

HOUSE BILL NO. 337

INTRODUCED BY M. MENAHAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING DEFINITIONS RELATED TO FISH AND GAME VIOLATIONS; AND AMENDING SECTIONS 87-1-102, 87-1-111, 87-1-115, 87-1-125, 87-1-513, 87-2-101, 87-2-106, 87-2-114, 87-2-807, 87-3-102, 87-3-111, AND 87-3-118, 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 fined ~~an amount of~~ not less than \$500 or more than \$2,000.

(2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting a ~~bighorn~~ mountain

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

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

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

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

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

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

30 (3) If a person is convicted of illegally taking an animal described in 87-1-111 or 87-1-115 through the

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

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

11 (5) A person convicted ~~or who has forfeited bond or bail~~ under this section and who has been ordered
12 to pay restitution under the provisions of 87-1-111 or 87-1-115 may not apply for any special license under Title
13 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date
14 of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of
15 a moose, a ~~bighorn~~ mountain sheep, or a mountain goat, the person may not apply for a special license or enter
16 a drawing for a special license or permit for the same species of game animal that was unlawfully taken for an
17 additional period of 5 years following the ending date of the first 5-year period. A person convicted of unlawfully
18 applying for any special license under Title 87, chapter 2, part 7, or unlawfully entering a drawing for a special
19 license or permit shall be fined ~~an amount of~~ not less than \$500 or more than \$2,000; or be imprisoned in the
20 county detention center for not more than 60 days, or both.

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

- 24 (i) hunting during a closed season;
25 (ii) taking an animal or hunting while using projected artificial light;
26 (iii) hunting without a license;
27 (iv) unlawful taking of more than double the legal bag limit;
28 (v) unlawful possession of more than double the legal bag limit; and
29 (vi) waste of game by abandonment in the field.

30 (b) A person convicted of the offenses in subsection (6)(a) in the time periods specified in subsection

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

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

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

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

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

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

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

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

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

Section 2. Section 87-1-111, MCA, is amended to read:

1 **"87-1-111. Restitution for illegal killing or possession of certain wildlife.** (1) Except as provided in
2 87-1-115 and in addition to other penalties provided by law, a person convicted ~~or forfeiting bond or bail upon~~ on
3 a charge of the illegal taking, killing, or possession of a wild bird, mammal, or fish listed in this section shall
4 reimburse the state for each bird, mammal, or fish according to the following schedule:

5 (a) ~~bighorn~~ mountain sheep and endangered species, \$2,000;

6 (b) elk, caribou, bald eagle, black bear, wolf, and moose, \$1,000;

7 (c) mountain lion, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer as defined by
8 commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined by commission
9 regulation, \$500;

10 (d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor not
11 included in subsection (1)(c), swan, bobcat, white sturgeon, river-dwelling grayling, and paddlefish, \$300;

12 (e) fur-bearing animals, as defined in 87-2-101 and not listed in subsection (1)(c) or (1)(d), \$100;

13 (f) game bird (except swan), \$25;

14 (g) game fish, \$10.

15 (2) When a court enters an order declaring bond or bail to be forfeited, the court may also order that
16 some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule in subsection
17 (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not required for an order of
18 restitution under this section."

19
20 **Section 3.** Section 87-1-115, MCA, is amended to read:

21 **"87-1-115. Restitution for illegal killing or possession of trophy wildlife.** In addition to other
22 penalties provided by law, a person convicted ~~or forfeiting bond or bail~~ on a charge of the purposeful or knowing
23 illegal killing, taking, or possession of a trophy animal listed in this section shall reimburse the state for each
24 trophy animal according to the following schedule:

25 (1) ~~bighorn~~ mountain sheep with at least one horn equal to or greater than three-fourth curl as defined
26 by commission regulation, \$30,000;

27 (2) elk with at least six points on one antler, as defined by commission regulation, or any grizzly bear,
28 \$8,000;

29 (3) moose having antlers with a total spread of at least 30 inches, as defined by commission regulation,
30 or any mountain goat, \$6,000;

(4) antlered deer with at least four points on one antler as defined by commission regulation, \$8,000;
(5) antelope with at least one horn greater than 14 inches in length as defined by commission regulation,
\$2,000."

Section 4. Section 87-1-125, MCA, is amended to read:

"87-1-125. Violation of orders or rules -- penalties. (1) A person who purposely, knowingly, or negligently violates an order or rules of the commission or department is guilty of a misdemeanor and shall be fined ~~an amount~~ not less than \$50 or more than \$500. In addition, the person, upon conviction ~~or forfeiture of bond or bail~~, may be subject to forfeiture of the person's license and 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 of time set by the court.

(2) If the court imposes forfeiture of the person's license and privilege to hunt, fish, trap, or use state lands, the department shall notify the person of the loss of privilege as imposed by the court.

(3) The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days after having received notice from the department that privileges have been revoked."

Section 5. Section 87-1-513, MCA, is amended to read:

"87-1-513. Disposition of proceeds of sale. (1) The money obtained upon the sale of seized property must be retained and accounted for by the department when the person having the property in possession at the time of seizure is prosecuted or when a prosecution of the person is pending. If the person charged with ~~violation of the violating fish and game law is found guilty of or forfeits bond for violation of the fish and game laws of the state convicted~~, the money received for the sale of seized property must be paid ~~over~~ to the state treasurer and be deposited to the credit of the fish and game fund; except as provided in subsection (2). If the party from whom the property was taken is not found guilty ~~of any violation of the fish and game laws of this state~~, the money must be paid to the party from whom the game birds, wild animals, fish, or parts or portions thereof were taken. An officer is not liable for any damage ~~on account of~~ caused by any search, examination, seizure, or sale. When wild animals, game birds, or fish are seized as provided in this part and the person or persons who killed or captured the wild animals, game birds, or fish cannot be ascertained or when the animals sold were killed pursuant to 87-1-225, then the money received from the sale of the wild animals, game birds, or fish must be paid directly to the state treasurer. The cost of advertising notice of sale, as required by 87-1-511, must be paid from the fish and game fund.

(2) The proceeds, after the department's cost of conducting the sale and costs incurred in donating game animal meat are deducted, from the sale of seized game animal meat must be deposited in the state special revenue fund to the credit of the department of public health and human services for the purposes of awarding grants to the Montana food bank network in this state. Money from the grants awarded to the Montana food bank network must be used for the processing of donated game animal meat. Any grant funds remaining after donated game animal meat is processed may be used for other appropriate purposes by the Montana food bank network."

Section 6. Section 87-2-101, MCA, is amended to read:

"87-2-101. Definitions. As used in ~~87-1-102, chapter 3, and this chapter~~ Title 87, chapters 1 through 3, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Angling" or "fishing" means to take or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(3) "Closed season" means the time during which game birds, fish, and game and fur-bearing animals may not be lawfully taken.

(4) "Commission" means the state fish, wildlife, and parks commission.

(5) "Conviction" means a judgment or sentence entered following a guilty plea, a nolo contendere plea, a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person's appearance in court that has not been vacated.

~~(5)(6)~~ (6) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

~~(6)(7)~~ (7) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

~~(7)(8)~~ (8) "Game fish" means all species of the family salmonidae (chars, trout, salmon, grayling, and

whitefish); all species of the genus stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus esox (northern pike, pickerel, and muskellunge); all species of the genus micropterus (bass); all species of the genus polyodon (paddlefish); all species of the family acipenseridae (sturgeon); all species of the genus lota (burbot or ling); the species perca flavescens (yellow perch); all species of the genus pomoxis (crappie); and the species ictalurus punctatus (channel catfish).

~~(8)~~(9) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

~~(9)~~(10) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; wilson's snipes or jacksnipes; and mourning doves.

~~(10)~~(11) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

~~(11)~~(12) "Open season" means the time during which game birds, fish, and game and fur-bearing animals may be lawfully taken.

~~(12)~~(13) "Person" means individuals, associations, partnerships, and corporations.

(14) "Possession" has the meaning provided in 45-2-101.

~~(13)~~(15) "Predatory animals" means coyote, weasel, skunk, and civet cat.

~~(14)~~(16) "Trap" means to take or participate in the taking of any wildlife protected by the laws of the state by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

~~(15)~~(17) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

~~(16)~~(18) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."

Section 7. Section 87-2-106, MCA, is amended to read:

"87-2-106. Application for license -- penalties for violation -- forfeiture of privileges. (1) A license

may be procured from the director, a warden, or an authorized agent of the director. The applicant shall state the applicant's name, age, [last four digits of the applicant's social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and other facts, data, or descriptions as may be required by the department. An applicant for a resident license shall present a valid Montana driver's license, Montana driver's examiner's identification card, tribal identification card, or other identification specified by the department to substantiate the required information. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a license. It is a misdemeanor for a license agent to sell a hunting, fishing, or trapping license to an applicant who fails to produce the required identification at the time of application for licensure. Except as provided in subsections (2) through (4), the statements made by the applicant must be subscribed to before the officer or agent issuing the license.

(2) Except as provided in subsection (3), department employees or officers may issue licenses by telephone, by mail, on the internet, or by other electronic means. Statements on an application for a license to be issued by telephone, by mail, on the internet, or by other electronic means need not be subscribed to before the employee or officer.

(3) To apply for a license under the provisions of 87-2-102(7), the applicant shall apply to the director and shall submit at the time of application a notarized affidavit that attests to fulfillment of the requirements of 87-2-102(7). The director shall process the application in an expedient manner.

(4) A resident may apply for and purchase a wildlife conservation license, hunting license, or fishing license for the resident's spouse, parent, child, brother, or sister who is otherwise qualified to obtain the license.

(5) A license is void unless subscribed to by the licensee.

(6) It is unlawful to subscribe to or make any statement, on an application or license, that is materially false. Any material false statement contained in an application renders the license issued pursuant to it void. A person violating any provision of this subsection is guilty of a misdemeanor.

(7) A person whose privilege to hunt, fish, or trap has been revoked is not eligible to purchase any license until all terms of the court sentence in which the privilege was revoked, including making restitution, have been met or the person is in compliance with installment payments specified by the court and the department has received notification from the sentencing court to that effect pursuant to 87-1-102(1).

(8) It is unlawful for a nonresident to apply for or purchase for a nonresident's use the following resident

1 licenses and permits:

2 (a) wildlife conservation license;

3 (b) hunting license or permit; or

4 (c) fishing license or permit.

5 (9) (a) A person not meeting the residency criteria set out in 87-2-102 who is convicted of affirming to
6 or making a false statement to obtain a resident license or who is convicted of applying for or purchasing a
7 resident license in violation of subsection (8) shall be:

8 (i) fined not less than the greater of \$100 or twice the cost of the nonresident license that authorized the
9 sought-after privilege or more than \$1,000;

10 (ii) imprisoned in the county jail for not more than 6 months; or

11 (iii) both fined and imprisoned.

12 (b) In addition to the penalties specified in subsection (9)(a), upon conviction ~~or forfeiture of bond or bail,~~
13 the person shall forfeit any current hunting, fishing, ~~and or trapping licenses~~ license and the privilege to hunt, fish,
14 ~~and or~~ trap in Montana for not less than 18 months.

15 (10) It is a misdemeanor for a person to purposely or knowingly assist an unqualified applicant in
16 obtaining a resident license in violation of this section.

17 [(11) The department shall keep the applicant's social security number confidential, except that the
18 number may be provided to the department of public health and human services for use in administering Title
19 IV-D of the Social Security Act.]

20 (12) The department shall delete an applicant's social security number in any electronic database [5 years
21 after the date that application is made for the most recent license]. (Bracketed language terminates or is amended
22 on occurrence of contingency--sec. 3, Ch. 321, L. 2001.)"

23
24 **Section 8.** Section 87-2-114, MCA, is amended to read:

25 **"87-2-114. Misdemeanor and felony possession of hunting or fishing license or permit --**
26 **penalties.** (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of a
27 hunting or fishing license or permit if the person knowingly, as defined in 45-2-101, carries or has physical control
28 over a valid and unused:

29 (a) hunting license or permit issued to another person while in any location that the species to be hunted
30 may inhabit;

(b) resident hunting license or permit or resident fishing license or permit issued to a nonresident; or
(c) hunting license or permit or fishing license or permit that was issued in violation of applicable law or rule.

(2) The following exceptions apply to the prohibition in subsection (1):

(a) A person may carry or have physical control over a license or permit issued to that person's spouse or to any minor when the spouse or minor is hunting with that person.

(b) The prohibition does not apply to a properly obtained and validated license or permit attached to a lawfully killed game animal.

(3) Except as provided in subsection (4), a person who violates this section is guilty of a misdemeanor and is punishable as provided in 87-1-102(1).

(4) A person who violates this section while engaged in a commercial activity, such as taxidermy, meat processing, outfitting, or guiding by carrying or having physical control over three or more hunting licenses that are issued to another person or persons and that are used or intended to be used on game animals not taken by the person or persons to whom the licenses were issued or by knowingly, as defined in 45-2-101, carrying, having physical control of, or selling two or more licenses or permits that were issued in violation of applicable law or rule, is guilty of a felony and upon conviction shall be fined not more than \$50,000; or be imprisoned in the state prison for not more than 5 years, or both.

(5) In addition to the penalties set out in subsections (3) and (4), a person convicted under this section ~~or who pleads guilty to a violation of this section shall lose~~ forfeit all hunting, fishing, and trapping permit and license privileges for not less than 3 years ~~or up to a lifetime revocation~~ for life from the date of conviction."

Section 9. Section 87-2-807, MCA, is amended to read:

"87-2-807. Taking migratory game birds for propagation -- avicultural permit. (1) The department may issue avicultural permits for taking, capturing, and possessing migratory game birds, as defined in 87-2-101(9), for the purpose of propagation. Before issuing an avicultural permit, the department shall determine that the applicant has been issued the appropriate federal permit or that the applicant will receive the appropriate federal permit subject to concurrence by the department.

(2) An avicultural permit issued under this section must specify:

(a) the species of migratory game birds allowed to be taken under the permit;

(b) whether eggs or hatched birds, or both, may be taken;

- 1 (c) the number of eggs or hatched birds, or both, that may be taken;
2 (d) areas in which collection may be made;
3 (e) means by which collection may be made;
4 (f) the time period for which the permit is valid; and
5 (g) any other conditions imposed by the department under rules adopted pursuant to subsection (5).

6 (3) Hatched migratory game birds or their eggs taken under an avicultural permit issued in accordance
7 with this section remain the property of the state and may be disposed of only with the permission of the
8 department. Progeny of hatched migratory game birds taken under permit as provided in this section become the
9 private property of the holder of the permit who propagates the migratory game birds, and the owner may sell or
10 transfer the birds as private property, subject to any applicable state or federal law or regulation.

11 (4) The department may charge a fee for issuing an avicultural permit, if necessary, not to exceed the
12 cost of issuing the permit.

13 (5) The department shall adopt rules implementing this section."
14

15 **Section 10.** Section 87-3-102, MCA, is amended to read:

16 **"87-3-102. Waste of fish or game.** (1) A person who is responsible for the death of a mountain lion or
17 wolf, except as provided in 87-3-130, commits the offense of waste of game if the person abandons the head or
18 hide in the field.

19 (2) A person who is responsible for the death of a grizzly bear commits the offense of waste of game if
20 the person abandons the head or hide or any parts required by department or commission regulation for scientific
21 purposes. All parts of a grizzly bear required by department or commission regulation for scientific purposes must
22 be delivered to an officer or employee of the department for inspection as soon as possible after removal, and
23 the department shall return to the licensee any bone structure and skull within 1 year upon written request. The
24 hide must be returned immediately.

25 (3) A person responsible for the death of any game animal, except a mountain lion or wolf, commits the
26 offense of waste of game if the person purposely or knowingly:

27 (a) detaches or removes from the carcass only the head, hide, antlers, tusks, or teeth or any or all of
28 these parts;

29 (b) wastes any part of any game animal, game bird, or game fish suitable for food by transporting,
30 hanging, or storing the carcass in a manner that renders it unfit for human consumption; or

(c) abandons in the field the carcass of any game animal or any portion of the carcass suitable for food.

(4) A person in possession of a game animal or game animal parts, a game bird, or a game fish suitable for food commits the offense of waste of game if the person purposely or knowingly:

(a) transports, stores, or hangs the animal, bird, or fish in a manner that renders it unfit for human consumption; or

(b) disposes of or abandons any portion of a game animal, game bird, or game fish that is suitable for food.

(5) For the purposes of this section, the meat of a grizzly bear or a black bear that is found to be infected with trichinosis is not considered to be suitable for food.

(6) A person convicted of waste of game may be fined not less than \$50 or more than \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both. In addition, the person, ~~upon conviction or forfeiture of bond or bail,~~ may be subject to forfeiture of any current hunting, fishing, ~~and or~~ trapping licenses license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction ~~or forfeiture,~~ unless the court imposes a longer ~~forfeiture~~ period. If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap, the department shall notify the person of the forfeiture and loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days of notification."

Section 11. 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 the possession, shipping, or transportation of:

(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;

(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 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~~ of 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~~ of 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 the person who is convicted under this section or who forfeits bond or bail after being charged with a violation of this section shall lose~~ forfeit all hunting, fishing, and trapping licenses and permits and license privileges for a minimum of 3 years ~~or up to a lifetime~~ revocation for life from the date of conviction. The department shall notify the person of the loss of privileges as

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

3
4 **Section 12.** Section 87-3-118, MCA, is amended to read:

5 **"87-3-118. Unlawful sale of game fish, birds, game animals, or fur-bearing animals -- penalty. (1)**

6 A person commits the offense of unlawful sale of a game fish, bird, game animal, or fur-bearing animal if the
7 person purposely or knowingly sells, purchases, or exchanges all or part of any game fish, bird, game animal,
8 or fur-bearing animal.

9 (2) The value of the game fish, bird, game animal, or fur-bearing animal must be determined from the
10 schedules of restitution values set out in 87-1-111 and 87-1-115. The value of game fish, birds, game animals,
11 or fur-bearing animals that are sold, purchased, or exchanged pursuant to a common scheme, as defined in
12 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

13 (3) This section does not prohibit:

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

17 (b) the sale, purchase, or exchange of naturally shed antlers or the antlers with a skull or portion of a
18 skull attached from a game animal that has died from natural causes and that has not been unlawfully killed,
19 captured, or taken or accidentally killed;

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

22 (d) the donation, sale, purchase, or exchange of paddlefish roe as caviar under the provisions of
23 87-4-601; or

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

25 (4) (a) If a person is convicted ~~under this section or forfeits bond or bail after being charged with~~ of a
26 violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal
27 or combination thereof does not exceed \$1,000, then the person shall be fined ~~an amount~~ not less than \$50 or
28 more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both.

29 (b) In addition to the penalties in subsection (4)(a), the person, ~~upon conviction or forfeiture of bond or~~
30 ~~bail~~, may lose all hunting, fishing, and trapping licenses and permits and license privileges in this state for a

1 period set by the court. The department shall notify the person of any loss of privileges as imposed by the court,
2 and the person shall surrender all licenses and permits, as ordered by the court, within 10 days of notification by
3 the department.

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

8 (b) In addition to the penalties in subsection (5)(a), the person, ~~upon conviction or forfeiture of bond or~~
9 ~~bail, shall lose~~ forfeit all hunting, fishing, and trapping licenses and permits and license privileges in this state for
10 a minimum of 3 years ~~or up to a lifetime revocation~~ for life from the date of conviction. The department shall notify
11 the person of the loss of privileges as imposed by the court, and the person shall surrender all licenses and
12 permits, as ordered by the court, within 10 days of notification by the department."
13

14 NEW SECTION. **Section 13. Saving clause.** [This act] does not affect rights and duties that matured,
15 penalties that were incurred, or proceedings that were begun before [the effective date of this act].
16

- END -