

HOUSE BILL NO. 278

INTRODUCED BY J. ESSMANN

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE USE OF UNMANNED AERIAL VEHICLES FOR PURPOSES RELATED TO HUNTING AND FISHING; PROHIBITING THE USE OF UNMANNED AERIAL VEHICLES UNDER CERTAIN CONDITIONS OVER CERTAIN LANDS AND WATER; AUTHORIZING SEIZURE AND FORFEITURE OF UNLAWFULLY USED UNMANNED AERIAL VEHICLES; DEFINING "AIRCRAFT"; AMENDING SECTIONS 87-1-506 AND 87-6-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

- (a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;
- (b) search, without a warrant, any tent not used as a residence; or any boat, vehicle, box, locker, basket, creel, crate, game bag, or package, or their contents, upon probable cause to believe that any fish and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or fur-bearing animals has been violated;
- (c) search, with a search warrant, any dwelling house or other building;
- (d) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in violation of the law or the rules of the department;
- (e) seize and hold, subject to law or the orders of the department, devices that have been used to unlawfully take game, fish, birds, or fur-bearing animals or unmanned aerial vehicles that have been used in violation of 87-6-208;
- (f) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the department, violation of which is a misdemeanor;
- (g) enforce the disorderly conduct and public nuisance laws, 45-8-101 and 45-8-111, as they apply to the operation of motorboats on all waters of the state;
- (h) as provided for in 37-47-345, investigate and make arrests for violations of the provisions of Title 37, chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of outfitters and guides

1 in the state;

2 (i) enforce the provisions of Title 80, chapter 7, part 10, and rules adopted under Title 80, chapter 7, part
3 10, for those invasive species that are under the department's jurisdiction; and

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

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

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11 **Section 2.** Section 87-6-208, MCA, is amended to read:

12 **"87-6-208. Unlawful use of aircraft.** (1) Except as provided in 87-3-126, a person may not:

13 (a) kill, take, or shoot at any game bird, game animal, or fur-bearing animal from an aircraft, ~~including~~
14 ~~a helicopter~~;

15 (b) use an aircraft, ~~including a helicopter~~:

16 (i) to locate any game animal for the purpose of hunting that animal during the same hunting day after
17 the ~~person~~ aircraft has been airborne; or

18 (ii) for the purpose of concentrating, pursuing, driving, rallying, harassing, or stirring up any game bird,
19 migratory bird, game animal, or fur-bearing animal; or

20 (c) ~~if in use~~ use an aircraft, ~~including a helicopter~~, to spot or locate any game animal or fur-bearing animal
21 and communicate the location of the game animal or fur-bearing animal to any person:

22 (i) ~~on the ground~~ by means of any ~~air-to-ground~~ communication signal or other device as an aid to
23 hunting or pursuing wildlife; or

24 (ii) within the same hunting day ~~after being airborne~~.

25 (2) Unless permitted by the department, a person may not use an aircraft, ~~including a helicopter~~, for
26 hunting purposes within the boundaries of a national forest except when cargo or persons are loaded and
27 unloaded at federal aviation agency approved airports, aircraft landing fields, or heliports that have been
28 established on private property or that have been established by any federal, state, county, or municipal
29 governmental body. Hunting purposes include the transportation of hunters or wildlife and hunting equipment and
30 supplies. The provisions of this subsection do not apply:

- 1 (a) during emergency situations;
- 2 (b) when search and rescue operations are being conducted; or
- 3 (c) for predator control as permitted by the department of livestock.
- 4 (3) A person may not use an unmanned aerial vehicle:
- 5 (a) to interfere with the hunting of a wild animal or fishing by another;
- 6 (b) to film or photograph a person lawfully engaged in the act of hunting or fishing without the consent
- 7 of the person;
- 8 (c) to disturb, harass, or annoy a person lawfully engaged in fishing, pre hunting, hunting, or post hunting
- 9 activity;
- 10 (d) during any fishing season, on or in the air space above the rivers, streams, and creeks of the state
- 11 of Montana; or
- 12 (e) during any hunting season, on or in the air space above any land or water that is privately owned
- 13 without the express prior written permission of the landowner.
- 14 ~~(3)~~(4) The following penalties apply for a violation of this section:
- 15 (a) Unless otherwise provided in this subsection ~~(3)~~ (4), if a person is convicted ~~of~~ or forfeits bond or bail
- 16 after being charged with a violation of this section, the person shall be fined not less than \$300 or more than
- 17 \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the
- 18 person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing,
- 19 or trapping license issued by this state and the privilege to hunt, fish, ~~or~~ and trap in this state or to use state lands,
- 20 as defined in 77-1-101, for recreational purposes for a period of time set by the court.
- 21 (b) If a person is convicted or forfeits bond or bail after being charged with unlawful use of an aircraft to
- 22 kill or take a deer, elk, antelope, mountain lion, mountain sheep, moose, wild buffalo, caribou, mountain goat,
- 23 black bear, or grizzly bear, the person shall be fined not less than \$500 or more than \$2,000 or be imprisoned
- 24 in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current
- 25 hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, ~~or~~ and
- 26 trap in this state for 30 months from the date of conviction or forfeiture of bond or bail unless the court imposes
- 27 a longer period.
- 28 (c) If a person is convicted or forfeits bond or bail after being charged with unlawful use of an aircraft to
- 29 kill or take a fur-bearing animal, the person shall be fined not less than \$100 or more than \$1,000 or be
- 30 imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit

1 any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt,
2 fish, ~~or~~ and trap in this state for 24 months from the date of conviction or forfeiture of bond or bail unless the court
3 imposes a longer period, and any pelts possessed unlawfully must be confiscated.

4 (d) In addition to any other penalty imposed for a violation of this section involving the unlawful use of
5 an unmanned aerial vehicle, a person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture
6 of the unmanned aerial vehicle that was used in violation of this section following the procedure set forth in Title
7 44, chapter 12, part 2. Whenever property is forfeited and sold pursuant to this subsection (4)(d), the net
8 proceeds of the sale must be distributed to the holders of security interests who have presented proper proof of
9 their claims, if any, up to the amount of their interests in the property. The remainder, if any, must be deposited
10 pursuant to 87-1-513.

11 (5) For the purposes of this section, the term "aircraft" includes helicopters and unmanned aerial
12 vehicles."

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14 NEW SECTION. Section 3. 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].

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

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