

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By Vice Chairman Sen. John Anderson, Jr., on January 12, 1989, at 1:00 p.m.

ROLL CALL

Members Present: Vice Chairman Sen. John Anderson, Jr., Sen. Judy Jacobson, Sen. Al Bishop, Sen. Paul Rapp-Svrcek, Sen. Loren Jenkins, Sen. Bill Yellowtail.

Members Excused: Chairman, Sen. Elmer Severson

Members Absent: Chairman, Sen. Elmer Severson

Staff Present: Andrea Merrill, Legislative Council

Announcements/Discussion: None

HEARING ON SENATE BILL 6

Presentation and Opening Statement by Sponsor: Sen. Al Bishop, District 46, stated that, by law, a hunter is supposed to voluntarily stop at a checking station according to M.C.A., 87-2-509. This pertains to the tagging of carcasses of game animals. Section 87.3.404 pertains to turkey tags. You have to tag turkeys too. The tag has to be left attached to the carcass. The next section this would be exempt from is M.C.A., 87-5-302 and that is for grizzly bears. There are also additional requirements in regards to grizzly bears.

This only applies to tagging requirements. It is devastating to the hunter or fisherman who voluntarily pulls into a check station who is trying to comply with the law. If he has forgotten to cut out a day or a month on that tag he will be fined and arrested and the animal will be confiscated. This happens frequently. One example is a husband and wife in Eastern Montana had antelope tags. They went hunting and they each got an antelope. They stopped at the check station. This was the first time the wife had ever hunted. He had his tag cut out but had neglected to tell his wife to do the same. Well, the warden arrested her, she paid a \$90 or \$100 fine and the antelope was confiscated. I can't see the validity in something like that and I

hope that none of you can either. This is the thing I am trying to address. This makes people really bitter because of something so small. The warden said that they give them "courtesy citations" but I've only heard of that happening once. The fines and forfeitures are distributed as follows: 50% to the county, 40% to other state agencies and 10% to the Department of Fish, Wildlife and Parks. It goes into a special revenue account and that revenue account is the Warden's Retirement Fund. So the more people out there that they can arrest the better off their retirement fund is. It behooves them to be diligent. I think it's time we took a good look at this situation.

List of Testifying Proponents and What Group they Represent:

Vera Cahoon, Montana Bow Hunters Association

List of Testifying Opponents and What Group They Represent:

Robert Van Der Vere, Helena Citizen
Ron Marcoux, Department of Fish, Wildlife & Parks
Don Chance, Montana Wildlife Federation

Testimony:

Vera Cahoon, Montana Bow Hunters Association. The M.B.A. would like to go on record in support of SB 6. It would be especially helpful to young or first-time hunters, who in the excitement of the harvest, improperly tag an animal. See Exhibit #1.

Mr. Robert Van Der Vere. The deer tag and elk tag says "Cut out day and month of kill, if more than one date is cut out, this tag is invalid. Attach tag to animal carcass in a visible manner." The problem with this bill is if a hunter wants to do some poaching, and he doesn't fill out his tag according to state law, then this bill says "let's pat him on the hand". But, the law specifically states that he is under a violation. If there isn't a checking station there and he slides on through, he is a poacher and he can get away with it, unless a game warden catches him at the time he makes the kill and doesn't tag it. I don't think this too good of a bill. You are making a problem for the good hunters who want to obey the law by allowing others to be able to poach. We spend thousands of dollars on game wardens to

catch these people who are violating the game rules. That's why these rules are made.

Ron Marcoux left his testimony. See Exhibit #2.

Don Chance of the Montana Wildlife Federation mentioned some concerns and questions regarding the bill. The bill seems to be dealing with the inadvertent tagging mistakes which many individuals make. But, we fear that the bill, as drafted, will create a serious loophole as a result of major abuses. The situation of inadvertent mistakes made in the field, we feel can best be handled in the field by the wardens. It is discretionary and requires personal judgment on the part of the wardens. There also has to be a determination as to whether the individual who had committed the tagging error had done so purposely or whether it was an inadvertent error. We are sympathetic to the situations and understand that Sen. Bishop is attempting to deal with them here. The ability to find legislative language to deal with the issue without causing the opportunity of major abuse is probably beyond the scope of the most artful bill-drafter.

Closing by Sponsor: Senator Bishop wanted to remind everyone present that this bill only pertains to check stations and has nothing to do with getting caught before getting to a check station or after you've gone by one. It only applies to the un-intentional, honest person who pulls into a check station that is going to be arrested without this bill.

Questions from the Committee Members: Sen. Rapp-Svrcek asked Ron Marcoux about the violation statistics listed in Exhibit #2. There were 1,177 citations issued and he wanted to know what is the nature of the other citations issued and why are there more courtesy citations issued than there were tagging violations.

Answer: As far as the violations are concerned I don't have a breakdown as to how many were issued for tagging violations. There is a breakdown for violations in 1977 in the Exhibit #2 of my testimony. The other kinds of violations for big game citations would include people who were hunting without a license and possessing an illegal animal, abandoning a carcass, hunting water fowl without a plug in the shotgun and a variety of other violations.

Question: Sen. Rapp-Svrcek asked Ron Marcoux for a general idea of the Fish and Wildlife Department's directive that is given to the wardens regarding the courtesy citations.

Answer: Mr. Marcoux directed the committee members to the memo attached to Exhibit #2. The last paragraph mentions that..."where there are extenuating circumstances involved, the animal should not be seized, a Courtesy Citation should be issued instead of an NTA."

Question: Sen. Bishop asked Ron Marcoux to give him an example of how this would help a poacher.

Answer: As we read the legislation we see that a hunter can reach the interstate and be home free with his animal whether he has a tag or not and consequently, would not be penalized. And, if they did not hit a check station they have a tag to use again. This is our concern.

Question: Sen. Bishop stated to Mr. Marcoux that he is talking about people that have absolutely no intent to break the law. Mr. Marcoux just spoke about those who intend to break the law.

Answer: Mr. Marcoux replied that there are certain requirements that the Department of Fish, Wildlife and Parks has to comply with. Many times when someone has broken the law, it goes to court and they make a judgment on it. Sometimes the fine can be reduced but it is a difficult position to put people in.

Question: Sen. Bishop asked Mr. Marcoux to give him a hypothetical situation that he could see as a problem.

Answer: Mr. Marcoux. Mr. "John Doe" is a law-abiding citizen and he went out into the hills and killed a deer. He was close to the main highway and he knows that being so close to the highway he has an opportunity to take that deer home and if he does get checked at the check station he will be allowed to put his tag on and punch it out and proceed on his way. So it certainly is a gamble. It sets the stage for that to happen. How much it would be used is a question.

Question: Sen. Yellowtail asked Ron Marcoux what the check stations are like. Do you have standard locations for check stations and are they manned 24 hours a day at the beginning of the season to the end?

Answer: We have a few check stations in Darby and up in the Gallatin and in the Sun River Country where we essentially have full-time check stations in operation. The other way we utilize check stations is we have one or two wardens in the hills. We do occasionally set up major check stations on highways leading out of state. We have had one at Miles City in the past. We periodically implement those. So some of them are set up temporarily because the man-power requirements are so high.

Question: Sen. Yellowtail asked Mr. Marcoux about the Miles City check station on the interstate highway. There is a sign on the road that says "If you are a hunter stop". What keeps me from pretending I am not a hunter and going right on by?

Answer: Ron Marcoux answered that it could still be done but if we suspect that a hunter is going by, we do pursue them and pull them over and find out whether or not they were hunting.

Question: Sen. Yellowtail asked Mr. Marcoux about criminal intent. The criminal is going to try to slip by you and if they stop, then I should think, as Sen. Bishop suggests, that it would indicate that there was no criminal intent whether or not they tagged their animal.

Answer: Mr. Marcoux answered, that is their point. Even if they have criminal intent, once they hit the interstate and are headed out with an animal that should have been tagged, if they pull into that check station we are going to want to validate their license and proceed on.

Question: Sen. Jenkins asked Mr. Marcoux, "Are you going to allow them to validate their license?"

Answer: Mr. Marcoux stated that as they read the bill, if it passes, that is what they anticipate the Department would have to do.

Question: Sen. Jenkins suggested to Sen. Bishop some minor changes in the bill to make it more effective.

Answer: Sen. Bishop stated that what he is trying to get at is if you are caught before you get to the check station, if you are caught in the field or if you're caught after you've gone by the check station you are going to be arrested. You are not going to have a chance to validate your tag.

Question: Sen. Jenkins asked Sen. Bishop shouldn't the man in the field that stops when he sees the game warden have the same courtesy as the one that stops at the check station?

Answer: Sen. Bishop said no because the hunter isn't stopping for the game warden in the field. The game warden generally is approaching him. You don't run out of your way to the game warden when you see him out in the field. If you are caught out of that checking station coming to or after you have gone by, you are going to get arrested. This is something I am trying to limit just to the check stations. I don't think a little clerical thing like this should entail a \$100 fine and a confiscation of your animal in any event.

Question: Sen. Yellowtail asked Mr. Marcoux what constitutes a check station. The game warden is sitting in his truck along side of the road and checks some hunters as they drive by, is that a check station?

Answer: Mr. Marcoux stated that a check station would be a place where there would be a sign placed up saying "Hunters, checking station ahead, hunters must stop".

HEARING ON SENATE BILL 39

Presentation and Opening Statement by Sponsor: Sen. Al Bishop stated that this bill provides that a person convicted under sub-section two of this bill...

(2) (a) A person convicted of unlawfully taking, killing, possessing, transporting, or wasting a bighorn sheep, moose, wild bison, caribou, mountain goat, or grizzly bear or any part of thereof...and it provides for the penalty.

These are permits issued through the drawing process. It used to be that once you got a permit you couldn't re-apply for seven years. We did away with that, but I understand there is another bill coming up now that is trying to re-instate that waiting period. What this does is if you are convicted for any of these offenses under sub-section (2) you may not apply for a special licence for any of those animals for a period of five years. Probably, in any event, you are going to be restricted to a couple of years, the J.P. can suspend your license for 30 months. This just makes it five years.

List of Testifying Proponents and What Group They Represent:

Don Chance, Montana Wildlife Federation
Ron Marcoux, Department of Fish, Wildlife & Parks
Vera Cahoon, Montana Bow Hunters Association
Robert Van Der Vere, Helena Citizen

List of Testifying Opponents and What Group They Represent:
None

Testimony:

Don Chance left testimony. See Exhibit #3

Ron Marcoux, Department of Fish, Wildlife and Parks. He presented his testimony. See Exhibit #4.

Vera Cahoon stated that the M.B.A. would like to go on record in support of S.B 39. We feel that this bill is long overdue and is proper punishment. We hope it would make hunters stop and think before illegally taking an animal. We would also support the amendment that was suggested. See Exhibit #5.

Robert Van Der Vere supports this bill with the amendments. I opposed the bill as originally written. But with the proper amendments in it I would support S.B. 39.

List of Testifying Opponents and What Group They Represent:
None.

Questions from the Committee:

Question: Sen. Bill Yellowtail asked Ron Marcoux if there is a mechanism whereby if we just prohibited a person from submitting application and supposing they did we could reject their applications?

Answer: Mr. Marcoux stated that if we estimate the numbers that are being convicted and the restitution fines applied at this point we feel that that doesn't substantially increase. We will be able to cross-check names. There may be some difficulty with change of addresses, etc. that we may encounter, but we think that we can accommodate that within reason.

Question: Sen. Bill Yellowtail Sen. Bishop what and why is a penalty necessary? In view of the fact that we can't prohibit them from applying, and if they happen to by mistake, we could reject their application. So I wonder why it's necessary to have a penalty if you do apply.

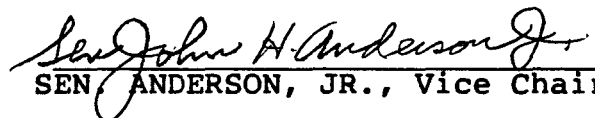
Answer: Don Chance answered. It was something that was injected in their by Legislative Council and I guess the Montana Wildlife Federation wouldn't object to removing that penalty. The real intent was to prohibit these individuals from participating in the drawing. There is so much competition in this state already to prohibit those individuals from participating in the drawing. In addition, the way the bill is currently drafted, this bill would apply to not only the larger big game and specialized species like bison, it would also apply to major deer and elk violations and a number of other species. Frankly, the Montana Wildlife Federation strongly supports that. These game violations are occurring on a variety of species. And, it is our intent to try and get those individuals who are knowingly and purposely violating those laws.

Closing by Sponsor: Sen. Bishop did not have a closing.

Executive Action: None today because the Chairman was absent.

ADJOURNMENT

Adjournment at: 2:00 p.m.


SEN. ANDERSON, JR., Vice Chairman

ES/LAB/

FIS.112

ROLL CALL

FISH AND GAME

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 1/12/89

NAME	PRESENT	ABSENT	EXCUSED
Sen. Elmer Severson			X
Sen. John Anderson Jr.	X		
Sen. Judy Jacobson	X		
Sen. Al Bishop	X		
Sen. Paul Rapp-Svrcek	X		
Sen. Loren Jenkins	X		
Sen. Bill Yellowtail	X		

Each day attach to minutes.

Vera Cahoon
Montana Bow Hunters Assoc.

S.B.-6

M.B.A. would like to go on record in support of S.B.-6. It would be especially helpful to young or first time Hunters who in the excitement of the hunt harvest, improper tag an animal —

Thank you for the opportunity to speak to you.

SENATE FISH AND GAME

EXHIBIT NO. 1

DATE January 12, 1989

BILL NO. S B 6

S.B. 39

M.B.A. would like to go on record in support of S.B. 39. We feel that this bill is long overdue & is proper punishment. We hope this will make hunters stop & think before illegally taking an animal
Thank you

SENATE FISH AND GAME

EXHIBIT NO. 5

DATE January 12, 1989

BILL NO. S B 39

SB 6
January 12, 1989

Testimony presented by Ron Marcoux, Department of Fish, Wildlife & Parks

The present checking station law, Section 87-1-207 MCA, was enacted by the 1973 legislature. Purpose of this act was to provide a safe and effective means of inspecting licenses, tags and game or fish. Checking stations have also served as a deterrent to those who for years felt they were safe once they made it out of the field and onto the highway. This law makes it mandatory, not voluntary, for hunters or fishermen to stop at checking stations.

The present tagging validation requirement, established by Section 87-2-509 MCA, provides a means to indicate the exact date of kill and ensures the tag cannot be reused. Montana statutes or commission regulations limit the number of game animals that may legally be taken by an individual hunter. Thus the objective of the validation requirement is to ensure that individuals only harvest what they are legally entitled to.

We have utilized license agent posters, news and TV media, as well as hunting regulations to inform sportsmen about correct validation procedures.

With regard to field contact, there have been instances of tags being corrected at our officers' discretion when some reasonable attempt was made to validate the tag. Officers also have the discretion to use courtesy citations.

In 1987, we had 45,200 game tag checks, with 1177 big game citations issued. Tagging violations accounted for 217 of the total. There was a total of 444 courtesy citations issued; however, we do not have courtesy citations broken down by violation type.

We believe having an enforceable validation requirement is important in protecting our wildlife resources. We believe this legislation would encourage illegal harvest, since it essentially eliminates any requirements for tagging game animals if the hunter stops at a checking station. For this reason, we oppose SB 6.

SENATE FISH AND GAME
EXHIBIT NO. 2
DATE January 12, 1989
BILL NO. SB 6

87-1-207. Establishment of checking stations. The department is authorized to establish checking stations where deemed necessary to inspect licenses of hunters and fishermen and to inspect any game animals, fish, or fur-bearing animals in the possession of hunters and fishermen.

History: En. Sec. 1, Ch. 270, L. 1973; R.C.M. 1947, 26-137.

Cross-References

Duty of Wardens, 87-1-502, 87-2-109.

87-1-208. Inspection at checking station. Every person, upon the request of the director or his authorized representative or of any game warden, shall produce for inspection any current fish and game license which has been issued to such person and shall produce for inspection any game animals, birds, fish, or fur-bearing animals in his possession. Hunters or fishermen entering or leaving areas for which checking stations have been established must stop and report if a checking station is on the hunter's or fishermen's route of travel to or from the hunting or fishing area. Failure to stop and report at a checking station when personnel are on duty shall constitute a misdemeanor.

History: En. Sec. 2, Ch. 270, L. 1973; R.C.M. 1947, 26-138.

87-2-509. Tagging of carcasses of game animals. (1) Every license issued by the department authorizing the holder thereof to pursue, shoot, kill, capture, take, or possess game animals, whether issued to a resident or a non-resident, shall provide such tags, coupons, or markers as the department prescribes. When any person takes or kills any game animal under the license, the person shall immediately thereafter cut out from the tag, coupon, or other marker the date the animal was killed or taken and attach the tag, coupon, or other marker to the animal, completely filled out with the name of the license holder, his address, and any other information requested on the tag, coupon, or other marker. Such tag, coupon, or other marker shall be kept attached to the carcass so long as any considerable portion of the carcass remains unconsumed, and when the proper tag, coupon, or other marker is attached to the game animal so killed, the same may be possessed, used, stored, and transported.

(2) It is unlawful for a person, who kills any game animal by authority of any license issued for the killing of the game animal, to fail or neglect to cut out the day and month of the kill or provide such other information as is required and attach his tag, coupon, or other marker so provided with the license issued to the carcass of the game animal or portion thereof. It is unlawful for a person to fail to keep the tag, coupon, or other marker attached to the game animal or portion thereof while the same is possessed by him.

History: En. Sec. 2, Ch. 267, L. 1955; amd. Sec. 1, Ch. 65, L. 1963; amd. Sec. 1, Ch. 72, L. 1969; amd. Sec. 1, Ch. 48, L. 1971; amd. Sec. 3, Ch. 167, L. 1973; amd. Sec. 1, Ch. 195, L. 1973; amd. Sec. 28, Ch. 9, L. 1977; R.C.M. 1947, 26-202.2(3).

STATE OF MONTANA
DEPARTMENT OF FISH, WILDLIFE AND PARKS

Office Memorandum

TO : Enforcement Personnel

DATE: September 23, 1982

FROM : Erwin J. Kent *EJK*

SUBJECT: Policy for Confiscation of Game Animals for Tagging Violations

In 1967 the Montana Supreme Court mandated through its Visser-Kroon decision that all big game animals not properly tagged in accordance with law remained the property of the State of Montana.

At that time Section 26-110(4) RCM stated:

"A game warden shall have authority to seize and confiscate all game ... possessed in violation of the law."

In 1973 Section 26-110 was replaced with 87-1-506 MCA and the wording was changed to read:

"A warden may: (4) seize game taken or possessed in violation of the law..."

Shall have authority has been replaced with may by recodification with no intent to change the meaning, therefore this has had no effect on the meaning of the statement. Further, department counsel has indicated that the department has the authority to prescribe limits upon the exercise of discretion in this instance if it deems appropriate.

So that everyone continues to follow the same methods and procedures when encountering tagging violations, all animals will continue to be confiscated when not properly tagged by law. If there are extenuating circumstances involved, and it is felt that the animals should not be seized, a Courtesy Citation should be issued instead of an NTA.

js

copies sent to Reg. Supr. & Orville

Be Sure to Properly Validate Your License/Tag!

Immediately after killing a big game animal, all hunters must properly validate the appropriate license/tag and securely attach it to the animal so that it is clearly visible.

Proper validation is easy:

- Locate the appropriate month and day the animal was killed and completely cut away (notch out) the month and day designations. The license/tag below, for example, has been properly validated for an animal taken on November 17.
- **Be Careful!** The correct and appropriate month and day designations must be removed completely from the license/tag. Removing more than one month or one day designation invalidates the license/tag.

Remove entire shaded portion of day and month to validate.

IMMEDIATELY UPON KILL

(1) **Cut out day and month of kill.**
(If more than one date is cut out, this tag is invalid.)

(2) **Attach tag to animal carcass in a visible manner.**

Every resident and non-resident must have obtained permission of the landowner, lessee or their agents before hunting big game animals on private property.

To report violations: If you are unable to contact the local game warden, department employee or sheriff's office—Call toll free 1-800-332-6117.

ELK

1-4-88


	<u>1985</u>	<u>1986</u>	<u>1987</u>
Total game bag checks (includes birds)	48848	50644	45249
Total big game citations issued	1363	1300	1177
Tagging Violations			
Fail to tag big game animal	47	107	74
Fail to keep game tag attached	16	31	21
Fail to validate a big game tag	<u>52</u>	<u>95</u>	<u>122</u>
Total	115	233	217

Experience has shown that approximately 20% of tagging violations are issued at a checking station.

Total courtesy citations for all violations	346	420	444
---	-----	-----	-----

(Courtesy citations are not broken down by violation type)

S O L D T O	CONSERVATION LICENSE NUMBER	26-004825
	NAME	
	STREET	
	CITY	ZIP
I declare that I am a legal resident of Montana for Fish and Game Licensing purposes, as defined in Section 87-2-102 M.C.A.		
SIGNATURE OF LICENSEE	AGENT NO.	
SIGNATURE OF LICENSE AGENT		



AGES 12 THROUGH MONT.
Hunter Ed. Cert. or Comp. #

EXPIRES FEBRUARY 28, 1989		
\$4.50	PRESIDENT	1988
DEER A		
SENIORS 62 YEARS OF OLDER YOUTH 12, 13 AND 14 YEARS AND DISABLED RESIDENTS LICENSE AND TAG		
MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS		
<i>James W. Flynn</i> DIRECTOR		

POACHING PENALTIES
SB 39
TESTIMONY BY DONALD CHANCE FOR THE
MONTANA WILDLIFE FEDERATION

Poaching and other forms of major game violations are a major problem that affects the landowner community, sportsmen, outfitters, and the fish and game resources of the state. It is extremely difficult to assess with precision the magnitude of major game and fish poaching violations in the State, but we do know from the best available information that it is a significant and detrimental impact. From a scattering of studies conducted in the Western U.S., it has been estimated that from 20% to 50% of fish and game harvested may be taken illegally under certain circumstances.

Poaching affects many interests. It constitutes a problem for the landowner community with trespass, vandalism, nuisance factors, and the burden of having illegal activity occurring on their property. It reduces the recreational opportunity for the legitimate sportsman and wildlife enthusiast. It impacts the ability to effectively manage our State wildlife and fishery resources, and constitutes a growing enforcement expense that we all pay for in some way. It is economically damaging to the outfitting and guide industry. And it detracts from our own natural heritage - the fish and wildlife resource of the State of Montana.

History has born out that stiff and consistent application of poaching penalties works as a major deterrence. Penalties which are too severe, however, can result in violence and pursuit scenes in the field. SB 39 amends the current poaching penalties by further prohibiting convicted poachers from participating for 5 years after conviction in any special hunting license or drawing activity if the violation was conducted in a knowingly and purposeful manner.

The MWF is strongly in favor of any measure that will severely penalize and get out of the woods the slob hunter, or individuals who abuse land-owner rights, damaging the relationship between legitimate sportsmen and landowners. And we urge your passage of this bill.

For further information contact Don Chance- lobbyist,
Montana Wildlife Federation- 475-3029 or Rich Day-
Executive Director, Montana Wildlife Federation 587-1713.

SB 39
January 12, 1989

Testimony presented by Ron Marcoux, Department of Fish, Wildlife & Parks

We support the intent of SB 39 to penalize those who violate certain rules in the hunting of Montana's most sought after big game species. We estimate 30 violators per year would be convicted under the provisions of subsection 2(a).

An unknown but significant portion of those 30 are hunters who may be found guilty of some technical aspect of the licensing/tagging procedure and did not knowingly violate the law. Situations may occur where the animal was legally taken and then improperly tagged or transported. Other violators may be unlicensed and are already operating outside of current laws. We believe those who are found to knowingly and purposely violate existing laws should be the people against whom additional penalties should be imposed.

We recommend modifying this bill so that only those violators who are convicted under subsection 2(a) and are also found guilty under the "Restitution Law" (87-1-111) would lose their drawing privileges.

We support passage of SB 39 if the above provision is adopted. A copy of the proposed amendment is attached.

SENATE FISH AND GAME
EXHIBIT NO. 4
DATE January 12, 1989
BILL NO. SB 39

87-1-105. Duty of attorney general and county attorneys. The attorney general of the state is the legal adviser of the department and shall, together with the legal adviser of the enforce the provisions of this title.
History: En. Sec. 26, Ch. 193, L. 1921; re-en. Sec. 3675, R.C.M. 1921; re-en. Sec. 3675, R.C.M. 1935; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-126; amd. Sec. 1, Ch. 44, L. 1979.

87-1-106. Fish and game offices. The principal offices of the commission and department shall be located in or near Helena, and suitable and adequate space therefor together with janitor services, light, heat, and water shall be furnished by the state of Montana.
History: En. Sec. 3, Ch. 193, L. 1921; re-en. Sec. 3652, R.C.M. 1921; amd. Sec. 1, Ch. 77, L. 1923; amd. Sec. 1, Ch. 192, L. 1925; re-en. Sec. 3652, R.C.M. 1935; amd. Sec. 1, Ch. 114, L. 1945; amd. Sec. 1, Ch. 52, L. 1957; amd. Sec. 1, Ch. 119, L. 1959; amd. Sec. 23, Ch. 271, L. 1963; amd. Sec. 2, Ch. 511, L. 1973; R.C.M. 1947, 26-103(part); amd. Sec. 1, Ch. 340, L. 1985.

87-1-107 through 87-1-110 reserved.

87-1-111. Restitution for illegal killing or possession of certain wildlife. In addition to other penalties provided by law, a person convicted of the illegal killing or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state for each such bird, mammal, or fish according to the following schedule:

- (1) bighorn sheep, mountain goat, caribou, buffalo, grizzly bear, moose, and endangered species, \$1,000;
 - (2) elk, mountain lion, black bear, lynx, and wolverine, \$500;
 - (3) deer, antelope, fisher, raptor, swan, bobcat, and pallid and white sturgeon, \$300;
 - (4) paddlefish, grayling, and furbearers not listed in subsection (1), (2), or (3), \$100;
 - (5) game bird (except swan), \$25;
 - (6) game fish, \$10.
- History: En. Sec. 1, Ch. 523, L. 1987.

87-1-112. Finding required. Before restitution may be ordered pursuant to 87-1-111, the finder of fact at trial or the court upon entry of a guilty plea must find that such illegal killing or possession was done knowingly or purposely as defined in 45-2-101.
History: En. Sec. 2, Ch. 523, L. 1987.

87-1-113. Payment -- penalty for nonpayment. (1) In each case of conviction, the court before which the conviction is obtained shall order payment of the sum stated in 87-1-111.
(2) Failure to make payment in the time and manner prescribed by the court constitutes civil contempt of court and is punishable as provided in Title 3, chapter 1, part 5.
History: En. Sec. 3, Ch. 523, L. 1987.

87-1-114. Disposition of proceeds. All money collected by a

-150-

court pursuant to 87-1-111 through 87-1-113 must be remitted to the state treasurer for deposit in the state special revenue fund as provided in 87-1-601(1).
History: En. Sec. 4, Ch. 523, L. 1987.

Part 2

Department of Fish, Wildlife, and Parks

87-1-201. Powers and duties. (1) The department shall supervise all the wildlife, fish, game, nongame birds, waterfowl, and the game and fur-bearing animals of the state. It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and the rules adopted by the department.

(2) It shall enforce all the laws of the state respecting the protection, preservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

(3) It shall have the exclusive power to spend for the protection, preservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and game laws, or from appropriations or received by the department from any other sources are appropriated to and under control of the department.

(4) It may discharge any appointee or employee of the department for cause at any time.

(5) It may dispose of all property owned by the state used for the protection, preservation, and propagation of fish, game, fur-bearing animals, and game and nongame birds which is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) It may not issue permits to carry firearms within this state to anyone except regularly appointed officers or wardens.

(7) The department is hereby authorized to make, promulgate, and enforce such reasonable rules and regulations not inconsistent with the provisions of chapter 2 as in its judgment will accomplish the purpose of chapter 2.

(8) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or without the state.

History: Ap. p. Sec. 4, Ch. 193, L. 1921; re-en. Sec. 3653, R.C.M. 1921; amd. Sec. 2, Ch. 77, L. 1923; amd. Sec. 2, Ch. 192, L. 1925; amd. Sec. 1, Ch. 200, L. 1935; re-en. Sec. 3653, R.C.M. 1935; amd. Sec. 1, Ch. 157, L. 1943; amd. Sec. 1, Ch. 40, L. 1951; amd. Sec. 1, Ch. 157, L. 1955; amd. Sec. 1, Ch. 151, L. 1957; amd. Sec. 1, Ch. 36, L. 1959; amd. Sec. 1, Ch. 96, L. 1959; amd. Sec. 1, Ch. 173, L. 1965; amd. Sec. 1, Ch. 344, L. 1969; amd.

-151-

AMENDMENTS TO SB 39
INTRODUCED (WHITE) COPY

1. Page 3, line 19

Following: "convicted"

Insert: "or who has forfeited bond or bail"

Following: "(2)"

Insert: "(a) and who has been ordered to pay
restitution

under 87-1-111."

VISITORS' REGISTER

FISH AND GAME

COMMITTEE

BILL NO. 6

DATE 1/12/89

SPONSOR Bishops

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
ROBT. VAN DER VERE	HELENA		X
Nora Cahoon	Mesa	X	
DON CHANE	HELENA - M. WILDLIFE FED.		X
Sam Soutson	Helena M. Wildlife FED		X
Wally Jewell	MT. MAG. ASSOC		
Dug Jay	Anaconda	—	—
Don Mancamp	FWP		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

FISH AND GAME

COMMITTEE

BILL NO. 39

DATE 1/12/89

SPONSOR Bishop

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Robt. Van Der Vere	HELENA	X	X
Bera Cahoon	Msola	X	
Don Chance	HELENA - M. WILDLIFE FED.	X	
John Stinson	HELENA - MT WILDLIFE FED.	X	
Wally Sewell	MT Mah. Assoc.		
Vernon Turk			
Don Maroney	FWP	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.