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BILL



ANALYSIS

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Senate Bills 1340 and 1341 (as introduced 10-17-12)

Sponsor: Senator Phil Pavlov (S.B. 1340)

Senator Tom Casperson (S.B. 1341)

Committee: Outdoor Recreation and Tourism

Date Completed: 11-5-12

CONTENT

Senate Bill 1340 would amend Part 401 (Wildlife Conservation) of the Natural Resources and Environmental Protection Act to require a person to pay restitution to the State for illegally killing, possessing, purchasing, or selling an antlered white-tailed deer with a gross score of more than 100 inches, based on antler measurements, in addition to the restitution that currently must be paid for illegally taken deer generally.

Senate Bill 1341 would amend Part 731 (Recreational Trespass) of the Act to increase the amount of damages that a property owner may recover in an action against a recreational trespasser, and increase the fine that may be imposed on a person convicted of violating Part 731.

The bills are tie-barred to each other.

Senate Bill 1340

The Act prescribes penalties for a violation of Parts 401 and 365 (Endangered Species Protection). In addition to these penalties, an individual convicted of illegally killing, possessing, purchasing, or selling game or a protected animal must reimburse the State for its value as prescribed in Part 401. For deer, the specified reimbursement rate is \$1,000 per animal.

Under the bill, in addition to the established restitution value for deer, an individual convicted of illegally killing, possessing, purchasing, or selling an antlered white-tailed deer with a gross score of more than 100 inches also would have to pay a restitution value that was equal to $[(\text{gross score} - 100)^2 \times \$1.65]$.

"Gross score" would mean the number derived by calculating the measurements of the antlers of a white-tailed deer. The bill prescribes procedures for taking the measurements, and provides that the measurements could be taken at any time.

Part 401 contains provisions regarding payment and collection of the restitution value for an illegal killing, possession, purchase, or sale of game or protected animals. Under the bill, these provisions also would apply in the case of an antlered white-tailed deer with a gross score of more than 100 inches.

Senate Bill 1341

Part 731 prohibits a person from entering or remaining upon another person's property, other than farm property or a wooded area connected to farm property, to engage in any recreational activity or trapping without the owner's consent, if the property is fenced or

enclosed and is maintained in a manner intended to exclude intruders; or is posted in a conspicuous manner against entry. A person may not enter or remain upon farm property or a connected wooded area for a recreational activity or trapping without the owner's consent whether or not the property or wooded area is fenced, enclosed, or posted. Part 731 also prohibits a person from discharging a firearm within the right-of-way of a public highway adjoining or abutting any platted property; fenced, enclosed, or posted property; or farm property or a connected wooded area without the abutting property owner's consent. In addition, a person may not remove, deface, or destroy a sign or poster that has been posted against entry.

The owner of property on which a violation of Part 731 is committed, or his or her lessee, may bring an action against the violator for \$250 or actual property damage, whichever is greater, and actual and reasonable attorney fees. The bill would increase the amount to the greater of \$750 or actual property damage, as well as attorney fees.

An individual who violates Part 731 is guilty of a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of at least \$100 but not more than \$500. The bill would increase the minimum and maximum fine amounts to \$250 and \$750, respectively.

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 of at least \$100 but not more than \$1,000. In addition, if the violator is licensed to hunt, fish, or trap in Michigan, the court may order the person's license revoked. The court also may order the person not to seek or possess a license for up to three years. The bill would increase the minimum fine to \$500 and the maximum fine to \$1,500.

MCL 324.40119 (S.B. 1340)
324.73109 & 324.73110 (S.B. 1341)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

Senate Bill 1340

The bill would have a small, but likely positive effect on State finances, and no fiscal impact on local units of government. The bill would require individuals convicted of illegally taking, purchasing, possessing, or selling white-tailed deer to pay a fine calculated on the gross score of the deer in addition to any other penalties prescribed by law. It is unknown how much revenue would be raised by these additional fees, but the bill would require that revenue to be deposited in the Game and Fish Protection Fund.

Senate Bill 1341

The bill would increase fines for violations of Part 731 as well as fines for second or subsequent violations (as described above). Revenue from these increased fines would benefit public libraries.

Fiscal Analyst: Dan O'Connor
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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.