

1 SENATE BILL NO. 104

2 INTRODUCED BY M. SPRAGUE

3 BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING FISH AND WILDLIFE ENFORCEMENT
6 STATUTES; CLARIFYING THE FORFEITURE OF PRIVILEGES PENALTY FOR WASTE OF GAME;
7 CLARIFYING THE AUTHORITY OF A PEACE OFFICER, GAME WARDEN, OR OTHER AUTHORIZED PERSON
8 TO DESTROY A DOG THAT CHASES, STALKS, OR PURSUES A HOOVED GAME ANIMAL AND
9 PROVIDING AN OPTIONAL CRIMINAL PENALTY FOR THE DOG OWNER; CLARIFYING THE OFFENSE OF
10 PROVIDING SUPPLEMENTAL FEED ATTRACTANTS TO GAME ANIMALS AND ADDING AN OFFENSE OF
11 FEEDING OR ALLOWING BEARS TO FEED; REVISING TRAP TAGGING REQUIREMENTS TO INCLUDE
12 TRAPS USED FOR ANY ANIMAL AND ALLOWING USE OF THE TRAPPER'S WILDLIFE CONSERVATION
13 LICENSE NUMBER ON TRAP TAGS; AMENDING SECTIONS 87-3-102, 87-3-124, 87-3-130, AND
14 87-3-504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17

18 **Section 1.** Section 87-3-102, MCA, is amended to read:19 **"87-3-102. Waste of fish or game.** (1) A person who is responsible for the death of a mountain
20 lion commits the offense of waste of game if the person abandons the head or hide in the field.21 (2) A person who is responsible for the death of a grizzly bear commits the offense of waste of
22 game if the person abandons the head or hide or any parts required by department or commission
23 regulation for scientific purposes. All parts of a grizzly bear required by department or commission
24 regulation for scientific purposes must be delivered to an officer or employee of the department for
25 inspection as soon as possible after removal, and the department shall return to the licensee any bone
26 structure and skull within 1 year upon written request. The hide must be returned immediately.27 (3) A person responsible for the death of any game animal, except a mountain lion, commits the
28 offense of waste of game if the person PURPOSELY OR KNOWINGLY:29 (a) detaches or removes from the carcass only the head, hide, antlers, tusks, or teeth or any or
30 all of these parts;

1 (b) wastes any part of any game animal, game bird, or game fish suitable for food by transporting,
2 hanging, or storing the carcass in a manner that renders it unfit for human consumption; or

3 (c) abandons in the field the carcass of any game animal or any portion of the carcass suitable for
4 food.

5 (4) A person in possession of a game animal or game animal parts, a game bird, or a game fish
6 suitable for food commits the offense of waste of game if the person PURPOSELY OR KNOWINGLY:

7 (a) ~~purposely or knowingly~~ transports, stores, or hangs the animal, bird, or fish in a manner that
8 renders it unfit for human consumption; or

9 (b) disposes of or abandons any portion of a game animal, game bird, or game fish that is suitable
10 for food.

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

13 (6) A person convicted of waste of game may be fined not less than \$50 or more than \$1,000
14 or imprisoned in the county jail for a term not to exceed 6 months, or both. In addition, the person, upon
15 conviction or forfeiture of bond or bail, shall forfeit MAY BE SUBJECT TO FORFEITURE OF any current hunting,
16 fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for
17 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period.
18 For each conviction or forfeiture IF THE COURT IMPOSES FORFEITURE OF THE PERSON'S LICENSE AND PRIVILEGE TO
19 HUNT, FISH, OR TRAP, the department shall notify the person of the FORFEITURE AND loss of privileges. The
20 person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days of
21 notification."

22

23 **Section 2.** Section 87-3-124, MCA, is amended to read:

24 **"87-3-124. ~~Restrictions on hunting with dogs~~ DOGS -- RESTRICTIONS ON HUNTING -- PENALTY FOR**
25 **CHASING HOOVED GAME ANIMALS.** (1) (a) Except as provided in 87-3-127 and ~~subsection~~ SUBSECTIONS (2) AND
26 (3) of this section, a person may not chase with ~~dogs~~ a dog any of the game or fur-bearing animals as
27 defined by the fish and game laws of this state.

28 (b) A person may take game birds during the appropriate open season with the aid of a dog ~~or~~
29 ~~dogs~~. Any person or association organized for the protection of game may run field trials at any time upon
30 obtaining written permission from the director.

1 (c) ~~Any~~ EXCEPT AS PROVIDED IN SUBSECTION (2), ANY peace officer, game warden, or other person
 2 authorized to enforce the Montana fish and game laws who witnesses ~~any a dog chasing, stalking,~~
 3 pursuing, attacking, or killing hooved game animals may destroy that dog, ON PUBLIC LAND OR ON PRIVATE
 4 LAND AT THE REQUEST OF THE LANDOWNER, without criminal or civil liability.

5 (d) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (2), A person who purposely, knowingly, or negligently
 6 permits a dog to chase, stalk, pursue, attack, or kill hooved game animals is guilty of a misdemeanor and
 7 is subject to the penalty in 87-1-102(1). If the dog is not under the control of an adult at the time of the
 8 violation, the owner of the dog is personally responsible. A defense that the dog was allowed to run at
 9 large by another person is not allowable, unless it is shown that at the time of the violation the dog was
 10 running at large without the consent of the owner and that the owner took reasonable precautions to
 11 prevent the dog from running at large.

12 (2) A PERSON MAY USE TRAINED OR CONTROLLED GUARD DOGS TO CHASE OR HERD AWAY GAME ANIMALS OR
 13 FUR-BEARING ANIMALS TO PROTECT HUMANS, LAWNS, GARDENS, LIVESTOCK, OR AGRICULTURAL PRODUCTS, INCLUDING
 14 GROWING CROPS AND STORED HAY AND GRAIN. THE DOG MAY NOT BE DESTROYED PURSUANT TO SUBSECTION (1)(C).

15 ~~(2)(3)~~ The commission has authority to allow and regulate the use of dogs for hunting and chasing
 16 mountain lion and bobcat."

17

18 **Section 3.** Section 87-3-130, MCA, is amended to read:

19 **"87-3-130. Taking of wildlife to protect persons or livestock.** (1) This chapter may not be
 20 construed to impose, by implication or otherwise, criminal liability for the taking of wildlife protected by
 21 this ~~chapter title~~ if the wildlife is molesting, assaulting, killing, or threatening to kill a person or livestock.
 22 A person who ~~so,~~ UNDER THIS SUBSECTION, takes wildlife protected by this ~~chapter title~~ shall, WITHIN 72
 23 HOURS, notify the department ~~within 72 hours~~ AND SURRENDER OR ARRANGE TO SURRENDER THE WILDLIFE TO THE
 24 DEPARTMENT.

25 (2) A person may not ~~intentionally~~ provide supplemental feed attractants to game animals by:

26 (a) purposely or knowingly attracting bears with supplemental feed attractants;

27 (b) after having received a previous warning, negligently failing to properly store supplemental feed
 28 attractants and allowing bears access to the supplemental feed attractants; or

29 (c) purposely or knowingly providing supplemental feed attractants in a manner that results in an
 30 artificial concentration of game animals that may potentially contribute to the transmission of disease or

1 that constitutes a threat to public safety.

2 (3) A person who is engaged in the normal feeding of livestock, IN A NORMAL AGRICULTURAL PRACTICE,
3 IN CULTIVATION OF A LAWN OR GARDEN, or in the commercial processing of garbage is not subject to civil or
4 criminal liability under this section.

5 (4) A person who violates this subsection (2) is guilty of a misdemeanor and is subject to the
6 penalty provided in 87-1-102(1). This subsection section does not apply to supplemental feeding activities
7 conducted by the department for disease control purposes.

8 ~~(3)~~(5) As used in this section:

9 (a) "livestock" includes ostriches, rheas, and emus; and

10 (b) "supplemental feed attractant" means any food, garbage, or other attractant for game
11 animals."

12

13 **Section 4.** Section 87-3-504, MCA, is amended to read:

14 **"87-3-504. Metal tags required on traps.** ~~Any~~ A person trapping fur-bearing animals, ~~or~~ or predatory
15 animals, or any other animals for their pelts shall fasten a metal tag to all such traps bearing in legible
16 English the name and address or wildlife conservation license number of the trapper, except that ~~no~~ a tag
17 shall be is not required on traps used by landowners trapping with permit on their own land and or on an
18 irrigation ditch right-of-way contiguous to the land."

19

20 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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