

HOUSE BILL NO. 152

INTRODUCED BY DONALDSON

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

January 10, 1981	Introduced and referred to Committee on Fish and Game.
February 12, 1981	Committee recommend bill do pass. Report adopted. Statement of intent attached.
February 13, 1981	Bill printed and placed on members' desks.
February 14, 1981	Second reading, do pass.
February 16, 1981	Correctly engrossed.
February 17, 1981	Third reading, passed. Ayes, 89; Noes, 10. Transmitted to Senate.

IN THE SENATE

February 18, 1981	Introduced and referred to Committee on Public Health, Welfare, and Safety.
March 4, 1981	Rereferred to Committee on Fish and Game.
March 26, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 28, 1981	Second reading, concurred in.
March 30, 1981	Motion pass consideration.

March 31, 1981

On motion rules suspended.
Bill allowed to be transmitted
on 71st legislative day.
Motion adopted.

Third reading, concurred in as
amended. Ayes, 44; Noes, 6.

IN THE HOUSE

April 1, 1981

Returned from Senate with
amendments.

April 8, 1981

Second reading, amendments
concurred in.

April 9, 1981

Third reading, amendments
concurred in. Ayes, 90;
Noes, 6. Sent to enrolling.

Reported correctly enrolled.

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 2 INTRODUCED BY Stoddard
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 4 OF HEALTH AND ENVIRONMENTAL SCIENCES

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 7 TRANSMISSION OF RABIES BY PROHIBITING THE POSSESSION OF
 8 BATS, SKUNKS, FOXES, OR RACCOONS AND PROVIDING FOR
 9 PROHIBITION OF POSSESSION OF CERTAIN OTHER ANIMAL SPECIES
 10 KNOWN TO BE CAPABLE OF TRANSMITTING RABIES TO HUMAN BEINGS;
 11 AND PROVIDING AN EXEMPTION FOR SUCH ANIMALS THAT ARE
 12 POSSESSED FOR SIX MONTHS PRIOR TO JANUARY 1, 1982."

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

15 Section 1. Definitions. Unless the context requires
 16 otherwise, in [this act] the following definitions apply:

17 (1) "Department of health and environmental sciences"
 18 means the department of health and environmental sciences
 19 provided for in Title 2, chapter 15, part 21.

20 (2) "Department of livestock" means the department of
 21 livestock provided for in Title 2, chapter 15, part 31.

22 (3) "Person" means an individual, group of
 23 individuals, partnership, corporation, firm, or association.

24 (4) "Wild animal" means a skunk, fox, raccoon, or bat.
 25 Other species of normally nondomesticated animals known to

1 be capable of transmitting rabies may be added to this list
 2 through the adoption of rules by the department of health
 3 and environmental sciences with the approval of the
 4 department of livestock.

5 Section 2. Prohibition of possession of wild animals
 6 -- exceptions. No person may possess a wild animal unless he
 7 possessed it for at least 6 months prior to January 1, 1982,
 8 or it is used in a fur-bearing enterprise, contained in a
 9 zoological exhibition in such a manner that it may not come
 10 in physical contact with members of the public, or acquired
 11 by an educational institution for scientific research.

12 Section 3. Quarantine -- destruction -- testing. (1)
 13 Whenever a person unlawfully possesses a wild animal, the
 14 department of health and environmental sciences or the
 15 department of livestock may impound the animal and take any
 16 other action considered reasonable to protect public health.

17 (2) If a wild animal, whether unlawfully or lawfully
 18 in the possession of a person, has bitten or otherwise
 19 exposed a person to the potentiality of contracting rabies,
 20 the animal may be impounded by the department of health and
 21 environmental sciences, the department of livestock, or a
 22 local health officer and either quarantined or destroyed and
 23 the animal's brain may be tested for rabies.

24 (3) Any lawfully possessed wild animal that is
 25 quarantined pursuant to subsection (2) and found not to be

-2- INTRODUCED BILL
 HB 152

1 rabid shall be returned to its owner.

2 Section 4. Payment of expenses. Expenses incurred by
3 the state under [section 3] must be paid by the person from
4 whom possession of the wild animal was taken.

5 Section 5. Authority to adopt rules. The department of
6 health and environmental sciences, with the approval of the
7 department of livestock, may adopt rules necessary for the
8 implementation and administration of [this act].

9 Section 6. Civil penalty -- injunction -- recovery of
10 costs. (1) A person who violates any provision of [this act]
11 is subject to a civil penalty not to exceed \$100 per day.
12 Each day of violation constitutes a separate violation. The
13 department of health and environmental sciences or, upon
14 request of the department of health and environmental
15 sciences, the county attorney of the county in which the
16 violation occurs may petition the district court to impose
17 the civil penalty.

18 (2) In addition to any other remedies provided by law,
19 the department of health and environmental sciences or, upon
20 the request of the department of health and environmental
21 sciences, an appropriate county attorney may file an action
22 to enjoin a violation of [this act] or rule adopted pursuant
23 to it.

24 (3) The department of health and environmental
25 sciences or the county attorney, if either prevails in any

1 action brought pursuant to (1) or (2) above, is entitled to
2 recover from the other party the costs, expenses, and
3 reasonable attorney's fees incurred.

4 (4) Money collected as a civil penalty pursuant to
5 [this act] must be deposited in the state general fund
6 whenever the department of health and environmental sciences
7 institutes the action or in the appropriate county fund
8 whenever the county attorney institutes the action.

9 Section 7. Severability. If a part of this act is
10 invalid, all valid parts that are severable from the invalid
11 part remain in effect. If a part of this act is invalid in
12 one or more of its applications, the part remains in effect
13 in all valid applications that are severable from the
14 invalid applications.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 152

3 House Fish and Game Committee
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5 A statement of intent is required for this bill because
6 it creates rulemaking authority for the Department of Health
7 and Environmental Sciences, with the approval of the
8 Department of Livestock, to administer and implement law
9 controlling rabies through limits on the possession of wild
10 pets. Rulemaking is primarily needed to add a species of
11 animal to those presently designated "wild animals" by the
12 act if the chance of rabies occurring in that species
13 increases beyond its present level. Coyotes are an example
14 of a species which may become a rabies threat in the future.

15 As for other rules, most would clarify terms and
16 phrases used in the bill. Examples of potential rule
17 subject matter are:

18 (1) to clarify what will be considered a fur-bearing
19 enterprise (Section 2);

20 (2) to clarify what controls by zoological exhibitors
21 will be considered to adequately prevent physical contact by
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Approved by Comm.
on Fish and Game

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18 means the department of health and environmental sciences
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20 (2) "Department of livestock" means the department of
21 livestock provided for in Title 2, chapter 15, part 31.

22 (3) "Person" means an individual, group of
23 individuals, partnership, corporation, firm, or association.

24 (4) "Wild animal" means a skunk, fox, raccoon, or bat.
25 Other species of normally nondomesticated animals known to

1 be capable of transmitting rabies may be added to this list
2 through the adoption of rules by the department of health
3 and environmental sciences with the approval of the
4 department of livestock.

5 Section 2. Prohibition of possession of wild animals
6 -- exceptions. No person may possess a wild animal unless he
7 possessed it for at least 6 months prior to January 1, 1982,
8 or it is used in a fur-bearing enterprise, contained in a
9 zoological exhibition in such a manner that it may not come
10 in physical contact with members of the public, or acquired
11 by an educational institution for scientific research.

12 Section 3. Quarantine -- destruction -- testing. (1)
13 Whenever a person unlawfully possesses a wild animal, the
14 department of health and environmental sciences or the
15 department of livestock may impound the animal and take any
16 other action considered reasonable to protect public health.

17 (2) If a wild animal, whether unlawfully or lawfully
18 in the possession of a person, has bitten or otherwise
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21 environmental sciences, the department of livestock, or a
22 local health officer and either quarantined or destroyed and
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25 quarantined pursuant to subsection (2) and found not to be

1 rabid shall be returned to its owner.

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3 the state under [section 3] must be paid by the person from
4 whom possession of the wild animal was taken.

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6 health and environmental sciences, with the approval of the
7 department of livestock, may adopt rules necessary for the
8 implementation and administration of [this act].

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10 costs. (1) A person who violates any provision of [this act]
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12 Each day of violation constitutes a separate violation. The
13 department of health and environmental sciences or, upon
14 request of the department of health and environmental
15 sciences, the county attorney of the county in which the
16 violation occurs may petition the district court to impose
17 the civil penalty.

18 (2) In addition to any other remedies provided by law,
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10 recovery of costs. ~~{1} A person who violates any provision
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13 violation. The department of health and environmental
14 sciences or, upon request of the department of health and
15 environmental sciences, the county attorney of the county in
16 which the violation occurs may petition the district court
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19 law, the department of health and environmental sciences or,
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22 file an action to enjoin a violation of [this act] or rule
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March 26, 1981

SENATE STANDING COMMITTEE REPORT
(Fish and Game)

That House Bill No. 152 be amended as follows:

1. Page 3, line 9.
Strike: "Civil penalty--injuction"
Insert: "Injunction"
2. Page 3, lines 10 through 17.
Strike: subsection (1) in its entirety
Renumber: subsequent subsections
3. Page 4, line 1.
Strike: "or (2)"
4. Page 4, lines 4 through 8.
Strike: subsection (4) in its entirety