

SENATE BILL NO. 387

INTRODUCED BY MOHAR, DARKO, MUELLER,
REAM, MARBUT, J. JENSEN, E. SMITH, LEE

IN THE SENATE

February 9, 1983	Introduced and referred to Committee on Fish and Game.
February 16, 1983	Committee recommend bill do pass. Report adopted. Statement of Intent attached.
February 17, 1983	Bill printed and placed on members' desks.
February 18, 1983	Second reading, do pass.
February 19, 1983	Correctly engrossed.
February 21, 1983	Third reading, passed. Ayes, 43; Noes, 7. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Fish and Game.
March 15, 1983	Committee recommend bill be concurrent in. Report adopted.
March 18, 1983	Second reading, concurrent in.
March 19, 1983	Third reading, concurrent in.

IN THE SENATE

March 21, 1983	Returned to Senate. Sent to enrolling. Reported correctly enrolled.
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1 J. Janzen Asst BILL NO. 387
 2 INTRODUCED BY Flora Marko Mullen, Beann
 3 Mark E. Smith Lee

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE CATCHING
 5 WHITEFISH FROM THE KOOTENAI RIVER BY NETS AND TRAPS FOR
 6 PURPOSES OF SALE; AMENDING SECTIONS 87-3-204 AND 87-4-601,
 7 MCA."

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

10 Section 1. Section 87-3-204, MCA, is amended to read:

11 "87-3-204. Restrictions on fishing methods. (1) No
 12 game fish may be caught, captured, or taken or attempted to
 13 be caught, captured, or taken by the aid or with the use of
 14 any gun or trap, nor may any such set gun, trap, or other
 15 device to entrap game fish be used, made, or set.

16 (2) It is unlawful for a person to take or catch fish
 17 in any of the waters of this state, except with hook and
 18 line held in hand or line and hook attached to rod or pole
 19 held in hand; to take or catch fish with hook baited with
 20 any poisonous substance or by means of the use of any
 21 poisonous substance, including fish berries; or to take or
 22 catch fish by means of the use of fishtraps, grabhooks,
 23 seines, nets, or other similar means for catching fish.

24 (3) The department may designate such waters within
 25 the state of Montana wherein, in the judgment of the

1 department, spears or gigs may be used for taking walleyed
 2 pike, sauger, northern pike, and nongame fish and traps,
 3 seines, nets, and rubber or spring-propelled spears, when
 4 employed by sportsmen swimming or submerged in the water,
 5 may be used for the taking of designated species of fish.
 6 The waters so designated may be closed at the discretion of
 7 the department. The taking of all fish by such means in the
 8 waters, when so designated, is to be done under such rules
 9 as the department may prescribe with reference thereto and
 10 under the supervision of the department. All such nongame
 11 fish so taken may be possessed and sold in such manner and
 12 under such restrictions as the department may direct. All
 13 fish, other than those herein designated, so taken under
 14 department rules, when prescribed by the department, shall
 15 be returned uninjured to the waters from which they were
 16 taken.

17 (4) The taking of black bass in Flathead Lake may be
 18 permitted by the department.

19 (5) The department shall have the power to designate
 20 certain waters where setlines may be used to fish for
 21 certain species of game or nongame fish, and the department
 22 may designate the number of hooks and lines and the length
 23 of line or lines which may be used as setlines.

24 (6) Game fish shall be taken only by angling, that is
 25 by hook and single line in hand or single rod in hand or

1 within immediate control. This does not prevent, however:

2 (a) the snagging of paddlefish, coho (silver salmon),
3 and kokanee (sockeye salmon) when the department declares an
4 open season when paddlefish, coho (silver salmon), and
5 kokanee (sockeye salmon) may be taken by snagging;

6 (b) the taking of paddlefish with longbow and arrow
7 when the department declares an open season when paddlefish
8 may be taken by longbow and arrow;

9 (c) the taking of walleyed pike, sauger, northern
10 pike, burbot (ling), and nongame fish with spear or gig when
11 the department declares an open season for taking walleyed
12 pike, sauger, northern pike, burbot (ling), and nongame fish
13 with spear or gig;

14 (d) the use of landing net or gaff to land a game fish
15 after the same has been hooked by angling as above
16 specified; or

17 (e) the taking of minnows other than game fish variety
18 by the use or aid of a net not to exceed 12 feet in length
19 and 4 feet in width in such waters as may be designated by
20 the department; 1 or

21 (f) the taking of whitefish by nets or traps in the
22 Kootenai River, and in its tributary streams within one mile
23 of the Kootenai River, under such rules and regulations as
24 the fish and game commission may prescribe."

25 Section 2. Section 87-4-601, MCA, is amended to read:

1 "87-4-601. Sale of fish or spawn unlawful --
2 exceptions. (1) Except as provided in subsection (2), no
3 person may, for speculative purposes, for market, or for
4 sale, in any way, catch any of the fish which in this title
5 are classified as game fish or remove or cause to be removed
6 the eggs or spawn of any such fish. No person may sell or
7 offer for sale any of the game fish of this state as defined
8 in this title or the eggs or spawn therefrom.

9 (2) The restrictions of subsection (1) do not apply
10 to:

11 (a) the catching of fish in private ponds by the
12 owners thereof;

13 (b) the taking of fish by the state authorities for
14 the purpose of obtaining eggs for propagation in state fish
15 hatcheries or by any person who receives a permit from the
16 department to take eggs for such purposes; or

17 (c) the catching of whitefish by the holder of a valid
18 fishing license fishing with hook and line or rod in
19 specified waters designated by rules and regulations of the
20 department; or

21 (d) the taking of whitefish by nets or traps in the
22 Kootenai River, and in its tributary streams within one mile
23 of the Kootenai River, under such rules and regulations as
24 the fish and game commission may prescribe."

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 387

3 Senate Fish and Game Committee

4

5 A statement of intent is required for Senate Bill 387
6 because rulemaking authority is granted to the Montana Fish
7 and Game Commission to prescribe rules and regulations for
8 the taking of Whitefish by nets or traps in the Kootenai
9 River and in its tributary systems within one mile of the
10 Kootenai River. It is proposed that such rules will
11 encompass the following:

- 12 1. method of taking the fish;
13 2. permit requirements for those taking the fish; and
14 3. the times of taking the fish.

Approved by Comm.
on Fish and Game

SENATE BILL NO. 387

INTRODUCED BY MOHAR, DARKO, MUELLER,
REAM, MARBUT, J. JENSEN, E. SMITH, LEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE CATCHING
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PURPOSES OF SALE; AMENDING SECTIONS 87-3-204 AND 87-4-601,
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"87-3-204. Restrictions on fishing methods. (1) No
game fish may be caught, captured, or taken or attempted to
be caught, captured, or taken by the aid or with the use of
any gun or trap, nor may any such set gun, trap, or other
device to entrap game fish be used, made, or set.

(2) It is unlawful for a person to take or catch fish
in any of the waters of this state, except with hook and
line held in hand or line and hook attached to rod or pole
held in hand; to take or catch fish with hook baited with
any poisonous substance or by means of the use of any
poisonous substance, including fish berries; or to take or
catch fish by means of the use of fishtraps, grabhooks,
seines, nets, or other similar means for catching fish.

(3) The department may designate such waters within

the state of Montana wherein, in the judgment of the
department, spears or gigs may be used for taking walleyed
pike, sauger, northern pike, and nongame fish and traps,
seines, nets, and rubber or spring-propelled spears, when
employed by sportsmen swimming or submerged in the water,
may be used for the taking of designated species of fish.
The waters so designated may be closed at the discretion of
the department. The taking of all fish by such means in the
waters, when so designated, is to be done under such rules
as the department may prescribe with reference thereto and
under the supervision of the department. All such nongame
fish so taken may be possessed and sold in such manner and
under such restrictions as the department may direct. All
fish, other than those herein designated, so taken under
department rules, when prescribed by the department, shall
be returned uninjured to the waters from which they were
taken.

(4) The taking of black bass in Flathead Lake may be
permitted by the department.

(5) The department shall have the power to designate
certain waters where setlines may be used to fish for
certain species of game or nongame fish, and the department
may designate the number of hooks and lines and the length
of line or lines which may be used as setlines.

(6) Game fish shall be taken only by angling, that is

1 by hook and single line in hand or single rod in hand or
2 within immediate control. This does not prevent, however:

3 (a) the snagging of paddlefish, coho (silver salmon),
4 and kokanee (sockeye salmon) when the department declares an
5 open season when paddlefish, coho (silver salmon), and
6 kokanee (sockeye salmon) may be taken by snagging;

7 (b) the taking of paddlefish with longbow and arrow
8 when the department declares an open season when paddlefish
9 may be taken by longbow and arrow;

10 (c) the taking of walleyed pike, sauger, northern
11 pike, burbot (ling), and nongame fish with spear or gig when
12 the department declares an open season for taking walleyed
13 pike, sauger, northern pike, burbot (ling), and nongame fish
14 with spear or gig;

15 (d) the use of landing net or gaff to land a game fish
16 after the same has been hooked by angling as above
17 specified; or

18 (e) the taking of minnows other than game fish variety
19 by the use or aid of a net not to exceed 12 feet in length
20 and 4 feet in width in such waters as may be designated by
21 the department; i or

22 (f) the taking of whitefish by nets or traps in the
23 Kootenai River, and in its tributary streams within one mile
24 of the Kootenai River, under such rules and regulations as
25 the fish and game commission may prescribe."

1 Section 2. Section 87-4-601, MCA, is amended to read:

2 "87-4-601. Sale of fish or spawn unlawful --
3 exceptions. (1) Except as provided in subsection (2), no
4 person may, for speculative purposes, for market, or for
5 sale, in any way, catch any of the fish which in this title
6 are classified as game fish or remove or cause to be removed
7 the eggs or spawn of any such fish. No person may sell or
8 offer for sale any of the game fish of this state as defined
9 in this title or the eggs or spawn therefrom.

10 (2) The restrictions of subsection (1) do not apply
11 to:

12 (a) the catching of fish in private ponds by the
13 owners thereof;

14 (b) the taking of fish by the state authorities for
15 the purpose of obtaining eggs for propagation in state fish
16 hatcheries or by any person who receives a permit from the
17 department to take eggs for such purposes; or

18 (c) the catching of whitefish by the holder of a valid
19 fishing license fishing with hook and line or rod in
20 specified waters designated by rules and regulations of the
21 department; or

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23 Kootenai River, and in its tributary streams within one mile
24 of the Kootenai River, under such rules and regulations as
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6 because rulemaking authority is granted to the Montana Fish
7 and Game Commission to prescribe rules and regulations for
8 the taking of Whitefish by nets or traps in the Kootenai
9 River and in its tributary systems within one mile of the
10 Kootenai River. It is proposed that such rules will
11 encompass the following:

- 12 1. method of taking the fish;
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THIRD READING

SB387

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be caught, captured, or taken by the aid or with the use of
any gun or trap, nor may any such set gun, trap, or other
device to entrap game fish be used, made, or set.

(2) It is unlawful for a person to take or catch fish
in any of the waters of this state, except with hook and
line held in hand or line and hook attached to rod or pole
held in hand; to take or catch fish with hook baited with
any poisonous substance or by means of the use of any
poisonous substance, including fish berries; or to take or
catch fish by means of the use of fishtraps, grabhooks,
seines, nets, or other similar means for catching fish.

(3) The department may designate such waters within

the state of Montana wherein, in the judgment of the
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pike, sauger, northern pike, and nongame fish and traps,
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