

HOUSE BILL NO. 576

INTRODUCED BY HARPER, MEASURE, RANEY, LEE,
HOFFMAN, WANZENRIED, KADAS, DRISCOLL,
WALLIN, THOFT

IN THE HOUSE

FEBRUARY 2, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON FISH & GAME.

FEBRUARY 4, 1991 FIRST READING.

FEBRUARY 20, 1991 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 21, 1991 PRINTING REPORT.

FEBRUARY 23, 1991 SECOND READING, DO PASS AS AMENDED.

FEBRUARY 25, 1991 ENGROSSING REPORT.

FEBRUARY 26, 1991 THIRD READING, PASSED.
AYES, 95; NOES, 1.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 27, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON FISH & GAME.

FIRST READING.

MARCH 27, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 1, 1991 SECOND READING, CONCURRED IN.

APRIL 2, 1991 THIRD READING, CONCURRED IN.
AYES, 49; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 9, 1991 RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 10, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 576
 2 INTRODUCED BY *Harvey, Maxine Roney Lee*
 3 *Wanzon* *Kados Driscoll* *J. [unclear]*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW

5 REGARDING THE TRANSPLANTATION OR INTRODUCTION OF WILDLIFE BY
 6 REQUIRING AN ENVIRONMENTAL IMPACT STATEMENT PRIOR TO
 7 TRANSPLANTATION OR INTRODUCTION OF A FISH SPECIES IN
 8 MONTANA; INCREASING THE PENALTY FOR THE ILLEGAL IMPORTATION,
 9 INTRODUCTION, OR TRANSPLANTATION OF FISH; AND AMENDING
 10 SECTIONS 87-5-711 AND 87-5-721, MCA."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 87-5-711, MCA, is amended to read:

14 "87-5-711. Control of importation for introduction and
 15 transplantation or introduction of wildlife. (1) Except as
 16 otherwise provided, the importation for introduction or the
 17 transplantation or introduction of any wildlife is
 18 prohibited unless the commission determines, based upon
 19 scientific investigation and after public hearing, that a
 20 species of wildlife poses no threat of harm to native
 21 wildlife and plants or to agricultural production and that
 22 the transplantation or introduction of a species has
 23 significant public benefits.

24 (2) With regard to the transplantation or introduction
 25 of a fish species not previously legally transplanted to a

1 specific area within the state or not previously legally
 2 introduced to the state, the requirement for scientific
 3 investigation in subsection (1) may be satisfied only by
 4 completion of an environmental impact statement conforming
 5 to the provisions of Title 75, chapter 1, part 2."

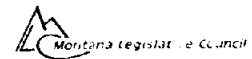
6 Section 2. Section 87-5-721, MCA, is amended to read:

7 "87-5-721. Penalty -- license and permit revocation and
 8 denial. (1) Except as provided in subsection (2), a person
 9 who violates a provision of this part is guilty of a
 10 misdemeanor punishable as provided in 87-1-102, and the
 11 department, upon conviction of the person, shall revoke any
 12 license or permit issued by it under this title to the
 13 person and deny any application by the person for a license
 14 or permit under this title for a period not to exceed 2
 15 years from the date of the conviction.

16 (2) In addition to the license revocation and
 17 application denial provisions set out in subsection (1), a
 18 person who intentionally imports, introduces, or transplants
 19 fish in violation of this part is guilty of a misdemeanor
 20 punishable by a fine of not less than \$500 and may be fined
 21 up to the amount necessary to eliminate or mitigate the
 22 effects of the violation."

-End-

INTRODUCED BILL
 HB 576



STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0576, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill revises the law regarding the transplantation or introduction of wildlife by requiring an environmental impact statement prior to transplantation or introduction of a fish species in Montana, and increases the penalty for the illegal importation, introduction, or transplantation of fish.


ASSUMPTIONS:

1. It is assumed that a complete EIS will be required for each transplantation or introduction.
2. A consultant will be retained to assist the department in the preparation of each EIS.
3. The number of instances where the department may propose the introduction or transplant of a fish species to new areas of the state is not accurately predictable. It is assumed the number of instances will be three in any given year. Some examples of past activities include the introduction of tiger muskies into several Montana lakes-reservoirs, introduction of cisco into Fort Peck Reservoir, transplant of spottail shiner into Tongue River Reservoir, the transplant of walleye into Byrum Reservoir, Hauser Reservoir, Lake Francis and others.
4. It is assumed the costs of an EIS would vary with the complexity of the environment and fish species under consideration. Any fish species introduced or transplanted into open waters, e.g., river or run-of-the-river reservoir would require a more complex and costly investigation than would stocking a fish species into an isolated pond or lake not connected with another water body. Other agencies that frequently have conducted EISs were contacted to determine costs. The DNRC Energy Division indicates their costs typically exceed \$100,000 but agree that less complicated EISs might be completed for \$30,000 to \$50,000. The Department of State Lands estimates costs in excess of \$110,000. The department assumes that an average EIS will cost the agency \$75,000.

FISCAL IMPACT:

Department of Fish, Wildlife and Parks:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
EIS Costs	0	225,000	225,000	0	225,000	225,000
<u>Funding:</u>						
General Lic Acct (02)	0	225,000	225,000	0	225,000	225,000


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning
DATE 2-7-91


HAL HARPER, PRIMARY SPONSOR
DATE 2/8/91

Fiscal Note for HB0576, as introduced

HB 576

Fiscal Note Request, HB0576, as introduced

Form BD-15

Page 2

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The department anticipates an increase in demand to stock Montana waters with new species. Future biennium costs could increase over the costs projected for this biennium.

TECHNICAL NOTES:

1. The legislation refers to "specific areas within the state." This phrase needs clarification for effective implementation of the legislation.
2. The legislation would affect the manner in which the department administers and enforces regulations on the use of live bait fish. Enactment of this legislation would require revision and modification of the rules regarding use and commercial seining of bait fish. At present it is legal to transport live bait fish from one drainage to another.
3. Clarification is needed to make sure this bill is not intended to affect routine fishery management programs, especially where hatchery fish are introduced into rehabilitated waters.

HB 576

APPROVED BY COMM.
ON FISH AND GAME

1 *HOUSE BILL NO. 576*
2 INTRODUCED BY *Harvey McQueen Raney Lee*
3 *Walter* ~~UNRECORDED~~ *Rados Driscoll* *William*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW
5 REGARDING THE TRANSPLANTATION OR INTRODUCTION OF WILDLIFE BY
6 REQUIRING AN ENVIRONMENTAL IMPACT STATEMENT PRIOR TO
7 TRANSPLANTATION OR INTRODUCTION OF A FISH SPECIES IN
8 MONTANA; INCREASING THE PENALTY FOR THE ILLEGAL IMPORTATION,
9 INTRODUCTION, OR TRANSPLANTATION OF FISH; AND AMENDING
10 SECTIONS 87-5-711 AND 87-5-721, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 87-5-711, MCA, is amended to read:
14 "87-5-711. Control of importation for introduction and
15 transplantation or introduction of wildlife. (1) Except as
16 otherwise provided, the importation for introduction or the
17 transplantation or introduction of any wildlife is
18 prohibited unless the commission determines, based upon
19 scientific investigation and after public hearing, that a
20 species of wildlife poses no threat of harm to native
21 wildlife and plants or to agricultural production and that
22 the transplantation or introduction of a species has
23 significant public benefits.
24 (2) With regard to the transplantation or introduction
25 of a fish species not previously legally transplanted to a

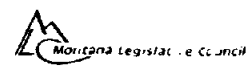
1 specific area within the state or not previously legally
2 introduced to the state, the requirement for scientific
3 investigation in subsection (1) may be satisfied only by
4 completion of an environmental impact statement conforming
5 to the provisions of Title 75, chapter 1, part 2."

6 **Section 2.** Section 87-5-721, MCA, is amended to read:
7 "87-5-721. Penalty -- license and permit revocation and
8 denial. (1) Except as provided in subsection (2), a person
9 who violates a provision of this part is guilty of a
10 misdemeanor punishable as provided in 87-1-102, and the
11 department, upon conviction of the person, shall revoke any
12 license or permit issued by it under this title to the
13 person and deny any application by the person for a license
14 or permit under this title for a period not to exceed 2
15 years from the date of the conviction.
16 (2) In addition to the license revocation and
17 application denial provisions set out in subsection (1), a
18 person who intentionally imports, introduces, or transplants
19 fish in violation of this part is guilty of a misdemeanor
20 punishable by a fine of not less than \$500 and may be fined
21 up to the amount necessary to eliminate or mitigate the
22 effects of the violation."

-End-

SECOND READING

HB 576



HOUSE BILL NO. 576

INTRODUCED BY HARPER, MEASURE, RANEY, LEE,
 HOFFMAN, WANZENRIED, KADAS, DRISCOLL,
 WALLIN, THOFT

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW REGARDING THE TRANSPLANTATION OR INTRODUCTION OF WILDLIFE BY REQUIRING AN ENVIRONMENTAL IMPACT-STATEMENT REVIEW PRIOR TO TRANSPLANTATION OR INTRODUCTION OF A FISH SPECIES IN MONTANA; INCREASING THE PENALTY FOR THE ILLEGAL IMPORTATION, INTRODUCTION, OR TRANSPLANTATION OF FISH; AND AMENDING SECTIONS 87-5-711 AND 87-5-721, MCA."

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

Section 1. Section 87-5-711, MCA, is amended to read:

"87-5-711. Control of importation for introduction and transplantation or introduction of wildlife. (1) Except as otherwise provided, the importation for introduction or the transplantation or introduction of any wildlife is prohibited unless the commission determines, based upon scientific investigation and after public hearing, that a species of wildlife poses no threat of harm to native wildlife and plants or to agricultural production and that the transplantation or introduction of a species has significant public benefits.

(2) With regard to the transplantation or introduction of a fish species not previously legally transplanted to a specific area WATER BODY within the state or not previously legally introduced to the state, the requirement for scientific investigation in subsection (1) may be satisfied only by completion of an environmental impact-statement REVIEW conforming to the provisions of Title 75, chapter 1, part 2."

Section 2. Section 87-5-721, MCA, is amended to read:

"87-5-721. Penalty -- license and permit revocation and denial. (1) Except as provided in subsection (2), a person who violates a provision of this part is guilty of a misdemeanor punishable as provided in 87-1-102, and the department, upon conviction of the person, shall revoke any license or permit issued by it under this title to the person and deny any application by the person for a license or permit under this title for a period not to exceed 2 years from the date of the conviction.

(2) In addition to the license revocation and application denial provisions set out in subsection (1), a person who intentionally imports, introduces, or transplants fish in violation of this part is guilty of a misdemeanor punishable by a fine of not less than \$500 and may be fined up to the amount necessary to eliminate or mitigate the effects of the violation."

-End-

-2-



SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 27, 1991

required to forfeit the privilege to hunt, fish, or trap in this state for more than 24 months. If the effects of the violation cannot be eliminated or mitigated, a person may be required to forfeit the privilege to hunt, fish, or trap in this state for the lifetime of that person"

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 576 (third reading copy -- blue), respectfully report that House Bill No. 576 be amended and as so amended be concurred in:

Signed: 
Bob Williams, Chairman

1. Page 1.
Following: line 12

Insert: "WHEREAS, illegal importation, introduction, or transplantation of fish species can be extremely harmful to the management of the state's fisheries, especially the fisheries of sensitive and valuable native species; and
WHEREAS, illegal importation, introduction, and transplantation of fish species, when done knowingly and purposely, should be dealt with by law enforcement officials to their fullest capabilities; and
WHEREAS, the Legislature encourages the Department of Fish, Wildlife, and Parks to focus law enforcement efforts on apprehending persons who commit such criminal acts, including providing for public awareness of these crimes and providing rewards for citizen assistance in solving these crimes through the Department of Fish, Wildlife, and Park's TIP-MONT program."

2. Page 2, lines 19 and 20.

Following: "(2)"
Strike: remainder of line 19 through line 20
Insert: "A"

3. Page 2, line 22.

Following: "part"
Insert: "
(a)"

4. Page 2, line 25.

Following: "violation"
Insert: "; and
(b) upon conviction or forfeiture of bond or bail, shall forfeit from the date of conviction or forfeiture any current hunting, fishing, or trapping license issued under this title and the privilege to hunt, fish, or trap in this state for not less than 24 months. If the time necessary to eliminate or mitigate the effects of the violation exceeds 24 months, a person may be

LB 3/27/91
Amd. Coord.
SB 3/27 10:40
Sec. of Senate

HOUSE BILL NO. 576

INTRODUCED BY HARPER, MEASURE, RANEY, LEE,
 HOFFMAN, WANZENRIED, KADAS, DRISCOLL,
 WALLIN, THOFT

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW REGARDING THE TRANSPLANTATION OR INTRODUCTION OF WILDLIFE BY REQUIRING AN ENVIRONMENTAL IMPACT-STATEMENT REVIEW PRIOR TO TRANSPLANTATION OR INTRODUCTION OF A FISH SPECIES IN MONTANA; INCREASING THE PENALTY FOR THE ILLEGAL IMPORTATION, INTRODUCTION, OR TRANSPLANTATION OF FISH; AND AMENDING SECTIONS 87-5-711 AND 87-5-721, MCA."

WHEREAS, ILLEGAL IMPORTATION, INTRODUCTION, OR TRANSPLANTATION OF FISH SPECIES CAN BE EXTREMELY HARMFUL TO THE MANAGEMENT OF THE STATE'S FISHERIES, ESPECIALLY THE FISHERIES OF SENSITIVE AND VALUABLE NATIVE SPECIES; AND

WHEREAS, ILLEGAL IMPORTATION, INTRODUCTION, AND TRANSPLANTATION OF FISH SPECIES, WHEN DONE KNOWINGLY AND PURPOSELY, SHOULD BE DEALT WITH BY LAW ENFORCEMENT OFFICIALS TO THEIR FULLEST CAPABILITIES; AND

WHEREAS, THE LEGISLATURE ENCOURAGES THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO FOCUS LAW ENFORCEMENT EFFORTS ON APPREHENDING PERSONS WHO COMMIT SUCH CRIMINAL ACTS, INCLUDING PROVIDING FOR PUBLIC AWARENESS OF THESE CRIMES AND

PROVIDING REWARDS FOR CITIZEN ASSISTANCE IN SOLVING THESE CRIMES THROUGH THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS' TIP-MONT PROGRAM.

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

Section 1. Section 87-5-711, MCA, is amended to read:

"87-5-711. Control of importation for introduction and transplantation or introduction of wildlife. (1) Except as otherwise provided, the importation for introduction or the transplantation or introduction of any wildlife is prohibited unless the commission determines, based upon scientific investigation and after public hearing, that a species of wildlife poses no threat of harm to native wildlife and plants or to agricultural production and that the transplantation or introduction of a species has significant public benefits.

(2) With regard to the transplantation or introduction of a fish species not previously legally transplanted to a specific area WATER BODY within the state or not previously legally introduced to the state, the requirement for scientific investigation in subsection (1) may be satisfied only by completion of an environmental impact-statement REVIEW conforming to the provisions of Title 75, chapter 1, part 2."

Section 2. Section 87-5-721, MCA, is amended to read:



1 "87-5-721. Penalty -- license and permit revocation and
 2 denial. (1) Except as provided in subsection (2), a person
 3 who violates a provision of this part is guilty of a
 4 misdemeanor punishable as provided in 87-1-102, and the
 5 department, upon conviction of the person, shall revoke any
 6 license or permit issued by it under this title to the
 7 person and deny any application by the person for a license
 8 or permit under this title for a period not to exceed 2
 9 years from the date of the conviction.

10 ~~(2) In addition to the license revocation and~~
 11 ~~application denial provisions set out in subsection (1), a~~
 12 person who intentionally imports, introduces, or transplants
 13 fish in violation of this part:

14 (A) is guilty of a misdemeanor punishable by a fine of
 15 not less than \$500 and may be fined up to the amount
 16 necessary to eliminate or mitigate the effects of the
 17 violation; AND

18 (B) UPON CONVICTION OR FORFEITURE OF BOND OR BAIL,
 19 SHALL FORFEIT FROM THE DATE OF CONVICTION OR FORFEITURE ANY
 20 CURRENT HUNTING, FISHING, OR TRAPPING LICENSE ISSUED UNDER
 21 THIS TITLE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS
 22 STATE FOR NOT LESS THAN 24 MONTHS. IF THE TIME NECESSARY TO
 23 ELIMINATE OR MITIGATE THE EFFECTS OF THE VIOLATION EXCEEDS
 24 24 MONTHS, A PERSON MAY BE REQUIRED TO FORFEIT THE PRIVILEGE
 25 TO HUNT, FISH, OR TRAP IN THIS STATE FOR MORE THAN 24

1 MONTHS. IF THE EFFECTS OF THE VIOLATION CANNOT BE
 2 ELIMINATED OR MITIGATED, A PERSON MAY BE REQUIRED TO FORFEIT
 3 THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS STATE FOR THE
 4 LIFETIME OF THAT PERSON."

-End-