

Requested by Representative WITT

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3087**

1 In line 2 of the printed bill, after “poaching;” insert “creating new pro-  
2 visions; amending ORS 496.992, 497.400 and 498.128;”.

3 Delete lines 4 through 18 and insert:

4 **“SECTION 1. (1) The State Department of Fish and Wildlife shall**  
5 **establish an anti-poaching awareness program to:**

6 **“(a) Increase public awareness of the impacts of poaching;**

7 **“(b) Increase reporting of poaching and poaching-related activity;**

8 **“(c) Increase law enforcement detection of poaching; and**

9 **“(d) Promote consistent prosecution and punishment for poaching.**

10 **“(2) The State Fish and Wildlife Commission may adopt rules to**  
11 **implement the anti-poaching awareness program.**

12 **“SECTION 2. In addition to and not in lieu of any other appropri-**  
13 **ation, there is appropriated to the State Department of Fish and**  
14 **Wildlife, for the biennium beginning July 1, 2019, out of the General**  
15 **Fund, the amount of \$\_\_\_\_\_, which may be expended for the anti-**  
16 **poaching awareness program established in section 1 of this 2019 Act.**

17 **“SECTION 3. ORS 496.992, as amended by section 1, chapter 14, Oregon**  
18 **Laws 2018, is amended to read:**

19 **“496.992. (1) Except as otherwise provided by this section or other law, a**  
20 **violation of any provision of the wildlife laws, or any rule adopted pursuant**  
21 **to the wildlife laws, is a Class A misdemeanor if the offense is committed**

1 with a culpable mental state.

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

6 “(3) A violation of a provision of the wildlife laws, or a rule adopted  
7 pursuant to the wildlife laws, that involves the taking of wildlife, other than  
8 nongame mammals and game birds, is a Class A violation if the offense is  
9 committed without a culpable mental state.

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

14 “(5) A violation of a provision of the wildlife laws, or a rule adopted  
15 pursuant to the wildlife laws, that involves the size or quantity limits for  
16 salmon, steelhead trout and sturgeon is a Class A violation if the offense is  
17 committed without a culpable mental state.

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

23 “(7) A violation of the nonresident licensing provisions of ORS 497.102  
24 or 497.121 is a Class A violation if the offense is committed without a cul-  
25 pable mental state.

26 “(8) A violation of ORS 496.994 is a Class A violation if the offense is  
27 committed without a culpable mental state.

28 **“(9) A violation of ORS 498.136, 498.142 or 498.146 is a Class A vio-**  
29 **lation if the offense is committed without a culpable mental state.**

30 “[9] (10) The second and each subsequent conviction within a 10-year

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

8 **“(11) A violation of a provision of the wildlife laws, or a rule adopted**  
9 **pursuant to the wildlife laws, is a Class C felony if the offense involves**  
10 **any of the following and is committed with a culpable mental state:**

11 **“(a) The second and each subsequent unlawful taking of wildlife**  
12 **with the intent to sell or to barter, trade, import, export or otherwise**  
13 **exchange the wildlife or a part of the wildlife.**

14 **“(b) An unlawful taking of wildlife by an outfitter or guide.**

15 **“(c) An unlawful taking of more than 100 wildlife.**

16 **“[(10)] (12) If a person is convicted of a Class A misdemeanor under sub-**  
17 **section (1) of this section, in addition to any other penalty authorized by law,**  
18 **the court shall impose a fine that is:**

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

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

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

26 **“(B) Unlawfully taking wildlife with the intent to sell, barter, trade, im-**  
27 **port or export the wildlife, or parts thereof, or selling, bartering, trading,**  
28 **importing or exporting unlawfully taken wildlife, or parts thereof; or**

29 **“(C) Taking a raptor and the person has a previous conviction for taking**  
30 **a raptor.**

1 “(c) Not less than one-fourth of the maximum fine described in ORS  
2 161.635 (1)(a), if the offense involves taking a raptor and the person does not  
3 have a previous conviction for taking a raptor.

4 “[~~(11)~~] **(13)** If more than one minimum fine described in subsection [~~(10)~~]  
5 **(12)** of this section applies, the court shall impose a fine in an amount that  
6 is not less than the highest of the applicable minimum fines.

7 “[~~(12)(a)~~] **(14)(a)** If a court imposes a fine as penalty for an offense under  
8 the wildlife laws that involves the unlawful taking or killing of wildlife  
9 listed under ORS 496.705 (2), the court shall order that the defendant pay all  
10 or a portion of the fine separately to the clerk of the court for paying over  
11 to the State Fish and Wildlife Commission. The clerk shall pay over to the  
12 commission the amount that the court ordered the defendant to pay sepa-  
13 rately for that purpose. The amount that the court orders to be paid sepa-  
14 rately to the clerk for paying over to the commission shall be the lesser of:

15 “(A) The amount of the fine imposed; or

16 “(B) The amount that the commission could recover under ORS 496.705  
17 (2) as damages for the unlawful taking or killing.

18 “(b) If the amount that the commission could recover under ORS 496.705  
19 (2) as damages for the unlawful taking or killing of wildlife is more than the  
20 maximum fine established for the offense under ORS 153.018, 161.625 or  
21 161.635 or a specific fine statute, notwithstanding ORS 153.018, 161.625 or  
22 161.635 or any specific fine statute, the maximum fine for the offense is the  
23 amount that the commission could recover under ORS 496.705 (2) as damages  
24 for the unlawful taking or killing.

25 “(c) If an amount paid over to the commission under this subsection is  
26 less than the amount that the commission could recover under ORS 496.705  
27 (2) as damages for the unlawful taking or killing of wildlife, payment of the  
28 amount does not prevent the commission from bringing an action under ORS  
29 496.705 (2) to recover damages for the unlawful taking or killing. However,  
30 notwithstanding ORS 496.705, the amount recoverable under ORS 496.705 (2)

1 by the commission as damages for the unlawful taking or killing shall be  
2 reduced by the amount paid to the commission under this subsection from a  
3 fine imposed for the unlawful taking or killing.

4 “[(13)(a)] **(15)(a)** In addition to any other penalty authorized by law, the  
5 court shall order the State Fish and Wildlife Commission to revoke all li-  
6 censes, tags and permits issued to a person in the manner provided for in  
7 ORS 497.415 (3), (5) and (6) if the person is convicted of:

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

10 “(i) A violation of ORS 498.042; or

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

14 “(B) A Class C felony under subsection [(9)] **(10)** of this section.

15 “(b) Notwithstanding ORS 497.415 (5), upon having a license, tag or per-  
16 mit revoked under paragraph (a)(A)(i) of this subsection for the second time  
17 in a 10-year period, a person is prohibited from applying for or obtaining  
18 another such license, tag or permit.

19 “[(14)] **(16)** Upon the third conviction within a 10-year period for violation  
20 of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife  
21 laws, the court shall order all guns, boats, vehicles, traps, fishing apparatus,  
22 electronic devices and other implements used in committing the third or  
23 subsequent offense to be seized and forfeited to the State of Oregon, to be  
24 turned over to the State Fish and Wildlife Commission for disposal in the  
25 manner provided for in ORS 496.680.

26 “[(15)] **(17)** As used in this section:

27 “(a) ‘Culpable mental state’ has the meaning given that term in ORS  
28 161.085.

29 “(b) ‘Previous conviction’ includes a conviction entered in the same sen-  
30 tencing proceeding if the conviction is for a separate criminal episode as

1 defined in ORS 131.505.

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

4 **“SECTION 4. The amendments to ORS 496.992 by section 3 of this**  
5 **2019 Act apply to offenses committed on or after the effective date of**  
6 **this 2019 Act.**

7 **“SECTION 5. ORS 497.400, as amended by section 2, chapter 14, Oregon**  
8 **Laws 2018, is amended to read:**

9 “497.400. No person shall:

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

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

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

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

23 “(5) Apply for or obtain any license, tag or permit issued by the commis-  
24 sion when civil damages due pursuant to ORS 496.705, moneys due the State  
25 Department of Fish and Wildlife from court-ordered restitutions for vio-  
26 lations of the wildlife laws or moneys due the commission under ORS 496.992  
27 [(12)] (14) have not been paid.

28 **“SECTION 6. ORS 498.128 is amended to read:**

29 “498.128. (1) The State Fish and Wildlife Commission shall adopt rules  
30 prohibiting the use of drones for the following purposes related to the pur-

1 suit of wildlife:

2 “(a) Angling;

3 “(b) Hunting;

4 “(c) Trapping;

5 “(d) Aiding angling, hunting or trapping through the use of drones to  
6 harass, track, locate or scout wildlife; and

7 “(e) Interfering in the acts of a person who is lawfully angling, hunting  
8 or trapping.

9 “(2) Rules adopted to carry out the prohibitions provided for in this sec-  
10 tion may include exemptions for:

11 “(a) Subject to ORS 837.360, the State Department of Fish and Wildlife  
12 and the department’s agents and contractors for the use of drones in carrying  
13 out the duties of the department[; *or*], **including but not limited to the**  
14 **prevention or detection of poaching; and**

15 “(b) The use of drones in a manner otherwise prohibited under this sec-  
16 tion if the purpose of the use is to benefit wildlife management or habitat  
17 or for the protection of property.

18 “(3) Nothing in this section is meant to limit the use of drones by a per-  
19 son who is lawfully engaging in activities authorized under the commercial  
20 fishing laws.

21 “(4) As used in this section, ‘drone’ means:

22 “(a) An unmanned flying machine;

23 “(b) An unmanned water-based vehicle; or

24 “(c) Any other vehicle that is able to operate in the air, in or under the  
25 water or on land, either remotely or autonomously, and without a human  
26 occupant.

27 **“SECTION 7. The Attorney General shall make one or more em-**  
28 **ployees of the Department of Justice available to a local government**  
29 **to assist the local government with prosecuting violations of the**  
30 **wildlife laws related to poaching.**

1        **SECTION 8. This 2019 Act being necessary for the immediate**  
2 **preservation of the public peace, health and safety, an emergency is**  
3 **declared to exist, and this 2019 Act takes effect July 1, 2019.”.**

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