

JERRY PETROWSKI

WISCONSIN STATE SENATOR

Senate Bill 380 *Increased Penalties for Trophy Poaching*

February 5, 2014

Thank you, honorable chair and committee members, for hearing this bill.

Protecting the viability of Wisconsin's deer population and ensuring that our hunting heritage remains strong requires that hunters adhere to our hunting laws. Poaching larger deer negatively affects Wisconsin's reputation for having large bucks, and it is also detrimental to hunters who have invested time carefully managing their hunting land only to have trophy animals stripped away by a poacher.

While fines currently exist for poaching deer, the maximum amount that can be imposed under the wild animal protection surcharge is \$43.74. This bill increases the wild animal protection surcharge for trophy-size deer. The fines established under this bill would increase the penalty to \$2,000 for a deer illegally taken with antlers measuring 125-inches to 149-inches, \$5,000 for antlers measuring 150-inches to 169-inches, and \$10,000 if the antlers measure 170-inches or more. The scoring system that would be used under this bill mirrors the scoring system used by the Boone and Crockett Club.

Poachers can collect thousands of dollars on the black market for selling antlers and other parts of a trophy buck. Even replicas of trophy-size antlers can be sold for large sums of money. Under current law, the monetary benefit of poaching a trophy animal far outweighs the \$43.74 penalty. The increased penalties created under this bill would be a step in the right direction toward ensuring that poaching is no longer profitable in Wisconsin. When a deer is illegally harvested, it deprives honest, upstanding hunters of a great opportunity. This bill will update our statutes to make the punishment for poaching trophy-size deer fit the crime.

Thank you, committee members, for hearing this bill. I would be happy to answer any questions you may have.

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Rep. Williams Testimony for SB 380 Senate Committee on Natural Resources 2/05/14

One of the many fines that can be imposed for poaching a deer is the Wild Animal Protection Surcharge. Currently, the maximum amount that can be imposed under this law is \$43.74 for a person convicted of the unlawful killing, wounding, catching, taking, trapping, or possession of certain wild animals.

SB 380 is a basic, commonsense bill that increases this surcharge for deer only. The fines established under this bill would increase the penalty to \$2,000 for a deer illegally taken with antlers measuring 125"-149", \$5,000 for antlers measuring 150"-169", and \$10,000 if the antlers measure 170" or more.

Unfortunately, poachers can make thousands of dollars on the black market for antlers and other parts of a trophy buck. For example, in 2011 the Wall Street Journal ran a story about how the US Dept. of Fish and Wildlife Service broke up a large deer smuggling operation in Texas. The person behind the smuggling was taking deer from northern states and selling their seaman to game farms or breeders. To put this in perspective, the WJS found one vial of this can sell for \$20,000.

Just last November, a man living in the Town of Harrison was arrested for poaching. According to police, they found "a large number of deer carcasses" on his property.

It's easy to see the reward for poaching deer far outweighs the risk. The law as it is written provides minimal punishment for a crime that can provide a large reward. It is my hope increasing the penalty for this crime will provide a greater deterrent than what currently exists.

When a deer is illegally taken, it deprives the honest hunter of an opportunity. We are all aware of how important hunting is to the citizens of the state; it's engrained in our culture. I believe as legislators, we have the duty to protect this heritage to the best of our abilities. SB 380 is a bill that will help protect this heritage.

Thank you for the opportunity to speak today. I will be happy to answer any questions you may have.

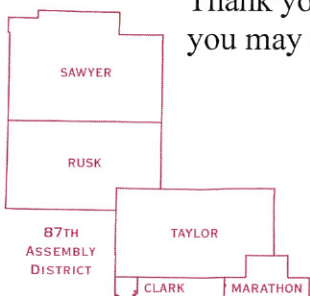
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2013 SENATE BILL 380

WILD ANIMAL PROTECTION SURCHARGE FOR CERTAIN ANIMALS OF A LARGER SIZE

Testimony by: Conservation Warden Thomas Van Haren – Dept. of Natural Resources
Appearing for Information Only

Committee on Natural Resources
February 5, 2014 10:00 AM
Room: 300 Southeast, State Capitol

Under current law, if a court imposes a penalty for the unlawful taking of certain wild animals, the court MAY impose a wild animal protection surcharge in addition to the other penalties and surcharges imposed. Section 29.983, Stats., specifies the amount of the wild animal protection surcharge allowed for those wild animals for which the court is authorized to impose this surcharge.

The current statutorily established Wild Animal Protection Surcharges which can be imposed by the courts, were first established in 1979. Most have not changed during the past 34+ years since the surcharges were first created. There is no surcharge required under current law to recover the value of many species of wild animals, such as minnows, reptiles, amphibians, clams, crayfish, non-game species, or for certain wild plants such as ginseng, which are unlawfully taken.

The application of these statutory surcharges is not discretionary on the part of a warden who charges a person for unlawfully taking wild animals listed under s. 29.983, Stats. The warden is required to include the statutorily prescribed wild animal protection surcharge (if applicable) in the bond amount listed on any citation issued. Wardens do not include the additional amount when the animal was not killed and could successfully be released alive.

Under current law, the wild animal protection surcharge imposed for a deer is \$43.75, regardless of the sex, age or size of the deer. The surcharge for bear is \$175, and for elk is \$ 2,000 (increased from \$262.50 in 2002).

In fiscal year 2013, the total value of all wild animal protection surcharge received by DNR was \$34,209, which is above the typical average annual revenue generated by the surcharge of approximately \$15,000.

This bill would allow the courts to impose a higher surcharge for deer, bear or elk of certain sizes. If amended by Senate Amendment 1, the higher surcharge would only be authorized for deer with antlers of a certain size. If both the regular surcharge and a higher surcharge are could be applied, and the court chooses to impose a surcharge, this bill requires the court to impose the higher surcharge.

This bill does not establish how the antlers of a deer shall be measured, but does require the DNR to establish a method for measuring the size of the antlers for determining whether a higher surcharge amount will apply.

The amount of the higher wild animal protection surcharge which may be imposed by the court for deer under this bill are as follows:

1. For any deer with antlers measuring at least 125 inches but less than 150 inches, \$2,000.
2. For any deer with antlers measuring at least 150 inches but less than 170 inches, \$5,000.
3. For any deer with antlers measuring 170 inches or more, \$10,000.

For any elk with at least 6 points on one antler, or with antlers measuring 260 inches or more, \$10,000.

For any bear with a skull measuring 20 inches or more, \$2,000.

It is our understanding that these higher surcharges would not be applicable until the Department first establishes, by rule, a method for measuring the size of the antlers of a deer or elk or skull of a bear.

The Department would likely consider adopting the Boone and Crockett Club's long established system of measuring big game animals for the purposes of determining the applicable surcharge amount for an unlawfully taken antlered deer, elk or a bear. The Boone and Crockett scoring system is the system used by the states of Iowa and Minnesota to determine the appropriate restitution amount to impose for certain big game animals unlawfully taken in those states.

While the proposed increased surcharges, if imposed by courts, have the potential to create increased revenues to the Conservation fund, the deterrent effect of these higher surcharges will hopefully reduce illegal harvest of large/trophy animals, and result in little change to the revenues generated for the Conservation fund.

Thank you for your time, I would be happy to answer any questions the committee might have.

Related Wisconsin State Statutes

29.983 Wild animal protection surcharges.

(1) LEVY OF WILD ANIMAL PROTECTION ASSESSMENT.

- (a) If a court imposes a fine or forfeiture for a violation of a provision of this chapter or an order issued under this chapter for the unlawful killing, wounding, catching, taking, trapping, or possession of a wild animal specified in par. (b), or any part of such a wild animal, the court may impose a wild animal protection surcharge under ch. 814 that equals the amount specified for the wild animal under par. (b).
- (b) The amount of the wild animal protection surcharge imposed under ch. 814 shall be as follows:
1. For any wild animal that is an endangered species protected under s. 29.604, \$875.
1m. Any elk, \$2,000.
 2. For any moose, fisher, prairie chicken, or sand hill crane, \$262.50.
 3. **For any bear, wild turkey or wild swan, \$175.**
 4. For any bobcat, fox, wolf, beaver, or otter, \$87.50.
 5. **For any deer, coyote, raccoon or mink, \$43.75.**
 6. For any sharp-tailed grouse, ruffed grouse, spruce hen, wild duck, coot, wild goose or brant, \$26.25.
 7. For any pheasant, gray partridge, quail, rail, Wilson's snipe, woodcock or shore bird, or protected song bird or harmless bird, \$17.50.
 8. For any muskrat, rabbit or squirrel, \$8.75.
 9. For any muskellunge or lake sturgeon, \$43.75.
 10. For any largemouth or smallmouth bass, \$26.25.
 11. For any brook, rainbow, brown, or steel head trout, \$26.25.
 12. For any walleye pike, northern pike, or any other game fish not mentioned in subds. 9. to 11., \$8.75.
 13. For any game or fur-bearing animal or bird not mentioned in subds. 1m. to 8., \$17.50.
- (e) If any deposit is made for an offense to which this section applies, **the person making the deposit shall also deposit a sufficient amount to include the wild animal protection surcharge under this section.** If the deposit is forfeited, the amount of the wild animal protection surcharge shall be transmitted to the secretary of administration under par. (f). If the deposit is returned, the wild animal protection surcharge shall also be returned.

Additional Background Information

Past Legislation: In 2002 under 2001 Act 109, the value of an elk was increased from \$262.50 to \$2,000.

With the federal delisting of the gray wolf on January 27, 2012, its assessed value was reduced by default under the current statutory framework from a value of \$875 assigned to all endangered and threatened species, to \$17.50 as a fur-bearing animal not otherwise specifically listed with a different value.

Effective April 17, 2012 Under 2011 Act 169, the value of a wolf was increased to \$87.50 when it was included in the listing for bobcat, fox, beaver and otter.

The average number of Wisconsin bear annually submitted to Boone & Crockett record book which measure 20 inches or more is 50 bears. The average number of deer annually submitted to Boone & Crockett record book which measure 170 inches or more is 90 deer.

Other States: All the surrounding states place a value on certain wild animals for restitution purposes.

Michigan: does not have a trophy penalty enhancer though the current restitution is \$1000 for any deer.

Illinois: does not have a trophy penalty enhancer though the current restitution is \$1000 for any deer.

Iowa: by state statute sets a graduated trophy penalty only for deer. The restitution fee for deer taken illegally in Iowa are:

1. Any doe or buck not taken during the fall months the restitution is \$1500.
2. For bucks scoring less than 150 **Boone and Crockett** points the restitution is \$2000-5000 and 80 hours community service or \$4000-10000.
3. For bucks scoring more than 150 **Boone and Crockett** points the restitution is \$5000-\$10000 plus 80 hours community service or \$10000-20000.

Iowa State Statute - CIVIL DAMAGES

481A.130 Damages in addition to penalty — animals — ginseng.

1. In addition to the penalties for violations of this chapter and chapters 350, 461A, 481B, and 482, a person convicted of unlawfully selling, taking, catching, killing, injuring, destroying, or having in possession any animal, shall reimburse the state for the value of such as follows:

- a. For each elk, antelope, buffalo, or moose, two thousand five hundred dollars.
- b. For each wild turkey, two hundred dollars.
- c. For each bird or animal or the raw pelt or plumage of such bird or animal for which damages are not otherwise prescribed, fifty dollars.
- d. For each reptile, mussel, or amphibian, fifteen dollars.
- e. For each beaver, bobcat, mink, otter, red fox, gray fox, or raccoon, two hundred dollars.
- f. For each animal classified by the commission as an endangered or threatened species, one thousand dollars.

g. For each antlered deer, reimbursement shall be based on the score of the antlered deer as measured by the Boone and Crockett club's scoring system for whitetail deer as follows:

- (1) **150 gross inches or less:** A minimum of two thousand dollars [\$2,000] and not more than five thousand dollars, [\$5,000] and eighty hours of community service or, in lieu of the community service, a minimum of four thousand dollars [\$4,000] and not more than ten thousand dollars [\$10,000], in an amount that is deemed reasonable by the court.
- (2) **More than 150 gross inches:** A minimum of five thousand dollars [\$5,000] and not more than ten thousand dollars, [\$10,000] and eighty hours of community service or, in lieu of the community service, a minimum of ten thousand dollars [\$10,000] and not more than twenty thousand dollars [\$25,000], in an amount that is deemed reasonable by the court.

h. For each deer, except as provided in paragraph "g", and for each swan or crane, one thousand five hundred dollars [\$1,500].

i. For each fish, reimbursement shall be as follows:

- (1) For each fish of a species other than shovelnose sturgeon, with an established daily limit greater than twenty-five, fifteen dollars.
- (2) For each fish of a species other than paddlefish and muskellunge, with an established daily limit of twenty-five or less, fifty dollars.
- (3) For each shovelnose sturgeon, paddlefish, and muskellunge, one thousand dollars.

2. In addition to any other penalty, a person convicted of unlawfully harvesting **wild ginseng** in violation of section 456A.24 shall reimburse the state at one hundred fifty percent of the ginseng's market value, as determined by the department.

3. This section does not apply to a landowner who cooperates with the department of natural resources and the department of agriculture and land stewardship to remove all whitetail from enclosed land as provided in section 170.5, even if all whitetail are not removed.

4. This section does not apply to a person who is liable to pay restitution to the department pursuant to section 481A.151 for injury to a wild animal caused by polluting a water of this state in violation of state law.

Minnesota: has additional restitution for certain animals. The restitution values for deer, elk, and bear may be increased to twice the normal amount listed if the animal is a trophy animal.

2013 Minnesota Statutes

97A.345 RESTITUTION VALUE OF WILD ANIMALS.

(a) The commissioner may, by rules adopted under chapter 14, prescribe the dollar value to the state of species of wild animals. The value may reflect the value to other persons to legally take the wild animal, the replacement cost, or the intrinsic value to the state of the wild animals. Species of wild animals with similar values may be grouped together.

2013 Minnesota Administrative Code

6133.0010 STATUTORY AUTHORITY.

Pursuant to Minnesota Statutes, section 97A.345, the restitution values to the state of species of wild animals listed in this chapter are prescribed as indicated.

6133.0020 DEFINITIONS.

Subpart 11.

"Trophy animal" is defined for deer, elk, and moose as an animal with antlers that meet or exceed the score specified in items A to D when measured using the **Boone and Crockett Club's official scoring system for North American big game trophies** (Nesbitt, W.H. and J. Reneau, eds., Records of North American Big Game, Ninth Edition, The Boone and Crockett Club, Dumfries, VA, 1988, 498 pp.). This scoring system is incorporated by reference and is available through the Minitex interlibrary loan system and is not subject to frequent change:

- A. white-tailed deer (typical), score of 135;
- B. white-tailed deer (nontypical), score of 160;
- C. moose, score of 145; and
- D. elk, score of 260.

Trophy animal is defined for **black bear** as an animal with a skull that meets or exceeds a **score of 20** using the **Boone and Crockett Club's official scoring system** for North American big game trophies (id.)

For the purposes of this chapter, antlers or skulls may be measured at any time; no drying period is required.

6133.0040 BIG GAME.

Subpart 1. **General.** The restitution values for big game species are as follows:

- A. deer, \$500;
- B. elk, \$1,000;
- C. caribou, \$1,000;
- D. moose, \$1,000;
- E. pronghorn antelope, \$500; and
- F. black bear, \$400.

Subp. 2. **Adjustments for trophy animals.** The restitution values for deer, elk, moose, and bear may be increased to twice the amount listed in subpart 1 if the animal is a trophy animal.

Statutory Authority: *MS s 97A.345*

MINIMUM ENTRY SCORES FOR NORTH AMERICAN BIG GAME

Below is a chart that lists the minimum entry scores for all the North American big game animals recognized by the Boone and Crockett Club. Trophies that meet the Awards minimum but not the All-Time minimum will be listed in the Awards book. Trophies that meet the All-Time minimum will be listed in both the Awards book, as well as "Records of North American Big Game."

CATEGORY	AWARDS	ALL-TIME
black bear	20	21
American typical elk	360	375
American non-typical elk	385	385
typical whitetail deer	160	170
non-typical whitetail deer	185	195