# HOUSE BILL NO. 434

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## INTRODUCED BY C. SMITH, J. HAMMOND, JONES, UNDERDAL, LORY

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

### IN THE HOUSE

| January 21, 1983  | Introduced and referred to Committee on Fish and Game.                     |
|-------------------|--|
| February 4, 1983  | Committee recommend bill do pass. Report adopted.                          |
|                   | Statement of Intent attached.  |
| February 5, 1983  | Bill printed and placed on members' desks.                                 |
| February 7, 1983  | Second reading, do pass.   |
| February 8, 1983  | Considered correctly<br>engrossed.   |
| February 9, 1983  | Third reading, passed.<br>Transmitted to Senate.                           |
| IN THE S          | ENATE  |
| February 10, 1983 | Introduced and referred to Committee on Fish and Game.                     |
| March 11, 1983    | Committee recommend bill be<br>concurred in as amended.<br>Report adopted. |
| March 14, 1983    | Second reading, concurred in.  |
| March 16, 1983    | Third reading, concurred in.<br>Ayes, 47; Noes, 0.                         |

#### IN THE HOUSE

March 16, 1983

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March 31, 1983

April 1, 1983

Returned to House with amendments.

Second reading, amendments concurred in.

Third reading, amendments concurred in.

Sent to enrolling.

Reported correctly enrolled.

INTRODUCED BY Smith Sixtured Jon Guderdal Long 1 2 BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A FISH AND 5 WILDLIFE LICENSING AGENT TO POST SECURITY DTHER THAN A 6 7 SURETY BOND IN ACCORDANCE WITH DEPARTMENT RULES; AND TO REQUIRE LICENSE AGENTS TO PAY INTEREST ON LICENSE REVENUE 8 THAT IS REMITTED LATE: AMENDING SECTIONS 87-2-902 AND 9 10 87-2-903, HCA."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 Section 1. Section 87-2-902, MCA, is amended to read: 14 "87-2-902. Bond or security of agent and preferred 15 claim of state for license money. (1) An appointed license 16 agent shall furnish a corporate surety bond of-\$1,000-or--in 17 an---amount--equal-to-the-value-of-the-licensesy-permitsy-and 18 certificates-received-for-distributiony--the--amount--to--be 19 fixed-at-the-discretion-of-the-director or other security as 20 required by department rule. The bond shall secure the faithful performance of the duties imposed on the license 21 22 agent and the accounting for and payment to the state of all 23 money received from the sale of hunting and fishing licenses permits or certificates prescribed by the 24 and any 25 department. The license agent shall properly account for all

unsold licenses, permits, and certificates annually on April
 1 or at any other time at the request of the director.

3 (2) All money received for the sale of licenses,
4 permits, and certificates at all times belongs to the state.
5 In case of an assignment for the benefit of creditors,
6 receivership, or bankruptcy, the state has a preferred claim
7 against the assets and estate of a license agent for all
8 money owed the state."

Section 2. Section 87-2-903, MCA, is amended to read: 9 10 #87-2-903. Compensation and duties of agents \_\_\_ 11 penalty for late submission of license money. (1) License agents, except salaried employees of the department, shall 12 receive for all services rendered the sum of 30 cents for 13 14 each license, permit, or certificate issued. On-or-before the--10th--day--of-each--month-each Each license agent shall 15 submit to the department all duplicates of each class of 16 licenses sold during-the-preceding-month and shall accompany 17 18 the duplicate licenses with all moneys received for the sale 19 of the licenses less a fee of 30 cents for each license 20 sold. The department may designate classes of license agents 21 and may establish a deadline for submission of license money 22 by each class of agent. Each license agent shall keep his 23 license account open at all reasonable hours to inspection 24 by the department, the director, the wardens, or the 25 legislative auditor.

> -2- INTRODUCED BILL  $\mathcal{AB}(32)$

| l  | (2) For purposes of this section, the term "license"         |
|----|--|
| 2  | includes any license, permit, and certificate prescribed by  |
| 3  | the department.  |
| 4  | (3) If a license agent fails to submit to the                |
| 5  | department_all_money_received_from_the_declared_sale_of      |
| 6  | licenses, less the appropriate fee, by the deadline          |
| 7  | established by the department: an interest charge equal to   |
| 8  | the rate charged on late corporation license tax payments    |
| 9  | under 15-31-502 must be assessed. Acceptance of late         |
| 10 | payments with interest does not preclude the department from |
| 11 | summarily revoking the appointment of a license agent under  |
| 12 | <u>87-2-904=</u> "   |

-End-

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HB 434

#### Approved by Comm. on Fish and Game

| 1 | STATEMENT OF INTENT  |
|---|--|
| 2 | HOUSE BILL 434   |
| 3 | House Fish, Wildlife, and Parks Committee                  |
| 4 |  |
| 5 | A statement of intent is required for this bill because    |
| 6 | it grants rulemaking authority to the Department of Fish,  |
| 7 | Wildlife, and Parks to adopt rules to set deadlines for    |
| 3 | license receipts according to different classes of license |

10 forms of security for small volume license agents.

agents, and setting guidelines for allowing alternative

11 Section 2 of this bill proposes to allow the director of the Department of Fish, Wildlife, and Parks to set 12 deadlines for the license receipts according to different 13 classes of license agents. The intent of this bill is to 14 allow the director the flexibility to recognize that there 15 16 are widely disparate kinds of license agents. In some sparsely populated areas, the license receipts for a given 17 year are so few that the current monthly accounting 13 requirement may be unrealistic. On the other hand, in 19 heavily populated areas some license agents have extremely 20 high monthly receipts, necessitating that the money be 21 transferred promptly, on a monthly basis, to the Department. 22 The Department contemplates rules that would have deadlines 23 grounded in population base and historical demand in an 24 25 area.

1 Section 1 of this bill proposes to change the security 2 requirements for license agents. Currently, the law requires 3 a minimum bond of \$1,000. In reality, no bonding company 4 gives a bond for only \$1,000. The current industry standard 5 is a minimum of \$5,000. Many of the small license agents may carry a total inventory of licenses far below \$5.000. In 6 7 those instances, where the license agent does not stand to 8 make a great deal of money on the license agency, the \$5,000 9 bonding requirement may be unduly burdensome. The proposed 10 amendment would allow the director to adjust the bonding 11 requirement to the particular circumstance of a given 12 license agent. For instance, a license agent with a large 13 inventory would be obliged to provide a bond. A license 14 agent with an inventory of less than \$1,000 may be obliged 15 to provide some other kind of security to ensure performance 16 under the law. The Department anticipates promulgating rules 17 that would allow alternative forms of security other than a 18 bond for the small volume license agent.

-z- SECOND READING

HB 434

| HB | 0434 | 102 |
|----|------|-----|
|----|------|-----|

| 1  | HOUSE BILL NO. 434  | 1  | department     |
|----|---|----|----------------|
| 2  | INTRODUCED BY C. SMITH, J. HANMOND,                                     | 2  | unsold lie     |
| 3  | JONES, UNDERDAL, LORY   | 3  | l or at a      |
| 4  | BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS               | 4  | (2)            |
| 5  |   | 5  | permits, a     |
| 5  | A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A FISH AND                 | 6  | In case        |
| 7  | WILDLIFE LICENSING AGENT TO POST SECURITY OTHER THAN A                  | 7  | receivers      |
| 8  | SURETY BOND IN ACCORDANCE WITH DEPARTMENT RULES; AND TO                 | 8  | against ti     |
| 9  | REQUIRE LICENSE AGENTS TO PAY INTEREST ON LICENSE REVENUE               | 9  | money owe      |
| 10 | THAT IS REMITTED LATE; AMENDING SECTIONS 87-2-902 AND                   | 10 | Sect           |
| 11 | 87-2-903, MCA."   | 11 | *87-2          |
| 12 |   | 12 | <u>penalty</u> |
| 13 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:               | 13 | agents, e      |
| 14 | Section 1. Section 87-2-902, MCA, is amended to read:                   | 14 | receive        |
| 15 | "37-2-902. Bond <u>or security</u> of agent and preferred               | 15 | əach lice      |
| 16 | claim of state for license money. (1) An appointed license              | 16 | the18th        |
| 17 | agent shall furnish a corporate surety bond <del>of-\$ly000-or-in</del> | 17 | submit to      |
| 18 | ananountequal-to-the-volue-of-the-licensesy-permitsy-and                | 18 | licenses       |
| 19 | certificates-received-for-distributionytheamounttobe                    | 19 | the dupli      |
| 20 | fixed-at-the-discretion-of-the-director <u>gr_other_security_as</u>     | 20 | of the         |
| 21 | required by department rule. The bond shall secure the                  | 21 | sold. The      |
| 22 | faithful performance of the duties imposed on the license               | 22 | and_may_e:     |
| 23 | agent and the accounting for and payment to the state of all            | 23 | by_each_c      |
| 24 | money received from the sale of hunting and fishing licenses            | 24 | license        |
| 25 | and any permits or certificates prescribed by the                       | 25 | by the         |

department. The license agent shall properly account for all
 unsold licenses, permits, and certificates annually on April
 1 or at any other time at the request of the director.

4 (2) All money received for the sale of licenses, 5 permits, and certificates at all times belongs to the state. 6 In case of an assignment for the benefit of creditors, 7 receivership, or bankruptcy, the state has a preferred claim 8 against the assets and estate of a license agent for all 9 money owed the state."

ion 2. Section 87-2-903, MCA, is amended to read: 2-903. Compensation and duties of agents  $\pm \pm$ for late submission of license money. (1) License xcept salaried employees of the department, shall for all services rendered the sum of 30 cents for nse, permit, or certificate issued. Bn--or--before --day--of-each--month-each Each license agent shall the department all duplicates of each class of sold during-the-preceding-month and shall accompany cate licenses with all moneys received for the sale licenses less a fee of 30 cents for each license <u>department may designate classes of license agents</u> stablisb a deadline for submission of license money lass of agent. Each license agent shall keep his account open at all reasonable hours to inspection department, the director, the wardens, or the

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HB 434

1 legislative auditor.

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2 (2) For purposes of this section, the term "license"
3 includes any license, permit, and certificate prescribed by
4 the department.

5 131\_If\_\_a\_license\_agent\_fails\_to\_submit\_to\_the 6 department\_all\_money\_received\_from\_the\_declared\_sale\_of 7 licenses. less the appropriate fee, by the deadline 8 established by the department, an interest charge equal to 9 the rate charged on late corporation license tax payments 10 under 15-31-502 must be assessed. Acceptance of late 11 payments with interest does not preclude the department from 12 sugmarily revoking the appointment of a license agent under 13 87-2-904.\*

+End-

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STATEMENT OF INTENT

HOUSE BILL 434

House Fish, Wildlife, and Parks Committee

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5 A statement of intent is required for this bill because 6 it grants rulemaking authority to the Department of Fish, 7 Wildlife, and Parks to adopt rules to set deadlines for 8 license receipts according to different classes of license 9 agents, and setting guidelines for allowing alternative 10 forms of security for small volume license agents.

Section 2 of this bill proposes to allow the director 11 of the Department of Fish, Wildlife, and Parks to set 12 deadlines for the license receipts according to different 13 classes of license agents. The intent of this bill is to 14 allow the director the flexibility to recognize that there 15 are widely disparate kinds of license agents. In some 16 sparsely populated areas, the license receipts for a given 17 year are so few that the current monthly accounting 18 requirement may be unrealistic. On the other hand, in 19 heavily populated areas some license agents have extremely 20 high monthly receipts, necessitating that the money be 21 transferred promptly. on a monthly basis, to the Department. 22 The Department contemplates rules that would have deadlines 23 grounded in population base and historical demand in an 24 25 area.

1 Section 1 of this bill proposes to change the security 2 requirements for license agents. Currently, the law requires 3 a minimum bond of \$1,000. In reality, no bonding company 4 gives a bond for only \$1.000. The current industry standard 5 is a minimum of \$5,000. Many of the small license agents may 6 carry a total inventory of licenses far below \$5,000. In 7 those instances, where the license agent does not stand to 8 make a great deal of money on the license agency, the \$5,000 9 bonding requirement may be unduly burdensome. The proposed amendment would allow the director to adjust the bonding 10 11 requirement to the particular circumstance of a given 12 license agent. For instance, a license agent with a large 13 inventory would be obliged to provide a bond. A license 14 agent with an inventory of less than \$1,000 may be obliged 15 to provide some other kind of security to ensure performance 16 under the law. The Department anticipates promulgating rules 17 that would allow alternative forms of security other than a 18 bond for the small volume license agent.

-2- THIRD READING

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HB 0434/02

| 1  | HOUSE BILL NO. 434  |
|----|---|
| 2  | INTRODUCED BY C. SMITH, J. HAMMOND,                                 |
| 3  | JONES, UNDERDAL, LORY   |
| 4  | BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS           |
| 5  |   |
| 6  | A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A FISH AND             |
| 7  | WILDLIFE LICENSING AGENT TO POST SECURITY OTHER THAN A              |
| 8  | SURETY BOND IN ACCORDANCE WITH DEPARTMENT RULES; AND TO             |
| 9  | REQUIRE LICENSE AGENTS TO PAY INTEREST ON LICENSE REVENUE           |
| 10 | THAT IS REMITTED LATE; AMENDING SECTIONS 87-2-902 AND               |
| 11 | 87-2-903, MCA."   |
| 12 |   |
| 13 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:           |
| 14 | Section 1. Section 87-2-902, MCA, is amended to read:               |
| 15 | #87-2-902. Bond <u>or security</u> of agent and preferred           |
| 16 | claim of state for license woney. (1) An appointed license          |
| 17 | agent shall furnish a corporate surety bond of-\$1v800-or-in        |
| 18 | anamount-requal-to-the-value-of-the-licensesy-permitsy-and          |
| 19 | certificates-recaived-for-distributionytheamounttobe                |
| 20 | fixed at the discretion of the director <u>or other security</u> as |
| 21 | required by department rule. The bond shall secure the              |
| 22 | faithful performance of the duties imposed on the license           |
| 23 | agent and the accounting for and payment to the state of all        |
| 24 | money received from the sale of hunting and fishing licenses        |
| 25 | and any permits or certificates prescribed by the                   |

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department. The license agent shall properly account for all
 unsold licenses, permits, and certificates annually on April
 1 or at any other time at the request of the director.

4 (2) All money received for the sale of licenses, 5 permits, and certificates at all times belongs to the state. 6 In case of an assignment for the benefit of creditors, 7 receivership, or bankruptcy, the state has a preferred claim 8 against the assets and estate of a license agent for all 9 money owed the state."

10 Section 2. Section 87-2-903, MCA, is amended to read: 11 \*87-2-903. Compensation and duties of agents \_\_\_ 12 penalty\_for\_late\_submission\_of\_license\_money. (1) License 13 agents, except salaried employees of the department, shall 14 receive for all services rendered the sum of 30 cents for 15 each license, permit, or certificate issued. 8n--or--before 16 the---19th--day--of-each--month-each Each license agent shall 17 submit to the department all duplicates of each class of 18 licenses sold during-the-preceding-month and shall accompany 19 the duplicate licenses with all moneys received for the sale 20 of the licenses less a fee of 30 cents for each license 21 sold. Inc. department\_way\_designate\_classes\_of\_license\_agents 22 and may establish a deadline for submission of license money by each class of agent. Each license agent shall keep his 23 24 license account open at all reasonable hours to inspection by the department, the director, the wardens, or the 25

> -2- HB 434 THIRD READING

HB 434

1 legislative auditor.

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2 (2) For purposes of this section, the term "license"
3 includes any license, permit, and certificate prescribed by
4 the department.

5 13) If a license agent fails to submit to the 6 department all money received from the declared sale of 7 licenses. less the appropriate fee, by the deadline 8 established by the department, an interest charge equal to 9 the rate charged on late corporation license tax payments 10 under 15-31-502 pust be assessed. Acceptance of late 11 payments with interest does not preclude the department from 12 summarily revoking the appointment of a license agent under 13 87-2-904.

-End-

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SENATE STANDING COMMITTEE REPORT (Fish and Game)

That House Bill No. 434 be amended as follows:

- 1. Title, line ll.
  Following: "MCA"
  Insert: "; AND PROVIDING A DELAYED EFFECTIVE DATE"
- 2. Page 3, line 14. Following: line 13 Insert: "NEW SECTION. Section 3. Effective date. The act is effective March 1, 1984."

HB 434

because

| 1 | STATEMENT OF INTENT                             |
|---|---|
| 2 | HOUSE BILL 434                                  |
| 3 | House Fish, Wildlife, and Parks Committee       |
| 4 |   |
| 5 | A statement of intent is required for this bill |
|   |   |

6 it grants rulemaking authority to the Department of Fish, 7 Wildlife, and Parks to adopt rules to set deadlines for 8 license receipts according to different classes of license 9 agents, and setting guidelines for allowing alternative 10 forms of security for small volume license agents.

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-2- REFERENCE BILL HB434 HB 0434/03

| 1  | HOUSE BILL NO. 434  |
|----|---|
| 2  | INTRODUCED BY C. SMITH, J. HAMMOND,                                 |
| 3  | JONES, UNDERDAL, LORY   |
| 4  | BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS           |
| 5  |   |
| 6  | A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A FISH AND             |
| 7  | WILDLIFE LICENSING AGENT TO POST SECURITY OTHER THAN A              |
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| 10 | THAT IS REMITTED LATE; AMENDING SECTIONS 87-2-902 AND               |
| 11 | 87-2-903, MCA <u>: AND PROVIDING A DELAYED FEEELIIVE DAIE</u> ."    |
| 12 |   |
| 13 | BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:           |
| 14 | Section 1. Section 87-2-902, MCA, is amended to read:               |
| 15 | *87-2-902. Bond <u>or security</u> of agent and preferred           |
| 16 | claim of state for license money. (1) An appointed license          |
| 17 | agent shall furnish a corporate surety bond of-\$1+000-orin         |
| 18 | anemountequal-to-the-value-of-the-licensesy-permitsy-and            |
| 19 | certificates-received-for-distributionytheamounttobe                |
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| 21 | required by department rule. The bond shall secure the              |
| 22 | faithful performance of the duties imposed on the license           |
| 23 | agent and the accounting for and payment to the state of all        |
| 24 | money received from the sale of hunting and fishing licenses        |
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department. The license agent shall properly account for all
 unsold licenses, permits, and certificates annually on April
 l or at any other time at the request of the director.

4 (2) All money received for the sale of licenses, 5 permits, and certificates at all times belongs to the state. 6 In case of an assignment for the benefit of creditors, 7 receivership, or bankruptcy, the state has a preferred claim 8 against the assets and estate of a license agent for all 9 money owed the state.\*

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> +2- HB 434 REFERENCE BILL

1 legislative auditor.

2 (2) For purposes of this section, the term "license"
3 includes any license, permit, and certificate prescribed by
4 the department.

(3) If a license agent fails to submit to the 5 department\_all\_money\_received\_from\_the\_declared\_sale\_of 6 7 liceoses.\_\_less\_\_tbe\_\_appropriate\_fee.\_by\_tbe\_\_deadline 8 established by the departments an interest charge equal to 9 the rate charged on late corporation license tax payments under\_15-31-502\_pust\_be\_assessed.\_\_Acceptance\_of\_late 10 11 payments with interest does not preclude the department from 12 summarily revoking the appointment of a license agent under 13 81-2-904.\* SECTION\_3.\_\_EFEECTIVE\_\_OATE.\_\_\_IHIS\_\_ACT\_\_IS\_\_EFECTIVE 14 15 MARCH\_1\_\_1984.

-End-

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