

HOUSE BILL NO. 150

INTRODUCED BY K. FLYNN

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PENALTIES FOR VIOLATION OF FISH AND WILDLIFE LAWS; REVISING PENALTIES FOR HARASSMENT OF HUNTERS AND WILDLIFE, HUNTING FROM A HIGHWAY, HUNTING FROM A VEHICLE, AND USE OF A VEHICLE WHILE HUNTING; AND AMENDING SECTIONS 87-6-215, 87-6-403, AND 87-6-405, MCA."

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

Section 1. Section 87-6-215, MCA, is amended to read:

"87-6-215. Harassment. (1) (a) A person may not:

- (i) intentionally interfere with the lawful taking of a wild animal or fishing by another;
- (ii) with intent to prevent or hinder its lawful taking or its capture, disturb a wild animal or engage in an activity or place in its way any object or substance that will tend to disturb or otherwise affect the behavior of a wild animal; or
- (iii) disturb an individual engaged in the lawful taking of a wild animal or fishing with intent to prevent the taking of the animal or the capture of the fish.

(b) This subsection (1) does not:

- (i) prohibit a landowner or lessee from taking reasonable measures to prevent imminent danger to domestic livestock and equipment; or
- (ii) prohibit or curtail normal landowner operations or lawful uses of water.

(2) A person convicted of or who forfeits bond or bail after being charged with a violation of this section shall be fined not more than \$500 or be imprisoned for not more than 30 days, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, and trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(3) A person convicted of or who forfeits bond or bail after being charged with a second or subsequent violation of this section within 5 years shall be fined not less than \$500 or more than \$1,000 or be imprisoned for not more than ~~1 year~~ 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or



1 trapping license issued by this state and the privilege to hunt, fish, and trap in this state for 24 months from the
 2 date of conviction or forfeiture of bond or bail unless the court imposes a longer period.

3 ~~(3)~~(4) A court of general jurisdiction may enjoin conduct in violation of this section upon petition by a
 4 person affected or who reasonably may be affected by that conduct and upon a showing that the conduct is
 5 threatened or that it has occurred on a particular premises in the past and that it is not unreasonable to expect
 6 that under similar circumstances it will be repeated.

7 ~~(4)~~(5) As used in this section:

8 (a) "fishing" means the lawful means of fishing as described in 87-6-501;

9 (b) "taking" means the pursuit, hunting, trapping, shooting, or killing of a wild animal on land upon which
 10 the affected person has the right or privilege to pursue, hunt, trap, shoot, or kill the wild animal; and

11 (c) "wild animal" means a game animal, migratory game bird, upland game bird, fur-bearing animal,
 12 predatory animal, or fish."

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14 **Section 2.** Section 87-6-403, MCA, is amended to read:

15 **"87-6-403. Unlawful hunting from public highway.** (1) Except as provided in 87-2-803(4), a person
 16 may not hunt or attempt to hunt any game animal or game bird on, from, or across any public highway or the
 17 shoulder, berm, or barrow pit right-of-way of any public highway, as defined in 61-1-101, in the state.

18 (2) A person convicted of or who forfeits bond or bail after being charged with a violation of this section
 19 shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more
 20 than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, ~~may be subject to~~
 21 ~~forfeiture of~~ shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to
 22 hunt, fish, ~~or and~~ trap in this state ~~or to use state lands, as defined in 77-1-101, for recreational purposes for a~~
 23 ~~period of time set by the court~~ for 24 months from the date of conviction or forfeiture of bond or bail unless the
 24 court imposes a longer period.

25 (3) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through
 26 87-6-907."

27

28 **Section 3.** Section 87-6-405, MCA, is amended to read:

29 **"87-6-405. Unlawful use of vehicle while hunting.** (1) Except as provided in 87-2-803(4), a person
 30 may not:

1 ~~———(a) hunt or attempt to hunt any game animal or game bird from any self-propelled, motor-driven, or drawn~~
 2 ~~vehicle; or~~

3 ~~———(b) use a self-propelled vehicle to intentionally concentrate, drive, rally, stir up, or harass wildlife, except~~
 4 ~~predators of this state. This subsection (1)(b) does not apply to landowners and their authorized agents engaged~~
 5 ~~in the immediate protection of that landowner's property.~~

6 ~~(2) Except as provided in 87-2-803(4), a A person may not, while hunting a game animal or bird:~~

7 ~~(a) drive or attempt to drive, run or attempt to run, molest or attempt to molest, flush or attempt to flush,~~
 8 ~~or harass or attempt to harass a game animal or game bird with the use or aid of a motor-driven vehicle;~~
 9 ~~concentrate, drive, rally, stir up, run, molest, flush, herd, chase, harass, or impede the movement of or attempt~~
 10 ~~to concentrate, drive, rally, stir up, run, molest, flush, herd, chase, harass, or impede the movement of a game~~
 11 ~~animal or game bird from or with the use or aid of a self-propelled, motor-driven, or drawn vehicle. This~~
 12 ~~subsection (2)(a) does not apply to landowners and their authorized agents engaged in the immediate protection~~
 13 ~~of that landowner's property.~~

14 ~~(b) use a motor-driven vehicle other than on an established a road or trail designated for travel by a~~
 15 ~~landowner or a land management agency unless permission has been given by that landowner or land~~
 16 ~~management agency. unless the person has reduced a big game animal to possession and cannot easily retrieve~~
 17 ~~the big game animal. In that case, a motor-driven vehicle may be used to retrieve the big game animal, except~~
 18 ~~in areas where more restrictive regulations apply or where the landowner has not granted permission. After the~~
 19 ~~retrieval, the motor-driven vehicle must be returned to an established road or trail by the shortest possible route.~~
 20 ~~For purposes of safety and allowing normal travel, a motor-driven vehicle may be parked on the roadside or~~
 21 ~~directly adjacent to a road or trail.~~

22 ~~———(c) drive through any retired cropland, brush area, slough area, timber area, open prairie, or unharvested~~
 23 ~~or harvested cropland, except upon an established road or trail, unless written permission has been given by the~~
 24 ~~landowner and is in possession of the hunter.~~

25 ~~———(3) The restrictions in this subsection (2)(b) on motor-driven vehicle use off an established road or trail~~
 26 ~~apply only to hunting on state or private land and not to hunting on federal land unless the federal agency~~
 27 ~~specifically requests or approves state enforcement.~~

28 ~~(4)(3) A The following penalties apply for a violation of this section:~~

29 ~~(a) A person convicted of or who forfeits bond or bail after being charged with a violation of this section~~
 30 ~~subsection (1) shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention~~

1 center for not more than 6 months, or both. In addition, the person, ~~upon conviction or forfeiture of bond or bail,~~
2 ~~may be subject to forfeiture of~~ shall forfeit any current hunting, fishing, or trapping license issued by this state and
3 the privilege to hunt, fish, ~~or and~~ trap in this state ~~or to use state lands, as defined in 77-1-101, for recreational~~
4 ~~purposes for a period of time set by the court~~ for 24 months from the date of conviction or forfeiture of bond or
5 bail unless the court imposes a longer period.

6 (b) A person convicted of or who forfeits bond or bail after being charged with a violation of subsection
7 (2) shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not
8 more than 6 months, or both. In addition, the person may be subject to forfeiture of any current hunting, fishing,
9 or trapping license issued by this state and the privilege to hunt, fish, and trap in this state or to use state lands,
10 as defined in 77-1-101, for recreational purposes for a period of time set by the court.

11 (c) A person convicted of or who forfeits bond or bail after being charged with a second or subsequent
12 violation of subsection (2)(a) within 5 years shall be fined not less than \$500 or more than \$1,000 or be
13 imprisoned for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing,
14 or trapping license issued by this state and the privilege to hunt, fish, and trap in this state for 24 months from the
15 date of conviction or forfeiture of bond or bail unless the court imposes a longer period.

16 ~~(5)(4)~~ A violation of this section may also result in an order to pay restitution pursuant to 87-6-905
17 through 87-6-907."
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19 **NEW SECTION. Section 4. Saving clause.** [This act] does not affect rights and duties that matured,
20 penalties that were incurred, or proceedings that were begun before [the effective date of this act].
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