

SENATE BILL NO. 420
INTRODUCED BY E. BUTCHER

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING ENFORCEMENT AUTHORITY FOR FISH AND GAME, PARKS, BOATING, SNOWMOBILE, AND OFF-HIGHWAY VEHICLE LAWS FROM THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO COUNTY SHERIFFS; ELIMINATING GAME WARDENS AND PARK RANGERS AS OFFICERS RESPONSIBLE FOR THE ENFORCEMENT OF FISH AND GAME LAWS; CREATING A FISH, WILDLIFE, AND PARKS ENFORCEMENT SPECIAL REVENUE ACCOUNT FROM WHICH COUNTY SHERIFFS WILL BE REIMBURSED FOR HIRING RURAL DEPUTIES OR OTHER SPECIAL ENFORCEMENT PERSONNEL TO PERFORM FISH AND GAME ENFORCEMENT ACTIVITIES; ESTABLISHING TERMS AND CONDITIONS FOR ADMINISTRATION OF THE ENFORCEMENT ACCOUNT; REQUIRING THAT COUNTY SHERIFFS COORDINATE ENFORCEMENT ACTIVITIES WITH BIOLOGISTS AND OTHER FISH, WILDLIFE, AND PARKS PERSONNEL; REVISING PROVISIONS RELATED TO GAME WARDEN RETIREMENT AND INSURANCE TO REFLECT THE ELIMINATION OF GAME WARDENS; AMENDING SECTIONS 7-23-102, 7-32-303, 17-6-203, 19-1-104, 19-1-301, 19-2-706, 19-3-509, 19-6-802, 19-7-802, 19-8-101, 19-8-102, 19-8-105, 19-8-301, 19-8-302, 19-8-308, 19-8-501, 19-8-504, 19-8-902, 19-9-405, 19-13-404, 23-1-106, 23-1-121, 23-1-122, 23-2-410, 23-2-506, 23-2-511, 23-2-527, 23-2-641, 23-2-806, 33-22-136, 37-47-345, 75-10-233, 76-13-601, 77-1-801, 77-5-104, 87-1-101, 87-1-201, 87-1-208, 87-1-224, 87-1-405, 87-1-502, 87-1-506, 87-1-511, 87-1-514, 87-2-106, 87-2-107, 87-2-109, 87-2-903, 87-3-102, 87-3-124, 87-4-201, 87-4-302, 87-4-703, 87-4-807, AND 87-5-111, MCA; AND REPEALING SECTIONS 87-1-404, 87-1-501, 87-1-503, 87-1-504, AND 87-1-505, MCA."

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

NEW SECTION. Section 1. Enforcement account -- purpose -- expenditure from account. (1) There is a fish, wildlife, and parks enforcement special revenue account in the state special revenue fund established in 17-2-102, to the credit of the department. The department shall administer the enforcement account pursuant to the provisions of this section.

(2) A minimum of 12% of the annual general budget of the department must be placed in the enforcement account each year. The money must be spent by the department as reimbursement to county sheriffs for costs incurred in hiring rural deputies or other special officers under the sheriffs' offices to enforce the

fish, wildlife, and parks laws of the state, as provided in this section.

(3) Each county is entitled to an equal biennial share of funds in the enforcement account, but if a county sheriff does not use that entire share during a biennium, any unused funds in the account may be used to reimburse the costs of a county sheriff who has additional enforcement requirements beyond the amount allotted as an equal share. If the budget of any county sheriff is reduced by a local government, other than as part of a general county budget reduction, the amount of reimbursement that county sheriff may apply for from the enforcement account is reduced by an amount equal to the amount of the local government budget reduction.

(4) The department shall develop and implement rules to administer the enforcement account, including but not limited to rules:

(a) establishing the necessary forms for disbursing funds to county sheriffs who request reimbursement from the account for funding rural deputy or special enforcement personnel positions;

(b) providing for the accurate and prompt reimbursement of county sheriffs' enforcement costs, including a method for verifying the hiring of rural deputies or special enforcement personnel whose duties include the enforcement of fish, wildlife, and parks laws; and

(c) for the accurate accounting of all money spent from the enforcement account.

(5) A county sheriff who incurs costs associated with the enforcement of state fish, wildlife, and parks laws may submit a claim for those costs to the department. The department shall promptly pay the claim from the money in the enforcement account. The funding of positions for rural deputy sheriffs whose primary responsibility is the enforcement of state fish, wildlife, and parks laws is considered a valid enforcement cost pursuant to this subsection. Funding for full-time designated rural deputies must be disbursed to county sheriffs on a regular monthly basis or as a block grant.

(6) Any money left in the enforcement account at the end of a biennium reverts to the department's state special revenue account and is subject to reallocation to the enforcement account as part of the percentage set out in subsection (2).

Section 2. Section 7-23-102, MCA, is amended to read:

"7-23-102. Seizure and impounding of dogs running at large without tag. Any dog found running at large without a valid current dog license tag issued by the authority of a county or municipal corporation pursuant to the provisions of this part, part 21, and 7-23-4103 may be seized and impounded by any sheriff, deputy sheriff, policeman, ~~game warden,~~ county poundmaster, or other law enforcement officer."

Section 3. Section 7-32-303, MCA, is amended to read:

"7-32-303. Peace officer employment, education, and certification standards -- suspension or revocation -- penalty. (1) For purposes of this section, unless the context clearly indicates otherwise, "peace officer" means a deputy sheriff, undersheriff, police officer, highway patrol officer, ~~fish and game warden, park ranger,~~ campus security officer, or airport police officer.

(2) ~~No~~ A sheriff of a county, mayor of a city, board, commission, or other person authorized by law to appoint peace officers in this state ~~shall~~ may not appoint any person as a peace officer who does not meet the following qualifications plus any additional qualifying standards for employment promulgated by the board of crime control:

- (a) be a citizen of the United States;
- (b) be at least 18 years of age;
- (c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any criminal record;
- (d) not have been convicted of a crime for which the person could have been imprisoned in a federal or state penitentiary;
- (e) be of good moral character, as determined by a thorough background investigation;
- (f) be a high school graduate or have passed the general education development test and have been issued an equivalency certificate by the superintendent of public instruction or by an appropriate issuing agency of another state or of the federal government;
- (g) be examined by a licensed physician, who is not the applicant's personal physician, appointed by the employing authority to determine if the applicant is free from any mental or physical condition that might adversely affect performance by the applicant of the duties of a peace officer;
- (h) successfully complete an oral examination conducted by the appointing authority or its designated representative to demonstrate the possession of communication skills, temperament, motivation, and other characteristics necessary to the accomplishment of the duties and functions of a peace officer; and
- (i) possess or be eligible for a valid Montana driver's license.

(3) At the time of appointment a peace officer shall take a formal oath of office.

(4) Within 10 days of the appointment, termination, resignation, or death of any peace officer, written notice thereof must be given to the board of crime control by the employing authority.

(5) (a) Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing authority to cause each peace officer appointed under its authority to attend and successfully complete, within 1 year of the

initial appointment, an appropriate peace officer basic course certified by the board of crime control. Any peace officer appointed after September 30, 1983, who fails to meet the minimum requirements as set forth in subsection (2) or who fails to complete the basic course as required by this subsection (a) forfeits the position, authority, and arrest powers accorded a peace officer in this state.

(b) A peace officer who has been issued a basic certificate by the board of crime control and whose last date of employment as a peace officer was less than 36 months prior to the date of the person's present appointment as a peace officer is not required to fulfill the basic educational requirements of subsection (5)(a). If the peace officer's last date of employment as a peace officer was 36 or more but less than 60 months prior to the date of present employment as a peace officer, the peace officer may satisfy the basic educational requirements as set forth in subsection (5)(c).

(c) A peace officer under the provisions of subsection (5)(b) or a peace officer who has completed a basic peace officer's course in another state and whose last date of employment as a peace officer was less than 60 months prior to the date of present appointment as a peace officer may, within 1 year of the peace officer's present employment or initial appointment as a peace officer within this state, satisfy the basic educational requirements by successfully passing a basic equivalency test administered by the Montana law enforcement academy and successfully completing a legal training course conducted by the academy. If the peace officer fails the basic equivalency test, the peace officer shall complete the basic course within 120 days of the date of the test.

(6) The board of crime control may extend the 1-year time requirements of subsections (5)(a) and (5)(c) upon the written application of the peace officer and the appointing authority of the officer. The application must explain the circumstances that make the extension necessary. Factors that the board may consider in granting or denying the extension include but are not limited to illness of the peace officer or a member of the peace officer's immediate family, absence of reasonable access to the basic course or the legal training course, and an unreasonable shortage of personnel within the department. The board may not grant an extension to exceed 180 days.

(7) A peace officer who has successfully met the employment standards and qualifications and the educational requirements of this section and who has completed a 1-year probationary term of employment must, upon application to the board of crime control, be issued a basic certificate by the board, certifying that the peace officer has met all the basic qualifying peace officer standards of this state.

(8) It is unlawful for a person whose certification as a peace officer, detention officer, or detention center administrator has been revoked or suspended by the board of crime control to act as a peace officer, detention

officer, or detention center administrator. A person convicted of violating this subsection is guilty of a misdemeanor, punishable by a term of imprisonment not to exceed 6 months in the county jail or by a fine not to exceed \$500, or both."

Section 4. Section 17-6-203, MCA, is amended to read:

"17-6-203. Separate investment funds. Separate investment funds must be maintained as follows:

(1) the permanent funds, including all public school funds and funds of the Montana university system and other state institutions of learning referred to in Article X, sections 2 and 10, of the Montana constitution. The principal and any part of the principal of each fund constituting the Montana permanent fund type are subject to deposit at any time when due under the statutory provisions applicable to the fund and according to the provisions of the gift, donation, grant, legacy, bequest, or devise through or from which the particular fund arises.

(2) a separate investment fund, which may not be held jointly with other funds, for money pertaining to each retirement or insurance system maintained by the state, including:

- (a) the highway patrol officers' retirement system described in Title 19, chapter 6;
- (b) the public employees' retirement system described in Title 19, chapter 3;
- (c) the ~~game wardens' and~~ peace officers' retirement system described in Title 19, chapter 8;
- (d) the teachers' retirement system described in Title 19, chapter 20; and
- (e) the workers' compensation program described in Title 39, chapter 71, part 23;

(3) a pooled investment fund, including all other accounts within the treasury fund structure established by 17-2-102;

(4) the fish and wildlife mitigation trust fund established by 87-1-611;

(5) a fund consisting of gifts, donations, grants, legacies, bequests, devises, and other contributions made or given for a specific purpose or under conditions expressed in the gift, donation, grant, legacy, bequest, devise, or contribution to be observed by the state of Montana. If a gift, donation, grant, legacy, bequest, devise, or contribution permits investment and is not otherwise restricted by its terms, it may be treated jointly with other gifts, donations, grants, legacies, bequests, devises, or contributions.

(6) a fund consisting of coal severance taxes allocated to the coal severance tax trust fund under Article IX, section 5, of the Montana constitution. The principal of the coal severance tax trust fund is permanent. If the legislature appropriates any part of the principal of the coal severance tax trust fund by a vote of three-fourths of the members of each house, the appropriation or investment may create a gain or loss in the principal.

(7) a Montana tobacco settlement trust fund established in accordance with Article XII, section 4, of the

Montana constitution and Title 17, chapter 6, part 6; and

(8) additional investment funds that are expressly required by law or that the board of investments determines are necessary to fulfill fiduciary responsibilities of the state with respect to funds from a particular source."

Section 5. Section 19-1-104, MCA, is amended to read:

"19-1-104. Retirement systems to be considered separate. (1) Pursuant to section 218(d)(6) of the Social Security Act (42 U.S.C. 418(d)(6)), the public employees' retirement system of the state of Montana is, for the purposes of this chapter, considered a separate retirement system with respect to the state and a separate retirement system with respect to each political subdivision having positions covered by the system.

(2) Pursuant to section 218(l)(1) of the Social Security Act (42 U.S.C. 418(l)(1)), the Montana judges' retirement system, the sheriffs' retirement system, the Montana state ~~game wardens'~~ and peace officers' retirement system, the highway patrol officers' retirement system of the state of Montana, the public employees' retirement system of the state of Montana, and each municipal police retirement fund and each city participating in the municipal police officers' retirement system are, for the purposes of this chapter, considered separate retirement systems with respect to the state and separate retirement systems with respect to each political subdivision having positions covered by those systems."

Section 6. Section 19-1-301, MCA, is amended to read:

"19-1-301. Authorization of referendum by governor. With respect to members of the public employees', highway patrol officers', judges', and ~~game wardens'~~ and peace officers' retirement systems, the governor is empowered to authorize a referendum, and with respect to the employees of any political subdivision, ~~he~~ the governor shall authorize a referendum upon the request of the governing body of the subdivision."

Section 7. Section 19-2-706, MCA, is amended to read:

"19-2-706. Additional service for member involuntarily terminated from membership service. (1) An employee of the state or university system is entitled to the involuntary termination provision provided in subsection (3) if:

(a) the employee is a member of the public employees', ~~game wardens'~~ and peace officers', sheriffs', or highway patrol officers' retirement system;

(b) the employee's active service is involuntarily terminated because of elimination of the employee's

position as a result of privatization, reorganization of an agency, closure of or a reduction in force at an agency, or other actions by the legislature or, in the case of a legislator, because of term limits terminating the service of the legislator in either one of the houses of the legislature;

(c) the employee is eligible for a normal service retirement or early retirement under the applicable provisions of the retirement system to which the member belongs; and

(d) the employee waives termination benefits for which the employee would otherwise be eligible under the State Employee Protection Act.

(2) The cost of each year of service purchased under this section is the total actuarial cost of purchasing the service based on the most recent actuarial valuation of the retirement system.

(3) The employer of an eligible member under subsection (1) shall pay a portion of the total cost of purchasing up to 3 years of additional service that the member was qualified to purchase under 19-3-513, 19-6-804, 19-7-804, or 19-8-904. The employer-paid portion applied toward the service purchase must be calculated using the formula $A \times B \times C$ when:

(a) A is equal to a maximum of 3 additional years of service that the member is eligible to purchase;

(b) B is equal to the sum of the employer and employee contribution rates in the member's retirement system; and

(c) C is equal to the member's gross compensation paid during the immediate preceding 12 months of membership service. The employer may not be charged more than the total actuarial cost of the service purchased by the terminated employee.

(4) The member shall pay the difference, if any, between the full actuarial cost of the service to be purchased and the amount contributed by the employer under subsection (3). A member may elect to purchase less than the full amount of service for which the member is eligible under this section, but the election may not reduce the amount of the employer's contribution as calculated under subsection (3).

(5) The board may allow an employer to pay the contributions required under subsection (3) in installments for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403.

(6) A member who has received additional service under this section and who returns to employment for the same jurisdiction for 960 or more hours in a calendar year in a position covered by the public employees' retirement system or for 600 or more hours in a calendar year in a position covered under any other retirement system forfeits the additional service. The employer's contribution to purchase that member's additional service, minus any retirement benefits already paid, must be credited to the employer. As used in this subsection, the same jurisdiction means all agencies of the state, including the university system."

Section 8. Section 19-3-509, MCA, is amended to read:

"19-3-509. Purchase of other Montana public service. (1) (a) A member may, at any time before retirement, file a written application with the board to purchase as service in this retirement system all or any portion of the member's service credit in the highway patrol officers', sheriffs', ~~game wardens'~~ and peace officers', firefighters' unified, or municipal police officers' retirement system to the extent that the member either has received or is eligible to receive a refund of membership contributions. To purchase this service, the member shall pay the actuarial cost of the service in the public employees' retirement system, as determined by the board, based on the system's most recent actuarial valuation minus the employer contribution provided in subsection (1)(b).

(b) Upon receiving the member's payment under subsection (1)(a), the board shall transfer from the member's former retirement system to the public employees' retirement system an amount equal to the employer contributions made during the member's service but no more than an amount equal to the normal cost contribution rate minus the employee contribution rate in the public employees' retirement system, according to the most recent actuarial valuation, based on the salaries earned by the employee as a member of the former system.

(2) (a) A member may, at any time before retirement, file a written application with the board to purchase all or a portion of full-time public service employment performed for the state or a political subdivision of the state. The member shall provide salary and employment documentation certified by the member's former public employer. To purchase service under this section, the employee shall pay the actuarial cost of the service in the public employees' retirement system, as determined by the board, based on the system's most recent actuarial valuation.

(b) The board is the sole authority under this subsection (2) in determining what constitutes full-time public service."

Section 9. Section 19-6-802, MCA, is amended to read:

"19-6-802. Purchase of other Montana public service. (1) (a) A member may, at any time before retirement, file a written application with the board to purchase all or any portion of the member's service in the public employees', sheriffs', ~~game wardens'~~ and peace officers', firefighters' unified, or municipal police officers' retirement system to the extent that the member either has received or is eligible to receive a refund of the member's membership contributions. To purchase this service, the member shall pay the actuarial cost of the service in the highway patrol officers' retirement system, as determined by the board, based on the system's most

recent actuarial valuation minus the employer contribution provided in subsection (1)(b).

(b) Upon receiving the member's payment under subsection (1)(a), the board shall transfer from the member's former retirement system to the highway patrol officers' retirement system an amount equal to the employer contributions made during the member's service but no more than an amount equal to the normal contribution rate minus the employee contribution rate in the highway patrol officers' retirement system, according to the most recent actuarial valuation.

(2) (a) A member may, at any time before retirement, file a written application with the board to purchase all or a portion of full-time public service employment performed for the state or a political subdivision of the state. The member shall provide compensation and employment documentation certified by the member's public employer. The board shall grant service credit subject to the board's rules. To purchase service under this section, the employee shall pay the actuarial cost of the service in the highway patrol officers' retirement system, as determined by the board, based on the system's most recent actuarial valuation.

(b) The board is the sole authority under this subsection (2) in determining what constitutes full-time public service."

Section 10. Section 19-7-802, MCA, is amended to read:

"19-7-802. Purchase of other Montana public service. (1) (a) A member may, at any time before retirement, file a written application with the board to purchase all or any portion of the member's service in the public employees', highway patrol officers', firefighters' unified, ~~game wardens' and~~ peace officers', or municipal police officers' retirement system to the extent that the member either has received or is eligible to receive a refund of the member's membership contributions. To purchase this service, the member shall pay the actuarial cost of the service in the sheriffs' retirement system, as determined by the board, based on the system's most recent actuarial valuation minus the employer contribution provided in subsection (1)(b).

(b) Upon receiving the member's payment under subsection (1)(a), the board shall transfer from the member's former retirement system to the sheriffs' retirement system an amount equal to the employer contributions made during the member's service but no more than an amount equal to the normal contribution rate minus the employee contribution rate in the sheriffs' retirement system, according to the most recent actuarial valuation, based on the compensation earned by the employee as a member of the former system.

(2) (a) A member may, at any time before retirement, file a written application with the board to purchase all or a portion of full-time public service employment performed for the state or a political subdivision of the state. The member shall provide compensation and employment documentation certified by the member's public

employer. To purchase service under this section, the employee shall pay the actuarial cost of the service in the sheriffs' retirement system, as determined by the board, based on the system's most recent actuarial valuation.

(b) The board is the sole authority under this subsection (2) in determining what constitutes full-time public service."

Section 11. Section 19-8-101, MCA, is amended to read:

"19-8-101. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:

(1) "Compensation" means remuneration paid for services to a member out of funds controlled by an employer before any pretax deductions allowed by the Internal Revenue Code are made and exclusive of maintenance, allowances, and expenses.

(2) "Highest average compensation" means the highest average monthly compensation received by a member for any 3 years of continuous service upon which contributions were made or, in the event a member has not served 3 years, the total compensation earned divided by the number of months served. Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to an employee upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the highest average compensation. A lump-sum payment may not be added to a single month's compensation.

~~(3) "Game warden" means a state fish and game warden hired by the department of fish, wildlife, and parks and includes all warden supervisory personnel whose salaries or compensation is paid out of the department of fish, wildlife, and parks money.~~

~~(4)~~(3) "Motor carrier officer" means an employee of the department of transportation appointed as a peace officer pursuant to 61-12-201.

~~(5)~~(4) "Peace officer" or "state peace officer" means a person who by virtue of the person's employment with the state is vested by law with a duty to maintain public order or make arrests for offenses while acting within the scope of the person's authority or who is charged with specific law enforcement responsibilities on behalf of the state."

Section 12. Section 19-8-102, MCA, is amended to read:

"19-8-102. ~~Game wardens' and peace~~ Peace officers' retirement system established. There is a

retirement plan known as the ~~game wardens' and~~ peace officers' retirement system, which is governed by the provisions of chapter 2 and this chapter."

Section 13. Section 19-8-105, MCA, is amended to read:

"19-8-105. Short title. This chapter may be cited as "The ~~Game Wardens' and~~ Peace Officers' Retirement Act"."

Section 14. Section 19-8-301, MCA, is amended to read:

"19-8-301. Membership -- inactive vested members -- inactive nonvested members. (1) Except as provided in 19-8-302, the following state peace officers must be covered under the ~~game wardens' and~~ peace officers' retirement system and, beginning on the first day of employment, shall become and remain active members for as long as they are employed as peace officers:

- ~~(a)~~ ~~game wardens who are assigned to law enforcement in the department of fish, wildlife, and parks;~~
- ~~(b)~~(a) motor carrier officers employed by the department of transportation;
- ~~(c)~~(b) campus security officers employed by the university system;
- ~~(d)~~(c) wardens and deputy wardens employed by the department of corrections;
- ~~(e)~~(d) corrections officers employed by the department of corrections;
- ~~(f)~~(e) probation and parole officers employed by the department of corrections;
- ~~(g)~~(f) stock inspectors and detectives employed by the department of livestock;
- ~~(h)~~(g) motor vehicle inspectors employed by the department of justice; and
- ~~(i)~~(h) drill instructors employed by the department of corrections.

(2) A member with at least 5 years of membership service who terminates service and does not take a refund of the member's accumulated contributions is an inactive vested member and retains the right to purchase service and to receive a retirement benefit under the provisions of this chapter.

(3) A member with less than 5 years of membership service who terminates service and leaves the member's accumulated contributions in the pension trust fund is an inactive nonvested member and is not eligible for any benefits from the retirement system. An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

Section 15. Section 19-8-302, MCA, is amended to read:

"19-8-302. Public employees' retirement system -- transfer of membership. (1) Except as provided

in subsections (2) and (4), an eligible peace officer shall become a member of the ~~game wardens' and peace officers'~~ retirement system on the first day of covered service.

(2) A member of the public employees' retirement system who first becomes eligible for membership in the ~~game wardens' and peace officers'~~ retirement system on July 1, 1997, may elect to become a member of the retirement system or may continue membership in the public employees' retirement system by filing a written election that must be received by the board no later than December 31, 2001.

(3) A person who is a member of the ~~game wardens' and peace officers'~~ retirement system assigned to law enforcement who transfers to a position involving duties other than law enforcement within the same state agency may retain membership in the retirement system by filing a written election with the board no later than 30 days after transfer to the new position.

(4) A person who is a member of the public employees' retirement system who transfers to a position covered by the ~~game wardens' and peace officers'~~ retirement system may elect to become a member of the retirement system or may continue membership in the public employees' retirement system by filing a written election with the board no later than 30 days after transfer to the new position."

Section 16. Section 19-8-308, MCA, is amended to read:

"19-8-308. Transfer of service. A person who elects to become a member of the ~~game wardens' and peace officers'~~ retirement system pursuant to 19-8-302 may transfer the member's service in the public employees' retirement system into the ~~game wardens' and peace officers'~~ retirement system under the provisions of 19-8-902."

Section 17. Section 19-8-501, MCA, is amended to read:

"19-8-501. Contributions to pension trust fund. ~~The following~~ All interest on and increase of the investments and money in the pension trust fund must be paid to the board and must be credited to the pension trust fund:

~~(1) all contributions by the state from department of fish, wildlife, and parks money;~~

~~(2) all contributions by the state game wardens; and~~

~~(3) all interest on and increase of the investments and money in the pension trust fund."~~

Section 18. Section 19-8-504, MCA, is amended to read:

"19-8-504. State employer's contribution. Each month, state employers shall pay to the pension trust

fund a sum equal to 9% of the total compensation paid to their covered employees. ~~The department of fish, wildlife, and parks shall include in its budget and shall request for legislative appropriation an amount necessary to defray the state's portion of the costs of this section.~~"

Section 19. Section 19-8-902, MCA, is amended to read:

"19-8-902. Purchase of other Montana public service. (1) (a) A member may, at any time before retirement, file a written application with the board to purchase all or any portion of the member's service credit in the public employees', highway patrol officers', firefighters' unified, sheriffs', or municipal police officers' retirement system to the extent that the member either has received or is eligible to receive a refund of the member's accumulated contributions. To purchase this service, the member shall pay the actuarial cost of the service in the ~~game wardens' and~~ peace officers' retirement system, as determined by the board, based on the system's most recent actuarial valuation minus the employer contribution provided in subsection (1)(b).

(b) Upon receiving the member's payment under subsection (1)(a), the board shall transfer from the member's former retirement system to the ~~game wardens' and~~ peace officers' retirement system an amount equal to the employer contributions made during the member's service but no more than an amount equal to the normal contribution rate minus the employee contribution rate in the ~~game wardens' and~~ peace officers' retirement system, according to the most recent actuarial valuation, based on the salaries earned by the employee as a member of the former system.

(2) (a) A member may, at any time before retirement, file a written application with the board to purchase all or a portion of full-time public service employment performed for the state or a political subdivision of the state. The member shall provide salary and employment documentation certified by the member's public employer. The board shall grant service credit subject to the board's rules. To purchase service under this section, the employee shall pay the actuarial cost of the service in the ~~game wardens' and~~ peace officers' retirement system, as determined by the board, based on the system's most recent actuarial valuation.

(b) The board is the sole authority under this subsection (2) in determining what constitutes full-time public service."

Section 20. Section 19-9-405, MCA, is amended to read:

"19-9-405. Purchase of other Montana public service. (1) (a) A member may, at any time before retirement, file a written application with the board to purchase all or any portion of the member's service credit in the public employees', highway patrol officers', firefighters' unified, sheriffs', or ~~game wardens' and~~ peace

officers' retirement system to the extent that the member either has received or is eligible to receive a refund of the member's accumulated contributions.

(b) To purchase this service, the member shall pay the actuarial cost of the service in the municipal police officers' retirement system, as determined by the board, based on the system's most recent actuarial valuation minus the employer contribution provided in subsection (1)(c).

(c) Upon receiving the member's payment under subsection (1)(b), the board shall transfer from the member's former retirement system to the municipal police officers' retirement system an amount equal to the employer contributions made during the member's service but no more than an amount equal to the regular contribution rate minus the employee contribution rate in the municipal police officers' retirement system, according to the most recent actuarial valuation, based on the salaries earned by the employee as a member of the former system.

(2) (a) A member may, at any time before retirement, file a written application with the board to purchase all or a portion of full-time public service employment performed for the state or a political subdivision of the state. The member shall provide salary and employment documentation certified by the member's public employer. The board shall grant service credit subject to the board's rules. To purchase service under this section, the employee shall pay the actuarial cost of the service in the municipal police officers' retirement system, as determined by the board, based on the system's most recent actuarial valuation.

(b) The board is the sole authority under this subsection (2) in determining what constitutes full-time public service."

Section 21. Section 19-13-404, MCA, is amended to read:

"19-13-404. Purchase of other Montana public service. (1) (a) A member may, at any time before retirement, file a written application with the board to purchase all or any portion of the member's service credit in the public employees', highway patrol officers', sheriffs', municipal police officers', or ~~game wardens'~~ and peace officers' retirement system to the extent that the member either has received or is eligible to receive a refund of the member's accumulated contributions.

(b) To purchase this service, the member shall pay the actuarial cost of the service in the firefighters' unified retirement system, as determined by the board, based on the system's most recent actuarial valuation minus the employer contribution provided in subsection (1)(c).

(c) Upon receiving the member's payment under subsection (1)(b), the board shall transfer from the member's former retirement system to the firefighters' unified retirement system an amount equal to the employer

contributions made during the member's service but no more than an amount equal to the normal contribution rate minus the employee contribution rate in the firefighters' unified retirement system, according to the most recent actuarial valuation, based on the compensation earned by the employee as a member of the former system.

(2) (a) A member may, at any time before retirement, file a written application with the board to purchase all or a portion of full-time public service employment performed for the state or a political subdivision of the state. The member shall provide compensation and employment documentation certified by the member's public employer. The board shall grant service credit subject to the board's rules. To purchase service under this section, the employee shall pay the actuarial cost of the service in the firefighters' unified retirement system, based on the system's most recent actuarial valuation.

(b) The board is the sole authority under this subsection (2) in determining what constitutes full-time public service."

Section 22. Section 23-1-106, MCA, is amended to read:

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

(2) Any person who injures or damages any land or property under control of the department or private property ~~thereon or therein~~ on or in the land or property or violates any of the rules made by the department relating to these areas 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."~~

Section 23. Section 23-1-121, MCA, is amended to read:

"23-1-121. ~~Park rangers -- qualifications -- powers~~ Powers and duties of county sheriffs. ~~(1) The department is authorized to establish a corps of park rangers and to select and appoint park rangers who must be qualified by their experience, training, skill, and interest in the protection, conservation, and stewardship of the natural and cultural resources and parks administered by the department.~~

~~(2)(1) Park rangers~~ County sheriffs shall enforce the laws of this state and the rules of the department and the fish, wildlife, and parks commission that provide for the protection, conservation, and stewardship of the natural and cultural resources in the state parks system.

~~(3)(2) Park rangers~~ County sheriffs shall:

(a) protect campers, picnickers, and other park users;

(b) keep the peace;

(c) supervise public use; and

(d) maintain public order in all units of the state parks system.

~~(4) Park rangers shall perform all other duties prescribed by the department."~~

Section 24. Section 23-1-122, MCA, is amended to read:

"23-1-122. ~~Enforcement powers of park rangers and game wardens~~ county sheriffs. ~~(1) Park rangers appointed pursuant to 23-1-121 and fish and game wardens appointed pursuant to 87-1-501~~ County sheriffs are authorized ~~officers with the authority~~ to enforce the laws and adopted rules relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, ~~except chapter 2, part 7~~ and judgements obtained for violations of the laws and rules specified in this section.

~~_____ (2) An authorized officer may:~~

~~_____ (a) arrest, in accordance with Title 46, chapter 6, any person within an area managed by the department upon probable cause to believe that the person has committed an offense against chapters 1 and 2 of this title, except chapter 2, part 7, or rules of the department or the fish, wildlife, and parks commission;~~

~~_____ (b) enforce the disorderly conduct and public nuisance laws under 45-8-101 and 45-8-111 as they apply to the operation of motorboats on waters within areas managed by the department under this part; and~~

~~_____ (c) exercise other powers of peace officers in the enforcement of:~~

~~_____ (i) laws relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter~~

2, part 7;

- ~~_____ (ii) rules of the department and the fish, wildlife, and parks commission; and~~
- ~~_____ (iii) judgments obtained for violations of the laws and rules specified in this subsection (2)(c)."~~

Section 25. Section 23-2-410, MCA, is amended to read:

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

~~(2) 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 part and rules of the department and the commission; and~~
- ~~_____ (c) to report violations to the county attorney of the county in which they occur."~~

Section 26. Section 23-2-506, MCA, is amended to read:

"23-2-506. Enforcement. (1) ~~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 part 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."~~

~~(2) All sheriffs and peace officers of the state of Montana and all United States coast guard law enforcement officers shall have authority to enforce provisions of this part, as amended."~~

Section 27. Section 23-2-511, MCA, is amended to read:

"23-2-511. Operation of unnumbered motorboats prohibited -- display of decals. (1) Every motorboat on the waters of this state, propelled by a motor or an engine of any description, must be properly numbered and display valid license decals. ~~No~~ A person may not operate or give permission for the operation

of any motorboat on ~~such~~ state waters unless the motorboat is numbered and displays valid license decals in accordance with this part, with applicable federal law, or with a federally approved numbering system of another state and unless:

- (a) the certificate of number assigned to the motorboat is in full force and effect;
- (b) the identifying number set forth in the certificate of number and the valid license decals are displayed on ~~such~~ the motorboat; and
- (c) a temporary permit has been obtained from the county in which the boat is being operated if that county requires a temporary permit for out-of-state motorboats, as provided in 7-16-2121.

(2) Upon transfer of ownership of a motorboat from a registered boat dealer or manufacturer, the transferred motorboat may be operated on the waters of this state for 30 consecutive calendar days immediately following the transfer of ownership without displaying the numbers and license decal required by subsection (1) provided that when the motorboat is operated during those 30 consecutive calendar days, a bill of sale or other evidence of transfer reciting the date of the transfer of ownership is retained in the motorboat and is exhibited to a ~~warden or other~~ peace officer upon request."

Section 28. Section 23-2-527, MCA, is amended to read:

"23-2-527. Collisions, accidents, and casualties. (1) The operator of a vessel involved in a collision, accident, or other casualty, so far as ~~he can do so~~ can be done without serious danger to ~~his~~ the operator's own vessel, crew, and passengers ~~(if any)~~, shall render to other persons affected by the collision, accident, or other casualty ~~such~~ any assistance ~~as that~~ that may be practicable and ~~as that~~ that may be necessary in order to save them from or minimize any danger caused by the collision, accident, or other casualty, ~~and~~ The operator shall give his the operator's name, address, and identification of ~~his~~ the operator's vessel in writing to any person injured and to the owner or person in control of any property damaged in the collision, accident, or other casualty.

(2) The department shall prepare and distribute to each sheriff's office ~~and each game warden~~ of this state a standardized accident report form. Any person involved in a collision, accident, or other casualty involving a death, disappearance, personal injury, or property damage in excess of \$100 shall immediately report ~~such~~ the collision, accident, or other casualty to the sheriff's office ~~or game warden~~ of the county in which the collision, accident, or casualty occurred and fill out a standardized accident report form.

- (3) A sheriff advised of a collision, accident, or other casualty reported under this part shall:
 - (a) conduct an appropriate investigation of ~~such~~ the collision, accident, or other casualty; and
 - (b) prepare and submit a report of the results of the investigation, together with the completed

standardized accident report forms, to the department."

Section 29. Section 23-2-641, MCA, is amended to read:

"23-2-641. Enforcement. (1) With respect to the sale of any new snowmobile that is subject to the provisions of 23-2-601 through 23-2-644, the attorney general shall, upon the request of the department, sue for the recovery of the penalties provided in 23-2-642 and bring an action for a restraining order or temporary or permanent injunction against a person who sells or offers to sell a new snowmobile that does not satisfy the sound level limitations imposed by 23-2-601 through 23-2-644.

~~(2) (a) 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:~~

~~—— (i) of search, seizure, and arrest;~~

~~—— (ii) to investigate activities in this state regulated by this part and rules of the department and the fish, wildlife, and parks commission; and~~

~~—— (iii) to report violations to the county attorney of the county in which they occur.~~

~~—— (b)(2) Sheriffs and their deputies of the various counties of the state, the Montana highway patrol, authorized officers of the department, and the police of each municipality shall enforce the provisions of this part."~~

Section 30. Section 23-2-806, MCA, is amended to read:

"23-2-806. Enforcement. (1) ~~The department of fish, wildlife, and parks enforcement personnel, park rangers, sheriffs~~ Sheriffs and their deputies, the Montana highway patrol, and the police of each municipality shall enforce the provisions of this part.

~~(2) 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 part 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.~~

~~—— (3) Park rangers may not carry firearms in the execution of their duties."~~

Section 31. Section 33-22-136, MCA, is amended to read:

"33-22-136. Insurance for spouse and dependents of deceased peace officer, ~~game warden,~~ or firefighter. (1) Any insurer, health service corporation, or health maintenance organization issuing group disability coverage to the spouse or dependents of a peace officer as defined in 45-2-101, ~~a game warden as defined in 19-8-101,~~ a firefighter as defined in 19-13-104, or a volunteer firefighter as defined in 19-17-102 shall renew the coverage of the spouse or dependents if the peace officer, ~~game warden,~~ firefighter, or volunteer firefighter dies within the course and scope of employment. This section also applies to a state employee group insurance program, a university system group insurance program, an employee group insurance program of a city, town, county, school district, or other political subdivision of the state, and any self-funded multiple employer welfare arrangement not regulated by the Employee Retirement Income Security Act of 1974 that provides coverage for a peace officer, ~~game warden,~~ firefighter, or volunteer firefighter. Except as provided in subsection (2), the continuation of the coverage is at the option of the spouse or dependents. Renewals of coverage under this section must provide for the same level of benefits as are available to other members of the group. Premiums charged to a spouse or dependent under this section must be the same as premiums charged to other similarly situated members of the group. Dependent special enrollment must be allowed under the terms of 33-22-523(2) and (3). The provisions of this subsection are applicable to a spouse or dependent who is insured under a COBRA continuation provision.

(2) A disability insurance issuer subject to the provisions of subsection (1) may discontinue or not renew the coverage of a spouse or dependent only if:

(a) the spouse or dependent has failed to pay premiums or contributions in accordance with the terms of the disability insurance coverage or if the disability insurer has not received timely premium payments;

(b) the spouse or dependent has performed an act or practice that constitutes fraud or has made an intentional misrepresentation of a material fact under the terms of the coverage; or

(c) the disability insurance issuer is ceasing to offer coverage in the group disability market in accordance with applicable state law."

Section 32. Section 37-47-345, MCA, is amended to read:

"37-47-345. Enforcement. Investigations and arrests for violations of this chapter or rules adopted pursuant to this chapter may be made by any peace officer; ~~warden of the department of fish, wildlife, and parks;~~ or federal agency enforcement personnel."

Section 33. Section 75-10-233, MCA, is amended to read:

"75-10-233. Dumping penalty -- enforcement. (1) A person found guilty of a violation of 75-10-212 shall be fined ~~in the sum not exceeding an amount not to exceed~~ \$100 or imprisoned in the county jail for a period not exceeding 30 days, ~~or be punished by both fine and imprisonment, in the discretion of the court.~~

(2) A person found absolutely liable under 75-10-212 is subject to a civil penalty not to exceed \$5,000.

(3) The provisions of 75-10-212 ~~shall~~ must be enforced by all highway patrol officers, sheriffs, ~~policemen~~ police officers, and all other enforcement agencies and officers of the state of Montana. ~~In addition, game wardens have the right to enforce the provisions of 75-10-212 on public property and on private property where public recreation is permitted."~~

Section 34. Section 76-13-601, MCA, is amended to read:

"76-13-601. Unlawful transportation of trees and boughs. (1) A person may not transport on the ways of this state more than five coniferous trees without having possession of a bill of sale showing ownership of the trees. The bill of sale ~~shall~~ must specify:

- (a) the date of its execution;
- (b) the name and address of the vendor or donor of the trees;
- (c) the name and address of the vendee or donee of the trees;
- (d) the number of trees, by species, sold or transferred by the bill of sale; and
- (e) the shipping yards or the property from which the trees were taken.

(2) Subsection (1) does not apply to:

- (a) the transportation of trees with their roots intact;
- (b) the transportation of logs, poles, pilings, or other forest products from which substantially all the limbs and branches have been removed;
- (c) the transportation of coniferous trees by the owner of the land from which they were taken or the owner's agent, provided that agent has possession of a tax receipt or other evidence indicating the section, township, and range from which the trees were harvested; or
- (d) the transportation of coniferous trees by a common carrier.

(3) A person may not transport on the ways of this state more than 200 pounds of boughs from coniferous trees without written authorization of the owner of the boughs.

(4) The bill of sale required in subsection (1) or the written authorization required in subsection (3) must be exhibited on request of a law enforcement officer, highway patrol officer, ~~state fish and game warden~~, an

employee of the department of transportation as appointed under 61-12-201, or an agent of the department of natural resources and conservation.

(5) A person who violates this section shall be punished by a fine not to exceed \$500, imprisonment not to exceed 6 months, or both.

(6) For the purposes of this section, "ways of this state" means any highway, road, alley, lane, parking area, or other public or private place adapted and fitted for public vehicle travel that is commonly used by the public with the express or implied consent of the owner."

Section 35. Section 77-1-801, MCA, is amended to read:

"77-1-801. Recreational use license required to use state lands for general recreational purposes -- penalty. (1) A person 12 years of age or older shall obtain an annual recreational use license pursuant to 77-1-802 to use state lands, as defined in 77-1-101, for general recreational purposes.

(2) A person shall, upon the request of a peace officer ~~or fish and game warden~~, present for inspection ~~his~~ the person's recreational use license.

(3) A violator of subsection (1) or (2) is guilty of a misdemeanor and shall be fined not less than \$50 or more than \$500, imprisoned in the county jail for not more than 6 months, or both."

Section 36. Section 77-5-104, MCA, is amended to read:

"77-5-104. Firewardens. (1) The department shall appoint firewardens in the number and localities that it considers necessary.

(2) The supervisors and rangers of the federal forest lands within this state, whenever they formally accept the duties and responsibilities of firewardens, may be appointed firewardens.

(3) The following are firewardens but may not receive any additional compensation by reason of the duties imposed:

- (a) sheriffs;
- (b) undersheriffs;
- (c) deputy sheriffs;
- ~~(d) state fish, wildlife, and parks wardens and park rangers;~~
- ~~(e)~~(d) the state fish, wildlife, and parks director;
- ~~(f)~~(e) the director and employees of the department designated by the director;
- ~~(g)~~(f) officers of organized forest protection districts;

- ~~(h)~~(g) members of the Montana highway patrol;
- ~~(i)~~(h) officers of the national park service residing in Montana;
- ~~(j)~~(i) officers of the bureau of Indian affairs;
- ~~(k)~~(j) county rural fire chiefs; and
- ~~(l)~~(k) employees of the state fire prevention and investigation program provided for in 2-15-2005.

(4) The firewardens shall promptly report all fires to the department, take immediate and active steps toward their extinguishment, report any violation of forest laws, and assist in apprehending and convicting offenders."

Section 37. Section 87-1-101, MCA, is amended to read:

"87-1-101. Definitions. Unless the context requires otherwise, in this title the following definitions apply:

- (1) "Commission" means the fish, wildlife, and parks commission provided for in 2-15-3402.
- (2) "Department" means the department of fish, wildlife, and parks provided for in Title 2, chapter 15, part 34.
- (3) "Director" means the director of fish, wildlife, and parks provided for in 2-15-3401.
- ~~(4) "Warden" means a state fish and game warden."~~

Section 38. Section 87-1-201, MCA, is amended to read:

"87-1-201. (Temporary) Powers and duties -- enforcement duties of county sheriffs. (1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary programs that encourage hunting access on private lands and that promote harmonious relations between landowners and the hunting public. It possesses all powers necessary to fulfill the duties prescribed by law ~~and to bring actions in the proper courts of this state for the enforcement of the fish and game laws~~ and the rules adopted by the department.

(2) ~~The department~~ County sheriffs shall enforce all the laws of the state respecting the protection, preservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state and bring actions in the proper courts of this state for the enforcement of the fish and game laws. County sheriffs' departments shall cooperate and coordinate enforcement of the state fish, wildlife, and parks laws with department biologists and other state enforcement administrators and field personnel in order to provide integrated enforcement.

(3) The department has the exclusive power to spend for the protection, preservation, and propagation

of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is appropriated to and under control of the department.

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

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

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

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

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

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

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

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

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

(c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a privately held listed species, a sensitive species, or a species that is a potential candidate for listing. (Terminates March 1, 2006--sec. 6, Ch. 544, L. 1999.)

87-1-201. (Effective March 1, 2006) Powers and duties -- enforcement duties of county sheriffs.

(1) The department shall supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state. It possesses all powers necessary to fulfill the duties prescribed by law and

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

(2) ~~The department~~ County sheriffs shall enforce all the laws of the state respecting the protection, preservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state ~~and bring actions in the proper courts of this state for the enforcement of the fish and game laws.~~ County sheriffs' departments shall cooperate and coordinate enforcement of the state fish, wildlife, and parks laws with department biologists and other state enforcement administrators and field personnel in order to provide integrated enforcement.

(3) The department has the exclusive power to spend for the protection, preservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources is appropriated to and under control of the department.

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

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

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

(7) The department is authorized to make; and promulgate; ~~and enforce~~ reasonable rules and regulations not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

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

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

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

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

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

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

Section 39. Section 87-1-208, MCA, is amended to read:

"87-1-208. Inspection at checking station. Every person, upon the request of ~~the director or his authorized representative or of any game warden~~ peace officer, shall produce for inspection any current fish and game license ~~which that~~ that has been issued to ~~such that~~ that person and shall produce for inspection any game animals, birds, fish, or fur-bearing animals in ~~his~~ that person's possession. Hunters or ~~fishermen~~ anglers entering or leaving areas for which checking stations have been established must stop and report if a checking station is on the hunter's or ~~fishermen's~~ angler's route of travel to or from the hunting or fishing area. Failure to stop and report at a checking station when personnel are on duty ~~shall constitute~~ is a misdemeanor."

Section 40. Section 87-1-224, MCA, is amended to read:

"87-1-224. Destruction of beaver and beaver dams for protection of public health. (1) When a complaint is made to the department of environmental quality that beaver are obstructing the free flow of a stream flowing through a settled area and into which stream sewage of a town or city is dumped and the obstruction endangers public health, the department of environmental quality shall immediately investigate the complaint. If it finds that the work of the beaver endangers public health, it shall report the facts to the department.

(2) The department shall immediately issue a permit, free of charge, to the landowner upon whose land the beaver dams are located for the removal of the beaver, the number of which must be designated by the ~~warden~~ department employee making the inspection. The landowner shall remove all beaver and beaver dams as provided by the permit within 10 days after its issuance. If the landowner refuses to remove the beaver or the dams in the 10-day period or if the landowner does not desire to do so and so advises the department, then the department may remove the beaver by trapping or transplanting and remove their dam by blasting or other means.

(3) The department shall furnish all labor needed to blast out or otherwise remove the beaver dams. Necessary explosives must be furnished by the county in which the beaver dams are located."

Section 41. Section 87-1-405, MCA, is amended to read:

"87-1-405. Publication of laws. As soon as practicable after the adjournment of each session of the legislature, the director in cooperation with the attorney general shall make a compilation of the laws relating to fish, game, game birds, and animals in force at the date of the compilation and properly index them. Copies of the compilation, sufficient in number for the purposes of this section, ~~shall~~ must be printed in pamphlet form, pocket size. The director shall distribute to justices of the peace, ~~wardens~~, and other ~~officers~~ and persons empowered to issue licenses for hunting, fishing, and trapping a supply of the compilation sufficient to permit one copy to be given anyone desiring a copy. The expense incurred in printing the laws ~~shall~~ must be paid out of fish and game ~~moneys~~ money in the state special revenue fund."

Section 42. Section 87-1-502, MCA, is amended to read:

"87-1-502. Qualifications, powers, and duties of county sheriffs. ~~(1) Wardens must be qualified by their experience, training, and skill in protection, conservation, and propagation of wildlife, game, fur-bearing animals, fish, and game birds and interested in this work. They shall devote all of their time for which they are appointed to their official duties:~~

~~(2)(1) They County sheriffs shall enforce the laws of this state and the rules of the department with reference to the protection, preservation, and propagation of game and fur-bearing animals, fish, and game birds.~~

~~(3)(2) They County sheriffs shall see that persons who hunt, fish, or take game or fur-bearing animals, game birds, or fish and that those persons who make recreational use of state lands, as defined in 77-1-101, for hunting and fishing, have the necessary licenses.~~

~~(4)(3) They County sheriffs shall assist in the protection, conservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds and assist in the planting, distributing, feeding, and care of fish, game, fur-bearing animals, and game and nongame birds. They County sheriffs shall, when ~~ordered requested~~ by the department, assist in the destruction of predatory animals, birds, and rodents. They ~~shall perform all other duties prescribed by the department and make a monthly report to the department correctly informing the department of their activities on each day of the preceding month with regard to the enforcement of the fish and game laws, showing where their duties called them and what they did. The reports must contain any pertinent recommendations the wardens may see fit to make:~~~~

~~(5)(4) A warden county sheriff may not compromise or settle violations of fish and game laws out of court.~~

~~(6)(5) A warden county sheriff has the authority to inspect any and all fish, game and nongame birds, waterfowl, game animals, and fur-bearing animals at reasonable times and at any location other than a residence~~

or dwelling. Upon request therefor, all persons having in their possession any fish, game and nongame birds, waterfowl, game animals, and fur-bearing animals shall exhibit the ~~same and all thereof~~ animal to the ~~warden county sheriff~~ for such inspection.

~~(7) 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 title and rules of the department and the commission; and~~
- ~~—— (c) to report violations to the county attorney of the county in which they occur."~~

Section 43. Section 87-1-506, MCA, is amended to read:

"87-1-506. Enforcement powers of wardens county sheriffs. (1) A warden county sheriff 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, 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 their 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;
- (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 in the state; and
- (i) exercise the ~~other~~ powers of peace officers in the enforcement of the fish and game laws, the rules

of the department, and judgments obtained for violation of those laws or rules.

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

Section 44. Section 87-1-511, MCA, is amended to read:

"87-1-511. Sale of confiscated birds and animals -- disposition of seized grizzly bears. (1) Except as provided in 87-1-226(1), all birds, animals, fish, heads, hides, teeth, or other parts of any animal other than grizzly bear seized by any officer or ~~warden~~ county sheriff or otherwise acquired by a department employee in the scope of ~~his~~ employment may be sold, under the direction of the director or ~~wardens~~ county sheriff, at a time, place, and manner so as to receive the highest price. The sale ~~shall~~ must be at public auction to the highest and best bidder. The director or ~~his wardens~~ county sheriff shall publish notice of the time and place of the sale, together with a description of the birds, fish, animals, or parts or portions of animals to be sold, in a newspaper of general circulation published in the county where the sale is to be held. The notice ~~shall~~ must be published at least once, and the sale ~~shall~~ may not be less than 5 or more than 30 days after the last publication. If the property seized is perishable, it may be sold by ~~those officers~~ the director or county sheriff without publishing notice of the sale. The property may be sold upon that public notice and under those terms and conditions which in the discretion of the ~~officers~~ director or county sheriff seem conducive to securing full value.

(2) All grizzly bears or heads, hides, teeth, claws, or other parts of grizzly bears seized by any officer or ~~warden~~ county sheriff may be donated to museums, educational institutions, government agencies, or persons conducting scientific studies, as approved by the commission. If approved under federal law, parts may be sold at public auction if, after approval by the commission, a reasonable attempt has been made to dispose of the parts."

Section 45. Section 87-1-514, MCA, is amended to read:

"87-1-514. Record of confiscated property. The director ~~and wardens~~ and county sheriff shall keep a complete record of all property confiscated because of a violation of the game and fish laws, showing in detail a description of the property, the person from whom it was confiscated, the price received for it upon public sale, and the disposition of the money."

Section 46. Section 87-2-106, MCA, is amended to read:

"87-2-106. Application for license -- penalties for violation -- forfeiture of privileges. (1) A license may be procured from the director, ~~a warden,~~ or an authorized agent of the director. The applicant shall state the applicant's name, age, [social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and other facts, data, or descriptions as may be required by the department. An applicant for a resident license shall present a valid Montana driver's license, Montana driver's examiner's identification card, or other identification specified by the department to substantiate the required information. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a license. It is unlawful and a misdemeanor for a license agent to sell a hunting, fishing, or trapping license to an applicant who fails to produce the required identification at the time of application for licensure. Except as provided in subsections (2) through (4), the statements made by the applicant must be subscribed to before the ~~officer or~~ agent issuing the license.

(2) Except as provided in subsection (3), department employees ~~or officers~~ may issue licenses by mail. Statements on an application for a license to be issued by mail need not be subscribed to before the employee ~~or officer~~.

(3) To apply for a license under the provisions of 87-2-102(7), the applicant shall apply to the director and shall submit at the time of application a notarized affidavit that attests to fulfillment of the requirements of 87-2-102(7). The director shall process the application in an expedient manner.

(4) A resident may apply for and purchase a wildlife conservation license, hunting license, or fishing license for the resident's spouse, parent, child, brother, or sister who is otherwise qualified to obtain the license.

(5) A license is void unless subscribed to by the licensee and by an employee ~~or officer~~ of the department or by a license agent or an authorized representative of the license agent.

(6) It is unlawful to subscribe to any statement, on an application or license, that is materially false. Any material false statement contained in an application renders the license issued pursuant to it void. A person violating any provision of this subsection is guilty of a misdemeanor.

(7) (a) A person not meeting the residency criteria set out in 87-2-102 who is convicted of affirming to a false statement to obtain a resident license shall be:

(i) fined not less than the greater of \$100 or twice the cost of the nonresident license that authorized the sought-after privilege or more than \$1,000;

(ii) imprisoned in the county jail for not more than 6 months; or

(iii) both fined and imprisoned.

(b) In addition to the penalties specified in subsection (7)(a), upon conviction or forfeiture of bond or bail, the person shall forfeit any current hunting, fishing, and trapping licenses and the privilege to hunt, fish, and trap in Montana for not less than 18 months.

(8) It is unlawful and a misdemeanor for a person to purposely or knowingly assist an unqualified applicant in obtaining a resident license in violation of this section.

[(9) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(10) The department shall delete an applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001.)"

Section 47. Section 87-2-107, MCA, is amended to read:

"87-2-107. License form. The form of the license shall be determined and the license blanks prepared by the department and furnished by it to the ~~officers and~~ persons authorized to issue the ~~same license~~. ~~Said licenses shall~~ Licenses must be issued in the name of the department and be countersigned by the ~~officer or~~ person issuing the ~~same license~~. Each license issued ~~shall~~ must be signed by the licensee in ink or indelible pencil on the face ~~thereof of the license~~."

Section 48. Section 87-2-109, MCA, is amended to read:

"87-2-109. Carrying and exhibiting license and identification. (1) Except as provided in 87-2-114(2), it is unlawful for a person to whom a license or permit has been issued to fish, to hunt for any game bird or game animal, or to attempt to hunt for any fur-bearing animal in this state unless the person is carrying the required license, licenses, or permit at the time.

(2) It is unlawful to refuse to exhibit a license or permit and the identification used in purchasing a license or permit for inspection to a ~~warden~~ county sheriff or other peace officer requesting to see it."

Section 49. Section 87-2-903, MCA, is amended to read:

"87-2-903. Compensation, fees, and duties of agents -- penalty for late submission of license money. (1) License agents, except salaried employees of the department, must receive for all services rendered

a commission of 50 cents for each transaction.

(2) Each license agent shall submit to the department the money received from the sale of licenses, less the appropriate commission.

(3) Each license agent shall submit to the department copies of each license sold.

(4) The department may charge license agents appointed after March 1, 1998, an electronic license system installation fee not to exceed actual costs.

(5) The department may designate classes of license agents and may establish a deadline for submission of license money by each class of agent. Each license agent shall keep the license account open at all reasonable hours to inspection by the department, the director, ~~the wardens~~, or the legislative auditor.

(6) For purposes of this section, the term "transaction" includes the sale of any license, permit, or certificate prescribed by the department.

(7) If a license agent fails to submit to the department all money received from the declared sale of licenses, less the appropriate fee, by the deadline established by the department, an interest charge equal to the rate charged under 15-1-216 must be assessed. Acceptance of late payments with interest does not preclude the department from summarily revoking the appointment of a license agent under 87-2-904.

(8) The department may adopt rules necessary to implement this section."

Section 50. Section 87-3-102, MCA, is amended to read:

"87-3-102. Waste of fish or game. (1) A person who is responsible for the death of a mountain lion commits the offense of waste of game if the person abandons the head or hide in the field.

(2) A person who is responsible for the death of a grizzly bear commits the offense of waste of game if the person abandons the head or hide or any parts required by department or commission regulation for scientific purposes. All parts of a grizzly bear required by department or commission regulation for scientific purposes must be delivered to ~~an officer~~ a county sheriff or employee of the department for inspection as soon as possible after removal, and the department shall return to the licensee any bone structure and skull within 1 year upon written request. The hide must be returned immediately.

(3) A person responsible for the death of any game animal, except a mountain lion, commits the offense of waste of game if the person purposely or knowingly:

(a) detaches or removes from the carcass only the head, hide, antlers, tusks, or teeth or any or all of these parts;

(b) wastes any part of any game animal, game bird, or game fish suitable for food by transporting,

hanging, or storing the carcass in a manner that renders it unfit for human consumption; or

(c) abandons in the field the carcass of any game animal or any portion of the carcass suitable for food.

(4) A person in possession of a game animal or game animal parts, a game bird, or a game fish suitable for food commits the offense of waste of game if the person purposely or knowingly:

(a) transports, stores, or hangs the animal, bird, or fish in a manner that renders it unfit for human consumption; or

(b) disposes of or abandons any portion of a game animal, game bird, or game fish that is suitable for food.

(5) For the purposes of this section, the meat of a grizzly or a black bear that is found to be infected with trichinosis is not considered to be suitable for food.

(6) A person convicted of waste of game may be fined not less than \$50 or more than \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap, the department shall notify the person of the forfeiture and loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days of notification."

Section 51. Section 87-3-124, MCA, is amended to read:

"87-3-124. Dogs -- restrictions on hunting -- penalty for chasing hooved game animals. (1) (a) Except as provided in 87-3-127 and subsections (2) and (3) of this section, a person may not chase with a dog any of the game or fur-bearing animals as defined by the fish and game laws of this state.

(b) A person may take game birds during the appropriate open season with the aid of a dog. Any person or association organized for the protection of game may run field trials at any time upon obtaining written permission from the director.

(c) Except as provided in subsection (2), any peace officer, ~~game warden, or other person~~ authorized to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing hooved game animals may destroy that dog, on public land or on private land at the request of the landowner, without criminal or civil liability.

(d) Except as provided in subsection (2), a person who purposely, knowingly, or negligently permits a

dog to chase, stalk, pursue, attack, or kill hooved game animals is guilty of a misdemeanor and is subject to the penalty in 87-1-102(1). If the dog is not under the control of an adult at the time of the violation, the owner of the dog is personally responsible. A defense that the dog was allowed to run at large by another person is not allowable, unless it is shown that at the time of the violation the dog was running at large without the consent of the owner and that the owner took reasonable precautions to prevent the dog from running at large.

(2) A person may use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to protect humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and grain. The dog may not be destroyed pursuant to subsection (1)(c).

(3) The commission has authority to allow and regulate the use of dogs for hunting and chasing mountain lion and bobcat."

Section 52. Section 87-4-201, MCA, is amended to read:

"87-4-201. Taxidermist's license, fee, and penalty. A person who engages in conducting any taxidermy business, as the term is generally understood, or any person who conducts a business for the purpose of mounting, preserving, or preparing any of the dead bodies of any wildlife or any part thereof of the wildlife must first obtain from the director a taxidermist's license and pay an annual license fee of \$15 therefor for the license. ~~Such~~ The person shall keep a written record of all the articles of wildlife in ~~his~~ that person's possession or control, the kind and number of each, by whom owned, and the residence of owner, all the articles of wildlife shipped and to whom and where shipped. The ~~above~~ record ~~shall~~ must be kept for as long as ~~such the~~ articles remain in the possession of the licensee but in any event at least 5 years. These records ~~shall~~ must be open to inspection by any ~~state game warden~~ county sheriff at any reasonable time. In all cases of conviction of violation of this section, the license of the person convicted may be revoked by the court."

Section 53. Section 87-4-302, MCA, is amended to read:

"87-4-302. Records and inspection. (1) A fur dealer shall keep a book in which ~~shall~~ must be recorded separately on the date of each transaction the following facts:

- (a) the number and kind of all skins or pelts purchased or sold by the fur dealer;
- (b) the place where the skins or furs were killed or trapped and a separate record of all the skins or pelts as were killed or trapped outside this state;
- (c) the trapping license number under which the furs or pelts were taken in cases where a trapper's license is required;

(d) the names and addresses of the persons to whom the skins or pelts were sold or from whom they were purchased.

(2) This book ~~shall~~ must be open at all reasonable times to the inspection of the director, ~~or any warden county sheriff,~~ or any United States game warden and ~~shall~~ must be preserved and accessible for 1 year after the expiration of any license granted to the fur dealer."

Section 54. Section 87-4-703, MCA, is amended to read:

"87-4-703. Evidence of lawful possession of game. Each merchant, hotelkeeper, or restaurant keeper; having in his possession of and offering for sale any game or game birds; shall produce upon demand, for the inspection of any ~~game warden, deputy game warden, or sheriff,~~ the receipt or record and shipping and transportation receipts required in 87-4-704 to be kept by him the merchant, hotelkeeper, or restaurant keeper. A failure or refusal to produce the ~~same~~ receipt or record upon demand, coupled with the possession and offering for sale of game or game birds, is prima facie evidence of the violation of this part."

Section 55. Section 87-4-807, MCA, is amended to read:

"87-4-807. Enforcement and penalty. (1) The provisions of this part ~~shall~~ must be enforced by any ~~warden or any other~~ county sheriff or legally authorized officer. Any person violating the provisions of this part shall upon conviction be punished as provided in 87-1-102, and at the discretion of the court, the permit and all rights and privileges inherent ~~therein~~ in the permit may be forfeited.

(2) Any animals being kept in violation of any section of this part may be confiscated or ordered disposed of at the discretion of the director. The permittee may appeal to the commission within 20 days of the date of the order to confiscate, and the commission shall hold a hearing on ~~such an~~ the appeal, and the decision of the commission ~~shall be~~ is final."

Section 56. Section 87-5-111, MCA, is amended to read:

"87-5-111. Enforcement and penalty. (1) Any person who violates the provisions of this part or ~~whoever~~ fails to procure or violates the terms of any permit issued ~~thereunder~~ shall be under this part is guilty of a misdemeanor.

(2) Upon a first conviction for a violation under this part, the court may fine the defendant not to exceed \$250. Upon a second ~~such~~ conviction, the defendant may be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 30 days, or both. Upon subsequent ~~such~~ convictions, the defendant shall

be fined not less than \$500 or more than \$1,000 and in addition may be imprisoned in the county jail for any term not to exceed 6 months.

(3) Any ~~officer employed and authorized by the director or any peace officer of the state or of any municipality or county within the state shall have authority to~~ may enforce the provisions of this part.

(4) Wildlife seized under the provisions of this part ~~shall~~ must be held by an officer or agent of the department pending disposition of court proceedings and thereafter be forfeited to the state for disposition as the director ~~may deem~~ considers appropriate. Prior to forfeiture, the director may direct the transfer of wildlife so seized to a qualified zoological, educational, or scientific institution for safekeeping. The department ~~is authorized to~~ may issue regulations to implement this subsection."

NEW SECTION. Section 57. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 58. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 87, chapter 1, part 6, and the provisions of Title 87, chapter 1, part 6, apply to [section 1].

NEW SECTION. Section 59. Repealer. Sections 87-1-404, 87-1-501, 87-1-503, 87-1-504, and 87-1-505, MCA, are repealed.

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