

## 1 HOUSE BILL NO. 174

2 INTRODUCED BY K. KERNS, VANCE, RANDALL, WARBURTON, TAYLOR, KARY, WITTICH, MILLER,  
3 C. SMITH, KENNEDY, J. SHOCKLEY

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING A STATE LIMITATION ON THE USE OF SOUND  
6 REDUCTION DEVICES ON FIREARMS; REPEALING SECTION 87-3-123, MCA; AND PROVIDING AN  
7 IMMEDIATE EFFECTIVE DATE."

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9 WHEREAS, possession of a sound reduction device on a firearm, referred to in federal law as a  
10 "suppressor", by ordinary individuals is lawful under many conditions pursuant to the National Firearms Act of  
11 1934, Public Law No. 474, ch. 757; and

12 WHEREAS, once a suppressor is lawfully possessed under federal law, there is no federal restriction on  
13 whether a suppressor may be possessed in a "field" or "forest" or while hunting; and

14 WHEREAS, section 87-3-123, MCA, which currently prohibits the possession of a sound reduction device  
15 on a firearm in the field or forest or while hunting, is overbroad and criminalizes benign conduct; and

16 WHEREAS, the Department of Fish, Wildlife, and Parks is not prosecuting cases under section 87-3-123,  
17 MCA, when a person used a firearm equipped with a sound reduction device to unlawfully kill a game animal; and

18 WHEREAS, the repeal of section 87-3-123, MCA, would not inhibit the prosecution of those cases in the  
19 future because section 45-8-336, MCA, allows for the felony prosecution of a person who uses a sound reduction  
20 device on a firearm to unlawfully kill a game animal.

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

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24 NEW SECTION. Section 1. Repealer. The following section of the Montana Code Annotated is  
25 repealed:

26 87-3-123. Use of silencers or mufflers on firearms forbidden.

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28 COORDINATION SECTION. SECTION 2. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 124 AND  
29 [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 33 OF SENATE BILL NO. 124] READS AS FOLLOWS:

30 "NEW SECTION. SECTION 33. UNLAWFUL USE OF EQUIPMENT WHILE HUNTING. (1) A PERSON MAY NOT:

1 (A) HUNT OR ATTEMPT TO HUNT ANY GAME ANIMAL OR GAME BIRD BY THE AID OR WITH THE USE OF ANY SNARE,  
2 EXCEPT AS ALLOWED IN 87-3-127 AND 87-3-128, SET GUN, PROJECTED ARTIFICIAL LIGHT, TRAP, SALT LICK, OR BAIT;

3 (B) USE ANY RECORDED OR ELECTRICALLY AMPLIFIED BIRD OR ANIMAL CALLS OR SOUNDS OR RECORDED OR  
4 ELECTRICALLY AMPLIFIED IMITATIONS OF BIRD OR ANIMAL CALLS OR SOUNDS TO ASSIST IN THE HUNTING, TAKING, KILLING,  
5 OR CAPTURING OF WILDLIFE EXCEPT PREDATORY ANIMALS AND THOSE BIRDS NOT PROTECTED BY STATE OR FEDERAL LAW;

6 (C) WHILE HUNTING, POSSESS ANY ELECTRONIC MOTION-TRACKING DEVICE OR MECHANISM, AS DEFINED BY  
7 COMMISSION RULE, THAT IS DESIGNED TO TRACK THE MOTION OF A GAME ANIMAL AND RELAY INFORMATION ON THE  
8 ANIMAL'S MOVEMENT TO THE HUNTER. A RADIO-TRACKING COLLAR ATTACHED TO A DOG THAT IS USED BY A HUNTER  
9 ENGAGED IN LAWFUL HUNTING ACTIVITIES IS NOT CONSIDERED A MOTION-TRACKING DEVICE OR MECHANISM FOR  
10 PURPOSES OF THIS SUBSECTION (1)(C).

11 (D) WHILE HUNTING, USE ARCHERY EQUIPMENT THAT HAS BEEN PROHIBITED BY RULE OF THE COMMISSION;

12 (E) USE A SHOTGUN TO HUNT DEER OR ELK EXCEPT WITH WEAPON TYPE AND LOADS AS SPECIFIED BY THE  
13 DEPARTMENT;

14 (F) USE A RIFLE TO HUNT OR SHOOT UPLAND GAME BIRDS UNLESS THE USE OF RIFLES IS PERMITTED BY THE  
15 DEPARTMENT. THIS DOES NOT PROHIBIT THE SHOOTING OF WILD WATERFOWL FROM BLINDS OVER DECOYS WITH A  
16 SHOTGUN ONLY, NOT LARGER THAN A NUMBER 10 GAUGE, FIRED FROM THE SHOULDER.

17 (G) USE A RIFLE TO HUNT OR SHOOT WILD TURKEY DURING THE SPRING WILD TURKEY SEASON.

18 (2) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION SHALL BE FINED NOT LESS THAN \$50 OR MORE THAN  
19 \$1,000 OR BE IMPRISONED IN THE COUNTY DETENTION CENTER FOR NOT MORE THAN 6 MONTHS, OR BOTH. IN ADDITION,  
20 THE PERSON, UPON CONVICTION OR FORFEITURE OF BOND OR BAIL, MAY BE SUBJECT TO FORFEITURE OF ANY CURRENT  
21 HUNTING, FISHING, OR TRAPPING LICENSE ISSUED BY THIS STATE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS  
22 STATE OR TO USE STATE LANDS, AS DEFINED IN 77-1-101, FOR RECREATIONAL PURPOSES FOR A PERIOD OF TIME SET BY  
23 THE COURT.

24 (3) A PERSON CONVICTED OF HUNTING WHILE USING PROJECTED ARTIFICIAL LIGHT AS DESCRIBED IN SUBSECTION  
25 (1)(A) MAY BE SUBJECT TO THE ADDITIONAL PENALTIES PROVIDED IN [SECTIONS 63 AND 64].

26 (4) A VIOLATION OF THIS SECTION MAY ALSO RESULT IN AN ORDER TO PAY RESTITUTION PURSUANT TO [SECTIONS  
27 67 THROUGH 69]."

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29 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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