

# SENATE BILL No. 171

February 12, 2013, Introduced by Senators PAVLOV, JONES, PROOS, WALKER, CASPERSON and BOOHER and referred to the Committee on Outdoor Recreation and Tourism.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 40119 (MCL 324.40119), as amended by 2004 PA 587.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 40119. (1) In addition to the penalties provided for  
2 violating this part or an order issued under this part, and the  
3 penalty provided in section 36507, ~~a person~~ **AN INDIVIDUAL** convicted  
4 of the illegal killing, possessing, purchasing, or selling ~~—~~of  
5 game or protected animals, in whole or in part, shall reimburse the  
6 state for the value of the game or protected animal as follows:

7           (a) Bear, elk, hawk, moose, or any animal that appears on a  
8 list specified in section 36505, \$1,500.00 per animal.

9           (b) Deer, owl, and wild turkey, \$1,000.00 per animal.

1 (c) Other game not listed in subdivision (a) or (b), not less  
2 than \$100.00 or more than \$500.00 per animal.

3 (d) Other protected animals, \$100.00 per animal.

4 (2) IN ADDITION TO THE RESTITUTION VALUE ESTABLISHED IN  
5 SUBSECTION (1), AN INDIVIDUAL CONVICTED OF THE ILLEGAL KILLING,  
6 POSSESSING, PURCHASING, OR SELLING OF AN ANTLERED WHITE-TAILED DEER  
7 WITH A GROSS SCORE OF MORE THAN 100 INCHES ALSO SHALL PAY AN  
8 ADDITIONAL RESTITUTION VALUE THAT IS EQUAL TO  $[(\text{GROSS SCORE} - 100)^2$   
9  $\times \$1.65]$ .

10 (3) IN ADDITION TO THE PENALTIES PROVIDED FOR VIOLATING THIS  
11 PART OR AN ORDER ISSUED UNDER THIS PART, AN INDIVIDUAL CONVICTED OF  
12 THE ILLEGAL KILLING, POSSESSING, PURCHASING, OR SELLING OF AN  
13 ANTLERED WHITE-TAILED DEER WITH A GROSS SCORE OF MORE THAN 100  
14 INCHES SHALL BE SUBJECT TO THE FOLLOWING PENALTIES:

15 (A) FOR A FIRST OFFENSE, THE INDIVIDUAL SHALL NOT SECURE OR  
16 POSSESS A LICENSE OF ANY KIND TO HUNT FOR AN ADDITIONAL 2 CALENDAR  
17 YEARS AFTER THE PENALTIES IMPOSED UNDER SECTION 40118(6).

18 (B) FOR A SECOND OR SUBSEQUENT OFFENSE, THE INDIVIDUAL SHALL  
19 NOT SECURE OR POSSESS A LICENSE OF ANY KIND TO HUNT FOR AN  
20 ADDITIONAL 7 CALENDAR YEARS AFTER THE PENALTIES IMPOSED UNDER  
21 SECTION 40118(6).

22 (4) THE GROSS SCORE OF AN ANTLERED WHITE-TAILED DEER SHALL BE  
23 DETERMINED BY TAKING AND ADDING TOGETHER ALL OF THE FOLLOWING  
24 MEASUREMENTS, WHICH SHALL BE MADE TO THE NEAREST 1/8 OF AN INCH  
25 USING A 1/4-INCH-WIDE FLEXIBLE STEEL TAPE:

26 (A) INSIDE SPREAD OF THE MAIN ANTLER BEAMS, NOT TO EXCEED THE  
27 LENGTH OF THE LONGEST MAIN ANTLER BEAM.

1 (B) LENGTH OF THE RIGHT MAIN ANTLER BEAM.

2 (C) LENGTH OF THE LEFT MAIN ANTLER BEAM.

3 (D) TOTAL LENGTH OF ALL ABNORMAL POINTS.

4 (E) TOTAL LENGTH OF ALL NORMAL POINTS AS MEASURED FROM THE  
5 NEAREST EDGE OF THE MAIN ANTLER BEAM OVER THE OUTER CURVE TO THE  
6 TIP. TO DETERMINE THE BASELINE FOR NORMAL POINT MEASUREMENT, THE  
7 TAPE SHALL BE LAID ALONG THE OUTER CURVE OF THE ANTLER BEAM SO THAT  
8 THE TOP EDGE OF THE TAPE COINCIDES WITH THE TOP EDGE OF THE ANTLER  
9 BEAM ON BOTH SIDES OF THE POINT.

10 (F) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE  
11 ANTLER BURR AND THE FIRST NORMAL POINT ON THE RIGHT MAIN ANTLER  
12 BEAM. IF THE FIRST NORMAL POINT IS MISSING, THE CIRCUMFERENCE SHALL  
13 BE TAKEN AT THE NARROWEST PLACE BETWEEN THE ANTLER BURR AND THE  
14 SECOND NORMAL POINT.

15 (G) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE  
16 FIRST NORMAL POINT AND THE SECOND NORMAL POINT ON THE RIGHT MAIN  
17 ANTLER BEAM. IF THE FIRST NORMAL POINT IS MISSING, THE  
18 CIRCUMFERENCE SHALL BE TAKEN AT THE NARROWEST PLACE BETWEEN THE  
19 ANTLER BURR AND THE SECOND NORMAL POINT.

20 (H) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE  
21 SECOND NORMAL POINT AND THE THIRD NORMAL POINT ON THE RIGHT MAIN  
22 ANTLER BEAM.

23 (I) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE  
24 THIRD NORMAL POINT AND THE FOURTH NORMAL POINT ON THE RIGHT MAIN  
25 ANTLER BEAM. IF THE FOURTH NORMAL POINT IS MISSING, THE  
26 CIRCUMFERENCE SHALL BE TAKEN HALFWAY BETWEEN THE THIRD NORMAL POINT  
27 AND THE TIP OF THE MAIN ANTLER BEAM.

1 (J) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE  
2 ANTLER BURR AND THE FIRST NORMAL POINT ON THE LEFT MAIN ANTLER  
3 BEAM. IF THE FIRST NORMAL POINT IS MISSING, THE CIRCUMFERENCE SHALL  
4 BE TAKEN AT THE NARROWEST PLACE BETWEEN THE ANTLER BURR AND THE  
5 SECOND NORMAL POINT.

6 (K) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE  
7 FIRST NORMAL POINT AND THE SECOND NORMAL POINT ON THE LEFT MAIN  
8 ANTLER BEAM. IF THE FIRST NORMAL POINT IS MISSING, THE  
9 CIRCUMFERENCE SHALL BE TAKEN AT THE NARROWEST PLACE BETWEEN THE  
10 ANTLER BURR AND THE SECOND NORMAL POINT.

11 (L) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE  
12 SECOND NORMAL POINT AND THE THIRD NORMAL POINT ON THE LEFT MAIN  
13 ANTLER BEAM.

14 (M) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE  
15 THIRD NORMAL POINT AND THE FOURTH NORMAL POINT ON THE LEFT MAIN  
16 ANTLER BEAM. IF THE FOURTH NORMAL POINT IS MISSING, THE  
17 CIRCUMFERENCE SHALL BE TAKEN HALFWAY BETWEEN THE THIRD NORMAL POINT  
18 AND THE TIP OF THE MAIN ANTLER BEAM.

19 (5) THE MEASUREMENTS UNDER SUBSECTION (4) MAY BE TAKEN AT ANY  
20 TIME.

21 (6) ~~(2)~~—The court in which a conviction for a violation  
22 described in subsection (1) OR (2) is obtained shall order the  
23 defendant to forfeit to the state a sum as set forth in subsection  
24 (1) OR (2). If 2 or more defendants are convicted of the illegal  
25 killing, possessing, purchasing, or selling, in whole or in part,  
26 of game or protected animals listed in subsection (1) OR (2), the  
27 forfeiture prescribed shall be declared against them jointly.

1           (7) ~~(3)~~—If a defendant fails to pay upon conviction the sum  
2 ordered by the court to be forfeited, the court shall either impose  
3 a sentence and, as a condition of the sentence, require the  
4 defendant to satisfy the forfeiture in the amount prescribed and  
5 fix the manner and time of payment, or make a written order  
6 permitting the defendant to pay the sum to be forfeited in  
7 installments at those times and in those amounts that, in the  
8 opinion of the court, the defendant is able to pay.

9           (8) ~~(4)~~—If a defendant defaults in payment of the sum  
10 forfeited or of an installment, the court on motion of the  
11 department or upon its own motion may require the defendant to show  
12 cause why the default should not be treated as a civil contempt,  
13 and the court may issue a summons or warrant of arrest for his or  
14 her appearance. Unless the defendant shows that the default was not  
15 due to an intentional refusal to obey the order of the court or to  
16 a failure to make a good faith effort to obtain the funds required  
17 for the payment, the court shall find that the default constitutes  
18 a civil contempt.

19           (9) ~~(5)~~—If it appears that the defendant's default in the  
20 payment of the forfeiture does not constitute civil contempt, the  
21 court may enter an order allowing the defendant additional time for  
22 payment, reducing the amount of the forfeiture or of each  
23 installment, or revoking the forfeiture or the unpaid portion of  
24 the forfeiture, in whole or in part.

25           (10) ~~(6)~~—A default in the payment of the forfeiture or an  
26 installment payment may be collected by any means authorized for  
27 the enforcement of a judgment under chapter 60 of the revised

1    judicature act of 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

2           (11) ~~(7)~~ A court receiving forfeiture damages shall remit the  
3    damages to the county treasurer, who shall deposit the damages with  
4    the state treasurer, who shall deposit the damages in the game and  
5    fish protection account ~~of the Michigan conservation and recreation~~  
6    ~~legacy fund provided for~~ ESTABLISHED in section 2010.

7           (12) AS USED IN THIS SECTION:

8           (A) "ABNORMAL POINT" MEANS A POINT THAT IS NONTYPICAL IN SHAPE  
9    OR LOCATION.

10          (B) "ANTLER BURR" MEANS THE ELEVATED BONY RIM AROUND THE  
11    ANTLER BASE OF A WHITE-TAILED DEER THAT IS JUST ABOVE THE SKIN OF  
12    THE PEDICLE.

13          (C) "GROSS SCORE" MEANS THE NUMBER DERIVED BY CALCULATING THE  
14    MEASUREMENTS OF THE ANTLERS OF A WHITE-TAILED DEER UNDER SUBSECTION  
15    (4).

16          (D) "INSIDE SPREAD OF MAIN ANTLER BEAMS" MEANS THE MEASUREMENT  
17    AT RIGHT ANGLES TO THE CENTER LINE OF THE SKULL OF A WHITE-TAILED  
18    DEER AT THE WIDEST POINT BETWEEN THE MAIN ANTLER BEAMS.

19          (E) "LENGTH OF MAIN ANTLER BEAM" MEANS THE MEASUREMENT FROM  
20    THE LOWEST OUTSIDE EDGE OF THE ANTLER BURR OF A WHITE-TAILED DEER  
21    OVER THE OUTER CURVE TO THE MOST DISTANT POINT OF WHAT IS OR  
22    APPEARS TO BE THE MAIN ANTLER BEAM BEGINNING AT THE PLACE ON THE  
23    ANTLER BURR WHERE THE CENTERLINE ALONG THE OUTER CURVE OF THE BEAM  
24    INTERSECTS THE ANTLER BURR.

25          (F) "NORMAL POINT" MEANS A POINT THAT PROJECTS FROM THE MAIN  
26    ANTLER BEAM IN A TYPICAL SHAPE OR LOCATION.

27          (G) "POINT" MEANS A PROJECTION ON THE ANTLER OF A WHITE-TAILED

1 DEER THAT IS AT LEAST 1 INCH LONG AS MEASURED FROM ITS TIP TO THE  
2 NEAREST EDGE OF ANTLER BEAM AND THE LENGTH OF WHICH EXCEEDS THE  
3 LENGTH OF ITS BASE. POINT DOES NOT INCLUDE AN ANTLER BEAM TIP.

4 Enacting section 1. This amendatory act does not take effect  
5 unless Senate Bill No. 172

6 of the 97th Legislature is enacted into law.