

FEB 25 2005
NATURAL RESOURCES

HOUSE FILE 453
BY HORBACH

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to trespassing, including the authority of the
2 department of natural resources to suspend or revoke hunting,
3 fishing, or trapping licenses for trespass violations, and
4 providing penalties.

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

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HF 453

1 Section 1. Section 481A.130, subsection 1, unnumbered
2 paragraph 1, Code 2005, is amended to read as follows:

3 In addition to the penalties for violations of this chapter
4 and chapters 350, 461A, 481B, and 482, or for committing
5 trespass as defined in section 716.7 while hunting, fishing,
6 or trapping, a person convicted of unlawfully selling, taking,
7 catching, killing, injuring, destroying, or having in
8 possession any animal, shall reimburse the state for the value
9 of such as follows:

10 Sec. 2. Section 481A.134, Code 2005, is amended to read as
11 follows:

12 481A.134 AUTHORITY TO CANCEL, SUSPEND, OR REVOKE LICENSE
13 -- POINT SYSTEM.

14 The department shall establish rules pursuant to chapter
15 17A providing for the suspension or revocation of licenses
16 issued by the department. The rules may include procedures
17 for summary cancellation of a license based on documentation
18 that the licensee failed to pay the applicable fee for the
19 license. For purposes of determining when to suspend or
20 revoke a license issued by the department under this section,
21 the department shall adopt a point system pursuant to chapter
22 17A for the purpose of weighing the seriousness of violations
23 of the provisions of this chapter or chapter 481B, 482, 483A,
24 484A, or 484B, or of committing trespass as defined in section
25 716.7 while hunting, fishing, or trapping. The weighted scale
26 may be amended from time to time as experience dictates.

27 Sec. 3. Section 481A.135, subsections 2, 3, and 4, Code
28 2005, are amended to read as follows:

29 2. A person who pleads guilty or is convicted of a
30 violation of any provision of this chapter or chapter 481B,
31 482, 483A, 484A, or 484B, or trespass as defined in section
32 716.7 while hunting, fishing, or trapping, while the person's
33 license or licenses are suspended or revoked is guilty of a
34 simple misdemeanor if the person has no other violations
35 within the previous three years which occurred while the

1 person's license or licenses have been suspended or revoked.

2 3. A person who pleads guilty or is convicted of a
3 violation of any provision of this chapter or chapter 481B,
4 482, 483A, 484A, or 484B, or trespass as defined in section
5 716.7 while hunting, fishing, or trapping, while the person's
6 license or licenses are suspended or revoked is guilty of a
7 serious misdemeanor if the person has one other violation
8 within the previous three years which occurred while the
9 person's license or licenses have been suspended or revoked.

10 4. A person who pleads guilty or is convicted of a
11 violation of any provision of this chapter or chapter 481B,
12 482, 483A, 484A, or 484B, or trespass as defined in section
13 716.7 while hunting, fishing, or trapping, while the person's
14 license or licenses are suspended or revoked is guilty of an
15 aggravated misdemeanor when the person has had two or more
16 convictions within the previous three years which occurred
17 while the person's license or licenses have been suspended or
18 revoked.

19 Sec. 4. Section 716.7, subsection 2, paragraph a, Code
20 2005, is amended to read as follows:

21 a. Entering upon or in property without the express
22 permission of the owner, lessee, or person in lawful
23 possession with the intent to commit a public offense, to use,
24 remove therefrom, alter, damage, harass, or place thereon or
25 therein anything animate or inanimate, or to hunt, fish or
26 trap on or in the property, including the act of taking or
27 attempting to take a wild animal as defined in section 481A.1
28 which is on or in the property by a person who is outside the
29 property. This paragraph does not prohibit the unarmed
30 pursuit of game or ~~furbearing~~ fur-bearing animals by a person
31 who lawfully injured or killed the game or fur-bearing animal
32 which come comes to rest on or escape escapes to the property
33 of another.

34 Sec. 5. Section 716.8, subsection 1, Code 2005, is amended
35 to read as follows:

1 1. Any person who knowingly trespasses upon the property
2 of another commits a simple misdemeanor.

3 Sec. 6. Section 716.8, Code 2005, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 5. A person who commits a trespass as
6 defined in section 716.7, subsection 2, paragraph "a", and
7 takes a wild animal, as defined in section 481A.1, shall also
8 be subject to civil penalties as provided in sections 481A.130
9 and 481A.131. An animal taken by a person while committing
10 such a trespass shall be subject to seizure as provided in
11 section 481A.12.

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EXPLANATION

13 This bill authorizes the department of natural resources to
14 consider trespass violations committed while a person is
15 hunting, fishing, or trapping when determining civil penalties
16 pursuant to Code section 481A.130. The bill also allows the
17 department to include trespass violations in the point system
18 used pursuant to Code section 481A.134 to determine when
19 licenses for such activities should be suspended or revoked
20 and in determining penalties pursuant to Code section 481A.135
21 for repeat offenders of hunting, fishing, and trapping laws
22 who commit additional violations while the person's license or
23 licenses are suspended or revoked. A person who is convicted
24 of a repeat offense while the person's license is suspended or
25 revoked is guilty of one of the following misdemeanors:

26 1. A simple misdemeanor if the person has no other
27 violations within the previous three years which occurred
28 while the person's license or licenses were suspended or
29 revoked. A simple misdemeanor is punishable by confinement
30 for no more than 30 days or a fine of at least \$50 but not
31 more than \$500 or by both.

32 2. A serious misdemeanor if the person has one other
33 violation within the previous three years which occurred while
34 the person's license or licenses were suspended or revoked. A
35 serious misdemeanor is punishable by confinement for no more

1 than one year and a fine of at least \$250 but not more than
2 \$1,500.

3 3. An aggravated misdemeanor when the person has had two
4 or more convictions within the previous three years which
5 occurred while the person's license or licenses were suspended
6 or revoked. An aggravated misdemeanor is punishable by
7 confinement for no more than two years and a fine of at least
8 \$500 but not more than \$5,000.

9 The bill amends Code section 716.7 defining "trespass" to
10 provide that trespass includes the act of taking or attempting
11 to take a wild animal, as defined in Code section 481A.1,
12 which is on or in the property of another by a person who is
13 outside the property. The bill also provides that the unarmed
14 pursuit of game or furbearing animals which come to rest on or
15 escape to the property of another by a person who lawfully
16 injured or killed the animal does not constitute trespass.

17 The bill provides that a person who trespasses upon the
18 property of another, whether knowingly or not, commits a
19 simple misdemeanor. A simple misdemeanor is punishable by
20 confinement for no more than 30 days or a fine of at least \$50
21 but not more than \$500 or by both.

22 The bill also provides that a person who commits trespass
23 as provided in the bill and takes a wild animal shall be
24 subject to civil penalties under Code sections 481A.130 and
25 481A.131 and the wild animal taken shall be subject to seizure
26 as provided in Code section 481A.12.

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