

SENATE BILL NO. 336

INTRODUCED BY DANIELS

IN THE SENATE

February 1, 1983	Introduced and referred to Committee on Fish and Game.
February 19, 1983	Committee recommend bill do pass as amended. Report adopted.
February 21, 1983	Bill printed and placed on members' desks.
February 22, 1983	Second reading, do pass as amended.
February 23, 1983	On motion rules suspended. Bill placed on calendar for third reading this day.
	Third reading, passed. Ayes 41; Noes, 7. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Fish and Game.
March 11, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 18, 1983	Second reading, concurred in.
March 19, 1983	Third reading, concurred in.

IN THE SENATE

March 21, 1983

Returned to Senate with
amendments.

March 22, 1983

Second reading, amendments
concurred in.

March 23, 1983

Third reading, amendments
concurred in. Ayes, 47;
Noes, 2.

Sent to enrolling.

Reported correctly enrolled.

1 *Sen. Daniel* BILL NO. 336
 2 INTRODUCED BY *Daniel*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE AERIAL
 5 HUNTING LAWS; INCLUDING A PROHIBITION ON HARASSMENT OF
 6 LIVESTOCK; PROVIDING FOR PENALTIES AND FORFEITURE OF
 7 PERSONAL PROPERTY FOR ILLEGAL HUNTING OF WILD ANIMALS;
 8 AMENDING SECTIONS 81-7-501 THROUGH 81-7-503 AND 81-7-505,
 9 MCA."

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

12 Section 1. Section 81-7-501, MCA, is amended to read:

13 "81-7-501. Aerial hunting prohibited -- exceptions.

14 (1) Except as provided in 81-7-505, no person except an
 15 employee of the state, its subdivisions, or the federal
 16 government, acting within the scope of his employment may
 17 engage in the aerial hunting of wild animals as defined in
 18 81-7-101 without first obtaining a permit from the
 19 department of livestock. The permit must specify the
 20 species of wild animals to be hunted and the geographic
 21 areas over which aerial hunting may take place.

22 (2) No person issued a permit as required by this
 23 section may engage in aerial hunting of wild animals in
 24 violation of the terms of his permit, the rules promulgated
 25 by the board of livestock, or the terms of this part."

1 Section 2. Section 81-7-502, MCA, is amended to read:

2 "81-7-502. Rulemaking authority. The department of
 3 livestock may adopt rules to effectuate the purposes of this
 4 part and to implement and conduct the aerial hunting permit
 5 system provided for by this part. Rules made under this
 6 part may include:

7 (1) limits on the number of permits issued for a
 8 specific geographic area;

9 (2) limits on the area, calculated from the normal
 10 storage location of the permittee's aircraft, in which a
 11 permittee is authorized to hunt;

12 (3) reasonable experience qualifications for pilots
 13 and aerial hunters;

14 (4) standards for issuance of permits to nonresidents
 15 under 81-7-503;

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

18 (6) reports required of permittees; and

19 (7) such other matters as are necessary to effectuate
 20 the purposes of this part and reduce loss to livestock and
 21 wildlife from predation."

22 Section 3. Section 81-7-503, MCA, is amended to read:

23 "81-7-503. Residency requirement. No person not having
 24 residence and domicile in Montana may be issued a permit
 25 provided for in 81-7-501 except when authorized by the board

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of livestock. Permits issued to nonresidents may be used only:

(1) in Montana counties adjacent to the state line that the department of livestock has determined are inadequately serviced by resident permittees; or

(2) on real property in Montana owned by the nonresident permittee."

Section 4. Section 81-7-505, MCA, is amended to read:

"81-7-505. Resident landowners authorized to aerially hunt over their own lands without permit -- conditions. Any landowner having residence and domicile in Montana may engage in the aerial hunting of wild animals, as defined in 81-7-101, within his own aircraft and over his own land without a permit, provided he annually notifies the department in writing that he will be engaged in aerial hunting and gives an adequate description of the location of the land over which he will ~~aerially~~ aerially hunt. Such hunting must be in accordance with all rules of the department of livestock."

NEW SECTION. Section 5. Prohibition against harassing livestock. While engaged in flying an aircraft, no person, whether or not lawfully authorized to aerially hunt, may knowingly harass, injure, or attempt to injure any livestock except with the express permission of the owner of that livestock. Flying near livestock at an altitude of less

than 500 feet establishes a rebuttable presumption of knowledge of livestock harassment.

NEW SECTION. Section 6. Forfeiture of personal property used in illegal aerial hunting or harassment of livestock. (1) Aircraft or other personal property used in the air or on the ground in support of aerial activity in violation of this part or 87-3-126 must be forfeited to and confiscated by the state, along with any carcasses or pelts taken in violation of this part. Whenever property is observed in such illegal use or if there is probable cause to believe that property was devoted wholly or in part to such use, the property must be seized and held by the enforcement officers specified in 81-7-512. Upon conviction in a proceeding in district court in the name of the state against the owner or user of the property, it must be sold at a sheriff's sale under Title 25, chapter 13, part 7.

(2) This section does not apply to personal property that has been stolen prior to the illegal use if the lawful owner is not in collusion with a party involved in the illegal use.

NEW SECTION. Section 7. Codification instruction. Sections 5 and 6 are intended to be codified as an integral part of Title 81, chapter 7, part 5, and the provisions of Title 81, chapter 7, part 5, apply to sections 5 and 6.

-End-

Approved by Comm.
on Fish and Game

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HUNTING LAWS; INCLUDING A PROHIBITION ON HARASSMENT OF
LIVESTOCK; PROVIDING FOR INCREASED PENALTIES AND--FORFEITURE
OF--PERSONAL--PROPERTY FOR ILLEGAL HUNTING OF WILD ANIMALS;
AMENDING SECTIONS 81-7-501 THROUGH, 81-7-503 AND, 81-7-505,
AND 81-7-511, MCA."

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

Section 1. Section 81-7-501, MCA, is amended to read:

"81-7-501. Aerial hunting prohibited -- exceptions.

(1) Except as provided in 81-7-505, no person except an
employee of the state, its subdivisions, or the federal
government, acting within the scope of his employment may
engage in the aerial hunting of wild animals as defined in
81-7-101 without first obtaining a permit from the
department of livestock. The permit must specify the
species of wild animals to be hunted and the geographic
areas over which aerial hunting may take place.

(2) No person issued a permit as required by this
section may engage in aerial hunting of wild animals in
violation of the terms of his permit, the rules promulgated
by the board of livestock, or the terms of this part."

Section 2. Section 81-7-502, MCA, is amended to read:
"81-7-502. Rulemaking authority. The department of
livestock may adopt rules to effectuate the purposes of this
part and to implement and conduct the aerial hunting permit
system provided for by this part. Rules made under this part
may include:
 (1) limits on the number of permits issued for a
 specific geographic area;
 (2) limits on the area calculated from the normal
 storage location of the permittee's aircraft in which a
 permittee is authorized to hunt;
 (3) reasonable experience qualifications for pilots
 and aerial hunters;
 (4) standards for issuance of permits to nonresidents
 under 81-7-503;
 (5) standards for issuance of a permit based upon
 actual or potential livestock losses due to predation;
 (6) reports required of permittees; and
 (7) such other matters as are necessary to effectuate
 the purposes of this part and reduce loss to livestock and
 wildlife from predation."

Section 2. Section 81-7-503, MCA, is amended to read:

"81-7-503. Residency requirement. No person not having
residence and domicile in Montana may be issued a permit
provided for in 81-7-501 except when authorized by the board

of livestock. ~~Permits issued to nonresidents may be used only:~~

~~(1) in Montana counties adjacent to the state line that the department of livestock has determined are inadequately serviced by resident permittees; or~~

~~(2) on real property in Montana owned by the nonresident permittee."~~

Section 3. Section 81-7-505, MCA, is amended to read:

"81-7-505. Resident landowners authorized to aerially hunt over their own lands without permit -- conditions. Any landowner having residence and domicile in Montana may engage in the aerial hunting of wild animals, as defined in 81-7-101, ~~within his own aircraft and~~ over his own land without a permit, provided he annually notifies the department in writing that he will be engaged in aerial hunting and gives an adequate description of the location of the land over which he will ~~aerial~~ ~~aerially~~ hunt. Such hunting must be in accordance with all rules of the department of livestock."

~~SECTION 4. SECTION 81-7-511, MCA, IS AMENDED TO READ:~~

"81-7-511. Penalties -- jurisdiction -- revocation of permit. (1) Any person violating any provision of this part who is permitted to engage in aerial hunting pursuant to this part is guilty of a misdemeanor.

(2) A conviction for a violation of subsection (1) is

punishable by a fine of not more less than \$500.

(3) Any person who is not permitted to engage in aerial hunting pursuant to this part who violates any provisions of this part is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than \$250 or more than ~~\$1,000~~ ~~\$1,500~~. A subsequent conviction under this subsection is punishable by a fine of not less than \$500 or more than ~~\$1,000~~ ~~\$1,500~~.

(4) The justice court has jurisdiction over violations of this part.

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

~~NEW SECTION. Section 5. Prohibition against harassing livestock. While engaged in flying an aircraft, no person, whether or not lawfully authorized to aerially hunt, may knowingly harass, injure, or attempt to injure any livestock except with the express permission of the owner of that livestock. Flying near livestock at an altitude of less than 500 feet establishes a rebuttable presumption of knowledge of livestock harassment.~~

~~NEW SECTION. Section 6. Forfeiture of personal property used in illegal aerial hunting or harassment of livestock. (1) Aircraft or other personal property used in the air or on the ground in support of aerial activity in violation of this part or 87-3-126 must be forfeited to and~~

1 confiscated--by-the-statey-along-with-any-carcaases-or-pets
2 taken-in-violation--of--this--parts---Whenever--property--is
3 observed--in--such-illegal-use-or-if-there-is-probable-cause
4 to-believe-that-property-was-devoted-wholly-or--in--part--to
5 such--usey--the--property--must--be--seized--and-held-by-the
6 enforcement-officers-specified-in-81-7-512y--Upon-conviction
7 in-s-proceeding-in-district-court-in-the-name-of--the--state
8 against--the--owner-or-user-of-the-propertyy-it-must-be-sold
9 at-a-sheriff's-sale-under-Title-25y-chapter-13y-part-7y

10 (2)--This-section-does-not-apply-to--personal--property
11 that--has-been-stolen-prior-to-the-illegal-use-if-the-lawful
12 owner-is-not-in-collusion--with--a--party--involved--in--the
13 illegal-usey

14 NEW_SECTION. Section 6. Codification instruction.
15 Sections SECTION 5 and-6-are 1s intended to be codified as
16 an integral part of Title 81, chapter 7, part 5, and the
17 provisions of Title 81, chapter 7, part 5, apply to sections
18 SECTION 5 and-6.

-End-

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Section 1. Section 81-7-501, MCA, is amended to read:

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(1) Except as provided in 81-7-505, no person except an employee of the state, its subdivisions, or the federal government, acting within the scope of his employment may engage in the aerial hunting of wild animals as defined in 81-7-101 without first obtaining a permit from the department of livestock. The permit must specify the species of wild animals to be hunted and the geographic areas over which aerial hunting may take place.

(2) No person issued a permit as required by this section may engage in aerial hunting of wild animals in violation of the terms of his permit; the rules promulgated by the board of livestock, or the terms of this part."

~~Section 2. Section 81-7-502, MCA, is amended to read:~~

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~~(1) limits on the number of permits issued for a specific geographic area;~~

~~(2) limits on the area calculated from the nearest storage location of the permittee's aircraft to which a permittee is authorized to hunt;~~

~~(3) reasonable experience qualifications for pilots and aerial hunters;~~

~~(4) standards for issuance of permits to nonresidents under 81-7-503;~~

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"81-7-503. Residency requirement. No person not having residence and domicile in Montana may be issued a permit provided for in 81-7-501 except when authorized by the board

1 of livestock. Permits issued to nonresidents may be used
2 only:

3 (1) in Montana counties adjacent to the state line
4 that the department of livestock has determined are
5 inadequately serviced by resident permittees; or

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7 nonresident permittee."

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9 "81-7-505. Resident landowners authorized to aerially
10 hunt over their own lands without permit -- conditions. Any
11 landowner having residence and domicile in Montana may
12 engage in the aerial hunting of wild animals, as defined in
13 81-7-101, ~~within his own aircraft and~~ over his own land
14 without a permit, provided he annually notifies the
15 department in writing that he will be engaged in aerial
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22 permit. (1) Any person violating any provision of this part
23 who is permitted to engage in aerial hunting pursuant to
24 this part is guilty of a misdemeanor.

25 (2) A conviction for a violation of subsection (1)

1 [THIS ACT] is punishable by a fine of not more less than
2 \$500.

3 (3) Any person who is not permitted to engage in
4 aerial hunting pursuant to this part who violates any
5 provisions of this part is guilty of a misdemeanor and upon
6 conviction is punishable by a fine of not less than \$250 or
7 more than \$1000 ~~\$1500~~. A subsequent conviction under this
8 subsection is punishable by a fine of not less than \$500 or
9 more than \$1000 ~~\$1500~~.

10 (4) The justice court has jurisdiction over violations
11 of this part.

12 (5) (1) The department may revoke or suspend the permit
13 of anyone violating its terms."

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15 livestock. While engaged in flying an aircraft, no person,
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23 property used in illegal aerial hunting or harassment of
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25 the air or on the ground in support of aerial activity in

1 violation--of-this-part-or-87-3-126-must-be-forfeited-to-and
 2 confiscated-by-the-state-along-with-any-carcasses-or--parts
 3 taken--in--violation--of--this--part---whenever-property-is
 4 observed-in-such-illegal-use-or-if-there-is--probable--cause
 5 to--believe--that--property-was-devoted-wholly-or-in-part-to
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 9 against-the-owner-or-user-of-the-property, it-must--be--sold
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 17 an integral part of Title 81, chapter 7, part 5, and the
 18 provisions of Title 81, chapter 7, part 5, apply to sections
 19 SECTION 5 and-6.

-End-

House Fish and Game Committee amendments to Senate Bill 336,
third reading copy, blue
March 10, 1983

1. Page 3, line 2.

Strike: "Penalties--jurisdiction"

Insert: "Penalty"

2. Page 3, line 22 through page 4, line 25.

Strike: "(1)"

Strike: "violating" through "terms" on page 4, line 13.

Insert: "convicted of violating a provision of this part is
punishable by a fine of not less than \$500 or more than \$1,000.
In addition, the permit, if any, of such person must be revoked
for such period as the court may determine"

AND AS AMENDED
BE CONCURRED IN

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17 the land over which he will ~~aerial~~ ^{aerially} hunt. Such
18 hunting must be in accordance with all rules of the
19 department of livestock."

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21 "81-7-511. Penalties-----jurisdiction PENALTY --
22 revocation of permit. (1) Any person violating any provision
23 of this part who is permitted to engage in aerial hunting
24 pursuant to this part is guilty of a misdemeanor.

25 (2) A conviction for a violation of subsection (1)

1 ~~[THIS-SECTION]~~ is punishable by a fine of not more ~~less~~ than
2 \$500.

3 (3) Any person who is not permitted to engage in
4 aerial hunting pursuant to this part who violates any
5 provisions of this part is guilty of a misdemeanor and upon
6 conviction is punishable by a fine of not less than \$250 or
7 more than \$1,000 ~~1,500~~. A subsequent conviction under this
8 subsection is punishable by a fine of not less than \$500 or
9 more than \$1,000 ~~1,500~~.

10 (4) The justice court has jurisdiction over violations
11 of this part.

12 (5) ~~(2)~~ The department may revoke or suspend the permit
13 of anyone violating its terms CONVICTED OF VIOLATING A
14 PROVISION OF THIS PART IS PUNISHABLE BY A FINE OF NOT LESS
15 THAN \$500 OR MORE THAN \$1,000. IN ADDITION, THE PERMIT, IF
16 ANY, OF SUCH PERSON MUST BE REVOKED FOR SUCH PERIOD AS THE
17 COURT MAY DETERMINE."

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19 livestock. While engaged in flying an aircraft, no person,
20 whether or not lawfully authorized to aerially hunt, may
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24 than 500 feet establishes a rebuttable presumption of
25 knowledge of livestock harassment.

1 ~~NEW SECTION~~--Section 6--Forfeiture-----of-----personal
2 property-used-in-illegal-seriat-hunting--or--harassment--of
3 livestock--(1)--Aircraft-or-other-personal-property-used-in
4 the--air--or--on-the-ground-in-support-of-seriat-activity-in
5 violation-of-this-part-or-87-3-126-must-be-forfeited-to--and
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11 enforcement-officers-specified-in-81-7-512--Upon-conviction
12 in-a-proceeding-in-district-court-in-the-name-of--the--state
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