

HOUSE BILL NO. 637

INTRODUCED BY ARNTZEN, DOWELL, ROBERTS, GOLIE, MACLAREN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AUTHORIZED OFFICERS OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS WHO ARE GRANTED PEACE OFFICER STATUS MAY ENFORCE STATE LAW PERTAINING TO THE POSSESSION OF INTOXICATING SUBSTANCES BY MINORS IN STATE PARKS AND AT STATE FISHING ACCESS SITES; AMENDING SECTIONS 23-1-106, 23-1-122, 23-2-506, 87-1-502, AND 87-1-506, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

Section 1. Section 23-1-106, MCA, is amended to read:

"23-1-106. Rules -- penalties -- enforcement. (1) The department may make rules governing the use, occupancy, and protection of the lands and property under its control.

(2) Any person who purposely, knowingly, or negligently injures or damages any land or property under control of the department or private property ~~thereon or therein~~ on or within land or property controlled by the department or who violates any of the rules made by the department relating to these areas is guilty of a misdemeanor and shall be fined not more than \$500 or be imprisoned in the county jail for not more than 6 months.

(3) It is ~~unlawful~~ and a misdemeanor punishable as provided in subsection (2) to purposely or knowingly refuse to exhibit for inspection any park permit, proof of age, or proof of residency upon request by a fish and game warden, park ranger, or peace officer.

(4) The department shall enforce the provisions of this chapter and rules implementing this chapter. The director of the department shall employ all necessary and qualified personnel for enforcement purposes.

(5) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

(a) of search, seizure, and arrest;

(b) to investigate activities in this state regulated by this chapter and rules of the department and the



1 fish, wildlife, and parks commission;
 2 (c) to enforce 45-5-624 as it pertains to the possession of intoxicating substances by minors in state
 3 parks and at state fishing access sites; and

4 ~~(e)~~(d) to report violations to the county attorney of the county in which they occur."
 5

6 **Section 2.** Section 23-1-122, MCA, is amended to read:

7 **"23-1-122. Enforcement powers of park rangers and game wardens.** (1) Park rangers appointed
 8 pursuant to 23-1-121 and fish and game wardens appointed pursuant to 87-1-501 are authorized officers with
 9 the authority to enforce the laws and adopted rules relating to parks and outdoor recreation contained in chapters
 10 1 and 2 of this title, except chapter 2, part 7.

11 (2) An authorized officer may:

12 (a) arrest, in accordance with Title 46, chapter 6, any person within an area managed by the department
 13 upon probable cause to believe that the person has committed an offense against chapters 1 and 2 of this title,
 14 except chapter 2, part 7, or rules of the department or the fish, wildlife, and parks commission;

15 (b) enforce the disorderly conduct and public nuisance laws under 45-8-101 and 45-8-111 as they apply
 16 to the operation of motorboats on waters within areas managed by the department under this part; ~~and~~

17 (c) enforce 45-5-624 as it pertains to the possession of intoxicating substances by minors in state parks
 18 and at state fishing access sites; and

19 ~~(e)~~(d) exercise other powers of peace officers in the enforcement of:

20 (i) laws relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except
 21 chapter 2, part 7;

22 (ii) rules of the department and the fish, wildlife, and parks commission; and

23 (iii) judgments obtained for violations of the laws and rules specified in this subsection ~~(2)(e)~~ (2)(d)."
 24

25 **Section 3.** Section 23-2-506, MCA, is amended to read:

26 **"23-2-506. Enforcement.** (1) The department is a criminal justice agency for the purpose of obtaining
 27 the technical assistance and support services provided by the board of crime control under the provisions of
 28 44-4-301. Authorized officers of the department are granted peace officer status with the power:

29 (a) of search, seizure, and arrest;

30 (b) to investigate activities in this state regulated by this part and rules of the department and the fish,

1 wildlife, and parks commission;

2 (c) to enforce 45-5-624 as it pertains to the possession of intoxicating substances by minors in state
3 parks and at state fishing access sites; and

4 ~~(e)(d)~~ to report violations to the county attorney of the county in which they occur.

5 (2) All sheriffs and peace officers of the state of Montana and all United States coast guard law
6 enforcement officers ~~shall have authority~~ are authorized to enforce provisions of this part, ~~as amended.~~"

7

8 **Section 4.** Section 87-1-502, MCA, is amended to read:

9 **"87-1-502. Qualifications, powers, and duties.** (1) Wardens must be qualified by their experience,
10 training, and skill in protection, conservation, and propagation of wildlife, game, fur-bearing animals, fish, and
11 game birds and must be interested in this work. ~~They~~ Wardens shall devote all of their time for which they are
12 appointed to their official duties.

13 (2) ~~They~~ Wardens shall enforce the laws of this state and the rules of the department with reference
14 to the protection, preservation, and propagation of game and fur-bearing animals, fish, and game birds.

15 (3) ~~They~~ Wardens shall see that persons who hunt, fish, or take game or fur-bearing animals, game
16 birds, or fish and that those persons who make recreational use of state lands, as defined in 77-1-101, for
17 hunting and fishing, have the necessary licenses.

18 (4) ~~They~~ Wardens shall assist in the protection, conservation, and propagation of fish, game, fur-bearing
19 animals, and game and nongame birds and assist in the planting, distributing, feeding, and care of fish, game,
20 fur-bearing animals, and game and nongame birds. ~~They~~ Wardens shall, when ordered by the department,
21 assist in the destruction of predatory animals, birds, and rodents. ~~They~~ Wardens shall perform all other duties
22 prescribed by the department and make a monthly report to the department correctly informing the department
23 of their activities on each day of the preceding month with regard to the enforcement of the fish and game laws,
24 showing where their duties called them and what they did. The reports must contain any pertinent
25 recommendations the wardens may see fit to make.

26 (5) A warden may not compromise or settle violations of fish and game laws out of court.

27 (6) A warden ~~has the authority~~ is authorized to inspect any ~~and all~~ fish, game and nongame birds,
28 waterfowl, game animals, and fur-bearing animals at reasonable times and at any location other than a
29 residence or dwelling. Upon request ~~therefor~~ by a warden, all persons having in their possession any fish, game
30 and nongame birds, waterfowl, game animals, and fur-bearing animals shall exhibit ~~the same and all thereof~~ fish,

1 birds, waterfowl, and animals in their possession to the warden for ~~such~~ inspection.

2 (7) The department is a criminal justice agency for the purpose of obtaining the technical assistance
3 and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers
4 of the department are granted peace officer status with the power:

5 (a) of search, seizure, and arrest;

6 (b) to investigate activities in this state regulated by this title and rules of the department and the
7 commission;

8 (c) to enforce 45-5-624 as it pertains to the possession of intoxicating substances by minors in state
9 parks and at state fishing access sites; and

10 ~~(e)~~(d) to report violations to the county attorney of the county in which they occur."
11

12 **Section 5.** Section 87-1-506, MCA, is amended to read:

13 **"87-1-506. Enforcement powers of wardens.** (1) A warden may:

14 (a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

15 (b) search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker, basket,
16 creel, crate, game bag, or package, or their contents upon probable cause to believe that any fish and game law
17 or department rule for the protection, conservation, or propagation of game, fish, birds, or fur-bearing animals
18 has been violated;

19 (c) search, with a search warrant, any dwelling house or other building;

20 (d) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed
21 in violation of the law or the rules of the department;

22 (e) seize and hold, subject to law or the orders of the department, devices that have been used to
23 unlawfully take game, fish, birds, or fur-bearing animals;

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

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

28 (h) as provided for in 37-47-345, investigate and make arrests for violations of the provisions of Title
29 37, chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of outfitters and
30 guides in the state; ~~and~~

1 (i) enforce 45-5-624 as it pertains to the possession of intoxicating substances by minors in state parks
2 and at state fishing access sites; and

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

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

9

10 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

11

12 NEW SECTION. SECTION 7. TERMINATION. [SECTIONS 1 THROUGH 5] TERMINATE JULY 1, 2007.

13

- END -