

House Bill 4030

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Agriculture and Natural Resources for Representative Ken 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**.

Provides that for misdemeanor under wildlife laws that involves taking or killing of wildlife, in addition to any term of incarceration imposed, court may impose applicable fine for misdemeanor or impose compensatory fine payable to State Fish and Wildlife Commission. Reduces amount recoverable as damages for offense by amount of compensatory fine imposed for offense. Makes failure to pay fine grounds for denying license, tag or permit.

A BILL FOR AN ACT

1
2 Relating to violations of the wildlife laws; creating new provisions; and amending ORS 496.992 and
3 497.400.

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

5 **SECTION 1.** ORS 496.992 is amended to read:

6 496.992. (1) Except as otherwise provided by this section or other law, a violation of any pro-
7 vision of the wildlife laws, or any rule adopted pursuant to the wildlife laws, is a Class A
8 misdemeanor if the offense is committed with a culpable mental state.

9 (2) Except as otherwise provided by this section or other law, a violation of a provision of the
10 wildlife laws, or a rule adopted pursuant to the wildlife laws, that does not involve the taking of
11 wildlife is a Class D violation if the offense is committed without a culpable mental state.

12 (3) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws,
13 that involves the taking of wildlife, other than nongame mammals and game birds, is a Class A vi-
14 olation if the offense is committed without a culpable mental state.

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

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

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

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

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

29 (9) The second and each subsequent conviction within a 10-year period for the taking of a raptor

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 or the taking of game fish with a total value of \$200 or more or the taking of antelope, black bear,
 2 cougar, deer, elk, moose, mountain goat or mountain sheep in violation of any provision of the
 3 wildlife laws, or any rule adopted pursuant thereto, that occurs more than one hour prior to, or
 4 more than one hour subsequent to, a season established for the lawful taking of such game mammals
 5 or game fish is a Class C felony if the offense is committed with a culpable mental state.

6 (10) If a person is convicted of a Class A misdemeanor under subsection (1) of this section, in
 7 addition to any other penalty authorized by law, the court shall impose a fine that is:

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

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

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

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

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

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

20 (11) If more than one minimum fine described in subsection (10) of this section applies, the court
 21 shall impose a fine in an amount that is not less than the highest of the applicable minimum fines.

22 **(12)(a) Notwithstanding ORS 161.635, if a person is convicted of a misdemeanor under the**
 23 **wildlife laws that involves the unlawful taking or killing of wildlife listed under ORS 496.705**
 24 **(2), in addition to any term of incarceration imposed, the court may impose:**

25 **(A) A fine under ORS 161.635; or**

26 **(B) A compensatory fine not exceeding the amount that the State Fish and Wildlife**
 27 **Commission could seek under ORS 496.705 (2) as damages for the unlawful taking or killing.**

28 **(b) A compensatory fine imposed under this subsection is payable to the commission.**
 29 **Notwithstanding ORS 496.705, the amount recoverable as damages for an unlawful taking or**
 30 **killing of wildlife shall be reduced by any compensatory fine that a court imposes under this**
 31 **subsection for the unlawful taking or killing.**

32 *[(12)(a)]* **(13)(a)** In addition to any other penalty authorized by law, the court shall order the
 33 State Fish and Wildlife Commission to revoke all licenses, tags and permits issued to a person in the
 34 manner provided for in ORS 497.415 (3), (5) and (6) if the person is convicted of:

35 (A) A Class A misdemeanor under subsection (1) of this section if the offense involves:

36 (i) A violation of ORS 498.042; or

37 (ii) The unlawful taking of wildlife with the intent to sell, barter, trade, import or export the
 38 wildlife, or parts thereof, or selling, bartering, trading, importing or exporting unlawfully taken
 39 wildlife, or parts thereof; or

40 (B) A Class C felony under subsection (9) of this section.

41 (b) Notwithstanding ORS 497.415 (5), upon having a license, tag or permit revoked under para-
 42 graph (a)(A)(i) of this subsection for the second time in a 10-year period, a person is prohibited from
 43 applying for or obtaining another such license, tag or permit.

44 *[(13)]* **(14)** Upon the third conviction within a 10-year period for violation of a provision of the
 45 wildlife laws, or a rule adopted pursuant to the wildlife laws, the court shall order all guns, boats,

1 vehicles, traps, fishing apparatus, electronic devices and other implements used in committing the
2 third or subsequent offense to be seized and forfeited to the State of Oregon, to be turned over to
3 the State Fish and Wildlife Commission for disposal in the manner provided for in ORS 496.680.

4 [(14)] (15) As used in this section:

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

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

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

10 **SECTION 2.** ORS 497.400 is amended to read:

11 497.400. No person shall:

12 (1) Apply for, obtain or possess for personal use or for the use of any other person more licenses,
13 tags or permits issued by the State Fish and Wildlife Commission than are authorized for personal
14 use during the current year by the wildlife laws and rules promulgated pursuant thereto.

15 (2) Alter, borrow, loan or transfer to another person any license, tag or permit issued by the
16 commission.

17 (3) In applying for a license, tag or permit issued by the commission, knowingly make any false
18 statement of any information required by the application regarding the person in whose name the
19 license, tag or permit is to be issued.

20 (4) Possess any license, tag or permit that has been altered, borrowed, loaned or transferred or
21 for which any false statements were knowingly made in applying therefor.

22 (5) Apply for or obtain any license, tag or permit issued by the commission when civil damages
23 due pursuant to ORS 496.705, [or when] moneys due the State Department of Fish and Wildlife from
24 court-ordered restitutions for violations of the wildlife laws **or moneys due the commission from**
25 **a compensatory fine described in ORS 496.992 (12)** have not been paid.

26 **SECTION 3. The amendments to ORS 496.992 by section 1 of this 2018 Act apply to**
27 **misdemeanors under the wildlife laws committed on or after the effective date of this 2018**
28 **Act.**