

HOUSE BILL NO. 335

INTRODUCED BY M. MENAHAN

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A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING COURT-ORDERED RESTRICTION OF A PERSON'S PARTICIPATION IN ANY HUNTING, FISHING, OR TRAPPING ENDEAVOR IF LOSS OF HUNTING, FISHING, OR TRAPPING PRIVILEGES IS IMPOSED FOR A VIOLATION OF FISH AND GAME LAWS; PROVIDING PENALTIES FOR A VIOLATION OF A COURT-ORDERED RESTRICTION; AND AMENDING SECTIONS 87-1-102, 87-1-803, AND 87-1-804, MCA."

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

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

"87-1-102. Penalties -- violation of state law. (1) (a) A person who purposely, knowingly, or negligently violates a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor, except if a felony is expressly provided by law, and shall be fined ~~an amount of~~ not less than \$50 or more than \$1,000; or be imprisoned in the county detention center for not more than 6 months, or both, unless a different punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of that person's license and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period set by the court.

(b) (i) If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to the department within 10 days.

(ii) After a forfeiture period imposed pursuant to this section and upon receipt of notification from the court that the defendant has appeared and all terms of the court sentence, including making payment of any fine, costs, or restitution, have been met or the defendant is in compliance with installment payments specified by the court, the department shall reinstate the privileges unless the person is not otherwise entitled to reinstatement. After the privileges are reinstated, the department may revoke the privileges if it is notified by the clerk of court that the person is in default on any installment payment.

(iii) A person convicted of hunting, fishing, or trapping while the person's license or privilege is forfeited shall be imprisoned in the county detention center for not less than 5 days or more than 6 months and may be

1 fined ~~an amount of~~ not less than \$500 or more than \$2,000.

2 (2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting a ~~bighorn~~ mountain
3 sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall
4 be fined ~~an amount of~~ not less than \$500 or more than \$2,000; or be imprisoned in the county detention center
5 for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall
6 forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to
7 hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a
8 longer ~~forfeiture~~ period.

9 (b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, elk, or
10 mountain lion or any part of these animals shall be fined ~~an amount of~~ not less than \$300 or more than \$1,000;
11 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon
12 conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this
13 state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture
14 unless the court imposes a longer ~~forfeiture~~ period.

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

18 (d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing,
19 transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation of
20 any provision of this title shall be fined ~~an amount of~~ not less than \$100 or more than \$1,000; or be imprisoned
21 in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or
22 forfeiture of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24
23 months from the date of conviction or forfeiture unless the court imposes a longer ~~forfeiture~~ period, and any pelts
24 possessed unlawfully must be confiscated.

25 (e) Upon conviction of or forfeiture of bond or bail imposed for an act of criminal mischief, as defined in
26 45-6-101, involving property owned or administered by the department, a person shall forfeit any current license
27 and the privilege to hunt, fish, or trap in this state for at least 24 months from the date of conviction or forfeiture.

28 (f) Upon conviction of or forfeiture of bond (or bail imposed for committing an act of criminal trespass, as
29 defined in 45-6-203, involving property owned or administered by the department or while hunting, fishing, or
30 trapping, the privilege of a person to hunt, fish, or trap in this state may be revoked for up to 24 months from the

1 date of conviction or forfeiture.

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

7 (4) A court that imposes a loss of hunting, fishing, or trapping privileges on a person for a violation of this
8 title shall consider and may impose as part of the loss of privileges a restriction on the person's participation in
9 any hunting, fishing, or trapping endeavor as a hunter, angler, trapper, scout, guide, observer, or assistant. A
10 person who violates a restriction imposed pursuant to this subsection shall be fined not less than \$500 or more
11 than \$2,000 or be imprisoned in the county jail for not more than 60 days, or both.

12 ~~(4)~~(5) A person convicted or who has forfeited bond or bail under this section and whose license
13 privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping
14 license or permit during the period when license privileges have been forfeited. A person convicted of unlawfully
15 purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping license during the
16 period when license privileges have been forfeited shall be fined ~~an amount of~~ not less than \$500 or more than
17 \$2,000; or be imprisoned in the county jail for not more than 60 days, or both.

18 ~~(5)~~(6) A person convicted or who has forfeited bond or bail under this section and who has been ordered
19 to pay restitution under the provisions of 87-1-111 or 87-1-115 may not apply for any special license under Title
20 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date
21 of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of
22 a moose, a ~~bighorn~~ mountain sheep, or a mountain goat, the person may not apply for a special license or enter
23 a drawing for a special license or permit for the same species of game animal that was unlawfully taken for an
24 additional period of 5 years following the ending date of the first 5-year period. A person convicted of unlawfully
25 applying for any special license under Title 87, chapter 2, part 7, or unlawfully entering a drawing for a special
26 license or permit shall be fined ~~an amount of~~ not less than \$500 or more than \$2,000; or be imprisoned in the
27 county detention center for not more than 60 days, or both.

28 ~~(6)~~(7) (a) A person convicted of a second offense of any of the following offenses within 10 years of the
29 first conviction or who is convicted of two or more of the following offenses at different times within a 10-year
30 period is subject to the penalties provided in subsection ~~(6)(b)~~ (7)(b):

- 1 (i) hunting during a closed season;
 2 (ii) taking an animal or hunting while using projected artificial light;
 3 (iii) hunting without a license;
 4 (iv) unlawful taking of more than double the legal bag limit;
 5 (v) unlawful possession of more than double the legal bag limit; and
 6 (vi) waste of game by abandonment in the field.

7 (b) A person convicted of the offenses in subsection ~~(6)(a)~~ (7)(a) in the time periods specified in
 8 subsection ~~(6)(a)~~ (7)(a) shall be fined ~~an amount of~~ not less than \$2,000 or more than \$5,000; or be imprisoned
 9 in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond
 10 or bail, shall forfeit ~~all~~ any current hunting, fishing, ~~and or~~ trapping ~~licenses~~ license issued by this state and the
 11 privilege to hunt, fish, or trap in this state for 60 months from the date of conviction or forfeiture unless the court
 12 imposes a longer ~~forfeiture~~ period.

13 ~~(7)(8)~~ (a) A person convicted of a third offense of any of the following offenses within 10 years of the first
 14 conviction is subject to the penalties provided in subsection ~~(7)(b)~~ (8)(b):

- 15 (i) hunting during a closed season;
 16 (ii) taking an animal or hunting while using projected artificial light;
 17 (iii) hunting without a license; and
 18 (iv) unlawful taking of more than double the legal bag limit.

19 (b) A person convicted of the offenses in subsection ~~(7)(a)~~ (8)(a) in the time period specified in
 20 subsection ~~(7)(a)~~ (8)(a) shall be fined ~~an amount of~~ not less than \$5,000 or more than \$10,000; or be imprisoned
 21 in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond
 22 or bail, shall forfeit ~~all~~ any current hunting, fishing, ~~and or~~ trapping ~~licenses~~ license issued by this state and the
 23 privilege to hunt, fish, or trap in this state for life.

24 ~~(8)(9)~~ Subject to sentencing restrictions, the court shall order a person who is convicted pursuant to this
 25 section to pay the costs of imprisonment under this section.

26 ~~(9)(10)~~ A mandatory forfeiture of privileges imposed pursuant to this section does not apply to juveniles.
 27 However, the court may, at its discretion, order forfeiture of a juvenile's license and privilege to hunt, fish, or trap
 28 upon conviction or forfeiture of bond or bail for a violation of this title.

29 ~~(10)(11)~~ Notwithstanding the provision of subsection (1), the penalties provided by this section are in
 30 addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2.

1 ~~(11)~~(12) If an administrative authority suspends a license, permit, or privilege to obtain a license or permit
 2 issued under this title, the administrative authority or the department shall notify the person of the suspension and
 3 the person shall surrender the license or permit to the department within 10 days.

4 ~~(12)~~(13) For the purposes of this section, the terms "knowingly", "negligently", and "purposely" have the
 5 same meanings provided in 45-2-101."
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7 **Section 2.** Section 87-1-803, MCA, is amended to read:

8 **"87-1-803. Reciprocal recognition of license suspensions -- suspension of privileges for**
 9 **conviction in participating state.** (1) When the department receives notice of the suspension of a person's
 10 hunting, trapping, or fishing privileges by a participating state, the department shall determine whether the
 11 violation leading to the suspension could have led to the forfeiture of privileges under Montana law. If the
 12 department determines that the person's privileges could have been forfeited, the department shall suspend the
 13 person's privileges to hunt, trap, or fish in Montana for the same period as imposed by the participating state or
 14 for the minimum period that would have been imposed under Montana law, whichever period is longer.

15 (2) When the department receives notice of a conviction of a Montana resident from the licensing
 16 authority of the issuing state, the department shall treat the conviction as if it had occurred in Montana and shall
 17 determine whether the conviction could have led to the forfeiture of the resident's hunting, trapping, or fishing
 18 privileges under Montana law. If the department determines that the resident's privileges could have been
 19 forfeited, the department shall suspend the resident's privileges to hunt, trap, or fish in Montana for the minimum
 20 period that would have been imposed under Montana law.

21 (3) Notice of the suspension must be sent to the person, who shall surrender any current Montana
 22 hunting, trapping, and fishing licenses to the department within 10 days.

23 (4) A person whose privileges have been suspended and who hunts, traps, or fishes in Montana, who
 24 applies for or purchases any licenses or permits to hunt, trap, or fish in Montana, or who refuses to surrender any
 25 current hunting, trapping, and fishing licenses as required is guilty of a misdemeanor and is subject to the
 26 penalties prescribed in 87-1-102~~(4)~~(5)."
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28 **Section 3.** Section 87-1-804, MCA, is amended to read:

29 **"87-1-804. Suspension of privileges for failure to comply with citation issued in participating**
 30 **state.** (1) The department shall suspend the hunting, trapping, or fishing privileges of any resident of Montana

1 upon notification from the licensing authority of an issuing state that the resident has failed to comply with the
2 terms of a citation issued for a wildlife violation. The suspension remains in effect until the department receives
3 satisfactory evidence of compliance from the issuing state.

4 (2) Notice of the suspension must be sent to the resident, who shall surrender all current Montana
5 hunting, trapping, and fishing licenses to the department within 10 days.

6 (3) A person who hunts, traps, or fishes, who applies for or purchases licenses or permits, or who
7 refuses to surrender any current hunting, trapping, or fishing license in violation of this section is guilty of a
8 misdemeanor and is subject to the penalties prescribed in 87-1-102~~(4)~~(5)."

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10 NEW SECTION. **Section 4. Saving clause.** [This act] does not affect rights and duties that matured,
11 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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