

HOUSE BILL NO. 29

INTRODUCED BY T. MANZELLA

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING BIRD HUNTING DOG LAWS; ESTABLISHING REQUIREMENTS FOR BIRD HUNTING DOG TRAINING AND FIELD TRIALS; REQUIRING A PERMIT FOR FIELD TRIALS ON PUBLIC LAND; DEFINING TERMS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 87-6-101 AND 87-6-404, MCA; REPEALING SECTIONS 87-4-915 AND 87-6-220, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Definitions.** As used in this part, the following definitions apply:

(1) "Bird hunting dog" means a dog trained or being trained to point, flush, or retrieve game birds.

(2) "Field trial" means an organized event affiliated with a national organization to examine, evaluate, or test the ability of bird hunting dogs to point, flush, or retrieve game birds.

(3) "Game bird" means a bird defined as an upland game bird or migratory game bird in 87-2-101.

NEW SECTION. **Section 2. Training bird hunting dogs.** (1) Training of bird hunting dogs is allowed.

(2) A person training bird hunting dogs with a method that kills game birds shall tag or mark the game bird prior to release. Game birds must be obtained from a game bird farm licensed under 87-4-903 or from a source of game birds approved by the department.

(3) A person who takes an untagged or unmarked game bird while training a bird hunting dog outside of the established season for that species or who is not licensed to take that species shall immediately report the taking to a representative of the department.

NEW SECTION. **Section 3. Field trials -- requirements -- reporting taking of untagged game birds.**

(1) A person or organization shall apply for a permit from the department using a form provided by the department prior to conducting a field trial on public land.

(2) A signed application must be submitted to the department at least 20 days prior to the date of the field

1 trial.

2 (3) The application must state the name and address of the national affiliate, the location of the field trial,
3 the date or dates of the field trial, whether live game birds are to be used, and any other information required by
4 the department to determine the advisability of granting permission for the field trial.

5 (4) The department may deny an application that it determines is not in the best interests of the
6 protection, preservation, propagation, and conservation of game birds.

7 (5) The department may condition a permit for a field trial as necessary for the protection, preservation,
8 propagation, and conservation of game birds.

9 (6) Within 10 days of receiving the application, the department shall notify the applicant if the permit is
10 granted, granted with conditions, or denied.

11 (7) Game birds used in a field trial must be tagged or marked before being planted or released. Game
12 birds must be obtained from a game bird farm licensed under 87-4-903 or from a source of game birds approved
13 by the department.

14 (8) A person who takes an untagged game bird during a field trial outside of the established season for
15 that species or who is not licensed to take that species shall immediately report the taking to a representative of
16 the department.

17
18 **NEW SECTION. Section 4. Rulemaking authority.** The department may adopt rules to implement the
19 provisions of [sections 1 through 3].

20
21 **Section 5.** Section 87-6-101, MCA, is amended to read:

22 **"87-6-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
23 apply:

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

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

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

3 (b) The term does not include:

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

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

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

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

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

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

16 (7) "Field trial" ~~means an examination to determine the ability of dogs to point, flush, or retrieve game~~
17 ~~birds~~ has the meaning provided in [section 1].

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

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

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

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

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

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

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

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

9 (14) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or the
10 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
11 shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the laws of this state
12 in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term
13 includes an attempt to take or harvest by any means, including but not limited to pursuing, shooting, wounding,
14 killing, chasing, luring, possessing, or capturing.

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

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

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

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

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

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

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

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

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

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

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

30 (26) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons,

1 hawks, eagles, ospreys, and owls.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1
2 **Section 6.** Section 87-6-404, MCA, is amended to read:

3 **"87-6-404. Unlawful use of dog while hunting.** (1) Except as provided in subsections (3) through ~~(6)~~
4 (5), a person may not:

5 (a) chase any game animal or fur-bearing animal with a dog; or

6 (b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved
7 game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the dog is
8 personally responsible. A defense that the dog was allowed to run at large by another person is not allowable
9 unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner
10 and that the owner took reasonable precautions to prevent the dog from running at large.

11 (2) Except as provided in subsection ~~(3)(d)~~ (3)(f), a peace officer, game warden, or other person
12 authorized to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing,
13 attacking, or killing a hooved game animal may destroy that dog on public land or on private land at the request
14 of the landowner without criminal or civil liability.

15 (3) A person may:

16 (a) take game birds during the appropriate open season with the aid of a dog;

17 (b) hunt mountain lions during the winter open season, as established by the commission, with the aid
18 of a dog or dogs;

19 (c) hunt bobcats during the trapping season, as established by the commission, with the aid of a dog or
20 dogs; ~~and~~

21 (d) train bird hunting dogs pursuant to the requirements of [section 2];

22 (e) conduct field trials for bird hunting dogs pursuant to the requirements of [section 3] or on private land;

23 and

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

27 (4) A resident who possesses a Class D-3 resident hound training license may pursue mountain lions
28 and bobcats with a dog or dogs during a training season from December 2 of each year to April 14 of the following
29 year.

30 (5) (a) A person with a valid hunting license issued pursuant to Title 87, chapter 2, may use a dog to

1 track a wounded game animal during an appropriate open season. Any person using a dog in this manner:

2 (i) shall maintain physical control of the dog at all times by means of a maximum 50-foot lead attached
3 to the dog's collar or harness;

4 (ii) during the general season, whether handling or accompanying the dog, shall wear hunter orange
5 material pursuant to 87-6-414;

6 (iii) may carry any weapon allowed by law;

7 (iv) may dispose of the wounded game animal using any weapon allowed by the valid hunting license;

8 and

9 (v) shall tag an animal that has been reduced to possession in accordance with 87-6-411.

10 (b) Dog handlers tracking a wounded game animal with a dog are exempt from licensing requirements
11 under Title 87, chapter 2, as long as they are accompanied by the licensed hunter who wounded the game
12 animal.

13 ~~(6) Any person or association organized for the protection of game may run field trials at any time upon
14 obtaining written permission from the director.~~

15 ~~(7)(6)~~ A person who is convicted of or who forfeits bond or bail after being charged with a violation of this
16 section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for
17 not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be
18 subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to
19 hunt, fish, and trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period
20 of time set by the court.

21 ~~(8)(7)~~ A violation of this section may also result in an order to pay restitution pursuant to 87-6-905
22 through 87-6-907."

23

24 NEW SECTION. **Section 7. Repealer.** The following sections of the Montana Code Annotated are
25 repealed:

26 87-4-915. Field trials -- permits.

27 87-6-220. Field trial offenses.

28

29 NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 4] are intended to be codified
30 as an integral part of Title 87, chapter 3, part 4, and the provisions of Title 87, chapter 3, part 4, apply to [sections

1 1 through 4].

2

3 NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

4 - END -