

LEGISLATIVE BILL 1008

Approved by the Governor April 11, 2018

Introduced by Bostelman, 23.

A BILL FOR AN ACT relating to law; to amend sections 37-613 and 57-904, Reissue Revised Statutes of Nebraska, and sections 70-1015 and 81-15,160, Revised Statutes Cumulative Supplement, 2016; to change amounts of certain liquidated damages under the Game Law; to change the compensation of members of the Nebraska Oil and Gas Conservation Commission; to authorize the withholding of certain competitive or proprietary information relating to public power; to change provisions relating to privately developed renewable energy generation facilities; to change a date relating to grants for certain scrap tire projects; to provide a duty for the Revisor of Statutes; to provide operative dates; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 37-613, Reissue Revised Statutes of Nebraska, is amended to read:

37-613 (1) Any person who sells, purchases, takes, or possesses contrary to the Game Law any wildlife shall be liable to the State of Nebraska for the damages caused thereby. Such damages shall be:

- (a) ~~Twenty-five~~ ~~Fifteen~~ thousand dollars for each mountain sheep;
- (b) ~~Ten~~ ~~Five~~ thousand dollars for each elk with a minimum of twelve total points and ~~three~~ ~~one~~ thousand ~~five~~ ~~hundred~~ dollars for any other elk;
- (c) ~~Ten~~ ~~Five~~ thousand dollars for each whitetail deer with a minimum of eight total points and an inside spread between beams of at least ~~sixteen~~ ~~eighteen~~ inches, ~~two~~ ~~one~~ thousand dollars for any other antlered whitetail deer, and ~~five~~ ~~hundred~~ ~~two~~ ~~hundred~~ ~~fifty~~ dollars for each antlerless whitetail deer and whitetail doe deer;
- (d) ~~Ten~~ ~~Five~~ thousand dollars for each mule deer with a minimum of eight total points and an inside spread between beams of at least ~~twenty-two~~ ~~twenty-four~~ inches and ~~two~~ ~~one~~ thousand dollars for any other mule deer;
- (e) Five thousand dollars for each antelope with the shortest horn measuring a minimum of fourteen inches in length and one thousand dollars for any other antelope;
- (f) One thousand five hundred dollars for each bear or moose or each individual animal of any threatened or endangered species of wildlife not otherwise listed in this subsection;
- (g) Five ~~thousand~~ ~~hundred~~ dollars for each mountain lion, lynx, bobcat, river otter, or raw pelt thereof;
- (h) Twenty-five dollars for each raccoon, opossum, skunk, or raw pelt thereof;
- (i) Five thousand dollars for each eagle;
- (j) ~~Five~~ ~~one~~ hundred dollars for each wild turkey;
- (k) Twenty-five dollars for each dove;
- (l) Seventy-five dollars for each other game bird, other game animal, other fur-bearing animal, raw pelt thereof, or nongame wildlife in need of conservation as designated by the commission pursuant to section 37-805, not otherwise listed in this subsection;
- (m) Fifty dollars for each wild bird not otherwise listed in this subsection;
- (n) Seven hundred fifty dollars for each swan or paddlefish;
- (o) Two hundred dollars for each master angler fish measuring more than twelve inches in length;
- (p) Fifty dollars for each game fish measuring more than twelve inches in length not otherwise listed in this subsection;
- (q) Twenty-five dollars for each other game fish; and
- (r) Fifty dollars for any other species of game not otherwise listed in this subsection.

(2) The commission shall adopt and promulgate rules and regulations to provide for a list of master angler fish which are subject to this section and to prescribe guidelines for measurements and point determinations as required by this section. The commission may adopt a scoring system which is uniformly recognized for this purpose.

(3) Such damages may be collected by the commission by civil action. In every case of conviction for any of such offenses, the court or magistrate before whom such conviction is obtained shall further enter judgment in favor of the State of Nebraska and against the defendant for liquidated damages in the amount set forth in this section and collect such damages by execution or otherwise. Failure to obtain conviction on a criminal charge shall not bar a separate civil action for such liquidated damages. Damages collected pursuant to this section shall be remitted to the secretary of the commission who shall remit them to the State Treasurer for credit to the State Game Fund.

Sec. 2. Section 57-904, Reissue Revised Statutes of Nebraska, is amended to read:

57-904 There is hereby established the Nebraska Oil and Gas Conservation

Commission. The commission shall consist of three members to be appointed by the Governor. The director of the state geological survey shall serve the commission in the capacity as its technical advisor, but with no power to vote. Any two commissioners shall constitute a quorum for all purposes. At least one member of the commission shall have had experience in the production of oil or gas and shall have resided in the State of Nebraska for at least one year. Each of the other members of the commission shall have resided in the State of Nebraska for at least three years. Initially, two of said members shall be appointed for a term of two years each; and one shall be appointed for a term of four years. At the expiration of the initial terms all members thereafter appointed shall serve for a term of four years. The Governor may at any time remove any appointed member of the commission for cause, and by appointment, with the approval of the Legislature, shall fill any vacancy on the commission.

The members of the commission shall receive as compensation for their services not more than four hundred ~~the sum of fifty~~ dollars per day for each day actually devoted to the business of the commission, ~~except~~ ; ~~Provided,~~ that they shall not receive a sum in any one year in excess of ~~four~~ two thousand dollars each. In addition, each member of the commission shall be reimbursed for his or her actual and necessary traveling and other expenses incurred in connection with the carrying out of his or her duties as provided in sections 81-1174 to 81-1177 ~~for state employees.~~

Sec. 3. (1) Notwithstanding any other provision of law, the public power industry as defined in section 70-601 and the Nebraska Power Review Board may withhold competitive or proprietary information which would give an advantage to business competitors. Competitive information is information which a reasonable person, knowledgeable of the electric utility industry, could conclude gives an advantage to business competitors.

(2) Any request for records described in this section shall be subject to the procedures for public record requests provided in sections 84-712 to 84-712.09.

Sec. 4. Section 70-1015, Revised Statutes Cumulative Supplement, 2016, is amended to read:

70-1015 (1) If any supplier violates Chapter 70, article 10, by either (a) ~~(1)~~ commencing the construction or finalizing or attempting to finalize the acquisition of any generation facilities, any transmission lines, or any related facilities without first providing notice or obtaining board approval, whichever is required, or (b) ~~(2)~~ serving or attempting to serve at retail any customers located in Nebraska or any wholesale customers in violation of section 70-1002.02, such construction, acquisition, or service of such customers shall be enjoined in an action brought in the name of the State of Nebraska until such supplier has complied with Chapter 70, article 10.

(2) If the executive director of the board determines that a private electric supplier commenced construction of a privately developed renewable energy generation facility less than thirty days prior to providing the notice required in subdivision (1)(a) of section 70-1014.02, the executive director shall send notice via certified mail to the private electric supplier, informing it of the determination that the private electric supplier is in violation of such subdivision and is subject to a fine in the amount of five hundred dollars. The private electric supplier shall have twenty days from the date on which the notice is received in which to submit the notice described in such subdivision and to pay the fine. Within ten days after the private electric supplier submits a notice compliant with the provisions of subsection (1) of section 70-1014.02 and payment of the fine, the executive director of the board shall issue the written acknowledgment described in subsection (2) of section 70-1014.02. If the private electric supplier fails to submit a notice compliant with the provisions of subsection (1) of section 70-1014.02 and pay the fine within twenty days after the date on which the private electric supplier receives the notice from the executive director of the board, the private electric supplier shall immediately cease construction or operation of the privately developed renewable energy generation facility.

(3) If the private electric supplier disputes that construction was commenced less than thirty days prior to submitting the written notice required by subdivision (1)(a) of section 70-1014.02, the private electric supplier may request a hearing before the board. Such request shall be submitted within twenty days after the private electric supplier receives the notice sent by the executive director pursuant to subsection (2) of this section. If the private electric supplier does not accept the certified mail sent pursuant to such subsection, the executive director shall send a second notice to the private electric supplier by first-class United States mail. The private electric supplier may submit a request for hearing within twenty days after the date on which the second notice was mailed.

(4) Upon receipt of a request for hearing, the board shall set a hearing date. Such hearing shall be held within sixty days after such receipt. The board shall provide to the private electric supplier written notice of the hearing at least twenty days prior to the date of the hearing. The board or its hearing officer may grant continuances upon good cause shown or upon the request of the private electric supplier. Timely filing of a request for hearing by a private electric supplier shall stay any further enforcement under this section until the board issues an order pursuant to subsection (5) of this section or the request for hearing is withdrawn.

(5) The board shall issue a written decision within sixty days after conclusion of the hearing. All costs of the hearing shall be paid by the private electric supplier if (a) the board determines that the private electric

supplier commenced construction of the privately developed renewable energy generation facility less than thirty days prior to submitting the written notice required pursuant to subsection (1) of section 70-1014.02 or (b) the private electric supplier withdraws its request for hearing prior to the board issuing its decision.

(6) A private electric supplier which the board finds to be in violation of the requirements of subsection (1) of section 70-1014.02 shall either (a) pay the fine described in this section and submit a notice compliant with the provisions of subsection (1) of section 70-1014.02 or (b) immediately cease construction or operation of the privately developed renewable energy generation facility.

Sec. 5. Section 81-15,160, Revised Statutes Cumulative Supplement, 2016, is amended to read:

81-15,160 (1) The Waste Reduction and Recycling Incentive Fund is created. The department shall deduct from the fund amounts sufficient to reimburse itself for its costs of administration of the fund. The fund shall be administered by the Department of Environmental Quality. The fund shall consist of proceeds from the fees imposed pursuant to the Waste Reduction and Recycling Incentive Act.

(2) The fund may be used for purposes which include, but are not limited to:

(a) Technical and financial assistance to political subdivisions for creation of recycling systems and for modification of present recycling systems;

(b) Recycling and waste reduction projects, including public education, planning, and technical assistance;

(c) Market development for recyclable materials separated by generators, including public education, planning, and technical assistance;

(d) Capital assistance for establishing private and public intermediate processing facilities for recyclable materials and facilities using recyclable materials in new products;

(e) Programs which develop and implement composting of yard waste and composting with sewage sludge;

(f) Technical assistance for waste reduction and waste exchange for waste generators;

(g) Programs to assist communities and counties to develop and implement household hazardous waste management programs;

(h) Capital assistance for establishing private and public facilities to manufacture combustible waste products and to incinerate combustible waste to generate and recover energy resources, except that no disbursements shall be made under this section for scrap tire processing related to tire-derived fuel; and

(i) Grants for reimbursement of costs to cities of the second class, villages, and counties of five thousand or fewer population for the deconstruction of abandoned buildings. Eligible deconstruction costs will be related to the recovery and processing of recyclable or reusable material from the abandoned buildings.

(3) Grants up to one million five hundred thousand dollars annually shall be available until June 30, ~~2019~~ 2024, for new scrap tire projects only, if acceptable scrap tire project applications are received. Eligible categories of disbursement under section 81-15,161 may include, but are not limited to:

(a) Reimbursement for the purchase of crumb rubber generated and used in Nebraska, with disbursements not to exceed fifty percent of the cost of the crumb rubber;

(b) Reimbursement for the purchase of tire-derived product which utilizes a minimum of twenty-five percent recycled tire content, with disbursements not to exceed twenty-five percent of the product's retail cost;

(c) Participation in the capital costs of building, equipment, and other capital improvement needs or startup costs for scrap tire processing or manufacturing of tire-derived product, with disbursements not to exceed fifty percent of such costs or five hundred thousand dollars, whichever is less;

(d) Participation in the capital costs of building, equipment, or other startup costs needed to establish collection sites or to collect and transport scrap tires, with disbursements not to exceed fifty percent of such costs;

(e) Cost-sharing for the manufacturing of tire-derived product, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(f) Cost-sharing for the processing of scrap tires, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(g) Cost-sharing for the use of scrap tires for civil engineering applications for specified projects, with disbursements not to exceed twenty dollars per ton or two hundred fifty thousand dollars, whichever is less, to any person annually;

(h) Disbursement to a political subdivision up to one hundred percent of costs incurred in cleaning up scrap tire collection and disposal sites; and

(i) Costs related to the study provided in section 81-15,159.01.

The director shall give preference to projects which utilize scrap tires generated and used in Nebraska.

(4) Priority for grants made under section 81-15,161 shall be given to grant proposals demonstrating a formal public/private partnership except for grants awarded from fees collected under subsection (6) of section 13-2042.

(5) Grants awarded from fees collected under subsection (6) of section

13-2042 may be renewed for up to a five-year grant period. Such applications shall include an updated integrated solid waste management plan pursuant to section 13-2032. Annual disbursements are subject to available funds and the grantee meeting established grant conditions. Priority for such grants shall be given to grant proposals showing regional participation and programs which address the first integrated solid waste management hierarchy as stated in section 13-2018 which shall include toxicity reduction. Disbursements for any one year shall not exceed fifty percent of the total fees collected after rebates under subsection (6) of section 13-2042 during that year.

(6) Any person who stores waste tires in violation of section 13-2033, which storage is the subject of abatement or cleanup, shall be liable to the State of Nebraska for the reimbursement of expenses of such abatement or cleanup paid by the Department of Environmental Quality.

(7) The Department of Environmental Quality may receive gifts, bequests, and any other contributions for deposit in the Waste Reduction and Recycling Incentive Fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Waste Reduction and Recycling Incentive Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 6. The Revisor of Statutes shall assign section 3 of this act to Chapter 70, article 6.

Sec. 7. Sections 1, 2, 5, and 9 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 8. Original section 70-1015, Revised Statutes Cumulative Supplement, 2016, is repealed.

Sec. 9. Original sections 37-613 and 57-904, Reissue Revised Statutes of Nebraska, and section 81-15,160, Revised Statutes Cumulative Supplement, 2016, are repealed.

Sec. 10. Since an emergency exists, this act takes effect when passed and approved according to law.