

AN ACT

ENTITLED, An Act to revise the method for and the limitations on imposition of various civil damages for unlawfully taking wild animals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 41-1-5.1 be amended to read as follows:

41-1-5.1. Any person, other than a minor under the age of sixteen years, who willfully and unlawfully kills, destroys, takes, or possesses in this state any wild animal designated by this section:

- (1) Without an applicable and valid big game or small game license; or
- (2) At a time or place when and where taking or possession of such regulated wild animal is prohibited; or
- (3) In excess of the legal limit of big game if exceeded by one or more; or
- (4) In excess of the legal daily or possession limit of small game bird or fish if exceeded by two or more;

is liable to the state for civil damages.

The civil damages are five thousand dollars for each elk, mountain lion, or buffalo; ten thousand dollars for each mountain goat or mountain sheep; one thousand dollars for each deer, antelope, or bobcat; two hundred dollars for each turkey; two hundred dollars for each paddlefish; one hundred dollars for each small game bird; and fifty dollars for each fish for any species, other than paddlefish, with an established daily limit of less than twenty-five.

If a person has taken or is in possession of more than two times the lawful daily or possession limit of a regulated wild animal, such person is liable for twice the damages provided in this section.

However, the return uninjured of the wild animal to the place where captured, or to such other place as the Department of Game, Fish and Parks may direct, constitutes a discharge of such damages. Moreover, the provisions of this section do not apply to any person, who, after providing

written notice received by the Department of Game, Fish and Parks, forty-eight hours in advance, takes reasonable actions to protect the person's land, livestock, or crops from serious and extraordinary damages caused by elk, deer, antelope, wild turkey, or mountain lion. Nothing in this section or any other provision of law prevents any person from taking any action necessary to protect the personal safety of that person or any other person who is in immediate danger of harm from a mountain lion or other animal specified in this section.

Section 2. That § 41-1-5.2 be amended to read as follows:

41-1-5.2. The liquidated damages provided for in this chapter and taxable costs may be collected by the Department of Game, Fish and Parks in a civil suit brought by it, in the name of the State of South Dakota, against the person claimed to be liable therefor. Conviction of a criminal offense for the same incident leading to the charges specified in § 41-1-5.1 is prima facie evidence of the defendant's civil liability. Failure to obtain conviction on a criminal charge is not a bar to a separate civil action for such liquidated damages.

The department, collecting such liquidated damages and taxable costs, shall deposit them in the Department of Game, Fish and Parks fund. Any other public agency or department of the state, collecting liquidated damages and taxable costs, shall remit the moneys collected, less the agreed collection fee, to the state treasurer who shall deposit them in the Department of Game, Fish, and Parks fund.

The judgment and liquidated damages may be collected by an agent. Fees to agents authorized to collect on a judgment under this section may not exceed fifty percent of the total amount collected. With approval of the department, agreed collection fees may be deducted from the moneys collected when remitted or may be paid on warrants drawn by the state auditor on itemized vouchers approved by the secretary of game, fish and parks and submitted simultaneously with the moneys collected.

Section 3. That § 41-1-5.3 be repealed.

Section 4. That § 41-1-5.4 be repealed.

Section 5. That § 41-1-5.5 be repealed.

Section 6. That § 41-1-5.6 be amended to read as follows:

41-1-5.6. A statement generally outlining the civil liability provisions of § 41-1-5.1 shall be printed on the reverse of the citation given by an arresting officer at the time of the arrest to the person violating game and fish statutes. Acknowledgment of receipt of the information concerning civil liability by the defendant is to be noted specifically through a specific receipt form to draw attention to civil penalties.

No person who has been prosecuted for a criminal offense may be held liable for civil damages pursuant to §§ 41-1-5.1 and 41-1-5.2 arising from the same offense or incident if the person has not received the warnings required in this section.

Section 7. That § 41-1-5.8 be repealed.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1060

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1060
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State