# HOUSE BILL NO. 166

### INTRODUCED BY KELLER, ELLISON, SCHYE, STEPPLER, COBB

### IN THE HOUSE

JANUARY 14, 1991

INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.

INTRODUCED AND REFERRED TO COMMITTEE

FIRST READING.

JANUARY 31, 1991

COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 1, 1991 PRINTING REPORT.

FEBRUARY 2, 1991

FEBRUARY 4, 1991

FEBRUARY 5, 1991

THIRD READING, PASSED. AYES, 97; NOES, 2.

ENGROSSING REPORT.

TRANSMITTED TO SENATE.

SECOND READING, DO PASS.

## IN THE SENATE

FEBRUARY 6, 1991

FIRST READING.

ON FISH & GAME.

MARCH 8, 1991

MARCH 12, 1991

MARCH 13, 1991

SECOND READING, CONCURRED IN. THIRD READING, CONCURRED IN.

COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 14, 1991

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

52nd Legislature

25

LC 0410/01

House BILL NO. 166 INTRODUCED BY Kellen Ellison Sala Steppler Cot 1 2 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CONFORM THE 5 PROVISIONS OF THE SPOTLIGHTING WHILE HUNTING STATUTE TO THE 6 DECISION OF THE MONTANA SUPREME COURT IN STATE V. AUSTIN, 7 217 MONT. 265, 704 P.2D 55 (1985), BY INSERTING A REQUIREMENT THAT THE VIOLATION BE COMMITTED PURPOSELY OR 8 9 KNOWINGLY AND BY LIMITING THE LANDOWNER'S EXEMPTION TO 10 NONHUNTING ACTIVITIES; AND AMENDING SECTION 87-3-122, MCA." 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 13 Section 1. Section 87-3-122, MCA, is amended to read: 14 "87-3-122. Spotlighting unlawful. (1) It is unlawful 15 for any person or one or more of a group of persons together to purposely or knowingly, as defined in 45-2-101, throw or 16 17 cast the rays of a spotlight having a luminance of greater 18 than .75 candlepower attached to or cast from a motorized 19 vehicle into any field, pasture, woodland, forest, or 20 prairie wherein wildlife or domestic livestock may be or may 21 be reasonably expected to be while having in his possession 22 or their possession or under control a firearm or other 23 implement whereby any wildlife or domestic animal could be 24 killed by aid of an artificial light.

(2) (a) All officers authorized to enforce the game and



livestock laws of the state of Montana and all landowners,
lessees, or their agents, while on their own lands in
connection with their legitimate <u>nonhunting</u> activities, and
employees of such landowners, lessees, and agents are exempt
from the provisions of this section.

6 (b) The provisions of this section do not apply where 7 the headlights of a motor vehicle, operating and proceeding 8 in a normal manner on any highway or roadway, cast a light 9 upon such animal on or adjacent to the highway or roadway 10 and there is no intent or attempt to locate that animal.

11 (3) A person convicted of violating subsection (1) of 12 this section shall be fined not to exceed \$500 or be 13 imprisoned in the county jail for any term not to exceed 6 14 months, or both."

-End-

-2-



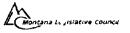
INTRODUCED BILL

52nd Legislature

HB 0166/02

APPROVED BY COMM. On Fish and game

1	HOUSE BILL NO. 166
2	INTRODUCED BY KELLER, ELLISON, SCHYE, STEPPLER, COBB
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO CONFORMTHE
5	PROVISIONSOFTHESPOTLIGHTINGWHILEHUNTING-STATUTE-TO
6	ADDRESS THE DECISION OF THE MONTANA SUPREME COURT IN STATE
7	V. AUSTIN, 217 MONT. 265, 704 P.2D 55 (1985), BY <del>INSERTING-A</del>
8	REQUIREMENTTHATTHEVIOLATIONBE-COMMITTED-PURPOSELY-OR
9	KNOWINGLY-ANDBYLIMITINGTHELANDOWNER'SEXEMP.IONTO
10	NONHUNTINGACTIVITIES;ANDAMENDING REPEALING SECTION
11	87~3-122, MCA."
12	
13	WHEREAS, THE MONTANA SUPREME COURT IN STATE V. AUSTIN,
14	217 MONT. 265, 704 P.2D 55 (1985), HELD THAT SECTION
15	87-3-122, MCA, VIOLATED EQUAL PROTECTION BY INCLUDING
16	WILDLIFE IN ITS PURVIEW AND EXEMPTING LANDOWNERS, LESSEES,
17	AND OTHERS ON THEIR OWN LAND SINCE THE STATUTE WAS NOT
18	RATIONALLY RELATED TO THE STATE'S INTEREST IN PROTECTING ITS
19	WILDLIFE; AND
20	WHEREAS, SUBSEQUENT ATTEMPTS TO AMEND SECTION 87-3-122,
21	MCA, TO CONFORM TO THE COURT'S DECISION HAVE NOT BEEN
22	SUCCESSFUL; AND
23	WHEREAS, THE LEGISLATURE CONSIDERS IT APPROPRIATE TO
24	REMOVE THE STATUTE FROM THE LAW WHILE AT THE SAME TIME
25	ENCOURAGING THE DEPARTMENTS OF LIVESTOCK AND FISH, WILDLIFE,



1	AND PARKS TO WORK TOGETHER TO DEVELOP FOR FUTURE LEGISLATIVE
2	CONSIDERATION A VIABLE SPOTLIGHTING LAW THAT WILL ADDRESS
3	THE CONCERNS OF THE COURT AND MONTANA LANDOWNERS.
4	
5	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
6	Section-1:Section-87-3-122;-MCA;-is-amended-to-read:
7	407-3-122Spotlighting-unlawful{l}Itisunlawful
8	for-any-person-or-one-or-more-of-a-group-of-persons-together
9	to <u>purposely-or-knowingly7-as-defined-in-45-2-1017</u> -throw-or
10	cast-the-rays-of-a-spotlight-having-a-luminanceofgreater
11	than75candlepowerattached-to-or-cast-from-a-mutorized
12	vehicleintoanyfield;pasture;woodland;forest;or
13	prairie-wherein-wildlife-or-domestic-livestock-may-be-or-may
14	be-reasonably-expected-to-be-while-having-in-hispossession
15	ortheirpossessionorundercontrol-a-firearm-or-other
16	implement-whereby-any-wildlife-or-domestic-animalcouldbe
17	killed-by-aid-of-an-artificial-light-
18	<pre>(2)(a)-All-officers-authorized-to-enforce-the-game-and</pre>
19	livestocklawsof-the-state-of-Montana-and-all-landowners;
20	lessees,-or-theiragents,whileontheirownlandsin
21	connectionwith-their-legitimate <u>nonhunting</u> -activities,-and
22	employees-of-such-landownerslesseesand-agents-are-exempt
23	from-the-provisions-of-this-section-
24	<pre>(b)The-provisions-of-this-section-do-notapplywhere</pre>
75	hhas boudli bhu chur, watar uch'ala, annaakiya andammaaadiya

the--headlights-of-a-motor-vehicle;-operating-and-proceeding SECOND READING 25

-2-

HB 166

HB 0166/02

# HB 0166/02

1	in-a-normal-manner-on-any-highway-or-roadwaycastalight
2	uponsuchanimalon-or-adjacent-to-the-highway-or-roadway
3	and-there-is-no-intent-or-attempt-to-locate-that-animal.
4	(3)A-person-convicted-of-violating-subsection(1)of
5	thissectionshallbefinednottoexceed\$500-or-be
6	imprisoned-in-the-county-jail-for-any-term-not-toexceed6
7	months7-or-both+"
8	NEW SECTION. SECTION 1. REPEALER. SECTION 87-3-122

9 MCA, IS REPEALED.

-End-

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Montana Lu Jislative Council

1	HOUSE BILL NO. 166
2	INTRODUCED BY KELLER, ELLISON, SCHYE, STEPPLER, COBB
3	
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5	PROVISIONSOPTHESPOTLIGHTINGWHILEHUNTING-STATUTE-TO
6	ADDRESS THE DECISION OF THE MONTANA SUPREME COURT IN STATE
7	V. AUSTIN, 217 MONT. 265, 704 P.2D 55 (1985), BY INSERTING-A
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16	WILDLIFE IN ITS PURVIEW AND EXEMPTING LANDOWNERS, LESSEES,
17	AND OTHERS ON THEIR OWN LAND SINCE THE STATUTE WAS NOT
18	RATIONALLY RELATED TO THE STATE'S INTEREST IN PROTECTING ITS
19	WILDLIFE; AND
20	WHEREAS, SUBSEQUENT ATTEMPTS TO AMEND SECTION 87-3-122,
21	MCA, TO CONFORM TO THE COURT'S DECISION HAVE NOT BEEN
22	SUCCESSFUL; AND
23	WHEREAS, THE LEGISLATURE CONSIDERS IT APPROPRIATE TO
24	REMOVE THE STATUTE FROM THE LAW WHILE AT THE SAME TIME
25	ENCOURAGING THE DEPARTMENTS OF LIVE: TOCK AND FISH, WILDLIFE,

1	AND PARKS TO WORK TOGETHER TO DEVELOP FOR FUTURE LEGISLATIVE
2	CONSIDERATION A VIABLE SPOTLIGHTING LAW THAT WILL ADDRESS
3	THE CONCERNS OF THE COURT AND MONTANA LANDOWNERS.
4	
5	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
6	Section-1Section-87-3-1227-MCA;-is-amended-to-read:
7	■87-3-122Spotlighting-unlawful(1)Itisunlawful
8	for-any-person-or-one-or-more-of-a-group-of-persons-together
9	to <u>purposely-or-knowingly-as-defined-in-45-2-1017</u> -throw-or
10	cast-the-rays-of-a-spotlight-having-a-luminanceofgreater
11	than75candlepowerattached-to-or-cast-from-a-mutorized
12	vehicleintoanyfield;pasture;woodland;forest;or
13	prairie-wherein-wildlife-or-domestic-livestock-may-be-or-may
14	be-reasonably-expected-to-be-while-having-in-hispossession
15	ortheirpossessionorundercontrol-a-firearm-or-other
16	implement-whereby-any-wildlife-or-domestic-animalcouldbe
17	killed-by-aid-of-an-artificial-light-
18	<pre>t2){a}-All-officers-authorized-to-enforce-the-game-and</pre>
19	livestocklawsof-the-state-of-Montana-and-all-landowners;
20	lessees;-or-theiragents;whileontheirownlandsin
21	connectionwith-their-legitimate <u>nonhunting</u> -activities,-and
22	employees-of-such-landowners;-lessees;-and-agents-are-exempt
23	from-the-provisions-of-this-section-
24	(b)The-provisions-of-this-section-do-notapplywhere
25	theheadlights-of-a-motor-vehicle;-operating-and-proceeding THIRD READING
	-2- HB 166

# HB 0166/02

1	in-a-normal-manner-on-any-highway-or-roadway;-castalight		
2	uponsuchanimalon-or-adjacent-to-the-highway-or-roadway		
3	and-there-is-no-intent-or-attempt-to-locate-that-animal-		
4	<pre>(3)A-person-convicted-of-violating-subsection{t}of</pre>		
5	thissectionshallbefinednottoexceed\$500-or-be		
6	imprisoned-in-the-county-jail-for-any-term-not-toexceed6		
7	months;-or-both."		
8	NEW SECTION. SECTION 1. REPEALER. SECTION 87-3-122,		

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9 MCA, IS REPEALED.

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-End-

-3-

нн 0166/02

1	HOUSE BILL NO. 166	1 AND PARKS TO WORK TOGETHER TO DEVELOP FOR FUTURE LEGISLATIVE
2	INTRODUCED BY KELLER, ELLISON, SCHYE, STEPPLER, COBB	2 CONSIDERATION A VIABLE SPOTLIGHTING LAW THAT WILL ADDRESS
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO CONFORMTHE	4
5	PROVISIONSOPTHESPOTLIGHTINGWHILEHUNTING-STATUTE-TO	5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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7	V. AUSTIN, 217 MONT. 265, 704 P.2D 55 (1985), BY INSERTING-A	7 #87-3-122Spotlighting-unlawful{1}Itisunlawful
8	REQUIREMENTTHATTHEVIOLATIONBE-COMMITTED-PURPOSELY-OR	<pre>8 for-any-person-or-one-or-more-of-a-group-of-persons-together</pre>
9	KNOWINGLY-ANDBYLIMITINGTHELANDOWNERLSEXEMPVIONTO	9 to <u>purposely-or-knowingly7-as-defined-in-45-2-1017</u> -throw-or
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12		12 vehicleintoanyfield;pasture;woodland;forest;or
13	WHEREAS, THE MONTANA SUPREME COURT IN STATE V. AUSTIN,	13 prairie-wherein-wildlife-or-domestic-livestock-may-be-or-may
14	217 MONT. 265, 704 P.2D 55 (1985), HELD THAT SECTION	14 be-reasonably-expected-to-be-while-having-in-hispossession
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17	AND OTHERS ON THEIR OWN LAND SINCE THE STATUTE WAS NOT	17 killed-by-aid-of-an-artificial-light-
18	RATIONALLY RELATED TO THE STATE'S INTEREST IN PROTECTING ITS	18 (2){a}-All-officers-authorized-to-enforce-the-game-and
19	WILDLIFE; AND	19 livestocklawsof-the-state-of-Montana-and-all-landowners;
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21	MCA, TO CONFORM TO THE COURT'S DECISION HAVE NOT BEEN	21 connectionwith-their-legitimate <u>nonhunting</u> -activities, and
22	SUCCESSFUL; AND	22 employees-of-such-landowners7-lessees7-and-agents-are-exempt
23	WHEREAS, THE LEGISLATURE CONSIDERS IT APPROPRIATE TO	23 from-the-provisions-of-this-section-
24	REMOVE THE STATUTE FROM THE LAW WHILE AT THE SAME TIME	24 (b) The-provisions-of-this-section-do-notapplywhere
25	ENCOURAGING THE DEPARTMENTS OF LIVESTOCK AND FISH, WILDLIFE,	25 theheadlights-of-a-motor-vehicler-operating-and-proceeding REFERENCE BILL
	Montana Le Jislative Council	-2- НВ 166

## HB 0166/02

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