

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1343

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Dennis Halliwell
Operator's Signature

10/3/03
Date

2003 HOUSE NATURAL RESOURCES

HB 1343

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Deanna Halliwell
Operator's Signature

10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1343

House Natural Resources Committee

☐ Conference Committee

Hearing Date January 30, 2003

Tape Number	Side A	Side B	Meter #
1		xx	560-2360
Committee Clerk Signature <i>Eun Meyer</i>			

Minutes:

Chair Nelson called the hearing on HB 1343 relating to unlawfully taking big game animals and to provide a penalty to order.

Rep. Hanson: introduced HB 1343. (See Attached Testimony).

Chair Nelson: Is there currently a problem with poaching in North Dakota? Or is this a preventative measure?

Rep. Hanson: I am trying to get a head of the situation.

Roger Rosvitt: I have been working with **Rep. Hanson** to come up with some numbers relating to this. There is quite a range of penalties from state to state on this. This is not a required mandatory sentence. There is some flexibility built into this.

Rep. Norland: If I were poaching a big horn sheep I would be looking for the state with the lowest fine. If the value is worth \$30,000. The fine should be more than \$5,000.

Roger Rosvitt: The value is in the eye of the beholder. Our sheep are not trophy animals.

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10/3/03
Date

Page 2
House Natural Resources Committee
Bill/Resolution Number 1343
Hearing Date January 30, 2003

Rep. Clark: How many of these animals have been poached?

Roger Rosvitt: We anticipate losing 1 or 2 of these animals per biennium.

Chair Nelson: Has there been a sheep incident?

Roger Rosvitt: We know of individuals setting up hunts on these animals. We have not caught them yet.

Rep. Nottestad: In a civil action would you be able to recoup the legal fees from this?

Roger Rosvitt: We have to work through the Attorney Generals office. We have to make a decision as to when it is appropriate.

Mike Donahue: Supports HB 1343. (See Attached Testimony).

Harold Neameyer: We strongly support HB 1343. (See Attached Testimony).

Rep. Kelser moves an amendment. **Rep. Porter** seconds to motion.

Rep. DeKrey: Dekrey expressed concern over the levels of the fines reaching felony levels.

Motion carries by voice vote.

Rep. Kelser moves a do pass on HB 1343 seconded by **Rep. Porter**. The motion carries 12-0-2.

Rep. Kelsh will carry.

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Deanna Hall
Operator's Signature

10/3/03
Date

FISCAL NOTE
Requested by Legislative Council
03/10/2003

Amendment to: HB 1343

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$5,000		\$5,000
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

It is estimated that there will be one elk and one moose case like this each biennium.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Paul T. Schadewald	Agency:	ND Game and Fish Department
Phone Number:	328-6328	Date Prepared:	03/11/2003

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Deanna Halliwell
Operator's Signature

10/3/03
Date

FISCAL NOTE
Requested by Legislative Council
02/04/2003

Amendment to: HB 1343

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$5,000		\$5,000
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

It is estimated that there will be one elk and one moose case like this each biennium.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Paul Schadewald	Agency:	ND Game and Fish Department
Phone Number:	328-6328	Date Prepared:	02/04/2003

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Operator's Signature

Date

FISCAL NOTE
Requested by Legislative Council
01/15/2003

Bill/Resolution No.: HB 1343

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$5,000		\$5,000
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

It is estimated that there will be one elk and one moose case like this each biennium.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:


A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Paul Schadewald	Agency:	ND Game and Fish Department
Phone Number:	328-6328	Date Prepared:	01/15/2003

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Operator's Signature

10/3/03
Date

Date: 1/31/07
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1343

House House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass with Amendments

Motion Made By Keiser Seconded By Porter

Representatives	Yes	No	Representatives	Yes	No
Chairman Jon O. Nelson	✓				
Vice-Chairman Todd Porter	✓				
Rep. Byron Clark	✓				
Rep. Duane DeKrey	✓				
Rep. David Drovdal	✓				
Rep. Lyle Hanson	✓				
Rep. Bob Hunsakor	✓				
Rep. Dennis Johnson					
Rep. George Keiser	✓				
Rep. Scott Kelsh	✓				
Rep. Frank Klein	✓				
Rep. Mike Norland	✓				
Rep. Darrell Nottestad	✓				
Rep. Dorvan Solberg					

Total (Yes) 12 No 0

Absent 2

Floor Assignment Kelsh

If the vote is on an amendment, briefly indicate intent:

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Dennis Johnson
Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
February 3, 2003 10:37 a.m.

Module No: HR-20-1507
Carrier: S. Kelsh
Insert LC: 30477.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1343: Natural Resources Committee (Rep. Nelson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1343 was placed on the Sixth order on the calendar.

Page 1, line 14, remove "and for an animal less than one year of age, the civil penalty for the replacement value"

Page 1, line 15, remove "of the animal is reduced by fifty percent"

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

HR-20-1507

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Deanna Hallworth
Operator's Signature

10/3/03
Date

2003 SENATE NATURAL RESOURCES

HB 1343

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Donna Hall
Operator's Signature

10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1343

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 3-6-03

Tape Number	Side A	Side B	Meter #
1	X		.3 - 18.2
Committee Clerk Signature <i>Jane James</i>			

Minutes:

Senator Thomas Fischer, Chairman of the Senate Natural Resources Committee opened the hearing on HB 1343 relating to unlawfully taking big game animal; and to provide a penalty.

All members of the committee were present except Senator Layton Freborg.

Representative Lyle Hanson of District 12 cosponsor of HB 1343 stated the bill puts a mandatory sentence of taking elk, moose and big horn sheep in the state of North Dakota. He presented a handout about the penalties in selected mountain states (See attached). He also presented the North Dakota "Outdoors" magazine published by the North Dakota Game & Fish Department (attached). Page 18 of the magazine shows a picture of mounts from a sting operation. He stated that in some states these animals are poached for big dollars and hopefully this bill would deter this from happening in this state.

Roger Rustvet, Deputy Director of the North Dakota Game and Fish Department testified in support of HB 1343 stating that the bill as it currently stands has some problems and presented

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Deanna Hall
Operator's Signature

10/3/03
Date

Page 2

Senate Natural Resources Committee

Bill/Resolution Number HB 1343

Hearing Date 3-6-03

some amendments (See attached). The amendment clears up the civil penalties and the replacement cost and also changes a trophy animal back to male that is over 2 ½ years old.

This is not a mandatory sentencing but a civil action which gives judges some flexibility.

Senator Michael Every asked how do you put a value on an animal.

Roger Rustvet responded that there are two ways, one looking at other states and by looking at their own programs and estimate the cost of replacing an animal.

Discussion was held if it would be better to have this a criminal violation. The bill states that it is a Class A misdemeanor and the bill is not mandating any time in jail but creating a formula to look at the fine for restitution for the violation.

David Munsch testified in a neutral position of HB 1343 stating maybe something should be done similar to Montana and identify the animal after it is taken so that it can be tracked. He suggested a huge fine should be levied on those who buy illegal mounts.

Dennis Daniel testified in support of HB 1343. He told a story of a poached 8 point bull elk and feels the fine should be much higher.

There was no opposing and other neutral testimony on HB 1343.

There was discussion as to the amount of the fines.

Written testimony was also given to the members of the committee from Harold Neameyer of the Cass county Wildlife Club and Mike Donahue of the United Sportsmen of North Dakota and the ND Wildlife Federation. (See attached)

Senator Fischer closed the hearing on HB 1343.

Senator Heltkamp made a motion to accept the amendments submitted.

Senator Michael Every second the motion.

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Dennis Daniel
Operator's Signature

10/3/03
Date

Page 3

Senate Natural Resources Committee

Bill/Resolution Number HB 1343

Hearing Date 3-6-03

Roll call vote # 2 was taken indicating 6 YEAS, 0 NAYS AND 1 ABSENT OR NOT VOTING.

Senator Heitkamp made a motion for a Do Pass as Amended of HB 1343.

Senator Lyson second the motion.

Roll call vote # 2 was taken indicating 6 YEAS, 0 NAYS AND 1 ABSENT OR NOT VOTING.

Senator Heitkamp will carry HB 1343.

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Deanna Hall
Operator's Signature

10/3/03
Date

30477.0201
Title.0300

Adopted by the Natural Resources
Committee

March 6, 2003

JEB
3-7-03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1343

Page 1, line 1, replace "20.1-05-03" with "20.1-01-03"

Page 1, line 4, replace "20.1-05-03" with "20.1-01-03"

Page 1, replace lines 6 through 20 with:

"20.1-01-03. Ownership and control of wildlife is in the state - Damages - Schedule of monetary values - Civil penalty. The ownership of and title to all wildlife within this state is in the state for the purpose of regulating the enjoyment, use, possession, disposition, and conservation thereof, and for maintaining action for damages as herein provided. Any person catching, killing, taking, trapping, or possessing any wildlife protected by law at any time or in any manner is deemed to have consented that the title thereto remains in this state for the purpose of regulating the taking, use, possession, and disposition thereof. The state, through the office of attorney general, may institute and maintain any action for damages against any person who unlawfully causes, or has caused within this state, the death, destruction, or injury of wildlife, except as may be authorized by law. The state has a property interest in all protected wildlife. This interest supports a civil action for damages for the unlawful destruction of wildlife by willful or grossly negligent act or omission. The director shall adopt by rule a schedule of monetary values of various species of wildlife, the values to represent the replacement costs of the wildlife and the value lost to the state due to the destruction or injury of the species, together with other material elements of value. In any action brought under this section, the schedule constitutes the measure of recovery for the wildlife killed or destroyed. Notwithstanding the director's schedule of monetary values, an individual who unlawfully takes a bighorn sheep, elk, or moose is subject to a civil penalty for the replacement value of the animal of five thousand dollars for a bighorn sheep, three thousand dollars for an elk, and two thousand dollars for a moose. For a male bighorn sheep, elk, or moose over two and one-half years of age, the civil penalty for the replacement value of the animal is an additional fifty percent of the penalty. The funds recovered must be deposited in the general fund, and devoted to the propagation and protection of desirable species of wildlife."

Renumber accordingly

Date: 2-6-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1343

Senate Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken to accept Amendment of A General Order

Motion Made By Heithaus Seconded By Every

Senators	Yes	No	Senators	Yes	No
Senator Thomas Fischer	✓		Senator Michael A. Every	✓	
Senator Ben Tollefson	✓		Senator Joel C. Heitkamp	✓	
Senator Layton Freborg					
Senator Stanley W. Lyson	✓				
Senator John T. Traynor	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

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Dorinda Hallmark
Operator's Signature

10/3/03
Date

Date: 2-6-03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1343

Senate Senate Natural Resources _____ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as Amended

Motion Made By Dehtony Seconded By kyon

[illegible]

Total (Yes) 6 No 0

Absent

Floor Assignment Deethman

If the vote is on an amendment, briefly indicate intent:

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Donna Hall
Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
March 7, 2003 1:42 p.m.

Module No: SR-41-4269
Carrier: Heltkamp
Insert LC: 30477.0201 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1343, as engrossed: Natural Resources Committee (Sen. Fischer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1343 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "20.1-05-03" with "20.1-01-03"

Page 1, line 4, replace "20.1-05-03" with "20.1-01-03"

Page 1, replace lines 6 through 20 with:

"20.1-01-03. Ownership and control of wildlife is in the state - Damages - Schedule of monetary values - Civil penalty. The ownership of and title to all wildlife within this state is in the state for the purpose of regulating the enjoyment, use, possession, disposition, and conservation thereof, and for maintaining action for damages as herein provided. Any person catching, killing, taking, trapping, or possessing any wildlife protected by law at any time or in any manner is deemed to have consented that the title thereto remains in this state for the purpose of regulating the taking, use, possession, and disposition thereof. The state, through the office of attorney general, may institute and maintain any action for damages against any person who unlawfully causes, or has caused within this state, the death, destruction, or injury of wildlife, except as may be authorized by law. The state has a property interest in all protected wildlife. This interest supports a civil action for damages for the unlawful destruction of wildlife by willful or grossly negligent act or omission. The director shall adopt by rule a schedule of monetary values of various species of wildlife, the values to represent the replacement costs of the wildlife and the value lost to the state due to the destruction or injury of the species, together with other material elements of value. In any action brought under this section, the schedule constitutes the measure of recovery for the wildlife killed or destroyed. Notwithstanding the director's schedule of monetary values, an individual who unlawfully takes a bighorn sheep, elk, or moose is subject to a civil penalty for the replacement value of the animal of five thousand dollars for a bighorn sheep, three thousand dollars for an elk, and two thousand dollars for a moose. For a male bighorn sheep, elk, or moose over two and one-half years of age, the civil penalty for the replacement value of the animal is an additional fifty percent of the penalty. The funds recovered must be deposited in the general fund, and devoted to the propagation and protection of desirable species of wildlife."

Renumber accordingly

2003 TESTIMONY

HB 1343

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Dennis Halliwell
Operator's Signature

10/3/03
Date



Cass County
WILDLIFE CLUB

Box 336
Casselton, ND 58012



TESTIMONY OF HAROLD NEAMEYER
CASS COUNTY WILDLIFE CLUB
PRESENTED TO THE HOUSE NATURAL RESOURCE COMMITTEE
ON HB 1343, JANUARY 30, 2003

Mr. Chairman and Members of the Committee:

I am Harold Neameyer speaking on behalf of the Cass County Wildlife Club. The Cass County Wildlife Club strongly supports HB 1343 which requires a civil penalty for the replacement value of unlawfully taken big game animals.

Using the penalty collected for the management of that species involved is proper use of the funds.

If the bill were to be amended to double the penalty, we would still support HB 1343.



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Donna Hall
Operator's Signature

10/3/03
Date

**Testimony
HB 1343
House Natural Resources Committee
by Mike Donahue (Lobbyist 215)
January 30, 2003**

The North Dakota Wildlife Federation and the United Sportsmen of North ask for a **Do Pass** for this bill.

We ask that you consider doubling the dollar amounts in the bill.

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Operator's Signature

10/3/03
Date

UNLAWFUL TAKING OF BIG GAME ANIMALS - PENALTIES IN SELECTED MOUNTAIN STATES

This memorandum discusses the penalties for the unlawful taking of big game or trophy animals in selected mountain states.

MONTANA

Montana Code Annotated Section 87-1-102 contains the general penalty for violation of the state's fish and wildlife laws. This section provides that a person who purposely, knowingly, or negligently violates a provision of the Montana fish and wildlife laws is guilty of a misdemeanor, except if a felony is expressly provided by law, and must be fined an amount not less than \$50 nor more than \$1,000 or imprisoned in the county detention center for not more than six months, or both, unless a different punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of that person's license and the privilege to hunt, fish, or trap in Montana or to use state lands for recreational purposes for a period set by the court. If the court imposes forfeiture of a person's license and privilege to hunt, fish, or trap or to use state lands, the Montana Department of Fish, Wildlife, and Parks must notify the person of the loss of privileges as imposed by the court.

Except as provided for trophy animals, a person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals must be fined an amount not less than \$500 nor more than \$2,000 or imprisoned in the county detention center for not more than six months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, must forfeit any current hunting, fishing, recreational use, or trapping license issued by Montana and the privilege to hunt, fish, or trap in Montana for 30 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture. For each conviction or forfeiture, the Montana Department of Fish, Wildlife, and Parks must notify the person of the loss of privileges.

Except for trophy animals, a person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, elk, or mountain lion or any part of these animals must be fined an amount not less than \$300 nor more than \$1,000 or imprisoned in the county detention center for not more than six months, or both. Similarly, a person convicted of this offense must forfeit any current hunting, fishing, or trapping license for 24 months from the date of conviction, unless the court imposes a longer forfeiture.

A person convicted of purposely or knowingly taking, killing, possessing, or transporting a trophy animal or any part of these animals must be fined an amount not less than \$500 nor more than \$3,000 or imprisoned in the county detention center for not more than six months, or both. Similarly, a person, upon conviction or forfeiture of bond or bail must forfeit that person's hunting license and the privilege to hunt for five years from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. If a person is convicted of illegally taking a trophy animal through the use of spotlights, nightscopes, or infrared scopes, that person is prohibited from fishing or hunting in Montana for an additional five years following the ending date of the original prohibition. In addition, that person must successfully complete, at that person's own expense, a department-sponsored hunter education course.

Montana Code Annotated Section 87-1-111 contains the fine schedule or restitution provisions for the illegal killing or possession of certain wildlife. This section provides:

87-1-111. (Temporary) Restitution for illegal killing or possession of certain wildlife.

- (1) Except as provided in 87-1-115 and in addition to other penalties provided by law, a person convicted or forfeiting bond or bail upon a charge of the illegal taking, killing, or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state for each bird, mammal, or fish according to the following schedule:
 - (a) bighorn sheep, grizzly bear, and endangered species, \$2,000;
 - (b) elk, caribou, bald eagle, black bear, and moose, \$1,000;
 - (c) mountain lion, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined by commission regulation, \$500;
 - (d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor not included in subsection (1)(c), swan,

- bobcat, white sturgeon, river-dwelling grayling, and paddlefish, \$300;
- (e) fur-bearing animals, as defined in 87-2-101 and not listed in subsection (1)(c) or (1)(d), \$100;
- (f) game bird (except swan), \$25;
- (g) game fish, \$10.
- (2) When a court enters an order declaring bond or bail to be forfeited, the court may also order that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not required for an order of restitution under this section. *(Terminates June 30, 2003 - sec. 2, Ch. 196, L. 1993.)*

87-1-111. (Effective July 1, 2003)
Restitution for illegal killing or possession of certain wildlife.

- (1) Except as provided in 87-1-115 and in addition to other penalties provided by law, a person convicted or forfeiting bond or bail upon a charge of the illegal killing, taking, or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state for each such bird, mammal, or fish according to the following schedule:
- (a) bighorn sheep, grizzly bear, and endangered species, \$2,000;
- (b) elk, caribou, bald eagle, black bear, and moose, \$1,000;
- (c) mountain lion, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined by commission regulation, \$500;
- (d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor not included in subsection (1)(c), swan, bobcat, river-dwelling grayling, and white sturgeon, \$300;
- (e) paddlefish and fur-bearing animals, as defined in 87-2-101 and not listed in subsection (1)(c) or (1)(d), \$100;
- (f) game bird (except swan), \$25;

- (g) game fish, \$10.
- (2) When a court enters an order declaring bond or bail to be forfeited, the court may also order that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not required for an order of restitution under this section.

Montana Code Annotated Section 87-1-115 contains the fine schedule or restitution provisions for the illegal killing or possession of trophy wildlife. This section provides:

87-1-115. Restitution for illegal killing or possession of trophy wildlife. In addition to other penalties provided by law, a person convicted or forfeiting bond or bail on a charge of the purposeful or knowing illegal killing, taking, or possession of a trophy animal listed in this section shall reimburse the state for each trophy animal according to the following schedule:

- (1) bighorn sheep with at least one horn equal to or greater than three-fourth curl as defined by commission regulation, \$30,000;
- (2) elk with at least six points on one antler as defined by commission regulation, \$8,000;
- (3) moose having antlers with a total spread of at least 30 inches, as defined by commission regulation, or any mountain goat, \$6,000;
- (4) antlered deer with at least four points on one antler as defined by commission regulation, \$8,000;
- (5) antelope with at least one horn greater than 14 inches in length as defined by commission regulation, \$2,000.

WYOMING

Wyoming Statutes Section 23-3-102 governs the taking of certain game animals without a license or during a closed season. This section provides that a person who takes an elk or moose without the proper license is guilty of a fourth-degree misdemeanor; a person who takes a bighorn sheep, mountain goat, mountain lion, or grizzly bear without the proper license is guilty of a fourth-degree misdemeanor; a person who takes a big or trophy game animal without a proper license is guilty of an eighth-degree misdemeanor; and a person who knowingly takes an antlered elk, antlered deer, antlered moose, horned antelope, bighorn sheep, mountain goat, mountain lion, grizzly bear, or black bear without the proper

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license or during a closed season is guilty of a misdemeanor punishable by a fine of not less than \$5,000 nor more than \$10,000, imprisonment for not more than one year, or both. A fourth-degree misdemeanor is punishable by a fine of not less than \$200 nor more than \$750, imprisonment of up to six months, or both. An eighth-degree misdemeanor is punishable by a fine of not less than \$50 nor more than \$400, imprisonment of up to six months, or both.

In addition, an individual who violates Wyoming Statutes Section 23-3-102 may have that person's hunting privileges revoked or suspended for not less than five years and devices and equipment, including any firearm, weapon, ammunition, trap, snare, vessel, motorized vehicle, aircraft, explosive, poisonous substance, electronic device, or optical equipment, used in, or in aid of a violation of Section 23-3-102 may be seized.

IDAHO

Idaho Code Section 36-1401 provides that it is a felony to unlawfully kill, possess, or waste any combination of numbers or species of wildlife within a 12-month period which has a single or combined reimbursable damage assessment of more than \$1,000, as provided in Idaho Code Section 36-1404. It is also a felony if an individual is convicted within 10 years of three or more violations of the Idaho Fish and Game Code if the penalties for which either, or both, a mandatory license revocation or a reimbursable damage assessment may be imposed. Felonies are punished in accordance with the Idaho Criminal Code, and if an individual is convicted of a felony, that person's hunting, fishing, or trapping privileges may be revoked for life if that person is convicted of three or more felony violations within a five-year period.

It is a flagrant violation punishable by revocation of hunting privileges for not less than one year and up to and including the individual's lifetime to take a big game animal after sunset by spotlighting with the use of artificial light or with a night vision enhancement device; unlawfully take two or more big game animals within a 12-month period; take a big game animal with a rimfire or centerfire cartridge firearm during an archery- or muzzleloader-only hunt; or hunt, fish, trap, or purchase a license when license privileges have been revoked, take any big game animal during a closed season when there is no established take season open anywhere in the state for that species of big game animal, or for a felony game and fish violation.

In addition to other penalties, a person who is convicted of the illegal killing or possession or waste of game animals is required to reimburse the state for each animal killed or possessed according to a statutory schedule—\$750 for elk; \$1,500 for caribou, bighorn sheep, mountain goat, and moose; and \$400 for any other species of big game. However, if a person is convicted of illegally killing, possessing, or wasting a trophy big game animal, the individual is required to reimburse the state in the amount of

\$2,000 for trophy mule deer, \$2,000 for trophy white-tailed deer, \$5,000 for trophy elk, \$10,000 for trophy bighorn sheep, \$10,000 for trophy moose, \$10,000 for trophy mountain goat, \$2,000 for trophy pronghorn antelope, and \$10,000 for trophy caribou. The amount is doubled if an individual takes an additional animal of the same category during any 12-month period. Also, there is an additional fine of \$7.50 imposed against any person convicted of violating the Idaho Fish and Game Statutes, which is deposited to the credit of the search and rescue account. Finally, there is a processing fee of \$175 per animal killed, possessed, or wasted for moose or elk; \$50 for each deer or pronghorn antelope; and \$75 for each bighorn sheep, caribou, mountain goat, or black bear.

ARIZONA

Section 17-309 of the Arizona Revised Statutes Annotated provides that it is a Class 1 misdemeanor to knowingly take any big game during a closed season or to knowingly possess, transport, or buy any big game which was unlawfully taken during a closed season.

Section 17-320 of the Arizona Revised Statutes Annotated provides that if the Secretary of the Interior publishes in the Federal Register a determination for the removal of jaguar from the list of endangered species that it is a Class 1 misdemeanor to knowingly kill, wound, or possess a jaguar or any part of a jaguar and that person is liable for civil damages of up to \$72,500.

COLORADO

Section 33-6-109 of the Colorado Revised Statutes provides that it is unlawful for a person to hunt, take, or have in that person's possession any wildlife that is the property of the state except as permitted by the Colorado Game and Fish rules. A person who violates this provision is guilty of a misdemeanor and, depending upon the wildlife involved, may be punished upon conviction by fine or imprisonment, or both, and license suspension points or suspension or revocation of license privileges as follows:

- (a) For each animal listed as endangered or threatened, a fine of not less than two thousand dollars and not more than one hundred thousand dollars, or by imprisonment for not more than one year in the county jail, or by both such fine and such imprisonment, and an assessment of twenty points.
- (b) For each golden eagle, rocky mountain goat, or bighorn sheep, a fine of not less than one thousand dollars and not more than one hundred thousand dollars, or by

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- imprisonment for not more than one year in the county jail, or both such fine and such imprisonment, and an assessment of twenty points.
- (c) For each elk, bear, moose, or mountain lion, a fine of one thousand dollars and an assessment of fifteen points.
 - (d) For each antelope, deer, or big game species as defined in the state or country of origin and not listed in paragraph (a), (b), or (c) of this subsection (3), a fine of seven hundred dollars and an assessment of fifteen points.
 - (e) For each violation of paragraph (b), (c), or (d) of this subsection (3) where three or more animals are taken or possessed, a minimum fine per animal as set forth in said paragraphs, to a maximum of ten thousand dollars per animal, or imprisonment for not more than one year in the county jail, or by both such fine and such imprisonment. Upon conviction, the commission may suspend any or all license privileges of the person for a period of from one year to life.
 - (f) For each raptor not covered by paragraph (a) or (b) of this subsection (3) and for each wild turkey, a fine of two hundred dollars and an assessment of ten points.
 - (g) For all fish, mollusks, crustaceans, amphibians, or reptiles not covered by paragraph (a) of this subsection (3), a fine of thirty-five dollars and an assessment of five points for the first such animal and, for each additional such animal taken or possessed at the same time, an additional fine of ten dollars per animal and an additional assessment of one point per animal.
 - (h) For any wildlife not covered by paragraphs (a) to (g) of this subsection (3), a fine of fifty dollars and an assessment of five points for the first such animal and, for each additional such animal taken or possessed at the same time,

an additional fine of twenty-five dollars per animal and an additional assessment of five points per animal.

- (3.4) (a) In addition to the criminal penalties listed in subsection (3) of this section, there shall be assessed a further penalty in the following amount for each of the following big game animals illegally taken;
 - (I) For each bull elk with at least six points on one antler beam, ten thousand dollars;
 - (II) For each mule deer buck with an inside antler spread of at least twenty-two inches, ten thousand dollars;
 - (III) For each whitetail deer buck with an inside antler spread of at least eighteen inches, ten thousand dollars;
 - (IV) For each bull moose, ten thousand dollars;
 - (V) For each bighorn sheep with a horn length of at least one-half curl, twenty-five thousand dollars;
 - (VI) For each mountain goat, ten thousand dollars;
 - (VII) For each pronghorn antelope with a horn length of at least fourteen inches, four thousand dollars.

Section 33-6-110 of the Colorado Revised Statutes also authorizes the Colorado Division of Wildlife and Parks to bring a civil action against a person who violates the Colorado game and fish laws or rules. This section contains a schedule of the minimum value of wildlife unlawfully taken or possessed that may be recovered in addition to recovery of possession of the wildlife—\$1,000 for each eagle, member of an endangered species, Rocky Mountain goat, moose, Rocky Mountain bighorn sheep, or lynx; \$700 for each elk or member of a threatened species or subspecies; \$500 for each antelope, deer, black bear, or mountain lion; \$200 for each raptor and each wild turkey; \$100 for each nongame or small game species or subspecies; and \$35 for each game fish.

In addition to the foregoing penalties, Section 33-6-120 of the Colorado Revised Statutes makes it a misdemeanor punishable by a fine of \$100 and the assessment of 10 license suspension points to hunt or take any wildlife outside of the season established by or in an area closed by commission rule or regulation.

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NEVADA

Section 501.376 of the Nevada Revised Statutes makes it a gross misdemeanor to unlawfully kill or possess a bighorn sheep, mountain goat, elk, deer, pronghorn antelope, mountain lion, or black bear without a valid tag. A gross misdemeanor is punishable by imprisonment for not more than one year, a fine of not more than \$2,000, or both.

In addition to the criminal penalty, Nevada Revised Statutes Section 501.3855 contains a civil penalty for unlawfully killing or possessing a big game animal, bobcat, swan, or eagle. The sanction is a civil penalty of not less than \$250 nor more than \$5,000.

Nevada Revised Statutes Section 501.3857 provides that any gun, ammunition, trap, snare, vessel, vehicle, aircraft, or other device or equipment used or intended for use to facilitate the unlawful and intentional killing or possession of a big game animal or knowingly to transport, sell, receive, acquire, or purchase any big game mammal which is unlawfully killed or possessed is subject to forfeiture.

Finally, Nevada Revised Statutes Section 501.388 provides that the Nevada Game and Fish Commission may revoke the license of a person who is convicted of unlawfully killing or possessing a bighorn sheep, mountain goat, elk, deer, pronghorn antelope, mountain lion, or black bear without a valid tag and may refuse to issue any new license to the convicted person for any period not to exceed three years and revoke that person's privilege to apply for any big game tag for a period not to exceed 10 years.

NEW MEXICO

Section 17-2-7 of the New Mexico Statutes Annotated provides that it is unlawful to hunt, take, capture, kill, or attempt to take, capture, or kill, at any time or in any manner, any game animal, game bird, or game fish or possess, offer for sale, sell, offer to purchase, or purchase in New Mexico all or any part of any game animal, game bird, or game fish, except as permitted by State Game Commission regulations or law. Violation of Section 17-2-7 is a misdemeanor punishable by imprisonment not to exceed six months and a fine of \$400 for illegally taking, attempting to take, killing, capturing, or possessing a deer, antelope, javelina, bear, or cougar during a closed season; \$1,000 for illegally taking, attempting to take, killing, capturing, or possessing an elk, bighorn sheep, oryx, ibex, or Barbary sheep; and a fine of \$2,000 for illegally taking, attempting to take, kill, capture, or possess a jaguar. It is important to note that these fines increase for second and third violations.

Section 17-2-26 of the New Mexico Statutes Annotated provides that the director of the Department of Game and Fish may bring a civil action in the name of the state against any person unlawfully wounding or killing, or unlawfully in possession of, any game quadruped, bird, or fish, or part thereof, and recover judgment for the statutory minimum sums as damages for

the taking, killing, or injuring. The statutory schedule is:

For each elk	\$500
For each deer	\$250
For each antelope	\$250
For each mountain sheep	\$1,000
For each Barbary sheep	\$250
For each black bear	\$500
For each cougar	\$500
For each bison	\$600
For each ibex	\$1,000
For each oryx	\$1,000
For each javelina	\$100
For each beaver	\$65
For each bird	\$20
For each fish	\$5
For each endangered species	\$500
For each raptor	\$200
For each turkey	\$150
For each jaguar	\$2,000

Section 17-2-20.1 provides that all firearms and bows and arrows used in the illegal possession or transportation of big game during closed seasons, taking big game during a closed season, attempting to take big game by the use of spotlight or artificial light, or exceeding the bag limit on any big game species during an open season is subject to seizure and forfeiture. Also, if a motor vehicle is used to hunt by spotlight it is subject to seizure and forfeiture.

UTAH

Section 23-20-4 of the Utah Code Annotated provides that it is a third-degree felony to wantonly destroy wildlife the aggregate value of which is more than \$500 or if the wildlife is a trophy animal. This section also sets out a statutory list of values to use to determine the offense for wanton destruction of wildlife. For bison, bighorn sheep, Rocky Mountain goat, moose, bear, or endangered species, the statutory value is \$1,000 per animal; for elk or threatened species the statutory amount is \$750, for cougar, golden eagle, river otter, or gila monster the statutory amount is \$500; for pronghorn antelope or deer the statutory amount is \$400, for bobcat \$350, and various lesser amounts for other animals. As part of any sentence imposed for a third-degree felony, the court must impose a sentence of incarceration of not less than 20 consecutive days if the person who captured, injured, or destroyed a trophy animal did so for pecuniary gain or if the person has already been convicted of a third-degree felony violation of this statute.

Section 23-20-4.5 sets out a statutory minimum restitution amount for protected wildlife. This list is similar to the list for determining the value of protected wildlife except that minimum restitution values for trophy animals are \$30,000 per animal for bighorn, desert, or Rocky Mountain sheep; \$8,000 per animal for deer; \$8,000 per animal for elk; \$6,000 per animal

September 2002

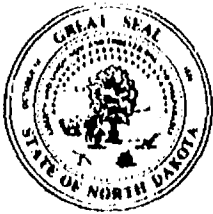
for moose or mountain goat; \$6,000 per animal for bison; and \$2,000 per animal for pronghorn antelope. The Division of Wildlife Resources must use these funds for activities and programs to help stop poaching, including educational programs on wildlife crime prevention; acquisition and development of wildlife crime detection equipment; operation and

maintenance of antipoaching projects; and wildlife law enforcement training. Finally, this section provides that if restitution is required, it is in addition to any other fine or penalty imposed for a violation of the Utah fish and game laws or rules or any remedial action taken to revoke or suspend a person's license, permit, tag, or certificate of registration.

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Operator's Signature

10/3/03
Date



OFFICE OF ATTORNEY GENERAL
STATE OF NORTH DAKOTA

Wayne Stenehjem
ATTORNEY GENERAL

MEMORANDUM

HAND DELIVERED

CAPITOL TOWER
State Capitol
600 E. Boulevard Ave.
Dept. 126
Bismarck, ND 58505-0040
701-328-2210
800-366-6888 (TTY)
FAX 701-328-2226

Consumer Protection
and Antitrust Division
701-328-3404
Toll Free in North Dakota
800-472-2600
FAX 701-328-3535

Gaming Division
701-328-4848
FAX 701-328-3535

Licensing Section
701-328-2329
FAX 701-328-3535

SOUTH OFFICE BUILDING
500 N. 9th St.
Bismarck, ND 58501-4509
FAX 701-328-4300

Civil Litigation
701-328-3640

Natural Resources
701-328-3640

Racing Commission
701-328-4290


Bureau of Criminal
Investigation
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5500
Toll Free in North Dakota
800-472-2185
FAX 701-328-5510

Fire Marshal
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5555
FAX 701-328-5510

Information Technology
P.O. Box 1054
Bismarck, ND 58502-1054
701-328-5500
FAX 701-328-5510

www.ag.state.nd.us

TO: The Honorable Tom Fischer, District 46,
North Dakota Senate

FROM: Paul C. Germolus, Assistant Attorney General 

DATE: March 4, 2003

RE: Engrossed House Bill No. 1343 - Penalty for Unlawfully
Taking Big Game Animals

As we discussed after last week's Senate Natural Resources Committee hearing, I prepared proposed amendments to Engrossed House Bill No. 1343. I've attached 10 copies for you and the Committee members to review.

The amendments seek to resolve potential conflict between N.D.C.C. §§ 20.1-01-03 and 20.1-05-03 by placing all "replacement value" recovery language in one section. The amendment also removes the ambiguity surrounding what constitutes a "trophy" a big game animal.

The amendments do not address the issue raised in my February 26th memo regarding a State's Attorney seeking restitution in a corresponding criminal case. On further review, the Game and Fish Department decided against offering "restitution" language in the amendment. The ability for a State's Attorney to seek restitution already exists in N.D.C.C. ch. 12.1-32. With better communication between the Department and State's Attorney, the "restitution" versus "civil damages" issue could be worked out. But without first visiting with the States Attorneys about "restitution" language, the Department does not want to add complications to the bill.

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If you would like to further discuss these matters or are interested in having someone appear at the hearing to discuss these amendments, please contact me at 328-3640 or Roger Rosvet at 328-6350.

PCG/

Enclosure

cc: Representative Lyle Hanson (w/enc.)
Representative Todd K. Porter (w/enc.)
Paul T. Schadewald, Game and Fish Department (w/enc.)
Roger Rosvet, Game and Fish Department (w/enc.)
Randy Kriel, Game and Fish Department (w/enc.)
Ray Goetz, Game and Fish Department (w/enc.)

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Cass County
WILDLIFE CLUB

Box 336
Casselton, ND 58012



TESTIMONY OF HAROLD NEAMEYER
CASS COUNTY WILDLIFE CLUB
PRESENTED TO THE SENATE NATURAL RESOURCE COMMITTEE
ON HB 1343, MARCH 6, 2003

Mr. Chairman and Members of the Committee:

Cass County Wildlife Club supports HB 1343 which provides a stiff
civil penalty for the illegal taking of the three major big game animals.
Using the penalty funds for future management of the species is proper.

We support HB 1343.



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Title.0_____

Adopted by the Natural Resources Committee
March ___, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1343

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 20.1-01-03 of the North Dakota Century Code, relating to unlawfully taking big game animals, and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 20.1-01-03 of the North Dakota Century Code is amended and reenacted as follows:

Ownership and control of wildlife is in the state -- Damages -- Schedule of monetary values. The ownership of and title to all wildlife within this state is in the state for the purpose of regulating the enjoyment, use, possession, disposition, and conservation thereof, and for maintaining action for damages as herein provided. Any person catching, killing, taking, trapping, or possessing any wildlife protected by law at any time or in any manner is deemed to have consented that the title thereto remains in this state for the purpose of regulating the taking, use, possession, and disposition thereof. The state, through the office of attorney general, may institute and maintain any action for damages against any person who unlawfully causes, or has caused within this state, the death, destruction, or injury of wildlife, except as may be authorized by law. The state has a property interest in all protected wildlife. This interest supports a civil action for damages for the unlawful destruction of wildlife by willful or grossly negligent act or omission. The director shall adopt by rule a schedule of monetary values of various species of wildlife, the values to represent the replacement costs of the wildlife and the value lost to the state due to the destruction or injury of the species, together with other material elements of value. In any action brought under this section, the schedule constitutes the measure of recovery for the wildlife killed or destroyed. Notwithstanding the director's schedule of monetary values, an individual who unlawfully takes a bighorn sheep, elk, or moose is subject to a civil penalty for the replacement value of the animal of five thousand dollars for a bighorn sheep, three thousand dollars for an elk, and two thousand dollars for a moose. For a male bighorn sheep, elk, or moose over two and one-half years of age, the civil penalty for the replacement value of the animal is an additional fifty percent of the penalty. The funds recovered must be deposited in the general fund, and devoted to the propagation and protection of desirable species of wildlife.

Renumber accordingly

Page No. 1

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NORTH DAKOTA OUTDOORS

PUBLISHED BY THE NORTH DAKOTA GAME AND FISH DEPARTMENT
JANUARY 2003



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TESTIMONY REFERENCING HB 1343
By Mike Donahue, Lobbyist #215
March 6, 2003

Senate Natural Resources Committee

The United Sportsmen of North Dakota and the N.D. Wildlife Federation
urge a Do Pass for HB 1343.

We support the amendment language suggested by the Department. It is our
belief that those persons that shrug off good sportsmanship and intentionally take
game unlawfully should receive a penalty that gets their attention.

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