

HOUSE BILL NO. 281

INTRODUCED BY D. MORTENSEN

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3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO GAME WARDENS;
5 REVISING LAW ENFORCEMENT PRACTICES USED BY WARDENS; REQUIRING CONSISTENCY WITH
6 SIMILAR PRACTICES USED BY OTHER LAW ENFORCEMENT ENTITIES; REVISING PROVISIONS FOR
7 SEARCH AND SEIZURE; REVISING MENTAL STATES; PROVIDING AN AFFIRMATIVE DEFENSE;
8 PROVIDING FOR GAME ANIMAL IDENTIFICATION; REVISING DEFINITIONS; AND AMENDING SECTIONS
9 87-1-207, 87-1-506, 87-6-102, 87-6-201, 87-6-202, 87-6-203, 87-6-205, 87-6-206, 87-6-216, 87-6-302, 87-6-305,
10 87-6-404, 87-6-603, 87-6-905, AND 87-6-907, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 87-1-207, MCA, is amended to read:

15 **"87-1-207. Establishment of checking stations.** The department is authorized to establish checking
16 stations when considered necessary to inspect licenses of hunters and anglers and to inspect any game animals,
17 fish, or fur-bearing animals in the possession of hunters and anglers. The conduct of department personnel and
18 procedures used by department personnel at checking stations pertaining to roadblocks and searches of persons
19 and property must conform to the restrictions established by law and the courts on law enforcement personnel
20 generally."

21
22 **Section 2.** Section 87-1-506, MCA, is amended to read:

23 **"87-1-506. Enforcement powers of wardens.** (1) A warden may:

- 24 (a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;
- 25 (b) search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker, basket,
26 creel, crate, game bag, or package, or their contents upon probable cause to believe that any fish and game law
27 or department rule for the protection, conservation, or propagation of game, fish, birds, or fur-bearing animals has
28 been violated;
- 29 (c) search, only with a search warrant and only when accompanied by a county sheriff or deputy sheriff,
30 any dwelling house or other building;

1 (d) except for indispensable parts of an animal or fish that constitute minimally essential evidentiary
 2 materials, seize a game animal, fish, game birds bird, and or fur-bearing animals animal and any of its parts of
 3 them upon the finding of the trier of fact or upon the entry of a guilty or nolo contendere plea that the game
 4 animal, fish, game bird, fur-bearing animal, or any of its parts was purposely and knowingly, as defined in
 5 45-2-101, taken or possessed in violation of the law or the rules of the department or commission;

6 (e) upon a finding by the trier of fact or upon the entry of a guilty or nolo contendere plea that a game
 7 animal, fish, game bird, or fur-bearing animal was purposely and knowingly, as defined in 45-2-101, taken or killed
 8 in violation of the law or the rules of the department or commission, seize and hold, subject to law or the orders
 9 of the department, devices that have been used to unlawfully take the game animal, fish, birds game bird, or
 10 fur-bearing animals animal;

11 (f) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the
 12 department, violation of which is a misdemeanor;

13 (g) enforce the disorderly conduct and public nuisance laws, 45-8-101 and 45-8-111, as they apply to
 14 the operation of motorboats on all waters of the state;

15 (h) as provided for in 37-47-345, investigate and make arrests for violations of the provisions of Title 37,
 16 chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of outfitters and guides
 17 in the state;

18 (i) enforce the provisions of Title 80, chapter 7, part 10, and rules adopted under Title 80, chapter 7, part
 19 10, for those invasive species that are under the department's jurisdiction; and

20 (j) exercise the other powers of peace officers in the enforcement of the fish and game laws, the rules
 21 of the department, and judgments obtained for violation of those laws or rules.

22 (2) Except for the authority granted in subsection (1)(b), a warden shall observe the same standards for
 23 arrest, search, seizure, trespass, roadblocks, and other law enforcement activities that are required of other law
 24 enforcement personnel by statute or by the courts.

25 ~~(2)~~(3) The meat of game animals that are seized pursuant to subsection (1)(d) must be donated directly
 26 to the Montana food bank network or to public or charitable institutions to the extent reasonably feasible. Any
 27 meat that the department is unable to donate must be sold pursuant to 87-1-511, with the proceeds to be
 28 distributed as provided in 87-1-513(2)."

29

30 **Section 3.** Section 87-6-102, MCA, is amended to read:

1 **"87-6-102. Designation of violations.** A person who purposely; and knowingly; ~~or negligently~~ violates
 2 a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor unless a
 3 felony is expressly provided by law."

4
 5 NEW SECTION. **Section 4. Affirmative defense.** It is an affirmative defense to prosecution for a
 6 violation of a provision of this title or a rule promulgated under this title that the defendant made a mistake arising
 7 from a trivial oversight or omission or the violation was the result of excusable neglect.

8
 9 NEW SECTION. **Section 5. Game animal identification rules.** Any rule adopted by the commission
 10 or the department or applied by employees of the department regarding the field identification of game animals
 11 that cannot be readily and simply applied by a reasonable and prudent person under field conditions may not be
 12 used to sustain the conviction of a person charged with a violation of state fish and game laws.

13
 14 **Section 6.** Section 87-6-201, MCA, is amended to read:

15 **"87-6-201. Violation of commission or department order or rule.** A person who purposely; and
 16 knowingly; ~~or negligently~~ violates an order or rule of the commission or department shall be fined not less than
 17 \$50 or more than \$500. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to
 18 forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, ~~or~~
 19 and trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time
 20 set by the court."

21
 22 **Section 7.** Section 87-6-202, MCA, is amended to read:

23 **"87-6-202. Unlawful possession, shipping, or transportation of game fish, bird, game animal, or**
 24 **fur-bearing animal.** (1) A person may not possess, ship, or transport all or part of any game fish, bird, game
 25 animal, or fur-bearing animal that was unlawfully killed, captured, or taken, whether killed, captured, or taken in
 26 Montana or outside of Montana.

27 (2) This section does not prohibit the possession, shipping, or transportation of:

28 (a) hides, heads, or mounts of lawfully killed, captured, or taken game fish, birds, game animals, or
 29 fur-bearing animals, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited,
 30 except as provided by federal law;

1 (b) naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that
2 has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

3 (c) the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not
4 been unlawfully killed, captured, or taken or accidentally killed;

5 (d) paddlefish roe as caviar under the provisions of 87-4-601;

6 (e) captive-reared migratory waterfowl; or

7 (f) salvaged antelope, deer, elk, or moose subject to 87-3-145.

8 (3) A person may not possess, ship, or transport live fish away from the body of water in which the fish
9 were taken except:

10 (a) as provided in Title 87, chapter 4, part 6, or as specifically permitted by the laws of this state;

11 (b) fish species approved by the commission for use as live bait and subject to any restrictions imposed
12 by the commission; or

13 (c) within the boundaries of the eastern Montana fishing district, as established by commission
14 regulations.

15 (4) The possession of all or part of a dead game fish, bird, game animal, or fur-bearing animal is prima
16 facie evidence that the person or persons in whose possession the fish, bird, or animal is found killed, captured,
17 or took the fish, bird, or animal.

18 (5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed,
19 shipped, or transported must be determined from the schedules of restitution values in 87-6-906 and 87-6-907.
20 The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or
21 transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined
22 in 46-1-202, may be aggregated in determining the value.

23 (6) The following penalties apply for a violation of this section:

24 (a) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping,
25 or transportation of a game fish or bird and if the value of all or part of the game fish or bird or combination thereof
26 does not exceed \$1,000, the person shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the
27 county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture
28 of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, ~~or~~ and trap
29 in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the
30 court.

1 (b) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or
2 transportation of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or
3 any part of these animals and if the value of all or part of the animal or combination thereof does not exceed
4 \$1,000, the person shall be fined not less than \$500 or more than \$2,000 or be imprisoned in the county detention
5 center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing,
6 recreational use, or trapping license issued by this state and the privilege to hunt, fish, ~~or~~ and trap in this state
7 for 30 months from the date of conviction or forfeiture of bond or bail unless the court imposes a longer period.

8 (c) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or
9 transportation of a deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part
10 of the animal or combination thereof does not exceed \$1,000, the person shall be fined not less than \$300 or
11 more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition,
12 the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to
13 hunt, fish, ~~or~~ and trap in this state for 24 months from the date of conviction or forfeiture of bond or bail unless
14 the court imposes a longer period.

15 (d) If a person is convicted or forfeits bond or bail after being charged with unlawful shipping of a
16 mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, grizzly bear, deer, antelope, elk, or
17 mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does
18 not exceed \$1,000, the person shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the
19 county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture
20 of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, ~~or~~ and trap
21 in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the
22 court.

23 (e) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping,
24 or transportation of a fur-bearing animal or pelt of a fur-bearing animal and if the value of all or part of the animal
25 or combination thereof does not exceed \$1,000, the person shall be fined not less than \$100 or more than \$1,000
26 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall
27 forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, ~~or~~ and
28 trap in this state for 24 months from the date of conviction or forfeiture of bond or bail unless the court imposes
29 a longer period, and any pelts possessed unlawfully must be confiscated.

30 (f) If a person is convicted under this section or forfeits bond or bail after being charged with a violation

1 of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or
 2 combination thereof exceeds \$1,000, the person shall be fined not more than \$50,000 or be imprisoned in the
 3 state prison for a term not to exceed 5 years, or both. In addition, the person shall forfeit any current hunting,
 4 fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, ~~or~~ and trap in this state
 5 for not less than 3 years up to a revocation for life from the date of conviction.

6 (7) A person convicted of unlawful possession of more than double the legal bag limit may be subject
 7 to the additional penalties provided in 87-6-901.

8 (8) As used in this section:

9 (a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the
 10 regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

11 (b) "unlawfully killed, captured, or taken" means purposely and knowingly not lawfully killed, captured,
 12 or taken as found by the trier of fact or upon the entry of a guilty or nolo contendere plea.

13 (9) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through
 14 87-6-907."

15

16 **Section 8.** Section 87-6-203, MCA, is amended to read:

17 **"87-6-203. Unlawful taking, killing, trapping, labeling, or packaging of fur-bearing animal or pelt.**

18 (1) A person convicted of ~~purposely; and knowingly; or negligently~~ taking, killing, trapping, labeling, or packaging
 19 a fur-bearing animal or the pelt of a fur-bearing animal in violation of any provision of this title shall be fined not
 20 less than \$100 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months,
 21 or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting,
 22 fishing, or trapping license issued by this state and the privilege to hunt, fish, ~~or~~ and trap in this state for 24
 23 months from the date of conviction or forfeiture of bond or bail unless the court imposes a longer period, and any
 24 pelts possessed unlawfully must be confiscated.

25 (2) A person convicted of unlawful taking of more than double the legal bag limit of a fur-bearing animal
 26 may be subject to the additional penalties provided in 87-6-901 and 87-6-902.

27 (3) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 and
 28 87-6-906."

29

30 **Section 9.** Section 87-6-205, MCA, is amended to read:

1 **"87-6-205. Waste of game animal, game bird, or game fish.** (1) Except as provided in subsection (3),
2 a person responsible for the death of any game animal, game bird, or game fish suitable for food may not
3 purposely ~~or~~ and knowingly waste the game by:

4 (a) detaching or removing only the head, hide, antlers, tusks, or teeth or any or all of these parts from
5 the carcass of a game animal;

6 (b) transporting, hanging, or storing the carcass in a manner that renders it unfit for human consumption;
7 or

8 (c) abandoning the carcass of a game animal or any portion of the carcass suitable for food in the field.

9 (2) A person in possession of a game animal or game animal parts, a game bird, or a game fish suitable
10 for food may not purposely ~~or~~ and knowingly waste the game by:

11 (a) transporting, storing, or hanging the animal, bird, or fish in a manner that renders it unfit for human
12 consumption; or

13 (b) disposing of or abandoning any portion of the animal, bird, or fish that is suitable for food.

14 (3) A person responsible for the death of a mountain lion, except as provided in 87-6-106, may not
15 abandon the head or hide in the field.

16 (4) A person responsible for the death of a grizzly bear wastes the game if the person abandons the
17 head or hide or any parts required by department or commission regulation for scientific purposes pursuant to
18 87-3-131.

19 (5) For the purposes of this section, the meat of a grizzly bear or a black bear that is found to be infected
20 with trichinosis is not considered to be suitable for food.

21 (6) A person convicted of a violation of this section may be fined not less than \$50 or more than \$1,000
22 or be imprisoned in the county jail for a term not to exceed 6 months, or both. In addition, the person, upon
23 conviction or forfeiture of bond or bail, shall:

24 (a) forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt,
25 fish, ~~or~~ and trap in this state for 24 months from the date of conviction or forfeiture of bond or bail unless the court
26 imposes a longer period; and

27 (b) pay restitution pursuant to 87-6-905 through 87-6-907.

28 (7) A person convicted of waste of game by abandonment in the field may be subject to the additional
29 penalties provided in 87-6-901."
30

1 **Section 10.** Section 87-6-206, MCA, is amended to read:

2 **"87-6-206. Unlawful sale of game fish, bird, game animal, or fur-bearing animal.** (1) A person may
3 not purposely ~~or~~ and knowingly sell, purchase, or exchange all or part of any game fish, bird, game animal, or
4 fur-bearing animal.

5 (2) The value of the game fish, bird, game animal, or fur-bearing animal must be determined from the
6 schedules of restitution values set out in 87-6-906 and 87-6-907. The value of game fish, birds, game animals,
7 or fur-bearing animals that are sold, purchased, or exchanged pursuant to a common scheme, as defined in
8 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

9 (3) This section does not prohibit the:

10 (a) sale, purchase, or exchange of hides, heads, or mounts of game fish, birds, game animals, or
11 fur-bearing animals that have been lawfully killed, captured, or taken, except that the sale or purchase of a hide,
12 head, or mount of a grizzly bear is prohibited, except as provided by federal law;

13 (b) sale, purchase, or exchange of naturally shed antlers or the antlers with a skull or portion of a skull
14 attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured,
15 or taken or accidentally killed;

16 (c) sale, purchase, or exchange of the bones of an elk, antelope, moose, or deer that has died from
17 natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

18 (d) donation, sale, purchase, or exchange of paddlefish roe as caviar under the provisions of 87-4-601;
19 or

20 (e) sale, purchase, or exchange of captive-reared migratory waterfowl.

21 (4) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and
22 if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof does
23 not exceed \$1,000, then the person shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the
24 county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture
25 of any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, ~~or~~
26 and trap in this state for a period set by the court.

27 (5) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and
28 if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds
29 \$1,000, then the person shall be fined not more than \$50,000 or be imprisoned in the state prison for not more
30 than 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit

1 issued by this state and the privilege to hunt, fish, ~~or~~ and trap in this state for not less than 3 years up to a
2 revocation for life from the date of conviction.

3 (6) As used in this section:

4 (a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the
5 regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

6 (b) "unlawfully killed, captured, or taken" means purposely and knowingly not lawfully killed, captured,
7 or taken as found by the trier of fact or upon the entry of a guilty or nolo contendere plea."

8

9 **Section 11.** Section 87-6-216, MCA, is amended to read:

10 **"87-6-216. Unlawful supplemental feeding.** (1) A person may not provide supplemental feed
11 attractants to game animals by:

12 (a) purposely ~~or~~ and knowingly attracting any cloven-hoofed ungulates, bears, or mountain lions with
13 supplemental feed attractants;

14 (b) after having received a previous warning, ~~negligently~~ purposely and knowingly failing to properly store
15 supplemental feed attractants and allowing any cloven-hoofed ungulates, bears, or mountain lions access to the
16 supplemental feed attractants; or

17 (c) purposely ~~or~~ and knowingly providing supplemental feed attractants in a manner that results in an
18 artificial concentration of game animals that may potentially contribute to the transmission of disease or that
19 constitutes a threat to public safety.

20 (2) A person is not subject to civil or criminal liability under this section if the person is engaged in:

21 (a) the normal feeding of livestock;

22 (b) a normal agricultural practice;

23 (c) cultivation of a lawn or garden;

24 (d) the commercial processing of garbage; or

25 (e) recreational feeding of birds unless, after having received a previous warning by the department, the
26 person continues to feed birds in a manner that attracts cloven-hoofed ungulates or bears and that may contribute
27 to the transmission of disease or constitute a threat to public safety.

28 (3) This section does not apply to supplemental feeding activities conducted by the department for
29 disease control purposes.

30 (4) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000

1 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon
 2 conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping
 3 license issued by this state and the privilege to hunt, fish, ~~or~~ and trap in this state or to use state lands, as defined
 4 in 77-1-101, for recreational purposes for a period of time set by the court."

5

6 **Section 12.** Section 87-6-302, MCA, is amended to read:

7 **"87-6-302. Unlawful procurement of license, permit, or tag.** (1) A person may not:

8 (a) subscribe to or make any materially false statement on an application or license. Any material false
 9 statement contained in an application renders the license issued pursuant to it void.

10 (b) purchase a hunting, fishing, or trapping license without first having obtained a wildlife conservation
 11 license pursuant to 87-2-201; or

12 (c) purposely ~~or~~ and knowingly assist an unqualified applicant in obtaining a resident license.

13 (2) A license agent may not sell any hunting, fishing, or trapping license to:

14 (a) an applicant who fails to produce the required identification at the time of application for licensure
 15 pursuant to 87-2-106(1) and 87-2-202(1); or

16 (b) a person who does not present the person's wildlife conservation license at the time of application
 17 for the licenses.

18 (3) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000
 19 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon
 20 conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping
 21 license issued by this state and the privilege to hunt, fish, ~~or~~ and trap in this state or to use state lands, as defined
 22 in 77-1-101, for recreational purposes for a period of time set by the court."

23

24 **Section 13.** Section 87-6-305, MCA, is amended to read:

25 **"87-6-305. Unlawful possession of hunting or fishing license or permit.** (1) Except as provided in
 26 subsection (2), a person commits the offense of unlawful possession of a hunting or fishing license or permit if
 27 the person purposely and knowingly carries or has physical control over a valid and unused:

28 (a) hunting license or permit issued to another person while in any location that the species to be hunted
 29 may inhabit;

30 (b) resident hunting license or permit or resident fishing license or permit issued to a nonresident; or

1 (c) hunting license or permit or fishing license or permit that was issued in violation of applicable law or
2 rule.

3 (2) The prohibition in subsection (1) does not apply:

4 (a) to a person who is carrying or has physical control over a license or permit issued to that person's
5 spouse or to any minor when the spouse or minor is hunting with that person; and

6 (b) when a properly obtained and validated license or permit is attached to a lawfully killed game animal.

7 (3) Except as provided in subsection (4), a person who violates this section shall be fined not less than
8 \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both.
9 In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current
10 hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, ~~or~~ and trap in this state or
11 to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

12 (4) A person who violates this section while engaged in a commercial activity, such as taxidermy, meat
13 processing, outfitting, or guiding by carrying or having physical control over three or more hunting licenses that
14 are issued to another person or persons and that are used or intended to be used on game animals not taken
15 by the person or persons to whom the licenses were issued or by knowingly carrying, having physical control of,
16 or selling two or more licenses or permits that were issued in violation of applicable law or rule is guilty of a felony
17 and upon conviction shall be fined not more than \$50,000 or be imprisoned in the state prison for not more than
18 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit
19 issued by this state and lose the privilege to hunt, fish, ~~or~~ and trap in this state for not less than 3 years up to a
20 revocation for life from the date of conviction."

21

22 **Section 14.** Section 87-6-404, MCA, is amended to read:

23 **"87-6-404. Unlawful use of dog while hunting.** (1) Except as provided in subsections (3) through (6),
24 a person may not:

25 (a) chase any game animal or fur-bearing animal with a dog; or

26 (b) purposely; and knowingly; ~~or negligently~~ permit a dog to chase, stalk, pursue, attack, or kill a hooved
27 game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the dog is
28 personally responsible. A defense that the dog was allowed to run at large by another person is not allowable
29 unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner
30 and that the owner took reasonable precautions to prevent the dog from running at large.

1 (2) Except as provided in subsection (3)(d), a peace officer, game warden, or other person authorized
2 to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing
3 a hooved game animal may destroy that dog on public land or on private land at the request of the landowner
4 without criminal or civil liability.

5 (3) A person may:

6 (a) take game birds during the appropriate open season with the aid of a dog;

7 (b) hunt mountain lions during the winter open season, as established by the commission, with the aid
8 of a dog or dogs;

9 (c) hunt bobcats during the trapping season, as established by the commission, with the aid of a dog or
10 dogs; and

11 (d) use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to protect
12 humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and grain.
13 The dog may not be destroyed pursuant to subsection (2).

14 (4) A resident who possesses a Class D-3 resident hound training license may pursue mountain lions
15 and bobcats with a dog or dogs during a training season from December 2 of each year to April 14 of the following
16 year.

17 (5) (a) A person with a valid hunting license issued pursuant to Title 87, chapter 2, may use a dog to
18 track a wounded game animal during an appropriate open season. Any person using a dog in this manner:

19 (i) shall maintain physical control of the dog at all times by means of a maximum 50-foot lead attached
20 to the dog's collar or harness;

21 (ii) during the general season, whether handling or accompanying the dog, shall wear hunter orange
22 material pursuant to 87-6-414;

23 (iii) may carry any weapon allowed by law;

24 (iv) may dispose of the wounded game animal using any weapon allowed by the valid hunting license;
25 and

26 (v) shall immediately tag an animal that has been reduced to possession in accordance with 87-6-411.

27 (b) Dog handlers tracking a wounded game animal with a dog are exempt from licensing requirements
28 under Title 87, chapter 2, as long as they are accompanied by the licensed hunter who wounded the game
29 animal.

30 (6) Any person or association organized for the protection of game may run field trials at any time upon

1 obtaining written permission from the director.

2 (7) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000
3 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon
4 conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping
5 license issued by this state and the privilege to hunt, fish, ~~or~~ and trap in this state or to use state lands, as defined
6 in 77-1-101, for recreational purposes for a period of time set by the court.

7 (8) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through
8 87-6-907."

9

10 **Section 15.** Section 87-6-603, MCA, is amended to read:

11 **"87-6-603. Waste of fur-bearing animal.** (1) A person may not waste a fur-bearing animal by purposely
12 ~~or~~ and knowingly:

13 (a) failing to pick up traps or snares at the end of the trapping season so that the pelt of a fur-bearing
14 animal is wasted;

15 (b) attending traps or snares so that fur-bearing animals are wasted; or

16 (c) wasting the pelt of any fur-bearing animal.

17 (2) The department shall enforce the provisions of this section.

18 (3) The following are exempt from this section:

19 (a) federal, state, and county predator control programs; and

20 (b) pelts of muskrat and beaver killed pursuant to 87-6-602(2).

21 (4) As used in this section, "pelt" means the pelt, skin, or fur of a fur-bearing animal.

22 (5) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000
23 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, a person, upon
24 conviction or forfeiture of bond or bail, shall:

25 (a) forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt,
26 fish, ~~or~~ and trap in this state for 24 months from the date of conviction or forfeiture of bond or bail unless the court
27 imposes a longer period; and

28 (b) pay restitution pursuant to 87-6-905 and 87-6-906."

29

30 **Section 16.** Section 87-6-905, MCA, is amended to read:

1 **"87-6-905. Finding required for restitution.** Before restitution may be ordered pursuant to 87-6-906
2 or 87-6-907, the finder of fact at trial or the court upon entry of a guilty or nolo contendere plea shall find that the
3 illegal killing or possession was done knowingly ~~or~~ and purposely as defined in 45-2-101. This finding is not
4 required for state reimbursement under 87-6-906 when bond or bail is forfeited."

5

6 **Section 17.** Section 87-6-907, MCA, is amended to read:

7 **"87-6-907. Restitution for illegal killing, possession, or waste of trophy wildlife.** In addition to other
8 penalties provided by law, a person convicted or forfeiting bond or bail on a charge of purposely ~~or~~ and knowingly
9 illegally killing, taking, possessing, or wasting a trophy animal listed in this section shall reimburse the state for
10 each trophy animal according to the following schedule:

11 (1) mountain sheep with at least one horn equal to or greater than a three-fourth curl as defined by
12 commission regulation, \$30,000;

13 (2) elk with at least six points on one antler, as defined by commission regulation, or any grizzly bear,
14 \$8,000;

15 (3) moose having antlers with a total spread of at least 30 inches, as defined by commission regulation,
16 or any mountain goat, \$6,000;

17 (4) antlered deer with at least four points on one antler as defined by commission regulation, \$8,000;

18 (5) antelope with at least one horn greater than 14 inches in length as defined by commission regulation,
19 \$2,000."

20

21 NEW SECTION. **Section 18. Codification instruction.** [Sections 4 and 5] are intended to be codified
22 as an integral part of Title 87, chapter 6, part 1, and the provisions of Title 87, chapter 6, part 1, apply to [sections
23 4 and 5].

24

25 NEW SECTION. **Section 19. Saving clause.** [This act] does not affect rights and duties that matured,
26 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

27

- END -