

SENATE BILL NO. 166
INTRODUCED BY K. BALES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PADDLEFISH ROE DONATION PROGRAM; REVISING THE RESTRICTION THAT ONLY ROE FROM PADDLEFISH CAUGHT BETWEEN THE BURLINGTON NORTHERN RAILROAD BRIDGE AT GLENDIVE TO THE CONFLUENCE OF COTTONWOOD CREEK AND THE YELLOWSTONE RIVER IS ELIGIBLE FOR DONATION TO THE PROGRAM BY SPECIFYING A LONGER SECTION OF THE YELLOWSTONE RIVER; ADJUSTING THE PERCENTAGES OF PROGRAM PROCEEDS THAT ARE DIVIDED BETWEEN THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND THE NONPROFIT ORGANIZATION THAT PROCESSES AND MARKETS THE CAVIAR; ELIMINATING THE TERMINATION DATE APPLICABLE TO THE PROGRAM; AMENDING SECTION 87-4-601, MCA, SECTION 5, CHAPTER 409, LAWS OF 1989, AND SECTION 2, CHAPTER 196, LAWS OF 1993; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 87-4-601, MCA, is amended to read:

"87-4-601. (Temporary) Sale of fish or spawn unlawful -- exceptions. (1) Except as provided in subsections (2) and (3), a person may not, for speculative purposes, for market, or for sale, in any way, catch any of the fish ~~which that~~ in this title are classified as game fish or remove or cause to be removed the eggs or spawn of any ~~such game~~ fish. ~~No~~ A person may not sell or offer for sale any of the game fish of this state as defined in this title or the eggs or spawn from any game fish.

(2) The restrictions of subsection (1) do not apply to:

- (a) the catching of fish in private ponds by the owners of private ponds;
- (b) the taking of fish by state authorities for the purpose of obtaining eggs for propagation in state fish hatcheries or by any person who receives a permit from the department to take eggs for propagation purposes;
- (c) the catching of whitefish by the holder of a valid fishing license fishing with hook and line or rod in specified waters designated by rules and regulations of the department;
- (d) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River, under rules and regulations as the fish, wildlife, and parks commission may prescribe; or
- (e) the sale by the department of fish eggs produced from brood stock owned by the department but

determined to be in excess of the department's needs.

(3) (a) A person issued a paddlefish tag under 87-2-306 who legally takes a paddlefish from the Yellowstone River between the Burlington Northern Railroad bridge at Glendive to the ~~confluence of Cottonwood Creek and the Yellowstone River~~ North Dakota state line during an authorized paddlefish season may donate the paddlefish roe, or eggs, to a Montana nonprofit corporation as specified in subsection (3)(b) for processing and marketing as caviar. A paddlefish may be brought only to the Intake fishing access site for donation to the paddlefish roe donation program and must be a properly tagged, whole paddlefish. Roe separated from the paddlefish is not acceptable for donation to the program. A paddlefish intentionally cut in any manner to identify its sex is also unacceptable for donation to the program.

(b) The department shall develop rules for selecting one Montana nonprofit organization to accept paddlefish egg donations and process and market the eggs as caviar. The department shall also develop rules for the marketing and sale of caviar under this section.

(c) The department may enter into an agreement with the organization selected pursuant to the rules provided for in subsection (3)(b) specifying times, sites, and other conditions under which paddlefish eggs may be collected. The agreement must require the organization to maintain records of revenue collected and related expenses incurred and to make the records available to the department and the legislative auditor upon request.

(d) (i) ~~Forty~~ Twenty-five percent of the proceeds from the sale of paddlefish egg caviar products in excess of the costs of collection, processing, and marketing must be deposited in a state special revenue fund established for the department. The fund and any interest earned on the fund must be used to benefit the paddlefish fishery, including fishing access, administration, improvements, habitat, and fisheries management, or to provide information to the public regarding fishing in eastern Montana, which could include the design and construction of interpretive displays.

(ii) ~~Sixty~~ Seventy-five percent of the proceeds from the sale of paddlefish egg caviar products in excess of the costs of collection, processing, and marketing must be paid to the nonprofit organization that processes and markets the caviar. The nonprofit organization's administrative costs must be paid from its share of the proceeds. An advisory committee must be appointed by the commission and consist of one member from the organization selected pursuant to the rules provided for in subsection (3)(b), two area local government representatives, and two representatives of area ~~sportsmen~~ anglers. The advisory committee shall solicit and review historical, cultural, recreational, and fish and wildlife proposals and fund projects. The committee shall notify the commission of its actions. Proceeds may be used as seed money for grants. (~~Terminates June 30, 2003--sec. 2, Ch. 196, L. 1993.~~)

~~**87-4-601. (Effective July 1, 2003) Sale of fish or spawn unlawful -- exceptions.** (1) Except as provided in subsection (2), no person may, for speculative purposes, for market, or for sale, in any way, catch any of the fish which in this title are classified as game fish or remove or cause to be removed the eggs or spawn of any such fish. No person may sell or offer for sale any of the game fish of this state as defined in this title or the eggs or spawn therefrom:~~

~~———— (2) The restrictions of subsection (1) do not apply to:~~

~~———— (a) the catching of fish in private ponds by the owners thereof;~~

~~———— (b) the taking of fish by state authorities for the purpose of obtaining eggs for propagation in state fish hatcheries or by any person who receives a permit from the department to take eggs for such purposes;~~

~~———— (c) the catching of whitefish by the holder of a valid fishing license fishing with hook and line or rod in specified waters designated by rules and regulations of the department;~~

~~———— (d) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River, under such rules and regulations as the fish, wildlife, and parks commission may prescribe;~~

~~or~~

~~———— (e) the sale by the department of fish eggs produced from brood stock owned by the department but determined to be in excess of the department's needs."~~

Section 2. Section 5, Chapter 409, Laws of 1989, is amended to read:

"Section 5. **Effective date -- termination.** [This act] is effective July 1, 1989, and terminates June 30, 1993."

Section 3. Section 2, Chapter 196, Laws of 1993, is amended to read:

"Section 2. Section 5, Chapter 409, Laws of 1989, is amended to read:

"Section 5. **Effective date -- termination.** [This act] is effective July 1, 1989, and terminates June 30, 1993 2003.""

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

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