

1 HOUSE BILL NO. 621

2 INTRODUCED BY J. COHENOUR, T. FRANCE, D. LOGE, G. OBLANDER, S. O'BRIEN, W. SALES, P.

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5

6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING HUNTING AND FISHING LAWS RELATED TO LAND  
7 ACCESS; PROHIBITING THE OBSTRUCTION OF LAWFUL ACCESS TO PUBLIC HUNTING AND FISHING  
8 LAND; INCREASING THE FINE FOR FAILURE TO OBTAIN LANDOWNER PERMISSION TO HUNT;  
9 PROVIDING ADDITIONAL PENALTIES; AMENDING SECTIONS 87-6-215 AND 87-6-415, MCA; AND  
10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11

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

13

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

15 **"87-6-215. Harassment.** (1) (a) A person may not:

16 (i) intentionally interfere with the lawful taking of a wild animal or fishing by another;

17 (ii) with intent to prevent or hinder its lawful taking or its capture, disturb a wild animal or engage in  
18 an activity or place in its way any object or substance that will tend to disturb or otherwise affect the behavior of  
19 a wild animal; ~~or~~

20 (iii) disturb an individual engaged in the lawful taking of a wild animal or fishing with intent to  
21 prevent the taking of the animal or the capture of the fish; or

22 (iv) prevent, restrict, or obstruct lawful access, either through physical impediments or by means of  
23 intimidation, to land that is available for public hunting or fishing pursuant to federal or state law.

24 (b) This subsection (1) does not:

25 (i) prohibit a landowner or lessee from taking reasonable measures to prevent imminent danger to  
26 domestic livestock and equipment; ~~or~~

27 (ii) prohibit or curtail normal landowner operations or lawful uses of water; or

28 (iii) prohibit a landowner or lessee from taking action that is otherwise authorized under federal or

1 state law.

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

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

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

16 (5) As used in this section:

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

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

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

22

23 **Section 2.** Section 87-6-415, MCA, is amended to read:

24 **"87-6-415. Failure to obtain landowner's permission for hunting.** (1) A person may not hunt or  
25 attempt to hunt furbearers, game animals, migratory game birds, nongame wildlife, predatory animals, upland  
26 game birds, or wolves or collect or attempt to collect antlers, antler sheds, or animal horns on private property  
27 without first obtaining permission of the landowner, the lessee, or their agents.

28 (2) (a) A person who violates this section shall, upon conviction for a first offense, be fined not less

1 than ~~\$135~~ \$250 or more than \$500.

2 (b) A If a person knowingly violates this section, then a court may, at its discretion, also impose the  
3 penalties provided in subsection (4)(a) for a period of no longer than 12 months and may also impose the  
4 penalties provided in subsection (4)(b).

5 (3) A person convicted of a second or subsequent offense of hunting on private property without  
6 obtaining permission of the landowner within 5 years shall be fined not less than \$500 or more than \$1,000.

7 (4) In addition, the person, upon conviction under subsection (3) or forfeiture of bond or bail:

8 (a) shall forfeit any current hunting, fishing, or trapping license issued by this state and the  
9 privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes  
10 for not less than 12 months or more than 3 years from the date of conviction or forfeiture [of bond or bail]; and

11 (b) may be ordered to make restitution for property damage resulting from the violation in an  
12 amount and manner to be set by the court. The court shall determine the manner and amount of restitution after  
13 full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the  
14 convicted person, the court may modify any previous order specifying the amount and manner of restitution.  
15 Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the  
16 person convicted.

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

19 ~~(5)~~(6) For the purposes of this section, the term "hunt" has the same meaning as provided in 87-6-  
20 101 and includes entering private land to:

21 (a) retrieve wildlife; or

22 (b) access public land to hunt."

23  
24 NEW SECTION. Section 3. Saving clause. [This act] does not affect rights and duties that matured,  
25 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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27 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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