

SENATE BILL No. 1340

October 17, 2012, Introduced by Senators PAVLOV, GREEN, CASPERSON, BOOHER, PROOS and PAPPAGEORGE 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.

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

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

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

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

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

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

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

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

(B) LENGTH OF THE RIGHT MAIN ANTLER BEAM.

(C) LENGTH OF THE LEFT MAIN ANTLER BEAM.

(D) TOTAL LENGTH OF ALL ABNORMAL POINTS.

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

(F) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE ANTLER BURR AND THE FIRST NORMAL POINT ON THE RIGHT MAIN ANTLER BEAM. IF THE FIRST NORMAL POINT IS MISSING, THE CIRCUMFERENCE SHALL

1 BE TAKEN AT THE NARROWEST PLACE BETWEEN THE ANTLER BURR AND THE
2 SECOND NORMAL POINT.

3 (G) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE
4 FIRST NORMAL POINT AND THE SECOND NORMAL POINT ON THE RIGHT MAIN
5 ANTLER BEAM. IF THE FIRST NORMAL POINT IS MISSING, THE
6 CIRCUMFERENCE SHALL BE TAKEN AT THE NARROWEST PLACE BETWEEN THE
7 ANTLER BURR AND THE SECOND NORMAL POINT.

8 (H) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE
9 SECOND NORMAL POINT AND THE THIRD NORMAL POINT ON THE RIGHT MAIN
10 ANTLER BEAM.

11 (I) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE
12 THIRD NORMAL POINT AND THE FOURTH NORMAL POINT ON THE RIGHT MAIN
13 ANTLER BEAM. IF THE FOURTH NORMAL POINT IS MISSING, THE
14 CIRCUMFERENCE SHALL BE TAKEN HALFWAY BETWEEN THE THIRD NORMAL POINT
15 AND THE TIP OF THE MAIN ANTLER BEAM.

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

21 (K) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE
22 FIRST NORMAL POINT AND THE SECOND NORMAL POINT ON THE LEFT MAIN
23 ANTLER BEAM. IF THE FIRST NORMAL POINT IS MISSING, THE
24 CIRCUMFERENCE SHALL BE TAKEN AT THE NARROWEST PLACE BETWEEN THE
25 ANTLER BURR AND THE SECOND NORMAL POINT.

26 (L) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE
27 SECOND NORMAL POINT AND THE THIRD NORMAL POINT ON THE LEFT MAIN

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1 ANTLER BEAM.

2 (M) CIRCUMFERENCE TAKEN AT THE NARROWEST PLACE BETWEEN THE
3 THIRD NORMAL POINT AND THE FOURTH NORMAL POINT ON THE LEFT MAIN
4 ANTLER BEAM. IF THE FOURTH NORMAL POINT IS MISSING, THE
5 CIRCUMFERENCE SHALL BE TAKEN HALFWAY BETWEEN THE THIRD NORMAL POINT
6 AND THE TIP OF THE MAIN ANTLER BEAM.

7 <<(5)>> THE MEASUREMENTS UNDER SUBSECTION <<(4)>> MAY BE TAKEN
8 AT ANY
9 TIME.

9 <<(6)>> ~~(2)~~—The court in which a conviction for a violation
10 described in subsection (1) OR (2) is obtained shall order the
11 defendant to forfeit to the state a sum as set forth in subsection
12 (1) OR (2). If 2 or more defendants are convicted of the illegal
13 killing, possessing, purchasing, or selling, in whole or in part,
14 of game or protected animals listed in subsection (1) OR (2), the
15 forfeiture prescribed shall be declared against them jointly.

16 <<(7)>> ~~(3)~~—If a defendant fails to pay upon conviction the sum
17 ordered by the court to be forfeited, the court shall either impose
18 a sentence and, as a condition of the sentence, require the
19 defendant to satisfy the forfeiture in the amount prescribed and
20 fix the manner and time of payment, or make a written order
21 permitting the defendant to pay the sum to be forfeited in
22 installments at those times and in those amounts that, in the
23 opinion of the court, the defendant is able to pay.

24 <<(8)>> ~~(4)~~—If a defendant defaults in payment of the sum
25 forfeited or of an installment, the court on motion of the
26 department or upon its own motion may require the defendant to show
27 cause why the default should not be treated as a civil contempt,

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1 and the court may issue a summons or warrant of arrest for his or
 2 her appearance. Unless the defendant shows that the default was not
 3 due to an intentional refusal to obey the order of the court or to
 4 a failure to make a good faith effort to obtain the funds required
 5 for the payment, the court shall find that the default constitutes
 6 a civil contempt.

7 <<(9)>> ~~(5)~~—If it appears that the defendant's default in the
 8 payment of the forfeiture does not constitute civil contempt, the
 9 court may enter an order allowing the defendant additional time for
 10 payment, reducing the amount of the forfeiture or of each
 11 installment, or revoking the forfeiture or the unpaid portion of
 12 the forfeiture, in whole or in part.

13 <<(10)>> ~~(6)~~—A default in the payment of the forfeiture or an
 14 installment payment may be collected by any means authorized for
 15 the enforcement of a judgment under chapter 60 of the revised
 16 judicature act of 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

17 <<(11)>> ~~(7)~~—A court receiving forfeiture damages shall remit the
 18 damages to the county treasurer, who shall deposit the damages with
 19 the state treasurer, who shall deposit the damages in the game and
 20 fish protection account ~~of the Michigan conservation and recreation~~
 21 ~~legacy fund provided for~~ ESTABLISHED in section 2010.

22 <<(12)>> AS USED IN THIS SECTION:

23 (A) "ABNORMAL POINT" MEANS A POINT THAT IS NONTYPICAL IN SHAPE
 24 OR LOCATION.

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

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1 (C) "GROSS SCORE" MEANS THE NUMBER DERIVED BY CALCULATING THE
2 MEASUREMENTS OF THE ANTLERS OF A WHITE-TAILED DEER UNDER SUBSECTION
3 <<(4)>>.

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

7 (E) "LENGTH OF MAIN ANTLER BEAM" MEANS THE MEASUREMENT FROM
8 THE LOWEST OUTSIDE EDGE OF THE ANTLER BURR OF A WHITE-TAILED DEER
9 OVER THE OUTER CURVE TO THE MOST DISTANT POINT OF WHAT IS OR
10 APPEARS TO BE THE MAIN ANTLER BEAM BEGINNING AT THE PLACE ON THE
11 ANTLER BURR WHERE THE CENTERLINE ALONG THE OUTER CURVE OF THE BEAM
12 INTERSECTS THE ANTLER BURR.

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

15 (G) "POINT" MEANS A PROJECTION ON THE ANTLER OF A WHITE-TAILED
16 DEER THAT IS AT LEAST 1 INCH LONG AS MEASURED FROM ITS TIP TO THE
17 NEAREST EDGE OF ANTLER BEAM AND THE LENGTH OF WHICH EXCEEDS THE
18 LENGTH OF ITS BASE. POINT DOES NOT INCLUDE AN ANTLER BEAM TIP.

19 Enacting section 1. This amendatory act does not take effect
20 unless Senate Bill No. 1341

21 of the 96th Legislature is enacted into law.