

1 *House* BILL NO. 258
2 INTRODUCED BY *Freemantle*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 26-301
5 (8), R.C.M. 1947, TO PROVIDE THAT CERTAIN MOTOR VEHICLE
6 RESTRICTIONS DO NOT APPLY TO FEDERAL LANDS UNLESS THE
7 FEDERAL AGENCY SPECIFICALLY REQUESTS OR APPROVES STATE
8 ENFORCEMENT."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 26-301, R.C.M. 1947, is amended to
12 read as follows:

13 "26-301. Restrictions of manner of taking and
14 possessing fish and game and powers of commission relating
15 thereto. (1) It shall be unlawful for anyone to take,
16 capture, shoot, kill, or attempt to take, capture, shoot or
17 kill, any game animal, or game bird from any self propelled
18 or drawn vehicle, or on, or from any public highway in the
19 state of Montana, or by the aid or with the use of any set
20 gun, jack-light, or other artificial light, trap, snare,
21 salt lick, nor shall any such set gun, jack-light or other
22 artificial light, trap, snare, salt lick or other device to
23 entrap or entice game animals or game birds be used, made or
24 set, nor may rifles be used to hunt or shoot upland game
25 birds unless the use of rifles is permitted by the

1 commission; provided, however, that this does not prohibit
2 the shooting of wild waterfowl from blinds over decoys with
3 a shotgun only, not larger than a number ten (10) gauge
4 fired from the shoulder, nor shall any game fish be caught,
5 captured, or taken, or attempted to be caught, captured or
6 taken by the aid or with the use of any gun, or trap, nor
7 shall any such set gun, or trap or other device to entrap
8 game fish be used, made, or set.

9 (2) (a) No game birds or game or fur-bearing animals
10 shall be killed, taken or shot at from any aircraft, nor
11 shall any aircraft be used for the purpose of concentrating,
12 pursuing, driving, rallying or stirring up any game or
13 migratory birds, game or fur-bearing animals, nor shall any
14 powerboat, sailboat, or any boat under sail or any floating
15 device towed by a powerboat, sailboat, or any boat under
16 sail be used for the purpose of killing, capturing, taking,
17 pursuing, concentrating, driving or stirring up any game
18 birds, or migratory waterfowl, or game or fur-bearing
19 animals.

20 (b) No person in an aircraft in the air shall spot or
21 locate any game, or migratory bird, game or fur-bearing
22 animals and communicate the location or approximate location
23 thereof by any signals whatsoever, whether radio, visual or
24 otherwise, to any person or persons then on the ground.

25 (3) No person shall take into a field or forest, or

1 have in his possession while out hunting, any device or
 2 mechanism devised to silence, or muffle or minimize the
 3 report of any firearms, whether such device or mechanism be
 4 operated from or attached to any firearm.

5 (4) No person may use a shotgun to hunt, kill or shoot
 6 deer except with loads as specified by the commission.

7 (5) No person shall chase with dogs any of the game or
 8 fur-bearing animals as defined by the fish and game laws of
 9 this state; provided, however, that livestock owners,
 10 employees of the state fish and game commission and of the
 11 federal fish and wildlife service may use dogs in pursuit of
 12 stock-killing bears, and stock-killing mountain lions, or
 13 other means of taking stock-killing bears and stock-killing
 14 mountain lions except the use of the dead fall; providing,
 15 however, that traps used in capturing bear shall be
 16 inspected twice each day, which inspection shall be twelve
 17 (12) hours apart; and provided further, that a person may
 18 take game birds during the open season thereon with the aid
 19 of a dog or dogs and any person or association organized for
 20 the protection of game, may run field trials at any time
 21 upon obtaining written permission from the state fish and
 22 game director.

23 (6) The state fish and game commission shall have the
 24 power to designate certain waters where set lines may be
 25 used to fish for certain species of game or nongame fish,

1 and the commission may designate the number of hooks and
 2 lines and the length of line or lines which may be used as
 3 set lines.

4 (7) Game fish shall be taken only by angling, that is
 5 by hook and single line in hand or single rod in hand, or
 6 within immediate control; this does not prevent, however,
 7 the snagging of paddlefish, coho (silver salmon), and
 8 kokanee (sockeye salmon) when the commission shall declare
 9 an open season when paddlefish, coho (silver salmon), and
 10 kokanee (sockeye salmon) may be taken by snagging, the
 11 taking of paddlefish with long bow and arrow when the
 12 commission shall declare an open season when paddlefish may
 13 be taken by long bow and arrow, the taking of walleyed pike,
 14 sauger, northern pike and nongame fish with spear or gig
 15 when the commission shall declare an open season for taking
 16 walleyed pike, sauger, northern pike and nongame fish with
 17 spear or gig, nor the use of landing net or gaff to land a
 18 game fish after the same has been hooked by angling as above
 19 specified, nor does it prevent the taking of minnows other
 20 than game fish variety by the use or aid of a net not to
 21 exceed twelve (12) feet in length and four (4) feet in
 22 width, in such waters as may be designated by the
 23 commission.

24 (8) No person, while hunting game animals or game
 25 birds shall use a motor-driven vehicle on any other than an

1 established road or trail, unless he has reduced a big game
 2 animal to possession and cannot easily retrieve said big
 3 game animal, in which case a motor-driven vehicle may be
 4 used to retrieve the big game animal, provided that after
 5 such retrieval, such motor-driven vehicle is again returned
 6 to an established road or trail by the shortest possible
 7 route. For purposes of safety and allowing normal travel, a
 8 motor-driven vehicle may be parked on the roadside or
 9 directly adjacent to said road or trail. No person, while
 10 hunting game animals or game birds, shall drive or attempt
 11 to drive, run or attempt to run, molest or attempt to
 12 molest, flush or attempt to flush, or harass or attempt to
 13 harass any game animal or game bird with the use or aid of
 14 any motor-driven vehicle. No person, while hunting game
 15 animals or game birds shall drive through any retired
 16 cropland, brush area, slough area, timber area, open
 17 prairie, or unharvested or harvested cropland, except upon
 18 an established road or trail unless written permission has
 19 been given by the land owner and in possession of the
 20 hunter. The restrictions in this subsection on motor-driven
 21 vehicle use off an established road or trail apply only to
 22 hunting on state or private land, not to hunting on federal
 23 land unless the federal agency specifically requests or
 24 approves state enforcement.

25 (9) Whenever said fish and game commission shall have

1 made any orders, rules or regulations for the carrying out
 2 of the powers granted to it under this act, the same shall
 3 take effect and be in force from and after the publication
 4 and posting of notice of said orders, rules and regulations
 5 as required by the fish and game laws.

6 (10) The provisions of this section relating to
 7 methods of herding, driving, capturing, taking, locating or
 8 concentrating of fish, game animals, game birds or
 9 fur-bearing animals do not apply to the department of fish
 10 and game, or any employee thereof, while acting within the
 11 scope and course of the powers and duties of the department.

12 Any person violating any of the provisions of this
 13 section shall be deemed guilty of a misdemeanor and shall be
 14 punishable as provided by law."

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H B 258

Approved by Comm.
on Fish and Game

HOUSE BILL NO. 258

INTRODUCED BY HUENNEKENS

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 26-301 (8), R.C.M. 1947, TO PROVIDE THAT CERTAIN MOTOR VEHICLE RESTRICTIONS DO NOT APPLY TO FEDERAL LANDS UNLESS THE FEDERAL AGENCY SPECIFICALLY REQUESTS OR APPROVES STATE ENFORCEMENT."

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commission; provided, however, that this does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than a number ten (10) gauge fired from the shoulder, nor shall any game fish be caught, captured, or taken, or attempted to be caught, captured or taken by the aid or with the use of any gun, or trap, nor shall any such set gun, or trap or other device to entrap game fish be used, made, or set.

(2) (a) No game birds or game or fur-bearing animals shall be killed, taken or shot at from any aircraft, nor shall any aircraft be used for the purpose of concentrating, pursuing, driving, rallying or stirring up any game or migratory birds, game or fur-bearing animals, nor shall any powerboat, sailboat, or any boat under sail or any floating device towed by a powerboat, sailboat, or any boat under sail be used for the purpose of killing, capturing, taking, pursuing, concentrating, driving or stirring up any game birds, or migratory waterfowl, or game or fur-bearing animals.

(b) No person in an aircraft in the air shall spot or locate any game, or migratory bird, game or fur-bearing animals and communicate the location or approximate location thereof by any signals whatsoever, whether radio, visual or otherwise, to any person or persons then on the ground.

(3) No person shall take into a field or forest, or

SECOND READING

1 have in his possession while out hunting, any device or
 2 mechanism devised to silence, or muffle or minimize the
 3 report of any firearms, whether such device or mechanism be
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 6 deer except with loads as specified by the commission.

7 (5) No person shall chase with dogs any of the game or
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 12 stock-killing bears, and stock-killing mountain lions, or
 13 other means of taking stock-killing bears and stock-killing
 14 mountain lions except the use of the dead fall; providing,
 15 however, that traps used in capturing bear shall be
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 17 (12) hours apart; and provided further, that a person may
 18 take game birds during the open season thereon with the aid
 19 of a dog or dogs and any person or association organized for
 20 the protection of game, may run field trials at any time
 21 upon obtaining written permission from the state fish and
 22 game director.

23 (6) The state fish and game commission shall have the
 24 power to designate certain waters where set lines may be
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 6 HAS NOT GRANTED SUCH PERMISSION, provided that after such
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 6 and posting of notice of said orders, rules and regulations
 7 as required by the fish and game laws.

8 (10) The provisions of this section relating to methods
 9 of herding, driving, capturing, taking, locating or
 10 concentrating of fish, game animals, game birds or
 11 fur-bearing animals do not apply to the department of fish
 12 and game, or any employee thereof, while acting within the
 13 scope and course of the powers and duties of the department.

14 Any person violating any of the provisions of this
 15 section shall be deemed guilty of a misdemeanor and shall be
 16 punishable as provided by law."

-End-