

HOUSE BILL NO. 536

INTRODUCED BY K. FLYNN

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; AMENDING SECTIONS 87-3-111 AND 87-3-118, MCA; 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;

(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

1 the fish were taken, except:

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

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

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

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

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

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

18 (b) If a person is convicted under this section or forfeits bond or bail after being charged with a violation
19 of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or
20 combination thereof exceeds \$1,000, then the person shall be fined not more than \$50,000 or be imprisoned in
21 the state prison for a term not to exceed 5 years, or both. In addition, a person who is convicted under this section
22 or who forfeits bond or bail after being charged with a violation of this section shall lose all hunting, fishing, and
23 trapping licenses and permits and license privileges for a minimum of 3 years or up to a lifetime revocation from
24 the date of conviction. The department shall notify the person of the loss of privileges as imposed by the court,
25 and the person shall surrender all licenses and permits, as ordered by the court, to the department within 10 days
26 of notification by the department."
27

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

29 **"87-3-118. Unlawful sale of game fish, birds, game animals, or fur-bearing animals -- penalty. (1)**

30 A person commits the offense of unlawful sale of a game fish, bird, game animal, or fur-bearing animal if the

1 person purposely or knowingly sells, purchases, or exchanges all or part of any game fish, bird, game animal,
2 or fur-bearing animal.

3 (2) The value of the game fish, bird, game animal, or fur-bearing animal must be determined from the
4 schedules of restitution values set out in 87-1-111 and 87-1-115. The value of game fish, birds, game animals,
5 or fur-bearing animals that are sold, purchased, or exchanged pursuant to a common scheme, as defined in
6 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

7 (3) This section does not prohibit:

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

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

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

16 (d) the donation, sale, purchase, or exchange of paddlefish roe as caviar under the provisions of
17 87-4-601; or

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

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

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

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

1 in the state prison for not more than 5 years, or both.

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

7
8 NEW SECTION. **Section 3. Repealer.** The following section of the Montana Code Annotated is
9 repealed:

10 87-3-110. Registration for sale of certain grizzly bears.

11

12 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

13

- END -