

SENATE BILL NO. 84

INTRODUCED BY J. BRENDEN

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CERTAIN MONEY COLLECTED FROM VIOLATORS OF STATE FISH AND GAME LAWS TO BE DEPOSITED IN THE STATE GENERAL FUND; AMENDING SECTIONS 23-1-106, 23-2-410, 23-2-507, 23-2-519, 87-1-114, 87-1-120, 87-1-201, 87-1-513, 87-1-601, 87-3-109, 87-3-116, 87-3-227, 87-4-808, 87-5-509, AND 87-5-721, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 23-1-106, MCA, is amended to read:

**"23-1-106. Rules -- penalties and disposition -- enforcement.** (1) The department may make rules governing the use, occupancy, and protection of the property under its control.

(2) Any person who violates any of the rules made by the department pursuant to subsection (1) is guilty of a misdemeanor and shall be fined not more than \$500 or be imprisoned in the county jail for not more than 6 months.

(3) It is unlawful and a misdemeanor punishable as provided in subsection (2) to refuse to exhibit for inspection any park permit, proof of age, or proof of residency upon request by a fish and game warden, park ranger, or peace officer.

(4) The department shall enforce the provisions of this chapter and rules implementing this chapter. The director of the department shall employ all necessary and qualified personnel for enforcement purposes.

(5) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

- (a) of search, seizure, and arrest;
- (b) to investigate activities in this state regulated by this chapter and rules of the department and the fish, wildlife, and parks commission; and
- (c) to report violations to the county attorney of the county in which they occur.

(6) All fines, restitution, penalties, and damages collected for a violation of this chapter must be deposited

1 in the state general fund."

2

3 **Section 2.** Section 23-2-410, MCA, is amended to read:

4 **"23-2-410. Penalty and disposition -- enforcement.** (1) A person who violates a rule of the commission  
5 adopted pursuant to this part is guilty of a misdemeanor punishable by a fine of not less than \$50 or more than  
6 \$500; or by imprisonment in a county jail for not more than 6 months, or ~~by both fine and imprisonment.~~

7 (2) All fines, restitution, penalties, and damages collected for a violation of this part must be deposited  
8 in the state general fund.

9 ~~(2)(3)~~ The department is a criminal justice agency for the purpose of obtaining the technical assistance  
10 and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers  
11 of the department are granted peace officer status with the power:

12 (a) of search, seizure, and arrest;

13 (b) to investigate activities in this state regulated by this part and rules of the department and the  
14 commission; and

15 (c) to report violations to the county attorney of the county in which they occur."

16

17 **Section 3.** Section 23-2-507, MCA, is amended to read:

18 **"23-2-507. Penalty and disposition.** (1) Violations of any section of this part, except 23-2-526(3), unless  
19 otherwise specified, are a misdemeanor and ~~shall be~~ are punishable by a fine of not less than \$15 or more than  
20 \$500 or by imprisonment for a term up to 6 months, or both. All ~~fine fines~~ and bond forfeitures, except those paid  
21 to a justice's court, must be ~~transmitted to the department of revenue for deposit~~ deposited in the state general  
22 fund.

23 (2) If 23-2-525(4) is violated, 46-18-241 through 46-18-249 apply, except that the sentencing court shall  
24 order restitution and shall do so regardless of the court's disposition of the violator."

25

26 **Section 4.** Section 23-2-519, MCA, is amended to read:

27 **"23-2-519. Penalty -- disposition.** (1) Failure to pay the registration fee as provided for in 61-3-321(10)  
28 is a misdemeanor, punishable by a fine equal to four times the registration fee that is due on the motorboat,  
29 sailboat, personal watercraft, or motorized pontoon for the current year of registration.

30 (2) All fines collected pursuant to subsection (1) must be distributed in the following ratio:

1 (a) 50% to the general fund of the county in which the motorboat, sailboat, personal watercraft, or  
2 motorized pontoon is issued a certification number; and

3 (b) 50% to the ~~motorboat account of the state special revenue fund for use by the department in the~~  
4 ~~enforcement of this part~~ state general fund."

5

6 **Section 5.** Section 87-1-114, MCA, is amended to read:

7 **"87-1-114. Disposition of proceeds.** All money collected by a court pursuant to 87-1-111 through  
8 87-1-113 and 87-1-115 must be ~~remitted to the department of revenue for deposit in the state special revenue~~  
9 ~~fund account to the credit of the department for hunter education purposes or for enforcement~~ deposited in the  
10 state general fund."

11

12 **Section 6.** Section 87-1-120, MCA, is amended to read:

13 **"87-1-120. Remedial hunter education program.** (1) The department shall develop a remedial hunter  
14 education program for hunting law violators.

15 ~~(2) The program must be funded through money collected by a court pursuant to 87-1-111 through~~  
16 ~~87-1-113.~~

17 ~~(3)(2)~~ (2) The department shall determine the qualifications for instructors, hire the instructors, and pay the  
18 instructors at a rate determined by the department.

19 ~~(4)(3)~~ (3) A person who is sentenced by the court to complete a remedial hunter education course shall pay  
20 the costs directly attributable to the person's participation in the remedial hunter education program.

21 ~~(5)(4)~~ (4) The course instructor shall notify the sentencing court of the participant's attendance record and  
22 of the participant's success or failure in completing the program.

23 ~~(6)(5)~~ (5) A participant whose hunting, fishing, or trapping license has been revoked shall successfully  
24 complete the program before license privileges may be reinstated."

25

26 **Section 7.** Section 87-1-201, MCA, is amended to read:

27 **"87-1-201. Powers and duties.** (1) The department shall supervise all the wildlife, fish, game, game and  
28 nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary  
29 programs that encourage hunting access on private lands and that promote harmonious relations between  
30 landowners and the hunting public. The department possesses all powers necessary to fulfill the duties prescribed

1 by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and  
2 the rules adopted by the department.

3 (2) The department shall enforce all the laws of the state regarding the protection, preservation,  
4 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

5 (3) ~~The~~ Except as provided in 87-1-601(4), the department has the exclusive power to spend for the  
6 protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and  
7 nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation,  
8 licenses, ~~fin~~es, gifts, or otherwise. Money collected or received by the department from the sale of hunting and  
9 fishing licenses or permits, ~~from the sale of seized game or hides, from fines or damages collected for violations~~  
10 ~~of the fish and game laws, or from appropriations, or received by the department from any other sources~~ source  
11 is under the control of the department and is available for appropriation to the department.

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

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

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

19 (7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations  
20 not inconsistent with the provisions of Title 87, chapter 2, that in its judgment will accomplish the purpose of  
21 chapter 2.

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

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

25 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under  
26 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

27 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under  
28 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the  
29 maintenance or recovery of those species;

30 (iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in

1 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided  
 2 in 87-1-323. In implementing an elk management plan, the department shall, as necessary to achieve harvest  
 3 and population objectives, request that land management agencies open public lands and public roads to public  
 4 access during the big game hunting season.

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

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

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

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

15 (10) The department shall publish an annual game count, estimating to the department's best ability the  
 16 numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative  
 17 regions of the state. In preparing the publication, the department may incorporate field observations, hunter  
 18 reporting statistics, or any other suitable method of determining game numbers. The publication must include an  
 19 explanation of the basis used in determining the game count."

20

21 **Section 8.** Section 87-1-513, MCA, is amended to read:

22 **"87-1-513. Disposition of proceeds of sale.** (1) The money obtained upon the sale of seized property  
 23 must be retained and accounted for by the department when the person having the property in possession at the  
 24 time of seizure is prosecuted or when a prosecution of the person is pending. If the person charged with violation  
 25 of the law is found guilty of or forfeits bond for violation of the fish and game laws of the state, the money received  
 26 for the sale of seized property must be ~~paid over to the state treasurer and be deposited to the credit of the fish~~  
 27 ~~and game~~ deposited in the state general fund, except as provided in subsection (2). If the party from whom the  
 28 property was taken is not found guilty of any violation of the fish and game laws of this state, the money must be  
 29 paid to the party from whom the game birds, wild animals, fish, or parts or portions thereof were taken. An officer  
 30 is not liable for any damage on account of any search, examination, seizure, or sale. When wild animals, game

1 birds, or fish are seized as provided in this part and the person or persons who killed or captured the wild animals,  
 2 game birds, or fish cannot be ascertained or when the animals sold were killed pursuant to 87-1-225, then the  
 3 money received from the sale of the wild animals, game birds, or fish must be ~~paid directly to the state treasurer~~  
 4 deposited in the state general fund. The cost of advertising notice of sale, as required by 87-1-511, must be paid  
 5 from the fish and game fund.

6 (2) The proceeds, after the department's cost of conducting the sale and costs incurred in donating game  
 7 animal meat are deducted, from the sale of seized game animal meat must be deposited in the state special  
 8 revenue fund to the credit of the department of public health and human services for the purposes of awarding  
 9 grants to the Montana food bank network in this state. Money from the grants awarded to the Montana food bank  
 10 network must be used for the processing of donated game animal meat. Any grant funds remaining after donated  
 11 game animal meat is processed may be used for other appropriate purposes by the Montana food bank network."  
 12

13 **Section 9.** Section 87-1-601, MCA, is amended to read:

14 **"87-1-601. (Temporary) Use of fish and game money.** (1) (a) Except as provided in ~~subsections (7)~~  
 15 ~~and (9)~~ subsection (8), all money collected or received by the department from the sale of hunting and fishing  
 16 licenses or permits, ~~from the sale of seized game or hides, from damages collected for violations of the fish and~~  
 17 ~~game laws of this state, or from appropriations,~~ or received by the department from any other state source must  
 18 be turned over to the department of revenue and placed in the state special revenue fund to the credit of the  
 19 department.

20 (b) Any money received from federal sources must be deposited in the federal special revenue fund to  
 21 the credit of the department.

22 (c) All interest earned on money from the following sources must be placed in the state special revenue  
 23 fund to the credit of the department:

24 (i) the general license account;

25 (ii) the license drawing account;

26 (iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411,  
 27 87-2-722, and 87-2-724; and

28 (iv) money received from the sale of any other hunting and fishing license.

29 (2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart  
 30 and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be

1 made by the department under the terms of this title. The money described in subsection (1) must be spent for  
2 those purposes by the department, subject to appropriation by the legislature.

3 (3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special  
4 revenue fund and the federal special revenue fund.

5 (4) Except as provided in ~~subsections (7) and (8)~~ 87-1-228, all money collected or received from fines,  
6 restitution, penalties, damages, and forfeited bonds, except money collected or received by a justice's court, that  
7 relates to violations of state fish and game laws under Title 87 must be deposited ~~by the department of revenue~~  
8 ~~and credited to the department in a state special revenue fund account for this purpose in the state general fund.~~

9 Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be  
10 paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs  
11 of prosecution.

12 (5) (a) Except as provided in 87-1-621 and section 2(3), Chapter 560, Laws of 2005, money must be  
13 deposited in an account in the permanent fund if it is received by the department from:

- 14 (i) the sale of surplus real property;  
15 (ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department,  
16 except royalties or other compensation based on production; and  
17 (iii) leases of interests in department real property not contemplated at the time of acquisition.

18 (b) The interest derived from the account, but not the principal, may be used only for the purpose of  
19 operation, development, and maintenance of real property of the department and only upon appropriation by the  
20 legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or  
21 state statutes specifically naming the department or money received by the department, then the use of this  
22 money must be limited in the manner, method, and amount to those uses that do not result in a violation.

23 (6) Money received from the collection of license drawing applications is subject to the deposit  
24 requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit  
25 schedule pursuant to 17-6-105(8).

26 (7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or  
27 rules adopted under 77-1-804 must be deposited in the state general fund.

28 ~~(8) The department of revenue shall deposit in the state general fund one-half of the money received~~  
29 ~~from the fines pursuant to 87-1-102.~~

30 ~~(9)(8)~~ (a) The department shall deposit all money received from the search and rescue surcharge in

1 87-2-202 in a state special revenue account to the credit of the department for search and rescue purposes as  
2 provided for in 10-3-801.

3 (b) Upon certification by the department of reimbursement requests submitted by the department of  
4 military affairs for search and rescue missions involving persons engaged in hunting, fishing, or trapping, the  
5 department may transfer funds from the special revenue account to the search and rescue account provided for  
6 in 10-3-801 to reimburse counties for the costs of those missions as provided in 10-3-801.

7 (c) Using funds in the department's search and rescue account that are not already committed to  
8 reimbursement for search and rescue missions, the department may provide matching funds to the department  
9 of military affairs to reimburse counties for search and rescue training and equipment costs up to the proportion  
10 that the number of search and rescue missions involving persons engaged in hunting, fishing, or trapping bears  
11 to the statewide total of search and rescue missions.

12 (d) Any money deposited in the special revenue account is available for reimbursement of search and  
13 rescue missions and to provide matching funds to reimburse counties for search and rescue training and  
14 equipment costs.

15 **87-1-601. (Effective March 1, 2011) Use of fish and game money.** (1) (a) Except as provided in  
16 87-1-290 and ~~subsections (7) and (9)~~ subsection (8) of this section, all money collected or received by the  
17 department from the sale of hunting and fishing licenses or permits, ~~from the sale of seized game or hides, from~~  
18 ~~damages collected for violations of the fish and game laws of this state, or from appropriations,~~ or received by  
19 ~~the department~~ from any other state source must be turned over to the department of revenue and placed in the  
20 state special revenue fund to the credit of the department.

21 (b) Any money received from federal sources must be deposited in the federal special revenue fund to  
22 the credit of the department.

23 (c) All interest earned on money from the following sources must be placed in the state special revenue  
24 fund to the credit of the department:

25 (i) the general license account;

26 (ii) the license drawing account;

27 (iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411,  
28 87-2-722, and 87-2-724; and

29 (iv) money received from the sale of any other hunting and fishing license.

30 (2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart

1 and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be  
2 made by the department under the terms of this title. The money described in subsection (1) must be spent for  
3 those purposes by the department, subject to appropriation by the legislature.

4 (3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special  
5 revenue fund and the federal special revenue fund.

6 (4) Except as provided in ~~subsections (7) and (8) 87-1-228~~, all money collected or received from fines,  
7 restitution, penalties, damages, and forfeited bonds, except money collected or received by a justice's court, that  
8 relates to violations of state fish and game laws under Title 87 must be deposited ~~by the department of revenue~~  
9 and credited to the department in a state special revenue fund account for this purpose in the state general fund.  
10 Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be  
11 paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs  
12 of prosecution.

13 (5) (a) Except as provided in 87-1-621 and section 2(3), Chapter 560, Laws of 2005, money must be  
14 deposited in an account in the permanent fund if it is received by the department from:

15 (i) the sale of surplus real property;

16 (ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department,  
17 except royalties or other compensation based on production; and

18 (iii) leases of interests in department real property not contemplated at the time of acquisition.

19 (b) The interest derived from the account, but not the principal, may be used only for the purpose of  
20 operation, development, and maintenance of real property of the department and only upon appropriation by the  
21 legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or  
22 state statutes specifically naming the department or money received by the department, then the use of this  
23 money must be limited in the manner, method, and amount to those uses that do not result in a violation.

24 (6) Money received from the collection of license drawing applications is subject to the deposit  
25 requirements of 17-6-105(6) unless the department has submitted and received approval for a modified deposit  
26 schedule pursuant to 17-6-105(8).

27 (7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or  
28 rules adopted under 77-1-804 must be deposited in the state general fund.

29 ~~(8) The department of revenue shall deposit in the state general fund one-half of the money received~~  
30 ~~from the fines pursuant to 87-1-102.~~

1           ~~(9)~~(8) (a) The department shall deposit all money received from the search and rescue surcharge in  
 2 87-2-202 in a state special revenue account to the credit of the department for search and rescue purposes as  
 3 provided for in 10-3-801.

4           (b) Upon certification by the department of reimbursement requests submitted by the department of  
 5 military affairs for search and rescue missions involving persons engaged in hunting, fishing, or trapping, the  
 6 department may transfer funds from the special revenue account to the search and rescue account provided for  
 7 in 10-3-801 to reimburse counties for the costs of those missions as provided in 10-3-801.

8           (c) Using funds in the department's search and rescue account that are not already committed to  
 9 reimbursement for search and rescue missions, the department may provide matching funds to the department  
 10 of military affairs to reimburse counties for search and rescue training and equipment costs up to the proportion  
 11 that the number of search and rescue missions involving persons engaged in hunting, fishing, or trapping bears  
 12 to the statewide total of search and rescue missions.

13           (d) Any money deposited in the special revenue account is available for reimbursement of search and  
 14 rescue missions and to provide matching funds to reimburse counties for search and rescue training and  
 15 equipment costs."  
 16

17           **Section 10.** Section 87-3-109, MCA, is amended to read:

18           **"87-3-109. Attempting to take simulated wildlife decoy -- penalty.** (1) It is unlawful for a person to  
 19 discharge a firearm or other hunting implement at a simulated wildlife decoy in violation of any state statute or  
 20 commission rule regulating the hunting of the wildlife being simulated when the decoy is being used by a certified  
 21 peace officer.

22           (2) Upon conviction, the penalty for attempting to hunt a simulated wildlife decoy is the same as  
 23 prescribed for the state statute or commission rule violated during the attempted hunting of the actual wildlife  
 24 being simulated.

25           (3) In addition to any other penalty, a person convicted under this section shall pay restitution of \$50 ~~to~~  
 26 ~~the department for the repair of damages to simulated wildlife decoys.~~

27           (4) All money collected pursuant to this section must be deposited in the state general fund.  
 28

29           **Section 11.** Section 87-3-116, MCA, is amended to read:

30           **"87-3-116. Outfitting without license -- penalties -- disposition of fines.** (1) A person commits the

1 offense of outfitting without a license if the person purposely or knowingly engages in outfitting while not licensed  
2 pursuant to Title 37, chapter 47, or purposely or knowingly violates a licensing rule adopted under Title 37,  
3 chapter 47. A violation of this subsection is punishable by a fine of not less than \$200 or more than \$1,000; or  
4 imprisonment in the county jail for up to 1 year, or both.

5 (2) A person or entity that represents to any other person, any entity, or the public that the person or  
6 entity is an outfitter and who commits the offense of outfitting without a license, as provided in subsection (1), for  
7 any portion of 5 or more days for consideration within 1 calendar year for any person or for consideration valued  
8 in excess of \$5,000 is punishable by a fine of not more than \$50,000; or imprisonment in the state prison for up  
9 to 5 years, or both.

10 (3) (a) In addition to the penalties set out in subsection (1), a person who is convicted of violating  
11 subsection (1) loses all hunting, fishing, and trapping licenses and permits and shall forfeit all hunting, fishing,  
12 and trapping license privileges in this state for a period set by the court.

13 (b) In addition to the penalties provided in subsection (2), a person who is convicted of violating  
14 subsection (2) loses all hunting, fishing, and trapping licenses and permits and shall forfeit all hunting, fishing,  
15 and trapping license privileges in this state for a minimum of 5 years.

16 (c) The department shall notify the person of any loss of privileges as imposed by the court, and the  
17 person shall surrender all licenses and permits, as ordered by the court, within 10 days of notification.

18 (d) A sentencing court that imposes a period of license revocation pursuant to subsection (3)(a) or (3)(b)  
19 shall consider and may impose any of the following conditions during the period of revocation:

20 (i) prohibiting the offender from participating in any hunting, fishing, or trapping endeavor as a hunter,  
21 angler, trapper, scout, guide, observer, or assistant;

22 (ii) prohibiting the offender from brokering or participating in any lease of property for hunting, fishing, or  
23 trapping, either personally or through an agent or representative;

24 (iii) prohibiting the offender from participating in any seminar or show that is designed to promote hunting,  
25 fishing, or trapping;

26 (iv) prohibiting the offender from purchasing or possessing any hunting, fishing, or trapping permits; and

27 (v) any other reasonable condition or restriction that is related to the crime committed or that is  
28 considered necessary for the rehabilitation of the offender or for the protection of the citizens or wildlife of this  
29 state.

30 (4) A person convicted of outfitting without a license shall reimburse the full amount of any fees received

1 to the person to whom illegal outfitting services were provided.

2 (5) As used in this section, "consideration" is defined as remuneration given in exchange for outfitting  
3 services supplied predicated on a business relationship between parties. This does not include reimbursement  
4 for shared trip expenses.

5 (6) (a) As used in this section, "outfitting" means providing hunting or fishing services for consideration,  
6 including any saddle or pack animal, facilities, camping equipment, personal service, or vehicle, watercraft, or  
7 other conveyance for any person to hunt, fish, trap, capture, take, kill, or pursue any game, including fish. The  
8 term includes accompanying that person, either part or all of the way, on an expedition for any of these purposes  
9 or supervision of a licensed guide or professional guide in accompanying that person.

10 (b) The term does not include the provision of the services listed in subsection (6)(a) by a person on real  
11 property that the person owns for the primary pursuit of bona fide agricultural interests.

12 (7) Any fines collected for a violation of this section must be deposited in the state general fund.

13

14 **Section 12.** Section 87-3-227, MCA, is amended to read:

15 **"87-3-227. Civil liability.** A person, firm, or corporation that violates any provision of this part pertaining  
16 to fish disease or rules or orders of the department is liable for damages caused by the violation. The damages  
17 may be recovered by the person, firm, or corporation damaged or by the department on behalf of the public in  
18 a civil action in a court of competent jurisdiction. All money collected by the department under this section must  
19 be deposited in the state ~~special revenue~~ general fund as provided in ~~87-1-601(1)~~ 87-1-601(4)."

20

21 **Section 13.** Section 87-4-808, MCA, is amended to read:

22 **"87-4-808. Fines, bonds, penalties, and fees.** Fines, bonds, or penalties, except those obtained by  
23 a justice's court, ~~shall~~ must be administered and disposed of in accordance with the provisions of ~~87-1-601~~  
24 87-1-601(4). Fees obtained under this part must be deposited with the department of revenue and credited to the  
25 state special revenue fund, fish and game account."

26

27 **Section 14.** Section 87-5-509, MCA, is amended to read:

28 **"87-5-509. Penalty and restoration.** (1) An agency, under 87-5-502, violating provisions of this part  
29 ~~shall~~ must be assessed a fine of not less than \$100 or more than \$500 for each day of continuing violation but  
30 not more than a total of \$1,000.

1 (2) In addition, at the discretion of the court, the agency shall restore the damaged stream to its prior  
 2 condition. Employees of an agency acting in the ordinary course of their employment under directions of a  
 3 superior are not liable for violations under this section.

4 (3) The department may institute and maintain in the name of the state enforcement proceedings under  
 5 this section. All fines assessed under this section ~~shall~~ must be deposited in the state ~~special revenue fund for~~  
 6 ~~the use of the department~~ general fund."

7

8 **Section 15.** Section 87-5-721, MCA, is amended to read:

9 **"87-5-721. Penalty -- license and permit revocation and denial.** (1) Except as provided in subsection  
 10 (2), a person who violates a provision of this part is guilty of a misdemeanor punishable as provided in 87-1-102,  
 11 and the department, upon conviction of the person, shall revoke any license or permit issued by it under this title  
 12 to the person and deny any application by the person for a license or permit under this title for a period not to  
 13 exceed 2 years from the date of the conviction.

14 (2) A person who intentionally imports, introduces, or transplants fish in violation of this part:

15 (a) is guilty of an offense punishable by a fine of not less than \$500 or more than \$5,000 and  
 16 imprisonment for up to 1 year. A sentencing court may consider an appropriate amount of community service in  
 17 lieu of imprisonment. A sentencing court may not defer or suspend \$500 of the fine amount.

18 (b) is civilly liable for the amount necessary to eliminate or mitigate the effects of the violation. The  
 19 damages may be recovered on behalf of the public by the department or by the county attorney of the county in  
 20 which the violation occurred, in a civil action in a court of competent jurisdiction. Money recovered by the  
 21 department or a county attorney must be deposited in the state ~~special revenue~~ general fund as provided in  
 22 ~~87-1-601(4)~~ 87-1-601(4).

23 (c) upon conviction or forfeiture of bond or bail, shall forfeit from the date of conviction or forfeiture any  
 24 current hunting, fishing, or trapping license issued under this title and the privilege to hunt, fish, or trap in this state  
 25 for not less than 24 months. If the time necessary to eliminate or mitigate the effects of the violation exceeds 24  
 26 months, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for more than 24  
 27 months. If the effects of the violation cannot be eliminated or mitigated, a person may be required to forfeit the  
 28 privilege to hunt, fish, or trap in this state for ~~the lifetime of that person~~ life.

29 (3) Any exotic wildlife held in violation of this part must be shipped out of state, returned to the point of  
 30 origin, or destroyed within a time set by the department, not to exceed 6 months. The person in possession of

1 the exotic wildlife may choose the method of disposition. If the person in possession of the exotic wildlife does  
2 not comply with this requirement, the department may confiscate and then house, transport, or destroy the  
3 unlawfully held exotic wildlife. The department may charge any person convicted of a violation of this part for the  
4 costs associated with the handling, housing, transporting, or destroying of the exotic wildlife."

5

6 NEW SECTION. **Section 16. Effective date.** [This act] is effective July 1, 2011.

7

- END -