

HB 4030 A STAFF MEASURE SUMMARY
House Committee On Agriculture and Natural Resources

Carrier: Rep. Helm

Action Date: 02/15/18

Action: Do pass with amendments and rescind subsequent referral to Ways and Means. (Printed A-Eng.)

Vote: 9-0-0-0

Yeas: 9 - Barreto, Clem, Esquivel, McKeown, McLain, Salinas, Smith DB, Sprenger, Witt

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Requires a court to order a defendant to pay all or a portion of a fine to the court clerk for payment to the State Fish and Wildlife Commission (Commission) if the court imposes a fine as penalty for an offense that involves the unlawful taking or killing of wildlife listed under ORS 496.705 (2). Specifies that the court-ordered amount to be paid to the Commission must be the lesser of: the amount of the imposed fine, or the amount the Commission could recover as damages under ORS 496.705 (2). Sets the maximum fine for the offense as the ORS 496.705 (2) damages amount if that amount is more than the maximum fine established for the offense under felony, misdemeanor, or violation maximum fines. Specifies defendant payment to the Commission does not prevent the Commission from bringing an action under ORS 496.705 (2) to recover damages for the unlawful taking or killing if the amount paid to the Commission is less than the amount the Commission could recover under ORS 496.705 (2). Clarifies that the amount recoverable by the Commission as damages under ORS 496.705 (2) must be reduced by the amount already paid to the Commission from a fine. Clarifies that these provisions apply to all offenses under the wildlife laws.

ISSUES DISCUSSED:

- Poaching crimes in Oregon
- Criminal poaching penalties and deterrence
- Civil penalties for wildlife violations for individual species

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

In 2016, the Legislature enacted House Bill 4046, which increased damages for unlawful taking or killing of wildlife. Under ORS 496.705 (2), recoverable damages are listed for moose, mountain sheep, mountain goats, elk, deer, gray wolves, black bear, cougar, antelope, silver gray squirrel, other game mammals, wild turkey, sage grouse, other game birds, sturgeon, salmon, steelhead trout or halibut, other game fish, bobcat, fisher, other fur-bearing mammals, bald eagle, golden eagle, goshawk, osprey, peregrine falcon, and any threatened or endangered species. The law allows the Oregon Fish and Wildlife Commission (Commission) to institute suit for the recovery of civil damages for the unlawful taking or killing of any of the listed wildlife.

Since the passage of House Bill 4046, a judge in Gilliam County found two men guilty of unlawfully possessing bighorn sheep in 2017, but ultimately denied the State's request for a restitution award. The judge found that the civil damages provided in ORS 496.705 (2) for unlawfully taking wildlife do not constitute "economic damages" necessary for purposes of restitution in criminal cases. This verdict was supported by a subsequent Court of Appeals case (*State v. Shockey*).

House Bill 4030 A would allow a court to impose certain fines payable to the Commission for felony, misdemeanor, and violation offenses that involve the taking or killing of wildlife.

This Summary has not been adopted or officially endorsed by action of the committee.