February 16, 1999

HOUSE BILL No. 1878

DIGEST OF HB1878 (Updated February 10, 1999 8:35 pm - DI 2)

Citations Affected: IC 14-22.

Synopsis: Wildlife violator compact. Adopts the wildlife violator compact. Provides that a person may have a license to take a wild animal revoked for violating wildlife law while in another jurisdiction that has adopted the wildlife violator compact. Provides that wildlife officers must issue citations to state residents and wildlife violator compact jurisdiction residents in the same manner. Provides for membership on the board of compact administrators.

Effective: July 1, 1999.

Oxley

January 26, 1999, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.
February 15, 1999, reported — Do Pass.

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February 16, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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HOUSE BILL No. 1878

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 14-22-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) Each license and permit issued under this article is issued upon the express condition, to which the licensee or permittee by acceptance of the license or permit is considered to agree and consent, that the licensee or permittee will obey and comply with the following:

(1) All the terms, conditions, and rules:

(A) made by the director under this article; and

(B) incorporated in or attached to the license or permit when issued.

(2) This article.

(3) A wildlife law (as defined by IC 14-22-41-4(r)) while the licensee is in another jurisdiction that has adopted the wildlife violator compact (IC 14-22-41).

(b) A license or permit may be revoked by the director at any time without refund for any of the following:

(1) Failure to comply with or violation of the terms, conditions,

rules, or restrictions incorporated in or attached to the license or permit when issued.

(2) Violation of this article.

(3) Violation of a wildlife law (as defined by IC 14-22-41-4(r)) while the licensee is in another jurisdiction that has adopted the wildlife violator compact (IC 14-22-41).

(c) A person whose license or permit has been revoked by the director under this article may, by written request to the director, have a hearing on the revocation. Upon receipt of written request for a hearing on the revocation, the director shall do the following:

(1) Set a date for the hearing, which may not be more than fifteen (15) days from the date of receipt of the request.

(2) Give the person requesting the hearing at least five (5) days notice of the date of the hearing, which shall be held in the office of the director.

(3) Receive and keep a record of all evidence presented by the person.

(4) After considering the evidence presented at the hearing, rescind or affirm the order revoking the license or permit.

(d) Every court having jurisdiction of an offense committed in violation of an Indiana law for the protection of wildlife may, at the court's discretion, revoke the license of the offender for any of the following periods:

(1) Thirty (30) days.

(2) Sixty (60) days.

(3) Ninety (90) days.

(4) One (1) year.

(e) After a revocation, the court shall forward to the division a record of the conviction of the person in the court for a violation of the law. At the time of the conviction, the court shall do the following:

(1) Obtain the license certificate of the defendant.

(2) Return the license certificate to the division.

SECTION 2. IC 14-22-41 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

Chapter 41. Wildlife Violator Compact

Sec. 1. This compact may be referred to as the wildlife violator compact.

Sec. 2. Indiana adopts the wildlife violator compact with all other states that legally join in the compact in a form substantially the same as this chapter.

Sec. 3. ARTICLE I

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(a) The participating states find the following:

(1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(2) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, laws, regulations, ordinances, and administrative rules relating to the management of wildlife resources.

(3) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of wildlife natural resources.

(4) Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(6) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.

(7) In some states, a person who is cited for a wildlife violation in a state other than the person's home state:

(A) is required to post collateral or a bond to secure appearance for a trial at a later date;

(B) is taken into custody until the collateral or bond is posted; or

(C) is taken directly to court for an immediate appearance.

(8) The purpose of the enforcement practices set forth in subdivision (7) is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.

(9) In most instances, a person receiving a wildlife citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and immediately continue on the person's way after agreeing or being instructed to comply with the terms of the citation.

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(10) The practices described in subdivision (7) cause unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay a fine, and thus is compelled to remain in custody until some alternative arrangement is made.

(11) The enforcement practices described in subdivision (7) consume an undue amount of law enforcement time.

(b) It is the policy of the participating states to do the following:

(1) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to management of wildlife resources in their respective states.

(2) Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a participating state and treat the suspension as if it had occurred in their state provided the violation that resulted in the suspension could have been the basis for suspension in their state.

(3) Allow a violator, except as provided in section 5(b) of this chapter, to accept a wildlife citation and, without delay, proceed on the person's way, whether or not a resident of the state in which the citation was issued, provided that the violator's home state is party to this compact.

(4) Report to the appropriate participating state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

(5) Allow the home state to recognize and treat convictions recorded against the home state's residents that occurred in a participating state as though the convictions had occurred in the home state.

(6) Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in a participating state to a resident of another participating state.

(7) Maximize effective use of law enforcement personnel and information.

(8) Assist court systems in the efficient disposition of wildlife violations.

(c) The purpose of this compact is to do the following:

(1) Provide a means through which a participating state may join in a reciprocal program to effectuate the policies enumerated in subsection (b) in a uniform and orderly

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manner.

(2) Provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of the violator's right to due process and the sovereign status of a participating state.

Sec. 4. ARTICLE II

(a) "Citation" means any summons, complaint, summons and complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other law enforcement officer for a wildlife violation that contains an order requiring the person to respond.

(b) "Collateral" means cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other law enforcement officer of a citation for a wildlife violation.

(c) "Compliance", with respect to a citation, means the act of answering a citation through an appearance in a court or tribunal or through the payment of fines, costs, and surcharges, if any.

(d) "Conviction" means a conviction, including any court conviction, for any offense related to the preservation, protection, management, or restoration of wildlife that is prohibited by state statute, law, regulation, ordinance, or administrative rule. The term includes the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

(e) "Court" means a court of law, including a magistrate's court and a justice of the peace court.

(f) "Home state" means the state of primary residence of a person.

(g) "Issuing state" means the participating state that issues a wildlife citation to the violator.

(h) "License" means any license, permit, or other public document that conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state.

(i) "Licensing authority" means the department or division within each participating state that is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(j) "Participating state" means any state that enacts legislation

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to become a member of the wildlife violator compact.

(k) "Personal recognizance" means an agreement made by a person at the time of issuance of the wildlife citation that the person will comply with the terms of the citation.

(l) "State" means any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the provinces of Canada, and other countries.

(m) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.

(n) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(o) "Wildlife" means all species of animals including mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans that are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a participating state. Species included in the definition of wildlife vary from state to state and determination of whether a species is wildlife for the purposes of this compact is based on local law.

(p) "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted for the management and uses of wildlife resources.

(q) "Wildlife officer" means any individual authorized by a participating state to issue a citation for a wildlife violation.

(r) "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted for the management and uses of wildlife resources.

(s) Unless the context requires otherwise, the definitions of this section apply throughout the chapter.

Sec. 5. ARTICLE III

(a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as the officer would issue a citation to a resident of the issuing state and may not require the person to post collateral to secure appearance, subject to the exception in subsection (b), if the officer receives the recognizance of the person that the person will comply with the terms of the citation.

(b) Personal recognizance is acceptable if:

(1) not prohibited by local law or the compact manual; and

(2) the violator provides adequate proof of identification to the wildlife officer.

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(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report must be made in accordance with procedures specified by the issuing state.

(d) Upon receipt of the report of conviction or noncompliance under subsection (c), the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in the form and content prescribed in the compact manual.

Sec. 6. ARTICLE IV

(a) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall:

(1) notify the violator;

(2) initiate a suspension action in accordance with the home state's suspension procedures; and

(3) suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority.

Due process safeguards must be accorded.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter the conviction in its records and treat the conviction as though it occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and make reports to issuing states.

Sec. 7. ARTICLE V

(a) Each participating state shall recognize the suspension of license privileges of any person by any participating state as though the violation resulting in the suspension had occurred in their state and could have been the basis for suspension of license privileges in their state.

(b) Each participating state shall communicate suspension information to other participating states in form and content as contained in the compact manual.

Sec. 8. ARTICLE VI

Except as expressly required by provisions of this compact, nothing in this compact affects the right of any participating state

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to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.

Sec. 9. ARTICLE VII

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board is composed of one (1) representative, known as the compact administrator, from each of the participating states. The compact administrator shall be appointed by the head of the licensing authority of each participating state and serve and be subject to removal in accordance with the laws of the state the compact administrator represents. A compact administrator may provide for the discharge of the compact administrator's duties and the performance of the compact administrator's function as a board member by an alternate. An alternate is not entitled to serve on the board unless written notification of the alternate's identity has been given to the board.

(b) Each member of the board of compact administrators is entitled to one (1) vote. An action of the board is not binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor of the action. Action by the board must be at a meeting at which a majority of the participating states are represented.

(c) The board shall elect annually from its membership a chair and vice chair.

(d) The board shall adopt bylaws consistent with the provisions of this compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, use, and dispose of the same.

(f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, or corporation or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and

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develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted under board action must be contained in a compact manual.

Sec. 10. ARTICLE VIII

(a) This compact becomes effective when it is adopted in a substantially similar form by two (2) or more states.

(b) Entry into the compact must be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chair of the board. The resolution must substantially be in the form and content as provided in the compact manual and include the following:

(1) A citation of the authority from which the state is empowered to become a party to this compact.

(2) An agreement of compliance with the terms and provisions of this compact.

The effective date of entry shall be specified by the applying state but may not be less than sixty (60) days after notice has been given by the chair of the board of the compact administrators or by the secretary of the board to each participating state that the resolution from the applying state has been received.

(c) A participating state may withdraw from participation in this compact by official written notice to each participating state, but withdrawal is not effective until ninety (90) days after the notice of withdrawal is given. The notice must be directed to the compact administrator of each member state. No withdrawal of any state shall affect the validity of this compact as to the remaining participating states.

Sec. 11. ARTICLE IX

(a) This compact may be amended from time to time. Amendments must be presented in resolution form to the chair of the board of compact administrators and be initiated by one (1) or more participating states.

(b) Adoption of an amendment requires endorsement by all participating states and becomes effective thirty (30) days after the date of the last endorsement.

Sec. 12. ARTICLE X

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States, or the applicability thereof to any government, agency, individual, or circumstance is

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held invalid, the validity of the remainder of this compact shall not be affected by the declaration. If this compact is held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the participating state affected as to all severable matters.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1878, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LYTLE, Chair

Committee Vote: yeas 13, nays 0.

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