



2009 ASSEMBLY BILL 377

August 18, 2009 - Introduced by Representatives JORGENSEN, HRAYCHUCK, BERNARD SCHABER, PASCH, BROOKS, SINICKI, BERCEAU, POPE-ROBERTS, MOLEPSKE JR., SPANBAUER, HILGENBERG, BLACK, VRUWINK, ZEPNICK, SMITH, STEINBRINK, BIES and VAN ROY, cosponsored by Senators HANSEN, SULLIVAN, CARPENTER, WIRCH, OLSEN, TAYLOR, LEHMAN, LASSA and ERPENBACH. Referred to Committee on Fish and Wildlife.

- 1 **AN ACT** *to create* 29.602, 29.971 (8) and 973.09 (8) of the statutes; **relating to:**
2 killing or harming with a motor vehicle or motorboat wild animals and
3 providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits treating an animal in a cruel manner. The penalty for treating an animal in a cruel manner is a forfeiture except that if a person intentionally treats an animal in a cruel manner and the animal is mutilated or disfigured or dies as a result of the mistreatment, the act is a Class I felony, for which the penalty is a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both.

This bill imposes the same felony penalty on a person who intentionally or recklessly kills or harms a wild mammal or bird by pursuing or harassing the mammal or bird with a motorboat or motor vehicle or by using the boat or vehicle to kill or harm the mammal or bird. If a person is convicted of this felony and placed on probation, the court, as a condition of the probation, may order the person to receive a mental health assessment. Also, if the convicted person used a snowmobile, all-terrain vehicle, motorboat, or personal watercraft (recreational vehicle), the court may order that the Department of Natural Resources (DNR) suspend for a period of time, or permanently revoke, any registration certificate for any recreational vehicle that was issued to the convicted person or any trail pass or trail use sticker and may also order DNR to not issue any such registration certificates or trail passes or trail use stickers to the person in the future. The court may also

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suspend or permanently revoke the convicted person's privilege to operate a recreational vehicle.

Also, under the bill, a person who kills or harms any wild mammal or bird while operating a motorboat or a motor vehicle off of a roadway shall, without delay and by the quickest means available, give notice of the incident to a conservation warden or local law enforcement officer.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 29.602 of the statutes is created to read:

2 **29.602 Killing or harming of wild animals with motorboats or motor**
3 **vehicles. (1)** In this section:

4 (a) "Harm" means to cause injury which creates a substantial risk of death or
5 which causes a permanent or protracted loss or impairment of the function of any
6 member or organ of the body of a wild animal.

7 (b) "Intentionally" has the meaning given in s. 939.23.

8 (c) "Motorboat" has the meaning given in s. 30.50 (6).

9 (d) "Recklessly" means acting in a manner that creates an unreasonable and
10 substantial risk of harming or killing a wild animal and being aware of that risk.

11 (e) "Recreational vehicle" means a motorboat, an all-terrain vehicle, or a
12 snowmobile.

13 (f) Notwithstanding s. 29.001 (90), "wild animal" means any mammal or bird
14 of a wild nature that is normally found in the wild and that is not a domestic animal
15 or a wild animal that is subject to regulation under ch. 169.

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1 **(2)** No person may do any of the following:

2 (a) Intentionally or recklessly kill or harm any wild animal by harassing or
3 pursuing the wild animal with a motorboat or a motor vehicle.

4 (b) Intentionally or recklessly use a motorboat or motor vehicle as an
5 instrument to kill or harm any wild animal.

6 **(3)** Any person who kills or harms any wild animal while operating a motorboat
7 or a motor vehicle off of a roadway shall, without delay and by the quickest means
8 available, give notice of the incident to a warden or law enforcement officer. In giving
9 such notice the person shall give his or her name, the location of the wild animal, and
10 the date and the time of the incident.

11 **(4)** (a) If a person is convicted of having violated sub. (2) using a recreational
12 vehicle, the court may order any of the following:

13 1. That the department suspend for a period of time as determined by the court,
14 or permanently revoke, any certificates of number or registration certificates for
15 recreational vehicles issued to the person by the department.

16 2. That the department suspend for a period of time as determined by the court,
17 or permanently revoke, any trail pass or trail use sticker issued to the person under
18 s. 23.33 (2j) or 350.12 (3j).

19 3. That the department refuse to issue to the person, for a period of time as
20 determined by the court, any certificates of number, registration certificates, or trail
21 passes or trail use stickers issued under s. 23.33 (2j) or 350.12 (3j).

22 4. The suspension of the person's privilege to operate a recreational vehicle for
23 a period of time as determined by the court or the permanent revocation of the
24 privilege.

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1 (b) The court shall forward to the department the record of the conviction of a
2 person to whom an order under par. (a) applies. The record of conviction shall contain
3 a summary of the contents of the order or shall be accompanied by a copy of the order.

4 (c) No owner may transfer the ownership of any recreational vehicle while a
5 suspension or revocation ordered under par. (a) of the applicable certificate of
6 number or registration certificate is in effect unless the department is satisfied that
7 such transfer is proposed in good faith and not in order to defeat the purpose of the
8 suspension or revocation.

9 (d) No person may operate a recreational vehicle during the period of time
10 during which the person's privilege to operate a recreational vehicle has been
11 suspended or revoked under par. (a) 4.

12 **SECTION 2.** 29.971 (8) of the statutes is created to read:

13 29.971 (8) (a) A person who violates s. 29.602 (2) is guilty of a Class I felony.

14 (b) For a violation of s. 29.602 (3), by a forfeiture not to exceed \$200.

15 (c) For operating a recreational vehicle in violation of s. 29.602 (4) (d), by a
16 forfeiture not to exceed \$200.

17 **SECTION 3.** 973.09 (8) of the statutes is created to read:

18 973.09 (8) In the case of a violation under s. 29.602 (2), if the court orders
19 probation under this section, the court may order as a condition of the probation that
20 the violator receive a mental health assessment.

21 **SECTION 4. Initial applicability.**

22 (1) This act first applies to violations occurring on the effective date of this
23 subsection.

24

(END)