

SENATE BILL NO. 256

INTRODUCED BY J. ELLSWORTH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING HARVESTED GAME ANIMAL TRANSFER LAWS;
5 AUTHORIZING THE TRANSFER OF A HARVESTED GAME ANIMAL THAT REQUIRES MANDATORY
6 DEPARTMENT BIOLOGICAL INSPECTION OR A WOLF THAT REQUIRES MANDATORY DEPARTMENT
7 BIOLOGICAL INSPECTION; REQUIRING A STATEMENT OF POSSESSION FOR ANYONE RECEIVING ALL
8 OR PART OF A GAME ANIMAL THAT REQUIRES MANDATORY DEPARTMENT BIOLOGICAL INSPECTION
9 OR A WOLF THAT REQUIRES MANDATORY DEPARTMENT BIOLOGICAL INSPECTION; PROVIDING A
10 PENALTY; ALLOWING INSPECTION OF TRANSFERRED ANIMALS; PROVIDING AN EXCEPTION TO FISH
11 AND GAME COMMISSION AUTHORITY; PROVIDING AN EXCEPTION TO TAGGING AND SHIPPING OF A
12 GAME ANIMAL; PROVIDING AN EXCEPTION TO CHECK STATION REQUIREMENTS; AND AMENDING
13 SECTIONS 87-2-119, 87-3-115, 87-6-202, 87-6-218, AND 87-6-411, MCA."

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

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17 **NEW SECTION. Section 1. Transfer of possession of harvested game.** (1) A person licensed to hunt
18 and authorized to possess a carcass of a game animal that requires mandatory department biological inspection
19 or a wolf that requires mandatory department biological inspection may transfer possession of all or part of that
20 game animal or wolf to any person at any time after leaving the site of the kill.

21 (2) A statement of possession must be on a form prescribed by the department and signed by the
22 licensed person and the person or persons receiving possession.

23 (3) Upon receipt of game or a part of game, the recipient is authorized and responsible to present the
24 harvested game to the department as required for biological inspection, if applicable, and salvage the edible meat
25 for human consumption, if required by law.

26 (4) A person may not transfer possession of all or part of a grizzly bear carcass.

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28 **NEW SECTION. Section 2. Unlawful transfer of harvested game.** A person who purposely,
29 knowingly, or negligently violates [section 1] regarding the transfer of possession of harvested game shall be fined
30 not less than \$50 or more than \$500. In addition, the person, upon conviction or forfeiture of bond or bail, may

1 be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege
2 to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a
3 period of time set by the court.

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5 **Section 3.** Section 87-2-119, MCA, is amended to read:

6 **"87-2-119. Electronic validation of hunting licenses and tags -- rulemaking.** (1) A hunter may
7 electronically validate any hunting license or tag issued electronically pursuant to this chapter for a game animal
8 or wild turkey.

9 (2) Electronic validation of licenses pursuant to this section may not include the collection of hunter
10 location data through the use of a global positioning system.

11 (3) The department may adopt rules to implement this section. ~~The~~ Except as provided in [section 1],
12 the department may adopt rules regarding the possession of a game animal or wild turkey for which a license or
13 tag was electronically validated."

14

15 **Section 4.** Section 87-3-115, MCA, is amended to read:

16 **"87-3-115. Violation by carriers.** A person or the agent or employee of any common carrier,
17 association, stage, express, railway, or transportation company may not transport or receive for transportation
18 or carriage or sell or offer for sale any of the fish, game or nongame birds, game animals, fur-bearing animals,
19 the skins of fur-bearing animals, or parts thereof, except as specifically provided for by 87-3-114 and [section 1].
20 All fish, game or nongame birds, game animals, fur-bearing animals, or parts thereof had in possession or that
21 have been shipped or are being transported in violation of any of the provisions of 87-3-114, [section 1], or this
22 section must be seized, confiscated, and disposed of as provided by law."

23

24 **Section 5.** Section 87-6-202, MCA, is amended to read:

25 **"87-6-202. Unlawful possession, shipping, or transportation of game fish, bird, game animal, or**
26 **fur-bearing animal.** (1) A person may not possess, ship, or transport all or part of any game fish, bird, game
27 animal, or fur-bearing animal that was unlawfully killed, captured, or taken, whether killed, captured, or taken in
28 Montana or outside of Montana.

29 (2) This section does not prohibit the possession, shipping, or transportation of:

30 (a) hides, heads, or mounts of lawfully killed, captured, or taken game fish, birds, game animals, or

1 fur-bearing animals, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited,
2 except as provided by federal law;

3 (b) naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that
4 has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

5 (c) the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not
6 been unlawfully killed, captured, or taken or accidentally killed;

7 (d) paddlefish roe as caviar under the provisions of 87-4-601;

8 (e) captive-reared migratory waterfowl; or

9 (f) salvaged antelope, deer, elk, or moose subject to 87-3-145.

10 (3) A person may not possess, ship, or transport live fish away from the body of water in which the fish
11 were taken except:

12 (a) as provided in Title 87, chapter 4, part 6, or as specifically permitted by the laws of this state;

13 (b) fish species approved by the commission for use as live bait and subject to any restrictions imposed
14 by the commission; or

15 (c) within the boundaries of the eastern Montana fishing district, as established by commission
16 regulations.

17 (4) ~~The~~ Except as provided in [section 1], possession of all or part of a dead game fish, bird, game
18 animal, or fur-bearing animal is prima facie evidence that the person or persons in whose possession the fish,
19 bird, or animal is found killed, captured, or took the fish, bird, or animal.

20 (5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed,
21 shipped, or transported must be determined from the schedules of restitution values in 87-6-906 and 87-6-907.
22 The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or
23 transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined
24 in 46-1-202, may be aggregated in determining the value.

25 (6) The following penalties apply for a violation of this section:

26 (a) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping,
27 or transportation of a game fish or bird and if the value of all or part of the game fish or bird or combination thereof
28 does not exceed \$1,000, the person shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the
29 county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture
30 of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this

1 state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

2 (b) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or
3 transportation of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or
4 any part of these animals and if the value of all or part of the animal or combination thereof does not exceed
5 \$1,000, the person shall be fined not less than \$500 or more than \$2,000 or be imprisoned in the county detention
6 center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing,
7 recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30
8 months from the date of conviction or forfeiture unless the court imposes a longer period.

9 (c) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or
10 transportation of a deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part
11 of the animal or combination thereof does not exceed \$1,000, the person shall be fined not less than \$300 or
12 more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition,
13 the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to
14 hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a
15 longer period.

16 (d) If a person is convicted or forfeits bond or bail after being charged with unlawful shipping of a
17 mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, grizzly bear, deer, antelope, elk, or
18 mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does
19 not exceed \$1,000, the person shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the
20 county detention center for not more than 6 months, or both. In addition, the person may be subject to forfeiture
21 of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this
22 state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

23 (e) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping,
24 or transportation of a fur-bearing animal or pelt of a fur-bearing animal and if the value of all or part of the animal
25 or combination thereof does not exceed \$1,000, the person shall be fined not less than \$100 or more than \$1,000
26 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall
27 forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap
28 in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and
29 any pelts possessed unlawfully must be confiscated.

30 (f) If a person is convicted under this section or forfeits bond or bail after being charged with a violation

1 of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or
2 combination thereof exceeds \$1,000, the person shall be fined not more than \$50,000 or be imprisoned in the
3 state prison for a term not to exceed 5 years, or both. In addition, the person shall forfeit any current hunting,
4 fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not
5 less than 3 years up to a revocation for life from the date of conviction.

6 (7) A person convicted of unlawful possession of more than double the legal bag limit may be subject
7 to the additional penalties provided in 87-6-901.

8 (8) As used in this section:

9 (a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the
10 regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

11 (b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken.

12 (9) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through
13 87-6-907."

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15 **Section 6.** Section 87-6-218, MCA, is amended to read:

16 **"87-6-218. Checking station offenses.** (1) A person, upon the request of the director, the director's
17 authorized representative, or any game warden, shall produce for inspection any current fish and game license
18 or statement of possession pursuant to [section 1] that has been issued to the person and any game animals,
19 birds, fish, or fur-bearing animals in the person's possession. Hunters or anglers entering or leaving areas for
20 which checking stations have been established shall stop and report if a checking station is on the hunter's or
21 angler's route of travel to or from the hunting or fishing area and personnel are on duty.

22 (2) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000
23 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon
24 conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping
25 license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in
26 77-1-101, for recreational purposes for a period of time set by the court."

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28 **Section 7.** Section 87-6-411, MCA, is amended to read:

29 **"87-6-411. Tagging of game animal offenses.** (1) Each license issued by the department authorizing
30 the holder of the license to hunt game animals, whether issued to a resident or a nonresident, must provide any

1 tags the department prescribes.

2 (2) When a person kills a game animal under the license, the person shall, before the carcass is
3 removed from or the person leaves the site of the kill, take physical possession of the game animal by:

4 (a) electronically validating the license or tag pursuant to rules adopted in accordance with 87-2-119;
5 or

6 (b) cutting out from the license or tag the date the animal was killed and attaching the license or tag to
7 the animal. A license or tag that is not electronically validated must be:

8 (i) completely filled out with the name of the license holder, the license holder's address, and any other
9 information requested on the license or tag; and

10 (ii) kept attached to the carcass as long as any considerable portion of the carcass remains unconsumed.

11 (3) When a game animal has been lawfully killed and the proper license or tag is electronically validated
12 or is attached to the game animal that was killed, the game animal becomes the property of the person who
13 lawfully killed the animal and may be possessed, used, stored, donated to another or to a charity, transferred to
14 another person pursuant to [section 1], or transported.

15 (4) A person may not fail to keep the license or tag attached to the game animal or portion of the game
16 animal while the animal is possessed by the person unless the license or tag was electronically validated.

17 (5) A person may not tag a game animal with or electronically validate a license or tag that is restricted
18 to a hunting district other than the hunting district where the game animal was killed.

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

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26 **NEW SECTION. Section 8. Codification instruction.** (1) [Section 1] is intended to be codified as an
27 integral part of Title 87, and the provisions of Title 87 apply to [section 1].

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

30 - END -