



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 244, 245, and 246 (as enrolled)
Sponsor: Senator Phil Pavlov (S.B. 244)
Senator Dale W. Zorn (S.B. 245 & 246)
Senate Committee: Outdoor Recreation and Tourism
House Committee: Natural Resources

Date Completed: 11-9-15

RATIONALE

Several parts of the Natural Resources and Environmental Protection Act regulate the taking of game in the State and prescribe criminal, civil, and administrative penalties for violations. Some animals, such as moose and eagles, may not be hunted under any circumstances. For other animals, including elk, bears, turkeys, and various waterfowl, the Act specifies a defined hunting season and limits the number a hunter is allowed to take. Despite these restrictions, some hunters are still tempted to take a prohibited animal or hunt an animal out of season or beyond its limits. In addition to criminal penalties and fines, the potential sanctions include payment of restitution to the State for an animal that is illegally killed, possessed, purchased, or sold, as well as prohibitions against securing or possessing a hunting license for a period of time. In most cases, the amount of restitution ranges from \$100 to \$1,500 per animal, depending on the type, and the violator is subject to a license prohibition of three years following the current calendar year. Some people believe that the restitution amount and the license sanction do not adequately penalize people who illegally take the animals mentioned above, or provide an adequate deterrent. For these violations, it has been suggested that the State should require an additional amount of restitution, as well as a longer license prohibition period.

CONTENT

Senate Bill 244 would amend Part 401 (Wildlife Conservation) of the Natural Resources and Environmental Protection Act (NREPA) to increase the restitution to the State for an individual convicted of illegally killing, possessing, purchasing, or selling certain game or protected animals.

Senate Bill 245 would amend Part 401 of NREPA to do the following:

- Increase the number of years an individual is prohibited from securing or possessing a hunting license if he or she is convicted of illegally killing, possessing, purchasing, or selling a bear or turkey, or possessing or taking an elk or moose.
- Allow a court, at its discretion, to issue a longer hunting license ban for a person convicted of using artificial light to take game.
- Provide that an individual who willfully used an illegally constructed snare or cable restraint would be guilty of a misdemeanor.

Senate Bill 246 would amend the sentencing guidelines in the Code of Criminal Procedure to revise the citation to a section of NREPA that Senate Bill 245 would amend.

All of the bills are tie-barred and would take effect 90 days after being signed into law. A more detailed description of Senate Bills 244 and 245 follows.

Senate Bill 244

The bill would increase the reimbursement amount to the State for some animals. Table 1 shows the current rate of reimbursement as well as the amount proposed under the bill, for those that would be changed.

Table 1

Animal	Current Law	Senate Bill 244
Elk	\$1,500 per animal	\$5,000 per animal plus an additional \$250 for each point for an elk with 8-10 points, or an additional \$500 for each point for an elk with 11 or more points
Moose	\$1,500 per animal	\$5,000 per animal plus an additional \$5,000 for an antlered moose
Bear	\$1,500 per animal	\$3,500 per animal
Eagle	\$0, or \$1,500 per animal if it appears on a list of endangered or threatened species.	\$1,500 per animal
Deer, owl, wild turkey	\$1,000 per animal	\$1,000 per animal plus an additional \$1,000 for a turkey with a beard
Waterfowl	\$0	\$500 per animal

Senate Bill 245

The bill would increase the number of years an individual is prohibited from securing or possessing a hunting license for illegally killing, possessing, purchasing, or selling a bear or wild turkey, or possessing or taking an elk or moose. Table 2 shows the number of years beyond the current year that an individual is prohibited from securing or possessing a hunting license under the current law as well as under the bill.

Table 2

Animal	Current Law	Senate Bill 245
Bear (First offense)	3 years	5 years
Bear (Subsequent offense)	3 years	10 years
Wild Turkey	3 years	5 years
Elk or Moose (First offense)	3 years	15 years
Elk or Moose (Subsequent offense)	3 years	Life

The bill would change the fine for an individual who violated a provision of Part 401 or an order or interim order issued under the part regarding possessing or taking waterfowl. Currently, a violation is a misdemeanor punishable by imprisonment for up to 90 days, a fine of at least \$100 but not more than \$1,000, or both imprisonment and a fine, and the costs of prosecution. Under the bill, for a first offense, the fine would be at least \$250 but not more than \$500. For a subsequent offense, the fine would be \$500.

Part 401 specifies that an individual sentenced for a violation Section 40113(1) must not secure or possess a license to hunt during the remainder of the year in which convicted and the next calendar year. Under the bill, this period could be longer at the discretion of the court. (Section 40133(1) prohibits a person from using an artificial light to take game unless otherwise permitted. A violation of Section 40133(1) is a misdemeanor punishable by imprisonment for up to 90 days, a fine of at least \$100 but not more than \$500, or both, and the costs of prosecution.)

The bill also provides that an individual who willfully violated a provision of Part 401 or an order or interim order issued under it by using an illegally constructed snare or cable restraint would be guilty of a misdemeanor punishable by imprisonment for up to 90 days, or a fine of \$1,000 for the first illegally constructed snare or cable restraint and \$250 for each subsequent illegally constructed snare or cable restraint, or both, and the costs of prosecution.

MCL 324.40119 (S.B. 244)
324.40118 (S.B. 245)
777.13e (S.B. 246)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bills' increased penalties could deter hunters from unlawfully taking the animals in question. Reportedly, the motivation to illegally take animals is often that a hunter has an opportunity to take a trophy animal, but either the hunter has reached his or her limit or the animal is out of season. If the penalties for such a hunter were increased, it is hoped that more often he or she would decide that violating the law was not worth the risk. The bills would be in line with changes made to the Act in 2013 that increased the penalties for illegally taking a large antlered deer, which can be particularly attractive to poachers. The increased amounts of restitution also would give the Department of Natural Resources (DNR) more money to enforce hunting laws.

Opposing Argument

The bills' fine and hunting ban period increases are too high. A hunter could be punished for making an honest mistake, which could discourage legal hunting.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bills would have a positive fiscal impact on the DNR. The bills would generally increase the amount of restitution owed by an individual convicted of illegally killing, possessing, purchasing, or selling certain species. In fiscal year 2013-14, the DNR received a total of \$355,620 in restitution payments from individuals found guilty of poaching or otherwise illegally possessing game. The revenue figure cannot be broken down by species, however, as the local courts that make the judgments do not provide this information; therefore, it is difficult to estimate with any certainty how much additional revenue the increased penalties under the bills would generate. It should be noted, however, that all restitution of this type is credited to the Game and Fish Protection Fund, which the DNR uses for game species habitat improvements, law enforcement, and other purposes.

Changing the misdemeanor fine for violations involving waterfowl would have an indeterminate fiscal impact on local units of government, which receive penal fine revenue for public library purposes. It is not known whether the proposed change would increase or decrease revenue, but any impact would likely be minimal.

In addition, adding a misdemeanor penalty for violations including illegally constructed snares could have a negative, though likely minor impact on local units. An increase in misdemeanor arrest and convictions could increase resource demands on local courts, law enforcement, and jails.

Fiscal Analyst: Josh Sefton

A1516\s244ea

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.