



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB3785

Introduced 2/25/2005, by Rep. Angelo Saviano

#### SYNOPSIS AS INTRODUCED:

515 ILCS 5/20-35  
520 ILCS 5/3.5

from Ch. 56, par. 20-35  
from Ch. 61, par. 3.5

Amends the Fish and Aquatic Life Code. Provides that in a Section concerning taxidermy, only violation of the provision concerning licensing shall be a Class B misdemeanor and that violation of any other provision of the Section shall be a petty offense (now, violation of any provision of the Section is a Class B misdemeanor). Amends the Wildlife Code. Provides that in a Section concerning taxidermy, only violation of the provision concerning licensing shall be a Class B misdemeanor and that violation of any other provision of the Section shall be a petty offense (now, violation of any provision of the Section is a Class B misdemeanor). Effective immediately.

LRB094 08505 RCE 42536 b

1 AN ACT concerning animals.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Fish and Aquatic Life Code is amended by  
5 changing Section 20-35 as follows:

6 (515 ILCS 5/20-35) (from Ch. 56, par. 20-35)  
7 Sec. 20-35. Offenses.

8 (a) Except as prescribed in Section 5-25 and unless  
9 otherwise provided in this Code, any person who is found guilty  
10 of violating any of the provisions of this Code, including  
11 administrative rules, is guilty of a petty offense.

12 Any person who violates any of the provisions of Section  
13 5-20, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-50,  
14 10-60, 10-70, 10-75, 10-95, 10-115, 10-135, 15-5, 15-10, 15-15,  
15 15-20, 15-30, 15-32, 15-40, 15-45, 15-55, 15-60, 15-65, 15-75,  
16 15-80, 15-85, 15-90, 15-95, 15-100, 15-105, 15-110, 15-115,  
17 15-120, 15-130, 15-140, 20-70, 20-75, 20-80, 20-85 (except  
18 subsections (b), (c), (d), (e), (f), and (g)), 25-10, 25-15, or  
19 25-20 of this Code, including administrative rules relating to  
20 those Sections, is guilty of a Class B misdemeanor.

21 Any person who violates any of the provisions of Section  
22 1-200, 1-205, 10-55, 10-80, 15-35, or 20-120 of this Code,  
23 including administrative rules relating to those Sections, is  
24 guilty of a Class A misdemeanor.

25 Any person who violates any of the provisions of this Code,  
26 including administrative rules, during the 5 years following  
27 the revocation of his or her license, permit, or privileges  
28 under Section 20-105 is guilty of a Class A misdemeanor.

29 Any person who violates Section 5-25 of this Code,  
30 including administrative rules, is guilty of a Class 3 felony.

31 (b)(1) It is unlawful for any person to take or attempt to  
32 take aquatic life from any aquatic life farm except with the

1 consent of the owner of the aquatic life farm. Any person  
2 possessing fishing tackle on the premises of an aquatic life  
3 farm is presumed to be fishing. The presumption may be rebutted  
4 by clear and convincing evidence. All fishing tackle,  
5 apparatus, and vehicles used in the violation of this  
6 subsection (b) shall be confiscated by the arresting officer.  
7 Except as otherwise provided in this subsection, the seizure  
8 and confiscation procedures set forth in Section 1-215 of this  
9 Code shall apply. If the confiscated property is determined by  
10 the circuit court to have been used in the violation of this  
11 subsection (b), the confiscated property shall be sold at  
12 public auction by the county sheriff of the county where the  
13 violation occurred. The proceeds of the sale shall be deposited  
14 in the county general fund; provided that the auction may be  
15 stayed by an appropriate court order.

16 (2) A violation of paragraph (1) of this subsection (b) is  
17 a Class A misdemeanor for a first offense and a Class 4 felony  
18 for a second or subsequent offense.

19 (c) (1) It is unlawful for any person to trespass or fish on  
20 an aquatic life farm located on a strip mine lake or other body  
21 of water used for aquatic life farming operations, or within a  
22 200 foot buffer zone surrounding cages or netpens that are  
23 clearly delineated by buoys of a posted aquatic life farm, by  
24 swimming, scuba diving, or snorkeling in, around, or under the  
25 aquatic life farm or by operating a watercraft over, around, or  
26 in the aquatic life farm without the consent of the owner of  
27 the aquatic life farm.

28 (2) A violation of paragraph (1) of this subsection (c) is  
29 a Class B misdemeanor for a first offense and a Class A  
30 misdemeanor for a second or subsequent offense. All fishing  
31 tackle, apparatus, and watercraft used in a second or  
32 subsequent violation of this subsection (c) shall be  
33 confiscated by the arresting officer. Except as otherwise  
34 provided in this subsection, the seizure and confiscation  
35 procedures set forth in Section 1-215 of this Code shall apply.  
36 If the confiscated property is determined by the circuit court

1 to have been used in a violation of this subsection (c), the  
2 confiscated property shall be sold at public auction by the  
3 county sheriff of the county where the violation occurred. The  
4 proceeds of the sale shall be deposited in the county general  
5 fund; provided that the auction may be stayed by an appropriate  
6 court order.

7 (d) Offenses committed by minors under the direct control  
8 or with the consent of a parent or guardian may subject the  
9 parent or guardian to the penalties prescribed in this Section  
10 or as otherwise provided in this Code.

11 (e) In addition to any fines imposed under this Section, or  
12 as otherwise provided in this Code, any person found guilty of  
13 unlawfully taking or possessing any aquatic life protected by  
14 this Code shall be assessed a civil penalty for that aquatic  
15 life in accordance with the values prescribed in Section 5-25  
16 of this Code. This civil penalty shall be imposed at the time  
17 of the conviction by the Circuit Court for the county where the  
18 offense was committed. Except as otherwise provided for in  
19 subsections (b) and (c) of this Section, all penalties provided  
20 for in this Section shall be remitted to the Department in  
21 accordance with the provisions of Section 1-180 of this Code.

22 (Source: P.A. 92-385, eff. 8-16-01; 92-513, eff. 6-1-02;  
23 92-651, eff. 7-11-02.)

24 Section 10. The Wildlife Code is amended by changing  
25 Section 3.5 as follows:

26 (520 ILCS 5/3.5) (from Ch. 61, par. 3.5)

27 Sec. 3.5. Penalties; probation.

28 (a) Any person who violates any of the provisions of  
29 Section 2.36a, including administrative rules, shall be guilty  
30 of a Class 3 felony, except as otherwise provided in subsection  
31 (b) of this Section and subsection (a) of Section 2.36a.

32 (b) Whenever any person who has not previously been  
33 convicted of, or placed on probation or court supervision for,  
34 any offense under Section 1.22, 2.36, or 2.36a or subsection

1 (i) or (cc) of Section 2.33, the court may, without entering a  
2 judgment and with the person's consent, sentence the person to  
3 probation for a violation of Section 2.36a.

4 (1) When a person is placed on probation, the court  
5 shall enter an order specifying a period of probation of 24  
6 months and shall defer further proceedings in the case  
7 until the conclusion of the period or until the filing of a  
8 petition alleging violation of a term or condition of  
9 probation.

10 (2) The conditions of probation shall be that the  
11 person:

12 (A) Not violate any criminal statute of any  
13 jurisdiction.

14 (B) Perform no less than 30 hours of community  
15 service, provided community service is available in  
16 the jurisdiction and is funded and approved by the  
17 county board.

18 (3) The court may, in addition to other conditions:

19 (A) Require that the person make a report to and  
20 appear in person before or participate with the court  
21 or courts, person, or social service agency as directed  
22 by the court in the order of probation.

23 (B) Require that the person pay a fine and costs.

24 (C) Require that the person refrain from  
25 possessing a firearm or other dangerous weapon.

26 (D) Prohibit the person from associating with any  
27 person who is actively engaged in any of the activities  
28 regulated by the permits issued or privileges granted  
29 by the Department of Natural Resources.

30 (4) Upon violation of a term or condition of probation,  
31 the court may enter a judgment on its original finding of  
32 guilt and proceed as otherwise provided.

33 (5) Upon fulfillment of the terms and conditions of  
34 probation, the court shall discharge the person and dismiss  
35 the proceedings against the person.

36 (6) A disposition of probation is considered to be a

1 conviction for the purposes of imposing the conditions of  
2 probation, for appeal, and for administrative revocation  
3 and suspension of licenses and privileges; however,  
4 discharge and dismissal under this Section is not a  
5 conviction for purposes of disqualification or  
6 disabilities imposed by law upon conviction of a crime.

7 (7) Discharge and dismissal under this Section may  
8 occur only once with respect to any person.

9 (8) If a person is convicted of an offense under this  
10 Act within 5 years subsequent to a discharge and dismissal  
11 under this Section, the discharge and dismissal under this  
12 Section shall be admissible in the sentencing proceeding  
13 for that conviction as a factor in aggravation.

14 (9) The Circuit Clerk shall notify the Department of  
15 State Police of all persons convicted of or placed under  
16 probation for violations of Section 2.36a.

17 (c) Any person who violates any of the provisions of  
18 Sections 2.9, 2.11, 2.16, 2.18, 2.24, 2.25, 2.26, 2.29, 2.30,  
19 2.31, 2.32, 2.33 (except subsections (g), (i), (o), (p), (y),  
20 and (cc)), 2.33-1, 2.33a, 3.3, 3.4, 3.11 - 3.16, 3.19 - 3.21  
21 (except subsections (b), (c), (d), (e), (f), (f.5), (g), (h),  
22 and (i)), and 3.24 - 3.26, including administrative rules,  
23 shall be guilty of a Class B misdemeanor.

24 Any person who violates any of the provisions of Sections  
25 1.22, 2.4, 2.36 and 2.38, including administrative rules, shall  
26 be guilty of a Class A misdemeanor. Any second or subsequent  
27 violations of Sections 2.4 and 2.36 shall be a Class 4 felony.

28 Any person who violates any of the provisions of this Act,  
29 including administrative rules, during such period when his  
30 license, privileges, or permit is revoked or denied by virtue  
31 of Section 3.36, shall be guilty of a Class A misdemeanor.

32 Any person who violates subsection (g), (i), (o), (p), (y),  
33 or (cc) of Section 2.33 shall be guilty of a Class A  
34 misdemeanor and subject to a fine of no less than \$500 and no  
35 more than \$5,000 in addition to other statutory penalties.

36 Any person who violates any other of the provisions of this

1 Act including administrative rules, unless otherwise stated,  
2 shall be guilty of a petty offense. Offenses committed by  
3 minors under the direct control or with the consent of a parent  
4 or guardian may subject the parent or guardian to the penalties  
5 prescribed in this Section.

6 In addition to any fines imposed pursuant to the provisions  
7 of this Section or as otherwise provided in this Act, any  
8 person found guilty of unlawfully taking or possessing any  
9 species protected by this Act, shall be assessed a civil  
10 penalty for such species in accordance with the values  
11 prescribed in Section 2.36a of this Act. This civil penalty  
12 shall be imposed by the Circuit Court for the county within  
13 which the offense was committed at the time of the conviction.  
14 All penalties provided for in this Section shall be remitted to  
15 the Department in accordance with the same provisions provided  
16 for in Section 1.18 of this Act.

17 (Source: P.A. 90-743, eff. 1-1-99.)

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.