

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 187

To protect individuals engaged in a lawful hunt on Federal lands, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 26 (legislative day, JANUARY 5), 1993

Mr. BURNS (for himself, Mr. SHELBY, Mr. HOLLINGS, Mr. PRYOR, Mr. BOND, Mr. SASSER, Mr. KEMPTHORNE, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To protect individuals engaged in a lawful hunt on Federal lands, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Recreational Hunting  
5 Safety and Preservation Act of 1993”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) recreational hunting, when carried out pur-  
4 suant to law (as implemented by the regulations of  
5 Federal and State wildlife management agencies) is  
6 a necessary and beneficial element in the proper con-  
7 servation and management of healthy, abundant,  
8 and biologically diverse wildlife resources;

9 (2) recreational hunters (because of a generally  
10 demonstrated concern with the conservation of wild-  
11 life resources and preservation of habitat necessary  
12 for the breeding and maintenance of healthy wildlife  
13 populations, and through a familiarity with the re-  
14 sources gained from experience in the field) are a  
15 valuable asset in ensuring enlightened public input  
16 into decisions regarding management and mainte-  
17 nance programs for wildlife resources and habitat;

18 (3)(A) recreational hunting supports industries  
19 highly significant to the national economy through  
20 sales in interstate commerce of sporting goods; and

21 (B) the Federal excise taxes imposed on the  
22 sales provide a major source of funding for vital pro-  
23 grams of wildlife conservation and management;

24 (4) various persons are engaging in (and have  
25 announced an intent to continue to engage in) a va-  
26 riety of disruptive activities with the premeditated

1 purpose of preventing and interfering with the con-  
2 duct of lawful recreational hunting on Federal lands,  
3 which activities—

4 (A) place both recreational hunters and the  
5 disruptive persons in imminent jeopardy of  
6 grave physical injury or death;

7 (B) disrupt the peaceful, lawful, and pru-  
8 dent conduct of wildlife population and habitat  
9 management programs by Federal and State  
10 wildlife management agencies; and

11 (C) ultimately may alter the planned pro-  
12 gram objectives, resulting in—

13 (i) undesirable patterns of activity  
14 within populations of wildlife;

15 (ii) the endangerment of the future vi-  
16 ability of wildlife species; and

17 (iii) damage to habitat values;

18 (5) Federal lands comprise important wildlife  
19 habitat resources that—

20 (A) support many large, diverse, and vital  
21 populations of wildlife; and

22 (B) offer significant opportunities for legal  
23 recreational hunting as an important manage-  
24 ment tool to ensure the future viability of the  
25 wildlife populations;

1           (6) it is the right of citizens of the United  
2 States freely to enjoy lawful recreational hunting on  
3 Federal lands in accordance with regulations pro-  
4 mulgated by Federal and State wildlife management  
5 agencies; and

6           (7) in many instances under current law, vague-  
7 ness and ambiguity exist regarding the application  
8 of State laws and enforcement activities relating  
9 to—

10                   (A) the safety of hunters; and

11                   (B) the legal rights of recreational hunters  
12 to participate peacefully in lawful hunts on  
13 Federal lands.

14 **SEC. 3. DEFINITIONS.**

15 As used in this Act:

16           (1) FEDERAL LANDS.—The term “Federal  
17 lands” means—

18                   (A) national forests;

19                   (B) public lands;

20                   (C) national parks; and

21                   (D) wildlife refuges.

22           (2) LAWFUL HUNT.—The term “lawful hunt”  
23 means an occasion when an individual is engaged in  
24 the taking or harvesting (or attempted taking or  
25 harvesting) through a legal means and during a

1 specified legal season of a wildlife or fish, on Federal  
2 lands, which activity—

3 (A)(i) is authorized by or licensed under  
4 the law of the State in which it takes place; or

5 (ii) is regulated by game or fishing seasons  
6 established by the State in which it takes place;

7 (B) is not prohibited by a law of the  
8 United States; and

9 (C) does not infringe upon a right of an  
10 owner of private property.

11 (3) NATIONAL FOREST.—The term “national  
12 forest” means lands included in the National Forest  
13 System (as defined in section 11(a) of the Forest  
14 and Rangeland Renewable Resources Planning Act  
15 of 1974 (16 U.S.C. 1609(a))).

16 (4) NATIONAL PARK.—The term “national  
17 park” means lands and waters included in the na-  
18 tional park system (as defined in section 2(a) of the  
19 Act entitled “An Act to facilitate the management of  
20 the National Park System and miscellaneous areas  
21 administered in connection with that system, and for  
22 other purposes”, approved August 8, 1953 (16  
23 U.S.C. 1c(a))).

24 (5) PUBLIC LANDS.—The term “public lands”  
25 has the same meaning as is provided in section

1 103(e) of the Federal Land Policy and Management  
2 Act of 1976 (43 U.S.C. 1702(e)).

3 (6) SECRETARY.—The term “Secretary”  
4 means—

5 (A) the Secretary of Agriculture with re-  
6 spect to national forests; and

7 (B) the Secretary of the Interior with re-  
8 spect to—

9 (i) public lands;

10 (ii) national parks; and

11 (iii) wildlife refuges.

12 (7) WILDLIFE REFUGE.—The term “wildlife  
13 refuge” means lands and waters included in the Na-  
14 tional Wildlife Refuge System (as established by sec-  
15 tion 4 of the National Wildlife Refuge System Ad-  
16 ministration Act of 1966 (16 U.S.C. 668dd)).

17 **SEC. 4. OBSTRUCTION OF A LAWFUL HUNT.**

18 (a) VIOLATION.—It is unlawful for a person know-  
19 ingly and with the intent of obstructing, impeding, or  
20 interfering with a lawful hunt by an individual to—

21 (1) obstruct, impede, or otherwise interfere with  
22 a lawful hunt by an individual;

23 (2) scare, herd, harass, decoy, or otherwise  
24 engage in activities designed to affect wildlife on  
25 Federal lands;

1           (3) engage in activities that prevent or impede  
2           the reasonable and usual means of access by those  
3           individuals who intend to participate in a lawful  
4           hunt, whether the activities occur on Federal lands  
5           or upon a public or private road, highway, path,  
6           trail, or other normal route of access to Federal  
7           lands;

8           (4) take or abuse property, equipment, or hunt-  
9           ing dogs being used in conjunction with a lawful  
10          hunt; or

11          (5) enter onto Federal lands, travel in inter-  
12          state commerce, use the United States mails or an  
13          instrumentality of interstate telephonic or electronic  
14          communications, or transport or cause to be trans-  
15          ported in interstate commerce a material or item, to  
16          further—

17                 (A) a scheme or effort to obstruct, impede,  
18                 or otherwise interfere with a lawful hunt; or

19                 (B) the efforts of another person to ob-  
20                 struct, impede, or interfere with a lawful hunt.

21          (b) MULTIPLE VIOLATIONS.—The Secretary may  
22          consider participation by a person in more than one of  
23          the activities described in this section to constitute mul-  
24          tiple violations.

1 **SEC. 5. CIVIL PENALTIES.**

2 (a) IN GENERAL.—A person who engages in an activ-  
3 ity described in section 4 shall be assessed a civil penalty  
4 of not less than \$500, and not more than \$5,000, for each  
5 violation.

6 (b) VIOLATION INVOLVING FORCE OR VIOLENCE.—  
7 Upon a determination by a court that the activity involved  
8 the use of force or violence, or the threatened use of force  
9 or violence, against the person or property of another per-  
10 son, a person who engages in an activity described in sec-  
11 tion 4 shall be assessed a civil penalty of not less than  
12 \$1,000, and not more than \$10,000, for each violation.

13 (c) RELATIONSHIP TO OTHER PENALTIES.—The  
14 penalties established by this section shall be in addition  
15 to other criminal or civil penalties that may be levied  
16 against the person as a result of an activity in violation  
17 of section 4.

18 (d) PROCEDURE.—

19 (1) COMPLAINTS FROM GOVERNMENT  
20 AGENTS.—Upon receipt of a written complaint from  
21 an officer, employee, or agent of the Forest Service,  
22 Bureau of Land Management, National Park Serv-  
23 ice, United States Fish and Wildlife Service, or  
24 other Federal agency that a person violated section  
25 4, the Secretary shall—

1 (A) forward the complaint to the United  
2 States Attorney for the Federal judicial district  
3 in which the violation is alleged to have oc-  
4 curred; and

5 (B) request the Attorney General of the  
6 United States to institute a civil action for the  
7 imposition and collection of the civil penalty  
8 specified in subsection (a) or (b).

9 (2) COMPLAINTS FROM INDIVIDUALS.—Upon  
10 receipt of a sworn affidavit from an individual and  
11 a determination by the Secretary that the statement  
12 contains sufficient factual data to create a reason-  
13 able belief that a violation of section 4 has occurred,  
14 the Secretary shall—

15 (A) forward a complaint to the United  
16 States Attorney for the Federal judicial district  
17 in which the violation is alleged to have oc-  
18 curred; and

19 (B) request the Attorney General of the  
20 United States to institute a civil action for the  
21 imposition and collection of the civil penalty  
22 specified in subsection (a) or (b).

23 (e) USE OF PENALTY MONEY COLLECTED.—After  
24 deduction of costs attributable to collection, money col-  
25 lected from penalties shall be—

1           (1) deposited into the trust fund established  
2 pursuant to the Act entitled “An Act to provide that  
3 the United States shall aid the States in wildlife-res-  
4 toration projects, and for other purposes”, approved  
5 September 2, 1937 (16 U.S.C. 669) (commonly  
6 known as the “Pitman-Robertson Wildlife Restora-  
7 tion Act”), to support the activities authorized by  
8 such Act and undertaken by State wildlife manage-  
9 ment agencies; or

10           (2) used in such other manner as the Secretary  
11 determines will enhance the funding and implemen-  
12 tation of—

13           (A) the North American Waterfowl Man-  
14 agement Plan signed by the Secretary of the In-  
15 terior and the Minister of Environment for  
16 Canada in May 1986; or

17           (B) a similar program that the Secretary  
18 determines will enhance wildlife management—

19           (i) on Federal lands; or

20           (ii) on private or State-owned lands  
21 when the efforts will also provide a benefit  
22 to wildlife management objectives on Fed-  
23 eral lands.

1 **SEC. 6. OTHER RELIEF.**

2 (a) INJUNCTIVE RELIEF.—Injunctive relief against a  
3 violation of section 4 may be sought by—

4 (1) the head of a State agency with jurisdiction  
5 over fish or wildlife management;

6 (2) the Attorney General of the United States;

7 or

8 (3) any person who is or would be adversely af-  
9 fected by the violation, or a hunting or sportsman's  
10 organization to which the person belongs.

11 (b) DAMAGES AND ATTORNEY'S FEES.—Any person  
12 who is or would be adversely affected by a violation of  
13 section 4, or a hunting or sportsman's organization to  
14 which the person belongs, may bring a civil action to re-  
15 cover—

16 (1) actual and punitive damages; and

17 (2) reasonable attorney's fees.

18 **SEC. 7. RELATIONSHIP TO STATE AND LOCAL LAW AND**  
19 **CIVIL ACTIONS.**

20 (a) LAW OR ORDINANCE.—This Act is not intended  
21 to preempt a State law or local ordinance that provides  
22 for civil or criminal penalties for a person who obstructs  
23 or otherwise interferes with a lawful hunt.

24 (b) CIVIL ACTION.—The bringing of an action pursu-  
25 ant to this Act shall not prevent an independent action  
26 against a person under a State law or local ordinance.

1 **SEC. 8. REGULATIONS.**

2       The Secretary may issue such regulations as are nec-  
3 essary to carry out this Act.

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