

HOUSE BILL NO. 279

INTRODUCED BY J. ESSMANN

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE REQUIREMENTS FOR TAGGING GAME ANIMALS AND GAME BIRDS; DEFINING "SITE OF THE KILL"; AMENDING SECTIONS 87-6-101, 87-6-404, 87-6-411, AND 87-6-412, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. 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.

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

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

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

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

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

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

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

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

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

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

28 (14) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person
29 possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting,
30 wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife

1 may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by
2 any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or
3 capturing.

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

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

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

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

9 (19) "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 (20) "Open season" means the time during which game birds, fish, and game and fur-bearing animals
12 may be lawfully taken.

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~(30)~~(31) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals.
2 The term does not include growing plants or plants harvested for the feeding of livestock.

3 ~~(31)~~(32) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving,
4 or preparing all or part of the dead bodies of any wildlife.

5 ~~(32)~~(33) "Trap" means to take or participate in the taking of any wildlife protected by state law by setting
6 or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from
7 any of these devices.

8 ~~(33)~~(34) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie
9 chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild
10 turkey, and chukar partridge.

11 ~~(34)~~(35) "Wild animal" means an animal that is wild by nature as distinguished from common domestic
12 animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

13 ~~(35)~~(36) "Wild animal menagerie" means any place where one or more bears or large cats, including
14 cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in
15 captivity for use other than public exhibition.

16 ~~(36)~~(37) "Wild buffalo" means buffalo or bison that have not been reduced to captivity.

17 ~~(37)~~(38) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any
18 facility participating in the American zoo and aquarium association accreditation program for the purpose of
19 exhibiting wild animals for public viewing."
20

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

22 **"87-6-404. Unlawful use of dog while hunting.** (1) Except as provided in subsections (3) through (6),
23 a person may not:

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

25 (b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved
26 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
27 personally responsible. A defense that the dog was allowed to run at large by another person is not allowable
28 unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner
29 and that the owner took reasonable precautions to prevent the dog from running at large.

30 (2) Except as provided in subsection (3)(d), a peace officer, game warden, or other person authorized

1 to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing
2 a hooved game animal may destroy that dog on public land or on private land at the request of the landowner
3 without criminal or civil liability.

4 (3) A person may:

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

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

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

10 (d) use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to protect
11 humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and grain.

12 The dog may not be destroyed pursuant to subsection (2).

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

16 (5) (a) A person with a valid hunting license issued pursuant to Title 87, chapter 2, may use a dog to
17 track a wounded game animal during an appropriate open season. Any person using a dog in this manner:

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

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

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

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

24 and

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

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

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

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

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

9

10 **Section 3.** Section 87-6-411, MCA, is amended to read:

11 **"87-6-411. Tagging of game animal offenses.** (1) Each license issued by the department authorizing
 12 the holder of the license to hunt game animals, whether issued to a resident or a nonresident, must provide any
 13 tags, ~~coupons, or markers~~ as the department prescribes.

14 (2) When a person kills a game animal under the license, the person shall ~~immediately cut~~ take physical
 15 possession of the game animal by cutting out from the license or tag, coupon, or other marker the date the animal
 16 was killed and ~~attach~~ attaching the license or tag, coupon, or other marker to the animal; before the carcass is
 17 removed from, or the person leaves, the site of the kill. The license or tag must be:

18 (a) completely filled out with the name of the license holder, the license holder's address, and any other
 19 information requested on the license or tag, coupon, or other marker. ~~The tag, coupon, or other marker must be;~~
 20 and

21 (b) kept attached to the carcass as long as any considerable portion of the carcass remains
 22 unconsumed.

23 (3) When a game animal has been lawfully killed and the proper license or tag, coupon, or other marker
 24 is attached to the game animal that was killed, the game animal becomes the property of the person who lawfully
 25 killed the animal and may be possessed, used, stored, donated to another or to a charity, or transported.

26 (2) ~~A person who kills any game animal by authority of any license issued for the killing of the game~~
 27 ~~animal may not fail or neglect to cut out the day and month of the kill or provide any other information that is~~
 28 ~~required and attach the tag, coupon, or other marker provided with the license issued to the carcass of the game~~
 29 ~~animal or portion of the game animal.~~

30 (3)(4) A person may not fail to keep the license or tag, coupon, or other marker attached to the game

1 animal or portion of the game animal while the animal is possessed by the person.

2 ~~(4)(5)~~ A person may not tag a game animal with a license or tag restricted to a hunting district other than
3 the hunting district where the game animal was killed.

4 ~~(5)(6)~~ A person who is convicted of or who forfeits bond or bail after being charged with a violation of this
5 section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for
6 not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be
7 subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to
8 hunt, fish, ~~or~~ and trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a
9 period of time set by the court."

10

11 **Section 4.** Section 87-6-412, MCA, is amended to read:

12 **"87-6-412. Tagging of turkey offenses.** (1) A person who kills, captures, or possesses a wild turkey
13 by authority of any turkey tag or permit may not:

14 (a) fail or neglect to attach the tag to the turkey in compliance with instructions on the tag prior to the
15 person leaving or the turkey being removed from the site of the kill;

16 (b) fail to validate the tag by not filling out or punch marking the tag as required; or

17 (c) fail to keep the tag attached while the turkey is possessed by the person.

18 ~~(2) A person who takes or kills a turkey must immediately attach to the turkey's leg a valid tag in~~
19 ~~compliance with instructions on the tag.~~

20 ~~(3)(2)~~ A person who is convicted of or who forfeits bond or bail after being charged with a violation of this
21 section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for
22 not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be
23 subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to
24 hunt, fish, ~~or~~ and trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a
25 period of time set by the court."

26

27 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2015.

28

- END -