

Substance
Process
Structure

DEPARTMENT OF JUSTICE
HB 131: Clarifying FWP Sale & Possession Statutes

SENATE FISH AND GAME

EXHIBIT NO. 5

DATE 3/8/05

BILL NO. HB 131

Background

The purpose of the statutory changes proposed in HB 131 is to clarify language regarding the **unlawful possession** and **unlawful sale** of game animals, game fish, birds or fur-bearing animals (both misdemeanor and felony). Clear statutory language benefits everyone attempting to apply and interpret Montana's law.

Specifics of HB 131

The amendment to Section 87-1-102 would simply delete a duplicative penalty for unlawful possession. The benefit of this proposed legislation lies mostly in the changes to sections 87-3-111, 112, 117, and 118. Much of the old language has been replaced with more concise words that are already defined in the same chapter (Title 87, Chapter 3). The applicable penalties for misdemeanor possession and unlawful fishing implements would remain in 87-3-102. The duplicate section of 87-3-113 has been taken out. Nothing of substance has been added.

		Existing	Proposed
Possession:	Misdemeanor ^{-untagged}	87-3-111	87-3-111
	eg Closed season elk (1)	87-3-112	
	& 1000 or more restriction	87-1-102(2)(f)	
	Felony	87-3-118	87-3-111
Sale: (parts)	Misdemeanor	87-3-111	87-3-118
	Felony -	87-3-118	87-3-118
Shipping/transportation:		87-3-111	87-3-111
		87-3-113	
Unlawful fishing implements:		87-3-112	87-3-112
	only provision left in 112		Redundant

Legislative services drafters require that statutes appear in a bill in numerical order. The order of statutory changes listed in HB 131 is the result of the need to eliminate the duplicative sentence found in the general penalty section of Title 87: 87-1-102. The remaining sections (87-3-111, 112, 115, 117, and 118) were all left in order and the resulting proposed changes were made to clarify and keep any portion of those statutes that could be salvaged.