

FEB 23 1976

HOUSE FILE 1390

Place On Calendar

By COMMITTEE ON NATURAL RESOURCES

Passed House, Date 3-11-76 (p. 1118) Passed Senate, Date 5-20-76 (p. 2134)

Vote: Ayes 82 Nays 0 Vote: Ayes 45 Nays 2

Approved 12-23-76

A BILL FOR

1 An Act relating to civil damages for the taking of game or
2 fur-bearing animals.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 1390

H-5381

1 Amend House File 1390 as follows:
2 1. Page 1, by striking lines 34 and 35.
3 2. Page 2, by striking lines 1 through 6.
4 3. Page 2, by inserting after line 14 the
5 following new section:
6 "Sec. _____. Chapter one hundred nine (109),
7 Code 1975, is amended by adding the following
8 new section:
9 NEW SECTION. Service of process upon or
10 arrest of any person charged with provisions of
11 this chapter for which damages may be assessed
12 pursuant to section one hundred nine point one
13 hundred thirty (109.130) of the Code, shall
14 serve as notice of the pendency of the liquidated
15 damage claim. Trial on the criminal charge may
16 be separated from the determination of the
17 liquidated damage claim in the discretion of the
18 court or by the request of the defendant, but
19 upon conviction of the defendant in the criminal
20 case, the only issue to be determined by the
21 court on the liquidated damage claim is the fact of
22 such conviction."

H-5381 FILED - *adopted 2/11* BY WYCKOFF of Benton
FEBRUARY 27, 1976 (*p. 1117*)

1 Section 1. Section one hundred nine point one hundred
2 thirty (109.130), Code 1975, as amended by Acts of the Sixty-
3 sixth General Assembly, 1975 Session, chapter one hundred
4 eight (108), is amended to read as follows:

5 109.130 DAMAGES IN ADDITION TO PENALTY. In addition to
6 the penalties for violations of this chapter, any person
7 convicted of unlawfully taking, catching, killing, injuring,
8 destroying, or having in possession any game or fur-bearing
9 animal, shall reimburse the state for the value of such game
10 as follows:

11 1. For each deer, elk, antelope, buffalo or moose, three
12 hundred dollars.

13 2. For each wild turkey, one hundred dollars.

14 3. For each game bird, fur-bearing animal, or game animal
15 or the raw pelt or plumage of such game for which damages
16 are not otherwise prescribed, twenty-five dollars.

17 Sec. 2. Section one hundred nine point one hundred thirty-
18 one (109.131), Code 1975, is amended to read as follows:

19 109.131 JUDGMENT--EXECUTION. In each case of conviction
20 of unlawfully taking, catching, killing, injuring, destroying
21 or having in possession any game, the court shall enter a
22 judgment in favor of the state of Iowa for liquidated damages
23 in an amount as provided in section 109.130, and it shall
24 be the duty of the state conservation commission, ~~with the~~
25 ~~assistance of~~ and the prosecuting attorney or attorney general,
26 to collect the liquidated damages by execution or otherwise.
27 If two or more persons who have acted together are convicted
28 of the unlawful taking, catching, killing, injuring, destroying
29 or having possession of any game or fur-bearing animal, the
30 judgment shall be entered against them jointly. Any liquidated
31 damages received under this section and section 109.130 shall
32 be remitted to the treasurer of state who shall credit such
33 damages to the state fish and game protection fund.

34 Service of process on or arrest of any person charged with
35 violating shall serve as notice of the pendency of the

1 liquidated damage claim. Trial on the criminal charge may
2 be separated from the determination of the liquidated damage
3 claim in the discretion of the court or by the request of
4 the defendant, but upon conviction in the criminal case, the
5 only issue to be determined by the court on the liquidated
6 damage claim is the fact of such conviction.

7 The return of any uninjured game which has been unlawfully
8 taken, caught, or possessed, to the place where taken or
9 caught or to any other place approved by the state conservation
10 commission, shall constitute the discharge of any liquidated
11 damages provided under section 109.130.

12 Civil suits ~~authorized by this section and section 109.130~~
13 for the collection of judgments may be prosecuted by the
14 attorney general or by county attorneys.

15 EXPLANATION

16 The Bill expands the coverage of the liquidated damages
17 claim to include fur-bearing animals, defined in section
18 109.40 of the Code. The bill also clarifies the provisions
19 for the notice of and the hearing on the liquidated damage
20 claim.

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AN ACT

RELATING TO CIVIL DAMAGES FOR THE TAKING OF GAME OR FUR-BEARING ANIMALS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section one hundred nine point one hundred thirty (109.130), Code 1975, as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred eight (108), is amended to read as follows:

109.130 DAMAGES IN ADDITION TO PENALTY. In addition to the penalties for violations of this chapter, any person convicted of unlawfully taking, catching, killing, injuring, destroying, or having in possession any game or fur-bearing animal, shall reimburse the state for the value of such game as follows:

1. For each deer, elk, antelope, buffalo or moose, three hundred dollars.
2. For each wild turkey, one hundred dollars.
3. For each game bird, fur-bearing animal, or game animal or the raw pelt or plumage of such game for which damages are not otherwise prescribed, twenty-five dollars.

Sec. 2. Section one hundred nine point one hundred thirty-one (109.131), Code 1975, is amended to read as follows:

109.131 JUDGMENT--EXECUTION. In each case of conviction of unlawfully taking, catching, killing, injuring, destroying or having in possession any game, the court shall enter a judgment in favor of the state of Iowa for liquidated damages in an amount as provided in section 109.130, and it shall be the duty of the state conservation commission, ~~with the assistance of~~ and the prosecuting attorney or attorney general, to collect the liquidated damages by execution or otherwise. If two or more persons who have acted together are convicted

of the unlawful taking, catching, killing, injuring, destroying or having possession of any game or fur-bearing animal, the judgment shall be entered against them jointly. Any liquidated damages received under this section and section 109.130 shall be remitted to the treasurer of state who shall credit such damages to the state fish and game protection fund.

The return of any uninjured game which has been unlawfully taken, caught, or possessed, to the place where taken or caught or to any other place approved by the state conservation commission, shall constitute the discharge of any liquidated damages provided under section 109.130.

Civil suits ~~authorized by this section and section 109.130~~ for the collection of judgments may be prosecuted by the attorney general or by county attorneys.

Sec. 3. Chapter one hundred nine (109), Code 1975, is amended by adding the following new section:

NEW SECTION. Service of process upon or arrest of any person charged with provisions of this chapter for which damages may be assessed pursuant to section one hundred nine point one hundred thirty (109.130) of the Code, shall serve as notice of the pendency of the liquidated damage claim. Trial on the criminal charge may be separated from the determination of the liquidated damage claim in the discretion of the court or by the request of the defendant, but upon conviction of the defendant in the criminal case, the only issue to be determined by the court on the liquidated damage claim is the fact of such conviction.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 1390, Sixty-sixth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved June 23, 1976

ROBERT D. RAY
Governor