State of Wisconsin

1995 Assembly Bill 234

Date of enactment: **December 20, 1995**
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1995 WISCONSIN ACT 126

AN ACT *to renumber and amend* 29.40 (1) and 29.40 (5); *to amend* 29.06 (1) and 29.40 (5) (title); and *to create* 29.40 (1) (ag) and 29.40 (5) (b) to (d) of the statutes; **relating to:** the possession and removal of deer killed on highways.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 29.06 (1) of the statutes is amended to read:

29.06 **(1)** (a) All confiscated wild animals, or carcasses or parts thereof, and all confiscated apparatus, appliances, equipment, vehicles or devices shall, if not destroyed as authorized by law, be sold at the highest price obtainable, by the department or its wardens, or by an agent on commission under the written authority and supervision of the department. The net proceeds of such sales, after deducting the expense of seizure and sale and any such commissions, shall be promptly remitted by the warden by whom or under whose authority and supervision the sales are made, to the department; the remittance to be accompanied by a complete and certified report of such sales, supported by proper vouchers covering all deductions made for expenses and commissions, to be filed with the department.

(b) Of the remittance from such sales of confiscated apparatus, appliances, equipment, vehicles or devices, 18% shall be paid into the conservation fund to reimburse it for expenses incurred in seizure and sale, and the remaining 82% shall be paid into the common school fund.

(c) In the case of the proceeds from the sale of a confiscated motor vehicle if the holder of a security interest

perfected by filing with such motor vehicle as security, satisfies (and the burden of proof shall be upon the holder of a security interest) the court, or after judgment of confiscation, the department, that the violation that led to such confiscation was not with his or her knowledge, consent or connivance or with that of some person employed or trusted by the holder of a security interest, there shall also be deducted the amount due under the security agreement from the proceeds of such sale and the amount due shall be paid to the one entitled; in case a sufficient amount does not remain for such purpose after the other deductions then the amount remaining shall be paid. The department shall make a reasonable effort within 10 days after seizure to ascertain if a security interest in the seized motor vehicle exists, and shall within 10 days after obtaining actual or constructive notice of such security interest give the secured party notice of the time and place when there is to be any proceeding before the court or the judge pertaining to such confiscation and shall also give such secured party at least 10 days' notice of the time and place of sale. Constructive notice shall be limited to security interests perfected by filing. In all such cases the time of sale of the confiscated motor vehicle shall be within 20 days after judgment of confiscation provided in s. 29.05 (8). The provisions of s. 973.075 (1) (b) 1. to 3. and (5) apply to vehicles other than motor vehicles under this subsection.

(d) This subsection shall not apply to a deer killed, or so injured that it must be killed, by a collision with a motor vehicle on a highway. ~~Such deer carcass shall be released free of charge to the motor vehicle operator under s. 29.40 (5) by the department or its agent, but shall be retained by the department or its agent if the motor vehicle operator declines to accept the carcass.~~

SECTION 2. 29.40 (1) of the statutes is renumbered 29.40 (1) (intro.) and amended to read:

29.40 **(1)** (title) ~~DEFINITION~~ DEFINITIONS. (intro.) In this section~~, "validated"~~:

(b) "Validated" means marked with specified information in the manner required by the department.

SECTION 3. 29.40 (1) (a) of the statutes is created to read:

29.40 **(1)** (a) "Law enforcement officer" means a warden or any other law enforcement officer authorized by the department to issue tags for car kill deer.

SECTION 4. 29.40 (5) (title) of the statutes is amended to read:

29.40 **(5)** (title) CAR ~~KILLS~~ KILL DEER.

SECTION 5. 29.40 (5) of the statutes is renumbered 29.40 (5) (a) and amended to read:

29.40 **(5)** (a) Any person who while operating a motor vehicle on a highway accidentally collides with and kills a deer may retain possession of ~~such deer if the per-~~ ~~son has it tagged by any conservation warden, or by any law enforcement officer designated by the department. No fee may be charged for any such tag~~ the carcass. If the motor vehicle operator does not want to retain the carcass, the carcass may be retained by any other person at the scene of the accident.

SECTION 6. 29.40 (5) (b) to (d) of the statutes are created to read:

29.40 **(5)** (b) No person may retain possession of the carcass of a deer killed in the manner specified in par. (a) and remove the carcass from the scene of the accident unless one of the following apply:

1. The person has the carcass tagged by a law enforcement officer.

2. The person contacts a law enforcement officer and gives his or her name, the location of the carcass and the date and the time, and the law enforcement officer approves the removal and gives the person the instructions and location for having the carcass tagged at a later time.

(c) The person removing a carcass under the procedure specified in par. (b) 2. shall have the carcass tagged within 24 hours after receiving the instructions under par. (b) 2.

(d) No fee may be charged for a tag issued under this subsection.