

1 Senate BILL NO. 203
 2 INTRODUCED BY DeMulle

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 5 PENALTIES FOR FISH AND GAME VIOLATIONS; AMENDING SECTIONS
 6 26-315, 26-319, 26-324, 26-812, 26-1211, AND 95-2206, R.C.M.
 7 1947; AND CREATING A POINT SYSTEM FOR LICENSE REVOCATION.

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 26-324, R.C.M. 1947, is amended to
 11 read as follows:

12 "26-324. Penalty Penalties. (1) A person violating any
 13 provision of Title 26, any other state law pertaining to
 14 fish and game ~~thereto~~, or the orders, or rules, and
 15 regulations of the commission is, unless a different
 16 punishment is expressly provided by law for the violation,
 17 guilty of a misdemeanor and shall be fined not less than
 18 ~~twenty five dollars (\$25) nor \$50~~ or more than five hundred
 19 ~~dollars, (\$500), or~~ imprisoned in the county jail for not
 20 less than 2 days or more than six (6) months, or both fined
 21 and imprisoned. In addition, the person shall, ~~in the~~
 22 ~~discretion of the court, forfeit be subject to forfeiture of~~
 23 his license and privilege to hunt, fish, or trap within this
 24 state ~~for a period of sixteen (16) months from the date of~~
 25 conviction according to the point system in [sections 7 and

1 8 of this act].

2 (2) (a) A person convicted of unlawfully taking,
 3 killing, possessing, transporting, or wasting of a bighorn
 4 sheep, moose, or grizzly bear or any part of these animals
 5 shall be fined not less than \$500 or more than \$1,000,
 6 imprisoned in the county jail for not less than 5 days or
 7 more than 6 months, or both. In addition, that person shall
 8 forfeit any current hunting, fishing, or trapping license
 9 issued by this state and the privilege to hunt, fish, or
 10 trap in this state for 24 months.

11 (b) A person convicted of unlawfully taking, killing,
 12 possessing, transporting, or wasting of a deer, antelope,
 13 wild buffalo, caribou, mountain goat, elk, mountain lion, or
 14 black bear or any part of these animals shall be fined not
 15 less than \$300 or more than \$1,000, imprisoned in the county
 16 jail for not less than 5 days or more than 6 months, or
 17 both. In addition, that person shall forfeit any current
 18 hunting, fishing, or trapping license issued by this state
 19 and the privilege to hunt, fish, or trap in this state for
 20 16 months.

21 (c) A person convicted of unlawfully attempting to
 22 trap, take, shoot, or kill a game animal shall be fined not
 23 less than \$200 or more than \$600, imprisoned in the county
 24 jail for not less than 2 days or more than 60 days, or both,

25 (d) A person convicted of hunting, fishing or trapping

1 while his license is forfeited or his privilege denied shall
 2 be imprisoned in the county jail for not less than 5 days or
 3 more than 6 months. In addition that person may be fined not
 4 less than \$500 or more than \$1,000.

5 (3) No fine or penalty established in this section may
 6 be suspended, deferred, or reduced.

7 (4) When a person is convicted of a violation of any
 8 provision of Title 26, any other state law pertaining to
 9 fish and game, or any order or rule of the commission, the
 10 clerk of court shall send notice, within 10 days of the
 11 action to the commission."

12 Section 2. Section 95-2206, R.C.M. 1947, is amended to
 13 read as follows:

14 "95-2206. Sentence. Whenever any person has been found
 15 guilty of a crime or offense upon a verdict or a plea of
 16 guilty the court may:

17 (1) Defer imposition of sentence for a period not to
 18 exceed ~~one~~ {1} year for any misdemeanor, except as provided
 19 in 26-324, and for a period not to exceed ~~three~~ {3} years
 20 for any felony. The sentencing judge may impose upon the
 21 defendant any reasonable restrictions or conditions during
 22 the period of the deferred imposition. Such reasonable
 23 restrictions or conditions may include:

24 (a) jail base release;

25 (b) jail time not to exceed ~~ninety~~ {90} days;

1 (c) conditions for probation;

2 (d) restitution;

3 (e) any other reasonable conditions deemed necessary
 4 for rehabilitation or for the protection of society;

5 (f) any combination of the above.

6 (2) Suspend execution of sentence up to the maximum
 7 sentence allowed for the particular offense, except as
 8 provided in 26-324. The sentencing judge may impose on the
 9 defendant any reasonable restrictions during the period of
 10 suspended sentence. Such reasonable restrictions may
 11 include:

12 (a) jail base release;

13 (b) jail time not to exceed ~~90~~ {90} days;

14 (c) conditions for probation;

15 (d) restitution;

16 (e) any other reasonable conditions deemed necessary
 17 for rehabilitation or for the protection of society;

18 (f) any combination of the above.

19 If any restrictions or conditions are violated, any
 20 elapsed time, except jail time, shall not be a credit
 21 against the sentence, unless the court shall otherwise
 22 order.

23 (3) Impose a fine as provided by law for the offense.

24 (4) Commit the defendant to a correctional institution

25 with or without fine by law for the offense.

1 (5) Impose any combination of subsections (2), (3), or
2 (4) above.

3 (6) The district court may also impose any of the
4 following restrictions or conditions on the above sentence
5 which it deems necessary to obtain the objective of
6 rehabilitation and the protection of society:

7 (a) prohibit the defendant the right to hold public
8 office;

9 (b) prohibit the defendant the right to own or carry a
10 dangerous weapon;

11 (c) prohibit freedom of association;

12 (d) prohibit freedom of movement;

13 (e) any other limitation reasonably related to the
14 objectives of rehabilitation or the protection of society.

15 (7) The judge in the justice court shall not have the
16 authority to restrict an individual's rights as enumerated
17 in subsection (6).

18 Any judge who has suspended the execution of a sentence
19 or deferred the imposition of a sentence of imprisonment
20 under this section, or his successor, is authorized
21 thereafter, in his discretion, during the period of such
22 suspended sentence or deferred imposition of sentence to
23 revoke such suspension or impose sentence and order such
24 person committed, or may, in his discretion, order the
25 prisoner placed under the jurisdiction of the state board of

1 pardons as provided by law, or retain such jurisdiction with
2 this court. Prior to the revocation of an order suspending
3 or deferring the imposition of sentence, the person affected
4 shall be given a hearing."

5 Section 3. Section 26-315, R.C.M. 1947, is amended to
6 read as follows:

7 "26-315. Taking deer within boundaries of cities or
8 towns unlawful — penalty. It shall be is unlawful to shoot,
9 kill, take, or cause to be shot, killed, taken or captured,
10 or to attempt to shoot, kill, take or capture, any deer
11 within the boundaries of any incorporated or unincorporated
12 city or town of this state.

13 ~~Any person violating the provisions of this act shall~~
14 ~~be guilty of a misdemeanor, and upon conviction thereof~~
15 ~~shall be punished by a fine of not less than twenty five~~
16 ~~dollars (\$25) nor more than five hundred dollars (\$500), or~~
17 ~~by imprisonment in the county jail for a period of not less~~
18 ~~than ten (10) days nor more than one hundred and eighty~~
19 ~~(180) days, or by both such fine and imprisonment, and in~~
20 ~~addition thereto shall forfeit his fish and game license for~~
21 ~~a period of one (1) year."~~

22 Section 4. Section 26-319, R.C.M. 1947, is amended to
23 read as follows:

24 "26-319. Penalty for violating closed season on
25 certain game birds — power of commission to open season. It

1 ~~shall hereafter~~ is be unlawful for any person to hunt,
 2 shoot, kill, capture, possess, or cause to be hunted,
 3 killed, or captured or ~~attempts attempt~~ to shoot, kill, or
 4 capture any quail, Chinese or Mongolian pheasants, commonly
 5 called ringneck pheasants, Hungarian partridge, chukar
 6 partridge, sage grouse, sharptailed grouse, blue grouse,
 7 fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild
 8 turkey until such time as the commission shall provide an
 9 open season on any quail, Chinese or Mongolian pheasants,
 10 commonly called ringneck pheasant, Hungarian partridge,
 11 chukar partridge, sage grouse, sharptailed grouse, blue
 12 grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan,
 13 or wild turkey.

14 ~~Any person violating any of the provisions of this act~~
 15 ~~or any person who has in his possession any of such birds or~~
 16 ~~any part of any such birds, shall be guilty of a misdemeanor~~
 17 ~~and upon conviction thereof shall be punished by a fine of~~
 18 ~~not less than fifty dollars (\$50.00), nor more than two~~
 19 ~~hundred fifty dollars (\$250.00), or by imprisonment in the~~
 20 ~~county jail for not more than sixty (60) days, or by [both]~~
 21 ~~such fine and imprisonment."~~

22 Section 5. Section 26-812, R.C.M. 1947, is amended to
 23 read as follows:

24 "26-812. Forfeiture of license or permit for
 25 littering ~~activity during suspension as misdemeanor.~~ Any

1 holder of a Montana resident or nonresident fishing or
 2 hunting license, or camping permit convicted of littering
 3 campgrounds, public or private lands, streams, or lakes
 4 while hunting, fishing, or camping shall forfeit his license
 5 and privilege to hunt, fish, camp, or trap within Montana
 6 for a period of ~~one (1)~~ year from the date of conviction.
 7 ~~Any person who hunts, fishes, camps or traps in Montana~~
 8 ~~while such license and privilege are suspended is guilty of~~
 9 ~~a misdemeanor."~~

10 Section 6. Section 26-1211, R.C.M. 1947, is amended to
 11 read as follows:

12 "26-1211. Enforcement — penalty — confiscation or
 13 disposal of illegally kept animals — appeal. (1) The
 14 provisions of this act shall be enforced by any state fish
 15 and game warden or any other legally authorized officer. ~~Any~~
 16 ~~person violating the provisions of this act shall, upon~~
 17 ~~conviction, be punished by a fine of not more than two~~
 18 ~~hundred fifty dollars (\$250.00), imprisonment for a period~~
 19 ~~of not more than ten (10) days, or both, and at the~~
 20 ~~discretion of the court the permit and all rights and~~
 21 ~~privileges inherent therein may be forfeited. Upon~~
 22 conviction for a violation of 26-1205 through 26-1212, the
 23 permit required by 26-1205 through 26-1212 is revoked and
 24 the privilege to purchase a permit is suspended for 16
 25 months.

1 (2) Any animals being kept in violation of any section
 2 of this act may be confiscated or ordered disposed of at the
 3 discretion of the ~~state fish and game~~ director. The
 4 permittee may appeal to the commission within ~~twenty~~ (20)
 5 days of the date of the order to confiscate and the
 6 commission shall hold a hearing on such an appeal and the
 7 decision of the commission shall be final."

8 Section 7. There is a new R.C.M. section that reads as
 9 follows:

10 Cancellation and suspension of license and privileges.
 11 (1) For purposes of this section and [sections 8, 9, and 10
 12 of this act], the term "license" means any license,
 13 certificate, stamp, card, or permit issued by the department
 14 except outfitters', guides', and taxidermists' licenses, the
 15 cancellation and suspension of which is provided for in
 16 26-919 and 26-920.

17 (2) The commission shall revoke a license and suspend,
 18 for a period of 16 months, the privilege of purchasing any
 19 license and the benefits, rights, and privileges conferred
 20 by any license if the holder:

- 21 (a) has been convicted of causing a forest fire;
- 22 (b) has been convicted of fraudulent purchase of any
 23 license;
- 24 (c) has caused the death of another person, though not
 25 in a criminal manner, while hunting;

1 (d) has illegally taken a deer within the boundaries
 2 of a city or town as prohibited in 26-315; or

3 (e) has been convicted of violations of the fish and
 4 game laws of any state so as to have accumulated 18 or more
 5 points within any consecutive 5-year period, as indicated in
 6 the table set forth in [section 8].

7 Section 8. There is a new R.C.M. section that reads as
 8 follows:

9 Point system. For the purpose of suspending a license
 10 as provided in [section 7], points shall be assessed as
 11 follows:

- 12 (1) hunting, fishing, or trapping without a proper and
 13 valid license 10 points
- 14 (2) false statement made in connection with the
 15 purchase of any license issued under this title .. 18 points
- 16 (3) hunting migratory waterfowl without a valid
 17 federal duck stamp in possession 6 points
- 18 (4) illegal transfer, sale, gift, loan, or assignment
 19 of any license issued under this title 6 points
- 20 (5) alteration of any license issued under this title
 21 18 points
- 22 (6) shooting from, upon, or across a public road
- 23 10 points
- 24 (7) hunting or fishing in a closed or improper area ..
 25 6 points

1 (8) hunting, fishing, or trapping on private property
 2 without permission of the owner 3 points
 3 (9) hunting before or after hours 3 points
 4 (10) use of an aircraft or a motor vehicle to take,
 5 kill, capture, wound, injure, or harass wildlife . 18 points
 6 (11) fishing with an unattended rod 3 points
 7 (12) fishing with more than one rod 3 points
 8 (13) hunting with an illegal weapon or unlawful method
 9 of hunting 4 points
 10 (14) use of unlawful devices in hunting small game or
 11 in fishing 10 points
 12 (15) use of unlawful devices in hunting big game
 13 18 points
 14 (16) illegal possession of big game 12 points
 15 (17) illegal possession of small game or fish
 16 10 points
 17 (18) Failure to tag big game 8 points
 18 (19) failure to have evidence of sex accompanied with
 19 wildlife, when necessary 6 points
 20 (20) waste of fish on which a bag or possession limit
 21 has been set by the commission 6 points
 22 (21) waste of game meat 10 points
 23 (22) hunting during a closed season 6 points
 24 (23) refusing to produce a license or permit for
 25 inspection 10 points

1 (24) failure to wear hunter orange garments when
 2 required by law 10 points
 3 (25) failure to stop at a check station 10 points
 4 (26) building a fire in a prohibited area 8 points
 5 (27) illegal possession of bald or golden eagle
 6 12 points
 7 (28) illegal possession of raptors other than a bald or
 8 golden eagle 10 points
 9 (29) illegal possession of wildlife listed as
 10 endangered 18 points
 11 (30) failure to notify department of acquisition, loss,
 12 death, release, or transfer of raptor 6 points
 13 (31) transporting a raptor out of the state without a
 14 valid permit 10 points
 15 (32) acting as an outfitter or guide without a proper
 16 and valid license under 26-916 18 points
 17 Section 9. There is a new R.C.M. section that reads as
 18 follows:
 19 Multiple violations — notice to license agents —
 20 renewal. (1) For more than one violation of any offense set
 21 forth in [section 8], the commission, in its discretion,
 22 shall:
 23 (a) for a second offense, assess twice the number of
 24 points listed for the violation;
 25 (b) for a third or subsequent offense, assess 4 times

1 the number of points listed for the offense.

2 (2) A suspension of privilege under [section 7] shall
3 be for a period not to exceed 3 years, and any person whose
4 privilege to purchase any license has been suspended is not
5 entitled to purchase any license issued by the department
6 and may not apply for a renewal, reissue duplicate, or new
7 license until the suspension has expired.

8 (3) Upon suspension, the commission shall give notice
9 of the suspension to the person whose privilege has been
10 suspended by registered or certified mail addressed to the
11 last known address of such person and shall further give
12 written notice to those individuals designated by the
13 commission to act as license agents of the fact of such
14 suspension and the identity of the person whose privilege
15 has been suspended.

16 (4) If any person whose license has been cancelled or
17 whose privilege to purchase any license has been suspended
18 as provided in [section 7] is convicted of exercising or
19 attempting to exercise the benefits conferred by the license
20 during the period of cancellation or suspension, the
21 commission shall renew or extend the period of cancellation
22 or suspension for an additional period of 3 years from the
23 date of conviction.

24 (5) For the purposes of license or privilege
25 revocation or suspension, the payment of a penalty

1 assessment under 26-324 is a conviction of the offense for
2 which the penalty assessment was paid.

3 Section 10. There is a new R.C.M. section that reads
4 as follows:

5 Appeal of revocation or suspension of license or
6 privileges. A person whose license or privilege is suspended
7 or revoked may appeal to the district court of the county in
8 which he resides or of Lewis and Clark County for relief.

-End-

STATE OF MONTANA

REQUEST NO. 455-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 9, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 203 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:

Senate Bill 203 generally revises the fines and penalties for various fish and game violations, and creates a violation point system for the purpose of cancellation and suspension of fish and game license privileges.

ASSUMPTIONS:

1. Some dollar estimates can reasonably be made on the various standard minimum fines for certain violations, such as computing a \$25 assessment to a proposed minimum fine of \$50. However, it is much more difficult to determine the fiscal impact of the proposed fine structure which is based upon specific game species. For this reason, no dollar estimate could be made on certain proposed hunting violations.
2. A small allowance is made for an annual increase in fine collections.
3. To implement the proposed legislation, it is assumed that the Department will require one additional FTE - Clerk, Statistical II; and possibly two additional days of Commission expenses to review suspension cases.
4. It is also assumed that courts will deduct from the fine revenues \$7.50 per case to cover court administrative expense.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Fish and Game fine collections under proposed law	\$148,400	\$151,000
Fish and Game fine collections under current law	<u>123,000</u>	<u>125,000</u>
Increase in fine collections	25,400	26,000
Less additional expenditures under proposed law	<u>10,674</u>	<u>10,878</u>
Net increase in revenues due to proposed legislation	<u>\$ 14,726</u>	<u>\$ 15,122</u>

Richard L. Drury for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-17-77

Approved by Comm.
on Fish and Game

SENATE BILL NO. 203

INTRODUCED BY DUNKLE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE PENALTIES FOR FISH AND GAME VIOLATIONS; AMENDING SECTIONS 26-315, 26-319, 26-324, 26-812, AND 26-1211, AND 95-2206, R.C.M. 1947, AND CREATING A POINT SYSTEM FOR LICENSE REVOCATION."

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

Section 1. Section 26-324, R.C.M. 1947, is amended to read as follows:

"26-324. Penalty Penalties. (1) A person violating any provision of Title 26, any other state law pertaining to fish and game thereto, or the orders or rules and regulations of the commission is, unless a different punishment is expressly provided by law for the violation, guilty of a misdemeanor and shall be fined not less than ~~twenty-five dollars (\$25)~~ \$50 or more than ~~five hundred dollars (\$500)~~ \$1,000, or imprisoned in the county jail for not ~~less than 2 days or~~ more than six (6) months, or both ~~and imprisoned.~~ In addition, the person shall, ~~in the discretion of the court,~~ forfeit ~~be subject to forfeiture of~~ his license and privilege to hunt, fish, or trap within this state ~~for a period of sixteen (16) months from the date of~~

~~conviction according to the point system in sections 7 and 8 of this act~~ FOR A PERIOD OF 16 MONTHS FROM THE DATE OF CONVICTION.

(2) (a) A person convicted of unlawfully taking, killing, possessing, transporting, or wasting of a bighorn sheep, moose, WILD BISON, CARIBOU, MOUNTAIN GOAT, or grizzly bear or any part of these animals shall be fined not less than \$500 or more than \$1,000, imprisoned in the county jail for not less than 5 days or more than 6 months, or both. In addition, that person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months FROM THE DATE OF CONVICTION.

(b) A person convicted of unlawfully taking, killing, possessing, transporting, or wasting of a deer, antelope, wild buffalo, caribou, mountain goat, elk, mountain lion, or black bear or any part of these animals shall be fined not less than \$300 or more than \$1,000, imprisoned in the county jail for not less than 5 days or more than 6 months, or both. In addition, that person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 16 months FROM THE DATE OF CONVICTION.

(c) A person convicted of unlawfully attempting to trap, take, shoot, or kill a game animal shall be fined not

1 less than \$200 or more than \$600, imprisoned in the county
2 jail for not less than 2 days or more than 60 days, or both.

3 (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, FISH, OR FUR-BEARING ANIMAL OR
7 ANY PART OF ANY SUCH ANIMAL OR FISH OR OF FAILURE TO TAG A
8 GAME ANIMAL OR GAME BIRD AS PRESCRIBED BY LAW SHALL BE FINED
9 NOT LESS THAN \$50 OR MORE THAN \$200 OR IMPRISONED IN THE
10 COUNTY JAIL FOR NOT MORE THAN 30 DAYS, OR BOTH.

11 (E) A person convicted of hunting, fishing or
12 trapping while his license is forfeited or his privilege
13 denied shall be imprisoned in the county jail for not less
14 than 5 days or more than 6 months. In addition that person
15 may be fined not less than \$500 or more than \$1,000.

16 (F) No fine or penalty established in this section may
17 be suspended, deferred, or reduced.

18 (G) When a person is convicted of a violation of any
19 provision of Title 26, any other state law pertaining to
20 fish and game, or any order or rule of the commission, the
21 clerk of court shall send notice, within 10 days of the
22 action to the commission."

23 Section 2, Section 95-2206, R.C.M., 1947, is amended to
24 read as follows:

25 "95-2206. Sentence. Whenever any person has been

1 found guilty of a crime or offense upon a verdict or a plea
2 of guilty the court may:

3 (1) Defer imposition of sentence for a period not to
4 exceed one (1) year for any misdemeanor except as provided
5 in 26-324 and for a period not to exceed three (3) years
6 for any felony. The sentencing judge may impose upon the
7 defendant any reasonable restrictions or conditions during
8 the period of the deferred imposition. Such reasonable
9 restrictions or conditions may include:

- 10 (a) jail base release;
- 11 (b) jail time not to exceed ninety (90) days;
- 12 (c) conditions for probation;
- 13 (d) restitution;
- 14 (e) any other reasonable conditions deemed necessary
15 for rehabilitation or for the protection of society;

16 (2) Suspend execution of sentence up to the maximum
17 sentence allowed for the particular offense except as
18 provided in 26-324. The sentencing judge may impose on the
19 defendant any reasonable restrictions during the period of
20 suspended sentence. Such reasonable restrictions may
21 include:

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- 23 (b) jail time not to exceed (90) days;
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on Fish and Game

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~~conviction according to the point system in sections 7 and 8 of this act.] FOR A PERIOD OF 16 MONTHS FROM THE DATE OF CONVICTION.~~

(2) (a) A person convicted of unlawfully taking, killing, possessing, transporting, or wasting of a bighorn sheep, moose, WILD BISON, CARIBOU, MOUNTAIN GOAT, or grizzly bear or any part of these animals shall be fined not less than \$500 or more than \$1,000, imprisoned in the county jail for not less than 5 days or more than 6 months, or both. In addition, that person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months FROM THE DATE OF CONVICTION.

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(c) A person convicted of unlawfully attempting to trap, take, shoot, or kill a game animal shall be fined not

1 less than \$200 or more than \$600, imprisoned in the county
 2 jail for not less than 2 days or more than 60 days, or both.

3 (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
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 12 trapping while his license is forfeited or his privilege
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 14 than 5 days or more than 6 months. In addition that person
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 17 be suspended, deferred, or reduced.

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 8 the period of the deferred imposition. Such reasonable
 9 restrictions or conditions may include:

- 10 (a) jail base release;
- 11 (b) jail time not to exceed ninety (90) days;
- 12 (c) conditions for probation;
- 13 (d) restitution;
- 14 (e) any other reasonable conditions deemed necessary
 15 for rehabilitation or for the protection of society;

16 (1) any combination of the above;

17 (2) Suspend execution of sentence up to the maximum
 18 sentence allowed for the particular offense ~~except as~~
 19 ~~provided in 26-324v~~. The sentencing judge may impose on the
 20 defendant any reasonable restrictions during the period of
 21 suspended sentences. Such reasonable restrictions may
 22 include:

- 23 (a) jail base release;
- 24 (b) jail time not to exceed (90) days;
- 25 (c) conditions for probation;

1 ~~(d)--restitution;~~
 2 ~~(e)--any--other--reasonable-conditions-deemed-necessary~~
 3 ~~for-rehabilitation-or-for-the-protection-of-society;~~
 4 ~~(f)--any-combination-of-the-above.~~
 5 ~~If-any-restrictions-or-conditions-are-violated,--any~~
 6 ~~elapsed-time--except-jail-time--shall-not-be-a-credit~~
 7 ~~against-the-sentence--unless-the-court-shall-otherwise~~
 8 ~~order.~~
 9 ~~(3)--impose-a-fine-as-provided-by-law-for-the-offense~~
 10 ~~(4)--Commit-the-defendant-to-a-correctional-institution~~
 11 ~~with-or-without-fine-by-law-for-the-offense~~
 12 ~~(5)--impose-any-combination-of-subsections-(2),-(3),-or~~
 13 ~~(4)-above.~~
 14 ~~(6)--The-district-court-may-also-impose-any-of-the~~
 15 ~~following--restrictions--or-conditions-on-the-above-sentence~~
 16 ~~which-it-deems-necessary-to-obtain-the-objective--of~~
 17 ~~rehabilitation-and-the-protection-of-society:~~
 18 ~~(a)--prohibit-the-defendant-the-right-to-hold-public~~
 19 ~~office;~~
 20 ~~(b)--prohibit-the-defendant-the-right-to-own-or-carry-a~~
 21 ~~dangerous-weapon;~~
 22 ~~(c)--prohibit-freedom-of-association;~~
 23 ~~(d)--prohibit-freedom-of-movement;~~
 24 ~~(e)--any-other-limitation-reasonably-related-to-the~~
 25 ~~objectives-of-rehabilitation-or-the-protection-of-society.~~

1 ~~(7)--The-judge-in-the-justice-court-shall-not-have-the~~
 2 ~~authority-to-restrict-an-individual's-rights-as-enumerated~~
 3 ~~in-subsection-(6).~~
 4 ~~Any-judge-who-has-suspended-the-execution-of-a-sentence~~
 5 ~~or--deferred--the--imposition--of--a-sentence--of--imprisonment~~
 6 ~~under--this--section--or--his--successor--is--authorized~~
 7 ~~thereafter--in--his--discretion--during--the--period--of--such~~
 8 ~~suspended-sentence--or--deferred--imposition--of--sentence--to~~
 9 ~~revoke--such--suspension--or--impose-sentence--and--order--such~~
 10 ~~person-committed--or--may--in--his--discretion--order--the~~
 11 ~~prisoner--placed--under--the--jurisdiction--of--the--state--board--of~~
 12 ~~pardons--as--provided--by--law--or--retain--such--jurisdiction--with~~
 13 ~~this--court--prior--to--the--revocation--of--an--order--suspending~~
 14 ~~or--deferring--the--imposition--of--sentence,--the--person--affected~~
 15 ~~shall-be-given-a-hearing."~~
 16 Section 2. Section 26-315, R.C.M. 1947, is amended to
 17 read as follows:
 18 "26-315. Taking deer within boundaries of cities or
 19 towns unlawful -- penalty. It shall be is unlawful to shoot,
 20 kill, take, or cause to be shot, killed, taken or captured,
 21 or to attempt to shoot, kill, take or capture, any deer
 22 within the boundaries of any incorporated or unincorporated
 23 city or town of this state.
 24 Any person violating the provisions of this act shall
 25 be guilty of a misdemeanor and upon conviction thereof

1 shall be punished by a fine of not less than twenty-five
 2 dollars (\$25) nor more than five hundred dollars (\$500) or
 3 by imprisonment in the county jail for a period of not less
 4 than ten (10) days nor more than one hundred and eighty
 5 (180) days or by both such fine and imprisonment and in
 6 addition thereto shall forfeit his fish and game license for
 7 a period of one (1) year."

8 Section 3. Section 26-319, R.C.M. 1947, is amended to
 9 read as follows:

10 "26-319. Penalty for violating closed season on
 11 certain game birds -- power of commission to open season. It
 12 shall hereafter is be unlawful for any person to hunt,
 13 shoot, kill, capture, possess, or cause to be hunted,
 14 killed, or captured or attempts attempt to shoot, kill, or
 15 capture any quail, Chinese or Mongolian pheasants, commonly
 16 called ringneck pheasants, Hungarian partridge, chukar
 17 partridge, sage grouse, sharptailed grouse, blue grouse,
 18 fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild
 19 turkey until such time as the commission shall provide an
 20 open season on any quail, Chinese or Mongolian pheasants,
 21 commonly called ringneck pheasant, Hungarian partridge,
 22 chukar partridge, sage grouse, sharptailed grouse, blue
 23 grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan,
 24 or wild turkey.

25 ~~Any person violating any of the provisions of this act~~

1 or any person who has in his possession any of such birds or
 2 any part of any such birds shall be guilty of a misdemeanor
 3 and upon conviction thereof shall be punished by a fine of
 4 not less than fifty dollars (\$50.00) nor more than two
 5 hundred fifty dollars (\$250.00) or by imprisonment in the
 6 county jail for not more than sixty (60) days or by [both]
 7 such fine and imprisonment."

8 Section 4. Section 26-812, R.C.M. 1947, is amended to
 9 read as follows:

10 "26-812. Forfeiture of license or permit for
 11 littering ~~activity during suspension as misdemeanor~~. Any
 12 holder of a Montana resident or nonresident fishing or
 13 hunting license, or camping permit convicted of littering
 14 campgrounds, public or private lands, streams, or lakes
 15 while hunting, fishing, or camping shall forfeit his license
 16 and privilege to hunt, fish, camp, or trap within Montana
 17 for a period of one (1) year from the date of conviction.
 18 ~~Any person who hunts, fishes, camps or traps in Montana~~
 19 ~~while such license and privilege are suspended is guilty of~~
 20 ~~a misdemeanor."~~

21 Section 5. Section 26-1211, R.C.M. 1947, is amended to
 22 read as follows:

23 "26-1211. Enforcement -- penalty -- confiscation or
 24 disposal of illegally kept animals -- appeal. (1) The
 25 provisions of this act shall be enforced by any state fish

1 and-game warden or any other legally authorized officer. Any
 2 person violating the provisions of this act shall upon
 3 conviction be punished by a fine of not more than two
 4 hundred fifty dollars (\$250.00), imprisonment for a period
 5 of not more than ten (10) days, or both, and at the
 6 discretion of the court the permit and all rights and
 7 privileges inherent therein may be forfeited. Upon
 8 conviction for a violation of 26-1205 through 26-1212 the
 9 permit required by 26-1205 through 26-1212 is revoked and
 10 the privilege to purchase a permit is suspended for 16
 11 months. ANY PERSON VIOLATING THE PROVISIONS OF THIS ACT
 12 SHALL, UPON CONVICTION, BE PUNISHED AS PROVIDED IN 26-324,
 13 AND AT THE DISCRETION OF THE COURT THE PERMIT AND ALL RIGHTS
 14 AND PRIVILEGES INHERENT THEREIN MAY BE FORFEITED.

15 (2) Any animals being kept in violation of any section
 16 of this act may be confiscated or ordered disposed of at the
 17 discretion of the state fish and game director. The
 18 permittee may appeal to the commission within twenty (20)
 19 days of the date of the order to confiscate and the
 20 commission shall hold a hearing on such an appeal and the
 21 decision of the commission shall be final."

22 section 6. There is a new R.C.M. section that reads as
 23 follows:

24 Cancellation and suspension of license and privileges
 25 (1) For purposes of this section and [sections 8, 9, and 10

1 of this act] the term "license" means any license
 2 certificate, stamp, card, or permit issued by the department
 3 except outfitters', guides', and taxidermists' licenses, the
 4 cancellation and suspension of which is provided for in
 5 26-917 and 26-920.

6 (2) The commission shall revoke a license and suspend
 7 for a period of 16 months, the privilege of purchasing any
 8 license and the benefits, rights, and privileges conferred
 9 by any license if the holder:

10 (a) has been convicted of causing a forest fire;

11 (b) has been convicted of fraudulent purchase of any
 12 licenses;

13 (c) has caused the death of another person, though not
 14 in a criminal manner, while hunting;

15 (d) has illegally taken a deer within the boundaries
 16 of a city or town as prohibited in 26-315; or

17 (e) has been convicted of violations of the fish and
 18 game laws of any state so as to have accumulated 18 or more
 19 points within any consecutive 5-year period, as indicated in
 20 the table set forth in [section 8].

21 Section 7. There is a new R.C.M. section that reads as
 22 follows:

23 Point system. For the purpose of suspending a license
 24 as provided in [section 7], points shall be assessed as
 25 follows:

1 ~~{1}--hunting, fishing, or trapping without a proper and~~
2 ~~valid license-----10-points~~
3 ~~{2}--false--statement--made--in--connection--with--the~~
4 ~~purchase-of-any-license-issued-under-this-title--10-points~~
5 ~~{3}--hunting--migratory--waterfowl--without--a--valid~~
6 ~~federal-duck-stamp-in-possession-----6-points~~
7 ~~{4}--illegal--transfer,--sale,--gift,--to,--or--assignment~~
8 ~~of-any-license-issued-under-this-title-----6-points~~
9 ~~{5}--alteration-of-any-license-issued-under-this--title~~
10 ~~-----10-points~~
11 ~~{6}--shooting-from,--upon,--or--across--a--public--road-----~~
12 ~~-----10-points~~
13 ~~{7}--hunting--or--fishing--in--a--closed--or--improper--area--~~
14 ~~-----6-points~~
15 ~~{8}--hunting,--fishing,--or--trapping--on--private--property~~
16 ~~without-permission-of-the-owner-----3-points~~
17 ~~{9}--hunting--before--or--after--hours-----3-points~~
18 ~~{10}--use-of-an-aircraft--or--a--motor--vehicle--to--take~~
19 ~~kill,--capture,--wound,--injure,--or--harass--wildlife-----10-points~~
20 ~~{11}--fishing--with--an--unattended--rod-----3-points~~
21 ~~{12}--fishing--with--more--than--one--rod-----3-points~~
22 ~~{13}--hunting--with--an--illegal--weapon--or--unlawful--method~~
23 ~~of-hunting-----4-points~~
24 ~~{14}--use-of-unlawful-devices-in-hunting-small-game--or~~
25 ~~in-fishing-----10-points~~

1 ~~{15}--use-of-unlawful-devices-in-hunting-big-game-----~~
2 ~~-----10-points~~
3 ~~{16}--illegal-possession-of-big-game-----12-points~~
4 ~~{17}--illegal-possession-of-small-game-or-fish-----~~
5 ~~-----10-points~~
6 ~~{18}--Failure-to-tag-big-game-----8-points~~
7 ~~{19}--failure--to--have--evidence--of--sex--accompanied--with~~
8 ~~wildlife--when--necessary-----6-points~~
9 ~~{20}--waste-of-fish-on-which-a-bag-or--possession--limit~~
10 ~~has-been-set-by-the-commission-----6-points~~
11 ~~{21}--waste-of-game-meat-----10-points~~
12 ~~{22}--hunting-during-a-closed-season-----6-points~~
13 ~~{23}--refusing--to--produce--a--license--or--permit--for~~
14 ~~inspection-----10-points~~
15 ~~{24}--failure--to--wear--hunter--orange--garments--when~~
16 ~~required-by-law-----10-points~~
17 ~~{25}--failure-to-stop-at-a-check-station-----10-points~~
18 ~~{26}--building-a-fire-in-a-prohibited-area-----8-points~~
19 ~~{27}--illegal-possession-of-bald-or-golden-eagle-----~~
20 ~~-----12-points~~
21 ~~{28}--illegal-possession-of-raptors-other-than-a-bald-or~~
22 ~~golden-eagle-----10-points~~
23 ~~{29}--illegal--possession--of--wildlife--listed--as~~
24 ~~endangered-----10-points~~
25 ~~{30}--failure-to-notify-department-of-acquisition--loss~~

1 ~~death, release, or transfer of raptor~~ ~~6 points~~
2 ~~{31} transporting a raptor out of the state without a~~
3 ~~valid permit~~ ~~10 points~~
4 ~~{32} acting as an outfitter or guide without a proper~~
5 ~~and valid license under 26-916~~ ~~10 points~~
6 ~~Section 8. There is a new R&G&M section that reads as~~
7 ~~follows:~~
8 ~~Multiple violations --- notice to license agents ---~~
9 ~~renewals --- (1) For more than one violation of any offense set~~
10 ~~forth in [section 8] the commission in its discretion~~
11 ~~shall:~~
12 ~~{a} for a second offense, assess twice the number of~~
13 ~~points listed for the violation;~~
14 ~~{b} for a third or subsequent offense, assess 4 times~~
15 ~~the number of points listed for the offense;~~
16 ~~{2} A suspension of privilege under [section 7] shall~~
17 ~~be for a period not to exceed 3 years, and any person whose~~
18 ~~privilege to purchase any license has been suspended is not~~
19 ~~entitled to purchase any license issued by the department~~
20 ~~and may not apply for a renewal, reissue, duplicate, or new~~
21 ~~license until the suspension has expired.~~
22 ~~{3} Upon suspension, the commission shall give notice~~
23 ~~of the suspension to the person whose privilege has been~~
24 ~~suspended by registered or certified mail addressed to the~~
25 ~~last known address of such person and shall further give~~

1 ~~written notice to those individuals designated by the~~
2 ~~commission to act as license agents of the fact of such~~
3 ~~suspension and the identity of the person whose privilege~~
4 ~~has been suspended.~~
5 ~~{4} If any person whose license has been cancelled or~~
6 ~~whose privilege to purchase any license has been suspended~~
7 ~~as provided in [section 7] is convicted of exercising or~~
8 ~~attempting to exercise the benefits conferred by the license~~
9 ~~during the period of cancellation or suspension, the~~
10 ~~commission shall renew or extend the period of cancellation~~
11 ~~or suspension for an additional period of 3 years from the~~
12 ~~date of conviction.~~
13 ~~{5} For the purposes of license or privilege~~
14 ~~revocation or suspension, the payment of a penalty~~
15 ~~assessment under 26-324 is a conviction of the offense for~~
16 ~~which the penalty assessment was paid.~~
17 ~~Section 9. There is a new R&G&M section that reads as~~
18 ~~follows:~~
19 ~~Appeal of revocation or suspension of license or~~
20 ~~privileges --- A person whose license or privilege is~~
21 ~~suspended or revoked may appeal to the district court of the~~
22 ~~county in which he resides or of Lewis and Clark County for~~
23 ~~relief.~~

-End-

1 SENATE BILL NO. 203

2 INTRODUCED BY DUNKLE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
5 PENALTIES FOR FISH AND GAME VIOLATIONS; AMENDING SECTIONS
6 26-315, 26-319, 26-324, 26-812, AND 26-1211, AND 95-2206
7 R.C.M. 1947, ~~AND CREATING A POINT SYSTEM FOR LICENSE~~
8 ~~REVOGATION."~~

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

11 Section 1. Section 26-324, R.C.M. 1947, is amended to
12 read as follows:

13 "26-324. Penalty Penalties. (1) A person violating any
14 provision of Title 26, any other state law pertaining to
15 fish and game thereto, or the orders or rules and
16 regulations of the commission is, unless a different
17 punishment is expressly provided by law for the violation,
18 guilty of a misdemeanor and shall be fined not less than
19 twenty-five dollars (\$25) nor \$50 or more than five hundred
20 dollars (\$500), or imprisoned in the county jail for not
21 less than 2 days or more than six (6) months, or both fined
22 and imprisoned. In addition, the person shall, in the
23 discretion of the court, forfeit be subject to forfeiture of
24 his license and privilege to hunt, fish, or trap within this
25 state for a period of sixteen (16) months from the date of

1 ~~conviction according to the point system in sections 7 and~~
2 ~~8 of this act; FOR A PERIOD OF 16 MONTHS FROM THE DATE OF~~
3 ~~CONVICTION.~~

4 (2) (a) A person convicted of unlawfully taking,
5 killing, possessing, transporting, or wasting of a bighorn
6 sheep, moose, WILD BISON, CARIBOU, MOUNTAIN GOAT, or grizzly
7 bear or any part of these animals shall be fined not less
8 than \$500 or more than \$1,000, imprisoned in the county jail
9 for not less than 5 days or more than 6 months, or both. In
10 addition, that person shall forfeit any current hunting,
11 fishing, or trapping license issued by this state and the
12 privilege to hunt, fish, or trap in this state for 24 months
13 FROM THE DATE OF CONVICTION.

14 (b) A person convicted of unlawfully taking, killing,
15 possessing, transporting, or wasting of a deer, antelope,
16 wild buffalo, caribou, mountain goat, elk, mountain lion, or
17 black bear or any part of these animals shall be fined not
18 less than \$300 or more than \$1,000, imprisoned in the county
19 jail for not less than 5 days or more than 6 months, or
20 both. In addition, that person shall forfeit any current
21 hunting, fishing, or trapping license issued by this state
22 and the privilege to hunt, fish, or trap in this state for
23 16 months FROM THE DATE OF CONVICTION.

24 (c) A person convicted of unlawfully attempting to
25 trap, take, shoot, or kill a game animal shall be fined not

1 less than \$200 or more than \$600, imprisoned in the county
 2 jail for not less than 2 days or more than 60 days, or both.

3 (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, FISH, OR FUR-BEARING ANIMAL OR
 7 ANY PART OF ANY SUCH ANIMAL OR FISH OR OF FAILURE TO TAG A
 8 GAME ANIMAL OR GAME BIRD AS PRESCRIBED BY LAW SHALL BE FINED
 9 NOT LESS THAN \$50 OR MORE THAN \$200 OR IMPRISONED IN THE
 10 COUNTY JAIL FOR NOT MORE THAN 30 DAYS, OR BOTH.

11 (E) A person convicted of hunting, fishing or
 12 trapping while his license is forfeited or his privilege
 13 denied shall be imprisoned in the county jail for not less
 14 than 5 days or more than 6 months. In addition that person
 15 may be fined not less than \$500 or more than \$1,000.

16 (2) No fine or penalty established in this section may
 17 be suspended, deferred, or reduced.

18 (4) When a person is convicted of a violation of any
 19 provision of title 26, any other state law pertaining to
 20 fish and game, or any order or rule of the commission, the
 21 clerk of court shall send notice, within 10 days of the
 22 action to the commission."

23 Section 2, Section 95-2206, R.G.N. 1947, is amended to
 24 read as follows:

25 "95-2206. Sentence. Whenever any person has been

1 found guilty of a crime or offense upon a verdict or a plea
 2 of guilty the court may:

3 (1) Defer imposition of sentence for a period not to
 4 exceed one (1) year for any misdemeanor, except as provided
 5 in 26-324, and for a period not to exceed three (3) years
 6 for any felony. The sentencing judge may impose upon the
 7 defendant any reasonable restrictions or conditions during
 8 the period of the deferred imposition. Such reasonable
 9 restrictions or conditions may include:

10 (a) jail base release;

11 (b) jail time not to exceed ninety (90) days;

12 (c) conditions for probation;

13 (d) restitution;

14 (e) any other reasonable conditions deemed necessary
 15 for rehabilitation or for the protection of society;

16 (f) any combination of the above;

17 (2) Suspend execution of sentence up to the maximum
 18 sentence allowed for the particular offense, except as
 19 provided in 26-324. The sentencing judge may impose on the
 20 defendant any reasonable restrictions during the period of
 21 suspended sentence. Such reasonable restrictions may
 22 include:

23 (a) jail base release;

24 (b) jail time not to exceed (90) days;

25 (c) conditions for probation;

1 ~~(d) restitution;~~
2 ~~(e) any other reasonable conditions deemed necessary~~
3 ~~for rehabilitation or for the protection of society;~~
4 ~~(f) any combination of the above;~~
5 ~~if any restrictions or conditions are violated, any~~
6 ~~elapsed time, except jail time, shall not be a credit~~
7 ~~against the sentence, unless the court shall otherwise~~
8 ~~order;~~
9 ~~(3) impose a fine as provided by law for the offense;~~
10 ~~(4) commit the defendant to a correctional institution~~
11 ~~with or without fine by law for the offense;~~
12 ~~(5) impose any combination of subsections (2), (3), or~~
13 ~~(4) above;~~
14 ~~(6) the district court may also impose any of the~~
15 ~~following restrictions or conditions on the above sentence~~
16 ~~which it deems necessary to obtain the objective of~~
17 ~~rehabilitation and the protection of society:~~
18 ~~(a) prohibit the defendant the right to hold public~~
19 ~~office;~~
20 ~~(b) prohibit the defendant the right to own or carry a~~
21 ~~dangerous weapon;~~
22 ~~(c) prohibit freedom of association;~~
23 ~~(d) prohibit freedom of movement;~~
24 ~~(e) any other limitation reasonably related to the~~
25 ~~objectives of rehabilitation or the protection of society;~~

1 ~~(7) The judge in the justice court shall not have the~~
2 ~~authority to restrict an individual's rights as enumerated~~
3 ~~in subsection (6);~~
4 ~~Any judge who has suspended the execution of a sentence~~
5 ~~or deferred the imposition of a sentence of imprisonment~~
6 ~~under this section or his successor is authorized~~
7 ~~thereafter in his discretion during the period of such~~
8 ~~suspended sentence or deferred imposition of sentence to~~
9 ~~revoke such suspension or impose sentence and order such~~
10 ~~person committed or may in his discretion order the~~
11 ~~prisoner placed under the jurisdiction of the state board of~~
12 ~~pardons as provided by law or retain such jurisdiction with~~
13 ~~this court. Prior to the revocation of an order suspending~~
14 ~~or deferring the imposition of sentence the person affected~~
15 ~~shall be given a hearing.~~
16 Section 2. Section 26-315, R.C.M. 1947, is amended to
17 read as follows:
18 "26-315. Taking deer within boundaries of cities or
19 towns unlawful -- penalty. It shall be ~~is~~ unlawful to shoot,
20 kill, take, or cause to be shot, killed, taken or captured
21 or to attempt to shoot, kill, take or capture any deer
22 within the boundaries of any incorporated or unincorporated
23 city or town of this state.
24 Any person violating the provisions of this act shall
25 be guilty of a misdemeanor and upon conviction thereof

1 shall--be--punished--by--a--fine--of--not--less--than--twenty--five
 2 dollars--(\$25)--nor--more--than--five--hundred--dollars--(\$500),--or
 3 by--imprisonment--in--the--county--jail--for--a--period--of--not--less
 4 than--ten--(10)--days--nor--more--than--one--hundred--and--eighty
 5 (180)--days,--or--by--both--such--fine--and--imprisonment,--and--in
 6 addition--thereto--shall--forfeit--his--fish--and--game--license--for
 7 a--period--of--one--(1)--year."*

8 Section 3. Section 26-319, R.C.M. 1947, is amended to
 9 read as follows:

10 "26-319. Penalty for violating closed season on
 11 certain game birds -- power of commission to open season. It
 12 shall hereafter is be unlawful for any person to hunt,
 13 shoot, kill, capture, possess, or cause to be hunted,
 14 killed, or captured or attempts attempt to shoot, kill, or
 15 capture any quail, Chinese or Mongolian pheasants, commonly
 16 called ringneck pheasants, Hungarian partridge, chukar
 17 partridge, sage grouse, sharptailed grouse, blue grouse,
 18 fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild
 19 turkey until such time as the commission shall provide an
 20 open season on any quail, Chinese or Mongolian pheasants,
 21 commonly called ringneck pheasant, Hungarian partridge,
 22 chukar partridge, sage grouse, sharptailed grouse, blue
 23 grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan,
 24 or wild turkey.

25 Any person violating any of the provisions of this act

1 or any person who has in his possession any of such birds or
 2 any part of any such birds, shall be guilty of a misdemeanor
 3 and upon conviction thereof shall be punished by a fine of
 4 not less than fifty dollars--(\$50 or 80)--nor more than two
 5 hundred--fifty--dollars--(\$250 or 80)--or by imprisonment in the
 6 county jail for not more than sixty--(60)--days, or by--[both]
 7 such fine and imprisonment."*

8 Section 4. Section 26-812, R.C.M. 1947, is amended to
 9 read as follows:

10 "26-812. Forfeiture of license or permit for
 11 littering--activity--during--suspension--as--misdemeanor. Any
 12 holder of a Montana resident or nonresident fishing or
 13 hunting license, or camping permit convicted of littering
 14 campgrounds, public or private lands, streams, or lakes
 15 while hunting, fishing, or camping shall forfeit his license
 16 and privilege to hunt, fish, camp, or trap within Montana
 17 for a period of one--(1)--year from the date of conviction.
 18 Any--person--who--hunts,--fishes,--camps--or--traps--in--Montana
 19 while such license and privilege are suspended is guilty--of
 20 a--misdemeanor."*

21 Section 5. Section 26-1211, R.C.M. 1947, is amended to
 22 read as follows:

23 "26-1211. Enforcement -- penalty -- confiscation or
 24 disposal of illegally kept animals -- appeal. (1) The
 25 provisions of this act shall be enforced by any state fish

1 and-game warden or any other legally authorized officer. Any
 2 person violating the provisions of this act shall upon
 3 conviction be punished by a fine of not more than two
 4 hundred fifty dollars ~~(\$250.00)~~, imprisonment for a period
 5 of not more than ten ~~(10)~~ days or both and at the
 6 discretion of the court the permit and all rights and
 7 privileges inherent therein may be forfeited. Upon
 8 conviction for a violation of 26-1205 through 26-1212 the
 9 permit required by 26-1205 through 26-1212 is revoked and
 10 the privilege to purchase a permit is suspended for 16
 11 months ANY PERSON VIOLATING THE PROVISIONS OF THIS ACT
 12 SHALL UPON CONVICTION BE PUNISHED AS PROVIDED IN 26-324
 13 AND AT THE DISCRETION OF THE COURT THE PERMIT AND ALL RIGHTS
 14 AND PRIVILEGES INHERENT THEREIN MAY BE FORFEITED.

15 (2) Any animals being kept in violation of any section
 16 of this act may be confiscated or ordered disposed of at the
 17 discretion of the state fish and game director. The
 18 permittee may appeal to the commission within twenty ~~(20)~~
 19 days of the date of the order to confiscate and the
 20 commission shall hold a hearing on such an appeal and the
 21 decision of the commission shall be final."

22 Section 6x There is a new R&G&M section that reads as
 23 follows:

24 cancellation and suspension of license and privileges
 25 (1) For purposes of this section and [sections 8y 9y and 10

1 of this act] the term "license" means any license
 2 certificate, stamp, card or permit issued by the department
 3 except outfitters, guides and taxidermists licenses, the
 4 cancellation and suspension of which is provided for in
 5 26-917 and 26-920.

6 (2) The commission shall revoke a license and suspend
 7 for a period of 16 months the privilege of purchasing any
 8 license and the benefits, rights and privileges conferred
 9 by any license if the holder:

10 (a) has been convicted of causing a forest fire;

11 (b) has been convicted of fraudulent purchase of any
 12 license;

13 (c) has caused the death of another person though not
 14 in a criminal manner while hunting;

15 (d) has illegally taken a deer within the boundaries
 16 of a city or town as prohibited in 26-315; or

17 (e) has been convicted of violations of the fish and
 18 game laws of any state so as to have accumulated 10 or more
 19 points within any consecutive 5-year period as indicated in
 20 the table set forth in [section 8j].

21 Section 7x There is a new R&G&M section that reads as
 22 follows:

23 Point system for the purpose of suspending a license
 24 as provided in [section 7j] points shall be assessed as
 25 follows:

1 ~~(1) hunting, fishing, or trapping without a proper and~~
2 ~~valid license. 10 points~~
3 ~~(2) false statement made in connection with the~~
4 ~~purchase of any license issued under this title. 10 points~~
5 ~~(3) hunting migratory waterfowl without a valid~~
6 ~~federal duck stamp in possession. 6 points~~
7 ~~(4) illegal transfer, sale, gift, loan, or assignment~~
8 ~~of any license issued under this title. 6 points~~
9 ~~(5) alteration of any license issued under this title~~
10 ~~. 10 points~~
11 ~~(6) shooting from upon, or across a public road. 10~~
12 ~~points~~
13 ~~(7) hunting or fishing in a closed or improper area. 6~~
14 ~~points~~
15 ~~(8) hunting, fishing, or trapping on private property~~
16 ~~without permission of the owner. 3 points~~
17 ~~(9) hunting before or after hours. 3 points~~
18 ~~(10) use of an aircraft or a motor vehicle to take~~
19 ~~kill, capture, wound, injure, or harass wildlife. 10 points~~
20 ~~(11) fishing with an unattended rod. 3 points~~
21 ~~(12) fishing with more than one rod. 3 points~~
22 ~~(13) hunting with an illegal weapon or unlawful method~~
23 ~~of hunting. 4 points~~
24 ~~(14) use of unlawful devices in hunting small game or~~
25 ~~in fishing. 10 points~~

1 ~~(15) use of unlawful devices in hunting big game. 10~~
2 ~~points~~
3 ~~(16) illegal possession of big game. 12 points~~
4 ~~(17) illegal possession of small game or fish. 10~~
5 ~~points~~
6 ~~(18) failure to tag big game. 8 points~~
7 ~~(19) failure to have evidence of sex accompanied with~~
8 ~~wildlife when necessary. 6 points~~
9 ~~(20) waste of fish on which a bag or possession limit~~
10 ~~has been set by the commission. 6 points~~
11 ~~(21) waste of game meat. 10 points~~
12 ~~(22) hunting during a closed season. 6 points~~
13 ~~(23) refusing to produce a license or permit for~~
14 ~~inspection. 10 points~~
15 ~~(24) failure to wear hunter orange garments when~~
16 ~~required by law. 10 points~~
17 ~~(25) failure to stop at a check station. 10 points~~
18 ~~(26) building a fire in a prohibited area. 8 points~~
19 ~~(27) illegal possession of bald or golden eagle. 12~~
20 ~~points~~
21 ~~(28) illegal possession of raptors other than a bald or~~
22 ~~golden eagle. 10 points~~
23 ~~(29) illegal possession of wildlife listed as~~
24 ~~endangered. 10 points~~
25 ~~(30) failure to notify department of acquisition loss~~

1 death, release or transfer of raptor-----6 points
 2 (31) transporting a raptor out of the state without a
 3 valid permit-----18 points
 4 (32) acting as an outfitter or guide without a proper
 5 and valid license under 26-916-----18 points
 6 Section 8v--There is a new R&G&M section that reads as
 7 follows:
 8 Multiple violations----notice to license agents----
 9 renewals--(1) for more than one violation of any offense set
 10 forth in [section 8-j] the commission in its discretion
 11 shall:
 12 (a) for a second offense, assess twice the number of
 13 points listed for the violation;
 14 (b) for a third or subsequent offense, assess 4 times
 15 the number of points listed for the offense.
 16 (2) A suspension of privilege under [section 7] shall
 17 be for a period not to exceed 3 years, and any person whose
 18 privilege to purchase any license has been suspended is not
 19 entitled to purchase any license issued by the department
 20 and may not apply for a renewal, reissue, duplicate, or new
 21 license until the suspension has expired.
 22 (3) Upon suspension, the commission shall give notice
 23 of the suspension to the person whose privilege has been
 24 suspended by registered or certified mail addressed to the
 25 last known address of such person and shall further give

1 written notice to those individuals designated by the
 2 commission to act as license agents of the fact of such
 3 suspension and the identity of the person whose privilege
 4 has been suspended.
 5 (4) If any person whose license has been cancelled or
 6 whose privilege to purchase any license has been suspended
 7 as provided in [section 7] is convicted of exercising or
 8 attempting to exercise the benefits conferred by the license
 9 during the period of cancellation or suspension, the
 10 commission shall renew or extend the period of cancellation
 11 or suspension for an additional period of 3 years from the
 12 date of conviction.
 13 (5) For the purposes of license or privilege
 14 revocation or suspension, the payment of a penalty
 15 assessment under 26-324 is a conviction of the offense for
 16 which the penalty assessment was paid.
 17 Section 9w--There is a new R&G&M section that reads as
 18 follows:
 19 Appeal of revocation or suspension of license or
 20 privileges--A person whose license or privilege is
 21 suspended or revoked may appeal to the district court of the
 22 county in which he resides or of Lewis and Clark County for
 23 relief.

-End-

COMMITTEE ON FISH AND GAME AMENDMENTS TO SENATE BILL 203

Amend the third reading bill as follows:

1. Amend page 2, section 1, subsection (1), line 2.
Following: "PERIOD OF"
Strike: "16"
Insert: "not less than 24"
2. Amend page 2, section 1, subsection (2)(a), line 12.
Following: "for"
Strike: "24"
Insert: "not less than 30"
3. Amend page 2, section 1, subsection (2)(b), line 15.
Following: "possessing,"
Insert: "or"
Following: "transporting"
Strike: ", or wasting of"
4. Amend page 2, section 1, subsection (2)(b), line 17.
Following: "animals"
Insert: ", or wasting a deer, antelope, or elk,"
5. Amend page 2, section 1, subsection (2)(b), line 23.
Following: line 22
Strike: "16"
Insert: "not less than 24"
6. Amend page 6, section 2, line 19.
Following: "unlawful"
Strike: "-- penalty"
7. Amend page 7, section 3, line 10.
Following: "26-319."
Strike: "Penalty for violating"
Insert: "Unlawful to hunt during"

AS AMENDED
BE CONCURRED IN

1 SENATE BILL NO. 203

2 INTRODUCED BY DUNKLE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
5 PENALTIES FOR FISH AND GAME VIOLATIONS; AMENDING SECTIONS
6 26-315, 26-319, 26-324, 26-812, AND 26-1211, AND 95-2206,
7 R.C.M. 1947, ~~AND CREATING A POINT SYSTEM FOR LICENSE~~
8 ~~REVOCAATION."~~

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

11 Section 1. Section 26-324, R.C.M. 1947, is amended to
12 read as follows:

13 "26-324. ~~Penalty Penalties.~~ (1) A person violating any
14 ~~provision of Title 26,~~ any other state law pertaining to
15 fish and game thereto, or the orders or rules and
16 regulations of the commission is, unless a different
17 punishment is expressly provided by law for the violation,
18 guilty of a misdemeanor and shall be fined not less than
19 ~~twenty-five dollars (\$25) nor \$50 or~~ more than five hundred
20 ~~dollars (\$500), or~~ imprisoned in the county jail for not
21 ~~less than 2 days or~~ more than six (6) months, or both fined
22 ~~and imprisoned.~~ In addition, the person shall ~~in the~~
23 ~~discretion of the court, forfeit~~ be subject to forfeiture of
24 his license and privilege to hunt, fish, or trap within this
25 state ~~for a period of sixteen (16) months from the date of~~

1 ~~conviction according to the point system in sections 7 and~~
2 ~~8 of this act.)~~ FOR A PERIOD OF ~~16~~ NOT LESS THAN 24 MONTHS
3 FROM THE DATE OF CONVICTION.

4 (2) (a) A person convicted of unlawfully taking,
5 killing, possessing, transporting, or wasting of a bighorn
6 sheep, moose, WILD BISON, CARIBOU, MOUNTAIN GOAT, or grizzly
7 bear or any part of these animals shall be fined not less
8 than \$500 or more than \$1,000, imprisoned in the county jail
9 for ~~not less than 5 days or~~ more than 6 months, or both. In
10 addition, that person shall forfeit any current hunting,
11 fishing, or trapping license issued by this state and the
12 privilege to hunt, fish, or trap in this state for 24 NOT
13 LESS THAN 30 months FROM THE DATE OF CONVICTION.

14 (b) A person convicted of unlawfully taking, killing,
15 possessing, OR transporting or wasting of a deer, antelope,
16 ~~wild buffalo, caribou, mountain goat, elk, mountain lion, or~~
17 ~~black bear or any part of these animals, OR WASTING A DEER,~~
18 ANTELOPE, OR ELK, shall be fined not less than \$300 or more
19 than \$1,000, imprisoned in the county jail for not ~~less than~~
20 ~~5 days or~~ more than 6 months, or both. In addition, that
21 person shall forfeit any current hunting, fishing, or
22 trapping license issued by this state and the privilege to
23 hunt, fish, or trap in this state for ~~16~~ NOT LESS THAN 24
24 months FROM THE DATE OF CONVICTION.

25 (c) A person convicted of unlawfully attempting to

REFERENCE BILL

1 trap, take, shoot, or kill a game animal shall be fined not
 2 less than \$200 or more than \$600, imprisoned in the county
 3 jail for not less than 2 days or 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
 7 ANY GAME BIRD, WILD TURKEY, FISH, OR FUR-BEARING ANIMAL OR
 8 ANY PART OF ANY SUCH ANIMAL OR FISH OR OF FAILURE TO TAG A
 9 GAME ANIMAL OR GAME BIRD AS PRESCRIBED BY LAW SHALL BE FINED
 10 NOT LESS THAN \$50 OR MORE THAN \$200 OR IMPRISONED IN THE
 11 COUNTY JAIL FOR NOT MORE THAN 30 DAYS, OR BOTH.

12 (E) A person convicted of hunting, fishing or
 13 trapping while his license is forfeited or his privilege
 14 denied shall be imprisoned in the county jail for not less
 15 than 5 days or more than 6 months. In addition that person
 16 may be fined not less than \$500 or more than \$1,000.

17 (3) No fine or penalty established in this section may
 18 be suspended, deferred, or reduced.

19 (4) When a person is convicted of a violation of any
 20 provision of title 26 or any other state law pertaining to
 21 fish and game or any order or rule of the commission, the
 22 clerk of court shall send notice, within 10 days of the
 23 action to the commission."

24 Section 2v--Section 95-2206v-Rv6vM-1947v is amended to
 25 read as follows:

1 "95-2206v--Sentences--Whenever--any--person--has--been
 2 found guilty of a crime or offense upon a verdict or a plea
 3 of guilty the court may:

4 (1) Defer imposition of sentence for a period not to
 5 exceed one (1) year for any misdemeanors, except as provided
 6 in 26-324v and for a period not to exceed three (3) years
 7 for any felons. The sentencing judge may impose upon the
 8 defendant any reasonable restrictions or conditions during
 9 the period of the deferred imposition. Such reasonable
 10 restrictions or conditions may include:

11 (a) jail base release;
 12 (b) jail time not to exceed ninety (90) days;
 13 (c) conditions for probation;
 14 (d) restitution;
 15 (e) any other reasonable conditions deemed necessary
 16 for rehabilitation or for the protection of society;

17 (f) any combination of the above.
 18 (2) Suspend execution of sentence up to the maximum
 19 sentence allowed for the particular offense, except as
 20 provided in 26-324v. The sentencing judge may impose on the
 21 defendant any reasonable restrictions during the period of
 22 suspended sentence. Such reasonable restrictions may
 23 include:

24 (a) jail base release;
 25 (b) jail time not to exceed (90) days;

~~(c) conditions for probation;~~
~~(d) restitution;~~
~~(e) any other reasonable conditions deemed necessary for rehabilitation or for the protection of society;~~
~~(f) any combination of the above;~~
~~if any restrictions or conditions are violated, any elapsed time, except jail time, shall not be a credit against the sentence, unless the court shall otherwise order;~~
~~(3) impose a fine as provided by law for the offenses;~~
~~(4) commit the defendant to a correctional institution with or without fine by law for the offense;~~
~~(5) impose any combination of subsections (2), (3), or (4) above;~~
~~(6) the district court may also impose any of the following restrictions or conditions on the above sentence which it deems necessary to obtain the objective of rehabilitation and the protection of society:~~
~~(a) prohibit the defendant the right to hold public offices;~~
~~(b) prohibit the defendant the right to own or carry a dangerous weapon;~~
~~(c) prohibit freedom of association;~~
~~(d) prohibit freedom of movement;~~
~~(e) any other limitation reasonably related to the~~

~~objectives of rehabilitation or the protection of society;~~
~~(7) The judge in the justice court shall not have the authority to restrict an individual's rights as enumerated in subsection (6);~~
~~Any judge who has suspended the execution of a sentence or deferred the imposition of a sentence of imprisonment under this section, or his successor, is authorized thereafter, in his discretion, during the period of such suspended sentence or deferred imposition of sentence to revoke such suspension or impose sentence and order such person committed, or may, in his discretion, order the prisoner placed under the jurisdiction of the state board of pardons as provided by law, or retain such jurisdiction with this court. Prior to the revocation of an order suspending or deferring the imposition of sentence, the person affected shall be given a hearing.~~
~~Section 2. Section 26-315, R.C.M. 1947, is amended to read as follows:~~
~~"26-315. Taking deer within boundaries of cities or towns unlawful ---penalty. It shall be is unlawful to shoot, kill, take, or cause to be shot, killed, taken or captured, or to attempt to shoot, kill, take or capture, any deer within the boundaries of any incorporated or unincorporated city or town of this state.~~
~~Any person violating the provisions of this act shall~~

1 ~~be guilty of a misdemeanor and upon conviction thereof~~
 2 ~~shall be punished by a fine of not less than twenty-five~~
 3 ~~dollars --(\$25) nor more than five hundred dollars (\$500), or~~
 4 ~~by imprisonment in the county jail for a period of not less~~
 5 ~~than ten (10) days nor more than one hundred and eighty~~
 6 ~~(180) days, or by both such fine and imprisonment, and in~~
 7 ~~addition thereto shall forfeit his fish and game license for~~
 8 ~~a period of one (1) year."~~

9 Section 3. Section 26-319, R.C.M. 1947, is amended to
 10 read as follows:

11 "~~26-319. Penalty for violating UNLAWFUL TO HUNT DURING~~
 12 ~~closed season on certain game birds -- power of commission~~
 13 ~~to open season. It shall hereafter is be unlawful for any~~
 14 ~~person to hunt, shoot, kill, capture, possess, or cause to~~
 15 ~~be hunted, killed, or captured or attempts attempt to shoot,~~
 16 ~~kill, or capture any quail, Chinese or Mongolian pheasants,~~
 17 ~~commonly called ringneck pheasants, Hungarian partridge,~~
 18 ~~chukar partridge, sage grouse, sharptailed grouse, blue~~
 19 ~~grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan,~~
 20 ~~or wild turkey until such time as the commission shall~~
 21 ~~provide an open season on any quail, Chinese or Mongolian~~
 22 ~~pheasants, commonly called ringneck pheasant, Hungarian~~
 23 ~~partridge, chukar partridge, sage grouse, sharptailed~~
 24 ~~grouse, blue grouse, fool hen, prairie chicken, ruffed~~
 25 ~~grouse, ptarmigan, or wild turkey.~~

1 Any person violating any of the provisions of this act
 2 or any person who has in his possession any of such birds or
 3 any part of any such birds, shall be guilty of a misdemeanor
 4 and upon conviction thereof shall be punished by a fine of
 5 not less than fifty dollars --(\$50.00), nor more than two
 6 hundred fifty dollars --(\$250.00), or by imprisonment in the
 7 county jail for not more than sixty (60) days, or by [both]
 8 such fine and imprisonment."

9 Section 4. Section 26-812, R.C.M. 1947, is amended to
 10 read as follows:

11 "26-812. Forfeiture of license or permit for
 12 ~~littering--activity during suspension--as--misdemeanor.~~ Any
 13 holder of a Montana resident or nonresident fishing or
 14 hunting license, or camping permit convicted of littering
 15 campgrounds, public or private lands, streams, or lakes
 16 while hunting, fishing, or camping shall forfeit his license
 17 and privilege to hunt, fish, camp, or trap within Montana
 18 for a period of ~~one (1) year~~ from the date of conviction.
 19 ~~Any person who hunts, fishes, camps, or traps in Montana~~
 20 ~~while such license and privilege are suspended is guilty of~~
 21 ~~a misdemeanor."~~

22 Section 5. Section 26-1211, R.C.M. 1947, is amended to
 23 read as follows:

24 "26-1211. Enforcement -- penalty -- confiscation or
 25 disposal of illegally kept animals -- appeal. ~~(1)~~ The

1 provisions of this act shall be enforced by any state fish
 2 and game warden or any other legally authorized officer. Any
 3 person violating the provisions of this act shall upon
 4 conviction be punished by a fine of not more than two
 5 hundred fifty dollars (\$250.00) imprisonment for a period
 6 of not more than ten (10) days or both and at the
 7 discretion of the court the permit and all rights and
 8 privileges inherent therein may be forfeited. Upon
 9 conviction for a violation of 26-1205 through 26-1212 the
 10 permit required by 26-1205 through 26-1212 is revoked and
 11 the privilege to purchase a permit is suspended for 16
 12 months ANY PERSON VIOLATING THE PROVISIONS OF THIS ACT
 13 SHALL, UPON CONVICTION, BE PUNISHED AS PROVIDED IN 26-324,
 14 AND AT THE DISCRETION OF THE COURT THE PERMIT AND ALL RIGHTS
 15 AND PRIVILEGES INHERENT THEREIN MAY BE FORFEITED.

16 (2) Any animals being kept in violation of any section
 17 of this act may be confiscated or ordered disposed of at the
 18 discretion of the state fish and game director. The
 19 permittee may appeal to the commission within twenty (20)
 20 days of the date of the order to confiscate and the
 21 commission shall hold a hearing on such an appeal and the
 22 decision of the commission shall be final.*

23 Section 6v--There is a new R6E6v section that reads as
 24 follows*

25 Cancellation and suspension of license and privileges

1 (1) For purposes of this section and [sections 8v, 9v and 10
 2 of this act] the term "license" means any license,
 3 certificate, stamp, card, or permit issued by the department
 4 except outfitters', guides', and taxidermists' licenses, the
 5 cancellation and suspension of which is provided for in
 6 26-919 and 26-920.

7 (2) The commission shall revoke a license and suspend
 8 for a period of 16 months the privilege of purchasing any
 9 license and the benefits, rights, and privileges conferred
 10 by any license if the holder:

- 11 (a) has been convicted of causing a forest fire;
- 12 (b) has been convicted of fraudulent purchase of any
 13 license;
- 14 (c) has caused the death of another person, though not
 15 in a criminal manner, while hunting;
- 16 (d) has illegally taken a deer within the boundaries
 17 of a city or town as prohibited in 26-315; or
- 18 (e) has been convicted of violations of the fish and
 19 game laws of any state so as to have accumulated 10 or more
 20 points within any consecutive 5-year period, as indicated in
 21 the table set forth in [section 8].

22 Section 7v--There is a new R6E6v section that reads as
 23 follows*

24 Point systems--For the purpose of suspending a license
 25 as provided in [section 7], points shall be assessed as

1 follows+

2 {1}--hunting, fishing, or trapping without a proper and
 3 valid license-----10-points

4 {2}--false statement made in connection with the
 5 purchase of any license issued under this title--10-points

6 {3}--hunting migratory waterfowl without a valid
 7 federal duck stamp in possession-----6-points

8 {4}--illegal transfer, sale, gift, loan, or assignment
 9 of any license issued under this title-----6-points

10 {5}--alteration of any license issued under this title
 11 -----10-points

12 {6}--shooting from, upon, or across a public road-----
 13 -----10-points

14 {7}--hunting or fishing in a closed or improper area--
 15 -----6-points

16 {8}--hunting, fishing, or trapping on private property
 17 without permission of the owner-----3-points

18 {9}--hunting before or after hours-----3-points

19 {10}--use of an aircraft or a motor vehicle to take
 20 kill, capture, wound, injure, or harass wildlife--10-points

21 {11}--fishing with an unattended rod-----3-points

22 {12}--fishing with more than one rod-----3-points

23 {13}--hunting with an illegal weapon or unlawful method
 24 of hunting-----4-points

25 {14}--use of unlawful devices in hunting small game or

1 in fishing-----10-points

2 {15}--use of unlawful devices in hunting big game-----
 3 -----10-points

4 {16}--illegal possession of big game-----12-points

5 {17}--illegal possession of small game or fish-----
 6 -----10-points

7 {18}--failure to tag big game-----8-points

8 {19}--failure to have evidence of sex accompanied with
 9 wildlife when necessary-----6-points

10 {20}--waste of fish on which a bag or possession limit
 11 has been set by the commission-----6-points

12 {21}--waste of game meat-----10-points

13 {22}--hunting during a closed season-----6-points

14 {23}--refusing to produce a license or permit for
 15 inspection-----10-points

16 {24}--failure to wear hunter orange garments when
 17 required by law-----10-points

18 {25}--failure to stop at a check station-----10-points

19 {26}--building a fire in a prohibited area-----8-points

20 {27}--illegal possession of bald or golden eagle-----
 21 -----12-points

22 {28}--illegal possession of raptors other than a bald or
 23 golden eagle-----10-points

24 {29}--illegal possession of wildlife listed as
 25 endangered-----10-points

1 ~~{30} failure to notify department of acquisition loss,~~
2 ~~death, release, or transfer of raptor.-----6 points~~
3 ~~{31} transporting a raptor out of the state without a~~
4 ~~valid permit.-----10 points~~
5 ~~{32} acting as an outfitter or guide without a proper~~
6 ~~and valid license under 26-916.-----10 points~~
7 Section 8w--There is a new RvCw section that reads as
8 follows:
9 Multiple violations-----notice to license agents-----
10 renewal--(1) for more than one violation of any offense set
11 forth in [section 8]v the commission, in its discretion,
12 shall:
13 (a) for a second offense, assess twice the number of
14 points listed for the violation;
15 (b) for a third or subsequent offense, assess 4 times
16 the number of points listed for the offense.
17 (2) A suspension of privilege under [section 7] shall
18 be for a period not to exceed 3 years, and any person whose
19 privilege to purchase any license has been suspended is not
20 entitled to purchase any license issued by the department
21 and may not apply for a renewal, reissue, duplicate, or new
22 license until the suspension has expired.
23 (3) Upon suspension, the commission shall give notice
24 of the suspension to the person whose privilege has been
25 suspended by registered or certified mail addressed to the

1 last known address of such person and shall further give
2 written notice to those individuals designated by the
3 commission to act as license agents of the fact of such
4 suspension and the identity of the person whose privilege
5 has been suspended.
6 (4) If any person whose license has been cancelled or
7 whose privilege to purchase any license has been suspended
8 as provided in [section 7] is convicted of exercising or
9 attempting to exercise the benefits conferred by the license
10 during the period of cancellation or suspension, the
11 commission shall renew or extend the period of cancellation
12 or suspension for an additional period of 3 years from the
13 date of conviction.
14 (5) For the purposes of license or privilege
15 revocation or suspension, the payment of a penalty
16 assessment under 26-324 is a conviction of the offense for
17 which the penalty assessment was paid.
18 Section 9v--There is a new RvCw section that reads as
19 follows:
20 Appeal of revocation or suspension of license or
21 privileges--A person whose license or privilege is
22 suspended or revoked may appeal to the district court of the
23 county in which he resides or of Lewis and Clark County for
24 relief.

-End-

SENATE BILL NO. 203

INTRODUCED BY DUNKLE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE PENALTIES FOR FISH AND GAME VIOLATIONS; AMENDING SECTIONS 26-315, 26-319, 26-324, 26-812, AND 26-1211, AND 95-302, AND 95-2206, R.C.M. 1947, AND CREATING A POINT SYSTEM FOR LICENSE REVOCATION."

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

Section 1. Section 26-324, R.C.M. 1947, is amended to read as follows:

"26-324. Penalty Penalties. (1) A person violating any provision of Title 26, any other state law pertaining to fish and game thereto, or the orders or rules and regulations of the commission is, unless a different punishment is expressly provided by law for the violation, guilty of a misdemeanor and shall be fined not less than twenty-five dollars (\$25) nor \$50 or more than five hundred dollars (\$500), or imprisoned in the county jail for not less than 2 days or more than six (6) months, or both fined and imprisoned. In addition, the person shall, in the discretion of the court, forfeit be subject to forfeiture of his license and privilege to hunt, fish, or trap within this state for a period of sixteen (16) months from the date of

conviction according to the point system in [sections 7 and 8 of this act] FOR A PERIOD OF 16 NOT LESS THAN 24 MONTHS FROM THE DATE OF CONVICTION.

(2) (a) A person convicted of unlawfully taking, killing, possessing, transporting, or wasting of a bighorn sheep, moose, WILD BISON, CARIBOU, MOUNTAIN GOAT, or grizzly bear or any part of these animals shall be fined not less than \$500 or more than \$1,000, imprisoned in the county jail for not less than 5 days or more than 6 months, or both. In addition, that person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 NOT LESS THAN 30 months FROM THE DATE OF CONVICTION.

(b) A person convicted of unlawfully taking, killing, possessing, OR transporting or wasting of a deer, antelope, wild buffalo, caribou, mountain goat, elk, mountain lion, or black bear or any part of these animals, OR WASTING A DEER, ANTELOPE, OR ELK, shall be fined not less than \$300 or more than \$1,000, imprisoned in the county jail for not less than 5 days or more than 6 months, or both. In addition, that person shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 16 NOT LESS THAN 24 months FROM THE DATE OF CONVICTION.

(c) A person convicted of unlawfully attempting to

FINAL PRINTING

ADOPTED BY HOUSE OF REPRESENTATIVES AND SENATE

1 ~~trap, take, shoot, or kill a game animal shall be fined not~~
2 ~~less than \$200 or more than \$600, imprisoned in the county~~
3 ~~jail for not less than 2 days or 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~~
7 ~~ANY GAME BIRD, WILD TURKEY, FISH, OR FUR-BEARING ANIMAL OR~~
8 ~~ANY PART OF ANY SUCH ANIMAL OR FISH OR OF FAILURE TO TAG A~~
9 ~~GAME ANIMAL OR GAME BIRD AS PRESCRIBED BY LAW SHALL BE FINED~~
10 ~~NOT LESS THAN \$50 OR MORE THAN \$200 OR IMPRISONED IN THE~~
11 ~~COUNTY JAIL FOR NOT MORE THAN 30 DAYS, OR BOTH.~~

12 ~~(E) A person convicted of hunting, fishing or~~
13 ~~trapping while his license is forfeited or his privilege~~
14 ~~denied shall be imprisoned in the county jail for not less~~
15 ~~than 5 days or more than 6 months. In addition that person~~
16 ~~may be fined not less than \$500 or more than \$1,000.~~

17 ~~(3) No fine or penalty established in this section may~~
18 ~~be suspended, deferred, or reduced.~~

19 ~~(4) When a person is convicted of a violation of any~~
20 ~~provision of Title 26, any other state law pertaining to~~
21 ~~fish and game, or any order or rule of the commission, the~~
22 ~~clerk of court shall send notice within 10 days of the~~
23 ~~action to the commission.~~

24 Section 26 Section 95-2206, RvGwHr-1947, is amended to
25 read as follows:

1 "95-2206--Sentence--Whenever--any--person--has--been
2 found--guilty--of--a--crime--or--offense--upon--a--verdict--or--a--plea
3 of--guilty--the--court--may:

4 (1)--Defer--imposition--of--sentence--for--a--period--not--to
5 exceed--one--(1)--year--for--any--misdemeanor,~~except as provided~~
6 ~~in 26-324, and for a period not to exceed three (3) years~~
7 ~~for any felony. The sentencing judge may impose upon the~~
8 ~~defendant any reasonable restrictions or conditions during~~
9 ~~the period of the deferred imposition. Such reasonable~~
10 ~~restrictions or conditions may include:~~

- 11 (a)--jail--base--release;
- 12 (b)--jail--time--not--to--exceed--ninety--(90)--days;
- 13 (c)--conditions--for--probation;
- 14 (d)--restitution;
- 15 (e)--any--other--reasonable--conditions--deemed--necessary
- 16 ~~for rehabilitation or for the protection of society;~~
- 17 (f)--any--combination--of--the--above;

18 (2)--Suspend--execution--of--sentence--up--to--the--maximum
19 ~~sentence allowed for the particular offense, except as~~
20 ~~provided in 26-324. The sentencing judge may impose on the~~
21 ~~defendant any reasonable restrictions during the period of~~
22 ~~suspended sentence. Such reasonable restrictions may~~
23 ~~include:~~

- 24 (a)--jail--base--release;
- 25 (b)--jail--time--not--to--exceed--(90)--days;

1 ~~(c) conditions for probation;~~
 2 ~~(d) restitution;~~
 3 ~~(e) any other reasonable conditions deemed necessary~~
 4 ~~for rehabilitation or for the protection of society;~~
 5 ~~(f) any combination of the above.~~
 6 ~~If any restrictions or conditions are violated, any~~
 7 ~~elapsed time, except jail time, shall not be a credit~~
 8 ~~against the sentence, unless the court shall otherwise~~
 9 ~~order.~~
 10 ~~(3) Impose a fine as provided by law for the offense;~~
 11 ~~(4) Commit the defendant to a correctional institution~~
 12 ~~with or without fine by law for the offense;~~
 13 ~~(5) Impose any combination of subsections (2), (3), or~~
 14 ~~(4) above;~~
 15 ~~(6) The district court may also impose any of the~~
 16 ~~following restrictions or conditions on the above sentence~~
 17 ~~which it deems necessary to obtain the objective of~~
 18 ~~rehabilitation and the protection of society:~~
 19 ~~(a) prohibit the defendant the right to hold public~~
 20 ~~office;~~
 21 ~~(b) prohibit the defendant the right to own or carry a~~
 22 ~~dangerous weapon;~~
 23 ~~(c) prohibit freedom of association;~~
 24 ~~(d) prohibit freedom of movement;~~
 25 ~~(e) any other limitation reasonably related to the~~

1 ~~objectives of rehabilitation or the protection of society;~~
 2 ~~(7) The judge in the justice court shall not have the~~
 3 ~~authority to restrict an individual's rights as enumerated~~
 4 ~~in subsection (6).~~
 5 ~~Any judge who has suspended the execution of a sentence~~
 6 ~~or deferred the imposition of a sentence of imprisonment~~
 7 ~~under this section, or his successor, is authorized~~
 8 ~~thereafter, in his discretion, during the period of such~~
 9 ~~suspended sentence or deferred imposition of sentence to~~
 10 ~~revoke such suspension or impose sentence and order such~~
 11 ~~person committed, or may, in his discretion, order the~~
 12 ~~prisoner placed under the jurisdiction of the state board of~~
 13 ~~pardons as provided by law or retain such jurisdiction with~~
 14 ~~this courts. Prior to the revocation of an order suspending~~
 15 ~~or deferring the imposition of sentence, the person affected~~
 16 ~~shall be given a hearing."~~
 17 ~~Section 2. Section 26-315, R.C.M. 1947, is amended to~~
 18 ~~read as follows:~~
 19 ~~"26-315. Taking deer within boundaries of cities or~~
 20 ~~towns unlawful ---penalty. It shall be is unlawful to shoot,~~
 21 ~~kill, take, or cause to be shot, killed, taken or captured;~~
 22 ~~or to attempt to shoot, kill, take or capture, any deer~~
 23 ~~within the boundaries of any incorporated or unincorporated~~
 24 ~~city or town of this state.~~
 25 ~~Any person violating the provisions of this act shall~~

1 be guilty of a misdemeanor, and upon conviction thereof
 2 shall be punished by a fine of not less than twenty five
 3 dollars ~~{ \$25 }~~ nor more than five hundred dollars ~~{ \$500 }~~, or
 4 by imprisonment in the county jail for a period of not less
 5 than ten ~~{ 10 }~~ days nor more than one hundred and eighty
 6 ~~{ 180 }~~ days, or by both such fine and imprisonment, and in
 7 addition thereto shall forfeit his fish and game license for
 8 a period of one ~~{ 1 }~~ year."

9 Section 3. Section 26-319, R.C.M. 1947, is amended to
 10 read as follows:

11 "~~26-319. Penalty for violating UNLAWFUL TO HUNT DURING~~
 12 closed season on certain game birds -- power of commission
 13 to open season. It shall hereafter ~~is~~ be unlawful for any
 14 person to hunt, shoot, kill, capture, ~~possess~~, or cause to
 15 be hunted, killed, or captured or ~~attempts attempt~~ to shoot,
 16 kill, or capture any quail, Chinese or Mongolian pheasants,
 17 commonly called ringneck pheasants, Hungarian partridge,
 18 chukar partridge, sage grouse, sharptailed grouse, blue
 19 grouse, fool hen, prairie chicken, ruffed grouse, ptarmigan,
 20 or wild turkey until such time as the commission shall
 21 provide an open season on any quail, Chinese or Mongolian
 22 pheasants, commonly called ringneck pheasant, Hungarian
 23 partridge, chukar partridge, sage grouse, sharptailed
 24 grouse, blue grouse, fool hen, prairie chicken, ruffed
 25 grouse, ptarmigan, or wild turkey.

1 Any person violating any of the provisions of this act
 2 or any person who has in his possession any of such birds or
 3 any part of any such birds, shall be guilty of a misdemeanor
 4 and upon conviction thereof shall be punished by a fine of
 5 not less than fifty dollars ~~{ \$50 }~~, nor more than two
 6 hundred fifty dollars ~~{ \$250 }~~, or by imprisonment in the
 7 county jail for not more than sixty ~~{ 60 }~~ days, or by ~~[both]~~
 8 such fine and imprisonment."

9 Section 4. Section 26-812, R.C.M. 1947, is amended to
 10 read as follows:

11 "~~26-812. Forfeiture of license or permit for~~
 12 littering ~~activity during suspension as misdemeanor.~~ Any
 13 holder of a Montana resident or nonresident fishing or
 14 hunting license, or camping permit convicted of littering
 15 campgrounds, public or private lands, streams, or lakes
 16 while hunting, fishing, or camping shall forfeit his license
 17 and privilege to hunt, fish, camp, or trap within Montana
 18 for a period of one ~~{ 1 }~~ year from the date of conviction.
 19 ~~Any person who hunts, fishes, camps or traps in Montana~~
 20 ~~while such license and privilege are suspended is guilty of~~
 21 ~~a misdemeanor."~~

22 Section 5. Section 26-1211, R.C.M. 1947, is amended to
 23 read as follows:

24 "~~26-1211. Enforcement -- penalty -- confiscation or~~
 25 disposal of illegally kept animals -- appeal. ~~{ 1 }~~ The

1 provisions of this act shall be enforced by any state fish
 2 and game warden or any other legally authorized officer. Any
 3 person violating the provisions of this act shall, upon
 4 conviction, be punished by a fine of not more than two
 5 hundred fifty dollars ~~(\$250.00)~~, imprisonment for a period
 6 of not more than ten ~~(10)~~ days, or both, and at the
 7 discretion of the court the permit and all rights and
 8 privileges inherent therein may be forfeited. Upon
 9 conviction for a violation of 26-1205 through 26-1212, the
 10 permit required by 26-1205 through 26-1212 is revoked and
 11 the privilege to purchase a permit is suspended for 16
 12 months ANY PERSON VIOLATING THE PROVISIONS OF THIS ACT
 13 SHALL, UPON CONVICTION, BE PUNISHED AS PROVIDED IN 26-324.
 14 AND AT THE DISCRETION OF THE COURT THE PERMIT AND ALL RIGHTS
 15 AND PRIVILEGES INHERENT THEREIN MAY BE FORFEITED.

16 (2) Any animals being kept in violation of any section
 17 of this act may be confiscated or ordered disposed of at the
 18 discretion of the state fish and game director. The
 19 permittee may appeal to the commission within twenty ~~(20)~~
 20 days of the date of the order to confiscate and the
 21 commission shall hold a hearing on such an appeal and the
 22 decision of the commission shall be final."

23 Section 6~~4~~ there is a new R~~6~~V~~6~~M~~4~~ section that reads as
 24 follows:

25 Cancellation and suspension of license and privileges:

1 ~~(1) for purposes of this section and [sections 8, 9, and 10~~
 2 ~~of this act], the term "license" means any license,~~
 3 ~~certificate, stamp, card, or permit issued by the department~~
 4 ~~except outfitters', guides', and taxidermists' licenses, the~~
 5 ~~cancellation and suspension of which is provided for in~~
 6 ~~26-919 and 26-920.~~

7 ~~(2) The commission shall revoke a license and suspend~~
 8 ~~for a period of 16 months, the privilege of purchasing any~~
 9 ~~license and the benefits, rights, and privileges conferred~~
 10 ~~by any license if the holder:~~

11 ~~(a) has been convicted of causing a forest fire;~~

12 ~~(b) has been convicted of fraudulent purchase of any~~
 13 ~~license;~~

14 ~~(c) has caused the death of another person, though not~~
 15 ~~in a criminal manner, while hunting;~~

16 ~~(d) has illegally taken a deer within the boundaries~~
 17 ~~of a city or town as prohibited in 26-315; or~~

18 ~~(e) has been convicted of violations of the fish and~~
 19 ~~game laws of any state so as to have accumulated 10 or more~~
 20 ~~points within any consecutive 5-year period, as indicated in~~
 21 ~~the table set forth in [section 8].~~

22 Section 7~~4~~ There is a new R~~6~~V~~6~~M~~4~~ section that reads as
 23 follows:

24 Point system: For the purpose of suspending a license
 25 as provided in [section 7], points shall be assessed as

1 follows

2 {1}--hunting, fishing, or trapping without a proper and
 3 valid license-----10 points

4 {2}--false statement made in connection with the
 5 purchase of any license issued under this title--10 points

6 {3}--hunting migratory waterfowl without a valid
 7 federal duck stamp in possession-----6 points

8 {4}--illegal transfers, sale, gift, loan, or assignment
 9 of any license issued under this title-----6 points

10 {5}--alteration of any license issued under this title
 11 -----10 points

12 {6}--shooting from, upon, or across a public road-----
 13 -----10 points

14 {7}--hunting or fishing in a closed or improper area--
 15 -----6 points

16 {8}--hunting, fishing, or trapping on private property
 17 without permission of the owner-----3 points

18 {9}--hunting before or after hours-----3 points

19 {10}--use of an aircraft or a motor vehicle to take
 20 kill, capture, wound, injure, or harass wildlife--10 points

21 {11}--fishing with an unattended rod-----3 points

22 {12}--fishing with more than one rod-----3 points

23 {13}--hunting with an illegal weapon or unlawful method
 24 of hunting-----4 points

25 {14}--use of unlawful devices in hunting small game or

1 in fishing-----10 points

2 {15}--use of unlawful devices in hunting big game-----
 3 -----10 points

4 {16}--illegal possession of big game-----12 points

5 {17}--illegal possession of small game or fish-----
 6 -----10 points

7 {18}--failure to tag big game-----8 points

8 {19}--failure to have evidence of sex accompanied with
 9 wildlife when necessary-----6 points

10 {20}--waste of fish on which a bag or possession limit
 11 has been set by the commission-----6 points

12 {21}--waste of game meat-----10 points

13 {22}--hunting during a closed season-----6 points

14 {23}--refusing to produce a license or permit for
 15 inspection-----10 points

16 {24}--failure to wear hunter orange garments when
 17 required by law-----10 points

18 {25}--failure to stop at a check station-----10 points

19 {26}--building a fire in a prohibited area-----8 points

20 {27}--illegal possession of bald or golden eagle-----
 21 -----12 points

22 {28}--illegal possession of raptors other than a bald or
 23 golden eagle-----10 points

24 {29}--illegal possession of wildlife listed as
 25 endangered-----10 points

1 ~~{30} failure to notify department of acquisition, loss,~~
2 ~~death, release, or transfer of raptor, 6 points~~
3 ~~{31} transporting a raptor out of the state without a~~
4 ~~valid permit, 10 points~~
5 ~~{32} acting as an outfitter or guide without a proper~~
6 ~~and valid license under 26-916, 10 points~~
7 Section 8. There is a new R.C.M. section that reads as
8 follows:
9 Multiple violations --- notice to license agents ---
10 renewals --- {1} For more than one violation of any offense set
11 forth in [section 8], the commission, in its discretion,
12 shall:
13 {a} for a second offense, assess twice the number of
14 points listed for the violation;
15 {b} for a third or subsequent offense, assess 4 times
16 the number of points listed for the offenses;
17 {2} A suspension of privilege under [section 7] shall
18 be for a period not to exceed 3 years, and any person whose
19 privilege to purchase any license has been suspended is not
20 entitled to purchase any license issued by the department
21 and may not apply for a renewal, reissue, duplicate, or new
22 license until the suspension has expired.
23 {3} Upon suspension, the commission shall give notice
24 of the suspension to the person whose privilege has been
25 suspended by registered or certified mail addressed to the

1 last known address of such person and shall further give
2 written notice to those individuals designated by the
3 commission to act as license agents of the fact of such
4 suspension and the identity of the person whose privilege
5 has been suspended.
6 {4} If any person whose license has been cancelled or
7 whose privilege to purchase any license has been suspended
8 as provided in [section 7] is convicted of exercising or
9 attempting to exercise the benefits conferred by the license
10 during the period of cancellation or suspension, the
11 commission shall renew or extend the period of cancellation
12 or suspension for an additional period of 3 years from the
13 date of conviction.
14 {5} For the purposes of license or privilege
15 revocation or suspension, the payment of a penalty
16 assessment under 26-324 is a conviction of the offense for
17 which the penalty assessment was paid.
18 Section 10. There is a new R.C.M. section that reads
19 as follows:
20 Appeal of revocation or suspension of license or
21 privileges. A person whose license or privilege is
22 suspended or revoked may appeal to the district court of the
23 county in which he resides or of Lewis and Clark County for
24 relief.
25 SECTION 6. SECTION 95-302, R.C.M. 1947, IS AMENDED TO

1 READ AS FOLLOWS:

2 "95-302. Jurisdiction of the justice of the peace
3 courts. The justices' courts have:

4 (a) Jurisdiction of all misdemeanors punishable by a
5 fine not exceeding ~~five-hundred-dollars-(\$500.00)~~ or
6 imprisonment not exceeding ~~six-(6)~~ months, or both such fine
7 and imprisonment, and of all violations of fish and game
8 statutes punishable by a fine of not more than \$1,000 or
9 imprisonment for not more than 6 months, or both; excluding
10 jurisdiction in cases commenced under the Montana Dangerous
11 Drug Act except to act as examining and committing courts
12 and to conduct preliminary hearings as provided in
13 subsection (c).

14 (b) Concurrent jurisdiction, with district courts, of
15 all misdemeanors punishable by a fine only, not exceeding
16 ~~fifteen-hundred-dollars-(\$1,500.00);~~ and

17 (c) Jurisdiction to act as examining and committing
18 courts and for such purpose to conduct preliminary
19 hearings."

-End-