

HOUSE BILL NO. 98

INTRODUCED BY J. ELLIS

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PREDATORY ANIMAL DEFINITIONS BY ADDING STRIPED SKUNK AND REMOVING CIVET CAT; AND AMENDING SECTIONS 87-2-101 AND 87-6-101, MCA."

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

**Section 1.** 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).

1 (6) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or the act  
2 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  
3 shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the laws of this state  
4 in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term  
5 includes an attempt to take or harvest by any means, including but not limited to pursuing, shooting, wounding,  
6 killing, chasing, luring, possessing, or capturing.

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

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

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

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

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

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

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

21 (14) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."  
22

23 **Section 2.** Section 87-6-101, MCA, is amended to read:

24 **"87-6-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions  
25 apply:

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

30 (2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be

1 kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative  
2 livestock, as authorized under Title 87, chapter 4, part 4.

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

5 (b) The term does not include:

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

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

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

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

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

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

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

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

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

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

28 (10) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing  
29 in captivity, keeping, and selling furbearers or parts of furbearers.

30 (11) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat,

1 lynx, wolverine, northern swift fox, and beaver.

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

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

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

11 (14) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or the  
12 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  
13 shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the laws of this state  
14 in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term  
15 includes an attempt to take or harvest by any means, including but not limited to pursuing, shooting, wounding,  
16 killing, chasing, luring, possessing, or capturing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (36) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars,  
27 lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity  
28 for use other than public exhibition.

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

30 (38) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility

1 participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting  
2 wild animals for public viewing."

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