

SENATE BILL NO. 39

INTRODUCED BY J. SHOCKLEY

BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

1
2
3
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FISH, WILDLIFE, AND PARKS LAWS REGARDING THE
6 ILLEGAL USE OF ALCOHOL AND DANGEROUS DRUGS, DISORDERLY CONDUCT, AND PUBLIC
7 NUISANCE TO AUTHORIZE FISH, WILDLIFE, AND PARKS WARDENS AND PARK RANGERS TO ENFORCE
8 LAWS RELATED TO MINORS IN POSSESSION OF INTOXICATING SUBSTANCES, MISDEMEANOR
9 POSSESSION OF DANGEROUS DRUGS, CRIMINAL POSSESSION OF DRUG PARAPHERNALIA,
10 DISORDERLY CONDUCT, AND PUBLIC NUISANCE ON LANDS OWNED OR OPERATED BY THE
11 DEPARTMENT OF FISH, WILDLIFE, AND PARKS, ON OTHER PUBLIC LANDS PURSUANT TO AN
12 AGREEMENT WITH THE LAND MANAGEMENT AGENCY, AND ON PUBLIC WATERS; REQUIRING
13 OFFICERS WHO ISSUE CITATIONS TO INVESTIGATE AND ASSIST IN PROSECUTIONS THAT ARISE FROM
14 THE CITATIONS; AMENDING SECTIONS 23-1-122 AND 87-1-506, MCA; AND PROVIDING AN IMMEDIATE
15 EFFECTIVE DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
19 **Section 1.** Section 23-1-122, MCA, is amended to read:

20 **"23-1-122. Enforcement powers of park rangers and game wardens.** (1) Park rangers appointed
21 pursuant to 23-1-121 and fish and game wardens appointed pursuant to 87-1-501 are authorized officers with
22 the authority to enforce the laws and adopted rules relating to parks and outdoor recreation contained in chapters
23 1 and 2 of this title, except chapter 2, part 7.

24 (2) An authorized officer may:

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

28 (b) enforce the disorderly conduct and public nuisance laws under 45-8-101 and 45-8-111 as they apply
29 to the operation of motorboats on waters within areas managed by the department under this part on lands owned
30 or operated by the department, on other public lands pursuant to an agreement with the land management

1 agency, and on public waters; and

2 (c) enforce 45-5-624 as it pertains to possession of intoxicating substances by minors on lands owned
 3 or operated by the department, on other public lands pursuant to an agreement with the land management

4 agency, and on public waters;

5 (d) enforce 45-9-102 and 45-10-103 pertaining to misdemeanor possession of dangerous drugs and
 6 criminal possession of drug paraphernalia on lands owned or operated by the department, on other public lands
 7 pursuant to an agreement with the land management agency, and on public waters; and

8 ~~(e)~~(e) exercise other powers of peace officers in the enforcement of:

9 (i) laws relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter
 10 2, part 7;

11 (ii) rules of the department and the fish, wildlife, and parks commission; and

12 (iii) judgments obtained for violations of the laws and rules specified in this subsection (2)(c).

13 (3) An authorized officer who issues a citation under subsection (2)(b), (2)(c), or (2)(d) shall complete
 14 the investigation and assist the prosecution that arises from the citation."

15

16 **Section 2.** Section 87-1-506, MCA, is amended to read:

17 **"87-1-506. Enforcement powers of wardens.** (1) A warden may:

18 (a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

19 (b) search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker, basket,
 20 creel, crate, game bag, or package, or their contents upon probable cause to believe that any fish and game law
 21 or department rule for the protection, conservation, or propagation of game, fish, birds, or fur-bearing animals has
 22 been violated;

23 (c) search, with a search warrant, any dwelling house or other building;

24 (d) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in
 25 violation of the law or the rules of the department;

26 (e) seize and hold, subject to law or the orders of the department, devices that have been used to
 27 unlawfully take game, fish, birds, or fur-bearing animals;

28 (f) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the
 29 department, violation of which is a misdemeanor;

30 (g) enforce the disorderly conduct and public nuisance laws, 45-8-101 and 45-8-111, as they apply to

1 ~~the operation of motorboats on all waters of the state~~ on lands owned or operated by the department, on other
2 public lands pursuant to an agreement with the land management agency, and on public waters;

3 (h) as provided for in 37-47-345, investigate and make arrests for violations of the provisions of Title 37,
4 chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of outfitters and guides
5 in the state;

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

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

10 (k) enforce 45-5-624 as it pertains to possession of intoxicating substances by minors on lands owned
11 or operated by the department, on other public lands pursuant to an agreement with the land management
12 agency, and on public waters; and

13 (l) enforce 45-9-102 and 45-10-103 pertaining to misdemeanor possession of dangerous drugs and
14 criminal possession of drug paraphernalia on lands owned or operated by the department, on other public lands
15 pursuant to an agreement with the land management agency, and on public waters.

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

20 (3) An authorized officer who issues a citation under subsection (1)(g), (1)(k), or (1)(l) shall complete the
21 investigation and assist prosecution that arises from the citation."

22

23 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

24

- END -