

1 HB BILL NO. 138
 2 INTRODUCED BY P. Pistoris
 3 Stagniller

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT FISHING
 5 BETWEEN THE HOURS OF DUSK AND DAWN AND TO PROHIBIT THE USE
 6 OF ARTIFICIAL LIGHT AS A MEANS OF ATTRACTING FISH; AMENDING
 7 SECTION 26-301, R.C.M. 1947."

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

10 Section 1. Section 26-301, R.C.M. 1947, is amended to
 11 read as follows:

12 "26-301. Restrictions of ~~an~~ manner of taking and
 13 possessing fish and game and powers of commission relating
 14 thereto. (1) It ~~shall be is~~ unlawful for anyone to take,
 15 capture, shoot, kill, or attempt to take, capture, shoot, or
 16 kill any game animal, or game bird from any ~~self-propelled~~
 17 self-propelled or drawn vehicle, or on, or from any public
 18 highway in the state of Montana, or by the aid or with the
 19 use of any set gun, jack-light, or other artificial light,
 20 trap, snare, salt lick, nor shall any such set gun,
 21 jack-light, or other artificial light, trap, snare, salt
 22 lick, or other device to entrap or entice game animals or
 23 game birds be used, made, or set, nor may rifles be used to
 24 hunt or shoot upland game birds unless the use of rifles is
 25 permitted by the commission; provided, however, that this

1 does not prohibit the shooting of wild waterfowl from blinds
 2 over decoys with a shotgun only, not larger than a number
 3 ten-(10) gauge fired from the shoulder, ~~nor--shall--any~~ No
 4 game fish may be caught, captured, or taken, or attempted to
 5 be caught, captured, or taken during the night hours between
 6 dusk and dawn or by the aid or with the use of any gun, or
 7 trap, ~~nor shall any such set gun, or trap, or other device to~~
 8 ~~entrap game fish be used, made, or set~~ or artificial light.

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 upland
 18 game birds, or game or fur-bearing animals.

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

24 (3) No person shall take into a field or forest, or
 25 have in his possession while out hunting, any device or

1 mechanism devised to silence, or muffle, or minimize the
2 report of any firearms, whether such device or mechanism be
3 operated from or attached to any firearm.

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

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

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

1 lines and the length of line or lines which may be used as
2 set lines.

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

23 (8) No person, while hunting game animals or game
24 birds shall use a motor-driven vehicle on any other than an
25 established road or trail, unless he has reduced a big game

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

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

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

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

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