

103^D CONGRESS
1ST SESSION

S. 388

To protect individuals engaged in a lawful hunt on Federal lands, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 18 (legislative day, JANUARY 5), 1993

Mr. HATCH introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To protect individuals engaged in a lawful hunt on Federal lands, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sport Hunting Safety
5 and Preservation Act of 1993”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) sport hunting, when carried out pursuant to
2 law (as implemented by the regulations of Federal
3 and State wildlife management agencies) is a nec-
4 essary and beneficial element in the proper conserva-
5 tion and management of healthy, abundant, and bio-
6 logically diverse wildlife resources;

7 (2) sport hunters (because of a generally dem-
8 onstrated concern with the conservation of wildlife
9 resources and preservation of habitat necessary for
10 the breeding and maintenance of healthy wildlife
11 populations, and through a familiarity with the re-
12 sources gained from experience in the field) are a
13 valuable asset in ensuring enlightened public input
14 into decisions regarding management and mainte-
15 nance programs for wildlife resources and habitat;

16 (3)(A) sport hunting supports industries highly
17 significant to the national economy through sales in
18 interstate commerce of sporting goods; and

19 (B) the Federal excise taxes imposed on the
20 sales provide a major source of funding for vital pro-
21 grams of wildlife conservation and management;

22 (4) various persons are engaging in (and have
23 announced an intent to continue to engage in) a va-
24 riety of disruptive activities with the premeditated
25 purpose of preventing and interfering with the con-

1 duct of lawful sport hunting on Federal lands, which
2 activities—

3 (A) place both sport hunters and the dis-
4 ruptive persons in imminent jeopardy of grave
5 physical injury or death;

6 (B) disrupt the peaceful, lawful, and pru-
7 dent conduct of wildlife population and habitat
8 management programs by Federal and State
9 wildlife management agencies; and

10 (C) ultimately may alter the planned pro-
11 gram objectives, resulting in—

12 (i) undesirable patterns of activity
13 within populations of wildlife;

14 (ii) the endangerment of the future vi-
15 ability of wildlife species; and

16 (iii) damage to habitat values;

17 (5) Federal lands comprise important wildlife
18 habitat resources that—

19 (A) support many large, diverse, and vital
20 populations of wildlife; and

21 (B) offer significant opportunities for legal
22 sport hunting as an important management tool
23 to ensure the future viability of the wildlife pop-
24 ulations;

1 (6) it is the right of citizens of the United
2 States freely to enjoy lawful sport hunting on Fed-
3 eral lands in accordance with regulations promul-
4 gated by Federal and State wildlife management
5 agencies; and

6 (7) in many instances under current law, vague-
7 ness and ambiguity exist regarding the application
8 of State laws and enforcement activities relating
9 to—

10 (A) the safety of hunters; and

11 (B) the legal rights of sport hunters to
12 participate peacefully in lawful hunts on Fed-
13 eral lands.

14 **SEC. 3. DEFINITIONS.**

15 As used in this Act:

16 (1) FEDERAL LANDS.—The term “Federal
17 lands” means—

18 (A) national forests;

19 (B) public lands; and

20 (C) national parks.

21 (2) LAWFUL HUNT.—The term “lawful hunt”
22 means an occasion when an individual is engaged in
23 the taking or harvesting (or attempted taking or
24 harvesting) through a legal means and during a

1 specified legal season of a wildlife or fish, on Federal
2 lands, which activity—

3 (A)(i) is authorized by or licensed under
4 the law of the State in which it takes place; or

5 (ii) is regulated by game or fishing seasons
6 established by the State in which it takes place;

7 (B) is not prohibited by a law of the Unit-
8 ed States; and

9 (C) does not infringe upon a right of an
10 owner of private property.

11 (3) NATIONAL FOREST.—The term “national
12 forest” means lands included in the National Forest
13 System (as defined in section 11(a) of the Forest
14 and Rangeland Renewable Resources Planning Act
15 of 1974 (16 U.S.C. 1609(a))).

16 (4) NATIONAL PARK.—The term “national
17 park” means lands and waters included in the na-
18 tional park system (as defined in section 2(a) of the
19 Act entitled “An Act to facilitate the management of
20 the National Park System and miscellaneous areas
21 administered in connection with that system, and for
22 other purposes”, approved August 8, 1953 (16
23 U.S.C. 1c(a))).

24 (5) PUBLIC LANDS.—The term “public lands”
25 has the same meaning as is provided in section

1 103(e) of the Federal Land Policy and Management
2 Act of 1976 (43 U.S.C. 1702(e)).

3 (6) SECRETARY.—The term “Secretary”
4 means—

5 (A) the Secretary of Agriculture with re-
6 spect to national forests; and

7 (B) the Secretary of the Interior with re-
8 spect to—

9 (i) public lands; and

10 (ii) national parks.

11 **SEC. 4. OBSTRUCTION OF A LAWFUL HUNT.**

12 (a) VIOLATION.—It is unlawful for a person know-
13 ingly and with the intent of obstructing, impeding, or
14 interfering with a lawful hunt by an individual to—

15 (1) obstruct, impede, or otherwise interfere with
16 a lawful hunt by an individual;

17 (2) scare, herd, harass, decoy, or otherwise en-
18 gage in activities designed to affect wildlife on Fed-
19 eral lands;

20 (3) engage in activities that prevent or impede
21 the reasonable and usual means of access by those
22 individuals who intend to participate in a lawful
23 hunt, whether the activities occur on Federal lands
24 or on a public or private road, highway, path, trail,
25 or other normal route of access to Federal lands; or

1 (4) enter onto Federal lands, travel in inter-
2 state commerce, use the United States mails or an
3 instrumentality of interstate telephonic or electronic
4 communications, or transport or cause to be trans-
5 ported in interstate commerce a material or item, to
6 further—

7 (A) a scheme or effort to obstruct, impede,
8 or otherwise interfere with a lawful hunt; or

9 (B) the efforts of another person to ob-
10 struct, impede, or interfere with a lawful hunt.

11 (b) MULTIPLE VIOLATIONS.—The Secretary may
12 consider participation by a person in more than one of
13 the activities described in this section to constitute mul-
14 tiple violations.

15 **SEC. 5. CIVIL PENALTIES.**

16 (a) IN GENERAL.—A person who engages in an activ-
17 ity described in section 4 shall be assessed a civil penalty
18 of not less than \$500, and not more than \$5,000, for each
19 violation.

20 (b) VIOLATION INVOLVING FORCE OR VIOLENCE.—
21 Upon a determination by a court that the activity involved
22 the use of force or violence, or the threatened use of force
23 or violence, against the person or property of another per-
24 son, a person who engages in an activity described in sec-

1 tion 4 shall be assessed a civil penalty of not less than
2 \$1,000, and not more than \$10,000, for each violation.

3 (c) RELATIONSHIP TO OTHER PENALTIES.—The
4 penalties established by this section shall be in addition
5 to other criminal or civil penalties that may be levied
6 against the person as a result of an activity in violation
7 of section 4.

8 (d) PROCEDURE.—

9 (1) COMPLAINTS FROM GOVERNMENT
10 AGENTS.—Upon receipt of a written complaint from
11 an officer, employee, or agent of the Forest Service,
12 Bureau of Land Management, National Park Serv-
13 ice, or other Federal agency that a person violated
14 section 4, the Secretary shall—

15 (A) forward the complaint to the United
16 States Attorney for the Federal judicial district
17 in which the violation is alleged to have oc-
18 curred; and

19 (B) request the Attorney General of the
20 United States to institute a civil action for the
21 imposition and collection of the civil penalty
22 specified in subsection (a) or (b).

23 (2) COMPLAINTS FROM INDIVIDUALS.—Upon
24 receipt of a sworn affidavit from an individual and
25 a determination by the Secretary that the statement

1 contains sufficient factual data to create a reason-
2 able belief that a violation of section 4 has occurred,
3 the Secretary shall—

4 (A) forward a complaint to the United
5 States Attorney for the Federal judicial district
6 in which the violation is alleged to have oc-
7 curred; and

8 (B) request the Attorney General of the
9 United States to institute a civil action for the
10 imposition and collection of the civil penalty
11 specified in subsection (a) or (b).

12 (e) USE OF PENALTY MONEY COLLECTED.—After
13 deduction of costs attributable to collection, money col-
14 lected from penalties shall be—

15 (1) deposited into the trust fund established
16 pursuant to the Act entitled “An Act to provide that
17 the United States shall aid the States in wildlife-res-
18 toration projects, and for other purposes”, approved
19 September 2, 1937 (16 U.S.C. 669) (commonly
20 known as the “Pitman-Robertson Wildlife Restora-
21 tion Act”), to support the activities authorized by
22 such Act and undertaken by State wildlife manage-
23 ment agencies; or

1 (2) used in such other manner as the Secretary
2 determines will enhance the funding and implemen-
3 tation of—

4 (A) the North American Waterfowl Man-
5 agement Plan signed by the Secretary of the In-
6 terior and the Minister of Environment for
7 Canada in May 1986; or

8 (B) a similar program that the Secretary
9 determines will enhance wildlife management—

10 (i) on Federal lands; or

11 (ii) on private or State-owned lands
12 when the efforts will also provide a benefit
13 to wildlife management objectives on Fed-
14 eral lands.

15 **SEC. 6. OTHER RELIEF.**

16 (a) INJUNCTIVE RELIEF.—Injunctive relief against a
17 violation of section 4 may be sought by—

18 (1) the head of a State agency with jurisdiction
19 over fish and wildlife management;

20 (2) the Attorney General of the United States;

21 or

22 (3) any person who is or would be adversely af-
23 fected by the violation.

1 (b) DAMAGES AND ATTORNEY'S FEES.—Any person
2 who is or would be adversely affected by a violation of
3 section 4 may bring a civil action to recover—

4 (1) actual and punitive damages; and

5 (2) reasonable attorney's fees.

6 **SEC. 7. RELATIONSHIP TO STATE AND LOCAL LAW AND**
7 **CIVIL ACTIONS.**

8 (a) LAW OR ORDINANCE.—This Act is not intended
9 to preempt a State law or local ordinance that provides
10 for civil or criminal penalties for a person who obstructs
11 or otherwise interferes with a lawful hunt.

12 (b) CIVIL ACTION.—The bringing of an action pursu-
13 ant to this Act shall not prevent an independent action
14 against a person under a State law or local ordinance.

15 **SEC. 8. REGULATIONS.**

16 The Secretary may issue such regulations as are nec-
17 essary to carry out this Act.

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