

1 HOUSE BILL NO. 159

2 INTRODUCED BY C. SMITH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT RESTRICTING THE AUTHORITY OF THE DEPARTMENT OF FISH,
5 WILDLIFE, AND PARKS AND THE FISH, WILDLIFE, AND PARKS COMMISSION TO REGULATE FIREARMS,
6 FIREARM ACCESSORIES, AND AMMUNITION; REVISING PROSECUTION PROCEDURES RELATED TO
7 REGULATING FIREARMS; PROVIDING PENALTIES; AMENDING SECTIONS 7-4-2701, 7-4-2703, 7-4-2705,
8 87-1-102, 87-1-201, 87-1-301, 87-1-303, 87-1-304, 87-1-506, 87-3-301, AND 87-3-403, MCA; AND REPEALING
9 SECTION 87-3-401, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 7-4-2701, MCA, is amended to read:
14 **"7-4-2701. Qualifications for county attorney in certain counties.** (1) A person is not eligible for the
15 position of full-time county attorney in counties that have a population in excess of 30,000 unless the person is
16 a citizen of the United States and has resided in the state 2 years immediately before taking office and has been
17 admitted to the practice of law for at least 5 years before the date of election or appointment.
18 (2) A person is not eligible for the position of full-time county attorney in counties that have a population
19 of less than 30,000 unless the person is a citizen of the United States and has resided in the state 2 years
20 immediately before taking office and has been admitted to the practice of law for at least 3 years before the date
21 of election or appointment.
22 (3) A person is not eligible for the position of part-time county attorney in counties that have a population
23 of less than 30,000 unless the person is a citizen of the United States and resides in the state and has been
24 admitted to the practice of law before taking office.
25 (4) The provisions of this section do not apply to an attorney prosecuting a case pursuant to
26 87-1-102(12)."

27
28 **Section 2.** Section 7-4-2703, MCA, is amended to read:
29 **"7-4-2703. Limitation on number of deputies.** (1) In counties of the first and second class, the county
30 attorney may appoint one chief deputy and one deputy. In all other counties, the county attorney may appoint a

1 chief deputy or a deputy only with the approval of the board of county commissioners.

2 (2) The limitations provided in this section are not affected by an attorney prosecuting a case pursuant
3 to 87-1-102(12)."

4

5 **Section 3.** Section 7-4-2705, MCA, is amended to read:

6 **"7-4-2705. Employment of special counsel in certain counties.** (1) Except in counties of the first
7 class, the board of county commissioners has the power, whenever in its judgment the ends of justice or the
8 interest of the county require it, to employ or authorize the county attorney to employ special counsel to assist
9 in the prosecution of any criminal case pending in such county or to represent said county in any civil action in
10 which such county is a party.

11 (2) The provisions of this section do not apply to an attorney prosecuting a case pursuant to
12 87-1-102(12)."

13

14 **Section 4.** Section 87-1-102, MCA, is amended to read:

15 **"87-1-102. Penalties -- violation of state law.** (1) (a) A person who purposely, knowingly, or negligently
16 violates a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor,
17 except if a felony is expressly provided by law, and shall be fined an amount of not less than \$50 or more than
18 \$1,000, be imprisoned in the county detention center for not more than 6 months, or both unless a different
19 punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture
20 of bond or bail, may be subject to forfeiture of that person's license and the privilege to hunt, fish, or trap in this
21 state or to use state lands, as defined in 77-1-101, for recreational purposes for a period set by the court.

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

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

1 (iii) A person convicted of hunting, fishing, or trapping while the person's license or privilege is forfeited
2 shall be imprisoned in the county detention center for not less than 5 days or more than 6 months and may be
3 fined an amount of not less than \$500 or more than \$2,000.

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

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

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

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

27 (e) Upon conviction of or forfeiture of bond or bail imposed for an act of criminal mischief, as defined in
28 45-6-101, involving property owned or administered by the department, a person shall forfeit any current license
29 and the privilege to hunt, fish, or trap in this state for at least 24 months from the date of conviction or forfeiture.

30 (f) Upon conviction of or forfeiture of bond or bail imposed for committing an act of criminal trespass, as

1 defined in 45-6-203, involving property owned or administered by the department or while hunting, fishing, or
2 trapping, the privilege of a person to hunt, fish, or trap in this state may be revoked for up to 24 months from the
3 date of conviction or forfeiture.

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

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

15 (5) A person convicted or who has forfeited bond or bail under this section and who has been ordered
16 to pay restitution under the provisions of 87-1-111 or 87-1-115 may not apply for any special license under Title
17 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date
18 of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of
19 a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special license or enter a drawing
20 for a special license or permit for the same species of game animal that was unlawfully taken for an additional
21 period of 5 years following the ending date of the first 5-year period. A person convicted of unlawfully applying
22 for any special license under Title 87, chapter 2, part 7, or unlawfully entering a drawing for a special license or
23 permit shall be fined an amount of not less than \$500 or more than \$2,000, be imprisoned in the county detention
24 center for not more than 60 days, or both.

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

- 28 (i) hunting during a closed season;
- 29 (ii) taking an animal or hunting while using projected artificial light;
- 30 (iii) hunting without a license;

- 1 (iv) unlawful taking of more than double the legal bag limit;
- 2 (v) unlawful possession of more than double the legal bag limit; and
- 3 (vi) waste of game by abandonment in the field.
- 4 (b) A person convicted of the offenses in subsection (6)(a) in the time periods specified in subsection
- 5 (6)(a) shall be fined an amount of not less than \$2,000 or more than \$5,000, be imprisoned in the county jail for
- 6 not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all
- 7 current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this
- 8 state for 60 months from the date of conviction or forfeiture unless the court imposes a longer forfeiture period.
- 9 (7) (a) A person convicted of a third offense of any of the following offenses within 10 years of the first
- 10 conviction is subject to the penalties provided in subsection (7)(b):
- 11 (i) hunting during a closed season;
- 12 (ii) taking an animal or hunting while using projected artificial light;
- 13 (iii) hunting without a license; and
- 14 (iv) unlawful taking of more than double the legal bag limit.
- 15 (b) A person convicted of the offenses in subsection (7)(a) in the time period specified in subsection
- 16 (7)(a) shall be fined an amount of not less than \$5,000 or more than \$10,000, be imprisoned in the county jail for
- 17 not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all
- 18 current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this
- 19 state for life.
- 20 (8) Subject to sentencing restrictions, the court shall order a person who is convicted pursuant to this
- 21 section to pay the costs of imprisonment under this section.
- 22 (9) A mandatory forfeiture of privileges imposed pursuant to this section does not apply to juveniles.
- 23 However, the court may, at its discretion, order forfeiture of a juvenile's license and privilege to hunt, fish, or trap
- 24 upon conviction or forfeiture of bond or bail for a violation of this title.
- 25 (10) Notwithstanding the provision of subsection (1), the penalties provided by this section are in addition
- 26 to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2.
- 27 (11) If an administrative authority suspends a license, permit, or privilege to obtain a license or permit
- 28 issued under this title, the administrative authority or the department shall notify the person of the suspension and
- 29 the person shall surrender the license or permit to the department within 10 days.
- 30 (12) A violation of the provisions of 87-1-201(11), 87-1-301(7), or 87-1-506(2) constitutes official

1 misconduct and is subject to the penalties provided in 45-7-401. If, upon the request of a current legislator or any
 2 group of 25 electors signing a petition requesting the prosecution of an alleged violator, the county attorney of
 3 a county where an alleged violation occurs does not initiate the prosecution of the alleged violator within 60 days
 4 after the request is made, any attorney admitted to practice in the state may initiate the prosecution at the
 5 expense of the county as if that attorney were the county attorney of that county.

6 ~~(12)~~(13) For the purposes of this section, the terms "knowingly", "negligently", and "purposely" have the
 7 same meanings provided in 45-2-101."
 8

9 **Section 5.** Section 87-1-201, MCA, is amended to read:

10 **"87-1-201. Powers and duties.** (1) ~~The~~ Except as provided in subsection (11), the department shall
 11 supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals
 12 of the state and may implement voluntary programs that encourage hunting access on private lands and that
 13 promote harmonious relations between landowners and the hunting public. The department possesses all powers
 14 necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the
 15 enforcement of the fish and game laws and the rules adopted by the department.

16 (2) ~~The~~ Except as provided in subsection (11), the department shall enforce all the laws of the state
 17 regarding the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and
 18 game and nongame birds within the state.

19 (3) The department has the exclusive power to spend for the protection, preservation, management, and
 20 propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired
 21 for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or
 22 received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from
 23 fines or damages collected for violations of the fish and game laws, or from appropriations or received by the
 24 department from any other sources is under the control of the department and is available for appropriation to
 25 the department.

26 (4) The department may discharge any appointee or employee of the department for cause at any time.

27 (5) The department may dispose of all property owned by the state used for the protection, preservation,
 28 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no
 29 further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited
 30 to the fish and game account in the state special revenue fund.

1 (6) The department may not issue permits to carry firearms within this state to anyone except regularly
2 appointed officers or wardens.

3 (7) ~~The~~ Except as provided in subsection (11), the department is authorized to make, promulgate, and
4 enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its
5 judgment will accomplish the purpose of chapter 2.

6 (8) The department is authorized to promulgate rules relative to tagging, possession, or transportation
7 of bear within or outside of the state.

8 (9) (a) The department shall implement programs that:

9 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under
10 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

11 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under
12 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the
13 maintenance or recovery of those species;

14 (iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in
15 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided
16 in 87-1-323. In implementing an elk management plan, the department shall, as necessary to achieve harvest
17 and population objectives, request that land management agencies open public lands and public roads to public
18 access during the big game hunting season.

19 (iv) address fire mitigation, pine beetle infestation, and wildlife habitat enhancement giving priority to
20 forested lands in excess of 50 contiguous acres in any state park, fishing access site, or wildlife management
21 area under the department's jurisdiction.

22 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential
23 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery
24 of those species with the social and economic impacts of species maintenance or recovery.

25 (c) Any management plan developed by the department pursuant to this subsection (9) is subject to the
26 requirements of Title 75, chapter 1, part 1.

27 (d) This subsection (9) does not affect the ownership or possession, as authorized under law, of a
28 privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

29 (10) The department shall publish an annual game count, estimating to the department's best ability the
30 numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative

1 regions of the state. In preparing the publication, the department may incorporate field observations, hunter
2 reporting statistics, or any other suitable method of determining game numbers. The publication must include an
3 explanation of the basis used in determining the game count.

4 (11) The department may not regulate the use or possession of firearms, firearm accessories, or
5 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent the restriction
6 of:

7 (a) certain hunting seasons to the use of specified hunting arms, such as the establishment of special
8 archery seasons;

9 (b) for human safety, certain areas to the use of only specified hunting arms, including bows and arrows,
10 traditional handguns, and muzzleloading rifles; and

11 (c) the use of shotguns for the hunting of deer and elk pursuant to 87-3-301."
12

13 **Section 6.** Section 87-1-301, MCA, is amended to read:

14 **"87-1-301. Powers of commission.** (1) ~~The~~ Except as provided in subsection (7), the commission:

15 (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife,
16 fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment
17 of all other responsibilities of the department as provided by law;

18 (b) shall establish the hunting, fishing, and trapping rules of the department;

19 (c) shall establish the rules of the department governing the use of lands owned or controlled by the
20 department and waters under the jurisdiction of the department;

21 (d) must have the power within the department to establish wildlife refuges and bird and game preserves;

22 (e) shall approve all acquisitions or transfers by the department of interests in land or water, except as
23 provided in 87-1-209(4);

24 (f) shall review and approve the budget of the department prior to its transmittal to the budget office;

25 (g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but
26 less than \$5,000; and

27 (h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided
28 in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as
29 provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider
30 landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular

1 hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal
2 opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting
3 district where a restriction on elk hunting on public property is proposed.

4 (2) The commission may adopt rules regarding the use and type of archery equipment that may be
5 employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in
6 archery equipment change.

7 (3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons,
8 conditions, programs, or other provisions that the commission considers appropriate to promote or enhance
9 hunting by Montana's youth and persons with disabilities.

10 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

11 (i) separate deer licenses from nonresident elk combination licenses;

12 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the
13 deer tag;

14 (iii) condition the use of the deer licenses; and

15 (iv) limit the number of licenses sold.

16 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and
17 appropriate to regulate the harvest by nonresident big game combination license holders:

18 (i) for the biologically sound management of big game populations of elk, deer, and antelope;

19 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

20 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321
21 through 87-1-325.

22 (5) The commission may adopt rules establishing license preference systems to distribute hunting
23 licenses and permits:

24 (a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant
25 who has been unsuccessful for a shorter period of time; and

26 (b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying
27 landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by
28 the commission.

29 (6) (a) The commission may adopt rules to:

30 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

1 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting
2 districts.

3 (b) The commission shall consider, but is not limited to consideration of, the following factors:

4 (i) harvest of lions by resident and nonresident hunters;

5 (ii) history of quota overruns;

6 (iii) composition, including age and sex, of the lion harvest;

7 (iv) historical outfitter use;

8 (v) conflicts among hunter groups;

9 (vi) availability of public and private lands; and

10 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

11 (7) The commission may not regulate the use or possession of firearms, firearm accessories, or
12 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent the restriction
13 of:

14 (a) certain hunting seasons to the use of specified hunting arms, such as the establishment of special
15 archery seasons;

16 (b) for human safety, certain areas to the use of only specified hunting arms, including bows and arrows,
17 traditional handguns, and muzzleloading rifles; and

18 (c) the use of shotguns for the hunting of deer and elk pursuant to 87-3-301."

19

20 **Section 7.** Section 87-1-303, MCA, is amended to read:

21 **"87-1-303. Rules for use of lands and waters.** (1) The Except as provided in 87-1-301(7), the
22 commission may adopt and enforce rules governing uses of lands that are acquired or held under easement by
23 the commission or lands that it operates under agreement with or in conjunction with a federal or state agency
24 or private owner. The rules must be adopted in the interest of public health, public safety, and protection of
25 property in regulating the use of these lands. All lease and easement agreements must itemize uses as listed in
26 87-1-209.

27 (2) The Except as provided in 87-1-301(7), the commission may adopt and enforce rules governing
28 recreational uses of all public fishing reservoirs, public lakes, rivers, and streams that are legally accessible to
29 the public or on reservoirs and lakes that it operates under agreement with or in conjunction with a federal or state
30 agency or private owner. These rules must be adopted in the interest of public health, public safety, public

1 welfare, and protection of property and public resources in regulating swimming, hunting, fishing, trapping,
2 boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation
3 of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats,
4 waterskiing, surfboarding, picnicking, camping, sanitation, and use of firearms on the reservoirs, lakes, rivers,
5 and streams or at designated areas along the shore of the reservoirs, lakes, rivers, and streams. Areas regulated
6 pursuant to the authority contained in this section must be areas that are legally accessible to the public. These
7 rules are subject to review and approval by the department of public health and human services with regard to
8 issues of public health and sanitation before becoming effective. Copies of the rules must show that
9 endorsement."

10

11 **Section 8.** Section 87-1-304, MCA, is amended to read:

12 **"87-1-304. Fixing of seasons and bag and possession limits.** (1) (a) The commission may:

13 (i) fix seasons, bag limits, possession limits, and season limits;

14 (ii) open or close or shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing animal
15 as defined by 87-2-101; and

16 (iii) declare areas open to the hunting of deer, antelope, elk, moose, sheep, goat, mountain lion, bear,
17 and wolf by persons holding an archery stamp and the required license, permit, or tag and designate times when
18 only bows and arrows may be used to hunt deer, antelope, elk, moose, sheep, goat, mountain lion, bear, and wolf
19 in those areas.

20 (b) ~~The~~ Subject to the provisions of 87-1-301(7), the commission may restrict areas and species to
21 hunting with only specified hunting arms, including bow and arrow, for the reasons of safety or of providing
22 diverse hunting opportunities and experiences.

23 (c) The commission may declare areas open to special license holders only and issue special licenses
24 in a limited number when the commission determines, after proper investigation, that a special season is
25 necessary to ensure the maintenance of an adequate supply of game birds, fish, or animals or fur-bearing
26 animals. The commission may declare a special season and issue special licenses when game birds, animals,
27 or fur-bearing animals are causing damage to private property or when a written complaint of damage has been
28 filed with the commission by the owner of that property. In determining to whom special licenses must be issued,
29 the commission may, when more applications are received than the number of animals to be killed, award permits
30 to those chosen under a drawing system. The procedures used for awarding the permits from the drawing system

1 must be determined by the commission.

2 (2) The commission may adopt rules governing the use of livestock and vehicles by archers during
3 special archery seasons.

4 (3) The commission may divide the state into fish and game districts and create fish, game, or fur-bearing
5 animal districts throughout the state. The commission may declare a closed season for hunting, fishing, or
6 trapping in any of those districts and later may open those districts to hunting, fishing, or trapping.

7 (4) The commission may declare a closed season on any species of game, fish, game birds, or
8 fur-bearing animals threatened with undue depletion from any cause. The commission may close any area or
9 district of any stream, public lake, or public water or portions thereof to hunting, trapping, or fishing for limited
10 periods of time when necessary to protect a recently stocked area, district, water, spawning waters, spawn-taking
11 waters, or spawn-taking stations or to prevent the undue depletion of fish, game, fur-bearing animals, game birds,
12 and nongame birds. The commission may open the area or district upon consent of a majority of the property
13 owners affected.

14 (5) The commission may authorize the director to open or close any special season upon 12 hours'
15 notice to the public.

16 (6) The commission may declare certain fishing waters closed to fishing except by persons under 15
17 years of age. The purpose of this subsection is to provide suitable fishing waters for the exclusive use and
18 enjoyment of juveniles under 15 years of age, at times and in areas the commission in its discretion considers
19 advisable and consistent with its policies relating to fishing."
20

21 **Section 9.** Section 87-1-506, MCA, is amended to read:

22 **"87-1-506. Enforcement powers of wardens.** (1) A warden may:

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

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

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

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

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

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

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

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

10 (i) enforce the provisions of Title 80, chapter 7, part 10, and rules adopted under Title 80, chapter 7, part
11 10, for those invasive species that are under the department's jurisdiction; and

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

14 (2) A warden may not enforce any federal regulation governing the use of firearms or ammunition for
15 hunting.

16 ~~(2)~~(3) The meat of game animals that are seized pursuant to subsection (1)(d) must be donated directly
17 to the Montana food bank network or to public or charitable institutions to the extent reasonably feasible. Any
18 meat that the department is unable to donate must be sold pursuant to 87-1-511, with the proceeds to be
19 distributed as provided in 87-1-513(2)."

20

21 **Section 10.** Section 87-3-301, MCA, is amended to read:

22 **"87-3-301. Shotgun loads regulated by department.** A person may not use a shotgun to hunt deer
23 or elk except with ~~weapon type and loads~~ double-ought buckshot or rifled slugs as specified by the department."

24

25 **Section 11.** Section 87-3-403, MCA, is amended to read:

26 **"87-3-403. Migratory game birds -- closed season and bag limits.** Laws relating to migratory birds
27 are prescribed by the regulations of the United States department of interior and the fish and wildlife service.
28 Open season, bag limit, and other rules and regulations are announced each year by proclamation by the
29 president of the United States. After each proclamation, the department by proper action ~~will~~ shall adopt,
30 advertise, and enforce, except as provided in 87-1-201(11) and 87-1-506(2), such the proclaimed regulations as

1 may be applicable to the state of Montana. ~~Any~~ A person or persons violating any provisions of this section shall
2 ~~be~~ is guilty of a misdemeanor and on conviction thereof shall be punished as provided by law."

3
4 NEW SECTION. Section 12. Repealer. The following section of the Montana Code Annotated is
5 repealed:

6 87-3-401. Restrictions on rifles for bird hunting.

7 - END -