

CHAPTER NO. 704

SENATE BILL NO. 497

INTRODUCED BY VAN VALKENBURG

IN THE SENATE

| | |
|-------------------|--|
| February 13, 1979 | Introduced and referred to Committee on Fish and Game. |
| February 15, 1979 | Fiscal note requested. |
| February 20, 1979 | Committee recommend bill do pass as amended. Report adopted. |
| | Statement of intent adopted. |
| February 21, 1979 | Fiscal note returned. |
| February 22, 1979 | Printed and placed on members' desks. |
| February 23, 1979 | Second reading, do pass as amended. |
| | Correctly engrossed. |
| | On motion rules suspended. Bill placed on calendar for third reading this day. |
| | Third reading, passed. Transmitted to second house. |

IN THE HOUSE

| | |
|-------------------|---|
| February 27, 1979 | Introduced and referred to Committee on Fish and Game. |
| March 9, 1979 | Committee recommend bill be concurred in as amended. Report adopted. |
| March 13, 1979 | Second reading, concurred in. |
| March 15, 1979 | On motion taken from third reading and referred to second reading. |

IN THE SENATE

On motion Joint Conference Committee requested.

On motion Free Conference Committee requested and appointed.

April 4, 1979 Free Conference Committee reported.

Adopted by second house.

April 7, 1979 Sent to enrolling.

Reported correctly enrolled.

Senate BILL NO. 497
INTRODUCED BY *Van Vollenhoven*

1 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PERMIT
2 SYSTEM FOR THE AERIAL HUNTING OF PREDATORY ANIMALS;
3 FORBIDDING THE HARASSMENT OF LIVESTOCK BY AIRCRAFT;
4 PROVIDING PENALTIES, INCLUDING FORFEITURE OF PERSONAL
5 PROPERTY, FOR ILLEGAL AERIAL HUNTING OF WILDLIFE; AND
6 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

8 Section 1. Aerial hunting prohibited -- exceptions.
9 (1) Except as provided in [section 7], no person except an
10 employee of the state, its subdivisions, or the federal
11 government, acting within the scope of his employment may
12 engage in the aerial hunting of wild animals as defined in
13 87-7-101 without first obtaining a permit from the
14 department of livestock. The permit must specify the species
15 of wild animals to be hunted and the areas over which aerial
16 hunting may take place.

17 (2) No person issued a permit as required by this
18 section may engage in aerial hunting of wild animals in
19 violation of the terms of his permit.

20 Section 2. Use of personal property for illegal aerial
21 hunting prohibited. When a permit is required under [section

22 1], the use of any aircraft or other personal property,
23 including motor vehicles and other personal property used on
24 the ground in support of aerial hunting activities, for the
25 aerial hunting of any wildlife is prohibited except when
done pursuant to the terms of the permit.

26 Section 3. Prohibition against harassing livestock. No
27 person, whether or not lawfully authorized to aerially hunt,
28 may, while engaged in flying an aircraft, knowingly harass,
29 injure, or attempt to injure any livestock except with the
30 express permission of the owner of the livestock. Flying
31 near livestock at an altitude of less than 500 feet creates
32 a rebuttable presumption of intent to harass.

33 Section 4. Rulemaking authority. The department of
34 livestock may adopt rules to effectuate the purposes of
35 [this act] and to implement and conduct the aerial hunting
36 permit system provided for by [this act]. Such rules may
37 include:

38 (1) limits on the number of permits issued for a
39 specific area of land;
40 (2) limits on the distance from home base that a
41 permitted aerial hunter is able to hunt;
42 (3) reasonable experience qualifications for pilots
43 and gunners;
44 (4) standards for determining when a nonresident may
45 be issued a permit under [section 6];

1 (5) standards for the issuance of a permit based upon
 2 actual or potential livestock losses due to predation;

3 (6) reports required of permittees; and

4 (7) such other matters as may be necessary to
 5 effectuate the purposes of [this act] and reduce loss to
 6 livestock or game due to predation.

7 Section 5. Duration of permit -- fee. Each permit
 8 shall be valid for a period set by the department of
 9 livestock not to exceed 3 years and shall cost \$50 a year or
 10 portion thereof if a period of less than a year is set. All
 11 fees for permits shall be paid to the department of
 12 livestock for deposit in the state treasury to the credit of
 13 the earmarked revenue fund for predatory animal control.

14 Section 6. Residency requirement. No person not having
 15 residence and domicile in Montana may be issued a permit
 16 provided for in [section 1] except when authorized by the
 17 board of livestock. Permits may be issued to nonresidents
 18 for use only in Montana counties adjacent to the stateline
 19 if the department considers that such counties are
 20 inadequately serviced by resident permittees; or to
 21 nonresidents who are owners of land in Montana who wish to
 22 engage in aerial hunting only over their own property.

23 Section 7. Resident landowners authorized to aerially
 24 hunt over their own lands without permit -- conditions. Any
 25 landowner having residence and domicile in Montana may

1 engage in the aerial hunting of wild animals, as defined in
 2 81-7-101, with his own aircraft and over his own land
 3 without a permit, provided he first notifies the department
 4 in writing that he will be engaged in aerial hunting and
 5 gives an adequate description of the location of the land
 6 over which he will aerial hunt. Such notification must be
 7 made annually.

8 Section 8. Penalties -- jurisdiction -- revocation of
 9 permit. (1) Any person violating [sections 1 or 3] is guilty
 10 of a misdemeanor and upon conviction is punishable by a fine
 11 of not less than \$250 or more than \$1000 or by imprisonment
 12 in the county jail for a period not to exceed 6 months, or
 13 both.

14 (2) The justice court has jurisdiction over such
 15 violations.

16 (3) The department may revoke or suspend the permit of
 17 anyone violating its terms.

18 Section 9. Forfeiture of personal property used in
 19 illegal aerial hunting or harassment of livestock. (1) Any
 20 aircraft or other personal property used in the air or on
 21 the ground in support of aerial activity in violation of
 22 [sections 1 through 3] or 87-3-126 shall be forfeited to and
 23 confiscated by the state, along with any carcasses or pelts
 24 taken in violation of [this act]. If any property is
 25 observed in such use or if there exists probable cause to

1 believe it to have been or to be devoted wholly or in part
2 to such use, the property shall be seized and held by
3 enforcement officers set forth in [section 10]. Upon
4 conviction in a proceeding in district court in the name of
5 the state against the owner or user of such personal
6 property, the personal property shall be confiscated and
7 sold at sheriff's sale.

8 (2) This section does not apply to personal property
9 that has been stolen prior to the illegal use when the
10 lawful owner is not in collusion with the party or parties
11 involved in the illegal use.

12 Section 10. Enforcement. (1) Investigations of
13 violations of [this act], arrests, and seizures may be made
14 by any peace officer, fish and game warden, or agent of the
15 department designated by the department.

16 (2) To enforce [this act], the department may enter
17 into agreement with federal agencies with predatory animal
18 control. Such agreements may allow the federal agency to
19 assist in investigations, arrests, and seizures.

20 Section 11. Codification. Sections 1 through 10 in
21 this act are intended to be codified as an integral part of
22 Title 81, chapter 7, and the provisions contained in Title
23 81, chapter 7, apply to these sections.

24 Section 12. Effective date. This act is effective on
25 passage and approval.

STATE OF MONTANA

Request No. 381-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 15, 1979, there is hereby submitted a Fiscal Note for Senate Bill 497 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 497 is legislation proposed to provide for a permit system for the aerial hunting of predatory animals; forbidding the harassment of livestock by aircraft; providing penalties, including forfeiture of personal property, for illegal aerial hunting of wildlife; and providing an immediate effective date.

ASSUMPTIONS:

Four additional game wardens would be requested in Fish and Game Regions 4 (Great Falls), 5 (Billings), 6 (Glasgow), and 7 (Miles City), to investigate complaints and process citations through the court system.

FISCAL IMPACT:

| | <u>FY 80</u> | <u>FY 81</u> |
|---|-----------------|-----------------|
| Proposed law | | |
| Personal services | \$54,737 | \$56,023 |
| Operating expenses | <u>22,000</u> | <u>22,000</u> |
| Total expenditures under proposed law | <u>76,737</u> | <u>78,023</u> |
| Expenditures under current law | <u>19,488</u> | <u>19,817</u> |
| Increased expenditures under proposed law | <u>\$57,249</u> | <u>\$58,206</u> |

Proposed law will increase revenue to the predator fund approximately \$4,000 each year.

Carolyn Daering, Jr.
BUDGET DIRECTOR
Office of Budget and Program Planning
Date: _____

MR

1 STATEMENT OF INTENT RE: SB 497

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4 Section 4 of this bill requires the Department of
5 Livestock to adopt rules regulating aerial hunting. It is
6 the intent of this bill that any rules so adopted not
7 interfere with the needs of livestock producers protecting
8 their livestock for predation. At the same time it is the
9 intent of this bill that such rules protect the interests of
10 persons who do not wish aerial hunting to occur over land in
11 their control. Finally, such rules shall reflect the purpose
12 that aerial hunting is permitted for the purpose of reducing
13 livestock losses due to predation.

14 Approved by the SENATE COMMITTEE OF FISH AND GAME on
15 February 20, 1979.

SB 497

SENATE BILL NO. 497
INTRODUCED BY VAN VALKENBURG

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PERMIT
5 SYSTEM FOR THE AERIAL HUNTING OF PREDATORY ANIMALS;
6 FORBIDDING THE HARASSMENT OF LIVESTOCK BY AIRCRAFT;
7 PROVIDING PENALTIES---INCLUDING--FORFEITURE--OF--PERSONAL
8 PROPERTY--FOR--ILLEGAL--AERIAL--HUNTING--OF--WILDLIFE--AND
9 PROVIDING AN IMMEDIATE-EFFECTIVE-DATE."

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

12 Section 1. Aerial hunting prohibited -- exceptions.
13 (1) Except as provided in [section 7], no person except an
14 employee of the state, its subdivisions, or the federal
15 government, acting within the scope of his employment may
16 engage in the aerial hunting of wild animals as defined in
17 87-7-101 through 81-7-101 without first obtaining a permit from the
18 department of livestock. The permit must specify the species
19 of wild animals to be hunted and the areas over which aerial
20 hunting may take place.

21 (2) No person issued a permit as required by this
22 section may engage in aerial hunting of wild animals in
23 violation of the terms of his permit, THE RULES PROMULGATED
24 BY THE BOARD OF LIVESTOCK, OR THE TERMS OF [THIS ACT].

25 Section 2. Use of personal property for illegal aerial

1 hunting prohibited. When-a-permit-is-required-under-[section
2 §]r-the IHE use of any aircraft or other personal property,
3 including motor vehicles and other personal property used on
4 the ground in support of aerial hunting activities, for the
5 aerial hunting of any wildlife is prohibited except when
6 done pursuant to the--terms-of-the A permit ISSUED BY THE
7 DEPARTMENT OF LIVESTOCK.

8 Section 3. Prohibition against harassing livestock. No
9 person, whether or not lawfully authorized to aerially hunt,
10 may, while engaged in flying an aircraft, knowingly harass,
11 injure, or attempt to injure any livestock except with the
12 express permission of the owner of the livestock. Flying
13 near--livestock-at-an-altitude-of-less-than-500-feet-creates
14 a rebuttable presumption of intent to harass.

15 Section 4. Rulemaking authority. The department of
16 livestock may SHALL adopt rules to effectuate the purposes
17 of [this act] and to implement and conduct the aerial
18 hunting permit system provided for by [this act]. Such rules
19 may include:

20 (1) Limits on the number of permits issued for a
21 specific area of land;

22 (2) traits-on-the--distance--from--home--base--that--a
23 permitted-aeriel-hunter-is-able-to-hunt THE SPECIES OF WILD
24 ANIMALS TO BE HUNTED;

25 (3) reasonable experience qualifications for pilots

1 and gunners;

2 (4) standards for determining when a nonresident may
3 be issued a permit under [section 6];

4 (5) standards for the issuance of a permit based upon
5 actual-or-potential livestock losses due to predation;

6 (6) reports required of permittees; and

7 (7) such other matters as may be necessary to
8 effectuate the purposes of [this act] and reduce loss to
9 livestock or game due to predation.

10 Section 5. Duration of permit -- fee. Each permit
11 shall be valid for a period set by the department of
12 livestock not to exceed 3 years and shall cost \$50 a year or
13 portion thereof if a period of less than a year is set. All
14 fees for permits shall be paid to the department of
15 livestock for deposit in the state treasury to the credit of
16 the earmarked revenue fund for predatory animal control.

17 Section 6. Residency requirement. No person not having
18 residence and domicile in Montana may be issued a permit
19 provided for in [section 1] except when authorized by the
20 board of livestock. Permits may be issued to nonresidents
21 for use only in Montana-counties-adjacent-to-the-state-line
22 if AREAS WHICH the department considers that such counties
23 are inadequately serviced by resident permittees, or to
24 nonresidents who are owners of land in Montana who wish to
25 engage in aerial hunting only over their own property.

1 Section 7. Resident landowners authorized to aerially
2 hunt over their own lands without permit -- conditions. Any
3 landowner having residence and domicile in Montana may
4 engage in the aerial hunting of wild animals, as defined in
5 81-7-101, with-his-own-aircraft-and over his own land
6 without a permit, provided he first ANNUALLY notifies the
7 department in writing that he will be engaged in aerial
8 hunting and gives an adequate description of the location of
9 the land over which he will aerial hunt. Such notification
10 must-be-made-annually HUNTING MUST BE IN ACCORDANCE WITH ALL
11 RULES OF THE DEPARTMENT OF LIVESTOCK.

12 Section 8. Penalties -- jurisdiction -- revocation of
13 permit. (1) Any person violating [sections--1--or--3] ANY
14 PROVISION OF [THIS ACT] is guilty of a misdemeanor and upon
15 conviction--is-punishable-by-a-fine-of-not-less-than-\$250-or
16 more-than-\$1000-or-by-imprisonment-in-the-county-jail-for-a
17 period-not-to-exceed-6-months-or-both.

18 121. (a) A CONVICTION FOR A VIOLATION OF [SECTION 1(1)]
19 IS PUNISHABLE BY A FINE OF NOT LESS THAN \$500 OR MORE THAN
20 \$1,000 OR BY IMPRISONMENT IN THE COUNTY JAIL FOR A PERIOD
21 NOT TO EXCEED 6 MONTHS OR BOTH. A SUBSEQUENT CONVICTION IS
22 PUNISHABLE BY A FINE OF NOT LESS THAN \$1,000 OR MORE THAN
23 \$1,500 OR BY IMPRISONMENT IN THE COUNTY JAIL FOR A PERIOD
24 NOT TO EXCEED ONE YEAR.

25 181. A CONVICTION FOR A VIOLATION OF PROVISIONS OF

1 [THIS ACT] OTHER THAN [SECTION 1(1)] SHALL BE PUNISHABLE BY
 2 FINE OF NOT MORE THAN \$500 OR BY IMPRISONMENT IN THE COUNTY
 3 JAIL FOR A PERIOD NOT TO EXCEED 6 MONTHS, OR BOTH. A
 4 SUBSEQUENT CONVICTION SHALL BE PUNISHABLE BY A FINE OF NOT
 5 LESS THAN \$250 AND NOT MORE THAN \$500 OR BY IMPRISONMENT IN
 6 THE COUNTY JAIL FOR A PERIOD NOT TO EXCEED 6 MONTHS.

7 ~~131~~ The justice court has jurisdiction over such
 8 violations.

9 ~~131~~ The department may revoke or suspend the permit
 10 of anyone violating its terms.

11 Section 9. --Forfeiture-of--personal--property--used--in
 12 ~~131~~--illegal--hunting--or--harassment--of--livestock--. Any
 13 aircraft--or--other--personal--property--used--in--the--air--or--on
 14 the--ground--in--support--of--illegal--activity--in--violation--of
 15 [sections 1 through 3] or 67-3-126 shall be forfeited to and
 16 confiscated by the state, along with any carcasses or pets
 17 taken--in--violation--of--[this--act]--. If--any--property--is
 18 observed--in--such--use--or--if--there--exists--probable--cause--to
 19 believe--it--to--have--been--or--to--be--devoted--wholly--or--in--part
 20 to--such--use--the--property--shall--be--seized--and--held--by
 21 enforcement--officers--set--forth--in--[section 18]--. Upon
 22 conviction--in--a--proceeding--in--district--court--in--the--name--of
 23 the--state--against--the--owner--or--user--of--such--personal
 24 property, the personal property shall be confiscated--and
 25 sold at sheriff's sale.

1 ~~131~~--This--section--does--not--apply--to--personal--property
 2 that--has--been--stolen--prior--to--the--illegal--use--when--the
 3 lawful--owner--is--not--in--collusion--with--the--party--or--parties
 4 involved--in--the--illegal--use.

5 Section 9. Enforcement. (1) Investigations of
 6 violations of [this act], arrests, and seizures may be made
 7 by any peace officer, fish and game warden, or agent of the
 8 department designated by the department.

9 (2) To enforce [this act], the department may enter
 10 into agreement with federal agencies with predatory animal
 11 control. Such agreements may allow the federal agency to
 12 assist in investigations, arrests, and seizures.

13 Section 10. Codification. Sections 1 through 9 in
 14 this act are intended to be codified as an integral part of
 15 Title 81, chapter 7, and the provisions contained in Title
 16 81, chapter 7, apply to these sections.

17 Section 12. --Effective-date--. This act is effective on
 18 passage and approval.

-End-

SENATE BILL NO. 497
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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PERMIT
5 SYSTEM FOR THE AERIAL HUNTING OF PREDATORY ANIMALS
6 FORBIDDING--THE--HARASSMENT--OF--LIVESTOCK--BY--AIRCRAFT
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8 PROPERTY--FOR--ILLEGAL--AERIAL--HUNTING--OF--WILDLIFE--AND
9 PROVIDING--AN--IMMEDIATE--EFFECTIVE--DATE."

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

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14 employee of the state, its subdivisions, or the federal
15 government, acting within the scope of his employment may
16 engage in the aerial hunting of wild animals as defined in
17 87-7-101 through 81-7-101 without first obtaining a permit from the
18 department of livestock. The permit must specify the species
19 of wild animals to be hunted and the areas over which aerial
20 hunting may take place.

21 (2) No person issued a permit as required by this
22 section may engage in aerial hunting of wild animals in
23 violation of the terms of his permit, THE RULES PROMULGATED
24 BY THE BOARD OF LIVESTOCK, OR THE TERMS OF THIS ACT.

25 Section-2--Use-of-personal-property-for-titengat-aerial

1 hunting--prohibited---When--a--permit--is--required--under
2 {section--t}--the THE use-of-any-aircraft-or-other-personal
3 property--including--motor--vehicles--and--other--personal
4 property--used--on--the--ground-in-support-of-aerial-hunting
5 activities--for--the--aerial--hunting--of--any--wildlife--is
6 prohibited--except--when-done-pursuant-to-the-terms-of-the a
7 permit ISSUED-BY-THE-DEPARTMENT-OF-LIVESTOCK

8 Section 3--Prohibition--against--harassing--livestock
9 No--person--whether--or--not--lawfully--authorized--to--aerially
10 hunt--may--while--engaged--in--flying--on--aircrafts--knowingly
11 harass--injure--or--attempt--to--injure--any--livestock--except
12 with--the--express--permission--of--the--owner--of--the--livestock
13 Flying--near--livestock--at--an--altitude--of--less--than--500--feet
14 creates--a--rebuttable--presumption--of--intent--to--harass--

15 Section 2. Rulemaking authority. The department of
16 livestock ~~may~~ MAY adopt rules to effectuate the
17 purposes of {this act} and to implement and conduct the
18 aerial hunting permit system provided for by {this act}.
19 Such--rules--may--include--

20 {1}--limits--on--the--number--of--permits--issued--for--a
21 specific--area--of--land
22 {2}--limits--on--the--distance--from--home--base--that--a
23 permitted--aerial--hunter--is--able--to--hunt THE-SPECIES-OF-WILD
24 ANIMALS-IN-BE-HUNTING

25 {3}--reasonable--experience--qualifications--for--a--total

1 end-gunnerat
 2 44--standards--for--determining-when-a-nonresident-may
 3 be-issued-a-permit-under-[section-6]t
 4 55--standards-for-the-issuance-of-a-permit-based--upon
 5 actual-or-potential-livestock-losses-due-to-predation
 6 66--reports-required-of-permittees--and
 7 77--such---other---matters--as--may--be--necessary--to
 8 effectuate-the-purposes-of-[this-act]--and--reduce--loss--to
 9 livestock-or-game-due-to-predation.

10 Section 3. Duration of permit -- fee. Each permit
 11 shall be valid for a period set by the department of
 12 livestock not to exceed 3 years and shall cost \$50 a-year or
 13 portion thereof if a period of less than a year is set. All
 14 fees for permits shall be paid to the department of
 15 livestock for deposit in the state treasury to the credit of
 16 the earmarked revenue fund for predatory animal control.

17 Section 4. Residency requirement. No person not having
 18 residence and domicile in Montana may be issued a permit
 19 provided for in [section 1] except when authorized by the
 20 board of livestock. Permits-may-be-issued-to-nonresidents
 21 for-use-only-in-Montana-counties-adjacent-to--the--stateline
 22 if ABEAS--WHICH the-department-considers-that-such-counties
 23 are-inadequately-serviced--by--resident--permittees--or--to
 24 nonresidents--who--are-owners-of-land-in-Montana-who-wish-to
 25 engage-in-aerial-hunting-only-over-their-own-property.

1 Section 5. Resident landowners authorized to aerially
 2 hunt over their own lands without permit -- conditions. Any
 3 landowner having residence and domicile in Montana may
 4 engage in the aerial hunting of wild animals, as defined in
 5 81-7-101, with-his--own--aircraft--and over his own land
 6 without a permit, provided he first ANNUALLY notifies the
 7 department in writing that he will be engaged in aerial
 8 hunting and gives an adequate description of the location of
 9 the land over which he will aerial hunt. Such notification
 10 must-be-made-annually HUNTING MUST BE IN ACCORDANCE WITH ALL
 11 RULES OF THE DEPARTMENT OF LIVESTOCK.

12 Section 6. Penalties -- jurisdiction -- revocation of
 13 permit. (1) Any person violating [sections--1-or-3] ANY
 14 PROVISION OF [THIS ACT] is guilty of a misdemeanor, and upon
 15 conviction-is-punishable-by-a-fine-of-not-less-than-\$250--or
 16 more--than-\$1000--or-by-imprisonment-in-the-county-jail-for-a
 17 period-not-to-exceed-6-months--or-both.

18 121--1A CONVICTION FOR A VIOLATION OF [SECTION 1111]
 19 IS PUNISHABLE BY A FINE OF NOT LESS THAN \$500 OR MORE THAN
 20 \$1000 \$500a OR--BY--IMPRISONMENT-IN-THE-COUNTY--JAIL--FOR-A
 21 PERIOD-NOT--TO--EXCEED--6--MONTHS--OR--90TH--A--SUBSEQUENT
 22 CONVICTION--IS--PUNISHABLE-BY-A-FINE-OF-NOT-LESS-THAN-\$1000
 23 OR-MORE-THAN-\$1000 OR-BY-IMPRISONMENT-IN--THE--COUNTY--JAIL
 24 FOR-A-PERIOD-NOT--TO--EXCEED--ONE--YEAR--
 25 181--A--CONVICTION--FOR--A--VIOLATION--OF--PROVISIONS--OF

1 ~~THIS-ACT--BOTHER--THAN-SECTION-1--SHALL-BE-PUNISHABLE--BY~~
 2 ~~FINE--OF-NOT-MORE--THAN-\$500--OR-BY-IMPRISONMENT--IN-THE-COUNTY~~
 3 ~~DATE-FOR-A-PERIOD--NOT--TO--EXCEED--6--MONTHS--OR--80THW--A~~
 4 ~~SUBSEQUENT--CONVICTION--SHALL-BE-PUNISHABLE--BY-A-FINE--OF-NOT~~
 5 ~~LESS--THAN--\$250--AND--NOT--MORE--THAN--\$500--OR-BY-IMPRISONMENT--IN~~
 6 ~~THE-COUNTY-DATE-FOR-A-PERIOD--NOT--TO--EXCEED--6--MONTHS~~
 7 ~~{2}f3i--The--justice--court--has-jurisdiction-over-such~~
 8 ~~violation.~~

9 ~~{3}f4i12i~~ The department may revoke or suspend the
 10 permit of anyone violating its terms.

11 ~~Section-9--Forfeiture-of--personel--property--used--in~~
 12 ~~itlegat--aerial-hunting-or-harassment-of-livestock--{1}--Any~~
 13 ~~aircraft-or-other-personel--property--used--in-the--air--or--on~~
 14 ~~the--ground--in--support--of-aerial-activity--in-violation-of~~
 15 ~~{sections-1-through-3j-or-87-3-126--shall-be-forfeited-to-and}~~
 16 ~~confiscated--by-the-state--along-with-any-carcasses--or--pets~~
 17 ~~taken--in--violation--of--{this--act}--if--any--property--is~~
 18 ~~observed--in--such-use--or--if--there-exists--probable--cause--to~~
 19 ~~believe--it--to--have--been--or--to--be--devoted--wholly--or--in--pert~~
 20 ~~to--such-use--the--property--shall--be--seized--and--held--by~~
 21 ~~enforcement--officers--set--forth--in--{section--10j}--Upon~~
 22 ~~conviction--in--a--proceeding--in--district-court--in--the--name--of~~
 23 ~~the--state--against--the--owner--or--user--of--such-personel~~
 24 ~~property--the--personel--property--shall--be--confiscated--and~~
 25 ~~sold--at--sheriff's--gate.~~

1 ~~{2}i--This--section--does--not--apply--to--personel--property~~
 2 ~~that--has--been--stolen--prior--to--the--itlegat--use--when--the~~
 3 ~~lawful--owner--is--not--in--collusion--with--the--party--or--parties~~
 4 ~~involved--in--the--itlegat--use.~~

5 **Section 7. Enforcement.** (1) Investigations of
 6 violations of [this act], arrests, and seizures may be made
 7 by any peace officer, fish-and-game-warden or agent of the
 8 department designated by the department.

9 (2) To enforce [this act], the department may enter
 10 into agreement with federal agencies with predatory animal
 11 control. Such agreements may allow the federal agency to
 12 assist in investigations, arrests, and seizures.

13 **Section 8. Codification.** Sections 1 through 10 in
 14 this act are intended to be codified as an integral part of
 15 Title 81, chapter 7, and the provisions contained in Title
 16 81, chapter 7, apply to these sections.

17 **Section-12--Effective-date--This--act--is--effective--on**
 18 **passage-and-approval.**

-End-

1 STATEMENT OF INTENT RE: SB 497
2
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4 Section 4 of this bill requires the Department of
5 Livestock to adopt rules regulating aerial hunting. It is
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10 persons who do not wish aerial hunting to occur over land in
11 their control. Finally, such rules shall reflect the purpose
12 that aerial hunting is permitted for the purpose of reducing
13 livestock losses due to predation.

14 Approved by the SENATE COMMITTEE OF FISH AND GAME on
15 February 20, 1979.

SL 477

SENATE BILL NO. 497

INTRODUCED BY VAN VALKENBURG

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PERMIT
5 SYSTEM FOR THE AERIAL HUNTING OF PREDATORY ANIMALS
6 FORBIDDING--THE--HARASSMENT--OF--LIVESTOCK--BY--AIRCRAFT
7 PROVIDING--PENALTIES--INCLUDING--FORFEITURE--OF--PERSONAL
8 PROPERTY--FOR--ILLEGAL--AERIAL--HUNTING--OF--WILDLIFE--AND
9 PROVIDING--AN--IMMEDIATE--EFFECTIVE--DATE."

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

12 Section 1. Aerial hunting prohibited -- exceptions.
13 (1) Except as provided in [section 7], no person except an
14 employee of the state, its subdivisions, or the federal
15 government, acting within the scope of his employment may
16 engage in the aerial hunting of wild animals as defined in
17 87-7-101 without first obtaining a permit from the
18 department of livestock. The-permit-must-specify-the-species
19 of-wild-animals-to-be-hunted-and-the-areas-over-which-aeriel
20 hunting-may-take-place.

21 (2) No person issued a permit as required by this
22 section may engage in aerial hunting of wild animals in
23 violation of the terms of his permit, THE RULES PROMULGATED
24 BY THE BOARD OF LIVESTOCK, OR THE TERMS OF [THIS ACT].

25 Section-2---Use-of-personal-property-for-illegal-activities

1 hunting--prohibited--When--a--permit--is--required--under
2 section--17--the ~~the~~ use-of-any-aircraft-or-other-personal
3 property--including--motor--vehicles--and--other--personal
4 property--used--on--the--ground-in-support-of-aerial-hunting
5 activities--for--the--aerial--hunting--of--any--wildlife--is
6 prohibited--except--when-done-pursuant-to-the-terms-of-the ~~a~~
7 permit ~~ISSUED-BY-THE-DEPARTMENT-OF-LIVESTOCK-~~

8 Section-3--Prohibition--against--harassing--livestocks
9 No--persons--whether--or--not--lawfully--authorized--to--seriously
10 hunty--may--while--engaged--in--flying--an--aircrafty--knowingly
11 harass--injure--or--attempt--to--injure--any--livestock--except
12 with--the--express--permission--of--the--owner--of--the--livestock
13 Flying--near--livestock--at--an--altitude--of--less--than--500--feet
14 creates--a--rebuttable--presumption--of--intent--to--harass

15 Section 2. Rulemaking authority. The department of
16 livestock may ~~SHALL~~ MAY adopt rules to effectuate the
17 purposes of [this act] and to implement and conduct the
18 aerial hunting permit system provided for by [this act].
19 ~~Such rules may include~~

20 tells--limits--on--the--number--of--permits--issued--for--a
21 specific--area--of--land

22 t2---+limits--on--the--distance--from--home--base--that-a
23 permitted-script-hunter-is-able-to-hunt **THE-SPEEIES-OF-WILD**
24 ANIMALS-TO-BE-HUNTED

1 and gunnerst
 2 ~~77--standards--for--determining--when-a-nonresident--may~~
 3 ~~be-issued-a-permit--under-[section-6]t~~
 4 ~~77--standards-for-the-issuance-of-a-permit--based--upon~~
 5 ~~actual-or-potential-livestock--losses--due-to--predation~~
 6 ~~67--reports--required--of--permittees--and~~
 7 ~~77--such--other--matters--as--may--be--necessary--to~~
 8 ~~effectuate--the--purposes--of--[this--act]--and--reduce--loss--to~~
 9 ~~livestock--or--game--due--to--predation~~

10 Section 3. Duration of permit -- fee. Each permit
 11 shall be valid for a period set by the department of
 12 livestock not to exceed 3 years and shall cost \$50 a year &
 13 YEAR or portion thereof if a period of less than a year is
 14 set. All fees for permits shall be paid to the department of
 15 livestock for deposit in the state treasury to the credit of
 16 the earmarked revenue fund for predatory animal control.

17 Section 4. Residency requirement. No person not having
 18 residence and domicile in Montana may be issued a permit
 19 provided for in [section 1] except when authorized by the
 20 board of livestock. Permits--may--be--issued--to--nonresidents
 21 for--use--only--in--Montana--counties--adjacent--to--the--state--line
 22 if AREAS--WHICH the department considers that such counties
 23 are--inadequately--serviced--by--resident--permittees--or--to
 24 nonresidents--who--are--owners--of--land--in--Montana--who--wish--to
 25 engage--in--aerial--hunting--only--over--their--own--property--

1 Section 5. Resident landowners authorized to aerially
 2 hunt over their own lands without permit -- conditions. Any
 3 landowner having residence and domicile in Montana may
 4 engage in the aerial hunting of wild animals, as defined in
 5 81-7-101, with--his--own--aircraft--and over his own land
 6 without a permit, provided he first ANNUALLY notifies the
 7 department in writing that he will be engaged in aerial
 8 hunting and gives an adequate description of the location of
 9 the land over which he will aerial hunt. Such notification
 10 must--be--made--annually HUNTING MUST BE IN ACCORDANCE WITH ALL
 11 RULES OF THE DEPARTMENT OF LIVESTOCK.

12 Section 6. Penalties -- jurisdiction -- revocation of
 13 permit. (1) Any person violating [sections--t--or--3] ANY
 14 PROVISION OF [THIS ACT] WHO IS PERMITTED TO ENGAGE IN AERIAL
 15 HUNTING PURSUANT TO [THIS ACT] is guilty of a misdemeanor
 16 and upon conviction is punishable by a fine of not less than
 17 \$250--or--more--than--\$1000--or--by--imprisonment--in--the--county
 18 jail--for--a--period--not--to--exceed--6--months--or--both
 19 121--(A) A CONVICTION FOR A VIOLATION OF [SECTION 1(1)]
 20 IS PUNISHABLE BY A FINE OF NOT LESS THAN \$500 OR MORE THAN
 21 \$1000 1500 OR BY IMPRISONMENT IN THE COUNTY--JAIL--FOR--A
 22 PERIOD--NOT--TO--EXCEED--6--MONTHS--OR--60--DAYS--A--SUBSEQUENT
 23 CONVICTION--IS--PUNISHABLE--BY--A--FINE--OF--NOT--LESS--THAN--\$1000
 24 OR--MORE--THAN--\$1000--OR--BY--IMPRISONMENT--IN--THE--COUNTY--JAIL
 25 FOR--A--PERIOD--NOT--TO--EXCEED--ONE--YEAR

1 t81-A--CONVICTION--FOR--A--VIOLATION--OF--PROVISIONS--OF
 2 THIS--ACT--OTHER--THAN--SECTION--#1--SHALL--BE--PUNISHABLE--BY
 3 FINE--OR--NOT--MORE--THAN--\$500--OR--BY--IMPRISONMENT--IN--THE--COUNTY
 4 DAIL--FOR--A--PERIOD--NOT--TO--EXCEED--6--MONTHS--OR--BOTH--A
 5 SUBSEQUENT--CONVICTION--SHALL--BE--PUNISHABLE--BY--A--FINE--OR--NOT
 6 LESS--THAN--\$250--AND--NOT--MORE--THAN--\$500--OR--BY--IMPRISONMENT--IN
 7 THE--COUNTY--DAIL--FOR--A--PERIOD--NOT--TO--EXCEED--6--MONTHS.

8 t2711--The--justice--court--has--jurisdiction--over--such
 9 violations.

10 131--ANY--PERSON--WHO--IS--NOT--PERMITTED--TO--ENGAGE--IN
 11 AERIAL--HUNTING--PURSUANT--TO--[THIS--ACT]--WHO--VIOLATES--ANY
 12 PROVISIONS--OF--[THIS--ACT]--IS--GUILTY--OF--A--MISDEMEANOR,--AND
 13 UPON--CONVICTION--IS--PUNISHABLE--BY--A--FINE--OF--NOT--LESS--THAN
 14 \$500--NOR--MORE--THAN--\$1,000. A--SUBSEQUENT--CONVICTION--UNDER
 15 THIS--SUBSECTION--IS--PUNISHABLE--BY--A--FINE--OF--NOT--LESS--THAN
 16 \$1,000--OR--MORE--THAN--\$1,500.

17 141--THE--JUSTICE--COURT--HAS--JURISDICTION--OVER--VIOLATIONS
 18 OF--[THIS--ACT].

19 t3714t27151--The--department--may--revoke--or--suspend--the
 20 permit--of--anyone--violating--its--terms.

21 Section--9--Forfeiture--of--personel--property--used--in
 22 illegal--aerial--hunting--or--harassment--of--livestock--#1--Any
 23 aircraft--or--other--personel--property--used--in--the--air--or--on
 24 the--ground--in--support--of--aerial--activity--in--violation--of
 25 [sections--1--through--3]--or--#7--3--#26--shall--be--forfeited--to--and

1 confiscated--by--the--state--along--with--any--carcasses--or--parts
 2 taken--in--violation--of--[this--act]--if--any--property--is
 3 observed--in--such--use--or--if--there--exists--probable--cause--to
 4 believe--it--to--have--been--or--to--be--devoted--wholly--or--in--part
 5 to--such--use--the--property--shall--be--seized--and--held--by
 6 enforcement--officers--set--forth--in--[section--#8]--Upon
 7 conviction--in--a--proceeding--in--district--court--in--the--name--of
 8 the--state--against--the--owner--or--user--of--such--personel
 9 property--the--personel--property--shall--be--confiscated--and
 10 sold--at--sheriff's--sale.

11 t27--This--section--does--not--apply--to--personel--property
 12 that--has--been--stolen--prior--to--the--illegal--use--when--the
 13 lawful--owner--is--not--in--collusion--with--the--party--or--parties
 14 involved--in--the--illegal--use.

15 Section 7. Enforcement. (1) Investigations of
 16 violations of [this act], arrests, and seizures may be made
 17 by any peace officer, fish-and-game-warden or agent of the
 18 department designated by the department.

19 (2) To enforce [this act], the department may enter
 20 into agreement with federal agencies with predatory animal
 21 control. Such agreements may allow the federal agency to
 22 assist in investigations, arrests, and seizures.

23 Section 8. Codification. Sections 1 through #8 2 1 in
 24 this act are intended to be codified as an integral part of
 25 Title 81, chapter 7, and the provisions contained in Title

1 81+ chapter 7, apply to these sections.

2 Section-120--Effective-date--This-act-is-effective--on

3 passage-and-approve.

-End-

1 STATEMENT OF INTENT RE: SB 497

2

3

4 Section 4 of this bill requires the Department of

5 Livestock to adopt rules regulating aerial hunting. It is

6 the intent of this bill that any rules so adopted not

7 interfere with the needs of livestock producers protecting

8 their livestock from predation. At the same time it is the

9 intent of this bill that such rules protect the interests of

10 persons who do not wish aerial hunting to occur over land in

11 their control. Finally, such rules shall reflect the purpose

12 that aerial hunting is permitted for the purpose of reducing

13 livestock losses due to predation.

14 Approved by the SENATE COMMITTEE OF FISH AND GAME on

15 February 20, 1979.

SB 497

SENATE BILL NO. 497
INTRODUCED BY VAN VALKENBURG

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PERMIT
5 SYSTEM FOR THE AERIAL HUNTING OF PREDATORY ANIMALS
6 FORBIDDING--THE--HARASSMENT--OF---LIVESTOCK---BY---AIRCRAFT
7 PROVIDING---PENALTIES,---INCLUDING--FORFEITURE--OF--PERSONAL
8 PROPERTY,---FOR--ILLEGAL--AERIAL--HUNTING--OF--WILDLIFE---AND
9 PROVIDING--AN--IMMEDIATE--EFFECTIVE--DATE."

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

12 Section 1. Aerial hunting prohibited -- exceptions.
13 (1) Except as provided in [section 7], no person except an
14 employee of the state, its subdivisions, or the federal
15 government, acting within the scope of his employment may
16 engage in the aerial hunting of wild animals as defined in
17 67-7-101 without first obtaining a permit from the
18 department of livestock. The permit must specify the species
19 of wild animals to be hunted and the areas over which aerial
20 hunting may take place.

21 (2) No person issued a permit as required by this
22 section may engage in aerial hunting of wild animals in
23 violation of the terms of his permit, THE RULES PROMULGATED
24 BY THE BOARD OF LIVESTOCK, OR THE TERMS OF THIS ACT.

25 Section-2---Use-of-personal-property-for-ittebat-serial

1 hunting--prohibited---When--a--permit--is--required--under
2 section--179--the ~~THE~~ use--of--any--aircraft--or--other--personat
3 property--including--motor--vehicletes--and--other--personat
4 property--used--on--the--ground--in--support--of--aeriel--hunting
5 activities--for--the--aeriel--hunting--of--any--wildlife--is
6 prohibited--except--when--done--pursuant--to--the--terms--of--the ~~8~~
7 permit ~~ISSUED--BY--THE--DEPARTMENT--OF--LIVESTOCKS.~~

8 Section-3--Prohibition--against--harassing--livestock--
9 No--person--whether--or--not--lawfully--authorized--to--seriously
10 hunt--may--while--engaged--in--flying--on--aircraft--knowingly
11 harass--injure--or--attempt--to--injure--any--livestock--except
12 with--the--express--permission--of--the--owner--of--the--livestock--
13 Flying--near--livestock--at--an--altitude--of--less--than--500--feet
14 creates--a--rebuttable--presumption--of--intent--to--harass--

15 Section 2. Rulemaking authority. The department of
16 livestock may ~~shall~~ MAX adopt rules to effectuate the
17 purposes of [this act] and to implement and conduct the
18 aerial hunting permit system provided for by [this act].
19 ~~such entries may include~~

22 t27--#mits--on--the--distance--from--home--base--that-a
23 permitted-aeriel-hunter-is-able-to-hunt **THE-SPECIES-OF-WILD**
24 **ANIMALS-TO-BE-HUNTED**

1 and gunnerst
 2 ~~t4~~--standards--for--determining-when-a-nonresident-may
 3 be-issued-a-permit-under-[section-6]t
 4 ~~t5~~--standards-for-the-issuance-of-a-permit-based--upon
 5 actual-or-potential-livestock-losses-due-to-predation
 6 ~~t6~~--reports-required-of-permittees-and
 7 ~~t7~~--such---other---matters---as--may--be--necessary--to
 8 effectuate-the-purposes-of-[this-act]--and--reduce--loss--to
 9 livestock-or-game-due-to-predation

10 Section 3. Duration of permit -- fee. Each permit
 11 shall be valid for a period set by the department of
 12 livestock not to exceed 3 years and shall cost \$50 a-year A
 13 YEAR or portion thereof if a period of less than a year is
 14 set. All fees for permits shall be paid to the department of
 15 livestock for deposit in the state treasury to the credit of
 16 the earmarked revenue fund for predatory animal control.

17 Section 4. Residency requirement. No person not having
 18 residence and domicile in Montana may be issued a permit
 19 provided for in [section 1] except when authorized by the
 20 board of livestock. Permits-may-be-issued-to-nonresidents
 21 for-use-only-in-Montana-counties-adjacent-to--the--state-line
 22 if AREAS--WHICH the-department-consider-s that such counties
 23 are-inadequately-serviced--by--resident--permittees--or--to
 24 nonresidents--who--are-owners-of-land-in-Montana-who-wish-to
 25 engage-in-aerial-hunting-only-over-their-own-property

1 Section 5. Resident landowners authorized to aerially
 2 hunt over their own lands without permit -- conditions. Any
 3 landowner having residence and domicile in Montana may
 4 engage in the aerial hunting of wild animals, as defined in
 5 81-7-101, with-his--own--aerocraft--and over his own land
 6 without a permit, provided he first ANNUALLY notifies the
 7 department in writing that he will be engaged in aerial
 8 hunting and gives an adequate description of the location of
 9 the land over which he will aerial hunt. Such notification
 10 must-be-made-annually HUNTING MUST BE IN ACCORDANCE WITH ALL
 11 RULES OF THE DEPARTMENT OF LIVESTOCK.

12 Section 6. Penalties -- jurisdiction -- revocation of
 13 permit. (1) Any person violating [sections--t-or-3] ANY
 14 PROVISION DE [THIS ACT] WHO IS PERMITTED TO ENGAGE IN AERIAL
 15 HUNTING PURSUANT TO [THIS ACT] is guilty of a misdemeanor
 16 and-upon-conviction-is-punishable-by-a-fine-of-not-less-than
 17 \$250--or--more--than--\$1000-or-by-imprisonment-in-the-county
 18 jail-for-a-period-not-to-exceed-6-months--or--both
 19 ~~121st A CONVICTION FOR A VIOLATION OF SECTION--~~
 20 ~~SUBSECTION--1113 IS PUNISHABLE BY A FINE OF NOT LESS THAN~~
 21 ~~\$500--OR--MORE--THAN--\$1000--\$2000, OR--BY--IMPRISONMENT--IN--THE~~
 22 ~~COUNTY--JAIL--FOR--A--PERIOD--NOT--TO--EXCEED--6--MONTHS--OR--80THX--A~~
 23 ~~SUBSEQUENT--CONVICTION--IS--PUNISHABLE--BY--A--FINE--OF--NOT--LESS~~
 24 ~~THAN--\$1000--OR--MORE--THAN--\$1000--\$2000--OR--BY--IMPRISONMENT--IN--THE~~
 25 ~~COUNTY--JAIL--FOR--A--PERIOD--NOT--TO--EXCEED--ONE--YEAR--~~

1 ~~187-A CONVICTION FOR A VIOLATION OF PROVISIONS OF~~
 2 ~~THIS ACT, OTHER THAN SECTION 1, SHALL BE PUNISHABLE BY~~
 3 ~~FINE OF NOT MORE THAN \$500 OR BY IMPRISONMENT IN THE COUNTY~~
 4 ~~DALE FOR A PERIOD NOT TO EXCEED 6 MONTHS OR BOTH~~
 5 ~~SUBSEQUENT CONVICTION SHALL BE PUNISHABLE BY A FINE OF NOT~~
 6 ~~LESS THAN \$250 AND NOT MORE THAN \$500 OR BY IMPRISONMENT IN~~
 7 ~~THE COUNTY DALE FOR A PERIOD NOT TO EXCEED 6 MONTHS~~
 8 ~~127.131- The justice court has jurisdiction over such~~
 9 ~~violations.~~

10 ~~131 ANY PERSON WHO IS NOT PERMITTED TO ENGAGE IN~~
 11 ~~AERIAL HUNTING PURSUANT TO [THIS ACT] WHO VIOLATES ANY~~
 12 ~~PROVISIONS OF [THIS ACT] IS GUILTY OF A MISDEMEANOR, AND~~
 13 ~~UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN~~
 14 ~~\$500 NOR MORE THAN \$1,000. A SUBSEQUENT CONVICTION UNDER~~
 15 ~~THIS SUBSECTION IS PUNISHABLE BY A FINE OF NOT LESS THAN~~
 16 ~~\$1,000 OR MORE THAN \$1,500.~~

17 ~~141 THE JUSTICE COURT HAS JURISDICTION OVER VIOLATIONS~~
 18 ~~OF [THIS ACT].~~

19 ~~137.151 The department may revoke or suspend the~~
 20 ~~permit of anyone violating its terms.~~

21 ~~Section 9. Forfeiture of personal property used in~~
 22 ~~illegal serial hunting or harassment of livestock. 137.151 Any~~
 23 ~~aircraft or other personal property used in the air or on~~
 24 ~~the ground in support of serial activity in violation of~~
 25 ~~sections 1 through 3j or 87-3-26 shall be forfeited to and~~

1 ~~confiscated by the state along with any carcasses or pets~~
 2 ~~taken in violation of [this act] if any property is~~
 3 ~~observed in such use or if there exists probable cause to~~
 4 ~~believe it to have been or to be devoted wholly or in part~~
 5 ~~to such use the property shall be seized and held by~~
 6 ~~enforcement officers set forth in section 10j. Upon~~
 7 ~~conviction in a proceeding in district court in the name of~~
 8 ~~the state against the owner or user of such personal~~
 9 ~~property the personal property shall be confiscated and~~
 10 ~~sold at sheriff's sale.~~

11 ~~127.131- This section does not apply to personal property~~
 12 ~~that has been stolen prior to the illegal use when the~~
 13 ~~lawful owner is not in collusion with the party or parties~~
 14 ~~involved in the illegal use.~~

15 ~~Section 7. Enforcement. (1) Investigations of~~
 16 ~~violations of [this act], arrests, and seizures may be made~~
 17 ~~by any peace officer, fish-and-game-warden or agent of the~~
 18 ~~department designated by the department.~~

19 ~~(2) To enforce [this act], the department may enter~~
 20 ~~into agreement with federal agencies with predatory animal~~
 21 ~~control. Such agreements may allow the federal agency to~~
 22 ~~assist in investigations, arrests, and seizures.~~

23 ~~Section 8. Codification. Sections 1 through 10j in~~
 24 ~~this act are intended to be codified as an integral part of~~
 25 ~~Title 81, chapter 7, and the provisions contained in Title~~

1 81, chapter 7, apply to these sections.
2 Section-t2v--Effective-date--This-act-is-effective--on
3 passage-and-approve.

-End-

1 STATEMENT OF INTENT RE: SB 497

2

3

4 Section 4 of this bill requires the Department of
5 Livestock to adopt rules regulating aerial hunting. It is
6 the intent of this bill that any rules so adopted not
7 interfere with the needs of livestock producers protecting
8 their livestock from predation. At the same time it is the
9 intent of this bill that such rules protect the interests of
10 persons who do not wish aerial hunting to occur over land in
11 their control. Finally, such rules shall reflect the purpose
12 that aerial hunting is permitted for the purpose of reducing
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15 February 20, 1979.

SB 497

CORRECTED

REFERENCE

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7 PROVIDING--PENALTIES--INCLUDING--FORFEITURE--OF--PERSONAL
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14 employee of the state, its subdivisions, or the federal
15 government, acting within the scope of his employment may
16 engage in the aerial hunting of wild animals as defined in
17 87-7-101 81-7-101 without first obtaining a permit from the
18 department of livestock. The-permit-must-specify-the-species
19 of-wild-animals-to-be-hunted-and-the-areas-over-which-aerial
20 hunting-may-take-place.

21 (2) No person issued a permit as required by this
22 section may engage in aerial hunting of wild animals in
23 violation of the terms of his permit, THE RULES PROMULGATED
24 BY THE BOARD OF LIVESTOCK, OR THE TERMS OF [THIS ACT].

25 Section-2---Use-of-personal-property-for-fitter-aerot

1 hunting--prohibited--when--a--permit--is--required--under
2 section--27--the use--of--any--aircraft--or--other--personel
3 property--including--motor--vehicles--and--other--personel
4 property--used--on--the--ground--in--support--of--aeriel--hunting
5 activities--for--the--aeriel--hunting--of--any--wildlife--is
6 prohibited--except--when--done--pursuent--to--the--terms--of--the
7 permit ISSUED BY THE DEPARTMENT OF LIVESTOCK.

15 Section 2. Rulemaking authority. The department of
16 livestock may ~~SHALL~~ MAY adopt rules to effectuate the
17 purposes of [this act] and to implement and conduct the
18 aerial hunting permit system provided for by [this act].
19 Such rules may include:

20 +3+--+limits--on--the--number--of--permits--issued--for--a
21 specific-area-of-land+
22 +3+--+limits--on--the--distance--from--home--base--that--a
23 permitted-aeriel-hunter-is-able-to-hunt+ ~~THE-SPECIES-OF-WILD~~
24 ~~ANIMALS-TO-BE-HUNTED~~
25 +3+--+reasonable-experience--qualifications--for--permits

1 and gunnerst
 2 (4)--standards--for--determining--when--a--nonresident--may
 3 be--issued--a--permit--under--[section--6]t
 4 (5)--standards--for--the--issuance--of--a--permit--based--upon
 5 actual--or--potential--livestock--losses--due--to--predation
 6 (6)--reports--required--of--permittees--and
 7 (7)--such--other--matters--as--may--be--necessary--to
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 12 livestock not to exceed 3 years and shall cost \$50 a year &
 13 ~~year~~ or portion thereof if a period of less than a year is
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 15 livestock for deposit in the state treasury to the credit of
 16 the earmarked revenue fund for predatory animal control.

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 21 for--use--only--in--Montana--counties--adjacent--to--the--state--the
 22 if ~~AREAS--WHICH~~ the department considers that such counties
 23 are--inadequately--serviced--by--resident--permittees--or--to
 24 nonresidents--who--are--owners--of--land--in--Montana--who--wish--to
 25 engage--in--aerial--hunting--only--over--their--own--property.

1 Section 5. Resident landowners authorized to aerially
 2 hunt over their own lands without permit -- conditions. Any
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 4 engage in the aerial hunting of wild animals, as defined in
 5 81-7-101, with--his--own--aircraft--and over his own land
 6 without a permit, provided he first ANNUALLY notifies the
 7 department in writing that he will be engaged in aerial
 8 hunting and gives an adequate description of the location of
 9 the land over which he will aerial hunt. Such notification
 10 ~~must--be--made--annually~~ HUNTING MUST BE IN ACCORDANCE WITH ALL
 11 RULES OF THE DEPARTMENT OF LIVESTOCK.

12 Section 6. Penalties -- jurisdiction -- revocation of
 13 permit. (1) Any person violating [sections--1--or--3] ANY
 14 PROVISION OF [THIS ACT] WHO IS PERMITTED TO ENGAGE IN AERIAL
 15 HUNTING PURSUANT TO [THIS ACT] is guilty of a misdemeanor
 16 and upon conviction is punishable by a fine of not less than
 17 \$250--or--more--than--\$1,000--or--by--imprisonment--in--the--county
 18 jail--for--a--period--not--to--exceed--6--months--or--both
 19 (2) THAT A CONVICTION FOR A VIOLATION OF SECTION--1--
 20 SUBSECTION (1)(1) IS PUNISHABLE BY A FINE OF NOT LESS THAN
 21 \$500--OR--MORE--THAN--\$1,000--\$500--OR--BY--IMPRISONMENT--IN--THE
 22 COUNTY--JAIL--FOR--A--PERIOD--NOT--TO--EXCEED--6--MONTHS--OR--BOTH--A
 23 SUBSEQUENT CONVICTION IS PUNISHABLE BY A FINE OF--NOT--LESS
 24 THAN--\$1,000--OR--MORE--THAN--\$1,500--OR--BY--IMPRISONMENT--IN--THE
 25 COUNTY--JAIL--FOR--A--PERIOD--NOT--TO--EXCEED--ONE--YEAR.

1 (b) A CONVICTION FOR A VIOLATION OF PROVISIONS OF
 2 THIS ACT OTHER THAN [SECTION 111] SHALL BE PUNISHABLE BY
 3 FINE OF NOT MORE THAN \$500 OR BY IMPRISONMENT IN THE COUNTY
 4 DALE FOR A PERIOD NOT TO EXCEED 6 MONTHS OR BOTH A
 5 SUBSEQUENT CONVICTION SHALL BE PUNISHABLE BY A FINE OF NOT
 6 LESS THAN \$250 AND NOT MORE THAN \$500 OR BY IMPRISONMENT IN
 7 THE COUNTY DALE FOR A PERIOD NOT TO EXCEED 6 MONTHS.

8 (2) The justice court has jurisdiction over such
 9 violations.

10 (3) ANY PERSON WHO IS NOT PERMITTED TO ENGAGE IN
 11 AERIAL HUNTING PURSUANT TO [THIS ACT] WHO VIOLATES ANY
 12 PROVISIONS OF [THIS ACT] IS GUILTY OF A MISDEMEANOR AND
 13 UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN
 14 \$500 OR MORE THAN \$1,000. A SUBSEQUENT CONVICTION UNDER THIS
 15 SUBSECTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$1,000
 16 OR MORE THAN \$1,500.

17 (4) THE JUSTICE COURT HAS JURISDICTION OVER VIOLATIONS
 18 OF [THIS ACT].

19 (3) ANY PERSON WHO IS NOT PERMITTED TO ENGAGE IN
 20 AERIAL HUNTING PURSUANT TO [THIS ACT] WHO VIOLATES ANY
 21 PROVISIONS OF [THIS ACT] IS GUILTY OF A MISDEMEANOR AND
 22 UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN
 23 \$250 OR MORE THAN \$1,000. A SUBSEQUENT CONVICTION UNDER THIS
 24 SUBSECTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$500 OR
 25 MORE THAN \$1,000.

1 (1) THE JUSTICE COURT HAS JURISDICTION OVER VIOLATIONS
 2 OF [THIS ACT].

3 (3) The department may revoke or suspend the
 4 permit of anyone violating its terms.

5 Section 9. Forfeiture of personal property used in
 6 illegal aerial hunting or harassment of livestock. (3) Any
 7 aircraft or other personal property used in the air or on
 8 the ground in support of aerial activity in violation of
 9 sections 1 through 3 or 87-3-226 shall be forfeited to and
 10 confiscated by the state, along with any carcasses or pets
 11 taken in violation of [this act], if any property is
 12 observed in such use or if there exists probable cause to
 13 believe it to have been or to be devoted wholly or in part
 14 to such use, the property shall be seized and held by
 15 enforcement officers set forth in section 107. Upon
 16 conviction in a proceeding in district court in the name of
 17 the state against the owner or user of such personal
 18 property, the personal property shall be confiscated and
 19 sold at sheriff's sale.

20 (2) This section does not apply to personal property
 21 that has been stolen prior to the illegal use when the
 22 lawful owner is not in collusion with the party or parties
 23 involved in the illegal use.

24 Section 7. Enforcement. (1) Investigations of
 25 violations of [this act], arrests, and seizures may be made

1 by any peace officer, fish-and-game-warden or agent of the
2 department designated by the department.

3 (2) To enforce [this act], the department may enter
4 into agreement with federal agencies with predatory animal
5 control. Such agreements may allow the federal agency to
6 assist in investigations, arrests, and seizures.

7 Section 6. Codification. Sections 1 through to 21 in
8 this act are intended to be codified as an integral part of
9 Title 81, chapter 7, and the provisions contained in Title
10 81, chapter 7, apply to these sections.

11 Section 12. Effective date. This act is effective on
12 passage and approval.

-End-

HOUSE OF REPRESENTATIVES

March 8, 1979

Committee on Fish and Game amendments to SENATE BILL NO. 497, second printing, third reading copy, as follows:

1. Page 3, line 12.

Following: "a-year"

Insert: "a year"

2. Page 4, line 14.

Following: "[THIS ACT]"

Insert: "who is permitted to engage in aerial hunting pursuant to [this act]"

3. Page 5.

Following: line 8

Insert: "(3) Any person who is not permitted to engage in aerial hunting pursuant to [this act] who violates any provisions of [this act] is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than \$500 nor more than \$1,000. A subsequent conviction under this subsection is punishable by a fine of not less than \$1,000 or more than \$1,500.

(4) The justice court has jurisdiction over violations of [this act]."

Renumber: subsequent subsections

4. Page 6, line 13.

Following: "10"

Strike: "9"

Insert: "7"

AND AS AMENDED BE CONCURRED IN

HOUSE OF REPRESENTATIVES
March 16, 1979

Committee of the Whole amendment to Senate Bill No. 497, reference
bill, as follows:

1. Page 4, line 19.
Following: "(2)"
Strike: "(A)"
Following: "OF"
Strike: "[SECTION 1(1)]"
Insert: "subsection (1)"

AND AS AMENDED,
BE CONCURRED IN