

1 H BILL NO. 372
 2 INTRODUCED BY B. Barth by request
 3 BY REQUEST OF THE DEPARTMENT OF FISH AND GAME

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO MORE CLEARLY DELIMIT
 6 REQUIREMENTS FOR COMMERCIAL AND PRIVATE FISH POND LICENSES;
 7 AMENDING SECTION 26-306, R.C.M. 1947."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Section 26-306, R.C.M. 1947, is amended to
 11 read as follows:

12 "26-306. Private artificial lake or pond -- stocking
 13 -- license -- ~~bond~~---~~reports~~--- restrictions on catching
 14 fish -- penalty for violation. (1) A person who owns or
 15 lawfully controls an artificial lake or pond may shall apply
 16 to the director for a private fish pond license. The holder
 17 of a private fish pond license may shall stock his fish pond
 18 with fry fish procured from any lawful source. The
 19 commission may designate the species of fish which may be
 20 released in the pond when there is a possibility of fish
 21 escaping from the pond into adjacent streams or lakes. The
 22 license holder may take fish from the lake or pond in any
 23 manner, except by chemicals or explosives. Before a license
 24 holder may sell fish or eggs or fry from the lake or pond
 25 he shall furnish a corporate surety bond to the state for

1 ~~five hundred dollars (\$500) conditioned to the effect that~~
 2 ~~he will not sell fish or spawn from any of the public waters~~
 3 ~~of this state, and also conditioned to the effect that he~~
 4 ~~will report to the director the quantity of fish, fish eggs,~~
 5 ~~and spawn taken from the lake or pond. This report shall be~~
 6 ~~made under oath annually during the month of January. A~~
 7 ~~record of all transactions must be kept showing the species~~
 8 ~~and numbers or pounds of fish sold, number and species of~~
 9 ~~eggs sold, number and species of fry sold, name of person or~~
 10 ~~persons to whom sold, and the date of transaction. A license~~
 11 ~~holder may not sell fish or eggs or fry from the lake or~~
 12 ~~ponds.~~

13 (2) "Artificial lake or pond" as used in this section
 14 does not include a natural pond or body of water created by
 15 natural means, nor any portion of the stream bed or lake bed
 16 thereof. It includes only bodies of water created by
 17 artificial means or diversion of water which do not exceed
 18 five hundred (500) acres of surface area. for purposes of
 19 this section excludes:

- 20 (a) natural ponds, lakes, and streams;
- 21 (b) bodies of water that contain portions of the beds
 22 of natural ponds, lakes, or streams which, without physical
 23 alteration have the potential of providing public fishing;
 24 and
- 25 (c) bodies of water that require the diversion of

1 water from a natural pond, lake, or stream in quantities
 2 that reduce the potential of such natural water to provide
 3 public fishing.

4 (3) It is the intent of the legislature to provide for
 5 private pond licensing only on artificial ponds and only
 6 where the creation or operation of such artificial ponds
 7 will not reduce the capacity or potential capacity of
 8 natural waters to provide public fishing.

9 ~~(3)(4)~~ A person violating this section is guilty of a
 10 misdemeanor and shall be punished as provided in section
 11 26-324."

12 (5) This license is valid only for 5 years succeeding
 13 the date of issuance. Upon a determination by the director
 14 that the licensee is not in violation of any provisions of
 15 this section, a license may be renewed."

16 Section 2. There is a new section numbered 26-306.1
 17 that reads as follows:

18 26-306.1. Commercial fish pond license. (1) There is a
 19 commercial fish pond license. A person who desires to
 20 operate a commercial fish pond shall apply to the director
 21 for this license. The fee for this license is \$50 and the
 22 license will be issued upon the director's approval of the
 23 application. A holder of this license may raise for sale and
 24 sell fish, eggs, or fry from the waters listed on the
 25 license.

1 (2) The director may issue a license to an applicant
 2 who owns or lawfully controls an artificial lake or pond
 3 and, with approval of the commission, designate the species
 4 of fish that may be released in the pond when there is a
 5 possibility of fish escaping from the pond into adjacent
 6 waters.

7 (3) The licensee shall furnish a corporate surety bond
 8 of \$1,000 to the state for the benefit of the department of
 9 fish and game conditioned to the effect that he will not
 10 sell fish or spawn from any public waters of this state and
 11 will report to the director, at the end of each license
 12 year, the quantity of fish, fish eggs, and spawn taken from
 13 the waters covered by the license and the disposition of
 14 these items by species and numbers or pounds.

15 (4) An accurate record, open to inspection at
 16 reasonable times, of all dispositions of fish or spawn shall
 17 be kept by the licensee showing the information for which he
 18 is bonded and the persons to whom the items were disposed
 19 and the date of the disposition.

20 (5) An "artificial lake or pond", for purposes of this
 21 section, excludes:

- 22 (a) natural ponds, lakes, and streams;
- 23 (b) bodies of water that contain portions of the beds
- 24 of natural ponds, lakes, or streams which without physical
- 25 alteration have the potential of providing public fishing;

1 and

2 (c) bodies of water that require the diversion of
3 water from a natural pond, lake, or stream in quantities
4 that reduce the potential of such natural water to provide
5 public fishing.

6 (6) It is the intent of the legislature to provide for
7 commercial pond licensing only on artificial ponds and only
8 where the creation or operation of such artificial ponds
9 will not reduce the capacity or potential capacity of
10 natural waters to provide public fishing.

11 (7) The license is valid only for the license year for
12 which it is issued. Upon a determination by the director
13 that the licensee is not in violation of any provisions of
14 this section and payment of a renewal fee of \$5, a license
15 may be renewed.

16 (8) A person violating this section is guilty of a
17 misdemeanor and shall be punished as provided in 26-324.

-End-

STATE OF MONTANA

REQUEST NO. 197-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 25, 1977, there is hereby submitted a Fiscal Note for House Bill 372 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to more clearly delimit requirements for commercial and private fish pond licenses.

ASSUMPTION:

All necessary expenses required to implement the proposed legislation can be absorbed by current level budget.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
License fees collected under proposed law	\$550	\$550
License fees collected under current law	<u>0</u>	<u>0</u>
Increase in license fee collections under proposed law	<u>\$550</u>	<u>\$550</u>

Richard L. Deering for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-31-77