



AN ACT ; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Short title. [Sections 1 through 5] may be cited as the "Montana Trap-Free Public Lands Act".

Section 2. Findings. The people of the state of Montana find that [sections 1 through 5]:

- (1) will not affect trapping on private property;
 - (2) apply to public lands and affect approximately one-third of the lands in Montana;
 - (3) do not affect Montanans' constitutionally protected right to harvest wild game and fish;
 - (4) will protect safe access for citizens and pets to public lands and waterways and protect and conserve wildlife from the dangers of inhumane and indiscriminate traps on public lands;
 - (5) will encourage the use of alternatives to trapping and humane methods of trapping when trapping on public lands is necessary to ensure public health and safety, protect livestock and other property, safeguard threatened or endangered species, or conduct specified scientific and wildlife management activities;
- and
- (6) are necessary to conserve beavers in high country and store water on public lands.

Section 3. Definitions. As used in [sections 1 through 5], the following definitions apply:

- (1) "Animal" means any nonhuman warm-blooded vertebrate, including but not limited to an animal defined in 87-2-101 or 87-6-101 as a fur-bearing animal, game animal, migratory game bird, upland game bird, predatory animal, wild animal, or nongame wildlife, or to a large predator as defined in 87-1-217.
- (2) "Department" means the department of fish, wildlife, and parks or any successor agency.
- (3) "Fladry" means a wire, rope, or cord to which a series of brightly colored flags is attached for the purpose of controlling the movement of wild animals.
- (4) "Flow device" means a device designed to address flooding caused by a beaver dam by altering

natural patterns of water flow to allow passage of flow and fish through the site of the dam.

(5) "On-site evidence" means visual or photographic evidence of a location where damage or injury caused by a problem animal has occurred.

(6) "Permissible trap" includes a nonstrangling foot snare, rubber padded snare, offset, padded or laminated jaw leghold or foothold trap, cage or box trap, net, culvert-style trap, tube trap, suitcase-type live beaver trap, net, glue trap, common rat and mouse trap, colony trap, corral trap, or similar nonlethal trap.

(7) "Person" means an individual, association, partnership, corporation, government, governmental subdivision, governmental agency, or governmental instrumentality.

(8) "Problem animal" means a specific animal with a verified documented history of attacking humans or livestock or causing damage to property on public lands.

(9) "Prohibited trap" includes, but is not limited to, a conibear trap or other body-holding or body-gripping trap, a strangling type snare, or a leghold, foothold, or other restraining trap not defined as a permissible trap.

(10) "Property" means real property or personal property lawfully on public lands, including but not limited to structures, bridges, and man-made installations that protect irrigation works, and livestock.

(11) "Public lands" means all federal, state, county, and city owned lands within the state of Montana, including public lands leased to private parties but not including any lands under the jurisdiction of an Indian tribe within the state.

(12) "Trapping" or "trap" means to trap as defined in 87-2-101.

Section 4. Trapping on public lands prohibited -- exceptions -- rulemaking. (1) Except as provided in subsection (2), a person may not trap on public lands.

(2) The department may use or issue a permit to use a permissible trap for the following purposes:

(a) trapping allowed under 87-2-806, 87-2-807, or 87-5-204, or trapping for medical treatment of animals, relocation or transplantation of animals, or protection of public health and safety;

(b) trapping of a specific, habituated problem animal after presenting on-site evidence to federal or department officials that the animal has caused ongoing injury or damage to persons, property, or livestock that has not been alleviated by the reasonable and publicly verifiable use of alternative methods, including but not limited to a guard dog, a fladry, carcass removal, range riding, temporary fencing, relocating the person or property, and avoidance of predator den areas. Traps may be set on public land at the request of a livestock

owner for no more than 30 days in any calendar year.

(c) trapping of problem animals, including beavers or muskrats, to mitigate damage to irrigation works on public lands after reasonable alternative methods, including but not limited to flow devices, have been applied.

(3) A person may not use and the department may not issue a permit to use a prohibited trap on public lands.

(4) A person setting a trap allowed under subsection (2) must prominently mark with highly visible and durable warning signs the place where the trap is located and post notice at public trailheads that persons could reasonably be expected to use to gain access to the place where the trap is placed and must check the traps at least once every 24 hours.

(5) After carrying out trapping activities allowed under subsection (2), the department or other unit of government shall prepare and file with the department a report that identifies any trapped animal by species and sex and by any number assigned to the animal by a public agency for purposes of tracking the animal and that describes the disposal of the entire carcass, including the fur.

(6) A trapping license issued by the department must comply with the provisions of [sections 1 through 5].

(7) The department shall adopt rules for implementing this section.

Section 5. Trapping offenses on public lands -- penalties. (1) Except as provided in [section 4], a person may not purposely, knowingly, or negligently trap or authorize the use of a trap on public lands.

(2) A person may not make commercial use of any animal or any part of an animal trapped on public lands under [section 4].

(3)(a) A person convicted of a violation of this section shall be fined not less than \$100 or more than \$1,000 or be imprisoned in the county jail for not more than 6 months, or both.

(b) A person convicted of a second violation of this section shall be fined not less than \$100 or more than \$2,000 or be imprisoned in the county jail for not more than 6 months, or both.

(c) A person convicted of a third or subsequent violation of this section shall be fined not less than \$100 or more than \$5,000 or be imprisoned in the county jail for not more than 6 months, or both.

(4) In addition, a person, upon conviction under this section or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state

for 24 months from the date of convictions or has forfeiture unless the court imposes a longer period.

(5) In addition to any other penalty imposed under this section, the court may order payment of restitution pursuant to 87-6-905 and 87-6-906.

(6) A trap or snare used in violation of this section is forfeited upon conviction, and the department may remove and destroy it after the owner has been convicted or has forfeited bond or bail.

Section 6. Section 77-1-801, MCA, is amended to read:

"77-1-801. (Temporary) Recreational use license required to use state lands for general recreational purposes -- penalty -- exemption. (1) Except as provided in subsection (3), 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) Except as provided in subsection (3), a person shall, upon the request of a peace officer or fish and game warden, present for inspection the person's recreational use license.

(3) If the department and the department of fish, wildlife, and parks consent to and sign an agreement for hunting, fishing, and trapping purposes, as provided in 77-1-815, a person is not required to obtain a recreational use license for use of legally accessible state trust land for hunting, fishing, and trapping purposes.

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

(5) This section does not relieve a person from the requirements of [section 4]. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

77-1-801. (Effective on occurrence of contingency) 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 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 or be imprisoned in the county jail for not more than 6 months, or both.

(4) This section does not relieve a person from the requirements of [section 4]."

Section 7. Section 77-1-815, MCA, is amended to read:

"77-1-815. (Temporary) Recreational use agreement for hunting, fishing, and trapping on legally accessible state trust land. (1) The board is authorized to enter into an agreement with the department of fish, wildlife, and parks to compensate state trust land beneficiaries for the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land as defined in department rule. The department may impose restrictions it considers necessary to coordinate the uses of state trust land or to preserve the purposes of the various trust lands. Hunting, fishing, and trapping on state trust land must be conducted in accordance with rules and provisions provided in this part.

(2) An agreement may be issued to the department of fish, wildlife, and parks for a term of up to 10 years. Through this agreement, the board shall recover for the beneficiaries of the trust the full market value for the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land. The department may use funds appropriated from the trust land administration account provided for in 77-1-108 to implement and manage the agreement. Except as provided for in 17-7-304, any unexpended amount in the account that resulted from recreational use fees must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage of acreage in the total acreage of all state land trusts.

(3) Any agreement entered into is subject to the following conditions:

(a) The department maintains sole discretion, throughout the term of the agreement, with regard to identifying legally accessible parcels, coordinating uses on state trust land, and making any other necessary state trust land management decisions.

(b) An agreement between the department and the department of fish, wildlife, and parks may not convey any additional authority to the department of fish, wildlife, and parks.

(c) An agreement may not modify or eliminate any requirement of [section 4].

(4) During any period that the department of fish, wildlife, and parks and the department have reached an agreement as provided in subsection (1), an individual recreational use license under 77-1-801 or 77-1-802 may not be required for a member of the public to hunt, fish, or trap upon legally accessible state trust land. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)"

Section 8. Section 87-1-506, MCA, is amended to read:

"87-1-506. Enforcement powers of wardens. (1) A warden 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) except as provided in subsection (2), seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in violation of the law or the rules of the department;
- (e) except as provided in subsection (2), 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;
- (i) enforce the provisions of Title 80, chapter 7, part 10, and rules adopted under Title 80, chapter 7, part 10, for those invasive species that are under the department's jurisdiction; and
- (j) 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) A warden shall seize a trap used and a pelt or other part of a trapped animal possessed in violation of [section 5].

~~(2)~~(3) 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 9. Section 87-2-101, MCA, is amended to read:

"87-2-101. Definitions. As used in Title 87, chapter 3, and this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Angling" or "fishing" means to take or harvest fish or the act of a person possessing any instrument, article, or substance for the purpose of taking or harvesting fish in any location that a fish might inhabit.

(2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(3) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

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

(5) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Sander (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

(6) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take or harvest by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(7) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

(8) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

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

(10) "Person" means an individual, association, partnership, or corporation.

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

(12) "Trap" means to take or harvest or participate in the taking or harvesting of ~~any wildlife protected by the laws of the state~~ a wild animal by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

(13) "Upland game birds" means sharp-tailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

(14) "Wild animal" means an animal that is wild by nature as distinguished from a common domestic animal, whether the animal was bred or reared in captivity. The term includes a bird or reptile.

~~(14)~~(15) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."

Section 10. Section 87-3-128, MCA, is amended to read:

"87-3-128. Exceptions -- department personnel. ~~The~~ Except as provided in [section 4], the provisions of this chapter relating to methods of herding, driving, capturing, taking, locating, or concentrating of fish, game animals, game birds, or fur-bearing animals do not apply to the department or to any employee thereof while acting within the scope and course of the powers and duties of the department."

Section 11. Section 87-6-101, MCA, is amended to read:

"87-6-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be regulated pursuant to Title 87, chapter 4, part 8.

(2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative livestock, as authorized under Title 87, chapter 4, part 4.

(3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing animals may not be lawfully taken.

(5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

(6) "Conviction" means a judgment or sentence entered following a guilty plea, a nolo contendere plea, a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person's appearance in court that has not been vacated.

(7) "Field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

(8) "Fishing" means to take or harvest fish or the act of a person possessing any instrument, article, or substance for the purpose of taking or harvesting fish in any location that a fish might inhabit.

(9) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or predatory animals.

(b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident fur dealers.

(10) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing

in captivity, keeping, and selling furbearers or parts of furbearers.

(11) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

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

(13) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

(14) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take or harvest by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(15) "Knowingly" has the meaning provided in 45-2-101.

(16) "Livestock" includes ostriches, rheas, and emus.

(17) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

(18) "Negligently" has the meaning provided in 45-2-101.

(19) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

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

(21) "Participating state" means any state that enacts legislation to become a member of the Interstate Wildlife Violator Compact.

(22) "Person" means an individual, association, partnership, and corporation.

(23) "Possession" has the meaning provided in 45-2-101.

(24) "Predatory animal" means coyote, weasel, skunk, and civet cat.

(25) "Purposely" has the meaning provided in 45-2-101.

(26) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

(27) "Resident" has the meaning provided in 87-2-102.

(28) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

(29) "Sale" means a contract by which a person:

(a) transfers an interest in either game or fish for a price; or

(b) transfers, barter, or exchanges an interest either in game or fish for an article or thing of value.

(30) "Site of the kill" means the location where a game animal or game bird expires and the person responsible for the death takes physical possession of the carcass.

(31) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The term does not include growing plants or plants harvested for the feeding of livestock.

(32) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

(33) "Trap" means to take or harvest or participate in the taking or harvesting of ~~any wildlife protected by state law~~ a wild animal by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

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

(35) "Wild animal" means an animal that is wild by nature as distinguished from common domestic animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

(36) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars,

lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity for use other than public exhibition.

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

(38) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting wild animals for public viewing."

Section 12. Section 87-6-203, MCA, is amended to read:

"87-6-203. Unlawful taking, killing, trapping, labeling, or packaging of fur-bearing animal or pelt.

(1) ~~A~~ Except as provided in [section 5], person convicted of purposely, knowingly, or negligently taking, killing, trapping, labeling, or packaging a fur-bearing animal or the pelt of a fur-bearing animal in violation of any provision of this title shall be fined not less than \$100 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license 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 period, and any pelts possessed unlawfully must be confiscated.

(2) A person convicted of unlawful taking of more than double the legal bag limit of a fur-bearing animal may be subject to the additional penalties provided in 87-6-901 and 87-6-902.

(3) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 and 87-6-906."

Section 13. Section 87-6-301, MCA, is amended to read:

"87-6-301. Hunting, fishing, or trapping without license. (1) Except as provided in 87-2-311 and subsection (2) of this section, a person may not:

(a) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess within this state any game animal, game bird, fur-bearing animal, game fish, or parts of those animals or birds except as provided by law or as provided by the department;

(b) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish, except at the places and during the periods and in the manner established by law or as prescribed by

the department;

(c) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess, sell, purchase, ship, or reship any imported or other fur-bearing animal or parts of fur-bearing animals without first having obtained a proper and valid license or permit from the department to do so;

(d) trap or attempt to trap predatory animals or nongame wildlife without a license, as prescribed in 87-2-603, or a permit obtained pursuant to [section 4] if that person is not a resident; or

(e) hunt migratory game birds without first having obtained a valid migratory game bird license from the department.

(2) The provisions of this section do not require a person who accompanies a licensed disabled hunter, as authorized under 87-2-803, to be licensed in order to kill or attempt to kill a game animal that has been wounded by a disabled hunter when the disabled hunter is unable to pursue and kill the wounded game animal. However, the person must meet the qualifications for a license in the person's state of residence.

(3) ~~A~~ Except as provided in [section 5], a person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 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, or trapping license issued by this state and the privilege to hunt, fish, or 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.

(4) A person convicted of hunting without a license may be subject to the additional penalties provided in 87-6-901 and 87-6-902.

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

Section 14. Section 87-6-601, MCA, is amended to read:

"87-6-601. ~~Trapping~~ General trapping and snaring offenses. (1) A person may not use a snare trap on private property for the purpose of snaring a fur-bearing animal, a predatory animal, or a nongame species unless:

(a) the snare trap is tagged with a numbered metal device identifying the owner's name, address, and telephone number;

(b) the consent of the landowner has been obtained for a set on private property; and

(c) the snare trap is set in a manner and at a time so that it will not unduly endanger livestock. A person who injures livestock in snare traps is liable for damages to the owner of the livestock.

(2) A person trapping fur-bearing animals, predatory animals, or any other animals shall fasten a metal tag to all traps bearing in legible English the name and address or wildlife conservation license number of the trapper, except that a tag is not required on traps used by landowners trapping on their own land or on an irrigation ditch right-of-way contiguous to the land.

(3) A holder of a Class C-2 trapper's license may not trap or snare predatory animals or nongame wildlife on private property without obtaining written permission from the landowner, the lessee, or their agents.

(4) A person may not at any time willfully destroy, open or leave open, or partially destroy a house of any muskrat or beaver, except that trapping in the house of muskrats is not prohibited when authorized by the commission.

(5) (a) A person may not destroy, disturb, or remove any trap or snare belonging to another person or remove wildlife from a trap or snare belonging to another person without permission of the owner of the trap or snare, except that from March 1 to October 1 of each year a person may remove any snare from land owned or leased by the person if the snare would endanger livestock.

(b) This subsection (5) does not apply to a law enforcement officer acting within the scope of the officer's duty.

(6) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 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, or trapping license issued by the state and the privilege to hunt, fish, or 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.

(7) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 and 87-6-906."

Section 15. Codification instruction. (1) [Sections 1 through 4] are intended to be codified as an integral part of Title 87, chapter 3, and the provisions of Title 87, chapter 3, apply to [sections 1 through 4].

(2) [Section 5] is intended to be codified as an integral part of Title 87, chapter 6, and the provisions of

Title 87, chapter 6, apply to [section 5].

Section 16. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 17. Effective date. [This act] is effective upon approval by the electorate.

- END -

I hereby certify that the within bill,
SB 0401, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2016.

Speaker of the House

Signed this _____ day
of _____, 2016.

_____ BILL NO. _____

INTRODUCED BY TAB DOUGHERTY

AN ACT ; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.