

Legislative Analysis



ADDITIONAL PENALTIES FOR DEER POACHING AND RECREATIONAL TRESPASS

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Senate Bill 171 (Substitute H-3 as reported)

Sponsor: Sen. Phil Pavlov

Senate Bill 172 (Substitute H-1 as reported)

Sponsor: Sen. Tom Casperson

House Committee: Natural Resources

Senate Committee: Outdoor Recreation and Tourism

Complete to 11-12-13

A SUMMARY OF SENATE BILLS 171 (H-3) & 172 (H-1) AS REPORTED FROM COMMITTEE

Senate Bill 171 (H-3) would amend Part 401 (Wildlife Conservation) of the Natural Resources and Environmental Protection Act to establish additional restitution value that must be paid by individuals who are convicted of the illegal killing, possessing, purchasing, or selling of an antlered white-tailed deer.

Currently, individuals convicted of the illegal killing, possessing, purchasing, or selling of deer are required to reimburse the state for the value of the animal, which is currently set at \$1,000.

Under the bill, in addition to the \$1,000 restitution that is currently required for a deer, an individual convicted of the illegal killing, possessing, purchasing, or selling of an antlered white-tailed deer would be required to pay additional restitution of \$1,000 plus one of the following:

- For an antlered white-tailed deer with between 8 and 10 *points*, \$500 for each point beginning with the eighth point.
- For an antlered white-tailed deer with 11 or more *points*, \$750 for each point beginning with the eighth point.

[For example, an individual convicted of illegally taking an antlered deer would be required to pay \$1,000 in base restitution, \$1,000 restitution for illegally taking an antlered deer, and any additional restitution if the antlered deer has 8 or more points.]

Currently, individuals convicted of the illegal killing, possessing, purchasing, or selling of a deer cannot secure or possess a license of any kind to hunt during the remainder of the year in which convicted and the next three succeeding years. Under the bill, in addition to restitution payments, individuals convicted of the illegal killing, possessing,

purchasing, or selling of an antlered white-tailed deer could not secure or possess a hunting license of any kind for an additional two calendar years for a first offense and an additional seven calendar years for a second of subsequent offense.

"*Points*" would mean a projection on the antler of a white-tailed deer that is at least one inch long as measured from its tip to the nearest edge of the antler beam.

Senate Bill 172 (H-1) would amend Part 731 (Recreational Trespass) to increase (1) the amount of damages a property owner could recover in an action against a trespasser and (2) the fine amount that can be imposed on a person found in violation of Part 731.

Currently, under Part 731, the owner of property on which a violation occurs can bring an action against the violator for the greater of actual property damage or \$250, and actual and reasonable attorney fees. The bill would increase it to the greater of the actual property damage or \$750, and actual and reasonable attorney fees.

Also, under the bill, an individual that kills a protected animal, game, or fish while in violation of Part 731 would be guilty of a misdemeanor and subject to not more than 90 days in jail and/ or a fine ranging from \$250 to \$750.

The penalty for a second or subsequent violation of Part 731 within three years of a previous violation is imprisonment for up to 90 days and/or a fine between \$100 and \$1,000. The bill would increase the minimum fine to \$500 and the maximum fine to \$1,500.

The bills are tie-barred to each other, meaning neither can take effect unless both are signed into law.

The bills would take effect 90 days after enactment.

FISCAL IMPACT:

A fiscal analysis is in process. Among other things, the bill increases misdemeanor penalties; the fines go to public libraries.

POSITIONS:

The Michigan Department of Natural Resources supports the bills. (10-29-13)

Big Nine Sportsmen's Club supports the bills. (10-29-13)

The Michigan Environmental Council supports the bills. (5-21-13)

The Michigan League of Conservation Voters supports the bills. (10-29-13)

Michigan United Conservation Clubs supports the bills. (10-29-13)

Tri-County Sportsmen's Club supports the bills. (10-29-13)

BACKGROUND INFORMATION AND DISCUSSION:

According to testimony, the bills are intended to address the growing problem of people illegally taking trophy deer. Currently, an individual convicted of the illegal killing, possessing, purchasing, or selling of deer is required to reimburse the state for the value of the animal, which is currently set at \$1,000. For restitution purposes, there is no distinction between antlered and non-antlered deer.

Many see the current restitution value as being too low because Part 781 does not make a distinction between an antlered and non-antlered deer. Hunters place a large value on antlered deer, especially large trophy bucks. For example, some hunters pay several thousands of dollars to go on out-of-state hunting trips for a chance at taking a trophy buck. The current fines for illegally taking a deer in Michigan are seen as unfair because the cost of restitution is significantly less than what it would cost to take a trophy buck on an out-of-state hunting trip or at a hunting ranch. The bill is intended to increase the restitution value of antlered deer to combat the poaching of trophy bucks.

Some have expressed concern that the restitution values established in Senate Bill 171 are still not high enough to deter the illegal taking of trophy bucks and should be increased further. Additionally, there was concern that placing a significantly higher value on antlered deer with a certain number of points could increase the frequency with which smaller antlered deer are illegally taken.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.