

SENATE BILL NO. 237

INTRODUCED BY K. BALES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PENALTIES APPLICABLE TO CRIMINAL TRESPASS TO PROPERTY AND FAILURE TO OBTAIN LANDOWNER PERMISSION FOR HUNTING ON PRIVATE PROPERTY; PROVIDING THAT A PERSON WHO COMMITS THE OFFENSE OF CRIMINAL TRESPASS TO PROPERTY DURING THE COMMISSION OF A FISH AND GAME OFFENSE IS SUBJECT TO THE LOSS OF CURRENT HUNTING, FISHING, TRAPPING, OR RECREATIONAL USE LICENSES AND FORFEITURE OF THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS STATE; PROVIDING THAT A PERSON WHO FAILS TO OBTAIN PERMISSION TO HUNT ON PRIVATE PROPERTY IS SUBJECT TO ENHANCED PENALTIES FOR SECOND AND SUBSEQUENT OFFENSES; AND AMENDING SECTIONS 45-6-203, 87-1-102, AND 87-3-304, MCA."

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

Section 1. Section 45-6-203, MCA, is amended to read:

"45-6-203. Criminal trespass to property. (1) Except as provided in 70-16-111, a person commits the offense of criminal trespass to property if the person knowingly:

(a) enters or remains unlawfully in an occupied structure; or

(b) enters or remains unlawfully in or upon the premises of another.

(2) (a) A person convicted of the offense of criminal trespass to property shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

(b) If the offense of criminal trespass to property occurs during the commission of a fish and game offense regulated under Title 87, that person, upon conviction, shall forfeit any current hunting, fishing, trapping, or recreational use license issued by this state and the privilege to hunt, fish, or trap in this state for a period set by the court. For each conviction, the sentencing judge shall notify the department of fish, wildlife, and parks of the sentence, and the department of fish, wildlife, and parks shall then notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department of fish, wildlife, and parks within 10 days after receiving notice from the department that privileges have been revoked.

1 **Section 2.** Section 87-1-102, MCA, is amended to read:

2 **"87-1-102. Penalties -- violation of state law.** (1) A person who purposely, knowingly, or negligently
3 violates a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor,
4 except if a felony is expressly provided by law, and shall be fined an amount not less than \$50 or more than
5 \$1,000 or imprisoned in the county detention center for not more than 6 months, or both, unless a different
6 punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture
7 of bond or bail, may be subject to forfeiture of that person's license and the privilege to hunt, fish, or trap in this
8 state or to use state lands, as defined in 77-1-101, for recreational purposes for a period set by the court. If the
9 court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use state lands, the
10 department shall notify the person of the loss of privileges as imposed by the court. The person shall surrender
11 all licenses, as ordered by the court, to the department within 10 days.

12 (2) (a) Except as provided in subsection (2)(f), a person convicted of unlawfully taking, killing,
13 possessing, or transporting a bighorn sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly
14 bear or any part of these animals shall be fined an amount not less than \$500 or more than \$2,000 or imprisoned
15 in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or
16 forfeiture of bond or bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued
17 by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or
18 forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the department
19 shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping
20 licenses to the department within 10 days.

21 (b) Except as provided in subsection (2)(f), a person convicted of unlawfully taking, killing, possessing,
22 or transporting a deer, antelope, elk, or mountain lion or any part of these animals shall be fined an amount not
23 less than \$300 or more than \$1,000 or imprisoned in the county detention center for not more than 6 months,
24 or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting,
25 fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months
26 from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. For each conviction
27 or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all
28 hunting, fishing, and trapping licenses to the department within 10 days.

29 (c) A person convicted of unlawfully attempting to trap or hunt a game animal shall be fined an amount
30 not less than \$200 or more than \$600 or imprisoned in the county detention center for not more than 60 days,

1 or both.

2 (d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing,
3 transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation of
4 any provision of this title shall be fined an amount not less than \$100 or more than \$1,000, imprisoned in the
5 county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture
6 of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24 months
7 from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period, and any pelts
8 possessed unlawfully must be confiscated. For each conviction or forfeiture, the department shall notify the
9 person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the
10 department within 10 days.

11 (e) A person convicted of hunting, fishing, or trapping while that person's license is forfeited or a
12 privilege is denied shall be imprisoned in the county detention center for not less than 5 days or more than 6
13 months. In addition, that person may be fined an amount not less than \$500 or more than \$2,000.

14 (f) A person convicted of purposely or knowingly taking, killing, possessing, or transporting a trophy
15 animal as described in 87-1-115 or any part of those animals shall be fined an amount not less than \$500 or
16 more than \$3,000 or imprisoned in the county detention center for not more than 6 months, or both. In addition,
17 that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, recreational
18 use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 5 years from
19 the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or
20 forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting,
21 fishing, and trapping licenses to the department within 10 days.

22 (3) If a person is convicted of illegally taking an animal described in 87-1-111 or 87-1-115 through the
23 use of spotlights, nightscopes, or infrared scopes, the person is prohibited from fishing or hunting in the state
24 for an additional 5 years following the ending date of the original prohibition period. In addition, the person, upon
25 conviction or forfeiture of bond or bail, shall successfully complete, at the person's own expense, a
26 department-sponsored hunter education course.

27 (4) A person convicted or who has forfeited bond or bail under this section and whose license privileges
28 are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or
29 permit during the period when license privileges have been forfeited. A person convicted of unlawfully
30 purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping license during the

period when license privileges have been forfeited shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

(5) A person convicted or who has forfeited bond or bail under this section and who has been ordered to pay restitution under the provisions of 87-1-111 or 87-1-115 may not apply for any special license under Title 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special license or enter a drawing for a special license or permit for the same species of game animal that was unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period. A person convicted of unlawfully applying for any special license under Title 87, chapter 2, part 7, or unlawfully entering a drawing for a special license or permit shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county detention center for not more than 60 days, or both.

(6) (a) A person convicted of a second offense of any of the following offenses within 10 years of the first conviction or who is convicted of two or more of the following offenses at different times within a 10-year period is subject to the penalties provided in subsection (6)(b):

(i) hunting during a closed season;

(ii) spotlighting;

(iii) hunting without a license;

(iv) unlawful taking of more than double the legal bag limit;

(v) unlawful possession of more than double the legal bag limit; ~~and~~

(vi) waste of game by abandonment in the field; or

(vii) failure to obtain permission to hunt on private property, as required in 87-3-304.

(b) (i) A person convicted of the offenses in subsection (6)(a) in the time periods specified in subsection (6)(a) shall be fined an amount not less than \$2,000 or more than \$5,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for 60 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period.

(ii) The department shall notify the offender of the loss of privileges.

(iii) The offender shall surrender all hunting, fishing, and trapping licenses to the department within 10 days after having received notice from the department that privileges have been revoked.

(7) (a) A person convicted of a third offense of any of the following offenses within 10 years of the first conviction is subject to the penalties provided in subsection (7)(b):

(i) hunting during a closed season;

(ii) spotlighting;

(iii) hunting without a license; ~~and~~

(iv) unlawful taking of more than double the legal bag limit; or

(v) failure to obtain permission to hunt on private property, as required in 87-3-304 .

(b) (i) A person convicted of the offenses in subsection (7)(a) in the time period specified in subsection (7)(a) shall be fined an amount not less than \$5,000 or more than \$10,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for life.

(ii) The department shall notify the offender of the loss of privileges.

(iii) The offender shall surrender all hunting, fishing, and trapping licenses to the department within 10 days after having received notice from the department that privileges have been revoked.

(8) Subject to sentencing restrictions, the court shall order a person who is convicted pursuant to this section to pay the costs of imprisonment under this section.

(9) A mandatory forfeiture of privileges imposed pursuant to this section does not apply to juveniles. However, the court may, at its discretion, order forfeiture of a juvenile's license and privilege to hunt, fish, or trap upon conviction or forfeiture of bond or bail for a violation of this title.

(10) Notwithstanding the provision of subsection (1), the penalties provided by this section are in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2.

(11) If an administrative authority suspends a license, permit, or privilege to obtain a license or permit issued under this title, the administrative authority or the department shall notify the person of the suspension and the person shall surrender the license or permit to the department within 10 days.

(12) For the purposes of this section, the terms "knowingly", "negligently", and "purposely" have the same meaning as provided in 45-2-101."

Section 3. Section 87-3-304, MCA, is amended to read:

"87-3-304. Landowner's permission required for hunting -- ~~penalty penalties~~. (1) Every resident

1 and nonresident must have obtained permission of the landowner, the lessee, or their agents before taking or
2 attempting to take nongame wildlife or predatory animals or hunting on private property.

3 (2) (a) Except for hunting big game animals on private property, a person who violates this section shall,
4 upon conviction for a first offense, be fined an amount not to exceed \$25.

5 (b) A person who violates this section shall, upon conviction for a second or subsequent offense, be
6 subject to the penalties in 87-1-102(6) or (7), as applicable."

7 - END -