

Legislative Analysis



REVISE PENALTIES FOR ILLEGAL KILLING OR POSSESSING CERTAIN GAME

Phone: (517) 373-8080
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Senate Bill 244 (passed by the Senate w/o amendment)
Sponsor: Sen. Phil Pavlov

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 245 (proposed H-2 substitute)
Senate Bill 246 (passed by the Senate as S-1)
Sponsor: Sen. Dale W. Zorn

House Committee: Natural Resources
Senate Committee: Outdoor Recreation and Tourism
Updated as of 9-21-15

SUMMARY:

Senate Bills 244-246 each relate to penalties for illegally killing or possessing certain game.

Senate Bills 244 and 245 would amend Sections 40119 and 40118, respectively, of the Natural Resources and Environmental Protection Act (NREPA).

Senate Bill 246 would make a complementary amendment to Section 13e of Chapter XVII of the Code of Criminal Procedure, by updating a reference to the applicable section of NREPA amended by SB 245.

Both SB 244 and 245 replace the term "person" with the term "individual" throughout. The bills are tie-barred, meaning none could take effect unless all are enacted. A more detailed summary follows.

Senate Bill 244

Section 40119 requires an individual convicted of the illegal killing, possessing, purchasing, or selling of game or protected animals to reimburse the state for the value of the game or protected animal. SB 244 would amend Section 40119 of NREPA by revising the reimbursement/restitution schedule for certain game or protected animals as follows:

<u>Animal</u>	<u>Current Amount</u>	<u>Proposed Amount</u>
Elk	\$1,500	\$5,000
Moose	\$1,500	\$5,000
Bear	\$1,500	\$3,500
Eagle	(not specific to animal)	\$1,500
Waterfowl	(not specific to animal)	\$500

SB 244 also adds additional restitution/reimbursement penalties in addition to those above and in current law as follows:

- \$250 per point, for an antlered elk with at least 8 but not more than 10 points.
- \$500 per point, for an antlered elk with 11 or more points.
- \$5,000 for an antlered moose.
- \$1,000 for a turkey with a beard.

The term "point" is defined as a projection on the antler of a white-tailed deer or elk that is at least 1 inch long as measured from its tip to the nearest edge of the antler beam. [The underlined portion indicates a change that would be made to the definition by SB 244].

[Note: Waterfowl is defined in the act as "ducks, geese, gallinules, and mergansers."]

Presently, only waterfowl and eagle are not explicitly mentioned in Section 40119, though varieties of each were included in a list specified in Section 36505.

These reimbursement amounts are in addition to any other penalties provided for in Part 401 and the penalty in Section 36507.

The bill would delete a subsection in Section 40119 that keep individuals from obtaining any hunting license if an individual is found guilty of the illegal killing, possessing, purchasing, or selling of a white-tailed deer. However, similar language would be added to Section 40118 by Senate Bill 245.

Senate Bill 245

SB 245 would amend Section 40118 of NREPA by also changing penalties associated with the illegal taking or possessing of certain game. Currently, the default penalty for a violation of Part 401 regarding the illegal taking or possession of non-exempt game is a misdemeanor punishable by up to 90 days imprisonment and/or a fine of not less than \$100 or more than \$1,000, plus the costs of prosecution.

The bill would add waterfowl to the list of game for which the penalties exceed the default penalty. An individual who violates a provision of Part 401 relating to the illegal taking or possessing of waterfowl would be guilty of a misdemeanor punishable by up to 90 days imprisonment and/or a fine of not less than \$250 or more than \$500, plus the costs of prosecution. A second violation or any subsequent violations would be a misdemeanor punishable by not more than 90 days imprisonment and/or a \$500 fine, plus the costs of prosecution.

SB 245 also would add or modify hunting-license-related penalties specific to the illegal taking or possession of bear, antlered white-tailed deer, turkey, elk, or moose. Those penalties are listed below and are in addition to the current three-year license penalty:

- For a bear or antlered white-tailed deer:
 - First offense: Guilty individual prohibited from securing or possessing a hunting license of any kind for an additional two calendar years.

- Subsequent offense(s): Guilty individual prohibited from securing or possessing a hunting license of any kind for an additional seven calendar years.
- For a turkey, the guilty individual prohibited from securing or possessing a hunting license of any kind for an additional two calendar years.
- For an elk or moose:
 - First offense: Guilty individual prohibited from securing or possessing a hunting license of any kind for an additional 15 calendar years.
 - Second offense: Guilty individual prohibited from securing or possessing a hunting license of any kind for the rest of that individual's life.

SB 245 (H-2) also would create a penalty for an individual who violates a provision of Part 401, or an order or interim order issued under Part 401, regarding the use of snares or cable restraints. An individual who violates such a provision, order, or interim order would be guilty of a misdemeanor punishable by imprisonment of up to 90 days and/or a fine of not less than \$1,000, and the costs of prosecution.

The bill also would allow a court to impose a longer ban on obtaining a hunting license for an individual convicted of illegally using artificial light in taking game or in an area frequented by animals, or throwing or casting rays of a spotlight, headlight, or other artificial light in a field, woodland, or forest while having a bow, firearm, or other weapon capable of shooting a projectile in his or her possession or control, unless otherwise permitted by law. Currently, an individual convicted of this offense is ineligible to secure a hunting license for the remainder of the calendar year in which the conviction occurred, as well as the following year.

FISCAL IMPACT:

SB 244

Senate Bill 244 would likely have a positive fiscal impact on the Department of Natural Resources. This likelihood is tempered to the extent by which the increased restitution rates included in SB 244 function as a deterrent to individuals who would otherwise pursue the illegal hunting activities as currently defined by NREPA. If the increased penalties included in SB 244 serve to reduce the number of violations (and their respective penalties), then the bill could prove to have no fiscal impact or even a negative fiscal impact, should the decreased number of violations result in decreased penalty revenue. However, if the increased restitution rates included in SB 244 do not serve as a deterrent and the number of penalties remains the same, then this bill will have a positive fiscal impact for the department by virtue of the higher restitution rates. The department received \$355,620 in revenue from total restitution penalties paid in fiscal year 2013-14. This bill would have no fiscal impact on local units of government.

SB 245

It is difficult to determine the fiscal impact that Senate Bill 245 would have on the Department of Natural Resources. This bill codifies hunting license restrictions and suspensions on both first-time and repeat offenders who are caught killing, possessing,

purchasing, or selling bears, white-tailed deer, turkeys, elk, or moose. The bill provides for extended loss-of-hunting-license penalties beyond current law. The loss of annual hunting license revenue due to these increased penalties is contingent upon the number of violators subject to license suspension. If these increased penalties serve as a deterrent to would-be violators, thereby decreasing license suspensions, then hunting license revenue would remain relatively unaffected. However, it is unclear what effect (if any) these extended license suspension penalties will have on license revenue.

Senate Bill 245 also provides for misdemeanor fines of \$250 to \$500 for individuals who illegally possess or take waterfowl. These fines may result in increased revenue for local public libraries but the extent of this increase is unclear at present.

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