

CHAPTER 297—H.F.No. 1734

VETOED

CHAPTER 298—S.F.No. 299

An act relating to game and fish; providing for restitution for wild animals that are illegally killed or injured; restricting expenditures from restitution to replacement and propagation of wild animals illegally killed or injured; amending Minnesota Statutes 1988, section 97A.065, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 97A.065, is amended by adding a subdivision to read:

Subd. 5. RESTITUTION FOR WILD ANIMALS. Money collected from restitution under section 2 for wild animals killed, injured, or possessed in violation of the game and fish laws must be used by the commissioner for replacement, propagation, or protection of wild animals.

Sec. 2. [97A.341] RESTITUTION FOR WILD ANIMALS ILLEGALLY TAKEN.

Subdivision 1. LIABILITY FOR RESTITUTION. A person who kills, injures, or possesses a wild animal in violation of the game and fish laws is liable to the state for the value of the wild animal as provided in this section. Species afforded protection include members of the following groups as defined by statute or rule: game fish, game birds, big game, small game, fur-bearing animals, minnows, and threatened and endangered animal species. Other animal species may be added by order of the commissioner as determined after public meetings and notification of the chairs of the environment and natural resources committees in the senate and house of representatives.

Subd. 2. ARREST AND CHARGING PROCEDURE. (a) An enforcement officer who arrests a person for killing, injuring, or possessing a wild animal in violation of the game and fish laws must describe the number, species, and restitution value of wild animals illegally killed, injured, or possessed on the warrant or the notice to appear in court.

(b) As part of the charge against a person arrested for killing, injuring, or possessing a wild animal in violation of the game and fish laws, the prosecuting attorney must include a demand that restitution be made to the state for the value of the wild animal killed, injured, or possessed. The demand for restitution is in addition to the criminal penalties otherwise provided for the violation.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. SENTENCING PROCEDURE. If a person is convicted of or pleads guilty to killing, injuring, or possessing a wild animal in violation of the game and fish laws, the court must require the person to pay restitution to the state for replacement of the wild animal as part of the sentence or state in writing why restitution was not imposed. The court may consider the economic circumstances of the person and, in lieu of monetary restitution, order the person to perform conservation work representing the amount of restitution that will aid the propagation of wild animals. If the court does not order a person to pay restitution, the court administrator must send a copy of the court order to the commissioner.

Subd. 4. AMOUNT OF RESTITUTION. The amount of restitution shall be determined by the court by a preponderance of the evidence. In determining the amount of restitution, the court must consider the value of the wild animal under section 3.

Subd. 5. RESTITUTION CREDITED TO GAME AND FISH FUND. The court administrator shall forward restitution collected under this section to the commissioner of finance and the commissioner shall credit all money forwarded to the game and fish fund in the state treasury.

Sec. 3. [97A.345] RESTITUTION VALUE OF WILD ANIMALS.

(a) The commissioner may, by rules adopted under chapter 14, prescribe the dollar value to the state of species of wild animals. The value may reflect the value to other persons to legally take the wild animal, the replacement cost, or the intrinsic value to the state of the wild animals. Species of wild animals with similar values may be grouped together.

(b) The value of a wild animal under the rules adopted by the commissioner is prima facie evidence of a wild animal's value under section 2.

(c) The commissioner shall report annually to the legislature the amount of restitution collected under section 2 and the manner in which the funds were expended.

Sec. 4. EFFECTIVE DATE.

Sections 1 and 2 are effective November 1, 1989, and apply to game and fish law violations committed on or after that date. Section 3 is effective the day after final enactment.

Presented to the governor May 26, 1989

Signed by the governor May 26, 1989, 5:47 p.m.

New language is indicated by underline, deletions by ~~strikeout~~.