

HOUSE BILL NO. 100
INTRODUCED BY JENT

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO GAME BIRDS AND SHOOTING PRESERVES; REVISING THE GENERAL DEFINITION OF "UPLAND GAME BIRDS" BY REMOVING QUAIL AND SPECIFYING RING-NECKED PHEASANTS; CONFORMING THE DEFINITION OF "GAME BIRDS" IN THE GAME BIRD FARM STATUTES TO THE GENERAL DEFINITION OF "UPLAND GAME BIRDS"; PROVIDING THAT POSSESSION, TRANSPORTATION, SALE, OR PURCHASE OF CAPTIVE-REARED MIGRATORY WATERFOWL IS NOT PROHIBITED; CONFORMING THE LAW GOVERNING VIOLATION OF CLOSED SEASON ON CERTAIN GAME BIRDS TO THE DEFINITION OF "UPLAND GAME BIRDS"; REVISING THE FEES FOR SHOOTING PRESERVE LICENSES; REVISING THE KINDS OF BIRDS THAT MAY BE HUNTED IN SHOOTING PRESERVES; ESTABLISHING MINIMUM AGE, NUMBER, AND MARKING REQUIREMENTS FOR RELEASED BIRDS; AUTHORIZING THE DEPARTMENT TO IMPOSE RESTRICTIONS ON NEW SHOOTING PRESERVE LICENSES; REVISING REGISTRATION BOOK REQUIREMENTS FOR SHOOTING PRESERVE OPERATORS; AMENDING SECTIONS 87-2-101, 87-3-111, 87-3-402, 87-4-503, 87-4-522, 87-4-524, 87-4-526, AND 87-4-901, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 87-2-101, MCA, is amended to read:

"87-2-101. Definitions. As used in ~~this chapter, chapter 3, and 87-1-102, chapter 3, and this chapter,~~ 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) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

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

(7) "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); and the species ictalurus punctatus (channel catfish).

(8) "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) "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; ~~however, the open season on mourning doves is restricted to the open season on upland game birds as defined in subsection (15).~~

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

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

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

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

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

Section 2. Section 87-3-111, MCA, is amended to read:

"87-3-111. (Temporary) Unlawful to buy, sell, possess, or transport fish or game -- exceptions -- penalties. (1) It is unlawful for a person to purchase, sell, offer to sell, possess, ship, or transport all or part of any game fish, upland game bird, migratory game bird, game animal, or fur-bearing animal ~~or part thereof that~~ is protected by the laws of this state, whether ~~belonging to the same or a different species from that native to the state~~ TAKEN IN MONTANA OR OUTSIDE of Montana, except as specifically permitted by the laws of this state.

(2) The provisions of this section do not prohibit:

(a) the possession or transportation within the state of all or part of any legally taken fish, upland game bird, migratory game bird, game animal, or fur-bearing animal ~~or part thereof~~;

(b) the sale, purchase, or transportation of hides, heads, or mounts of lawfully killed upland game birds, migratory game birds, game fish, fur-bearing animals, or game 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;

(c) the possession, transportation, sale, or purchase 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 or accidentally killed;

(d) the possession, transportation, sale, or purchase of the bones of an elk, antelope, moose, or deer that has been lawfully killed or that has died of natural causes; ~~or~~

(e) the donation and sale of paddlefish roe as caviar under the provisions of 87-4-601-; or

(f) the possession, transportation, sale or purchase of captive-reared migratory waterfowl.

(3) It is unlawful for a person to possess 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 and along the boundaries of the eastern Montana fishing district, as established by the 1994-95

commission regulations.

(4) A person violating any of the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished as provided in 87-1-102. (Terminates June 30, 2003--sec. 2, Ch. 196, L. 1993.)

87-3-111. (Effective July 1, 2003) Unlawful to buy, sell, possess, or transport fish or game -- exceptions -- penalties. (1) It is unlawful for a person to purchase, sell, offer to sell, possess, ship, or transport all or part of any game fish, upland game bird, migratory game bird, game animal, or fur-bearing animal ~~or part thereof~~ that is protected by the laws of this state, whether ~~belonging to the same or a different species from that native to the state~~ TAKEN IN MONTANA OR OUTSIDE of Montana, except as specifically permitted by the laws of this state.

(2) The provisions of this section do not prohibit:

(a) the possession or transportation within the state of all or part of any legally taken fish, upland game bird, migratory game bird, game animal, or fur-bearing animal ~~or part thereof~~;

(b) the sale, purchase, or transportation of hides, heads, or mounts of lawfully killed upland game birds, migratory game birds, game fish, fur-bearing animals, or game 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;

(c) the possession, transportation, sale, or purchase 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 or accidentally killed; ~~or~~

(d) the possession, transportation, sale, or purchase of the bones of an elk or deer that has been lawfully killed or that has died of natural causes; ~~or~~

(e) the possession, transportation, sale, or purchase of captive-reared migratory waterfowl.

(3) It is unlawful for a person to possess 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 and along the boundaries of the eastern Montana fishing district, as established by the 1994-95 commission regulations.

(4) A person violating any of the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished as provided in 87-1-102."

Section 3. Section 87-3-402, MCA, is amended to read:

"87-3-402. Unlawful to violate closed season on certain game birds. It is unlawful for any person to hunt or attempt to hunt ~~any quail, Chinese or Mongolian pheasant (commonly called ring-necked pheasant), Hungarian partridge, chukar partridge, sage grouse, sharp-tailed grouse, blue grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild turkey~~ an upland game bird until the commission provides an open season on ~~any quail, Chinese or Mongolian pheasant (commonly called ring-necked pheasant), Hungarian partridge, chukar partridge, sage grouse, sharp-tailed grouse, blue grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild turkey~~ that upland game bird. The open season on mourning doves is restricted to the open season on upland game birds."

Section 4. Section 87-4-503, MCA, is amended to read:

"87-4-503. Fees. Fees for shooting preserve licenses or permits ~~shall~~ must be ~~\$50 per~~ \$100 for each year for the first ~~160~~ 320 acres of shooting preserve area, plus ~~50 cents~~ \$40 ~~\$20 per~~ for each year for each additional 160 ACRES AND ANY FRACTION OF 160 ACRES ~~160 acres or parts thereof~~ acre."

Section 5. Section 87-4-522, MCA, is amended to read:

"87-4-522. Game hunted in preserve. (1) Game ~~which~~ that may be hunted under this part ~~shall~~ must be confined to artificially propagated ring-necked pheasants with no color mutations, ~~quail,~~ chukar partridges, ~~turkeys,~~ MERRIAM'S TURKEYS, Hungarian partridges, and ~~such other species as the~~ authorized by the department ~~may add from time to time.~~

(2) ~~A minimum number of stock of 100 birds of each species to be hunted on a~~ CUMULATIVE OF ALL SPECIES AUTHORIZED FOR AN INDIVIDUAL shooting preserve ~~shall~~ must be released each year on the licensed area during the shooting preserve season. ~~The minimum number of stock of each species to be released shall be determined by the department before the commencement of the season.~~

(3) Artificially propagated upland game birds released on a shooting preserve during the shooting preserve season must be at least 14 weeks of age and must be marked prior to release in a manner that distinguishes them from wild upland game birds."

Section 6. Section 87-4-524, MCA, is amended to read:

"87-4-524. Preserve operators to establish shooting restrictions. (1) Except for required compliance with the game recovery restriction provided in 87-4-523, shooting preserve operators licensed prior to ~~the~~

~~effective date of this act~~ JULY 1, 2003, may establish their own shooting limitations and restrictions on the age, sex, and number of each species that may be taken by each person.

~~(2) The department may impose restrictions on a shooting preserve license issued after the effective date of this act~~ JULY 1, 2003, in an area that supports existing native upland game bird species if the department determines that the restrictions are necessary to protect native populations. The restrictions must be based on sound biological principles."

Section 7. Section 87-4-526, MCA, is amended to read:

"87-4-526. Registration of shooters Shooting preserve records. (1) Each shooting preserve operator shall maintain a registration book listing:

- (a) the names, addresses, and ~~hunting license~~ automated licensing system numbers of all shooters;
- (b) the date on which ~~they~~ the shooters hunted;
- (c) the amount of game and the species taken; ~~and~~
- (d) the tag numbers affixed to each carcass; and
- (e) the number of wild upland game birds that were taken and tagged.

(2) An accurate record ~~likewise~~ must be maintained of the total number, by species, of game raised ~~and/or~~ or purchased and the date and number of all species released. These records ~~shall~~ must be open to inspection by a delegated representative of the department at any reasonable time and ~~shall~~ must be the basis upon which the game-recovery limits in 87-4-523 ~~shall~~ must be determined."

Section 8. Section 87-4-901, MCA, is amended to read:

"87-4-901. Definitions. For purposes of this part, the following definitions apply:

(1) "Game bird farm" means an enclosed area upon which game birds may be kept for purposes of obtaining, rearing in captivity, keeping, and selling game birds or parts of game birds as authorized under this part.

(2) "Game birds" means all birds defined as upland game birds in 87-2-101, ~~except that the only pheasants included are ring-necked pheasants, and quail are not included.~~"

NEW SECTION. **Section 9. Effective date.** [This act] is effective ~~on passage and approval~~ JULY 1, 2003.

- END -