

House File 2342

H-8166

1 Amend House File 2342 as follows:

2 1. Page 1, before line 1 by inserting:

3 <Section 1. Section 481A.11, Code 2018, is amended to read
4 as follows:

5 **481A.11 Confiscated or accidentally killed game.**

6 Except as provided in [section 481A.13](#) or [481A.13A](#), any game
7 or fish seized by the commission under [section 481A.12](#) or any
8 game accidentally killed by a motor vehicle on a public highway
9 shall, when salvageable, be disposed of as determined by the
10 commission or its designee.

11 Sec. _____. Section 481A.12, Code 2018, is amended to read as
12 follows:

13 **481A.12 Seizure of wildlife taken or handled illegally.**

14 The director or any peace officer shall seize with or
15 without warrant and take possession of, ~~or direct the disposal~~
16 ~~of~~, any fish, furs, birds, or animals, or mussels, clams, or
17 frogs, which have been caught, taken, or killed at a time,
18 in a manner, or for a purpose, or had in possession or under
19 control, or offered for shipment, or illegally transported in
20 the state or to a point beyond its borders, contrary to the
21 Code. All fish, furs, birds, or animals, or mussels, clams,
22 or frogs seized under [this section](#) ~~may~~ shall be relinquished
23 to a representative of the commission ~~or disposed of and kept~~
24 as provided in section 481A.13.

25 Sec. _____. Section 481A.13, Code 2018, is amended to read as
26 follows:

27 **481A.13 Search warrants.**

28 Any court having jurisdiction of the offense, upon receiving
29 proof of probable cause for believing that any fish, mussels,
30 clams, frogs, birds, furs, or animals caught, taken, killed,
31 had in possession, under control, or shipped, contrary to the
32 Code, or hidden or concealed in any place, shall issue a search
33 warrant and cause a search to be made in any place therefor.
34 The property so seized under warrant shall be safely kept under
35 the direction of the court so long as necessary for the purpose

1 of being used as evidence in any trial, and if a trial results
2 in a conviction the property seized shall be confiscated by the
3 director or the director's officers. If the trial does not
4 result in a conviction, the property shall be returned to the
5 person pursuant to section 481A.13A.

6 Sec. _____. NEW SECTION. **481A.13A Conviction required for**
7 **property confiscation — return of property.**

8 1. The state shall not confiscate property seized under
9 section 481A.12 or 481A.13 unless the person from whom the
10 property was seized is convicted of the violation for which the
11 property was seized.

12 2. If the person from whom the property was seized is not
13 convicted of the violation for which the property was seized,
14 the department, law enforcement agency, or other governmental
15 agency in possession of the seized property shall return the
16 seized property to the person within thirty days of any of the
17 following:

18 a. The date the person is found not guilty of the violation.

19 b. The date the action involving the violation is dismissed.

20 c. The date the statute of limitations expires for the
21 alleged violation for which the property was seized.

22 3. For purposes of this section, "convicted" includes
23 a finding of guilt, payment of a scheduled fine, a plea of
24 guilty, deferred judgment, deferred or suspended sentence,
25 adjudication of delinquency, or circumstance where a person is
26 not charged with a criminal offense related to the violation
27 based in whole or in part on the person's agreement to provide
28 information regarding the criminal activity of another person.

29 Sec. _____. Section 483A.32, Code 2018, is amended to read as
30 follows:

31 **483A.32 Public nuisance.**

32 1. Any Subject to subsection 2, any device, contrivance,
33 or material used to violate a rule adopted by the commission,
34 or any other provision of this chapter or chapter 481A, 481B,
35 482, 484A, or 484B, is a public nuisance and may be condemned

1 by the state. The director, the director's officers, or
2 any peace officer, shall seize the devices, contrivances,
3 or materials used as a public nuisance, without warrant or
4 process, and deliver them to a magistrate having jurisdiction.
5 An automobile shall not be construed to be a public nuisance
6 under this section.

7 2. The state may only condemn property seized as a public
8 nuisance if the person from whom the property was seized is
9 convicted of the violation for which the property was seized as
10 a public nuisance.

11 3. If the person from whom the property was seized is not
12 convicted of the violation for which the property was seized,
13 the department, law enforcement agency, or other governmental
14 agency in possession of the seized property shall return the
15 seized property to the person within thirty days of any of the
16 following:

- 17 a. The date the person is found not guilty of the violation.
- 18 b. The date the action involving the violation is dismissed.
- 19 c. The date the statute of limitations expires for the
20 alleged violation for which the property was seized.

21 4. For purposes of this section, "convicted" means the same
22 as in section 481A.13A, subsection 3.

23 Sec. _____. Section 483A.33, subsection 3, paragraph a, Code
24 2018, is amended to read as follows:

25 a. The person from whom the property was seized may make
26 application for its return in the office of the clerk of the
27 district court for the county in which the property was seized.
28 The application shall be filed within thirty days after
29 the receipt of the notice of condemnation or the person is
30 convicted of the violation for which the property was seized,
31 whichever occurs later. Failure to file the application within
32 this time period terminates the interest of the person and the
33 ownership of the property shall be transferred to the state,
34 except that a person who is not convicted of the violation
35 for which the property was seized is not required to file an

1 application and is entitled to the return of the property in
2 accordance with section 483A.32.

3 Sec. _____. Section 483A.33, subsection 4, Code 2018, is
4 amended to read as follows:

5 4. If an application for return of condemnable property
6 is timely and of sufficient grounds, the claim shall be set
7 for hearing. The hearing shall be held not less than ten nor
8 more than thirty days after the ~~filing of the claim~~ claim is
9 filed or the person is convicted for the violation for which
10 the property was seized as a public nuisance, whichever occurs
11 later. The proceeding shall be conducted by a magistrate or
12 a district associate judge. All claims to the same property
13 shall be heard in one proceeding, unless it is shown that the
14 proceeding would result in prejudice to one or more of the
15 parties.

16 Sec. _____. Section 483A.33, subsection 5, Code 2018, is
17 amended by adding the following new paragraphs:

18 NEW PARAGRAPH. c. On or before December 31, 2018, and
19 on or before December 1 each year thereafter, the department
20 shall report to the general assembly's standing committees
21 on government oversight regarding the amount of the proceeds
22 deposited to the state fish and game protection fund pursuant
23 to this subsection. The report shall also contain all
24 information recorded pursuant to paragraph "d".

25 NEW PARAGRAPH. d. A seizing public agency that has custody
26 of any property that is seized pursuant to a provision of this
27 subchapter shall adopt and comply with a written internal
28 control policy that does all of the following:

29 (1) Provides for keeping detailed records as to the amount
30 of property acquired by the agency and the date property was
31 acquired.

32 (2) Provides for keeping detailed records of the
33 disposition of the property, which shall include the manner
34 in which the property was disposed, the date of disposition,
35 and detailed financial records concerning any property sold.

1 The records shall not identify or enable identification of the
2 individual officer who seized any item of property or the name
3 of any person or entity who received any item of property.

4 NEW PARAGRAPH. e. The records kept under the internal
5 control policy shall be open to public inspection during the
6 agency's regular business hours. The policy adopted under this
7 section is a public record open for inspection under chapter
8 22.>

9 2. Page 1, line 2, by striking <subsection> and inserting
10 <subsections>

11 3. Page 1, line 5, after <purchase> by inserting <a fish,
12 fur, bird, animal, mussel, clam, or frog seized pursuant to
13 section 481A.12, a device, contrivance, or material condemned
14 pursuant to section 483A.32, or>

15 4. Page 1, line 10, after <seizing> by inserting <public>

16 5. Page 1, after line 12 by inserting:

17 <NEW SUBSECTION. 7. For purposes of this section,
18 "*convicted*" means the same as in section 481A.13A, subsection
19 3.>

20 6. Title page, by striking lines 1 and 2 and inserting <An
21 Act relating to the seizure and disposition of property by the
22 department of natural resources and requiring a report.>

23 7. By renumbering as necessary.

HEARTSILL of Marion