

## **Chapter 1531: DIVISION OF WILDLIFE**

### **1531.01 Division of wildlife definitions.**

As used in this chapter and Chapter 1533. of the Revised Code:

- (A) "Person" means a person as defined in section [1.59](#) of the Revised Code or a company; an employee, agent, or officer of such a person or company; a combination of individuals; the state; a political subdivision of the state; an interstate body created by a compact; or the federal government or a department, agency, or instrumentality of it.
- (B) "Resident" means any individual who has resided in this state for not less than six months next preceding the date of making application for a license.
- (C) "Nonresident" means any individual who does not qualify as a resident.
- (D) "Division rule" or "rule" means any rule adopted by the chief of the division of wildlife under section [1531.10](#) of the Revised Code unless the context indicates otherwise.
- (E) "Closed season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. of the Revised Code is prohibited.
- (F) "Open season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. of the Revised Code is permitted.
- (G) "Take or taking" includes pursuing, shooting, hunting, killing, trapping, angling, fishing with a trotline, or netting any clam, mussel, crayfish, aquatic insect, fish, frog, turtle, wild bird, or wild quadruped, and any lesser act, such as wounding, or placing, setting, drawing, or using any other device for killing or capturing any wild animal, whether it results in killing or capturing the animal or not. "Take or taking" includes every attempt to kill or capture and every act of assistance to any other person in killing or capturing or attempting to kill or capture a wild animal.
- (H) "Possession" means both actual and constructive possession and any control of things referred to.
- (I) "Bag limit" means the number, measurement, or weight of any kind of crayfish, aquatic insects, fish, frogs, turtles, wild birds, and wild quadrupeds permitted to be taken.
- (J) "Transport and transportation" means carrying or moving or causing to be carried or moved.
- (K) "Sell and sale" means barter, exchange, or offer or expose for sale.
- (L) "Whole to include part" means that every provision relating to any wild animal protected by this chapter and Chapter 1533. of the Revised Code applies to any part of the wild animal with the same effect as it applies to the whole.
- (M) "Angling" means fishing with not more than two hand lines, not more than two units of rod and line, or a combination of not more than one hand line and one rod and line, either in hand or under control at any time while fishing. The hand line or rod and line shall have attached to it not more than three baited hooks, not more than three artificial fly rod lures, or one artificial bait casting lure equipped with not more than three sets of three hooks each.

- (N) "Trotline" means a device for catching fish that consists of a line having suspended from it, at frequent intervals, vertical lines with hooks attached.
- (O) "Fish" means a cold-blooded vertebrate having fins.
- (P) "Measurement of fish" means length from the end of the nose to the longest tip or end of the tail.
- (Q) "Wild birds" includes game birds and nongame birds.
- (R) "Game" includes game birds, game quadrupeds, and fur-bearing animals.
- (S) "Game birds" includes mourning doves, ringneck pheasants, bobwhite quail, ruffed grouse, sharp-tailed grouse, pinnated grouse, wild turkey, Hungarian partridge, Chukar partridge, woodcocks, black-breasted plover, golden plover, Wilson's snipe or jacksnipe, greater and lesser yellowlegs, rail, coots, gallinules, duck, geese, brant, and crows.
- (T) "Nongame birds" includes all other wild birds not included and defined as game birds or migratory game birds.
- (U) "Wild quadrupeds" includes game quadrupeds and fur-bearing animals.
- (V) "Game quadrupeds" includes cottontail rabbits, gray squirrels, black squirrels, fox squirrels, red squirrels, flying squirrels, chipmunks, groundhogs or woodchucks, white-tailed deer, wild boar, and black bears.
- (W) "Fur-bearing animals" includes minks, weasels, raccoons, skunks, opossums, muskrats, fox, beavers, badgers, otters, coyotes, and bobcats.
- (X) "Wild animals" includes mollusks, crustaceans, aquatic insects, fish, reptiles, amphibians, wild birds, wild quadrupeds, and all other wild mammals, but does not include domestic deer.
- (Y) "Hunting" means pursuing, shooting, killing, following after or on the trail of, lying in wait for, shooting at, or wounding wild birds or wild quadrupeds while employing any device commonly used to kill or wound wild birds or wild quadrupeds whether or not the acts result in killing or wounding. "Hunting" includes every attempt to kill or wound and every act of assistance to any other person in killing or wounding or attempting to kill or wound wild birds or wild quadrupeds.
- (Z) "Trapping" means securing or attempting to secure possession of a wild bird or wild quadruped by means of setting, placing, drawing, or using any device that is designed to close upon, hold fast, confine, or otherwise capture a wild bird or wild quadruped whether or not the means results in capture. "Trapping" includes every act of assistance to any other person in capturing wild birds or wild quadrupeds by means of the device whether or not the means results in capture.
- (AA) "Muskrat spear" means any device used in spearing muskrats.
- (BB) "Channels and passages" means those narrow bodies of water lying between islands or between an island and the mainland in Lake Erie.
- (CC) "Island" means a rock or land elevation above the waters of Lake Erie having an area of five or more acres above water.
- (DD) "Reef" means an elevation of rock, either broken or in place, or gravel shown by the latest United States chart to be above the common level of the surrounding bottom of the lake, other than the rock

bottom, or in place forming the base or foundation rock of an island or mainland and sloping from the shore of it. "Reef" also means all elevations shown by that chart to be above the common level of the sloping base or foundation rock of an island or mainland, whether running from the shore of an island or parallel with the contour of the shore of an island or in any other way and whether formed by rock, broken or in place, or from gravel.

(EE) "Fur farm" means any area used exclusively for raising fur-bearing animals or in addition thereto used for hunting game, the boundaries of which are plainly marked as such.

(FF) "Waters" includes any lake, pond, reservoir, stream, channel, lagoon, or other body of water, or any part thereof, whether natural or artificial.

(GG) "Crib" or "car" refers to that particular compartment of the net from which the fish are taken when the net is lifted.

(HH) "Commercial fish" means those species of fish permitted to be taken, possessed, bought, or sold unless otherwise restricted by the Revised Code or division rule and are alewife (*Alosa pseudoharengus*), American eel (*Anguilla rostrata*), bowfin (*Amia calva*), burbot (*Lota lota*), carp (*Cyprinus carpio*), smallmouth buffalo (*Ictiobus bubalus*), bigmouth buffalo (*Ictiobus cyprinellus*), black bullhead (*Ictalurus melas*), yellow bullhead (*Ictalurus natalis*), brown bullhead (*Ictalurus nebulosus*), channel catfish (*Ictalurus punctatus*), flathead catfish (*Pylodictis olivaris*), whitefish (*Coregonus* sp.), cisco (*Coregonus* sp.), freshwater drum or sheepshead (*Aplodinotus grunniens*), gar (*Lepisosteus* sp.), gizzard shad (*Dorosoma cepedianum*), goldfish (*Carassius auratus*), lake trout (*Salvelinus namaycush*), mooneye (*Hiodon tergisus*), quillback (*Carpiodes cyprinus*), smelt (*Allosmerus elongatus*, *Hypomesus* sp., *Osmerus* sp., *Spirinchus* sp.), sturgeon (*Acipenser* sp., *Scaphirhynchus* sp.), sucker other than buffalo and quillback (*Carpiodes* sp., *Catostomus* sp., *Hypentelium* sp., *Minytrema* sp., *Moxostoma* sp.), white bass (*Morone chrysops*), white perch (*Roccus americanus*), and yellow perch (*Perca flavescens*). When the common name of a fish is used in this chapter or Chapter 1533. of the Revised Code, it refers to the fish designated by the scientific name in this definition.

(II) "Fishing" means taking or attempting to take fish by any method, and all other acts such as placing, setting, drawing, or using any device commonly used to take fish whether resulting in a taking or not.

(JJ) "Fillet" means the pieces of flesh taken or cut from both sides of a fish, joined to form one piece of flesh.

(KK) "Part fillet" means a piece of flesh taken or cut from one side of a fish.

(LL) "Round" when used in describing fish means with head and tail intact.

(MM) "Migrate" means the transit or movement of fish to or from one place to another as a result of natural forces or instinct and includes, but is not limited to, movement of fish induced or caused by changes in the water flow.

(NN) "Spreader bar" means a brail or rigid bar placed across the entire width of the back, at the top and bottom of the cars in all trap, crib, and fyke nets for the purpose of keeping the meshes hanging squarely while the nets are fishing.

(OO) "Fishing guide" means any person who, for consideration or hire, operates a boat, rents, leases, or otherwise furnishes angling devices, ice fishing shanties or shelters of any kind, or other fishing

equipment, and accompanies, guides, directs, or assists any other person in order for the other person to engage in fishing.

(PP) "Net" means fishing devices with meshes composed of twine or synthetic material and includes, but is not limited to, trap nets, fyke nets, crib nets, carp aprons, dip nets, and seines, except minnow seines and minnow dip nets.

(QQ) "Commercial fishing gear" means seines, trap nets, fyke nets, dip nets, carp aprons, trotlines, other similar gear, and any boat used in conjunction with that gear, but does not include gill nets.

(RR) "Native wildlife" means any species of the animal kingdom indigenous to this state.

(SS) "Gill net" means a single section of fabric or netting seamed to a float line at the top and a lead line at the bottom, which is designed to entangle fish in the net openings as they swim into it.

(TT) "Tag fishing tournament" means a contest in which a participant pays a fee, or gives other valuable consideration, for a chance to win a prize by virtue of catching a tagged or otherwise specifically marked fish within a limited period of time.

(UU) "Tenant" means an individual who resides on land for which the individual pays rent and whose annual income is primarily derived from agricultural production conducted on that land, as "agricultural production" is defined in section [929.01](#) of the Revised Code.

(VV) "Nonnative wildlife" means any wild animal not indigenous to this state, but does not include domestic deer.

(WW) "Reptiles" includes common musk turtle (*sternotherus odoratus*), common snapping turtle (*Chelydra serpentina serpentina*), spotted turtle (*Clemmys guttata*), eastern box turtle (*Terrapene carolina carolina*), Blanding's turtle (*Emydoidea blandingii*), common map turtle (*Graptemys geographica*), ouachita map turtle (*Graptemys pseudogeographica ouachitensis*), midland painted turtle (*Chrysemys picta marginata*), red-eared slider (*Trachemys scripta elegans*), eastern spiny softshell turtle (*Apalone spinifera spinifera*), midland smooth softshell turtle (*Apalone mutica mutica*), northern fence lizard (*Sceloporus undulatus hyacinthinus*), ground skink (*Scincella lateralis*), five-lined skink (*Eumeces fasciatus*), broadhead skink (*Eumeces laticeps*), northern coal skink (*Eumeces anthracinus anthracinus*), European wall lizard (*Podarcis muralis*), queen snake (*Regina septemvittata*), Kirtland's snake (*Clonophis kirtlandii*), northern water snake (*Nerodia sipedon sipedon*), Lake Erie watersnake (*Nerodia sipedon insularum*), copperbelly water snake (*Nerodia erythrogaster neglecta*), northern brown snake (*Storeria dekayi dekayi*), midland brown snake (*Storeria dekayi wrightorum*), northern redbelly snake (*Storeria occipitomaculata occipitomaculata*), eastern garter snake (*Thamnophis sirtalis sirtalis*), eastern plains garter snake (*Thamnophis radix radix*), Butler's garter snake (*Thamnophis butleri*), shorthead garter snake (*Thamnophis brachystoma*), eastern ribbon snake (*Thamnophis sauritus sauritus*), northern ribbon snake (*Thamnophis sauritus septentrionalis*), eastern hognose snake (*Heterodon platirhinos*), eastern smooth earth snake (*Virginia valeriae valeriae*), northern ringneck snake (*Diadophis punctatus edwardsii*), midwest worm snake (*Carphophis amoenus helenae*), eastern worm snake (*Carphophis amoenus amoenus*), black racer (*Coluber constrictor constrictor*), blue racer (*Coluber constrictor foxii*), rough green snake (*Opheodrys aestivus*), smooth green snake (*Opheodrys vernalis vernalis*), black rat snake (*Elaphe obsoleta obsoleta*), eastern fox snake (*Elaphe vulpina gloydi*), black kingsnake (*Lampropeltis getula nigra*), eastern milk snake (*Lampropeltis triangulum triangulum*), northern copperhead (*Agkistrodon contortrix*

mokasen), eastern massasauga (*Sistrurus catenatus catenatus*), and timber rattlesnake (*Crotalus horridus horridus*).

(XX) "Amphibians" includes eastern hellbender (*Cryptobranchus alleganiensis alleganiensis*), mudpuppy (*Necturus maculosus maculosus*), red-spotted newt (*Notophthalmus viridescens viridescens*), Jefferson salamander (*Ambystoma jeffersonianum*), spotted salamander (*Ambystoma maculatum*), blue-spotted salamander (*Ambystoma laterale*), smallmouth salamander (*Ambystoma texanum*), streamside salamander (*Ambystoma barbouri*), marbled salamander (*Ambystoma opacum*), eastern tiger salamander (*Ambystoma tigrinum tigrinum*), northern dusky salamander (*Desmognathus fuscus fuscus*), mountain dusky salamander (*Desmognathus ochrophaeus*), redback salamander (*Plethodon cinereus*), ravine salamander (*Plethodon richmondi*), northern slimy salamander (*Plethodon glutinosus*), Wehrle's salamander (*Plethodon wehrlei*), four-toed salamander (*Hemidactylium scutatum*), Kentucky spring salamander (*Gyrinophilus porphyriticus duryi*), northern spring salamander (*Gyrinophilus porphyriticus porphyriticus*), mud salamander (*Pseudotriton montanus*), northern red salamander (*Pseudotriton ruber ruber*), green salamander (*Aneides aeneus*), northern two-lined salamander (*Eurycea bislineata*), longtail salamander (*Eurycea longicauda longicauda*), cave salamander (*Eurycea lucifuga*), southern two-lined salamander (*Eurycea cirrigera*), Fowler's toad (*Bufo woodhousii fowleri*), American toad (*Bufo americanus*), eastern spadefoot (*Scaphiopus holbrookii*), Blanchard's cricket frog (*Acris crepitans blanchardi*), northern spring peeper (*Pseudacris crucifer crucifer*), gray treefrog (*Hyla versicolor*), Cope's gray treefrog (*Hyla chrysoscelis*), western chorus frog (*Pseudacris triseriata triseriata*), mountain chorus frog (*Pseudacris brachyphona*), bullfrog (*Rana catesbeiana*), green frog (*Rana clamitans melanota*), northern leopard frog (*Rana pipiens*), pickerel frog (*Rana palustris*), southern leopard frog (*Rana utricularia*), and wood frog (*Rana sylvatica*).

(YY) "Deer" means white-tailed deer (*Odocoileus virginianus*).

(ZZ) "Domestic deer" means nonnative deer that have been legally acquired or their offspring and that are held in private ownership for primarily agricultural purposes.

(AAA) "Migratory game bird" includes waterfowl (*Anatidae*); doves (*Columbidae*); cranes (*Gruidae*); cormorants (*Phalacrocoracidae*); rails, coots, and gallinules (*Rallidae*); and woodcock and snipe (*Scolopacidae*).

(BBB) "Accompany" means to go along with another person while staying within a distance from the person that enables uninterrupted, unaided visual and auditory communication.

(CCC) "Electric-powered all-purpose vehicle" means any battery-powered self-propelled electric vehicle that is designed primarily for cross-country travel on land, water, or land and water and that is steered by wheels, caterpillar treads, or a combination of wheels and caterpillar treads and includes vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all-season vehicles, mini-bikes, and trail bikes. "Electric-powered all-purpose vehicle" does not include a utility vehicle as defined in section [4501.01](#) of the Revised Code, any vehicle that is principally used in playing golf, any motor vehicle or aircraft that is required to be registered under Chapter 4503. or 4561. of the Revised Code, or any vehicle that is excluded from the definition of "motor vehicle" as provided in division (B) of section [4501.01](#) of the Revised Code.

(DDD) "Wholly enclosed preserve" means an area of land that is surrounded by a fence that is at least six feet in height, unless otherwise specified in division rule, and is constructed of a woven wire mesh, or another enclosure that the division of wildlife may approve, where game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals are raised and may be sold under the authority of a

commercial propagating license or captive white-tailed deer propagation license obtained under section [1533.71](#) of the Revised Code.

(EEE) "Commercial bird shooting preserve" means an area of land where game birds are released and hunted by shooting as authorized by a commercial bird shooting preserve license obtained under section [1533.72](#) of the Revised Code.

(FFF) "Wild animal hunting preserve" means an area of land where game, captive white-tailed deer, and nonnative wildlife, other than game birds, are released and hunted as authorized by a wild animal hunting preserve license obtained under section [1533.721](#) of the Revised Code.

(GGG) "Captive white-tailed deer" means legally acquired deer that are held in private ownership at a facility licensed under section [943.03](#) or [943.031](#) of the Revised Code and under section [1533.71](#) or [1533.721](#) of the Revised Code.

Amended by 129th General Assembly File No.89, HB 389, §1, eff. 6/29/2012.

Effective Date: 07-01-2003; 05-17-2006; 04-06-2007; 2008 SB209 06-25-2008

### **1531.02 State ownership of and title to wild animals - prohibited activities.**

The ownership of and the title to all wild animals in this state, not legally confined or held by private ownership legally acquired, is in the state, which holds such title in trust for the benefit of all the people. Individual possession shall be obtained only in accordance with the Revised Code or division rules. No person at any time of the year shall take in any manner or possess any number or quantity of wild animals, except wild animals that the Revised Code or division rules permit to be taken, hunted, killed, or had in possession, and only at the time and place and in the manner that the Revised Code or division rules prescribe. No person shall buy, sell, or offer any part of wild animals for sale, or transport any part of wild animals, except as permitted by the Revised Code or division rules. No person shall possess or transport a wild animal that has been taken or possessed unlawfully outside the state.

A person doing anything prohibited or neglecting to do anything required by this chapter or Chapter 1533. of the Revised Code or contrary to any division rule violates this section. A person who counsels, aids, shields, or harbors an offender under those chapters or any division rule, or who knowingly shares in the proceeds of such a violation, or receives or possesses any wild animal in violation of the Revised Code or division rule, violates this section.

Effective Date: 06-01-1998; 04-06-2007

### **1531.021, 1531.022 [Repealed].**

Effective Date: 08-14-2002

### **1531.03 Division of wildlife - wildlife council.**

There is hereby created within the department of natural resources a division of wildlife and a wildlife council.

The council shall have eight members, not more than four of whom shall be of the same political party, who shall be appointed by the governor with the advice and consent of the senate and shall be persons interested in the conservation of the natural resources of the state. At least two of the eight members

shall be engaged in farming as their principal means of support. Terms of office shall be for four years, commencing on the first day of February and ending on the thirty-first day of January. Each member shall hold office from the date of his appointment until the end of the term for which he was appointed. In the event of the death, removal, resignation, or incapacity of a member of the council, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which his predecessor was appointed. Any member shall continue in office subsequent to the expiration date of his term until his successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The council shall hold at least four regular quarterly meetings each year. Special meetings may be held at the behest of the chairman or a majority of the members. The council shall annually select from among its members a chairman, a vice-chairman, and a secretary to keep a record of its proceedings.

The governor may at any time remove any member of the council for misfeasance, nonfeasance, or malfeasance in office.

A majority vote of the members of the council is necessary in all matters.

The division shall cooperate with the other divisions of the department and with all agencies of the state and federal government for the promotion of a general program of conservation.

All division rules relating to establishment of seasons, bag limits, size, species, method of taking, and possession shall be adopted only upon approval of the wildlife council. The wildlife council shall not approve or disapprove such rules prior to fifteen days following a public hearing held upon the rules in accordance with Chapter 119. of the Revised Code.

The wildlife council shall do all of the following:

- (A) Be represented by not less than three of its members at all public hearings held pursuant to Chapter 119. of the Revised Code for the purpose of establishment of seasons, bag limits, size, species, methods of taking, and possession;
- (B) Advise on policies of the division and the planning, development, and institution of programs and policies of the division;
- (C) Investigate, consider, and make recommendations in all matters pertaining to the protection, preservation, propagation, possession, and management of wild animals throughout the state, as provided in this chapter and Chapter 1533. of the Revised Code;
- (D) Report to the governor from time to time the results of its investigations concerning the wildlife resources of the state with recommendations of such measures as it considers necessary or suitable to conserve or develop those resources and preserve them as far as practicable.

Effective Date: 10-20-1994

#### **1531.04 Division of wildlife - powers and duties.**

The division of wildlife, at the direction of the chief of the division, shall do all of the following:

- (A) Plan, develop, and institute programs and policies based on the best available information, including biological information derived from professionally accepted practices in wildlife and fisheries management, with the approval of the director of natural resources;

(B) Have and take the general care, protection, and supervision of the wildlife in the state parks known as Lake St. Marys, The Portage Lakes, Lake Loramie, Indian Lake, Buckeye Lake, Guilford Lake, such part of Pymatuning reservoir as lies in this state, and all other state parks and lands owned by the state or in which it is interested or may acquire or become interested, except lands and lakes the care and supervision of which are vested in some other officer, body, board, association, or organization;

(C) Enforce by proper legal action or proceeding the laws of the state and division rules for the protection, preservation, propagation, and management of wild animals and sanctuaries and refuges for the propagation of those wild animals, and adopt and carry into effect such measures as it considers necessary in the performance of its duties;

(D) Promote, educate, and inform the citizens of the state about conservation and the values of fishing, hunting, and trapping, with the approval of the director;

(E) Prepare and maintain surveys and inventories of rare and endangered species of plants and animals and other unique natural features. The information shall be stored in the Ohio natural heritage database, established pursuant to this division, and may be made available to any individual or private or public agency for research, educational, environmental, land management, or other similar purposes that are not detrimental to the conservation of a species or feature. Information regarding sensitive site locations of species that are listed pursuant to section [1518.01](#) of the Revised Code and of unique natural features that are included in the Ohio natural heritage database is not subject to section [149.43](#) of the Revised Code if the chief determines that the release of the information could be detrimental to the conservation of a species or unique natural feature.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 10-20-1994; 04-06-2007

### **1531.05 Compensation.**

The members of the wildlife council shall receive no compensation for their services, but shall be paid the actual and necessary expenses incurred in the performance of their official duties.

The chief of the division of wildlife, in addition to the salary provided by law, shall be paid his actual and necessary expenses incurred in the performance of his official duties. He shall devote his entire time to the duties of his office, and shall hold no other office or position of profit.

Employees may be allowed and paid all actual and necessary expenses incurred by them in the performance of their duties, but only when itemized statements of such expenses are certified by the persons incurring the expense and are allowed by the chief.

Effective Date: 10-01-1953

### **1531.06 Chief of division - powers and duties.**

(A) The chief of the division of wildlife, with the approval of the director of natural resources, may acquire by gift, lease, purchase, or otherwise lands or surface rights upon lands and waters or surface rights upon waters for wild animals, fish or game management, preservation, propagation, and protection, outdoor and nature activities, public fishing and hunting grounds, and flora and fauna preservation. The chief, with the approval of the director, may receive by grant, devise, bequest,

donation, or assignment evidences of indebtedness, the proceeds of which are to be used for the purchase of such lands or surface rights upon lands and waters or surface rights upon waters.

(B)

(1) The chief shall adopt rules for the protection of state-owned or leased lands and waters and property under the control of the division of wildlife against wrongful use or occupancy that will ensure the carrying out of the intent of this section, protect those lands, waters, and property from depredations, and preserve them from molestation, spoilation, destruction, or any improper use or occupancy thereof, including rules with respect to recreational activities and for the government and use of such lands, waters, and property.

(2) The chief may adopt rules benefiting wild animals, fish or game management, preservation, propagation, and protection, outdoor and nature activities, public fishing and hunting grounds, and flora and fauna preservation, and regulating the taking and possession of wild animals on any lands or waters owned or leased or under the division's supervision and control and, for a specified period of years, may prohibit or recall the taking and possession of any wild animal on any portion of such lands or waters. The division clearly shall define and mark the boundaries of the lands and waters owned or leased or under its supervision and control upon which the taking of any wild animal is prohibited.

(C) The chief, with the approval of the director, may acquire by gift, lease, or purchase land for the purpose of establishing state fish hatcheries and game farms and may erect on it buildings or structures that are necessary.

The title to or lease of such lands and waters shall be taken by the chief in the name of the state. The lease or purchase price of all such lands and waters may be paid from hunting and trapping and fishing licenses and any other funds.

(D) To provide more public recreation, stream and lake agreements for public fishing only may be obtained under rules adopted by the chief.

(E) The chief, with the approval of the director, may establish user fees for the use of special public facilities or participation in special activities on lands and waters administered by the division. The special facilities and activities may include hunting or fishing on special designated public lands and waters intensively managed or stocked with artificially propagated game birds or fish, field trial facilities, wildlife nature centers, firearm ranges, boat mooring facilities, camping sites, and other similar special facilities and activities. The chief shall determine whether the user fees are refundable and shall ensure that that information is provided at the time the user fees are paid.

(F) The chief, with the approval of the director, may enter into lease agreements for rental of concessions or other special projects situated on state-owned or leased lands or waters or other property under the division's control. The chief shall set and collect the fees for concession rentals or other special projects; regulate through contracts between the division and concessionaires the sale of tangible objects at concessions or other special projects; and keep a record of all such fee payments showing the amount received, from whom received, and for what purpose the fee was collected.

(G) The chief may sell or donate conservation-related items or items that promote wildlife conservation, including, but not limited to, stamps, pins, badges, books, bulletins, maps, publications, calendars, and any other educational article or artifact pertaining to wild animals; sell confiscated or forfeited items; and sell surplus structures and equipment, and timber or crops from lands owned,

administered, leased, or controlled by the division. The chief, with the approval of the director, also may engage in campaigns and special events that promote wildlife conservation by selling or donating wildlife-related materials, memberships, and other items of promotional value.

(H) The chief may sell, lease, or transfer minerals or mineral rights, with the approval of the director, when the chief and the director determine it to be in the best interest of the state. Upon approval of the director, the chief may make, execute, and deliver contracts, including leases, to mine, drill, or excavate iron ore, stone, coal, salt, and other minerals, other than oil or gas, upon and under lands owned by the state and administered by the division to any person who complies with the terms of such a contract. No such contract shall be valid for more than fifty years from its effective date. Consideration for minerals and mineral rights shall be by rental or royalty basis as prescribed by the chief and payable as prescribed by contract. Moneys collected under this division shall be paid into the state treasury to the credit of the wildlife habitat fund created in section 1531.33 of the Revised Code. Contracts entered into under this division also may provide for consideration for minerals or mineral rights in the form of acquisition of lands as provided under divisions (A) and (C) of this section.

(I) All moneys received under divisions (E), (F), and (G) of this section shall be paid into the state treasury to the credit of a fund that shall be used for the purposes outlined in section 1533.15 of the Revised Code and for the management of other wild animals for their ecological and nonconsumptive recreational value or benefit.

(J) The chief, with the approval of the director, may barter or sell wild animals to other states, state or federal agencies, and conservation or zoological organizations. Moneys received from the sale of wild animals shall be deposited into the wildlife fund created in section 1531.17 of the Revised Code.

(K) The chief shall adopt rules establishing standards and guidelines for the administration of contraceptive chemicals to noncaptive wild animals. The rules may specify chemical delivery methods and devices and monitoring requirements.

The chief shall establish criteria for the issuance of and shall issue permits for the administration of contraceptive chemicals to noncaptive wild animals. No person shall administer contraceptive chemicals to noncaptive wild animals without a permit issued by the chief.

(L) All fees set by the chief under this section shall be approved by the wildlife council.

(M) Information contained in the wildlife diversity database that is established pursuant to division (B) (2) of this section and section 1531.25 of the Revised Code may be made available to any individual or public or private agency for research, educational, environmental, land management, or other similar purposes that are not detrimental to the conservation of a species or feature. Information regarding sensitive site locations of species that are listed pursuant to section 1531.25 of the Revised Code and of features that are included in the wildlife diversity database is not subject to section 149.43 of the Revised Code if the chief determines that the release of the information could be detrimental to the conservation of a species or feature.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 35, HB 133, §1, eff. 9/30/2011.

Effective Date: 03-18-1999; 04-06-2007; 2007 HB119 09-29-2007

### **1531.07 Jurisdiction.**

All lakes, reservoirs, and state lands dedicated to the use of the public for park and pleasure resort purposes shall be under the supervision and control of the chief of the division of wildlife with respect to the enforcement of all laws relating to the protection of birds, fish, and game. All laws for the protection of fish in inland rivers and streams of the state, and all laws for the protection of the birds, fish, and game and fur-bearing animals, shall apply to all such state reservoirs and lakes. No person shall disturb, injure, or destroy a tree, plant, lawn, embankment, decoration, or other property or kill, injure, or disturb a waterfowl, water animal, bird, or game or fur-bearing animal, kept as a semidomestic pet upon an island or within the boundary lines of Buckeye Lake, Indian Lake, The Portage Lakes, Lake St. Marys, Guilford Lake, and Lake Loramie, or any other territory over which the state has jurisdiction or an embankment or state land adjacent thereto. No person shall take or disturb fish in any lagoon or any other portion of any of the waters over which the state has jurisdiction and which have been set aside by the chief for the propagation of fish.

Effective Date: 09-30-1963

### **1531.08 Chief of division - powers and authority regarding wild animals.**

In conformity with Section 36 of Article II, Ohio Constitution, providing for the passage of laws for the conservation of the natural resources of the state, including streams, lakes, submerged lands, and swamplands, and in conformity with this chapter and Chapter 1533. of the Revised Code, the chief of the division of wildlife has authority and control in all matters pertaining to the protection, preservation, propagation, possession, and management of wild animals and may adopt rules under section 1531.10 of the Revised Code for the management of wild animals. Notwithstanding division (B) of section 119.03 of the Revised Code, such rules in proposed form shall be filed under this section. Each year there shall be a public fish hearing and public game hearing. The results of the investigation and public hearing shall be filed in the office of the chief and shall be kept open for public inspection during all regular office hours. Modifying or rescinding such rules does not require a public hearing.

The chief may adopt, amend, rescind, and enforce rules throughout the state or in any part or waters thereof as provided by sections 1531.08 to 1531.12 and other sections of the Revised Code. The rules shall be filed in proposed form and available at the central wildlife office and at each of the wildlife district offices, including the Lake Erie unit located at Sandusky, at least thirty days prior to the date of the hearing required by division (D) of section 119.03 of the Revised Code. The rules shall be based upon a public hearing and investigation of the best available biological information derived from professionally accepted practices in wildlife and fisheries management.

Each rule adopted under this section shall clearly and distinctly describe and set forth the waters or area or part thereof affected by the rule and whether the rule is applicable to all wild animals or only to certain kinds of species designated therein.

The chief may regulate any of the following:

- (A) Taking and possessing wild animals, at any time and place or in any number, quantity, or length, and in any manner, and with such devices as the chief prescribes;
- (B) Transportation of such animals or any part thereof;
- (C) Buying, selling, offering for sale, or exposing for sale any such animal or part thereof;

(D) Taking, possessing, transporting, buying, selling, offering for sale, and exposing for sale commercial fish or any part thereof, including species taken, length, weight, method of taking, mesh sizes, specifications of nets and other fishing devices, seasons, and time and place of taking.

When the chief increases the size of a fish named in section 1533.63 of the Revised Code, any fish that were legally taken, caught, or possessed prior to the increase may be possessed after the increase if the possession of the fish has been reported to the chief prior to the increase, but on or after the date of the increase the fish may not be sold to a buyer in this state.

Amended by 130th General Assembly File No. TBD, SB 3, §1, eff. 9/17/2014.

Effective Date: 03-04-1998

### **1531.081 Regulation of domestic deer.**

The division of wildlife does not have authority to regulate domestic deer, which shall be regulated as agricultural animals by the department of agriculture.

Effective Date: 03-18-1999

### **1531.09 Chief of division may amend or rescind rules after investigation.**

If an investigation shows that any part of a rule of the division of wildlife should be modified for any cause not known, fully understood, or present at the time the rule was adopted, the chief of the division of wildlife may amend any part of the rule to meet the new condition or situation, but the amended rule shall be effective not longer than one year from its effective date.

If an investigation shows that such a rule or amended rule should be rescinded for any cause not known, fully understood, or present when the rule or amended rule was adopted, or due to a change in conditions making the rule or amended rule not necessary, the chief may rescind the rule or amended rule and make it ineffective, except that if a rule or amended rule required the approval of the wildlife council for its adoption, it may be amended or rescinded only upon approval of the council.

Effective Date: 10-20-1994

### **1531.10 Publication of rules.**

In accordance with Chapter 119. of the Revised Code, the chief of the division of wildlife shall adopt, and may amend and rescind, rules that are necessary for the administration and enforcement of this chapter and Chapter 1533. of the Revised Code. Each such rule shall be given publicity by advertising or otherwise as the chief considers necessary or expedient. With respect to any proposed adoption of or change to a rule that regulates the taking of commercial fish or establishes related provisions, the chief shall provide, by certified mail, notification of the proposal to each holder of a valid commercial fishing license issued under section [1533.35](#) of the Revised Code. As long as a rule of the division of wildlife remains in effect, a copy of it shall be included and printed in any authorized compilation of the division lawbook. All such rules shall be under the seal of the division and shall bear the signature, or a facsimile thereof, of the chief.

Effective Date: 04-20-2000; 04-06-2007; 2007 SB77 10-10-2007

### **1531.101 Rules for taking of migratory game birds.**

In addition to any other authority conferred on the chief of the division of wildlife, the chief may adopt rules under section [111.15](#) of the Revised Code that are necessary to establish acceptable methods of taking migratory game birds together with bag limits and designated seasons, areas, and hours for hunting them.

Effective Date: 08-14-2002

#### **1531.11 Violation of rules prohibited.**

No person shall take, kill, possess, transport, buy, or sell any wild animals contrary to any rule of the division of wildlife adopted in conformity with law.

Effective Date: 10-20-1994

#### **1531.12 Limitations on authority of chief.**

Nothing in sections [1531.08](#) to [1531.11](#) of the Revised Code shall be construed to authorize the chief of the division of wildlife to provide or change any penalty prescribed by law for a violation of its provisions, or to change the amount of any license fee or to provide license, except license fees when expressly permitted by a provision in Chapter 1531. or 1533. of the Revised Code.

Effective Date: 09-27-1974

#### **1531.13 Wildlife officers.**

The law enforcement officers of the division of wildlife shall be known as "wildlife officers." The chief of the division of wildlife, wildlife officers, and such other employees of the division as the chief of the division of wildlife designates, and other officers who are given like authority, shall enforce all laws pertaining to the taking, possession, protection, preservation, management, and propagation of wild animals and all division rules. They shall enforce all laws against hunting without permission of the owner or authorized agent of the land on which the hunting is done. They may arrest on view and without issuance of a warrant. They may inspect any container or package at any time except when within a building and the owner or person in charge of the building objects. The inspection shall be only for bag limits of wild animals taken in open season or for wild animals taken during the closed season, or for any kind or species of those wild animals.

The chief may visit all parts of the state and direct and assist wildlife officers and other employees in the discharge of their duties. The owners or tenants of private lands or waters are not liable to wildlife officers for injuries suffered while carrying out their duties while on the lands or waters of the owners or tenants unless the injuries are caused by the willful or wanton misconduct of the owners or tenants. Any regularly employed salaried wildlife officer may enter any private lands or waters if the wildlife officer has good cause to believe and does believe that a law is being violated.

A wildlife officer, sheriff, deputy sheriff, constable, or officer having a similar authority may search any place which the officer has good reason to believe contains a wild animal or any part of a wild animal taken or had in possession contrary to law or division rule, or a boat, gun, net, seine, trap, ferret, or device used in the violation, and seize any the officer finds so taken or possessed. If the owner or person in charge of the place to be searched refuses to permit the search, upon filing an affidavit in accordance with law with a court having jurisdiction of the offense and upon receiving a search warrant issued, the officer forcibly may search the place described, and if in the search the officer finds any wild animal or part of a wild animal, or any boat, gun, net, seine, trap, ferret, or device in the

possession of the owner or person in charge, contrary to this chapter or Chapter 1533. of the Revised Code or division rule, the officer shall seize it and arrest the person in whose custody or possession it was found. The wild animal or parts of a wild animal or boat, gun, net, seine, trap, ferret, or device so found shall escheat to the state.

Each wildlife officer shall post a bond in a sum not less than one thousand dollars executed by a surety company authorized to transact business in this state for the faithful performance of the duties of the wildlife officer's office.

The chief and wildlife officers have the authority specified under section [2935.03](#) of the Revised Code for peace officers of the department of natural resources for the purpose of enforcing the criminal laws of the state on any property owned, controlled, maintained, or administered by the department of natural resources and may enforce sections [2923.12](#) , [2923.15](#) , and [2923.16](#) of the Revised Code throughout the state and may arrest without warrant any person who, in the presence of the chief or any wildlife officer, is engaged in the violation of any of those laws.

A wildlife officer may render assistance to a state or local law enforcement officer at the request of that officer or may render assistance to a state or local law enforcement officer in the event of an emergency. Wildlife officers serving outside the division of wildlife under this section shall be considered as performing services within their regular employment for the purposes of compensation, pension or indemnity fund rights, workers' compensation, and other rights or benefits to which they may be entitled as incidents of their regular employment.

Wildlife officers serving outside the division of wildlife under this section retain personal immunity from civil liability as specified in section [9.86](#) of the Revised Code and shall not be considered an employee of a political subdivision for purposes of Chapter 2744. of the Revised Code. A political subdivision that uses wildlife officers under this section is not subject to civil liability under Chapter 2744. of the Revised Code as the result of any action or omission of any wildlife officer acting under this section.

Effective Date: 03-18-1999

### **[1531.131 Enforcing dumping prohibitions and nature preserve and trail rules.](#)**

A wildlife officer shall enforce section [3767.32](#) of the Revised Code and any other laws prohibiting the dumping of refuse into or along waters, the rules of the department of natural resources adopted under section [1517.02](#) of the Revised Code, and the rules of the director of natural resources adopted under Chapter 1519. of the Revised Code and shall make arrests for violation of those laws and rules. The jurisdiction of a wildlife officer is concurrent with that of the peace officers of the county, township, or municipal corporation in which the violation occurs.

Effective Date: 10-20-1994

### **[1531.132 Felony conviction precludes or terminates employment.](#)**

(A) As used in this section, "felony" has the same meaning as in section [109.511](#) of the Revised Code.

(B)

(1) The chief of the division of wildlife shall not designate a person as a game protector on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the person previously has been convicted of or has pleaded guilty to a felony.

(2)

(a) The chief of the division of wildlife shall terminate the employment of a person as a game protector if that person does either of the following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section [2929.43](#) of the Revised Code in which the game protector agrees to surrender the certificate awarded to the game protector under section [109.77](#) of the Revised Code.

(b) The chief shall suspend from employment as a game protector a person designated as a game protector if that person is convicted, after trial, of a felony. If the game protector files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the game protector does not file a timely appeal, the chief shall terminate the employment of that game protector. If the game protector files an appeal that results in the game protector's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against the game protector, the chief shall reinstate that game protector. A game protector who is reinstated under division (B)(2)(b) of this section shall not receive any back pay unless that game protector's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the game protector of the felony.

(3) Division (B) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension from employment, or the termination of the employment, of a game protector under division (B)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Effective Date: 01-01-2004

### **1531.133 Wildlife violators compact for joint enforcement operations.**

(A)

(1) The chief of the division of wildlife, with the approval of the director of natural resources, may enter into a memorandum of understanding, agreement, or mutual aid compact with the head of any entity of another state, federal entity, or foreign entity that employs or appoints a law enforcement officer who has substantially the same duties as a peace officer, as "peace officer" is defined in section [2935.01](#) of the Revised Code, to enable wildlife officers and the specified law enforcement officers to assist each other in the provision of law enforcement services within the jurisdictions that are subject to the memorandum of understanding, agreement, or mutual aid compact.

(2) Employees of the division of wildlife who are serving under the terms of a memorandum of understanding, agreement, or mutual aid compact entered into under division (A)(1) of this section shall be considered as performing services within their regular employment for purposes of compensation, pension or indemnity fund rights, workers' compensation, and other rights or benefits to which they may be entitled as incidents of their regular employment.

(3) Employees of the division of wildlife who are serving under the terms of a memorandum of understanding, agreement, or mutual aid compact entered into under division (A)(1) of this section

retain personal immunity from civil liability under section [9.86](#) of the Revised Code and all rights of indemnification and representation incident to regular employment.

(B) The chief shall adopt rules to enter into a reciprocal agreement with participating states for the enhancement of compliance with hunting, fishing, and other wildlife laws. The agreement is named the wildlife violators compact. The agreement and the rules shall provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of the violators' due process rights.

Effective Date: 2007 HB153 10-18-2007

#### **1531.14 Right of entry on land for research or investigation.**

Any person regularly employed by the division of wildlife for the purpose of conducting research and investigation of game or fish or their habitat conditions or engaged in restocking game or fish or in any type of work involved in or incident to game or fish restoration projects or in the enforcement of laws or division rules relating to game or fish, or in the enforcement of section [1531.29](#) or [3767.32](#) of the Revised Code, other laws prohibiting the dumping of refuse in or along streams, or watercraft laws, while in the normal, lawful, and peaceful pursuit of such investigation, work, or enforcement may enter upon, cross over, be upon, and remain upon privately owned lands for such purposes and shall not be subject to arrest for trespass while so engaged or for such cause thereafter.

Any such person, upon demand, shall identify himself to the owner, tenant, or manager of such privately owned lands by means of a badge or card bearing his name and certifying his employment by the division.

Effective Date: 10-20-1994

#### **1531.15 Division of wildlife may take fish.**

The division of wildlife may take fish at any time or place, in any manner, for the maintenance or cultivation of fish in hatcheries, or for the purpose of stocking ponds, lakes, rivers, or creeks, or for the purpose of exterminating rough fish in any waters. The division may set aside any waters for the propagation of fish or waterfowl.

Effective Date: 10-01-1953

#### **1531.16 Enforcement and prosecution of wildlife laws and rules.**

Sheriffs, deputy sheriffs, constables, and other police officers shall enforce the laws and division rules for the taking, possession, protection, preservation, and propagation of wild animals and for this purpose shall have the power conferred upon wildlife officers. Prosecution for offenses not committed in the presence of an officer shall be instituted only upon the approval of the prosecuting attorney of the county in which the offense is committed, or a municipal legal officer within his territorial jurisdiction, or upon the approval of the attorney general, and when the services of counsel are necessary, the attorney authorized by this section to approve the action and who does so shall act as attorney for the prosecution of the case.

Effective Date: 10-20-1994

#### **1531.17 Wildlife fund.**

All fines, penalties, and forfeitures arising from prosecutions, convictions, confiscations, or otherwise under this chapter and Chapters 1517. and 1533. of the Revised Code, unless otherwise directed by the director of natural resources, shall be paid by the officer by whom collected to the director and by the director paid into the state treasury to the credit of the wildlife fund, which is hereby created, for the use of the division of wildlife. All moneys received from the sale of wild animals under division (J) of section 1531.06 shall be paid into the state treasury to the credit of the wildlife fund for the use of the division. All moneys collected as license fees on nets in the Lake Erie fishing district shall be paid by the director into the state treasury to the credit of the wildlife fund for use only in the betterment and the propagation of fish therein or in otherwise propagating fish in such district. All investment earnings of the fund shall be credited to the fund. The wildlife fund shall not be used for compensation of personnel employed by other divisions of the department of natural resources who are assigned to law enforcement duties in aid of the division of wildlife or for compensation of division of wildlife personnel for activities related to the instruction of personnel of other divisions.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 01-10-1991

### **1531.18 Jurisdiction.**

Any judge of a county court or municipal court judge has final jurisdiction within the territory for which he is elected or appointed in a prosecution for any violation of this chapter or Chapter 1533. of the Revised Code, or division rules, and in a proceeding for forfeiture under those chapters or rules.

Effective Date: 10-20-1994

### **1531.19 Service of summons on corporations.**

When an affidavit is filed against a corporation for a violation of this chapter or Chapter 1533. of the Revised Code, a summons, returnable on or before the tenth day after its date, shall be issued directed to the sheriff, constable, or wildlife officer commanding him to notify the accused thereof. The summons together with a copy of the affidavit shall be served and returned in the manner provided for the service of summons upon corporations in civil actions. On or before the return day of the summons served, the corporation may appear by one of its officers or by counsel and answer the affidavit by motion or plea, but upon failure to make an appearance and answer the clerk of the court shall enter a plea of "not guilty." Upon such an appearance being made or plea entered, the corporation shall be deemed present before the court until the cause is finally disposed of.

Effective Date: 10-20-1994

### **1531.20 Seizure of property or device used in unlawful taking or transporting of wild animals.**

Any motor vehicle, all-terrain vehicle, or boat used in the unlawful taking or transporting of wild animals, and any net, seine, trap, ferret, gun, or other device used in the unlawful taking of wild animals, is a public nuisance. Each wildlife officer, or other officer with like authority, shall seize and safely keep such property and the illegal results of its use, and unless otherwise ordered by the chief of the division of wildlife shall initiate, within thirty days, proceedings in a proper court of the county for its forfeiture. A writ of replevin shall not lie to take the property from the officer's custody or from the

custody or jurisdiction of the court in which the proceeding is initiated, nor shall the proceeding affect a criminal prosecution for the unlawful use or possession of the property.

An action for the forfeiture of any such property shall be initiated by the filing of an affidavit describing the property seized and stating the unlawful use made of it, the time and place of seizure, and the name of the person owning or using it at the time of seizure. If the name is unknown, that fact shall be stated. Upon the filing of the affidavit, the court shall issue a summons setting forth the facts stated in the affidavit and fixing a time and place for the hearing of the complaint. A copy of the summons shall be served on the owner or person using the property at the time of its seizure, if the owner or user is known, or by leaving a copy thereof at the owner's or user's usual residence or place of business in the county, at least three days before the time fixed for the hearing of the complaint. If the owner or user is unknown or a nonresident of the county or cannot be found therein, a copy of the summons shall be posted at a suitable place nearest the place of seizure, but if the owner's or user's address is known, a copy of the summons shall be mailed to the owner or user at least three days before the time fixed for the hearing of the complaint. On the date fixed for the hearing, the officer making the service shall make a return of the time and manner of making the service. Upon the proper cause shown, the court may postpone the hearing.

A proceeding for the forfeiture of seized property that is initiated under this section shall not progress to actual forfeiture of the seized property unless so ordered by the court. The court may order the actual forfeiture of the seized property as part of the sentence that it imposes if the owner or person unlawfully using the property at the time of its seizure is convicted, pleads guilty, or confesses that the property at the time of its seizure was being used by the owner or user in violation of law or division rule. Forfeited property shall be the property of the state, to be disposed of as the chief of the division of wildlife directs.

Effective Date: 03-18-1999; 04-06-2007

### **1531.201 Civil action to recover possession or value of wild animal.**

(A) As used in this section:

- (1) "Gross score" means the number derived by calculating the measurements of the antlers of a white-tailed deer in accordance with division (C)(2) of this section.
- (2) "Point" means a projection on the antler of a white-tailed deer that is at least one-inch long as measured from its tip to the nearest edge of antler beam and the length of which exceeds the length of its base. "Point" does not include an antler beam tip.
- (3) "Abnormal point" means a point that is nontypical in shape or location.
- (4) "Normal point" means a point that projects from the main antler beam in a typical shape or location.
- (5) "Inside spread of main antler beams" means the measurement at right angles to the center line of the skull of a white-tailed deer at the widest point between main antler beams.
- (6) "Length of main antler beam" means the measurement from the lowest outside edge of the antler burr of a white-tailed deer over the outer curve to the most distant point of what is or appears to be the main antler beam beginning at the place on the antler burr where the center line along the outer curve of the beam intersects the antler burr.

(7) "Antler burr" means the elevated bony rim around the antler base of a white-tailed deer that is just above the skin of the pedicle.

(B) The chief of the division of wildlife or the chief's authorized representative may bring a civil action to recover possession of or the restitution value of any wild animal held, taken, bought, sold, or possessed in violation of this chapter or Chapter 1533. of the Revised Code or any division rule against any person who held, took, bought, sold, or possessed the wild animal.

The minimum restitution value to the state for wild animals that are unlawfully held, taken, bought, sold, or possessed shall be established in division rule.

(C)

(1) In addition to any restitution value established in division rule, a person who is convicted of a violation of this chapter or Chapter 1533. of the Revised Code or a division rule governing the holding, taking, buying, sale, or possession of an antlered white-tailed deer with a gross score of more than one hundred twenty-five inches also shall pay an additional restitution value that is calculated using the following formula:

Additional restitution value =  $((\text{gross score} - 100)^2 \times \$1.65)$ .

(2) The gross score of an antlered white-tailed deer shall be determined by taking and adding together all of the following measurements, which shall be made to the nearest one-eighth of an inch using a one-quarter-inch wide flexible steel tape:

- (a) Inside spread of the main antler beams, not to exceed the length of the longest main antler beam;
- (b) Length of the right main antler beam;
- (c) Length of the left main antler beam;
- (d) Total length of all abnormal points;
- (e) Total length of all normal points as measured from the nearest edge of the main antler beam over the outer curve to the tip. To determine the baseline for normal point measurement, the tape shall be laid along the outer curve of the antler beam so that the top edge of the tape coincides with the top edge of the antler beam on both sides of the point.
- (f) Circumference taken at the narrowest place between the antler burr and the first normal point on the right main antler beam. If the first normal point is missing, the circumference shall be taken at the narrowest place between the antler burr and the second normal point.
- (g) Circumference taken at the narrowest place between the first normal point and the second normal point on the right main antler beam. If the first normal point is missing, the circumference shall be taken at the narrowest place between the antler burr and the second normal point.
- (h) Circumference taken at the narrowest place between the second normal point and the third normal point on the right main antler beam;
- (i) Circumference taken at the narrowest place between the third normal point and the fourth normal point on the right main antler beam. If the fourth normal point is missing, the circumference shall be taken halfway between the third normal point and the tip of the main antler beam.

(j) Circumference taken at the narrowest place between the antler burr and the first normal point on the left main antler beam. If the first normal point is missing, the circumference shall be taken at the narrowest place between the antler burr and the second normal point.

(k) Circumference taken at the narrowest place between the first normal point and the second normal point on the left main antler beam. If the first normal point is missing, the circumference shall be taken at the narrowest place between the antler burr and the second normal point.

(l) Circumference taken at the narrowest place between the second normal point and the third normal point on the left main antler beam;

(m) Circumference taken at the narrowest place between the third normal point and the fourth normal point on the left main antler beam. If the fourth normal point is missing, the circumference shall be taken halfway between the third normal point and the tip of the main antler beam.

Antlers may be measured at any time; no drying time is required.

(D) Upon conviction of holding, taking, buying, selling, or possessing a wild animal in violation of this chapter, Chapter 1533. of the Revised Code, or a division rule, the chief shall revoke until payment of the restitution value is made each hunting license, fur taker permit, deer permit, wild turkey permit, wetlands habitat stamp, and fishing license issued to that person under this chapter or Chapter 1533. of the Revised Code. No fee paid for such a license, permit, or stamp shall be returned to the person.

Upon revoking a person's license, permit, or stamp or a combination thereof under this division, the chief immediately shall send a notice of that action by certified mail to the last known address of the person. The notice shall state the action taken, order the person to surrender the revoked license, permit, or stamp or combination thereof, and state that the department of natural resources will not afford a hearing as required under section [119.06](#) of the Revised Code.

(E) Nothing in this section affects the right of seizure under any other section of the Revised Code.

Effective Date: 10-20-1994; 2007 HB238 03-04-2008

### **1531.202 Liability for costs incurred in investigation of death of wild animal.**

Any person who is responsible for causing or allowing an unauthorized spill, release, or discharge of material into or on any land or any ground or surface water or into the air that results in the death of a wild animal and that necessitates an investigation by the division of wildlife, or who violates section [1531.02](#) of the Revised Code in a manner that necessitates an investigation by the division regarding the death of a wild animal, is liable to the division for costs incurred in the investigation if the person pleads guilty to or is convicted of causing or allowing the unauthorized spill, release, or discharge or a violation of section [1531.02](#) of the Revised Code. The costs may include wages and benefits of employees of the division. The chief of the division of wildlife or the chief's authorized representative shall bring a civil action against the responsible person to recover those costs.

Effective Date: 03-18-1999

### **1531.21 Trial procedure for forfeiture or condemnation.**

The defendant in a proceeding for forfeiture or condemnation under a division rule or this chapter or Chapter 1533. of the Revised Code shall be tried under the rules of criminal procedure and according to law.

Effective Date: 10-20-1994

### **1531.22 Payment of costs.**

A person authorized by law to prosecute a case under a division rule or this chapter or Chapter 1533. of the Revised Code shall not be required to advance or secure costs therein. If the defendant is acquitted or discharged from custody, the costs shall be certified under oath by the court to the chief of the division of wildlife, who shall correct all errors therein and pay the person entitled to payment out of the wildlife fund created in section [1531.17](#) of the Revised Code.

Effective Date: 10-20-1994

### **1531.23 Judgment for costs and fine or forfeiture - lien - failure to pay.**

If the defendant in a prosecution or condemnation proceeding under a division rule or this chapter or Chapter 1533. of the Revised Code is convicted, judgment shall be rendered against him for costs in addition to the fine imposed or forfeiture declared. The judgment shall be the first lien upon the property of the person convicted, and no exemption shall be claimed or allowed against that lien. If he fails to pay the fine and costs imposed or if execution issued is returned unsatisfied, the person convicted shall be committed to the county jail or to a workhouse and there confined one day for the amount of the fine adjudged against him, determined as provided in section 2747.14 of the Revised Code. The person convicted shall not be discharged or paroled therefrom by any board or officer except upon payment of the fine remaining unpaid or upon written permission of the chief of the division of wildlife.

Effective Date: 10-20-1994

### **1531.24 United States commissioner of fisheries authorized to establish, operate, and maintain fish hatcheries in Ohio.**

The United States commissioner of fisheries and his authorized agents may establish fish hatcheries in Ohio, and operate and maintain them. Such persons may acquire by lease, gift, or purchase lands and other equipment necessary for such purpose and conduct in any manner and at any time investigations and fish cultural operations as are considered necessary and proper.

Effective Date: 10-01-1953

### **1531.25 Protection of species threatened with statewide extinction.**

The chief of the division of wildlife, with the approval of the wildlife council, shall adopt and may modify and repeal rules, in accordance with Chapter 119. of the Revised Code, restricting the taking or possession of native wildlife, or any eggs or offspring thereof, that he finds to be threatened with statewide extinction. The rules shall identify the common and scientific names of each endangered species and shall be modified from time to time to include all species on the list of endangered fish and wildlife pursuant to Section 4 of the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 , as amended, and that are native to this state, or that migrate or are otherwise reasonably likely to occur within the state.

The rules shall provide for the taking of species threatened with statewide extinction, for zoological, educational, and scientific purposes, and for propagation in captivity to preserve the species, under written permits from the chief. The rules shall in no way restrict the taking or possession of species

listed on such United States list for zoological, educational, or scientific purposes, or for propagation in captivity to preserve the species, under a permit or license from the United States or any instrumentality thereof.

No person shall violate any rule adopted pursuant to this section.

Effective Date: 07-20-1988

### **1531.26 Nongame and endangered wildlife fund.**

There is hereby created in the state treasury the nongame and endangered wildlife fund, which shall consist of moneys paid into it by the tax commissioner under section [5747.113](#) of the Revised Code, moneys deposited in the fund from the issuance of wildlife conservation license plates under section [4503.57](#) of the Revised Code, moneys deposited in the fund from the issuance of bald eagle license plates under section [4503.572](#) of the Revised Code, moneys credited to the fund under section [1533.151](#) of the Revised Code, and contributions made directly to it. Any person may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in section [5747.113](#) of the Revised Code. Moneys in the fund shall be disbursed pursuant to vouchers approved by the director of natural resources for use by the division of wildlife solely for the purchase, management, preservation, propagation, protection, and stocking of wild animals that are not commonly taken for sport or commercial purposes, including the acquisition of title and easements to lands, biological investigations, law enforcement, production of educational materials, sociological surveys, habitat development, and personnel and equipment costs; and for carrying out section [1531.25](#) of the Revised Code. Moneys in the fund also may be used to promote and develop nonconsumptive wildlife recreational opportunities involving wild animals. Moneys in the fund from the issuance of bald eagle license plates under section [4503.572](#) of the Revised Code shall be expended by the division only to pay the costs of acquiring, developing, and restoring habitat for bald eagles within this state. Moneys in the fund from any other source also may be used to pay the costs of acquiring, developing, and restoring habitat for bald eagles within this state.

All investment earnings of the fund shall be credited to the fund. Subject to the approval of the director, the chief of the division of wildlife may enter into agreements that the chief considers appropriate to obtain additional moneys for the protection of nongame native wildlife under the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C.A. 1541 - 1543 , as amended, and the "Fish and Wildlife Conservation Act of 1980," 94 Stat. 1322, 16 U.S.C.A. 2901 - 2911 , as amended. Moneys appropriated from the fund are not intended to replace other moneys appropriated for these purposes.

Effective Date: 09-26-2003

### **1531.27 Payments to counties for land use by state.**

The chief of the division of wildlife shall pay to the treasurers of the several counties wherein lands owned by the state and administered by the division are located an annual amount determined in the following manner: in each such county one per cent of the total value of such lands exclusive of improvements, as shown on the auditor's records of taxable value of real property existing at the time when the state acquired the tract or tracts comprising the lands.

The payments shall be made from funds accruing to the division from fines, penalties, restitution, and forfeitures deposited into the state treasury to the credit of the wildlife fund created in section [1531.17](#)

of the Revised Code. The allocation of amounts to be paid from those sources shall be determined by the director of natural resources.

The payments to the treasurers of the several counties shall be credited to the fund for school purposes within the school districts wherein the lands are located.

Effective Date: 09-30-1963; 09-29-2005; 04-06-2007

**1531.28 Contract with private persons for creation or improvement of wildlife habitat.**

The division of wildlife, in the management of lands owned, leased, or administered by it or under agreement with it, may contract with private persons for the creation or improvement of wildlife habitat thereon. Such a contract may be paid for in money, materials, services rendered, or goods produced incidentally to the contract, whichever is advantageous to the state.

Effective Date: 10-20-1994

**1531.29 Prohibiting polluting state land or water.**

No person shall place or dispose of in any manner, any garbage, waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil, or anything else of an unsightly or unsanitary nature on any state owned, controlled, or administered land, or in any ditch, stream, river, lake, pond, or other watercourse, except those waters which do not combine or effect a junction with natural surface or underground waters, or upon the bank thereof where the same is liable to be washed into the water either by ordinary flow or floods. This section does not apply to any substance placed under authority of a permit issued under section [6111.04](#) of the Revised Code or exempted by such section from its terms.

Effective Date: 11-20-1973

**1531.30 Cooperative management fund.**

There is hereby created in the state treasury the cooperative management fund. All revenue generated on land owned by the United States army corps of engineers and managed by the division of the wildlife of the department of natural resources pursuant to an agreement with the corps shall be credited to the fund. All money in the fund shall be spent for fish and wildlife management purposes and for the management and maintenance of the area managed by the division. All investment earnings of the fund shall be credited to the fund.

Effective Date: 03-13-1986

**1531.31 Ohio River management fund.**

There is hereby created in the state treasury the Ohio river management fund, which shall consist of moneys received by the division of wildlife pursuant to negotiated mitigation settlements from persons who have adversely affected the fish and wildlife of the Ohio river or their habitats and of gifts and contributions made to it. The fund shall be used for the preservation, development, and management of the Ohio river through the acquisition of critical habitat areas, monitoring of fish and wildlife populations, expansion of programs for the production and stocking of game fish, and research and

development of methods for improving public access to the Ohio river. All investment earnings of the fund shall be credited to the fund.

Effective Date: 09-17-1991

### **1531.32 Wildlife habitat trust fund.**

There is hereby created the wildlife habitat trust fund, which shall be in the custody of the treasurer of state and shall not be a part of the state treasury. The purpose of the fund is to facilitate the acquisition and development of lands for the preservation, propagation, and protection of wild animals. The fund shall consist of money received from gifts, donations, bequests, and other moneys contributed to the division of wildlife for the purposes of the fund. Investment earnings of the fund shall be retained by the fund until transferred to the wildlife habitat fund as required by section [1531.33](#) of the Revised Code. The principal of the wildlife habitat trust fund shall not be spent for any purpose.

Effective Date: 09-17-1991

### **1531.33 Wildlife habitat fund.**

The wildlife habitat fund is hereby created in the state treasury. The fund shall consist of the investment earnings of the wildlife habitat trust fund created in section [1531.32](#) of the Revised Code; gifts, donations, bequests, and other moneys contributed to the division of wildlife for the purposes of the fund; moneys collected under division (H) of section [1531.06](#) of the Revised Code; moneys deposited in the fund under division (G)(2)(b) of section [1509.73](#) of the Revised Code; and moneys received by the division pursuant to negotiated mitigation settlements from persons who have adversely affected fish and wildlife, or their habitats, over which the division has jurisdiction under this chapter or Chapter 1533. of the Revised Code other than fish and wildlife of the Ohio river or their habitats.

The fund shall be used by the division to acquire and develop lands for the preservation, propagation, and protection of wild animals. All expenditures from the wildlife habitat fund shall be approved by the director of natural resources. Quarterly each fiscal year, the treasurer of state shall transfer the investment earnings of the wildlife habitat trust fund to the wildlife habitat fund.

Amended by 129th General Assembly File No. 35, HB 133, §1, eff. 9/30/2011.

Effective Date: 03-18-1999

### **1531.34 [Repealed].**

Repealed by 130th General Assembly File No. 25, HB 59, §105.01, eff. 9/29/2013.

Effective Date: 03-18-1999

### **1531.35 Wildlife boater angler fund.**

The wildlife boater angler fund is hereby created in the state treasury. The fund shall consist of money credited to the fund pursuant to section [5735.051](#) of the Revised Code and other money contributed to the division of wildlife for the purposes of the fund. The fund shall be used for boating access construction, improvements, and maintenance, and to pay for equipment and personnel costs involved with those activities, on lakes on which the operation of gasoline-powered watercraft is permissible.

However, not more than two hundred thousand dollars of the annual expenditures from the fund may be used to pay for the equipment and personnel costs.

Effective Date: 09-05-2001; 2007 HB119 09-29-2007

**1531.40 Nuisance wild animal removal or control services; license.**

(A) As used in this section:

(1) "Nuisance wild animal" means a wild animal that interferes with the use or enjoyment of property, is causing a threat to public safety, or may cause damage or harm to a structure, property, or person.

(2) "Commercial nuisance wild animal control operator" means an individual or business that provides nuisance wild animal removal or control services for hire to the owner, the operator, or the owner's or operator's authorized agent of property or a structure.

(B)

(1) No person shall provide nuisance wild animal removal or control services for hire without obtaining a license under this section from the chief of the division of wildlife.

(2) An applicant shall pay a license fee of forty dollars for the license. The license shall be renewed annually prior to the first day of March and shall expire on the last day of February. All money collected under this division shall be deposited in the state treasury to the credit of the wildlife fund created in section [1531.17](#) of the Revised Code.

(3) An individual who is providing nuisance wild animal removal or control services for hire under a license issued under this section is exempt from obtaining a hunting license under section [1533.10](#) of the Revised Code, a fur taker permit under section [1533.111](#) of the Revised Code, or a fishing license under section [1533.32](#) of the Revised Code for the purposes of performing those services.

(4) An individual who is employed by the state, a county, or a municipal corporation and who performs nuisance wild animal removal or control services on land that is owned by the state, county, or municipal corporation, as applicable, as part of the individual's employment is exempt from obtaining a license under this section.

(C)

(1) Unless otherwise specified by division rule, a commercial nuisance wild animal control operator and any individual who is employed by an operator that is engaged in activities that are part of or related to the removal or control of nuisance wild animals, including setting or maintaining traps, shall obtain a certification of completion of a course of instruction that complies with rules adopted under division (F) of this section. A certification shall be renewed every three years.

(2) An individual who provides nuisance wild animal removal or control services under a license issued under this section shall comply with division (C)(1) of this section.

(D) An operator that holds a license issued under this section is responsible for the acts of each of the operator's employees in the removal or control of a nuisance wild animal.

(E) If an individual who is licensed under this section uses a pesticide in the removal or control of a nuisance wild animal, the individual shall obtain the appropriate license under Chapter 921. of the Revised Code.

(F) The chief shall adopt rules under section [1531.10](#) of the Revised Code establishing all of the following:

(1) Appropriate methods for trapping, capturing, removing, relocating, and controlling nuisance wild animals by operators licensed under this section;

(2) Procedures for issuing, denying, suspending, and revoking a license under this section;

(3) Requirements governing the certification course required by division (C)(1) of this section. The rules shall specify the minimum contents of such a course, including public safety and health, animal life history, the use of nuisance wild animal removal and control devices, and the laws and rules governing those activities. The rules also shall specify who may conduct such a course. The rules shall require that, in order for an operator to receive a certification of completion, the operator shall pass an examination.

(4) Any other requirements and procedures necessary to administer and enforce this section.

Rules shall be adopted under division (F) of this section only with the approval of the director of natural resources.

(G) In accordance with Chapter 119. of the Revised Code and with rules adopted under this section, the chief may suspend or revoke a license issued under this section if the chief finds that the holder of the license is violating or has violated this chapter, Chapter 1533. of the Revised Code, or rules adopted under those chapters.

Added by 129th General Assembly File No.191, HB 420, §1, eff. 3/27/2013.

### **1531.99 Penalty.**

(A) Whoever violates section [1531.02](#) of the Revised Code, or any division rule, other than a rule adopted under section [1531.25](#) of the Revised Code, is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates section [1531.02](#) of the Revised Code concerning the taking or possession of deer or violates division (K) of section [1531.06](#) or section [1531.07](#) or [1531.29](#) of the Revised Code is guilty of a misdemeanor of the third degree on a first offense; on each subsequent offense, that person is guilty of a misdemeanor of the first degree.

(C) Whoever violates section [1531.25](#) of the Revised Code is guilty of a misdemeanor of the first degree.

(D) Whoever violates section [1531.02](#) of the Revised Code concerning the buying, selling, or offering for sale of any wild animals or parts of wild animals, the minimum value of which animals or parts, in the aggregate, is one thousand dollars or more as established under section [1531.201](#) of the Revised Code, is guilty of a felony of the fifth degree.

(E) A court that imposes sentence for a violation of any section of this chapter governing the holding, taking, buying, selling, or possession of wild animals, including, without limitation, section [1531.11](#) of the Revised Code, may require the person who is convicted of or pleads guilty to the offense, in

addition to any fine, term of imprisonment, seizure, and forfeiture imposed, to make restitution for the minimum value of the wild animal illegally held, taken, bought, sold, or possessed as established under section [1531.201](#) of the Revised Code. An officer who collects moneys paid as restitution under this section shall pay those moneys to the treasurer of state who shall deposit them in the state treasury to the credit of the wildlife fund established under section [1531.17](#) of the Revised Code.

Effective Date: 03-18-1999; 04-06-2007; 2007 HB238 03-04-2008