SENATE BILL NO. 240

INTRODUCED BY VAN VALKENBURG, STRIZICH BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

IN THE SENATE

JANUARY 31, 1991

INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.

INTRODUCED AND REFERRED TO COMMITTEE

FIRST READING.

PRINTING REPORT.

FEBRUARY 15, 1991

FEBRUARY 16, 1991

SECOND READING, DO PASS.

COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.

FEBRUARY 18, 1991 ENGROSSING REPORT.

THIRD READING, PASSED. AYES, 49; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991

FIRST READING.

ON FISH & GAME.

MARCH 15, 1991

MARCH 16, 1991

CONCURRED IN. REPORT ADOPTED.

COMMITTEE RECOMMEND BILL BE

SECOND READING, CONCURRED IN.

MARCH 18, 1991 THIRD READING, CONCURRED IN. AYES, 95; NOES, 2.

RETURNED TO SENATE.

IN THE SENATE

MARCH 19, 1991

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

2

LC 0973/01

n Iontana Legislative Council 1

2

SENATE BILL NO. 240 INTRODUCED BY La- 1 kelferbary 1 2 BY REQUEST OF THE DEPARTMENT 3 OF FISH, WILDLIFE, AND PARKS 4 5 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE 7 LAW REGARDING FISH AND GAME MISDEMEANOR PENALTIES; AMENDING SECTIONS 45-1-205, 87-1-102, 87-2-106, 87-3-102, 87-3-103, 8 87-3-104, AND 87-3-111, MCA; AND PROVIDING AN EFFECTIVE 9 DATE." 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 45-1-205, MCA, is amended to read: 13 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. (b) A prosecution under 45-5-502 through 45-5-505, 17 45-5-507, or 45-5-625 may be commenced within 5 years after 18 the victim reaches the age of 18 if the victim was less than 19 20 18 years old at the time the offense occurred. (2) Except as otherwise provided by law, prosecutions 21 22 for other offenses are subject to the following periods of limitation: 23 24 (a) A prosecution for a felony must be commenced within 25 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced 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

INTRODUCED BILL -2-58240

in a prosecution for misdemeanor fish and wildlife
 violations under Title 87, and prosecution must be brought
 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 indictment is found or an information or complaint is filed."

12 Section 2. Section 87-1-102, MCA, is amended to read: "87-1-102. Penalties. (1) A person violating who 13 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 is7-unless-a 17 different--punishment--is--expressly-provided-by-law-for-the 18 violation; quilty of a misdemeanor, except if a felony is 19 expressly provided by law, and shall be fined not less than \$50 or more than \$500, imprisoned in the county jail for not 20 more than 6 months, or both, unless a different punishment 21 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 to hunt, fish, or trap within this state for a period of not 25

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

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

14 (b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, elk, mountain 15 lion, or black bear or any part of these animals or wasting 16 a deer, antelope, or elk shall be fined not less than \$300 17 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 forfeiture. 24

25 (c) A person convicted of unlawfully attempting to

-3-

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

2.*

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

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

24 (f) A person convicted of hunting, fishing, or trapping25 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. <u>A</u>
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

-6-

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

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

NEW SECTION. Section 3. Suspension of privileges for 6 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 surrender any current hunting, fishing, and trapping 12 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.

Section 4. section 87-2-106, MCA, is amended to read:
"87-2-106. Application for license. (1) A license may

۴4

be procured from the director, any warden, or any authorized 1 agent of the director. The applicant shall state his name, 2 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 (4), the statements made by the applicant shall be 8 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.

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

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

-7-

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 17)--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

21 All parts of a grizzly bear required by department or

department or commission regulation for scientific purposes.

- 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-misdemeanorforany 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) todetachorremove detaches or removes from the
8	carcass only the head, hide, antlers, tusks, or teeth or any
9	or all of aforesaid parts <u>;</u> 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-spandon abandons in the field the carcass of any
15	game animal inthe-field;-except-black-and-brown-bear-and
16	mountain-lion7-which-need-have-removed-andtakenfromthe
17	carcassonlythe-head-or-the-hide-of-such-bear-or-mountain
18	<pre>tionand-except-grizzly-bearwhich-need-haveremovedand</pre>
19	taken-from-the-carcass-only-the-head-and-hide-and-such-other
20	partsas-the-department-may-demand-for-scientific-purposes.
21	All-parts-of-grizzly-bear-demandedbythedepartmentfor
22	scientificpurposesmustbedeliveredtoan-officer-or
23	employeeofthedepartmentforinspectionassoonas
24	possible-after-removal;-and-the-department-shallreturnto
25	the-licensee-any-bone-structure-and-skull-within-l-year-upon

T	writtenrequestThe-hide-shall-be-returned-immediately: <u>or</u>		
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 maste 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		
1 9	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 shallbe is unlawful and a misdemeanor for any		

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 belonging to the same or different species from that native 12 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

person during the closed season on any species of game

25

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

(2) The provisions of this section shall not prohibit:
(a) the possession or transportation within the state
of any legally taken fish, game bird, migratory game bird,
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].

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

۲. ب -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, BUDGET DIRECTOR DATE

Office of Budget and Program Planning

-11-91 FRED R. VAN VALKENBURG, PRIMARY SPONSOR DATE

Fiscal Note for SB0240, as introduced

240 5B

52nd Legislature

LC 0973/01 APPROVED BY COMM. ON FISH AND GAME

1	SENATE BILL NO. 240
2	INTRODUCED BY Va- 1kelfenburg
3	BY REQUEST OF THE DEPARTMENT
4	OF FISH, WILDLIFE, AND PARKS
5	
б	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. Ge neral 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
18 19	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
19	the victim reaches the age of 18 if the victim was less than
19 20	the victim reaches the age of 18 if the victim was less than 18 years old at the time the offense occurred.
19 20 21	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

25 5 years after it is committed.

ntana Legislative Council

(b) A prosecution for a misdemeanor must be commenced
 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.

(4) The period prescribed in subsection (2) shall be 16 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 person or has a legal duty to report the offense and is not 21 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

-2-

SECOND READING

58240

LC 0973/01

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

4 (57(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; quilty 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 less than 24 months from the date of conviction or
 forfeiture.

3 (2) (a) A person convicted of unlawfully taking, killing, possessing, transporting, or wasting of a bighorn 4 sheep, moose, wild bison, caribou, mountain goat, or grizzly 5 bear or any part of these animals shall be fined not less 6 7 than \$500 or more than \$1,000, imprisoned in the county jail for not more than 6 months, or both. In addition, that 8 person, upon conviction or forfeiture of bond or bail, shall 9 10 forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or 11 trap in this state for not less than 30 months from the date 12 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 conviction or forfeiture of bond or bail, shall forfeit any 20 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

-3-

LC 0973/01

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

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

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

24 (f) A person convicted of hunting, fishing, or trapping25 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

LC 0973/01

-5-

-6-

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

t4)(5) Notwithstanding the provision of subsection (1),
 the penalties provided by this section shall be in addition
 to any penalties provided in Title 37, chapter 47, and Title
 87, chapter 4, part 2."

NEW SECTION. Section 3. Suspension of privileges for 6 failure to comply with citation or sentence. (1) A person 7 who fails to comply with the terms of a court citation or 8 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 trap are suspended until the terms of the court citation or 15 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

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

11 (2) Except as provided in subsection (3), department 2 employees or officers may issue licenses by mail. Statements 3 on an application for a license to be issued by mail need 4 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.

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

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

-7-

LC 0973/01

licensee and by an employee or officer of the department or
 by a license agent or an authorized representative of the
 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-"

Section 5. Section 87-3-102, MCA, is amended to read:
"87-3-102. Waste of fish or game. (1) A person who is
responsible for the death of a black or brown bear or a
mountain lion commits the offense of waste of game if he
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 brar 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-misdemeanorforany <u>A</u>
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) todetachorremove 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 inthe-field;-except-black-and-brown-bear-and
16	mountain-lion,-which-need-have-removed-andtakenfromthe
17	carcassonlythe-head-or-the-hide-of-such-bear-or-mountain
18	lion;-and-except-grizzly-bear;-which-need-haveremovedand
19	taken-from-the-carcass-only-the-head-and-hide-and-such-other
20	partsas-the-department-may-demand-for-scientific-purposes-
21	All-parts-of-grizzly-bear-demandedbythedepartmentfor
22	scientificpurposesmustbedeliveredtoan-officer-or
23	employeeofthedepartmentforinspectionassoonas
24	possible-after-removal;-and-the-department-shallreturnto
25	the-licensee-any-bone-structure-and-skull-within-l-year-upon

-10-

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 animal parts, game bird, or game fish suitable for food 4 commits the offense of waste of game if he: 5 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." Section 6. Section 87-3-103, MCA, is amended to read: 14 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 animal of any one species in any one license year unless the 19 20 killing of more than one game animal of such species has 21 been authorized by regulations of the department." 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, or capture or to take, hunt, shoot, kill, or capture any 2 such game animal or such game bird or to fish for or catch 3 any such fish." 4

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

б "87-3-111. (Temporary) Unlawful to buy, sell, possess, or transport fish or game -- exceptions -- penalties. (1) It 7 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 part thereof protected by the laws of this state, whether 11 12 belonging to the same or different species from that native to the state of Montana, except as specifically permitted by 13 14 the laws of this state.

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

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

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



22

1

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

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

heads, or mounts of lawfully killed game birds, game fish, 2 fur-bearing animals, or game animals, except that the sale 3 or purchase of a hide, head, or mount of a grizzly bear is 4 5 prohibited, except as provided in 87-3-110-; or 6 (c) the possession, transportation, sale, or purchase 7 of naturally shed antlers. (3) Except as provided in subsection (4), any person 8 9 violating any of the provisions of this section is guilty of

(b) the sale, purchase, or transportation of hides,

a misdemeanor and upon conviction thereof shall be punished
as provided by law.
(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."

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

21 <u>NEW SECTION.</u> 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].

-13-

LC 0973/01

-14-

.

1 NEW SECTION. Section 11. Effective date. [This act] is

2 effective July 1 1991.

ę

-End-

SENATE BILL NO. 340 1 INTRODUCED BY 2 3 BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS 4 5 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE 7 LAW REGARDING FISH AND GAME MISDEMEANOR PENALTIES; AMENDING SECTIONS 45-1-205, 87-1-102, 87-2-106, 87-3-102, 87-3-103, 8 87-3-104, AND 87-3-111, MCA; AND PROVIDING AN EFFECTIVE 9 10 DATE." 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 45-1-205, MCA, is amended to read: 13 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. (b) A prosecution under 45-5-502 through 45-5-505, 17 18 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 19 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.

Nontana Legislative council

(b) A prosecution for a misdemeanor must be commenced
 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, and prosecution shall be brought within 1 year after the 18 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

-2-

THIRD READING

58240

LC 0973/01

in a prosecution for misdemeanor fish and wildlife
 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 orders or rules of the commission or department isy-unless-a 16 17 different--punishment--is--expressiv-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

less than 24 months from the date of conviction or
 <u>forfeiture</u>.

3 (2) (a) A person convicted of unlawfully taking, 4 killing, possessing, transporting, or wasting of a bighorn S 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 for not more than 6 months, or both. In addition, that 8 person, upon conviction or forfeiture of bond or bail, shall 9 forfeit any current hunting, fishing, or trapping license 10 issued by this state and the privilege to hunt, fish, or 11 trap in this state for not less than 30 months from the date 12 13 of conviction or forfeiture.

(b) A person convicted of unlawfully taking, killing, 14 / 15 possessing, or transporting a deer, antelope, elk, mountain 16 lion, or black bear or any part of these animals or wasting a deer, antelope, or elk shall be fined not less than \$300 17 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

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

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

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

24 (f) A person convicted of hunting, fishing, or trapping25 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. \underline{A}	
2 2	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	

-5-

-6-

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

t++15 Notwithstanding the provision of subsection (1),
the penalties provided by this section shall be in addition
to any penalties provided in Title 37, chapter 47, and Title
87, chapter 4, part 2."

NEW SECTION. Section 3. Suspension of privileges for б 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

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

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

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

licensee and by an employee or officer of the department or 1 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-" Section 5. Section 87-3-102, MCA, is amended to read: 12 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-misdemeanorforany 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) todetachorremove detaches or removes from the
8	carcass only the head, hide, antlers, tusks, or teeth or any
9	or all of aforesaid parts <u>;</u> 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 inthe-field;-except-black-and-brown-bear-and
16	mountain-lion;-which-need-have-removed-andtakenfromthe
17	carcassonlythe-head-or-the-hide-of-such-bear-or-mountain
18	lionand-except-grizzly-bearwhich-need-haveremovedand
19	taken-from-the-carcass-only-the-head-and-hide-and-such-other
20	partsas-the-department-may-demand-for-scientific-purposes-
21	All-parts-of-grizzly-bear-demandedbythedepartmentfor
22	scientificpurposesmustbedeliveredtoan-officer-or
23	employeeofthedepartmentforinspectionassoonas
24	possible after-removal;-and-the-department-shallreturnto
25	the-licensee-any-bone-structure-and-skull-within-l-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 animal, game bird, or fish to attempt to take, shoot, kill,
 or capture or to take, hunt, shoot, kill, or capture any
 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;

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

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

-11-

season. It shall--be is unlawful and a misdemeanor for any

person during the closed season on any species of game

24

25

-12-

LC 0973/01

1 (c)(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.

(2) The provisions of this section shall not prohibit:
(a) the possession or transportation within the state
of any legally taken fish, game bird, migratory game bird,
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.				
1 2	(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				

-13-

-14-

25

[sections 3 and 9].

.

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."	1
11		1
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	1
13	Section 1. Section 45-1-205, MCA, is amended to read:	1
14	"45-1-205. General time limitations. (1) (a) A	1
15	prosecution for deliberate, mitigated, or negligent homicide	1
16	may be commenced at any time.	1
17	(b) A prosecution under 45-5-502 through 45~5-505,	1
18	45-5-507, or 45-5-625 may be commenced within 5 years after	1
19	the victim reaches the age of 18 if the victim was less than	1
20	18 years old at the time the offense occurred.	2
21	(2) Except as otherwise provided by law, prosecutions	2
22	for other offenses are subject to the following periods of	2
		_

23 limitation:

24 (a) A prosecution for a felony must be commenced within25 5 years after it is committed.

Montana Legislative Council

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 discovery of the offense by the aggrieved person or by a 0 1 person who has legal capacity to represent an aggrieved 2 person or has a legal duty to report the offense and is not 3 himself a party to the offense or, in the absence of such 4 discovery, within 1 year after the prosecuting officer 5 becomes aware of the offense. 6 (4) The period prescribed in subsection (2) shall be .7 extended in a prosecution for unlawful use of a computer, 8 and prosecution shall be brought within 1 year after the discovery of the offense by the aggrieved person or by a 9 0 person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not 1 2 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

-2-

REFERENCE BILL

in a prosecution for misdemeanor fish and wildlife
 violations under Title 87, and prosecution must be brought
 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

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

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

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

(c) A person convicted of unlawfully attempting to

25

SB 240

SB 0240/02

trap, take, shoot, or kill a game animal shall be fined not less than \$200 or more than \$600, imprisoned in the county 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 any game bird, wild turkey, or fish or any part of any such 7 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 more than \$200 or imprisoned in the county jail for not more 10 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 trapping25 while his license is forfeited or his privilege denied shall

be imprisoned in the county jail for not less than 5 days or more than 6 months. In addition, that person may be fined 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, acquiring, obtaining, possessing, or applying for a hunting, 10 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 person convicted of unlawfully applying for any special 22 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

-5-

SB 240

SB 0240/02

SB 240

SB 0240/02

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."

NEW SECTION. Section 3. Suspension of privileges for 6 failure to comply with citation or sentence. (1) A person 7 who fails to comply with the terms of a court citation or 8 9 fails to fulfill the obligations of any court-imposed 10 sentence for a wildlife violation under this title, resulting in the issuance of a warrant for his arrest, shall 11 surrender any current hunting, fishing, and trapping 12 licenses to the department, and his privileges to hunt, 13 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 agent of the director. The applicant shall state his name, 2 3 age, occupation, place of residence, post-office address, 4 the length of time in the state of Montana, whether a citizen of the United States or an alien, and such other 5 6 facts, data, or descriptions as may be required by the 7 department. Except as provided in subsections (2) through (4), the statements made by the applicant shall be 8 9 subscribed to before the officer or agent issuing the license. 10

(2) Except as provided in subsection (3), department
employees or officers may issue licenses by mail. Statements
on an application for a license to be issued by mail need
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.

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

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

-7-

-8-

licensee and by an employee or officer of the department or
 by a license agent or an authorized representative of the
 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) It-shall-be-unlawful-and-a-misdemeanor--for--any A 3 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 (c) to-abandom abandons in the field the carcass of any 14 15 game animal in--the-fieldy-except-black-and-brown-bear-and 16 mountain-liony-which-need-have-removed-and--taken--from--the 17 carcass--only--the-head-or-the-hide-of-such-bear-or-mountain 18 1ion;-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-grizziy-bear-demanded--by--the--department--for 22 scientific--purposes--must--be--delivered--to--an-officer-or employee--of--the--department--for--inspection--as--soon--as 23 24 possible-after-removaly-and-the-department-shall--return--to

25 the-licensee-any-bone-structure-and-skull-within-l-year-upon

-9-

SB 240

-10-

SB 240

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." Section 6. Section 87-3-103, MCA, is amended to read: 14 15 "67-3-103. 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 kill, take, hunt, shoot, or capture more than one game 18 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

animal, game bird, or fish to attempt to take, shoot, kill,
 or capture or to take, hunt, shoot, kill, or capture any
 such game animal or such game bird or to fish for or catch
 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, migratory game bird, game animal, or fur-bearing animal or 10 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:

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

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

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

-11-

-12-

SB 240

SB 0240/02

1 (c)(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.)

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

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

(b) the sale, purchase, or transportation of hides,
 heads, or mounts of lawfully killed game birds, game fish,
 fur-bearing animals, or game animals, except that the sale
 or purchase of a hide, head, or mount of a grizzly bear is
 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."

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

21 <u>NEW SECTION.</u> 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).

-13-

SB 240

SB 0240/02

-14-

SB 240

SB 0240/02

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

۶

-End-