

1 SENATE BILL NO. 240
 2 INTRODUCED BY Vicki Kingberg
 3 BY REQUEST OF THE DEPARTMENT
 4 OF FISH, WILDLIFE, AND PARKS
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 7 LAW REGARDING FISH AND GAME MISDEMEANOR PENALTIES; AMENDING
 8 SECTIONS 45-1-205, 87-1-102, 87-2-106, 87-3-102, 87-3-103,
 9 87-3-104, AND 87-3-111, MCA; AND PROVIDING AN EFFECTIVE
 10 DATE."
 11

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

13 **Section 1.** Section 45-1-205, MCA, is amended to read:

14 "45-1-205. General time limitations. (1) (a) A
 15 prosecution for deliberate, mitigated, or negligent homicide
 16 may be commenced at any time.

17 (b) A prosecution under 45-5-502 through 45-5-505,
 18 45-5-507, or 45-5-625 may be commenced within 5 years after
 19 the victim reaches the age of 18 if the victim was less than
 20 18 years old at the time the offense occurred.

21 (2) Except as otherwise provided by law, prosecutions
 22 for other offenses are subject to the following periods of
 23 limitation:

24 (a) A prosecution for a felony must be commenced within
 25 5 years after it is committed.

1 (b) A prosecution for a misdemeanor must be commenced
 2 within 1 year after it is committed.

3 (3) The period prescribed in subsection (2) is extended
 4 in a prosecution for theft involving a breach of fiduciary
 5 obligation to an aggrieved person as follows:

6 (a) if the aggrieved person is a minor or incompetent,
 7 during the minority or incompetency or within 1 year after
 8 the termination thereof;

9 (b) in any other instance, within 1 year after the
 10 discovery of the offense by the aggrieved person or by a
 11 person who has legal capacity to represent an aggrieved
 12 person or has a legal duty to report the offense and is not
 13 himself a party to the offense or, in the absence of such
 14 discovery, within 1 year after the prosecuting officer
 15 becomes aware of the offense.

16 (4) The period prescribed in subsection (2) shall be
 17 extended in a prosecution for unlawful use of a computer,
 18 and prosecution shall be brought within 1 year after the
 19 discovery of the offense by the aggrieved person or by a
 20 person who has legal capacity to represent an aggrieved
 21 person or has a legal duty to report the offense and is not
 22 himself a party to the offense or, in the absence of such
 23 discovery, within 1 year after the prosecuting officer
 24 becomes aware of the offense.

25 (5) The period prescribed in subsection (2) is extended

1 in a prosecution for misdemeanor fish and wildlife
 2 violations under Title 87, and prosecution must be brought
 3 within 3 years after an offense is committed.

4 {5}(6) An offense is committed either when every
 5 element occurs or, when the offense is based upon a
 6 continuing course of conduct, at the time when the course of
 7 conduct is terminated. Time starts to run on the day after
 8 the offense is committed.

9 {6}(7) A prosecution is commenced either when an
 10 indictment is found or an information or complaint is
 11 filed."

12 **Section 2.** Section 87-1-102, MCA, is amended to read:

13 "87-1-102. Penalties. (1) A person ~~violating who~~
 14 purposely or knowingly violates any provision of this title,
 15 any other state law pertaining to fish and game, or the
 16 orders or rules of the commission or department is ~~unless a~~
 17 ~~different--punishment--is--expressly--provided--by--law--for--the~~
 18 ~~violation,~~ guilty of a misdemeanor, except if a felony is
 19 expressly provided by law, and shall be fined not less than
 20 \$50 or more than \$500, imprisoned in the county jail for not
 21 more than 6 months, or both, unless a different punishment
 22 is expressly provided by law for the violation. In addition,
 23 the person, upon conviction or forfeiture of bond or bail,
 24 shall be subject to forfeiture of his license and privilege
 25 to hunt, fish, or trap within this state for a period of not

1 less than 24 months from the date of conviction or
 2 forfeiture.

3 (2) (a) A person convicted of unlawfully taking,
 4 killing, possessing, transporting, or wasting of a bighorn
 5 sheep, moose, wild bison, caribou, mountain goat, or grizzly
 6 bear or any part of these animals shall be fined not less
 7 than \$500 or more than \$1,000, imprisoned in the county jail
 8 for not more than 6 months, or both. In addition, that
 9 person, upon conviction or forfeiture of bond or bail, shall
 10 forfeit any current hunting, fishing, or trapping license
 11 issued by this state and the privilege to hunt, fish, or
 12 trap in this state for not less than 30 months from the date
 13 of conviction or forfeiture.

14 (b) A person convicted of unlawfully taking, killing,
 15 possessing, or transporting a deer, antelope, elk, mountain
 16 lion, or black bear or any part of these animals or wasting
 17 a deer, antelope, or elk shall be fined not less than \$300
 18 or more than \$1,000, imprisoned in the county jail for not
 19 more than 6 months, or both. In addition, that person, upon
 20 conviction or forfeiture of bond or bail, shall forfeit any
 21 current hunting, fishing, or trapping license issued by this
 22 state and the privilege to hunt, fish, or trap in this state
 23 for not less than 24 months from the date of conviction or
 24 forfeiture.

25 (c) A person convicted of unlawfully attempting to

1 trap, take, shoot, or kill a game animal shall be fined not
2 less than \$200 or more than \$600, imprisoned in the county
3 jail for not more than 60 days, or both.

4 (d) A person convicted of unlawfully taking, killing,
5 possessing, transporting, shipping, labeling, packaging, or
6 wasting or unlawfully attempting to take, kill, or possess
7 any game bird, wild turkey, or fish or any part of any such
8 bird or fish or of failure to tag a game animal or game bird
9 as prescribed by law shall be fined not less than \$50 or
10 more than \$200 or imprisoned in the county jail for not more
11 than 30 days, or both.

12 (e) A person convicted of purposely or knowingly
13 taking, killing, possessing, transporting, shipping,
14 labeling, or packaging a fur-bearing animal or pelt of a
15 fur-bearing animal in violation of any provision of this
16 title shall be fined not less than \$50 or more than \$1,000
17 or imprisoned in the county jail for not more than 6 months,
18 or both. In addition, that person, upon conviction or
19 forfeiture of bond or bail, shall forfeit any current
20 license and the privilege to hunt, fish, or trap for not
21 less than 24 months from the date of conviction or
22 forfeiture, and any pelts possessed unlawfully must be
23 confiscated.

24 (f) A person convicted of hunting, fishing, or trapping
25 while his license is forfeited or his privilege denied shall

1 be imprisoned in the county jail for not less than 5 days or
2 more than 6 months. In addition, that person may be fined
3 not less than \$500 or more than \$1,000.

4 (3) A person convicted or who has forfeited bond or
5 bail under this section and whose license privileges are
6 forfeited may not purchase, acquire, obtain, possess, or
7 apply for a hunting, fishing, or trapping license or permit
8 during the period when license privileges have been
9 forfeited. A person convicted of unlawfully purchasing,
10 acquiring, obtaining, possessing, or applying for a hunting,
11 fishing, or trapping license during the period when license
12 privileges have been forfeited shall be fined not less than
13 \$500 or more than \$1,000 or imprisoned in the county jail
14 for not more than 60 days, or both.

15 ~~(3)~~(4) A person convicted or who has forfeited bond or
16 bail under subsection (2) and who has been ordered to pay
17 restitution under the provisions of 87-1-111 may not apply
18 for any special license under Title 87, chapter 2, part 7,
19 or enter any drawing for a special license or permit for a
20 period of 5 years following the date of conviction or
21 restoration of license privileges, whichever is later. A
22 person convicted of unlawfully applying for any special
23 license under Title 87, chapter 2, part 7, or unlawfully
24 entering a drawing for a special license or permit shall be
25 fined not less than \$500 or more than \$1,000 or imprisoned

1 in the county jail for not more than 60 days, or both.

2 ~~(4)~~(5) Notwithstanding the provision of subsection (1),
3 the penalties provided by this section shall be in addition
4 to any penalties provided in Title 37, chapter 47, and Title
5 87, chapter 4, part 2."

6 NEW SECTION. **Section 3.** Suspension of privileges for
7 failure to comply with citation or sentence. (1) A person
8 who fails to comply with the terms of a court citation or
9 fails to fulfill the obligations of any court-imposed
10 sentence for a wildlife violation under this title,
11 resulting in the issuance of a warrant for his arrest, shall
12 surrender any current hunting, fishing, and trapping
13 licenses to the department, and his privileges to hunt,
14 fish, and trap and to hold a valid license to hunt, fish, or
15 trap are suspended until the terms of the court citation or
16 sentence are satisfied.

17 (2) A person who loses his privileges under this
18 section must be notified by the department in person or by
19 mail. A person who hunts, fishes, traps, purchases licenses,
20 or refuses to surrender any current hunting, fishing, or
21 trapping license in violation of this section is guilty of a
22 misdemeanor and subject to the penalties prescribed in
23 87-1-102.

24 **Section 4.** Section 87-2-106, MCA, is amended to read:

25 "87-2-106. Application for license. (1) A license may

1 be procured from the director, any warden, or any authorized
2 agent of the director. The applicant shall state his name,
3 age, occupation, place of residence, post-office address,
4 the length of time in the state of Montana, whether a
5 citizen of the United States or an alien, and such other
6 facts, data, or descriptions as may be required by the
7 department. Except as provided in subsections (2) through
8 (4), the statements made by the applicant shall be
9 subscribed to before the officer or agent issuing the
10 license.

11 (2) Except as provided in subsection (3), department
12 employees or officers may issue licenses by mail. Statements
13 on an application for a license to be issued by mail need
14 not be subscribed to before the employee or officer.

15 (3) To apply for a license under the provisions of
16 87-2-102(4), the applicant must apply to the director and
17 must submit at the time of application a notarized affidavit
18 that attests to fulfillment of the requirements of
19 87-2-102(4). The director shall process the application in
20 an expedient manner.

21 (4) A resident may apply for and purchase a wildlife
22 conservation license, hunting license, or fishing license
23 for his spouse, parent, child, brother, or sister who is
24 otherwise qualified to obtain such license.

25 (5) A license is void unless subscribed to by the

1 licensee and by an employee or officer of the department or
2 by a license agent or an authorized representative of the
3 license agent.

4 (6) It is unlawful to subscribe to any statement, on
5 any application or license, that is materially false. Any
6 material false statement contained in an application renders
7 the license issued pursuant to it void. Any person violating
8 any provision of this statute is guilty of a misdemeanor.

9 ~~(7) The department may bring an action to prosecute a~~
10 ~~violation of this section within 3 years of the date of~~
11 ~~application for licensure."~~

12 **Section 5.** Section 87-3-102, MCA, is amended to read:

13 "**87-3-102. Waste of fish or game.** (1) A person who is
14 responsible for the death of a black or brown bear or a
15 mountain lion commits the offense of waste of game if he
16 abandons the head or hide in the field.

17 (2) A person who is responsible for the death of a
18 grizzly bear commits the offense of waste of game if he
19 abandons the head or hide or any parts required by
20 department or commission regulation for scientific purposes.
21 All parts of a grizzly bear required by department or
22 commission regulation for scientific purposes must be
23 delivered to an officer or employee of the department for
24 inspection as soon as possible after removal, and the
25 department shall return to the licensee any bone structure

1 and skull within 1 year upon written request. The hide must
2 be returned immediately.

3 ~~(3) It shall be unlawful and a misdemeanor for any A~~
4 ~~person responsible for the death of any game animal of this~~
5 ~~state, excepting except grizzly, black, and brown bear and~~
6 ~~mountain lion, commits the offense of waste of game if he:~~

7 ~~(a) to detach or remove detaches or removes from the~~
8 ~~carcass only the head, hide, antlers, tusks, or teeth or any~~
9 ~~or all of aforesaid parts; or~~

10 ~~(b) to waste wastes any part of any game animal, game~~
11 ~~bird, or game fish suitable for food by transporting,~~
12 ~~hanging, or storing the carcass in a manner that renders it~~
13 ~~unfit for human consumption; or~~

14 ~~(c) to abandon abandons in the field the carcass of any~~
15 ~~game animal in the field, except black and brown bear and~~
16 ~~mountain lion, which need have removed and taken from the~~
17 ~~carcass only the head or the hide of such bear or mountain~~
18 ~~lion, and except grizzly bear, which need have removed and~~
19 ~~taken from the carcass only the head and hide and such other~~
20 ~~parts as the department may demand for scientific purposes.~~
21 ~~All parts of grizzly bear demanded by the department for~~
22 ~~scientific purposes must be delivered to an officer or~~
23 ~~employee of the department for inspection as soon as~~
24 ~~possible after removal, and the department shall return to~~
25 ~~the licensee any bone structure and skull within 1 year upon~~

1 ~~written request. The hide shall be returned immediately, or~~
2 any portion of the carcass suitable for food.

3 (4) A person in possession of a game animal or game
4 animal parts, game bird, or game fish suitable for food
5 commits the offense of waste of game if he:

6 (a) purposely or knowingly transports, stores, or hangs
7 the animal, bird, or fish in a manner that renders it unfit
8 for human consumption; or

9 (b) disposes of or abandons any portion of a game
10 animal, game bird, or game fish that is suitable for food.

11 (5) A person convicted of waste of game shall be fined
12 not less than \$50 or more than \$1,000 or imprisoned in the
13 county jail for a term not to exceed 6 months, or both."

14 **Section 6.** Section 87-3-103, MCA, is amended to read:

15 **"87-3-103. Limit on number of game animals hunted or**
16 **killed. It shall be unlawful and a misdemeanor for any**
17 **person to attempt to kill, take, shoot, or capture or to**
18 **kill, take, hunt, shoot, or capture more than one game**
19 **animal of any one species in any one license year unless the**
20 **killing of more than one game animal of such species has**
21 **been authorized by regulations of the department."**

22 **Section 7.** Section 87-3-104, MCA, is amended to read:

23 **"87-3-104. Unlawful to hunt or fish during closed**
24 **season. It shall be is unlawful and a misdemeanor for any**
25 **person during the closed season on any species of game**

1 animal, game bird, or fish to attempt to take, shoot, kill,
2 or capture or to take, hunt, shoot, kill, or capture any
3 such game animal or such game bird or to fish for or catch
4 any such fish."

5 **Section 8.** Section 87-3-111, MCA, is amended to read:

6 **"87-3-111. (Temporary) Unlawful to buy, sell, possess,**
7 **or transport fish or game -- exceptions -- penalties. (1) It**
8 **is unlawful for any person to purchase, sell, offer to sell,**
9 **possess, ship, or transport any game fish, game bird,**
10 **migratory game bird, game animal, or fur-bearing animal or**
11 **part thereof protected by the laws of this state, whether**
12 **belonging to the same or different species from that native**
13 **to the state of Montana, except as specifically permitted by**
14 **the laws of this state.**

15 (2) The provisions of this section do not prohibit:

16 (a) the possession or transportation within the state
17 of any legally taken fish, game bird, migratory game bird,
18 game animal, or fur-bearing animal or part thereof;

19 (b) the sale, purchase, or transportation of hides,
20 heads, or mounts of lawfully killed game birds, game fish,
21 fur-bearing animals, or game animals, except that the sale
22 or purchase of a hide, head, or mount of a grizzly bear is
23 prohibited, except as provided in 87-3-110; or

24 (c) the possession, transportation, sale, or purchase
25 of naturally shed antlers; or

1 ~~te)~~(d) the donation and sale of paddlefish roe as
2 caviar under the provisions of 87-4-601.

3 (3) Except as provided in subsection (4), any person
4 violating any of the provisions of this section is guilty of
5 a misdemeanor and upon conviction shall be punished as
6 provided by law.

7 (4) Any person engaging in the activities prohibited in
8 subsection (1) in furtherance of a scheme to traffic in the
9 body parts of unlawfully taken species is guilty of a felony
10 and shall be punished by a fine of \$10,000 or imprisonment
11 in the state prison for a term of 1 year, or both.
12 (Terminates June 30, 1993--sec. 5, Ch. 409, L. 1989.)

13 **87-3-111. (Effective July 1, 1993) Unlawful to buy,**
14 **sell, possess, or transport fish or game -- exceptions --**
15 **penalties. (1) It is hereby made unlawful for any person to**
16 **purchase, sell, offer to sell, possess, ship, or transport**
17 **any game fish, game bird, migratory game bird, game animal,**
18 **or fur-bearing animal or part thereof protected by the laws**
19 **of this state, whether belonging to the same or different**
20 **species from that native to the state of Montana, except as**
21 **specifically permitted by the laws of this state.**

22 (2) The provisions of this section shall not prohibit:

23 (a) the possession or transportation within the state
24 of any legally taken fish, game bird, migratory game bird,
25 game animal, or fur-bearing animal or part thereof; or

1 (b) the sale, purchase, or transportation of hides,
2 heads, or mounts of lawfully killed game birds, game fish,
3 fur-bearing animals, or game animals, except that the sale
4 or purchase of a hide, head, or mount of a grizzly bear is
5 prohibited, except as provided in 87-3-110-; or

6 (c) the possession, transportation, sale, or purchase
7 of naturally shed antlers.

8 (3) Except as provided in subsection (4), any person
9 violating any of the provisions of this section is guilty of
10 a misdemeanor and upon conviction thereof shall be punished
11 as provided by law.

12 (4) Any person engaging in the activities prohibited in
13 subsection (1) in furtherance of a scheme to traffic in the
14 body parts of unlawfully taken species is guilty of a felony
15 and shall be punished by a fine of \$10,000 or imprisonment
16 in the state prison for a term of 1 year, or both."

17 NEW SECTION. Section 9. Fish and game violation as
18 inchoate offense. Any violation of this title is an offense
19 for purposes of the crimes of attempt, solicitation, and
20 conspiracy set out in Title 45, chapter 4.

21 NEW SECTION. Section 10. Codification instruction.
22 [Sections 3 and 9] are intended to be codified as an
23 integral part of Title 87, chapter 1, part 1, and the
24 provisions of Title 87, chapter 1, part 1, apply to
25 [sections 3 and 9].

LC 0973/01

1 NEW SECTION. **Section 11.** Effective date. [This act] is
2 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0240, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill revises the law regarding fish and game misdemeanor penalties.

ASSUMPTIONS:

1. Violations will increase but will be handled by existing personnel.

FISCAL IMPACT:

No fiscal impact.

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

Fred R. Van Valkenburg 2-11-91
FRED R. VAN VALKENBURG, PRIMARY SPONSOR DATE

Fiscal Note for SB0240, as introduced

SB 240

APPROVED BY COMM.
ON FISH AND GAME

SENATE BILL NO. 240

INTRODUCED BY

Vin Halverson

[Signature]

BY REQUEST OF THE DEPARTMENT

OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAW REGARDING FISH AND GAME MISDEMEANOR PENALTIES; AMENDING SECTIONS 45-1-205, 87-1-102, 87-2-106, 87-3-102, 87-3-103, 87-3-104, AND 87-3-111, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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(b) A prosecution under 45-5-502 through 45-5-505, 45-5-507, or 45-5-625 may be commenced within 5 years after the victim reaches the age of 18 if the victim was less than 18 years old at the time the offense occurred.

(2) Except as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The period prescribed in subsection (2) is extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

(a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination thereof;

(b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not himself a party to the offense or, in the absence of such discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(4) The period prescribed in subsection (2) shall be extended in a prosecution for unlawful use of a computer, and prosecution shall be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not himself a party to the offense or, in the absence of such discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(5) The period prescribed in subsection (2) is extended

SECOND READING

SB 240



1 in a prosecution for misdemeanor fish and wildlife
 2 violations under Title 87, and prosecution must be brought
 3 within 3 years after an offense is committed.

4 ~~(5)~~(6) An offense is committed either when every
 5 element occurs or, when the offense is based upon a
 6 continuing course of conduct, at the time when the course of
 7 conduct is terminated. Time starts to run on the day after
 8 the offense is committed.

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13 "87-1-102. Penalties. (1) A person ~~violating who~~
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 15 any other state law pertaining to fish and game, or the
 16 orders or rules of the commission or department ~~is, unless a~~
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 18 ~~violation,~~ guilty of a misdemeanor, except if a felony is
 19 expressly provided by law, and shall be fined not less than
 20 \$50 or more than \$500, imprisoned in the county jail for not
 21 more than 6 months, or both, unless a different punishment
 22 is expressly provided by law for the violation. In addition,
 23 the person, upon conviction or forfeiture of bond or bail,
 24 shall be subject to forfeiture of his license and privilege
 25 to hunt, fish, or trap within this state for a period of not

1 less than 24 months from the date of conviction or
 2 forfeiture.

3 (2) (a) A person convicted of unlawfully taking,
 4 killing, possessing, transporting, or wasting of a bighorn
 5 sheep, moose, wild bison, caribou, mountain goat, or grizzly
 6 bear or any part of these animals shall be fined not less
 7 than \$500 or more than \$1,000, imprisoned in the county jail
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 9 person, upon conviction or forfeiture of bond or bail, shall
 10 forfeit any current hunting, fishing, or trapping license
 11 issued by this state and the privilege to hunt, fish, or
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 13 of conviction or forfeiture.

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 15 possessing, or transporting a deer, antelope, elk, mountain
 16 lion, or black bear or any part of these animals or wasting
 17 a deer, antelope, or elk shall be fined not less than \$300
 18 or more than \$1,000, imprisoned in the county jail for not
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 20 conviction or forfeiture of bond or bail, shall forfeit any
 21 current hunting, fishing, or trapping license issued by this
 22 state and the privilege to hunt, fish, or trap in this state
 23 for not less than 24 months from the date of conviction or
 24 forfeiture.

25 (c) A person convicted of unlawfully attempting to

1 trap, take, shoot, or kill a game animal shall be fined not
2 less than \$200 or more than \$600, imprisoned in the county
3 jail for not more than 60 days, or both.

4 (d) A person convicted of unlawfully taking, killing,
5 possessing, transporting, shipping, labeling, packaging, or
6 wasting or unlawfully attempting to take, kill, or possess
7 any game bird, wild turkey, or fish or any part of any such
8 bird or fish or of failure to tag a game animal or game bird
9 as prescribed by law shall be fined not less than \$50 or
10 more than \$200 or imprisoned in the county jail for not more
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13 taking, killing, possessing, transporting, shipping,
14 labeling, or packaging a fur-bearing animal or pelt of a
15 fur-bearing animal in violation of any provision of this
16 title shall be fined not less than \$50 or more than \$1,000
17 or imprisoned in the county jail for not more than 6 months,
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19 forfeiture of bond or bail, shall forfeit any current
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25 while his license is forfeited or his privilege denied shall

1 be imprisoned in the county jail for not less than 5 days or
2 more than 6 months. In addition, that person may be fined
3 not less than \$500 or more than \$1,000.

4 (3) A person convicted or who has forfeited bond or
5 bail under this section and whose license privileges are
6 forfeited may not purchase, acquire, obtain, possess, or
7 apply for a hunting, fishing, or trapping license or permit
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10 acquiring, obtaining, possessing, or applying for a hunting,
11 fishing, or trapping license during the period when license
12 privileges have been forfeited shall be fined not less than
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15 {3}(4) A person convicted or who has forfeited bond or
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17 restitution under the provisions of 87-1-111 may not apply
18 for any special license under Title 87, chapter 2, part 7,
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20 period of 5 years following the date of conviction or
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13 licenses to the department, and his privileges to hunt,
14 fish, and trap and to hold a valid license to hunt, fish, or
15 trap are suspended until the terms of the court citation or
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17 (2) A person who loses his privileges under this
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19 mail. A person who hunts, fishes, traps, purchases licenses,
20 or refuses to surrender any current hunting, fishing, or
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2 agent of the director. The applicant shall state his name,
3 age, occupation, place of residence, post-office address,
4 the length of time in the state of Montana, whether a
5 citizen of the United States or an alien, and such other
6 facts, data, or descriptions as may be required by the
7 department. Except as provided in subsections (2) through
8 (4), the statements made by the applicant shall be
9 subscribed to before the officer or agent issuing the
10 license.

11 (2) Except as provided in subsection (3), department
12 employees or officers may issue licenses by mail. Statements
13 on an application for a license to be issued by mail need
14 not be subscribed to before the employee or officer.

15 (3) To apply for a license under the provisions of
16 87-2-102(4), the applicant must apply to the director and
17 must submit at the time of application a notarized affidavit
18 that attests to fulfillment of the requirements of
19 87-2-102(4). The director shall process the application in
20 an expedient manner.

21 (4) A resident may apply for and purchase a wildlife
22 conservation license, hunting license, or fishing license
23 for his spouse, parent, child, brother, or sister who is
24 otherwise qualified to obtain such license.

25 (5) A license is void unless subscribed to by the

1 licensee and by an employee or officer of the department or
2 by a license agent or an authorized representative of the
3 license agent.

4 (6) It is unlawful to subscribe to any statement, on
5 any application or license, that is materially false. Any
6 material false statement contained in an application renders
7 the license issued pursuant to it void. Any person violating
8 any provision of this statute is guilty of a misdemeanor.

9 ~~{7}--The department may bring an action to prosecute a~~
10 ~~violation of this section within 3 years of the date of~~
11 ~~application for licensure."~~

12 **Section 5.** Section 87-3-102, MCA, is amended to read:

13 "87-3-102. Waste of fish or game. (1) A person who is
14 responsible for the death of a black or brown bear or a
15 mountain lion commits the offense of waste of game if he
16 abandons the head or hide in the field.

17 (2) A person who is responsible for the death of a
18 grizzly bear commits the offense of waste of game if he
19 abandons the head or hide or any parts required by
20 department or commission regulation for scientific purposes.
21 All parts of a grizzly bear required by department or
22 commission regulation for scientific purposes must be
23 delivered to an officer or employee of the department for
24 inspection as soon as possible after removal, and the
25 department shall return to the licensee any bone structure

1 and skull within 1 year upon written request. The hide must
2 be returned immediately.

3 (3) ~~It shall be unlawful and a misdemeanor for any A~~
4 ~~person responsible for the death of any game animal of this~~
5 ~~state, excepting except grizzly, black, and brown bear and~~
6 ~~mountain lion, commits the offense of waste of game if he:~~

7 (a) ~~to detach or remove~~ detaches or removes from the
8 carcass only the head, hide, antlers, tusks, or teeth or any
9 or all of aforesaid parts; or

10 (b) ~~to waste~~ wastes any part of any game animal, game
11 bird, or game fish suitable for food by transporting,
12 hanging, or storing the carcass in a manner that renders it
13 unfit for human consumption; or

14 (c) ~~to abandon~~ abandons in the field the carcass of any
15 game animal ~~in the field, except black and brown bear and~~
16 ~~mountain lion, which need have removed and taken from the~~
17 ~~carcass only the head or the hide of such bear or mountain~~
18 ~~lion, and except grizzly bear, which need have removed and~~
19 ~~taken from the carcass only the head and hide and such other~~
20 ~~parts as the department may demand for scientific purposes.~~
21 All parts of grizzly bear demanded by the department for
22 scientific purposes must be delivered to an officer or
23 employee of the department for inspection as soon as
24 possible after removal, and the department shall return to
25 the licensee any bone structure and skull within 1 year upon

1 ~~written request. The hide shall be returned immediately, or~~
2 ~~any portion of the carcass suitable for food.~~

3 (4) A person in possession of a game animal or game
4 animal parts, game bird, or game fish suitable for food
5 commits the offense of waste of game if he:

6 (a) purposely or knowingly transports, stores, or hangs
7 the animal, bird, or fish in a manner that renders it unfit
8 for human consumption; or

9 (b) disposes of or abandons any portion of a game
10 animal, game bird, or game fish that is suitable for food.

11 (5) A person convicted of waste of game shall be fined
12 not less than \$50 or more than \$1,000 or imprisoned in the
13 county jail for a term not to exceed 6 months, or both."

14 **Section 6.** Section 87-3-103, MCA, is amended to read:

15 "87-3-103. Limit on number of game animals hunted or
16 killed. It shall be unlawful and a misdemeanor for any
17 person to attempt to kill, take, shoot, or capture or to
18 kill, take, hunt, shoot, or capture more than one game
19 animal of any one species in any one license year unless the
20 killing of more than one game animal of such species has
21 been authorized by regulations of the department."

22 **Section 7.** Section 87-3-104, MCA, is amended to read:

23 "87-3-104. Unlawful to hunt or fish during closed
24 season. It ~~shall--be~~ is unlawful and a misdemeanor for any
25 person during the closed season on any species of game

1 animal, game bird, or fish to attempt to take, shoot, kill,
2 or capture or to take, hunt, shoot, kill, or capture any
3 such game animal or such game bird or to fish for or catch
4 any such fish."

5 **Section 8.** Section 87-3-111, MCA, is amended to read:

6 "87-3-111. (Temporary) Unlawful to buy, sell, possess,
7 or transport fish or game -- exceptions -- penalties. (1) It
8 is unlawful for any person to purchase, sell, offer to sell,
9 possess, ship, or transport any game fish, game bird,
10 migratory game bird, game animal, or fur-bearing animal or
11 part thereof protected by the laws of this state, whether
12 belonging to the same or different species from that native
13 to the state of Montana, except as specifically permitted by
14 the laws of this state.

15 (2) The provisions of this section do not prohibit:

16 (a) the possession or transportation within the state
17 of any legally taken fish, game bird, migratory game bird,
18 game animal, or fur-bearing animal or part thereof;

19 (b) the sale, purchase, or transportation of hides,
20 heads, or mounts of lawfully killed game birds, game fish,
21 fur-bearing animals, or game animals, except that the sale
22 or purchase of a hide, head, or mount of a grizzly bear is
23 prohibited, except as provided in 87-3-110; or

24 (c) the possession, transportation, sale, or purchase
25 of naturally shed antlers; or

1 ~~fe}~~d the donation and sale of paddlefish roe as
2 caviar under the provisions of 87-4-601.

3 (3) Except as provided in subsection (4), any person
4 violating any of the provisions of this section is guilty of
5 a misdemeanor and upon conviction shall be punished as
6 provided by law.

7 (4) Any person engaging in the activities prohibited in
8 subsection (1) in furtherance of a scheme to traffic in the
9 body parts of unlawfully taken species is guilty of a felony
10 and shall be punished by a fine of \$10,000 or imprisonment
11 in the state prison for a term of 1 year, or both.
12 (Terminates June 30, 1993--sec. 5, Ch. 409, L. 1989.)

13 **87-3-111. (Effective July 1, 1993) Unlawful to buy,**
14 **sell, possess, or transport fish or game -- exceptions --**
15 **penalties. (1) It is hereby made unlawful for any person to**
16 **purchase, sell, offer to sell, possess, ship, or transport**
17 **any game fish, game bird, migratory game bird, game animal,**
18 **or fur-bearing animal or part thereof protected by the laws**
19 **of this state, whether belonging to the same or different**
20 **species from that native to the state of Montana, except as**
21 **specifically permitted by the laws of this state.**

22 (2) The provisions of this section shall not prohibit:

23 (a) the possession or transportation within the state
24 of any legally taken fish, game bird, migratory game bird,
25 game animal, or fur-bearing animal or part thereof; or

1 (b) the sale, purchase, or transportation of hides,
2 heads, or mounts of lawfully killed game birds, game fish,
3 fur-bearing animals, or game animals, except that the sale
4 or purchase of a hide, head, or mount of a grizzly bear is
5 prohibited, except as provided in 87-3-110; or

6 (c) the possession, transportation, sale, or purchase
7 of naturally shed antlers.

8 (3) Except as provided in subsection (4), any person
9 violating any of the provisions of this section is guilty of
10 a misdemeanor and upon conviction thereof shall be punished
11 as provided by law.

12 (4) Any person engaging in the activities prohibited in
13 subsection (1) in furtherance of a scheme to traffic in the
14 body parts of unlawfully taken species is guilty of a felony
15 and shall be punished by a fine of \$10,000 or imprisonment
16 in the state prison for a term of 1 year, or both."

17 NEW SECTION. Section 9. Fish and game violation as
18 inchoate offense. Any violation of this title is an offense
19 for purposes of the crimes of attempt, solicitation, and
20 conspiracy set out in Title 45, chapter 4.

21 NEW SECTION. Section 10. Codification instruction.
22 [Sections 3 and 9] are intended to be codified as an
23 integral part of Title 87, chapter 1, part 1, and the
24 provisions of Title 87, chapter 1, part 1, apply to
25 [sections 3 and 9].

LC 0973/01

1 NEW SECTION. **Section 11.** **Effective date.** [This act] is
2 **effective July 1 1991.**

-End-

1 **JENATE** BILL NO. **240**
 2 INTRODUCED BY *Van Halbeirgen*
 3 BY REQUEST OF THE DEPARTMENT
 4 OF FISH, WILDLIFE, AND PARKS

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 7 LAW REGARDING FISH AND GAME MISDEMEANOR PENALTIES; AMENDING
 8 SECTIONS 45-1-205, 87-1-102, 87-2-106, 87-3-102, 87-3-103,
 9 87-3-104, AND 87-3-111, MCA; AND PROVIDING AN EFFECTIVE
 10 DATE."

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

13 **Section 1.** Section 45-1-205, MCA, is amended to read:

14 ***45-1-205. General time limitations.** (1) (a) A
 15 prosecution for deliberate, mitigated, or negligent homicide
 16 may be commenced at any time.

17 (b) A prosecution under 45-5-502 through 45-5-505,
 18 45-5-507, or 45-5-625 may be commenced within 5 years after
 19 the victim reaches the age of 18 if the victim was less than
 20 18 years old at the time the offense occurred.

21 (2) Except as otherwise provided by law, prosecutions
 22 for other offenses are subject to the following periods of
 23 limitation:

24 (a) A prosecution for a felony must be commenced within
 25 5 years after it is committed.

1 (b) A prosecution for a misdemeanor must be commenced
 2 within 1 year after it is committed.

3 (3) The period prescribed in subsection (2) is extended
 4 in a prosecution for theft involving a breach of fiduciary
 5 obligation to an aggrieved person as follows:

6 (a) if the aggrieved person is a minor or incompetent,
 7 during the minority or incompetency or within 1 year after
 8 the termination thereof;

9 (b) in any other instance, within 1 year after the
 10 discovery of the offense by the aggrieved person or by a
 11 person who has legal capacity to represent an aggrieved
 12 person or has a legal duty to report the offense and is not
 13 himself a party to the offense or, in the absence of such
 14 discovery, within 1 year after the prosecuting officer
 15 becomes aware of the offense.

16 (4) The period prescribed in subsection (2) shall be
 17 extended in a prosecution for unlawful use of a computer,
 18 and prosecution shall be brought within 1 year after the
 19 discovery of the offense by the aggrieved person or by a
 20 person who has legal capacity to represent an aggrieved
 21 person or has a legal duty to report the offense and is not
 22 himself a party to the offense or, in the absence of such
 23 discovery, within 1 year after the prosecuting officer
 24 becomes aware of the offense.

25 (5) The period prescribed in subsection (2) is extended



1 in a prosecution for misdemeanor fish and wildlife
 2 violations under Title 87, and prosecution must be brought
 3 within 3 years after an offense is committed.

4 (5)(6) An offense is committed either when every
 5 element occurs or, when the offense is based upon a
 6 continuing course of conduct, at the time when the course of
 7 conduct is terminated. Time starts to run on the day after
 8 the offense is committed.

9 (6)(7) A prosecution is commenced either when an
 10 indictment is found or an information or complaint is
 11 filed."

12 **Section 2.** Section 87-1-102, MCA, is amended to read:

13 *87-1-102. Penalties. (1) A person violating who
 14 purposely or knowingly violates any provision of this title,
 15 any other state law pertaining to fish and game, or the
 16 orders or rules of the commission or department is, ~~unless a~~
 17 ~~different--punishment--is--expressly--provided--by--law--for--the~~
 18 ~~violation,~~ guilty of a misdemeanor, except if a felony is
 19 expressly provided by law, and shall be fined not less than
 20 \$50 or more than \$500, imprisoned in the county jail for not
 21 more than 6 months, or both, unless a different punishment
 22 is expressly provided by law for the violation. In addition,
 23 the person, upon conviction or forfeiture of bond or bail,
 24 shall be subject to forfeiture of his license and privilege
 25 to hunt, fish, or trap within this state for a period of not

1 less than 24 months from the date of conviction or
 2 forfeiture.

3 (2) (a) A person convicted of unlawfully taking,
 4 killing, possessing, transporting, or wasting of a bighorn
 5 sheep, moose, wild bison, caribou, mountain goat, or grizzly
 6 bear or any part of these animals shall be fined not less
 7 than \$500 or more than \$1,000, imprisoned in the county jail
 8 for not more than 6 months, or both. In addition, that
 9 person, upon conviction or forfeiture of bond or bail, shall
 10 forfeit any current hunting, fishing, or trapping license
 11 issued by this state and the privilege to hunt, fish, or
 12 trap in this state for not less than 30 months from the date
 13 of conviction or forfeiture.

14 (b) A person convicted of unlawfully taking, killing,
 15 possessing, or transporting a deer, antelope, elk, mountain
 16 lion, or black bear or any part of these animals or wasting
 17 a deer, antelope, or elk shall be fined not less than \$300
 18 or more than \$1,000, imprisoned in the county jail for not
 19 more than 6 months, or both. In addition, that person, upon
 20 conviction or forfeiture of bond or bail, shall forfeit any
 21 current hunting, fishing, or trapping license issued by this
 22 state and the privilege to hunt, fish, or trap in this state
 23 for not less than 24 months from the date of conviction or
 24 forfeiture.

25 (c) A person convicted of unlawfully attempting to

1 trap, take, shoot, or kill a game animal shall be fined not
 2 less than \$200 or more than \$600, imprisoned in the county
 3 jail for not more than 60 days, or both.

4 (d) A person convicted of unlawfully taking, killing,
 5 possessing, transporting, shipping, labeling, packaging, or
 6 wasting or unlawfully attempting to take, kill, or possess
 7 any game bird, wild turkey, or fish or any part of any such
 8 bird or fish or of failure to tag a game animal or game bird
 9 as prescribed by law shall be fined not less than \$50 or
 10 more than \$200 or imprisoned in the county jail for not more
 11 than 30 days, or both.

12 (e) A person convicted of purposely or knowingly
 13 taking, killing, possessing, transporting, shipping,
 14 labeling, or packaging a fur-bearing animal or pelt of a
 15 fur-bearing animal in violation of any provision of this
 16 title shall be fined not less than \$50 or more than \$1,000
 17 or imprisoned in the county jail for not more than 6 months,
 18 or both. In addition, that person, upon conviction or
 19 forfeiture of bond or bail, shall forfeit any current
 20 license and the privilege to hunt, fish, or trap for not
 21 less than 24 months from the date of conviction or
 22 forfeiture, and any pelts possessed unlawfully must be
 23 confiscated.

24 (f) A person convicted of hunting, fishing, or trapping
 25 while his license is forfeited or his privilege denied shall

1 be imprisoned in the county jail for not less than 5 days or
 2 more than 6 months. In addition, that person may be fined
 3 not less than \$500 or more than \$1,000.

4 (3) A person convicted or who has forfeited bond or
 5 bail under this section and whose license privileges are
 6 forfeited may not purchase, acquire, obtain, possess, or
 7 apply for a hunting, fishing, or trapping license or permit
 8 during the period when license privileges have been
 9 forfeited. A person convicted of unlawfully purchasing,
 10 acquiring, obtaining, possessing, or applying for a hunting,
 11 fishing, or trapping license during the period when license
 12 privileges have been forfeited shall be fined not less than
 13 \$500 or more than \$1,000 or imprisoned in the county jail
 14 for not more than 60 days, or both.

15 (3)(4) A person convicted or who has forfeited bond or
 16 bail under subsection (2) and who has been ordered to pay
 17 restitution under the provisions of 87-1-111 may not apply
 18 for any special license under Title 87, chapter 2, part 7,
 19 or enter any drawing for a special license or permit for a
 20 period of 5 years following the date of conviction or
 21 restoration of license privileges, whichever is later. A
 22 person convicted of unlawfully applying for any special
 23 license under Title 87, chapter 2, part 7, or unlawfully
 24 entering a drawing for a special license or permit shall be
 25 fined not less than \$500 or more than \$1,000 or imprisoned

1 in the county jail for not more than 60 days, or both.

2 ~~(4)~~(5) Notwithstanding the provision of subsection (1),
3 the penalties provided by this section shall be in addition
4 to any penalties provided in Title 37, chapter 47, and Title
5 87, chapter 4, part 2."

6 NEW SECTION. Section 3. Suspension of privileges for
7 failure to comply with citation or sentence. (1) A person
8 who fails to comply with the terms of a court citation or
9 fails to fulfill the obligations of any court-imposed
10 sentence for a wildlife violation under this title,
11 resulting in the issuance of a warrant for his arrest, shall
12 surrender any current hunting, fishing, and trapping
13 licenses to the department, and his privileges to hunt,
14 fish, and trap and to hold a valid license to hunt, fish, or
15 trap are suspended until the terms of the court citation or
16 sentence are satisfied.

17 (2) A person who loses his privileges under this
18 section must be notified by the department in person or by
19 mail. A person who hunts, fishes, traps, purchases licenses,
20 or refuses to surrender any current hunting, fishing, or
21 trapping license in violation of this section is guilty of a
22 misdemeanor and subject to the penalties prescribed in
23 87-1-102.

24 **Section 4.** Section 87-2-106, MCA, is amended to read:

25 "87-2-106. Application for license. (1) A license may

1 be procured from the director, any warden, or any authorized
2 agent of the director. The applicant shall state his name,
3 age, occupation, place of residence, post-office address,
4 the length of time in the state of Montana, whether a
5 citizen of the United States or an alien, and such other
6 facts, data, or descriptions as may be required by the
7 department. Except as provided in subsections (2) through
8 (4), the statements made by the applicant shall be
9 subscribed to before the officer or agent issuing the
10 license.

11 (2) Except as provided in subsection (3), department
12 employees or officers may issue licenses by mail. Statements
13 on an application for a license to be issued by mail need
14 not be subscribed to before the employee or officer.

15 (3) To apply for a license under the provisions of
16 87-2-102(4), the applicant must apply to the director and
17 must submit at the time of application a notarized affidavit
18 that attests to fulfillment of the requirements of
19 87-2-102(4). The director shall process the application in
20 an expedient manner.

21 (4) A resident may apply for and purchase a wildlife
22 conservation license, hunting license, or fishing license
23 for his spouse, parent, child, brother, or sister who is
24 otherwise qualified to obtain such license.

25 (5) A license is void unless subscribed to by the

1 licensee and by an employee or officer of the department or
2 by a license agent or an authorized representative of the
3 license agent.

4 (6) It is unlawful to subscribe to any statement, on
5 any application or license, that is materially false. Any
6 material false statement contained in an application renders
7 the license issued pursuant to it void. Any person violating
8 any provision of this statute is guilty of a misdemeanor.

9 ~~(7) The department may bring an action to prosecute a~~
10 ~~violation of this section within 3 years of the date of~~
11 ~~application for licensure."~~

12 **Section 5.** Section 87-3-102, MCA, is amended to read:

13 "87-3-102. Waste of fish or game. (1) A person who is
14 responsible for the death of a black or brown bear or a
15 mountain lion commits the offense of waste of game if he
16 abandons the head or hide in the field.

17 (2) A person who is responsible for the death of a
18 grizzly bear commits the offense of waste of game if he
19 abandons the head or hide or any parts required by
20 department or commission regulation for scientific purposes.
21 All parts of a grizzly bear required by department or
22 commission regulation for scientific purposes must be
23 delivered to an officer or employee of the department for
24 inspection as soon as possible after removal, and the
25 department shall return to the licensee any bone structure

1 and skull within 1 year upon written request. The hide must
2 be returned immediately.

3 ~~(3) It shall be unlawful and a misdemeanor for any A~~
4 ~~person responsible for the death of any game animal of this~~
5 ~~state, excepting except grizzly, black, and brown bear and~~
6 ~~mountain lion, commits the offense of waste of game if he:~~

7 ~~(a) to detach or remove detaches or removes from the~~
8 ~~carcass only the head, hide, antlers, tusks, or teeth or any~~
9 ~~or all of aforesaid parts; or~~

10 ~~(b) to waste wastes any part of any game animal, game~~
11 ~~bird, or game fish suitable for food by transporting,~~
12 ~~hanging, or storing the carcass in a manner that renders it~~
13 ~~unfit for human consumption; or~~

14 ~~(c) to abandon abandons in the field the carcass of any~~
15 ~~game animal in the field, except black and brown bear and~~
16 ~~mountain lion, which need have removed and taken from the~~
17 ~~carcass only the head or the hide of such bear or mountain~~
18 ~~lion, and except grizzly bear, which need have removed and~~
19 ~~taken from the carcass only the head and hide and such other~~
20 ~~parts as the department may demand for scientific purposes.~~
21 ~~All parts of grizzly bear demanded by the department for~~
22 ~~scientific purposes must be delivered to an officer or~~
23 ~~employee of the department for inspection as soon as~~
24 ~~possible after removal, and the department shall return to~~
25 ~~the licensee any bone structure and skull within 1 year upon~~

1 ~~written request. The hide shall be returned immediately, or~~
2 any portion of the carcass suitable for food.

3 (4) A person in possession of a game animal or game
4 animal parts, game bird, or game fish suitable for food
5 commits the offense of waste of game if he:

6 (a) purposely or knowingly transports, stores, or hangs
7 the animal, bird, or fish in a manner that renders it unfit
8 for human consumption; or

9 (b) disposes of or abandons any portion of a game
10 animal, game bird, or game fish that is suitable for food.

11 (5) A person convicted of waste of game shall be fined
12 not less than \$50 or more than \$1,000 or imprisoned in the
13 county jail for a term not to exceed 6 months, or both."

14 **Section 6.** Section 87-3-103, MCA, is amended to read:

15 "87-3-103. Limit on number of game animals hunted or
16 killed. It shall be unlawful and a misdemeanor for any
17 person to attempt to kill, take, shoot, or capture or to
18 kill, take, hunt, shoot, or capture more than one game
19 animal of any one species in any one license year unless the
20 killing of more than one game animal of such species has
21 been authorized by regulations of the department."

22 **Section 7.** Section 87-3-104, MCA, is amended to read:

23 "87-3-104. Unlawful to hunt or fish during closed
24 season. It shall--be is unlawful and a misdemeanor for any
25 person during the closed season on any species of game

1 animal, game bird, or fish to attempt to take, shoot, kill,
2 or capture or to take, hunt, shoot, kill, or capture any
3 such game animal or such game bird or to fish for or catch
4 any such fish."

5 **Section 8.** Section 87-3-111, MCA, is amended to read:

6 "87-3-111. (Temporary) Unlawful to buy, sell, possess,
7 or transport fish or game -- exceptions -- penalties. (1) It
8 is unlawful for any person to purchase, sell, offer to sell,
9 possess, ship, or transport any game fish, game bird,
10 migratory game bird, game animal, or fur-bearing animal or
11 part thereof protected by the laws of this state, whether
12 belonging to the same or different species from that native
13 to the state of Montana, except as specifically permitted by
14 the laws of this state.

15 (2) The provisions of this section do not prohibit:

16 (a) the possession or transportation within the state
17 of any legally taken fish, game bird, migratory game bird,
18 game animal, or fur-bearing animal or part thereof;

19 (b) the sale, purchase, or transportation of hides,
20 heads, or mounts of lawfully killed game birds, game fish,
21 fur-bearing animals, or game animals, except that the sale
22 or purchase of a hide, head, or mount of a grizzly bear is
23 prohibited, except as provided in 87-3-110; or

24 (c) the possession, transportation, sale, or purchase
25 of naturally shed antlers; or

1 ~~(e)~~(d) the donation and sale of paddlefish roe as
2 caviar under the provisions of 87-4-601.

3 (3) Except as provided in subsection (4), any person
4 violating any of the provisions of this section is guilty of
5 a misdemeanor and upon conviction shall be punished as
6 provided by law.

7 (4) Any person engaging in the activities prohibited in
8 subsection (1) in furtherance of a scheme to traffic in the
9 body parts of unlawfully taken species is guilty of a felony
10 and shall be punished by a fine of \$10,000 or imprisonment
11 in the state prison for a term of 1 year, or both.
12 (Terminates June 30, 1993--sec. 5, Ch. 409, L. 1989.)

13 87-3-111. (Effective July 1, 1993) Unlawful to buy,
14 sell, possess, or transport fish or game -- exceptions --
15 penalties. (1) It is hereby made unlawful for any person to
16 purchase, sell, offer to sell, possess, ship, or transport
17 any game fish, game bird, migratory game bird, game animal,
18 or fur-bearing animal or part thereof protected by the laws
19 of this state, whether belonging to the same or different
20 species from that native to the state of Montana, except as
21 specifically permitted by the laws of this state.

22 (2) The provisions of this section shall not prohibit:
23 (a) the possession or transportation within the state
24 of any legally taken fish, game bird, migratory game bird,
25 game animal, or fur-bearing animal or part thereof; or

1 (b) the sale, purchase, or transportation of hides,
2 heads, or mounts of lawfully killed game birds, game fish,
3 fur-bearing animals, or game animals, except that the sale
4 or purchase of a hide, head, or mount of a grizzly bear is
5 prohibited, except as provided in 87-3-110-; or

6 (c) the possession, transportation, sale, or purchase
7 of naturally shed antlers.

8 (3) Except as provided in subsection (4), any person
9 violating any of the provisions of this section is guilty of
10 a misdemeanor and upon conviction thereof shall be punished
11 as provided by law.

12 (4) Any person engaging in the activities prohibited in
13 subsection (1) in furtherance of a scheme to traffic in the
14 body parts of unlawfully taken species is guilty of a felony
15 and shall be punished by a fine of \$10,000 or imprisonment
16 in the state prison for a term of 1 year, or both."

17 NEW SECTION. Section 9. Fish and game violation as
18 inchoate offense. Any violation of this title is an offense
19 for purposes of the crimes of attempt, solicitation, and
20 conspiracy set out in Title 45, chapter 4.

21 NEW SECTION. Section 10. Codification instruction.
22 [Sections 3 and 9] are intended to be codified as an
23 integral part of Title 87, chapter 1, part 1, and the
24 provisions of Title 87, chapter 1, part 1, apply to
25 [sections 3 and 9].

LC 0973/01

1 NEW SECTION. **Section 11.** Effective date. {This act} is
2 effective July 1, 1991.

-End-

1 SENATE BILL NO. 240
 2 INTRODUCED BY VAN VALKENBURG, STRIZICH
 3 BY REQUEST OF THE DEPARTMENT
 4 OF FISH, WILDLIFE, AND PARKS
 5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 7 LAW REGARDING FISH AND GAME MISDEMEANOR PENALTIES; AMENDING
 8 SECTIONS 45-1-205, 87-1-102, 87-2-106, 87-3-102, 87-3-103,
 9 87-3-104, AND 87-3-111, MCA; AND PROVIDING AN EFFECTIVE
 10 DATE."
 11

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

13 **Section 1.** Section 45-1-205, MCA, is amended to read:
 14 "45-1-205. General time limitations. (1) (a) A
 15 prosecution for deliberate, mitigated, or negligent homicide
 16 may be commenced at any time.

17 (b) A prosecution under 45-5-502 through 45-5-505,
 18 45-5-507, or 45-5-625 may be commenced within 5 years after
 19 the victim reaches the age of 18 if the victim was less than
 20 18 years old at the time the offense occurred.

21 (2) Except as otherwise provided by law, prosecutions
 22 for other offenses are subject to the following periods of
 23 limitation:

24 (a) A prosecution for a felony must be commenced within
 25 5 years after it is committed.

1 (b) A prosecution for a misdemeanor must be commenced
 2 within 1 year after it is committed.

3 (3) The period prescribed in subsection (2) is extended
 4 in a prosecution for theft involving a breach of fiduciary
 5 obligation to an aggrieved person as follows:

6 (a) if the aggrieved person is a minor or incompetent,
 7 during the minority or incompetency or within 1 year after
 8 the termination thereof;

9 (b) in any other instance, within 1 year after the
 10 discovery of the offense by the aggrieved person or by a
 11 person who has legal capacity to represent an aggrieved
 12 person or has a legal duty to report the offense and is not
 13 himself a party to the offense or, in the absence of such
 14 discovery, within 1 year after the prosecuting officer
 15 becomes aware of the offense.

16 (4) The period prescribed in subsection (2) shall be
 17 extended in a prosecution for unlawful use of a computer,
 18 and prosecution shall be brought within 1 year after the
 19 discovery of the offense by the aggrieved person or by a
 20 person who has legal capacity to represent an aggrieved
 21 person or has a legal duty to report the offense and is not
 22 himself a party to the offense or, in the absence of such
 23 discovery, within 1 year after the prosecuting officer
 24 becomes aware of the offense.

25 (5) The period prescribed in subsection (2) is extended



1 in a prosecution for misdemeanor fish and wildlife
 2 violations under Title 87, and prosecution must be brought
 3 within 3 years after an offense is committed.

4 †5†(6) An offense is committed either when every
 5 element occurs or, when the offense is based upon a
 6 continuing course of conduct, at the time when the course of
 7 conduct is terminated. Time starts to run on the day after
 8 the offense is committed.

9 †6†(7) A prosecution is commenced either when an
 10 indictment is found or an information or complaint is
 11 filed."

12 **Section 2.** Section 87-1-102, MCA, is amended to read:

13 "87-1-102. Penalties. (1) A person violating who
 14 purposely or knowingly violates any provision of this title,
 15 any other state law pertaining to fish and game, or the
 16 orders or rules of the commission or Department is, ~~unless a~~
 17 ~~different--punishment--is--expressly--provided--by--law--for--the~~
 18 ~~violation,~~ guilty of a misdemeanor, except if a felony is
 19 expressly provided by law, and shall be fined not less than
 20 \$50 or more than \$500, imprisoned in the county jail for not
 21 more than 6 months, or both, unless a different punishment
 22 is expressly provided by law for the violation. In addition,
 23 the person, upon conviction or forfeiture of bond or bail,
 24 shall be subject to forfeiture of his license and privilege
 25 to hunt, fish, or trap within this state for a period of not

1 less than 24 months from the date of conviction or
 2 forfeiture.

3 (2) (a) A person convicted of unlawfully taking,
 4 killing, possessing, transporting, or wasting of a bighorn
 5 sheep, moose, wild bison, caribou, mountain goat, or grizzly
 6 bear or any part of these animals shall be fined not less
 7 than \$500 or more than \$1,000, imprisoned in the county jail
 8 for not more than 6 months, or both. In addition, that
 9 person, upon conviction or forfeiture of bond or bail, shall
 10 forfeit any current hunting, fishing, or trapping license
 11 issued by this state and the privilege to hunt, fish, or
 12 trap in this state for not less than 30 months from the date
 13 of conviction or forfeiture.

14 (b) A person convicted of unlawfully taking, killing,
 15 possessing, or transporting a deer, antelope, elk, mountain
 16 lion, or black bear or any part of these animals or wasting
 17 a deer, antelope, or elk shall be fined not less than \$300
 18 or more than \$1,000, imprisoned in the county jail for not
 19 more than 6 months, or both. In addition, that person, upon
 20 conviction or forfeiture of bond or bail, shall forfeit any
 21 current hunting, fishing, or trapping license issued by this
 22 state and the privilege to hunt, fish, or trap in this state
 23 for not less than 24 months from the date of conviction or
 24 forfeiture.

25 (c) A person convicted of unlawfully attempting to

1 trap, take, shoot, or kill a game animal shall be fined not
2 less than \$200 or more than \$600, imprisoned in the county
3 jail for not more than 60 days, or both.

4 (d) A person convicted of unlawfully taking, killing,
5 possessing, transporting, shipping, labeling, packaging, or
6 wasting or unlawfully attempting to take, kill, or possess
7 any game bird, wild turkey, or fish or any part of any such
8 bird or fish or of failure to tag a game animal or game bird
9 as prescribed by law shall be fined not less than \$50 or
10 more than \$200 or imprisoned in the county jail for not more
11 than 30 days, or both.

12 (e) A person convicted of purposely or knowingly
13 taking, killing, possessing, transporting, shipping,
14 labeling, or packaging a fur-bearing animal or pelt of a
15 fur-bearing animal in violation of any provision of this
16 title shall be fined not less than \$50 or more than \$1,000
17 or imprisoned in the county jail for not more than 6 months,
18 or both. In addition, that person, upon conviction or
19 forfeiture of bond or bail, shall forfeit any current
20 license and the privilege to hunt, fish, or trap for not
21 less than 24 months from the date of conviction or
22 forfeiture, and any pelts possessed unlawfully must be
23 confiscated.

24 (f) A person convicted of hunting, fishing, or trapping
25 while his license is forfeited or his privilege denied shall

1 be imprisoned in the county jail for not less than 5 days or
2 more than 6 months. In addition, that person may be fined
3 not less than \$500 or more than \$1,000.

4 (3) A person convicted or who has forfeited bond or
5 bail under this section and whose license privileges are
6 forfeited may not purchase, acquire, obtain, possess, or
7 apply for a hunting, fishing, or trapping license or permit
8 during the period when license privileges have been
9 forfeited. A person convicted of unlawfully purchasing,
10 acquiring, obtaining, possessing, or applying for a hunting,
11 fishing, or trapping license during the period when license
12 privileges have been forfeited shall be fined not less than
13 \$500 or more than \$1,000 or imprisoned in the county jail
14 for not more than 60 days, or both.

15 ~~(3)~~(4) A person convicted or who has forfeited bond or
16 bail under subsection (2) and who has been ordered to pay
17 restitution under the provisions of 87-1-111 may not apply
18 for any special license under Title 87, chapter 2, part 7,
19 or enter any drawing for a special license or permit for a
20 period of 5 years following the date of conviction or
21 restoration of license privileges, whichever is later. A
22 person convicted of unlawfully applying for any special
23 license under Title 87, chapter 2, part 7, or unlawfully
24 entering a drawing for a special license or permit shall be
25 fined not less than \$500 or more than \$1,000 or imprisoned

1 in the county jail for not more than 60 days, or both.

2 ~~(4)~~(5) Notwithstanding the provision of subsection (1),
3 the penalties provided by this section shall be in addition
4 to any penalties provided in Title 37, chapter 47, and Title
5 87, chapter 4, part 2."

6 **NEW SECTION. Section 3. Suspension of privileges for**
7 **failure to comply with citation or sentence.** (1) A person
8 who fails to comply with the terms of a court citation or
9 fails to fulfill the obligations of any court-imposed
10 sentence for a wildlife violation under this title,
11 resulting in the issuance of a warrant for his arrest, shall
12 surrender any current hunting, fishing, and trapping
13 licenses to the department, and his privileges to hunt,
14 fish, and trap and to hold a valid license to hunt, fish, or
15 trap are suspended until the terms of the court citation or
16 sentence are satisfied.

17 (2) A person who loses his privileges under this
18 section must be notified by the department in person or by
19 mail. A person who hunts, fishes, traps, purchases licenses,
20 or refuses to surrender any current hunting, fishing, or
21 trapping license in violation of this section is guilty of a
22 misdemeanor and subject to the penalties prescribed in
23 87-1-102.

24 **Section 4.** Section 87-2-106, MCA, is amended to read:

25 **"87-2-106. Application for license.** (1) A license may

1 be procured from the director, any warden, or any authorized
2 agent of the director. The applicant shall state his name,
3 age, occupation, place of residence, post-office address,
4 the length of time in the state of Montana, whether a
5 citizen of the United States or an alien, and such other
6 facts, data, or descriptions as may be required by the
7 department. Except as provided in subsections (2) through
8 (4), the statements made by the applicant shall be
9 subscribed to before the officer or agent issuing the
10 license.

11 (2) Except as provided in subsection (3), department
12 employees or officers may issue licenses by mail. Statements
13 on an application for a license to be issued by mail need
14 not be subscribed to before the employee or officer.

15 (3) To apply for a license under the provisions of
16 87-2-102(4), the applicant must apply to the director and
17 must submit at the time of application a notarized affidavit
18 that attests to fulfillment of the requirements of
19 87-2-102(4). The director shall process the application in
20 an expedient manner.

21 (4) A resident may apply for and purchase a wildlife
22 conservation license, hunting license, or fishing license
23 for his spouse, parent, child, brother, or sister who is
24 otherwise qualified to obtain such license.

25 (5) A license is void unless subscribed to by the

1 licensee and by an employee or officer of the department or
2 by a license agent or an authorized representative of the
3 license agent.

4 (6) It is unlawful to subscribe to any statement, on
5 any application or license, that is materially false. Any
6 material false statement contained in an application renders
7 the license issued pursuant to it void. Any person violating
8 any provision of this statute is guilty of a misdemeanor.

9 ~~{7}--The department may bring an action to prosecute a~~
10 ~~violation of this section within 3 years of the date of~~
11 ~~application for licensure."~~

12 **Section 5.** Section 87-3-102, MCA, is amended to read:

13 **"87-3-102. Waste of fish or game. (1) A person who is**
14 **responsible for the death of a black or brown bear or a**
15 **mountain lion commits the offense of waste of game if he**
16 **abandons the head or hide in the field.**

17 **(2) A person who is responsible for the death of a**
18 **grizzly bear commits the offense of waste of game if he**
19 **abandons the head or hide or any parts required by**
20 **department or commission regulation for scientific purposes.**
21 **All parts of a grizzly bear required by department or**
22 **commission regulation for scientific purposes must be**
23 **delivered to an officer or employee of the department for**
24 **inspection as soon as possible after removal, and the**
25 **department shall return to the licensee any bone structure**

1 and skull within 1 year upon written request. The hide must
2 be returned immediately.

3 ~~(3) It shall be unlawful and a misdemeanor for any A~~
4 ~~person responsible for the death of any game animal of this~~
5 ~~state, excepting except grizzly, black, and brown bear and~~
6 ~~mountain lion, commits the offense of waste of game if he:~~

7 ~~(a) to detach or remove detaches or removes from the~~
8 ~~carcass only the head, hide, antlers, tusks, or teeth or any~~
9 ~~or all of aforesaid parts; or~~

10 ~~(b) to waste wastes any part of any game animal, game~~
11 ~~bird, or game fish suitable for food by transporting,~~
12 ~~hanging, or storing the carcass in a manner that renders it~~
13 ~~unfit for human consumption; or~~

14 ~~(c) to abandon abandons in the field the carcass of any~~
15 ~~game animal in the field, except black and brown bear and~~
16 ~~mountain lion, which need have removed and taken from the~~
17 ~~carcass only the head or the hide of such bear or mountain~~
18 ~~lion, and except grizzly bear, which need have removed and~~
19 ~~taken from the carcass only the head and hide and such other~~
20 ~~parts as the department may demand for scientific purposes.~~
21 ~~All parts of grizzly bear demanded by the department for~~
22 ~~scientific purposes must be delivered to an officer or~~
23 ~~employee of the department for inspection as soon as~~
24 ~~possible after removal, and the department shall return to~~
25 ~~the licensee any bone structure and skull within 1 year upon~~

1 ~~written request. The hide shall be returned immediately, or~~
2 ~~any portion of the carcass suitable for food.~~

3 (4) A person in possession of a game animal or game
4 animal parts, game bird, or game fish suitable for food
5 commits the offense of waste of game if he:

6 (a) purposely or knowingly transports, stores, or hangs
7 the animal, bird, or fish in a manner that renders it unfit
8 for human consumption; or

9 (b) disposes of or abandons any portion of a game
10 animal, game bird, or game fish that is suitable for food.

11 (5) A person convicted of waste of game shall be fined
12 not less than \$50 or more than \$1,000 or imprisoned in the
13 county jail for a term not to exceed 6 months, or both."

14 **Section 6.** Section 87-3-103, MCA, is amended to read:

15 **"87-3-103. Limit on number of game animals hunted or**
16 **killed.** It shall be unlawful and a misdemeanor for any
17 **person to attempt to kill, take, shoot, or capture or to**
18 **kill, take, hunt, shoot, or capture** more than one game
19 **animal of any one species in any one license year unless the**
20 **killing of more than one game animal of such species has**
21 **been authorized by regulations of the department."**

22 **Section 7.** Section 87-3-104, MCA, is amended to read:

23 **"87-3-104. Unlawful to hunt or fish during closed**
24 **season.** It ~~shall--be~~ is unlawful and a misdemeanor for any
25 **person during the closed season on any species of game**

1 **animal, game bird, or fish to attempt to take, shoot, kill,**
2 **or capture or to take, hunt, shoot, kill, or capture any**
3 **such game animal or such game bird or to fish for or catch**
4 **any such fish."**

5 **Section 8.** Section 87-3-111, MCA, is amended to read:

6 **"87-3-111. (Temporary) Unlawful to buy, sell, possess,**
7 **or transport fish or game -- exceptions -- penalties.** (1) It
8 is unlawful for any person to purchase, sell, offer to sell,
9 possess, ship, or transport any game fish, game bird,
10 migratory game bird, game animal, or fur-bearing animal or
11 part thereof protected by the laws of this state, whether
12 belonging to the same or different species from that native
13 to the state of Montana, except as specifically permitted by
14 the laws of this state.

15 (2) The provisions of this section do not prohibit:

16 (a) the possession or transportation within the state
17 of any legally taken fish, game bird, migratory game bird,
18 game animal, or fur-bearing animal or part thereof;

19 (b) the sale, purchase, or transportation of hides,
20 heads, or mounts of lawfully killed game birds, game fish,
21 fur-bearing animals, or game animals, except that the sale
22 or purchase of a hide, head, or mount of a grizzly bear is
23 prohibited, except as provided in 87-3-110; or

24 (c) the possession, transportation, sale, or purchase
25 of naturally shed antlers; or

1 ~~(e)~~(d) the donation and sale of paddlefish roe as
2 caviar under the provisions of 87-4-601.

3 (3) Except as provided in subsection (4), any person
4 violating any of the provisions of this section is guilty of
5 a misdemeanor and upon conviction shall be punished as
6 provided by law.

7 (4) Any person engaging in the activities prohibited in
8 subsection (1) in furtherance of a scheme to traffic in the
9 body parts of unlawfully taken species is guilty of a felony
10 and shall be punished by a fine of \$10,000 or imprisonment
11 in the state prison for a term of 1 year, or both.
12 (Terminates June 30, 1993--sec. 5, Ch. 409, L. 1989.)

13 **87-3-111. (Effective July 1, 1993) Unlawful to buy,**
14 **sell, possess, or transport fish or game -- exceptions --**
15 **penalties. (1) It is hereby made unlawful for any person to**
16 **purchase, sell, offer to sell, possess, ship, or transport**
17 **any game fish, game bird, migratory game bird, game animal,**
18 **or fur-bearing animal or part thereof protected by the laws**
19 **of this state, whether belonging to the same or different**
20 **species from that native to the state of Montana, except as**
21 **specifically permitted by the laws of this state.**

22 (2) The provisions of this section shall not prohibit:

23 (a) the possession or transportation within the state
24 of any legally taken fish, game bird, migratory game bird,
25 game animal, or fur-bearing animal or part thereof; or

1 (b) the sale, purchase, or transportation of hides,
2 heads, or mounts of lawfully killed game birds, game fish,
3 fur-bearing animals, or game animals, except that the sale
4 or purchase of a hide, head, or mount of a grizzly bear is
5 prohibited, except as provided in 87-3-110; or

6 (c) the possession, transportation, sale, or purchase
7 of naturally shed antlers.

8 (3) Except as provided in subsection (4), any person
9 violating any of the provisions of this section is guilty of
10 a misdemeanor and upon conviction thereof shall be punished
11 as provided by law.

12 (4) Any person engaging in the activities prohibited in
13 subsection (1) in furtherance of a scheme to traffic in the
14 body parts of unlawfully taken species is guilty of a felony
15 and shall be punished by a fine of \$10,000 or imprisonment
16 in the state prison for a term of 1 year, or both."

17 **NEW SECTION. Section 9. Fish and game violation as**
18 **inchoate offense. Any violation of this title is an offense**
19 **for purposes of the crimes of attempt, solicitation, and**
20 **conspiracy set out in Title 45, chapter 4.**

21 **NEW SECTION. Section 10. Codification instruction.**
22 **[Sections 3 and 9] are intended to be codified as an**
23 **integral part of Title 87, chapter 1, part 1, and the**
24 **provisions of Title 87, chapter 1, part 1, apply to**
25 **[sections 3 and 9].**

SB 0240/02

1 NEW SECTION. **Section 11.** Effective date. [This act] is
2 effective July 1, 1991.

-End-