

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

400A0778

SENATE BILL NO. 269

Introduced by: The Committee on Agriculture & Natural Resources at the request of the
Governor

1 FOR AN ACT ENTITLED, An Act to increase the penalties for certain hunting and fishing
2 violations and to provide for an increase in the civil liquidated damages payable to the
3 Department of Game, Fish and Parks under certain circumstances.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 41-6-75 be amended to read as follows:

6 41-6-75. Any person hunting, fishing, or trapping during any period when that privilege has
7 been revoked pursuant to § 41-6-74 or who purchases or attempts to purchase a license to which
8 ~~he~~ that person is not entitled while under revocation is guilty of a ~~Class 2~~ Class 1 misdemeanor.

9 Section 2. That § 41-8-39 be amended to read as follows:

10 41-8-39. No person ~~shall~~ may intentionally kill or attempt to kill any wild bird or animal from
11 any aircraft while in flight within this state nor ~~shall~~ may any person use any aircraft for the
12 purpose of hunting, taking, concentrating, driving, rallying, stirring up, locating, or spotting for
13 any persons. Any person who, while in flight in an aircraft of any type, kills or attempts to kill
14 any game bird or game animal or uses such aircraft for the purpose of hunting, taking,
15 concentrating, driving, rallying, stirring up, spotting, or locating game birds or game animals for

1 any persons, is guilty of a ~~Class 2~~ Class 1 misdemeanor.

2 Section 3. That chapter 41-1 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 If a person has taken or is in possession of more than two times the lawful daily or possession
5 limit of a regulated wild animal, the liquidated damages as determined and provided for in §§ 41-
6 1-5.1 and 41-1-5.3 to 41-1-5.5, inclusive, shall be doubled.

7 Section 4. That § 41-1-5.2 be amended to read as follows:

8 41-1-5.2. The liquidated damages provided for in §§ ~~41-1-5.1 and 41-1-5.3 to 41-1-5.5,~~
9 ~~inclusive;~~ this chapter and taxable costs may be collected by the Department of Game, Fish and
10 Parks in a civil suit brought by it, in the name of the State of South Dakota, against the person
11 claimed to be liable therefor. Conviction of a criminal offense for the same incident leading to
12 the charges specified in §§ 41-1-5.1 and 41-1-5.3 to 41-1-5.5, inclusive, is prima facie evidence
13 of the defendant's civil liability. Failure to obtain conviction on a criminal charge is not a bar to
14 a separate civil action for such liquidated damages.

15 The department, collecting such liquidated damages and taxable costs, shall deposit them in
16 the Department of Game, Fish and Parks fund. Any other public agency or department of the
17 state, collecting liquidated damages and taxable costs, shall remit the moneys collected, less the
18 agreed collection fee, to the state treasurer who shall deposit them in the Department of Game,
19 Fish, and Parks fund.

20 The judgment and liquidated damages may be collected by an agent. Fees to agents
21 authorized to collect on a judgment under this section may not exceed fifty percent of the total
22 amount collected. With approval of the department, agreed collection fees may be deducted from
23 the moneys collected when remitted or may be paid on warrants drawn by the state auditor on
24 itemized vouchers approved by the secretary of game, fish and parks and submitted
25 simultaneously with the moneys collected.