

**** Bill No. ****

Introduced By *****

By Request of the House Fish, Wildlife, and Parks Standing
Committee

A Bill for an Act entitled: "An Act repealing the requirement that a grizzly bear or the parts of a grizzly bear be registered with the department of fish, wildlife, and parks before they may be sold in accordance with federal law; repealing section 87-3-110, MCA; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 87-3-111, MCA, is amended to read:

"87-3-111. Unlawful possession, shipping, or transportation of game fish, birds, game animals, or fur-bearing animals -- exceptions -- penalties. (1) It is unlawful for a person to possess, ship, or transport all or part of any game fish, bird, game animal, or fur-bearing animal that was unlawfully killed, captured, or taken, whether killed, captured, or taken in Montana or outside of Montana.

(2) This section does not prohibit:

(a) the possession, shipping, or transportation of hides, heads, or mounts of lawfully killed, captured, or taken game fish, birds, game animals, or fur-bearing animals, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided in ~~87-3-110~~ by federal law;

Unofficial Draft Copy

As of: February 10, 2011 (11:02am)

LC2194

(b) the possession, shipping, or transportation of naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) the possession, shipping, or transportation of the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) the possession, shipping, or transportation of paddlefish roe as caviar under the provisions of 87-4-601; or

(e) the possession, shipping, or transportation of captive-reared migratory waterfowl.

(3) It is unlawful for a person to possess, ship, or transport live fish away from the body of water in which the fish were taken, except:

(a) as provided in Title 87, chapter 4, part 6, or as specifically permitted in the laws of this state;

(b) for fish species approved by the commission for use as live bait and subject to any restrictions imposed by the commission; or

(c) within the boundaries of the eastern Montana fishing district, as established by commission regulations.

(4) The possession of all or part of a dead game fish, bird, game animal, or fur-bearing animal is prima facie evidence that the person or persons in whose possession the same are found killed, captured, or took the game fish, bird, game animal, or

Unofficial Draft Copy

As of: February 10, 2011 (11:02am)

LC2194

fur-bearing animal.

(5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed, shipped, or transported must be determined from the schedules of restitution values in 87-1-111 and 87-1-115. The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(6) (a) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof does not exceed \$1,000, then the person is subject to the penalties in 87-1-102.

(b) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds \$1,000, then the person shall be fined not more than \$50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In addition, a person who is convicted under this section or who forfeits bond or bail after being charged with a violation of this section shall lose all hunting, fishing, and trapping licenses and permits and license privileges for a minimum of 3 years or up to a lifetime revocation from the date of conviction. The department shall notify the person of the loss

Unofficial Draft Copy

As of: February 10, 2011 (11:02am)

LC2194

of privileges as imposed by the court, and the person shall surrender all licenses and permits, as ordered by the court, to the department within 10 days of notification by the department."

{ Internal References to 87-3-111:
87-3-117x }

Section 2. Section 87-3-118, MCA, is amended to read:

"87-3-118. Unlawful sale of game fish, birds, game animals, or fur-bearing animals -- penalty. (1) A person commits the offense of unlawful sale of a game fish, bird, game animal, or fur-bearing animal if the person purposely or knowingly sells, purchases, or exchanges all or part of any game fish, bird, game animal, or fur-bearing animal.

(2) The value of the game fish, bird, game animal, or fur-bearing animal must be determined from the schedules of restitution values set out in 87-1-111 and 87-1-115. The value of game fish, birds, game animals, or fur-bearing animals that are sold, purchased, or exchanged pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(3) This section does not prohibit:

(a) the sale, purchase, or exchange of hides, heads, or mounts of game fish, birds, game animals, or fur-bearing animals that have been lawfully killed, captured, or taken, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided in ~~87-3-110~~ by federal law;

(b) the sale, purchase, or exchange of naturally shed

Unofficial Draft Copy

As of: February 10, 2011 (11:02am)

LC2194

antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) the sale, purchase, or exchange of the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) the donation, sale, purchase, or exchange of paddlefish roe as caviar under the provisions of 87-4-601; or

(e) the sale, purchase, or exchange of captive-reared migratory waterfowl.

(4) (a) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof does not exceed \$1,000, then the person shall be fined an amount 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.

(b) In addition to the penalties in subsection (4) (a), the person, upon conviction or forfeiture of bond or bail, may lose all hunting, fishing, and trapping licenses and permits and license privileges in this state for a period set by the court. The department shall notify the person of any loss of privileges as imposed by the court, and the person shall surrender all licenses and permits, as ordered by the court, within 10 days of notification by the department.

Unofficial Draft Copy

As of: February 10, 2011 (11:02am)

LC2194

(5) (a) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds \$1,000, then the person shall be fined not more than \$50,000 or be imprisoned in the state prison for not more than 5 years, or both.

(b) In addition to the penalties in subsection (5)(a), the person, upon conviction or forfeiture of bond or bail, shall lose all hunting, fishing, and trapping licenses and permits and license privileges in this state for a minimum of 3 years or up to a lifetime revocation from the date of conviction. The department shall notify the person of the loss of privileges as imposed by the court, and the person shall surrender all licenses and permits, as ordered by the court, within 10 days of notification by the department."

{ Internal References to 87-3-118:
87-3-117 x 87-4-427x }

NEW SECTION. Section 3. {standard} Repealer. The following section of the Montana Code Annotated is repealed:

87-3-110. Registration for sale of certain grizzly bears.

{ Internal References to 87-3-110: 87-3-111 a 87-3-118 a }

NEW SECTION. Section 4. {standard} Effective date. [This act] is effective on passage and approval.

- END -

Unofficial Draft Copy

As of: February 10, 2011 (11:02am)

LC2194

{Name : Hope E. Stockwell
Title : Research Analyst
Agency: LEPO
Phone : 444-1640
E-Mail: hstockwell@mt.gov}