type 1 obligations to those victims
 39 until those victims are paid in full.

40 **SECTION 5.** ORS 496.705, as amended by section 1, chapter 37, Oregon Laws 2016, is amended
 41 to read:

42 496.705. (1) **Except as provided in section 2 of this 2017 Act,** the State Fish and Wildlife
 43 Commission may institute suit for the recovery of damages for the unlawful taking or killing of any
 44 of the wildlife referred to in subsection (2) of this section that are the property of the state.

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

1 (A) Each game mammal other than moose, mountain sheep, mountain goat, elk, gray wolf, black
2 bear, cougar or silver gray squirrel, or deer or antelope described in subparagraphs (D) and (E) of
3 this paragraph, \$1,000.

4 (B) Each moose, mountain sheep or mountain goat, other than those described in subparagraphs
5 (F), (G) and (H) of this paragraph, \$10,000.

6 (C) Each elk, other than those described in subparagraph (I) of this paragraph, \$5,000.

7 (D) Each deer with at least four points on one antler, gray wolf, black bear or cougar, \$7,500.

8 (E) Each antelope with at least one horn equal to or greater than 14 inches, \$7,500.

9 (F) Each moose with antlers, \$50,000.

10 (G) Each mountain sheep that has at least one horn equal to or greater than one half curl,
11 \$50,000.

12 (H) Each mountain goat that has at least one horn equal to or greater than six inches, \$50,000.

13 (I) Each elk with at least six points on one antler, \$15,000.

14 (J) Each silver gray squirrel, \$100.

15 (K) Each game bird other than wild turkey or sage grouse, \$20.

16 (L) Each wild turkey or sage grouse, \$1,000.

17 (M) Each game fish other than salmon, steelhead trout, halibut or sturgeon, \$25.

18 (N) Each sturgeon other than those specified in subparagraph (O) of this paragraph, salmon,
19 steelhead trout or halibut, \$750.

20 (O) Each oversized sturgeon, as specified by the commission by rule, \$5,000.

21 (P) Each fur-bearing mammal other than bobcat or fisher, \$100.

22 (Q) Each bobcat or fisher, \$700.

23 (R) Each specimen of any wildlife species whose survival is specified by the wildlife laws or the
24 laws of the United States as threatened or endangered, \$2,500.

25 (S) Each specimen of any wildlife species otherwise protected by the wildlife laws or the laws
26 of the United States, but not otherwise referred to in this subsection, \$50.

27 (T) Each bald eagle, golden eagle, goshawk, osprey, peregrine falcon or any other raptor listed
28 as a threatened species or an endangered species by the commission by rule, \$5,000.

29 (U) Each raptor except those specified in subparagraph (T) of this paragraph, \$2,000.

30 (b) For purposes of this subsection:

31 (A) A point must be at least one inch, measured from the main beam of the antler to the tip of
32 the point.

33 (B) Horn length must be measured from the base of the hairline to the tip of the horn.

34 (3) In any such action, the court shall award to the prevailing party, in addition to costs and
35 disbursements, reasonable attorney fees.

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

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

40 (6) Each taking or killing of a single animal referred to in subsection (2) of this section consti-
41 tutes a separate unlawful taking or killing for purposes of this section.

42 (7) Subject to ORS 496.690, this section does not apply to the unintentional taking or killing of
43 wildlife incident to an otherwise lawful activity.