

SENATE BILL NO. 448

INTRODUCED BY LANE, TOWE, E. SMITH, BOYLAN, CHRISTIAENS,  
FULLER, GALT, MAZUREK

BY REQUEST OF THE DEPARTMENTS OF  
AGRICULTURE AND FISH, WILDLIFE, AND PARKS

IN THE SENATE

February 16, 1983	Introduced and referred to Committee on Fish and Game.
February 19, 1983	Committee recommend bill do pass. Report adopted.  Statement of Intent attached.
February 21, 1983	Bill printed and placed on members' desks.
February 22, 1983	Second reading, do pass.  Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 37; Noes, 12. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Fish and Game.
March 18, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 22, 1983	Second reading, concurred in.
March 23, 1983	Third reading, concurred in.

IN THE SENATE

March 24, 1983

Returned to Senate with  
amendments

April 6, 1983

Second reading, amendments  
concurrent in.

April 7, 1983

Third reading, amendments  
concurrent in. Ayes, 45;  
Noes, 5.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *448*  
 2 INTRODUCED BY *LANE, Sen. E. Smith*  
 3 *Rep. Christian, Fuller, Holt, Maguire*  
 4 BY REQUEST OF THE DEPARTMENTS OF  
 5 AGRICULTURE AND FISH, WILDLIFE, AND PARKS

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE GAME ANIMAL  
 7 FARMS, GAME BIRD FARMS, AND FUR FARMS; REPEALING SECTIONS  
 8 87-4-401 THROUGH 87-4-405, MCA."  
 9

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

11 Section 1. Definitions. As used in [sections 1 through  
 12 18], the following definitions apply:

13 (1) "Game animals" means game animals as defined in  
 14 87-2-101 that are not the lawful property of any private  
 15 person.

16 (2) "Game farm" means the enclosed land area upon  
 17 which game farm animals may be kept for purposes of  
 18 obtaining, rearing in captivity, keeping, and selling game  
 19 animals or parts of game animals, as authorized under  
 20 [sections 1 through 18].

21 (3) "Game farm animal" means a privately owned  
 22 caribou, bear, mountain lion, white-tailed deer, mule deer,  
 23 elk, moose, antelope, mountain sheep, or mountain goat  
 24 indigenous to the state of Montana or any other  
 25 cloven-hoofed ungulate as classified by the department.

1 (4) "Game farm shooting license" means the license  
 2 required under [sections 1 through 21] for a game farm  
 3 licensee to hunt the game farm animals indigenous to the  
 4 state of Montana on his game farm.

5 (5) "Person" means an individual, firm, corporation,  
 6 association, or partnership.

7 Section 2. License required. No person may operate a  
 8 game farm in this state without first obtaining a game farm  
 9 license from the department.

10 Section 3. Department jurisdiction -- applicability  
 11 of livestock laws and rules. (1) The department has primary  
 12 jurisdiction over game farms.

13 (2) A game farm licensee must also comply with all  
 14 applicable laws and rules administered by the department of  
 15 livestock.

16 Section 4. Application for license -- limitations on  
 17 issuance. (1) Any person desiring to obtain a game farm  
 18 license shall make written application to the department.  
 19 The application shall specify:

- 20 (a) the applicant's name;
- 21 (b) the applicant's address;
- 22 (c) the exact legal description of the land upon which
- 23 the game farm is to be located, together with the nature of
- 24 the applicant's title thereto, whether in fee, under lease,
- 25 by contract for deed, or otherwise;

1 (d) the species of game animals proposed to be kept or  
2 reared on the game farm;

3 (e) the type of fencing contemplated;

4 (f) the source from which the applicant intends to  
5 acquire the game animals;

6 (g) if the applicant is not a Montana resident, the  
7 name and address of a Montana resident designated by the  
8 applicant as his local agent;

9 (h) if the applicant is a corporation, the full names  
10 and addresses of all stockholders owning more than 10% of  
11 the stock in the corporation; and

12 (i) information demonstrating that the applicant is  
13 responsible.

14 (2) A game farm license may be issued only to a  
15 responsible applicant who owns or leases the premises on  
16 which the operations are to be conducted and who has  
17 properly fenced the land upon which the game farm is to be  
18 located. The fencing must be designed and constructed to  
19 prevent the escape of the species of game farm animals kept  
20 on the land and to prevent the entry of the same species of  
21 game animals.

22 (3) Within 60 days of receiving the application, the  
23 department shall notify the applicant of its decision to  
24 approve or deny the application. If required fencing has not  
25 been completed, the department may approve the application

1 only subject to completion of the fencing. If the  
2 application is denied, the department shall specify the  
3 reasons for denial.

4 Section 5. Removal of game animals. (1) If game  
5 animals are present on the land which is to be covered by a  
6 game farm license, the license may be issued but must be  
7 conditioned upon the applicant complying with this section.

8 (2) Before the fence surrounding any such land may be  
9 closed, all game animals must to the extent possible be  
10 driven therefrom by the applicant, at the applicant's  
11 expense and under the direction of a representative of the  
12 department.

13 (3) If at the time the license is issued all game  
14 animals cannot be removed from the licensed land, the  
15 applicant and a representative of the department shall  
16 decide the approximate number of game farm animals of each  
17 indigenous species that the applicant will raise thereon.  
18 This number is the "base number".

19 (4) The department may remove the base number of game  
20 animals from the game farm by trapping them within 120 days  
21 from the date the number was determined.

22 (5) If the department decides not to remove the game  
23 animals or if some game animals were not successfully  
24 removed by trapping, the public must be granted access to  
25 harvest those game animals during a special hunt set for

1 that purpose during the next regularly scheduled hunting  
2 season. All administrative costs incurred by the department  
3 in arranging the special hunt or providing for hunting on  
4 the applicant's land during the regular season must be  
5 reimbursed by the applicant.

6 (6) After compliance with this section, any animals  
7 from the base number that remain and their progeny belong to  
8 the licensee, and the licensee may deal with them as  
9 provided for in [sections 1 through 18].

10 Section 6. License and renewal fees -- deposit of  
11 fees. (1) The department shall charge an initial game farm  
12 license fee of \$100 and for each year thereafter shall  
13 charge an annual renewal fee of \$25.

14 (2) The fees must be deposited in the earmarked  
15 revenue fund for the use of the department for purposes of  
16 [sections 1 through 18].

17 Section 7. Term of license -- nontransferability.  
18 (1) A game farm license expires on January 31 of the year  
19 succeeding the year of issuance. Application for renewal  
20 must be made before a license expires. The department shall  
21 renew the license upon payment of the renewal fee if the  
22 licensee has not violated any provisions of [sections 1  
23 through 18] or conditions under which the license was  
24 granted.

25 (2) A game farm license is nontransferable.

1 Section 8. Inspection. (1) Upon receipt of an  
2 application for a game farm license, the department shall  
3 inspect the land proposed to be covered by the license.

4 (2) After issuance of a game farm license, the  
5 department may inspect the game farm or the licensee's game  
6 farm books on a scheduled basis or on such other reasonable  
7 basis as it considers necessary.

8 Section 9. Game farm animals as private property. (1)  
9 All game farm animals lawfully raised on a licensed game  
10 farm are the private property of the licensee.

11 (2) The licensee may acquire, breed, grow, keep,  
12 pursue, capture, kill, use, sell, or dispose of the game  
13 farm animals and their progeny in any quantity, at any time  
14 of year, and in any manner, as long as he complies with the  
15 requirements of [sections 1 through 18].

16 (3) Before allowing hunting of any game animals on a  
17 game farm, the game farm licensee must obtain a game farm  
18 shooting license from the department.

19 (4) The laws applicable to game animals do not apply  
20 to game farm animals raised on a licensed game farm.

21 Section 10. Transportation and sale of game farm  
22 animals. (1) No person may sell, dispose of, or transport a  
23 living game farm animal except as provided in this section.

24 (2) Whenever the licensee of a licensed game farm  
25 sells or disposes of one or more game farm animals, he

1 shall, at the same time, deliver to the recipient or attach  
2 to each such game farm animal an invoice or bill of sale  
3 signed by the licensee or his agent stating the number of  
4 the game farm license, the date of disposition, the species,  
5 the number disposed of, and the name and address of the  
6 transferee. This invoice or bill of sale authorizes  
7 transportation of the game farm animal or animals being  
8 sold, transferred, or disposed of.

9 (3) Within 24 hours of disposition, the licensee or  
10 his agent shall mail postpaid a duplicate of the invoice or  
11 bill of sale to the department of livestock and the  
12 department.

13 Section 11. Sale of game parts, meats, and byproducts.

14 (1) No person may sell, dispose of, or transport the  
15 carcass, parts, or byproducts of a game farm animal except  
16 as provided in this section.

17 (2) A game farm licensee may sell or otherwise dispose  
18 of the carcass, parts, or byproducts of a properly  
19 identified game farm animal taken from a game farm, upon  
20 preparing an invoice or bill of sale and attaching a copy of  
21 it to the carcass or container and keeping a copy for his  
22 records. Upon the attaching of the invoice or bill of sale  
23 to the carcass, parts, or byproducts of the game farm  
24 animal, the same may be transported within the state to the  
25 transferee named on the invoice or bill of sale.

1 (3) The licensee may sell game farm animals for meat  
2 upon compliance with all applicable health laws.

3 Section 12. Records and reporting. (1) Each game farm  
4 licensee shall keep and maintain for 3 years accurate  
5 written records of all purchases, transfers, and sales of  
6 game farm animals showing:

7 (a) the number of each species of game farm animal  
8 purchased by the game farm licensee and from whom purchased;

9 (b) the number of each species of game farm animal  
10 transferred or sold, the date of transfer or sale, and the  
11 name and address of the person to whom the transfer or sale  
12 was made; and

13 (c) identification by number of each game farm animal  
14 purchased, transferred, or sold.

15 (2) On or before January 31 of each year, the game  
16 farm licensee shall file a report with the director, showing  
17 the number and species of game animals on hand as of January  
18 1 and the number and species of game animals bought or sold  
19 during the past year.

20 Section 13. Unlawful capture. No person may capture,  
21 take, or otherwise acquire any game animal in this state for  
22 use on a game farm.

23 Section 14. Escape from game farm -- effect. If a  
24 game animal escapes from a game farm, the game farm licensee  
25 shall immediately notify the department of its escape and

1 shall make every reasonable effort to recapture it. If the  
2 escaped animal cannot be recaptured within a reasonable  
3 time, it becomes the property of the state.

4 Section 15. Taxation. All game farm animals raised on  
5 a game farm must be assessed as personal property of the  
6 owner.

7 Section 16. Game farm shooting license. (1) Before a  
8 game farm licensee may hunt any indigenous game animals of  
9 Montana on his game farm, he must first obtain a game farm  
10 shooting license.

11 (2) The department shall issue to a game farm licensee  
12 a game farm shooting license on an annual basis for the  
13 number of animals that he wishes to hunt.

14 (3) The department shall issue individual tags to the  
15 game farm licensee at a charge of \$15 a tag. The tags must  
16 contain such information as the department requires. A tag  
17 must be attached to each animal immediately after it is  
18 killed and must accompany the animal until it is taken to  
19 its final destination.

20 Section 17. Rulemaking. (1) The department may adopt  
21 and enforce rules necessary to implement the provisions of  
22 [sections 1 through 18].

23 (2) The rules must address but are not limited to  
24 classifying of cloven-hoofed ungulates, fencing  
25 requirements, reporting requirements, transportation and

1 importation, identification, sale of animal parts, the care  
2 and maintenance of game farm animals, and game farm shooting  
3 licenses.

4 Section 18. Revocation of license. (1) A game farm  
5 license may be revoked for failure to operate the game farm  
6 according to the provisions of [sections 1 through 18] or  
7 rules adopted under [sections 1 through 18].

8 (2) Upon discovery of a violation, the department  
9 shall give notice of the violation to the licensee, with a  
10 statement of a specific time in which the violation must be  
11 corrected.

12 (3) Upon failure of the licensee to correct the  
13 violation, the department may institute revocation  
14 proceedings. If the department institutes revocation  
15 proceedings, it shall provide reasonable notice and  
16 opportunity for a hearing to the licensee. After hearing and  
17 upon proof of violation, the department may revoke the game  
18 farm license.

19 Section 19. Current licenses valid. A game farm having  
20 a valid license on October 1, 1983, may receive a game farm  
21 license in the manner provided by [sections 1 through 18]  
22 for renewal of game farm licenses, except that no renewal  
23 fee may be charged until 1 year after initial licensure  
24 under this section.

25 Section 20. Game birds defined. For purposes of

1 [sections 20 through 35]. "game birds" means all birds  
2 defined as game birds in 87-2-101, except that the only  
3 pheasants included are ring-necked pheasants, and quail are  
4 not included.

5 Section 21. Exemption. [Sections 20 through 35] do not  
6 apply to a person who owns, controls, or propagates game  
7 birds for purposes other than sale or conveyance of game  
8 birds or parts thereof and who notifies the department and  
9 receives its written authorization and exemption.

10 Section 22. Game bird farm license required. Except as  
11 provided in [section 21], no person may own, control, or  
12 propagate game birds unless he holds a current game bird  
13 farm license from the department.

14 Section 23. Application for game bird farm license --  
15 limitation on issuance. (1) A person desiring to obtain a  
16 game bird farm license shall make a written application to  
17 the department. The application must specify:

- 18 (a) the name of the applicant;
- 19 (b) his address;
- 20 (c) the species of game bird and any plans to  
21 propagate them;
- 22 (d) the legal description of the lands to be included;
- 23 (e) the type of fence or enclosure that the applicant  
24 contemplates erecting;
- 25 (f) the source of game birds; and

1 (g) for a nonresident owner, the name and address of a  
2 local resident agent.

3 (2) (a) A game bird farm license may be issued only to  
4 a responsible applicant who owns or leases the premises on  
5 which the operations are to be conducted and who has  
6 properly fenced or otherwise enclosed the place where such  
7 game bird farm is to be located.

8 (b) Any game bird farm owned by a nonresident must  
9 have a resident agent who is responsible for the daily  
10 operation of the farm and who is authorized by the  
11 nonresident owner to receive service of process.

12 (3) Within 30 days of receiving the application, the  
13 department shall notify the applicant of its decision to  
14 approve or deny the application. If required fencing or  
15 enclosure has not been completed, the department may approve  
16 the application only subject to the fencing or enclosure  
17 being completed. If the application is denied, the  
18 department shall specify the reasons for denial.

19 Section 24. License and renewal fee -- deposit of  
20 fees. (1) Game bird farm license and annual renewal fees  
21 must be set by department rule in amounts not to exceed \$100  
22 for initial licensing and \$25 for annual renewal.

23 (2) The fees must be deposited in the earmarked  
24 revenue fund for the use of the department for purposes of  
25 [sections 20 through 35].



1 Section 25. Term of permit -- conditions --  
 2 changes in operation. (1) A game bird farm license is valid  
 3 only for the license year for which it is issued. The  
 4 licensee shall apply for renewal annually, and the  
 5 department shall renew the license if the licensee has not  
 6 violated any provision of [sections 20 through 35], rules  
 7 adopted under [sections 20 through 35], or any condition of  
 8 the license.

9 (2) The licensee shall notify the department of any  
 10 proposed changes in the species managed or in the size or  
 11 location of the enclosure prior to the institution of such  
 12 change.

13 Section 26. License nontransferable. A game bird farm  
 14 license is nontransferable.

15 Section 27. Inspection. Upon receipt of an  
 16 application, the department shall inspect the game bird farm  
 17 facilities and shall thereafter inspect the facilities at  
 18 least biennially. The department may inspect any game bird  
 19 farm or the records required to be kept by such farm at any  
 20 reasonable time.

21 Section 28. Game farm birds as private property. All  
 22 birds lawfully raised in a licensed game bird farm are the  
 23 private property of the licensee, and the licensee may sell  
 24 or transfer such birds as private property.

25 Section 29. Transportation of birds. Any birds

1 purchased for use on a game bird farm or any birds raised on  
 2 a game bird farm may be transported only in compliance with  
 3 Title 81, chapter 2, part 7, and applicable administrative  
 4 rules.

5 Section 30. Sale of meat. A licensee may sell game  
 6 birds or parts thereof only in compliance with all health  
 7 laws applicable to the sale of game meat.

8 Section 31. Records and reporting. (1) Each licensee  
 9 shall keep accurate records of the number and species of  
 10 birds purchased, transferred, or sold and the name of each  
 11 person to whom or from whom such birds were purchased,  
 12 transferred, or sold.

13 (2) On or before January 31 of each year, each  
 14 licensee shall file a report with the director, showing the  
 15 number and species of birds on hand on January 1 and the  
 16 number and kinds of birds purchased, transferred, or sold  
 17 during the past year. All records described in this section  
 18 must be kept for not less than 3 years.

19 Section 32. Rulemaking. The department may adopt and  
 20 enforce rules necessary to implement the provisions of  
 21 [sections 20 through 35]. The rules must address but are not  
 22 limited to fencing requirements, reporting requirements, the  
 23 care and maintenance of birds held by game bird farm  
 24 operators, and licensing requirements for applicants.

25 Section 33. Release of birds. Game bird farm licensees

1 may release birds into the wild only with the prior approval  
2 of the director.

3 Section 34. Field trials -- permits. (1) As used in  
4 this section, "field trial" means an examination to  
5 determine the ability of dogs to point, flush, or retrieve  
6 game birds.

7 (2) No person may conduct a field trial unless he has  
8 received a permit under this section. Applicants for a  
9 permit to conduct a field trial must make application to the  
10 director upon a form furnished by the department for that  
11 purpose. The application must be signed and sworn to by the  
12 applicant, stating the applicant's name and address, the  
13 name and address of any national affiliate, the place for  
14 the field trial clearly defined, the date or dates of the  
15 proposed field trial, whether live birds are to be used, and  
16 any other information required by the director to determine  
17 the advisability of granting permission for the proposed  
18 field trial. The application must state that if a permit is  
19 granted, the applicant will carefully flush all wild game  
20 birds from fields used for the field trial each day before  
21 the field trial begins and will not permit dogs to run free  
22 in fields that have not been carefully flushed. The  
23 application must be presented to the director not less than  
24 20 days prior to the date proposed for the field trial.

25 (3) The director may refuse any application that he

1 determines is not in the best interests of the protection,  
2 preservation, propagation, and conservation of game birds in  
3 this state. Any denial by the director of such application  
4 must state the reasons therefor and must be mailed to the  
5 applicant within 10 days of receipt of the application.

6 (4) No applicant receiving a permit to conduct a field  
7 trial may violate or authorize violation of any of the terms  
8 of the permit.

9 (5) All live game birds used in a field trial must be  
10 tagged before being planted or released and may be planted  
11 or released only in the presence of a representative of the  
12 department. If an untagged bird is shot during any field  
13 trial, the person to whom the permit was issued must  
14 immediately replace it with a live bird.

15 (6) (a) Dogs may be trained in open fields at any time  
16 without permission of the director only if:

17 (i) no live game birds are killed or captured during  
18 training; and

19 (ii) the training is more than 1 mile from any bird  
20 nesting or management area or game preserve.

21 (b) A person may train dogs with a method that will  
22 kill birds acquired from a game bird farm only after  
23 receiving a written permit from the department and only in  
24 compliance with the terms of the permit.

25 Section 35. Revocation of license. (1) A game bird

1 farm license may be revoked for failure to operate the game  
 2 bird farm according to provisions of [sections 20 through  
 3 35] or rules adopted under [sections 20 through 35].

4 (2) Upon discovery of a violation, the department  
 5 shall give notice of such violation to the licensee, with a  
 6 statement of a specific time by which the violation must be  
 7 corrected.

8 (3) Upon failure of the licensee to correct the  
 9 violation, the department may institute revocation  
 10 proceedings. If the department institutes revocation  
 11 proceedings, it shall provide reasonable notice and  
 12 opportunity for a hearing to the licensee. After hearing,  
 13 upon proof of violation, the department may revoke the game  
 14 bird farm license.

15 Section 36. Definition. For purposes of [sections 36  
 16 through 48], "furbearer" means a marten or sable, otter,  
 17 muskrat, fisher, bobcat, lynx, wolverine, or beaver. The  
 18 term does not include fox or mink.

19 Section 37. Fur farm license required --  
 20 applicability. (1) Except as provided in subsection (2), no  
 21 person may own, control, or propagate furbearers unless he  
 22 holds a current fur farm license from the department.

23 (2) [Sections 36 through 48] do not apply to the  
 24 ownership, control, or propagation of furbearers if the  
 25 ownership, control, or propagation is not for the sale or

1 conveyance of furbearers or parts thereof.

2 Section 38. Application for permit. (1) Any person  
 3 desiring to obtain a fur farm license shall make a written  
 4 application to the department. The application must specify:

- 5 (a) the name of the applicant;
- 6 (b) his address;
- 7 (c) species of furbearers and any plan to propagate
- 8 them;
- 9 (d) the legal description of the lands to be included;
- 10 (e) the type of fence that the applicant contemplates
- 11 erecting;
- 12 (f) the source of furbearers.

13 (2) (a) A fur farm license may be issued only to a  
 14 responsible applicant who owns or leases the premises on  
 15 which the operations are to be conducted and who has  
 16 properly fenced the place where such fur farm is to be  
 17 located.

18 (b) Any fur farm owned by a nonresident must have a  
 19 resident agent who is responsible for the daily operation of  
 20 the fur farm and who is authorized by the nonresident owner  
 21 to receive service of process.

22 (3) Within 30 days of receiving the application, the  
 23 department shall notify the applicant of its decision to  
 24 approve or deny the application. If required fencing has not  
 25 been completed, the department may approve the application

1 only subject to the fencing being completed. If the  
2 application is denied, the department shall specify the  
3 reasons for denial.

4 Section 39. License and renewal fee -- deposit. (1)  
5 Fur farm license and annual renewal fees must be set by  
6 department rule in amounts not to exceed \$100 for initial  
7 licensing and \$25 for annual renewal.

8 (2) The fees must be deposited in the earmarked  
9 revenue fund for the use of the department for purposes of  
10 [sections 36 through 48].

11 Section 40. Term of permit -- conditions -- changes  
12 in operation. (1) A fur farm license is valid only for the  
13 license year in which it is issued. The licensee shall apply  
14 for renewal annually, and the department shall renew the  
15 license if the licensee has not violated any provision of  
16 [sections 36 through 48], rules adopted under [sections 36  
17 through 48], or any condition of the license.

18 (2) The licensee shall notify the department of any  
19 proposed changes in the species managed or in the size or  
20 location of the enclosure prior to the institution of such  
21 change.

22 Section 41. License nontransferable. A fur farm  
23 license is nontransferable.

24 Section 42. Inspection. Upon receipt of an application  
25 for a license, the department shall inspect each fur farm

1 and thereafter shall inspect each fur farm biennially. The  
2 department may inspect any fur farm or the records required  
3 to be kept by such fur farm at any reasonable time.

4 Section 43. Furbearers as private property. All  
5 furbearers lawfully raised on a licensed fur farm are the  
6 private property of the licensee, and the licensee may sell  
7 or transfer such furbearers as private property.

8 Section 44. Transportation of furbearers. Any  
9 furbearers purchased for use on a fur farm or any furbearers  
10 raised on a fur farm may be transported only in compliance  
11 with Title 81, chapter 2, part 7, and applicable  
12 administrative rules.

13 Section 45. Sale of furs. A fur farm owner who desires  
14 to sell furs shall comply with all the requirements of Title  
15 87, chapter 4, part 3.

16 Section 46. Records and reporting. (1) Each licensee  
17 shall keep accurate records of the number and species of  
18 furbearers purchased, transferred, or sold and the name of  
19 each person to whom or from whom such furbearers were  
20 purchased, transferred, or sold.

21 (2) On or before January 31 of each year, each  
22 licensee shall file a report with the director, showing the  
23 number and species of furbearers on hand on January 1 and  
24 the number and species of furbearers purchased, transferred,  
25 or sold during the past year. All records described in this

1 section must be kept for not less than 3 years.

2 Section 47. Rulemaking. The department may adopt and  
3 enforce rules necessary to implement [sections 36 through  
4 48]. The rules must address but are not limited to fencing  
5 requirements, reporting requirements, the care and  
6 maintenance of the furbearers held by fur farm operators,  
7 and licensing requirements for applicants.

8 Section 48. Revocation of license. (1) A fur farm  
9 license may be revoked for failure to operate the fur farm  
10 according to the provisions of [sections 36 through 48] or  
11 rules adopted under [sections 36 through 48].

12 (2) Upon discovery of a violation, the department  
13 shall give notice of such violation to the licensee, with a  
14 statement of a specific time by which the violation must be  
15 corrected.

16 (3) Upon failure of the licensee to correct the  
17 violation, the department may institute revocation  
18 proceedings. If the department institutes revocation  
19 proceedings, it shall provide reasonable notice and  
20 opportunity for a hearing to the licensee. After hearing,  
21 upon proof of violation, the department may revoke the fur  
22 farm license.

23 Section 49. Repealer. Sections 87-4-401 through  
24 87-4-405, MCA, are repealed.

25 Section 50. Codification instruction. Sections 1

1 through 18 and 20 through 48 are intended to be codified as  
2 an integral part of Title 87, and the provisions of Title 87  
3 apply to sections 1 through 18 and 20 through 48.

-End-

1 STATEMENT OF INTENT

2 SENATE BILL 448

3 Senate Fish and Game Committee

4

5 This bill requires the Department of Fish, Wildlife,  
6 and Parks to make rules for game animal farms under section  
7 17, game bird farms under section 32, and fur farms under  
8 section 47. It is the intent of the Legislature that these  
9 rules address procedural items necessary for a timely and  
10 efficient processing of applications and licenses and  
11 provide the information necessary for administration of the  
12 criteria provided in those sections.

Approved by Comm.  
on Fish and Game

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3 CHRISTIAENS, FULLER, GALT, MAZUREK

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7 A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE GAME ANIMAL  
8 FARMS, GAME BIRD FARMS, AND FUR FARMS; REPEALING SECTIONS  
9 87-4-401 THROUGH 87-4-405, MCA."

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

12 Section 1. Definitions. As used in [sections 1 through  
13 18], the following definitions apply:

14 (1) "Game animals" means game animals as defined in  
15 87-2-101 that are not the lawful property of any private  
16 person.

17 (2) "Game farm" means the enclosed land area upon  
18 which game farm animals may be kept for purposes of  
19 obtaining, rearing in captivity, keeping, and selling game  
20 animals or parts of game animals, as authorized under  
21 [sections 1 through 18].

22 (3) "Game farm animal" means a privately owned  
23 caribou, bear, mountain lion, white-tailed deer, mule deer,  
24 elk, moose, antelope, mountain sheep, or mountain goat  
25 indigenous to the state of Montana or any other

1 cloven-hoofed ungulate as classified by the department.

2 (4) "Game farm shooting license" means the license  
3 required under [sections 1 through 21] for a game farm  
4 licensee to hunt the game farm animals indigenous to the  
5 state of Montana on his game farm.

6 (5) "Person" means an individual, firm, corporation,  
7 association, or partnership.

8 Section 2. License required. No person may operate a  
9 game farm in this state without first obtaining a game farm  
10 license from the department.

11 Section 3. Department jurisdiction -- applicability  
12 of livestock laws and rules. (1) The department has primary  
13 jurisdiction over game farms.

14 (2) A game farm licensee must also comply with all  
15 applicable laws and rules administered by the department of  
16 livestock.

17 Section 4. Application for license -- limitations on  
18 issuance. (1) Any person desiring to obtain a game farm  
19 license shall make written application to the department.  
20 The application shall specify:

- 21 (a) the applicant's name;
- 22 (b) the applicant's address;
- 23 (c) the exact legal description of the land upon which  
24 the game farm is to be located, together with the nature of  
25 the applicant's title thereto, whether in fee, under lease,

1 by contract for deed, or otherwise;

2 (d) the species of game animals proposed to be kept or  
3 reared on the game farm;

4 (e) the type of fencing contemplated;

5 (f) the source from which the applicant intends to  
6 acquire the game animals;

7 (g) if the applicant is not a Montana resident, the  
8 name and address of a Montana resident designated by the  
9 applicant as his local agent;

10 (h) if the applicant is a corporation, the full names  
11 and addresses of all stockholders owning more than 10% of  
12 the stock in the corporation; and

13 (i) information demonstrating that the applicant is  
14 responsible.

15 (2) A game farm license may be issued only to a  
16 responsible applicant who owns or leases the premises on  
17 which the operations are to be conducted and who has  
18 properly fenced the land upon which the game farm is to be  
19 located. The fencing must be designed and constructed to  
20 prevent the escape of the species of game farm animals kept  
21 on the land and to prevent the entry of the same species of  
22 game animals.

23 (3) Within 60 days of receiving the application, the  
24 department shall notify the applicant of its decision to  
25 approve or deny the application. If required fencing has not

1 been completed, the department may approve the application  
2 only subject to completion of the fencing. If the  
3 application is denied, the department shall specify the  
4 reasons for denial.

5 Section 5. Removal of game animals. (1) If game  
6 animals are present on the land which is to be covered by a  
7 game farm license, the license may be issued but must be  
8 conditioned upon the applicant complying with this section.

9 (2) Before the fence surrounding any such land may be  
10 closed, all game animals must to the extent possible be  
11 driven therefrom by the applicant, at the applicant's  
12 expense and under the direction of a representative of the  
13 department.

14 (3) If at the time the license is issued all game  
15 animals cannot be removed from the licensed land, the  
16 applicant and a representative of the department shall  
17 decide the approximate number of game farm animals of each  
18 indigenous species that the applicant will raise thereon.  
19 This number is the "base number".

20 (4) The department may remove the base number of game  
21 animals from the game farm by trapping them within 120 days  
22 from the date the number was determined.

23 (5) If the department decides not to remove the game  
24 animals or if some game animals were not successfully  
25 removed by trapping, the public must be granted access to



1 harvest those game animals during a special hunt set for  
 2 that purpose during the next regularly scheduled hunting  
 3 season. All administrative costs incurred by the department  
 4 in arranging the special hunt or providing for hunting on  
 5 the applicant's land during the regular season must be  
 6 reimbursed by the applicant.

7 (6) After compliance with this section, any animals  
 8 from the base number that remain and their progeny belong to  
 9 the licensee, and the licensee may deal with them as  
 10 provided for in [sections 1 through 18].

11 Section 6. License and renewal fees -- deposit of  
 12 fees. (1) The department shall charge an initial game farm  
 13 license fee of \$100 and for each year thereafter shall  
 14 charge an annual renewal fee of \$25.

15 (2) The fees must be deposited in the earmarked  
 16 revenue fund for the use of the department for purposes of  
 17 [sections 1 through 18].

18 Section 7. Term of license -- nontransferability.

19 (1) A game farm license expires on January 31 of the year  
 20 succeeding the year of issuance. Application for renewal  
 21 must be made before a license expires. The department shall  
 22 renew the license upon payment of the renewal fee if the  
 23 licensee has not violated any provisions of [sections 1  
 24 through 18] or conditions under which the license was  
 25 granted.

1 (2) A game farm license is nontransferable.

2 Section 8. Inspection. (1) Upon receipt of an  
 3 application for a game farm license, the department shall  
 4 inspect the land proposed to be covered by the license.

5 (2) After issuance of a game farm license, the  
 6 department may inspect the game farm or the licensee's game  
 7 farm books on a scheduled basis or on such other reasonable  
 8 basis as it considers necessary.

9 Section 9. Game farm animals as private property. (1)  
 10 All game farm animals lawfully raised on a licensed game  
 11 farm are the private property of the licensee.

12 (2) The licensee may acquire, breed, grow, keep,  
 13 pursue, capture, kill, use, sell, or dispose of the game  
 14 farm animals and their progeny in any quantity, at any time  
 15 of year, and in any manner, as long as he complies with the  
 16 requirements of [sections 1 through 18].

17 (3) Before allowing hunting of any game animals on a  
 18 game farm, the game farm licensee must obtain a game farm  
 19 shooting license from the department.

20 (4) The laws applicable to game animals do not apply  
 21 to game farm animals raised on a licensed game farm.

22 Section 10. Transportation and sale of game farm  
 23 animals. (1) No person may sell, dispose of, or transport a  
 24 living game farm animal except as provided in this section.

25 (2) Whenever the licensee of a licensed game farm

1 sells or disposes of one or more game farm animals, he  
 2 shall, at the same time, deliver to the recipient or attach  
 3 to each such game farm animal an invoice or bill of sale  
 4 signed by the licensee or his agent stating the number of  
 5 the game farm license, the date of disposition, the species,  
 6 the number disposed of, and the name and address of the  
 7 transferee. This invoice or bill of sale authorizes  
 8 transportation of the game farm animal or animals being  
 9 sold, transferred, or disposed of.

10 (3) Within 24 hours of disposition, the licensee or  
 11 his agent shall mail postpaid a duplicate of the invoice or  
 12 bill of sale to the department of livestock and the  
 13 department.

14 Section 11. Sale of game parts, meats, and byproducts.  
 15 (1) No person may sell, dispose of, or transport the  
 16 carcass, parts, or byproducts of a game farm animal except  
 17 as provided in this section.

18 (2) A game farm licensee may sell or otherwise dispose  
 19 of the carcass, parts, or byproducts of a properly  
 20 identified game farm animal taken from a game farm, upon  
 21 preparing an invoice or bill of sale and attaching a copy of  
 22 it to the carcass or container and keeping a copy for his  
 23 records. Upon the attaching of the invoice or bill of sale  
 24 to the carcass, parts, or byproducts of the game farm  
 25 animal, the same may be transported within the state to the

1 transferee named on the invoice or bill of sale.

2 (3) The licensee may sell game farm animals for meat  
 3 upon compliance with all applicable health laws.

4 Section 12. Records and reporting. (1) Each game farm  
 5 licensee shall keep and maintain for 3 years accurate  
 6 written records of all purchases, transfers, and sales of  
 7 game farm animals showing:

8 (a) the number of each species of game farm animal  
 9 purchased by the game farm licensee and from whom purchased;

10 (b) the number of each species of game farm animal  
 11 transferred or sold, the date of transfer or sale, and the  
 12 name and address of the person to whom the transfer or sale  
 13 was made; and

14 (c) identification by number of each game farm animal  
 15 purchased, transferred, or sold.

16 (2) On or before January 31 of each year, the game  
 17 farm licensee shall file a report with the director, showing  
 18 the number and species of game animals on hand as of January  
 19 1 and the number and species of game animals bought or sold  
 20 during the past year.

21 Section 13. Unlawful capture. No person may capture,  
 22 take, or otherwise acquire any game animal in this state for  
 23 use on a game farm.

24 Section 14. Escape from game farm -- effect. If a  
 25 game animal escapes from a game farm, the game farm licensee

1 shall immediately notify the department of its escape and  
 2 shall make every reasonable effort to recapture it. If the  
 3 escaped animal cannot be recaptured within a reasonable  
 4 time, it becomes the property of the state.

5 Section 15. Taxation. All game farm animals raised on  
 6 a game farm must be assessed as personal property of the  
 7 owner.

8 Section 16. Game farm shooting license. (1) Before a  
 9 game farm licensee may hunt any indigenous game animals of  
 10 Montana on his game farm, he must first obtain a game farm  
 11 shooting license.

12 (2) The department shall issue to a game farm licensee  
 13 a game farm shooting license on an annual basis for the  
 14 number of animals that he wishes to hunt.

15 (3) The department shall issue individual tags to the  
 16 game farm licensee at a charge of \$15 a tag. The tags must  
 17 contain such information as the department requires. A tag  
 18 must be attached to each animal immediately after it is  
 19 killed and must accompany the animal until it is taken to  
 20 its final destination.

21 Section 17. Rulemaking. (1) The department may adopt  
 22 and enforce rules necessary to implement the provisions of  
 23 [sections 1 through 18].

24 (2) The rules must address but are not limited to  
 25 classifying of cloven-hoofed ungulates, fencing

1 requirements, reporting requirements, transportation and  
 2 importation, identification, sale of animal parts, the care  
 3 and maintenance of game farm animals, and game farm shooting  
 4 licenses.

5 Section 18. Revocation of license. (1) A game farm  
 6 license may be revoked for failure to operate the game farm  
 7 according to the provisions of [sections 1 through 18] or  
 8 rules adopted under [sections 1 through 18].

9 (2) Upon discovery of a violation, the department  
 10 shall give notice of the violation to the licensee, with a  
 11 statement of a specific time in which the violation must be  
 12 corrected.

13 (3) Upon failure of the licensee to correct the  
 14 violation, the department may institute revocation  
 15 proceedings. If the department institutes revocation  
 16 proceedings, it shall provide reasonable notice and  
 17 opportunity for a hearing to the licensee. After hearing and  
 18 upon proof of violation, the department may revoke the game  
 19 farm license.

20 Section 19. Current licenses valid. A game farm having  
 21 a valid license on October 1, 1983, may receive a game farm  
 22 license in the manner provided by [sections 1 through 18]  
 23 for renewal of game farm licenses, except that no renewal  
 24 fee may be charged until 1 year after initial licensure  
 25 under this section.

1 Section 20. Game birds defined. For purposes of  
2 [sections 20 through 35], "game birds" means all birds  
3 defined as game birds in 87-2-101, except that the only  
4 pheasants included are ring-necked pheasants, and quail are  
5 not included.

6 Section 21. Exemption. [Sections 20 through 35] do not  
7 apply to a person who owns, controls, or propagates game  
8 birds for purposes other than sale or conveyance of game  
9 birds or parts thereof and who notifies the department and  
10 receives its written authorization and exemption.

11 Section 22. Game bird farm license required. Except as  
12 provided in [section 21], no person may own, control, or  
13 propagate game birds unless he holds a current game bird  
14 farm license from the department.

15 Section 23. Application for game bird farm license --  
16 limitation on issuance. (1) A person desiring to obtain a  
17 game bird farm license shall make a written application to  
18 the department. The application must specify:

- 19 (a) the name of the applicant;
- 20 (b) his address;
- 21 (c) the species of game bird and any plans to  
22 propagate them;
- 23 (d) the legal description of the lands to be included;
- 24 (e) the type of fence or enclosure that the applicant  
25 contemplates erecting;

1 (f) the source of game birds; and  
2 (g) for a nonresident owner, the name and address of a  
3 local resident agent.

4 (2) (a) A game bird farm license may be issued only to  
5 a responsible applicant who owns or leases the premises on  
6 which the operations are to be conducted and who has  
7 properly fenced or otherwise enclosed the place where such  
8 game bird farm is to be located.

9 (b) Any game bird farm owned by a nonresident must  
10 have a resident agent who is responsible for the daily  
11 operation of the farm and who is authorized by the  
12 nonresident owner to receive service of process.

13 (3) Within 30 days of receiving the application, the  
14 department shall notify the applicant of its decision to  
15 approve or deny the application. If required fencing or  
16 enclosure has not been completed, the department may approve  
17 the application only subject to the fencing or enclosure  
18 being completed. If the application is denied, the  
19 department shall specify the reasons for denial.

20 Section 24. License and renewal fee -- deposit of  
21 fees. (1) Game bird farm license and annual renewal fees  
22 must be set by department rule in amounts not to exceed \$100  
23 for initial licensing and \$25 for annual renewal.

24 (2) The fees must be deposited in the earmarked  
25 revenue fund for the use of the department for purposes of

1 [sections 20 through 35].

2 Section 25. Term of permit -- conditions --  
3 changes in operation. (1) A game bird farm license is valid  
4 only for the license year for which it is issued. The  
5 licensee shall apply for renewal annually, and the  
6 department shall renew the license if the licensee has not  
7 violated any provision of [sections 20 through 35], rules  
8 adopted under [sections 20 through 35], or any condition of  
9 the license.

10 (2) The licensee shall notify the department of any  
11 proposed changes in the species managed or in the size or  
12 location of the enclosure prior to the institution of such  
13 change.

14 Section 26. License nontransferable. A game bird farm  
15 license is nontransferable.

16 Section 27. Inspection. Upon receipt of an  
17 application, the department shall inspect the game bird farm  
18 facilities and shall thereafter inspect the facilities at  
19 least biennially. The department may inspect any game bird  
20 farm or the records required to be kept by such farm at any  
21 reasonable time.

22 Section 28. Game farm birds as private property. All  
23 birds lawfully raised in a licensed game bird farm are the  
24 private property of the licensee, and the licensee may sell  
25 or transfer such birds as private property.

1 Section 29. Transportation of birds. Any birds  
2 purchased for use on a game bird farm or any birds raised on  
3 a game bird farm may be transported only in compliance with  
4 Title 81, chapter 2, part 7, and applicable administrative  
5 rules.

6 Section 30. Sale of meat. A licensee may sell game  
7 birds or parts thereof only in compliance with all health  
8 laws applicable to the sale of game meat.

9 Section 31. Records and reporting. (1) Each licensee  
10 shall keep accurate records of the number and species of  
11 birds purchased, transferred, or sold and the name of each  
12 person to whom or from whom such birds were purchased,  
13 transferred, or sold.

14 (2) On or before January 31 of each year, each  
15 licensee shall file a report with the director, showing the  
16 number and species of birds on hand on January 1 and the  
17 number and kinds of birds purchased, transferred, or sold  
18 during the past year. All records described in this section  
19 must be kept for not less than 3 years.

20 Section 32. Rulemaking. The department may adopt and  
21 enforce rules necessary to implement the provisions of  
22 [sections 20 through 35]. The rules must address but are not  
23 limited to fencing requirements, reporting requirements, the  
24 care and maintenance of birds held by game bird farm  
25 operators, and licensing requirements for applicants.

1 Section 33. Release of birds. Game bird farm licensees  
2 may release birds into the wild only with the prior approval  
3 of the director.

4 Section 34. Field trials -- permits. (1) As used in  
5 this section, "field trial" means an examination to  
6 determine the ability of dogs to point, flush, or retrieve  
7 game birds.

8 (2) No person may conduct a field trial unless he has  
9 received a permit under this section. Applicants for a  
10 permit to conduct a field trial must make application to the  
11 director upon a form furnished by the department for that  
12 purpose. The application must be signed and sworn to by the  
13 applicant, stating the applicant's name and address, the  
14 name and address of any national affiliate, the place for  
15 the field trial clearly defined, the date or dates of the  
16 proposed field trial, whether live birds are to be used, and  
17 any other information required by the director to determine  
18 the advisability of granting permission for the proposed  
19 field trial. The application must state that if a permit is  
20 granted, the applicant will carefully flush all wild game  
21 birds from fields used for the field trial each day before  
22 the field trial begins and will not permit dogs to run free  
23 in fields that have not been carefully flushed. The  
24 application must be presented to the director not less than  
25 20 days prior to the date proposed for the field trial.

1 (3) The director may refuse any application that he  
2 determines is not in the best interests of the protection,  
3 preservation, propagation, and conservation of game birds in  
4 this state. Any denial by the director of such application  
5 must state the reasons therefor and must be mailed to the  
6 applicant within 10 days of receipt of the application.

7 (4) No applicant receiving a permit to conduct a field  
8 trial may violate or authorize violation of any of the terms  
9 of the permit.

10 (5) All live game birds used in a field trial must be  
11 tagged before being planted or released and may be planted  
12 or released only in the presence of a representative of the  
13 department. If an untagged bird is shot during any field  
14 trial, the person to whom the permit was issued must  
15 immediately replace it with a live bird.

16 (6) (a) Dogs may be trained in open fields at any time  
17 without permission of the director only if:

18 (i) no live game birds are killed or captured during  
19 training; and

20 (ii) the training is more than 1 mile from any bird  
21 nesting or management area or game preserve.

22 (b) A person may train dogs with a method that will  
23 kill birds acquired from a game bird farm only after  
24 receiving a written permit from the department and only in  
25 compliance with the terms of the permit.

1 Section 35. Revocation of license. (1) A game bird  
2 farm license may be revoked for failure to operate the game  
3 bird farm according to provisions of [sections 20 through  
4 35] or rules adopted under [sections 20 through 35].

5 (2) Upon discovery of a violation, the department  
6 shall give notice of such violation to the licensee, with a  
7 statement of a specific time by which the violation must be  
8 corrected.

9 (3) Upon failure of the licensee to correct the  
10 violation, the department may institute revocation  
11 proceedings. If the department institutes revocation  
12 proceedings, it shall provide reasonable notice and  
13 opportunity for a hearing to the licensee. After hearing,  
14 upon proof of violation, the department may revoke the game  
15 bird farm license.

16 Section 36. Definition. For purposes of [sections 36  
17 through 48], "furbearer" means a marten or sable, otter,  
18 muskrat, fisher, bobcat, lynx, wolverine, or beaver. The  
19 term does not include fox or mink.

20 Section 37. Fur farm license required --  
21 applicability. (1) Except as provided in subsection (2), no  
22 person may own, control, or propagate furbearers unless he  
23 holds a current fur farm license from the department.

24 (2) [Sections 36 through 48] do not apply to the  
25 ownership, control, or propagation of furbearers if the

1 ownership, control, or propagation is not for the sale or  
2 conveyance of furbearers or parts thereof.

3 Section 38. Application for permit. (1) Any person  
4 desiring to obtain a fur farm license shall make a written  
5 application to the department. The application must specify:

- 6 (a) the name of the applicant;
- 7 (b) his address;
- 8 (c) species of furbearers and any plan to propagate  
9 them;
- 10 (d) the legal description of the lands to be included;
- 11 (e) the type of fence that the applicant contemplates  
12 erecting;
- 13 (f) the source of furbearers.

14 (2) (a) A fur farm license may be issued only to a  
15 responsible applicant who owns or leases the premises on  
16 which the operations are to be conducted and who has  
17 properly fenced the place where such fur farm is to be  
18 located.

19 (b) Any fur farm owned by a nonresident must have a  
20 resident agent who is responsible for the daily operation of  
21 the fur farm and who is authorized by the nonresident owner  
22 to receive service of process.

23 (3) Within 30 days of receiving the application, the  
24 department shall notify the applicant of its decision to  
25 approve or deny the application. If required fencing has not

1 been completed, the department may approve the application  
 2 only subject to the fencing being completed. If the  
 3 application is denied, the department shall specify the  
 4 reasons for denial.

5 Section 39. License and renewal fee -- deposit. (1)  
 6 Fur farm license and annual renewal fees must be set by  
 7 department rule in amounts not to exceed \$100 for initial  
 8 licensing and \$25 for annual renewal.

9 (2) The fees must be deposited in the earmarked  
 10 revenue fund for the use of the department for purposes of  
 11 [sections 36 through 48].

12 Section 40. Term of permit -- conditions -- changes  
 13 in operation. (1) A fur farm license is valid only for the  
 14 license year in which it is issued. The licensee shall apply  
 15 for renewal annually, and the department shall renew the  
 16 license if the licensee has not violated any provision of  
 17 [sections 36 through 48], rules adopted under [sections 36  
 18 through 48], or any condition of the license.

19 (2) The licensee shall notify the department of any  
 20 proposed changes in the species managed or in the size or  
 21 location of the enclosure prior to the institution of such  
 22 change.

23 Section 41. License nontransferable. A fur farm  
 24 license is nontransferable.

25 Section 42. Inspection. Upon receipt of an application

1 for a license, the department shall inspect each fur farm  
 2 and thereafter shall inspect each fur farm biennially. The  
 3 department may inspect any fur farm or the records required  
 4 to be kept by such fur farm at any reasonable time.

5 Section 43. Furbearers as private property. All  
 6 furbearers lawfully raised on a licensed fur farm are the  
 7 private property of the licensee, and the licensee may sell  
 8 or transfer such furbearers as private property.

9 Section 44. Transportation of furbearers. Any  
 10 furbearers purchased for use on a fur farm or any furbearers  
 11 raised on a fur farm may be transported only in compliance  
 12 with Title 81, chapter 2, part 7, and applicable  
 13 administrative rules.

14 Section 45. Sale of furs. A fur farm owner who desires  
 15 to sell furs shall comply with all the requirements of Title  
 16 87, chapter 4, part 3.

17 Section 46. Records and reporting. (1) Each licensee  
 18 shall keep accurate records of the number and species of  
 19 furbearers purchased, transferred, or sold and the name of  
 20 each person to whom or from whom such furbearers were  
 21 purchased, transferred, or sold.

22 (2) On or before January 31 of each year, each  
 23 licensee shall file a report with the director, showing the  
 24 number and species of furbearers on hand on January 1 and  
 25 the number and species of furbearers purchased, transferred,



1 or sold during the past year. All records described in this  
2 section must be kept for not less than 3 years.

3 Section 47. Rulemaking. The department may adopt and  
4 enforce rules necessary to implement [sections 36 through  
5 48]. The rules must address but are not limited to fencing  
6 requirements, reporting requirements, the care and  
7 maintenance of the furbearers held by fur farm operators,  
8 and licensing requirements for applicants.

9 Section 48. Revocation of license. (1) A fur farm  
10 license may be revoked for failure to operate the fur farm  
11 according to the provisions of [sections 36 through 48] or  
12 rules adopted under [sections 36 through 48].

13 (2) Upon discovery of a violation, the department  
14 shall give notice of such violation to the licensee, with a  
15 statement of a specific time by which the violation must be  
16 corrected.

17 (3) Upon failure of the licensee to correct the  
18 violation, the department may institute revocation  
19 proceedings. If the department institutes revocation  
20 proceedings, it shall provide reasonable notice and  
21 opportunity for a hearing to the licensee. After hearing,  
22 upon proof of violation, the department may revoke the fur  
23 farm license.

24 Section 49. Repealer. Sections 87-4-401 through  
25 87-4-405, MCA, are repealed.

1 Section 50. Codification instruction. Sections 1  
2 through 18 and 20 through 48 are intended to be codified as  
3 an integral part of Title 87, and the provisions of Title 87  
4 apply to sections 1 through 18 and 20 through 48.

-End-

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STATEMENT OF INTENT  
SENATE BILL 448  
Senate Fish and Game Committee

This bill requires the Department of Fish, Wildlife, and Parks to make rules for game animal farms under section 17, game bird farms under section 32, and fur farms under section 47. It is the intent of the Legislature that these rules address procedural items necessary for a timely and efficient processing of applications and licenses and provide the information necessary for administration of the criteria provided in those sections.

1 SENATE BILL NO. 448

2 INTRODUCED BY LANE, TOWE, E. SMITH, BOYLAN,

3 CHRISTIAENS, FULLER, GALT, MAZUREK

4 BY REQUEST OF THE DEPARTMENTS OF

5 AGRICULTURE AND FISH, WILDLIFE, AND PARKS

6  
7 A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE GAME ANIMAL  
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18 which game farm animals may be kept for purposes of  
19 obtaining, rearing in captivity, keeping, and selling game  
20 animals or parts of game animals, as authorized under  
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23 caribou, bear, mountain lion, white-tailed deer, mule deer,  
24 elk, moose, antelope, mountain sheep, or mountain goat  
25 indigenous to the state of Montana or any other

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3 required under [sections 1 through 21] for a game farm  
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5 state of Montana on his game farm.

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7 association, or partnership.

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9 game farm in this state without first obtaining a game farm  
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12 of livestock laws and rules. (1) The department has primary  
13 jurisdiction over game farms.

14 (2) A game farm licensee must also comply with all  
15 applicable laws and rules administered by the department of  
16 livestock.

17 Section 4. Application for license -- limitations on  
18 issuance. (1) Any person desiring to obtain a game farm  
19 license shall make written application to the department.  
20 The application shall specify:

- 21 (a) the applicant's name;
- 22 (b) the applicant's address;
- 23 (c) the exact legal description of the land upon which  
24 the game farm is to be located, together with the nature of  
25 the applicant's title thereto, whether in fee, under lease,

1 by contract for deed, or otherwise;

2 (d) the species of game animals proposed to be kept or  
3 reared on the game farm;

4 (e) the type of fencing contemplated;

5 (f) the source from which the applicant intends to  
6 acquire the game animals;

7 (g) if the applicant is not a Montana resident, the  
8 name and address of a Montana resident designated by the  
9 applicant as his local agent;

10 (h) if the applicant is a corporation, the full names  
11 and addresses of all stockholders owning more than 10% of  
12 the stock in the corporation; and

13 (i) information demonstrating that the applicant is  
14 responsible.

15 (2) A game farm license may be issued only to a  
16 responsible applicant who owns or leases the premises on  
17 which the operations are to be conducted and who has  
18 properly fenced the land upon which the game farm is to be  
19 located. The fencing must be designed and constructed to  
20 prevent the escape of the species of game farm animals kept  
21 on the land and to prevent the entry of the same species of  
22 game animals.

23 (3) Within 60 days of receiving the application, the  
24 department shall notify the applicant of its decision to  
25 approve or deny the application. If required fencing has not

1 been completed, the department may approve the application  
2 only subject to completion of the fencing. If the  
3 application is denied, the department shall specify the  
4 reasons for denial.

5 Section 5. Removal of game animals. (1) If game  
6 animals are present on the land which is to be covered by a  
7 game farm license, the license may be issued but must be  
8 conditioned upon the applicant complying with this section.

9 (2) Before the fence surrounding any such land may be  
10 closed, all game animals must to the extent possible be  
11 driven therefrom by the applicant, at the applicant's  
12 expense and under the direction of a representative of the  
13 department.

14 (3) If at the time the license is issued all game  
15 animals cannot be removed from the licensed land, the  
16 applicant and a representative of the department shall  
17 decide the approximate number of game farm animals of each  
18 indigenous species that the applicant will raise thereon.  
19 This number is the "base number".

20 (4) The department may remove the base number of game  
21 animals from the game farm by trapping them within 120 days  
22 from the date the number was determined.

23 (5) If the department decides not to remove the game  
24 animals or if some game animals were not successfully  
25 removed by trapping, the public must be granted access to

1 harvest those game animals during a special hunt set for  
 2 that purpose during the next regularly scheduled hunting  
 3 season. All administrative costs incurred by the department  
 4 in arranging the special hunt or providing for hunting on  
 5 the applicant's land during the regular season must be  
 6 reimbursed by the applicant.

7 (6) After compliance with this section, any animals  
 8 from the base number that remain and their progeny belong to  
 9 the licensee, and the licensee may deal with them as  
 10 provided for in [sections 1 through 18].

11 Section 6. License and renewal fees -- deposit of  
 12 fees. (1) The department shall charge an initial game farm  
 13 license fee of \$100 and for each year thereafter shall  
 14 charge an annual renewal fee of \$25.

15 (2) The fees must be deposited in the earmarked  
 16 revenue fund for the use of the department for purposes of  
 17 [sections 1 through 18].

18 Section 7. Term of license -- nontransferability.

19 (1) A game farm license expires on January 31 of the year  
 20 succeeding the year of issuance. Application for renewal  
 21 must be made before a license expires. The department shall  
 22 renew the license upon payment of the renewal fee if the  
 23 licensee has not violated any provisions of [sections 1  
 24 through 18] or conditions under which the license was  
 25 granted.

1 (2) A game farm license is nontransferable.

2 Section 8. Inspection. (1) Upon receipt of an  
 3 application for a game farm license, the department shall  
 4 inspect the land proposed to be covered by the license.

5 (2) After issuance of a game farm license, the  
 6 department may inspect the game farm or the licensee's game  
 7 farm books on a scheduled basis or on such other reasonable  
 8 basis as it considers necessary.

9 Section 9. Game farm animals as private property. (1)  
 10 All game farm animals lawfully raised on a licensed game  
 11 farm are the private property of the licensee.

12 (2) The licensee may acquire, breed, grow, keep,  
 13 pursue, capture, kill, use, sell, or dispose of the game  
 14 farm animals and their progeny in any quantity, at any time  
 15 of year, and in any manner, as long as he complies with the  
 16 requirements of [sections 1 through 18].

17 (3) Before allowing hunting of any game animals on a  
 18 game farm, the game farm licensee must obtain a game farm  
 19 shooting license from the department.

20 (4) The laws applicable to game animals do not apply  
 21 to game farm animals raised on a licensed game farm.

22 Section 10. Transportation and sale of game farm  
 23 animals. (1) No person may sell, dispose of, or transport a  
 24 living game farm animal except as provided in this section.

25 (2) Whenever the licensee of a licensed game farm

1 sells or disposes of one or more game farm animals, he  
 2 shall, at the same time, deliver to the recipient or attach  
 3 to each such game farm animal an invoice or bill of sale  
 4 signed by the licensee or his agent stating the number of  
 5 the game farm license, the date of disposition, the species,  
 6 the number disposed of, and the name and address of the  
 7 transferee. This invoice or bill of sale authorizes  
 8 transportation of the game farm animal or animals being  
 9 sold, transferred, or disposed of.

10 (3) Within 24 hours of disposition, the licensee or  
 11 his agent shall mail postpaid a duplicate of the invoice or  
 12 bill of sale to the department of livestock and the  
 13 department.

14 Section 11. Sale of game parts, meats, and byproducts.

15 (1) No person may sell, dispose of, or transport the  
 16 carcass, parts, or byproducts of a game farm animal except  
 17 as provided in this section.

18 (2) A game farm licensee may sell or otherwise dispose  
 19 of the carcass, parts, or byproducts of a properly  
 20 identified game farm animal taken from a game farm, upon  
 21 preparing an invoice or bill of sale and attaching a copy of  
 22 it to the carcass or container and keeping a copy for his  
 23 records. Upon the attaching of the invoice or bill of sale  
 24 to the carcass, parts, or byproducts of the game farm  
 25 animal, the same may be transported within the state to the

1 transferee named on the invoice or bill of sale.

2 (3) The licensee may sell game farm animals for meat  
 3 upon compliance with all applicable health laws.

4 Section 12. Records and reporting. (1) Each game farm  
 5 licensee shall keep and maintain for 3 years accurate  
 6 written records of all purchases, transfers, and sales of  
 7 game farm animals showing:

8 (a) the number of each species of game farm animal  
 9 purchased by the game farm licensee and from whom purchased;

10 (b) the number of each species of game farm animal  
 11 transferred or sold, the date of transfer or sale, and the  
 12 name and address of the person to whom the transfer or sale  
 13 was made; and

14 (c) identification by number of each game farm animal  
 15 purchased, transferred, or sold.

16 (2) On or before January 31 of each year, the game  
 17 farm licensee shall file a report with the director, showing  
 18 the number and species of game animals on hand as of January  
 19 1 and the number and species of game animals bought or sold  
 20 during the past year.

21 Section 13. Unlawful capture. No person may capture,  
 22 take, or otherwise acquire any game animal in this state for  
 23 use on a game farm.

24 Section 14. Escape from game farm -- effect. If a  
 25 game animal escapes from a game farm, the game farm licensee

1 shall immediately notify the department of its escape and  
2 shall make every reasonable effort to recapture it. If the  
3 escaped animal cannot be recaptured within a reasonable  
4 time, it becomes the property of the state.

5 Section 15. Taxation. All game farm animals raised on  
6 a game farm must be assessed as personal property of the  
7 owner.

8 Section 16. Game farm shooting license. (1) Before a  
9 game farm licensee may hunt any indigenous game animals of  
10 Montana on his game farm, he must first obtain a game farm  
11 shooting license.

12 (2) The department shall issue to a game farm licensee  
13 a game farm shooting license on an annual basis for the  
14 number of animals that he wishes to hunt.

15 (3) The department shall issue individual tags to the  
16 game farm licensee at a charge of \$15 a tag. The tags must  
17 contain such information as the department requires. A tag  
18 must be attached to each animal immediately after it is  
19 killed and must accompany the animal until it is taken to  
20 its final destination.

21 Section 17. Rulemaking. (1) The department may adopt  
22 and enforce rules necessary to implement the provisions of  
23 [sections 1 through 18].

24 (2) The rules must address but are not limited to  
25 classifying of cloven-hoofed ungulates, fencing

1 requirements, reporting requirements, transportation and  
2 importation, identification, sale of animal parts, the care  
3 and maintenance of game farm animals, and game farm shooting  
4 licenses.

5 Section 18. Revocation of license. (1) A game farm  
6 license may be revoked for failure to operate the game farm  
7 according to the provisions of [sections 1 through 18] or  
8 rules adopted under [sections 1 through 18].

9 (2) Upon discovery of a violation, the department  
10 shall give notice of the violation to the licensee, with a  
11 statement of a specific time in which the violation must be  
12 corrected.

13 (3) Upon failure of the licensee to correct the  
14 violation, the department may institute revocation  
15 proceedings. If the department institutes revocation  
16 proceedings, it shall provide reasonable notice and  
17 opportunity for a hearing to the licensee. After hearing and  
18 upon proof of violation, the department may revoke the game  
19 farm license.

20 Section 19. Current licenses valid. A game farm having  
21 a valid license on October 1, 1983, may receive a game farm  
22 license in the manner provided by [sections 1 through 18]  
23 for renewal of game farm licenses, except that no renewal  
24 fee may be charged until 1 year after initial licensure  
25 under this section.

1 Section 20. Game birds defined. For purposes of  
 2 [sections 20 through 35], "game birds" means all birds  
 3 defined as game birds in 87-2-101, except that the only  
 4 pheasants included are ring-necked pheasants, and quail are  
 5 not included.

6 Section 21. Exemption. [Sections 20 through 35] do not  
 7 apply to a person who owns, controls, or propagates game  
 8 birds for purposes other than sale or conveyance of game  
 9 birds or parts thereof and who notifies the department and  
 10 receives its written authorization and exemption.

11 Section 22. Game bird farm license required. Except as  
 12 provided in [section 21], no person may own, control, or  
 13 propagate game birds unless he holds a current game bird  
 14 farm license from the department.

15 Section 23. Application for game bird farm license --  
 16 limitation on issuance. (1) A person desiring to obtain a  
 17 game bird farm license shall make a written application to  
 18 the department. The application must specify:

- 19 (a) the name of the applicant;
- 20 (b) his address;
- 21 (c) the species of game bird and any plans to  
 22 propagate them;
- 23 (d) the legal description of the lands to be included;
- 24 (e) the type of fence or enclosure that the applicant  
 25 contemplates erecting;

- 1 (f) the source of game birds; and
- 2 (g) for a nonresident owner, the name and address of a  
 3 local resident agent.

4 (2) (a) A game bird farm license may be issued only to  
 5 a responsible applicant who owns or leases the premises on  
 6 which the operations are to be conducted and who has  
 7 properly fenced or otherwise enclosed the place where such  
 8 game bird farm is to be located.

9 (b) Any game bird farm owned by a nonresident must  
 10 have a resident agent who is responsible for the daily  
 11 operation of the farm and who is authorized by the  
 12 nonresident owner to receive service of process.

13 (3) Within 30 days of receiving the application, the  
 14 department shall notify the applicant of its decision to  
 15 approve or deny the application. If required fencing or  
 16 enclosure has not been completed, the department may approve  
 17 the application only subject to the fencing or enclosure  
 18 being completed. If the application is denied, the  
 19 department shall specify the reasons for denial.

20 Section 24. License and renewal fee -- deposit of  
 21 fees. (1) Game bird farm license and annual renewal fees  
 22 must be set by department rule in amounts not to exceed \$100  
 23 for initial licensing and \$25 for annual renewal.

24 (2) The fees must be deposited in the earmarked  
 25 revenue fund for the use of the department for purposes of



1 [sections 20 through 35].

2 Section 25. Term of permit -- conditions --  
3 changes in operation. (1) A game bird farm license is valid  
4 only for the license year for which it is issued. The  
5 licensee shall apply for renewal annually, and the  
6 department shall renew the license if the licensee has not  
7 violated any provision of [sections 20 through 35], rules  
8 adopted under [sections 20 through 35], or any condition of  
9 the license.

10 (2) The licensee shall notify the department of any  
11 proposed changes in the species managed or in the size or  
12 location of the enclosure prior to the institution of such  
13 change.

14 Section 26. License nontransferable. A game bird farm  
15 license is nontransferable.

16 Section 27. Inspection. Upon receipt of an  
17 application, the department shall inspect the game bird farm  
18 facilities and shall thereafter inspect the facilities at  
19 least biennially. The department may inspect any game bird  
20 farm or the records required to be kept by such farm at any  
21 reasonable time.

22 Section 28. Game farm birds as private property. All  
23 birds lawfully raised in a licensed game bird farm are the  
24 private property of the licensee, and the licensee may sell  
25 or transfer such birds as private property.

1 Section 29. Transportation of birds. Any birds  
2 purchased for use on a game bird farm or any birds raised on  
3 a game bird farm may be transported only in compliance with  
4 Title 81, chapter 2, part 7, and applicable administrative  
5 rules.

6 Section 30. Sale of meat. A licensee may sell game  
7 birds or parts thereof only in compliance with all health  
8 laws applicable to the sale of game meat.

9 Section 31. Records and reporting. (1) Each licensee  
10 shall keep accurate records of the number and species of  
11 birds purchased, transferred, or sold and the name of each  
12 person to whom or from whom such birds were purchased,  
13 transferred, or sold.

14 (2) On or before January 31 of each year, each  
15 licensee shall file a report with the director, showing the  
16 number and species of birds on hand on January 1 and the  
17 number and kinds of birds purchased, transferred, or sold  
18 during the past year. All records described in this section  
19 must be kept for not less than 3 years.

20 Section 32. Rulemaking. The department may adopt and  
21 enforce rules necessary to implement the provisions of  
22 [sections 20 through 35]. The rules must address but are not  
23 limited to fencing requirements, reporting requirements, the  
24 care and maintenance of birds held by game bird farm  
25 operators, and licensing requirements for applicants.

1 Section 33. Release of birds. Game bird farm licensees  
2 may release birds into the wild only with the prior approval  
3 of the director.

4 Section 34. Field trials -- permits. (1) As used in  
5 this section, "field trial" means an examination to  
6 determine the ability of dogs to point, flush, or retrieve  
7 game birds.

8 (2) No person may conduct a field trial unless he has  
9 received a permit under this section. Applicants for a  
10 permit to conduct a field trial must make application to the  
11 director upon a form furnished by the department for that  
12 purpose. The application must be signed and sworn to by the  
13 applicant, stating the applicant's name and address, the  
14 name and address of any national affiliate, the place for  
15 the field trial clearly defined, the date or dates of the  
16 proposed field trial, whether live birds are to be used, and  
17 any other information required by the director to determine  
18 the advisability of granting permission for the proposed  
19 field trial. The application must state that if a permit is  
20 granted, the applicant will carefully flush all wild game  
21 birds from fields used for the field trial each day before  
22 the field trial begins and will not permit dogs to run free  
23 in fields that have not been carefully flushed. The  
24 application must be presented to the director not less than  
25 20 days prior to the date proposed for the field trial.

1 (3) The director may refuse any application that he  
2 determines is not in the best interests of the protection,  
3 preservation, propagation, and conservation of game birds in  
4 this state. Any denial by the director of such application  
5 must state the reasons therefor and must be mailed to the  
6 applicant within 10 days of receipt of the application.

7 (4) No applicant receiving a permit to conduct a field  
8 trial may violate or authorize violation of any of the terms  
9 of the permit.

10 (5) All live game birds used in a field trial must be  
11 tagged before being planted or released and may be planted  
12 or released only in the presence of a representative of the  
13 department. If an untagged bird is shot during any field  
14 trial, the person to whom the permit was issued must  
15 immediately replace it with a live bird.

16 (6) (a) Dogs may be trained in open fields at any time  
17 without permission of the director only if:

18 (i) no live game birds are killed or captured during  
19 training; and

20 (ii) the training is more than 1 mile from any bird  
21 nesting or management area or game preserve.

22 (b) A person may train dogs with a method that will  
23 kill birds acquired from a game bird farm only after  
24 receiving a written permit from the department and only in  
25 compliance with the terms of the permit.

1 Section 35. Revocation of license. (1) A game bird  
2 farm license may be revoked for failure to operate the game  
3 bird farm according to provisions of [sections 20 through  
4 35] or rules adopted under [sections 20 through 35].

5 (2) Upon discovery of a violation, the department  
6 shall give notice of such violation to the licensee, with a  
7 statement of a specific time by which the violation must be  
8 corrected.

9 (3) Upon failure of the licensee to correct the  
10 violation, the department may institute revocation  
11 proceedings. If the department institutes revocation  
12 proceedings, it shall provide reasonable notice and  
13 opportunity for a hearing to the licensee. After hearing,  
14 upon proof of violation, the department may revoke the game  
15 bird farm license.

16 Section 36. Definition. For purposes of [sections 36  
17 through 48], "furbearer" means a marten or sable, otter,  
18 muskrat, fisher, bobcat, lynx, wolverine, or beaver. The  
19 term does not include fox or mink.

20 Section 37. Fur farm license required --  
21 applicability. (1) Except as provided in subsection (2), no  
22 person may own, control, or propagate furbearers unless he  
23 holds a current fur farm license from the department.

24 (2) [Sections 36 through 48] do not apply to the  
25 ownership, control, or propagation of furbearers if the

1 ownership, control, or propagation is not for the sale or  
2 conveyance of furbearers or parts thereof.

3 Section 38. Application for permit. (1) Any person  
4 desiring to obtain a fur farm license shall make a written  
5 application to the department. The application must specify:

- 6 (a) the name of the applicant;
- 7 (b) his address;
- 8 (c) species of furbearers and any plan to propagate  
9 them;
- 10 (d) the legal description of the lands to be included;
- 11 (e) the type of fence that the applicant contemplates  
12 erecting;
- 13 (f) the source of furbearers.

14 (2) (a) A fur farm license may be issued only to a  
15 responsible applicant who owns or leases the premises on  
16 which the operations are to be conducted and who has  
17 properly fenced the place where such fur farm is to be  
18 located.

19 (b) Any fur farm owned by a nonresident must have a  
20 resident agent who is responsible for the daily operation of  
21 the fur farm and who is authorized by the nonresident owner  
22 to receive service of process.

23 (3) Within 30 days of receiving the application, the  
24 department shall notify the applicant of its decision to  
25 approve or deny the application. If required fencing has not

1 been completed, the department may approve the application  
 2 only subject to the fencing being completed. If the  
 3 application is denied, the department shall specify the  
 4 reasons for denial.

5 Section 39. License and renewal fee -- deposit. (1)  
 6 Fur farm license and annual renewal fees must be set by  
 7 department rule in amounts not to exceed \$100 for initial  
 8 licensing and \$25 for annual renewal.

9 (2) The fees must be deposited in the earmarked  
 10 revenue fund for the use of the department for purposes of  
 11 [sections 36 through 48].

12 Section 40. Term of permit -- conditions -- changes  
 13 in operation. (1) A fur farm license is valid only for the  
 14 license year in which it is issued. The licensee shall apply  
 15 for renewal annually, and the department shall renew the  
 16 license if the licensee has not violated any provision of  
 17 [sections 36 through 48], rules adopted under [sections 36  
 18 through 48], or any condition of the license.

19 (2) The licensee shall notify the department of any  
 20 proposed changes in the species managed or in the size or  
 21 location of the enclosure prior to the institution of such  
 22 change.

23 Section 41. License nontransferable. A fur farm  
 24 license is nontransferable.

25 Section 42. Inspection. Upon receipt of an application

1 for a license, the department shall inspect each fur farm  
 2 and thereafter shall inspect each fur farm biennially. The  
 3 department may inspect any fur farm or the records required  
 4 to be kept by such fur farm at any reasonable time.

5 Section 43. Furbearers as private property. All  
 6 furbearers lawfully raised on a licensed fur farm are the  
 7 private property of the licensee, and the licensee may sell  
 8 or transfer such furbearers as private property.

9 Section 44. Transportation of furbearers. Any  
 10 furbearers purchased for use on a fur farm or any furbearers  
 11 raised on a fur farm may be transported only in compliance  
 12 with Title 81, chapter 2, part 7, and applicable  
 13 administrative rules.

14 Section 45. Sale of furs. A fur farm owner who desires  
 15 to sell furs shall comply with all the requirements of Title  
 16 87, chapter 4, part 3.

17 Section 46. Records and reporting. (1) Each licensee  
 18 shall keep accurate records of the number and species of  
 19 furbearers purchased, transferred, or sold and the name of  
 20 each person to whom or from whom such furbearers were  
 21 purchased, transferred, or sold.

22 (2) On or before January 31 of each year, each  
 23 licensee shall file a report with the director, showing the  
 24 number and species of furbearers on hand on January 1 and  
 25 the number and species of furbearers purchased, transferred,

1 or sold during the past year. All records described in this  
2 section must be kept for not less than 3 years.

3 Section 47. Rulemaking. The department may adopt and  
4 enforce rules necessary to implement [sections 36 through  
5 48]. The rules must address but are not limited to fencing  
6 requirements, reporting requirements, the care and  
7 maintenance of the furbearers held by fur farm operators,  
8 and licensing requirements for applicants.

9 Section 48. Revocation of license. (1) A fur farm  
10 license may be revoked for failure to operate the fur farm  
11 according to the provisions of [sections 36 through 48] or  
12 rules adopted under [sections 36 through 48].

13 (2) Upon discovery of a violation, the department  
14 shall give notice of such violation to the licensee, with a  
15 statement of a specific time by which the violation must be  
16 corrected.

17 (3) Upon failure of the licensee to correct the  
18 violation, the department may institute revocation  
19 proceedings. If the department institutes revocation  
20 proceedings, it shall provide reasonable notice and  
21 opportunity for a hearing to the licensee. After hearing,  
22 upon proof of violation, the department may revoke the fur  
23 farm license.

24 Section 49. Repealer. Sections 87-4-401 through  
25 87-4-405, MCA, are repealed.

1 Section 50. Codification instruction. Sections 1  
2 through 18 and 20 through 48 are intended to be codified as  
3 an integral part of Title 87, and the provisions of Title 87  
4 apply to sections 1 through 18 and 20 through 48.

-End-

March 17, 1983  
HOUSE FISH AND GAME COMMITTEE  
Proposed Amendments to SB 448

1. Statement of Intent, line 12.

Following: "sections."

Insert: "It is intended that the license fees to be set by the department be in an amount commensurate with the costs of processing the applications and administering the provisions of the act."

2. Page 1.

Following: line 13

Insert: "(1) "Department" means the department of fish, wildlife, and parks."

Re-number: subsequent subsections

3. Page 2, line 3.

Strike: "sections 1 through 21"

Insert: "section 16"

4. Page 2, line 4.

Strike: "licensee"

Insert: "operator"

5. Page 3, line 15.

Strike: "may"

Insert: "shall"

6. Page 4, line 1.

Strike: "may"

Insert: "shall"

7. Page 4, line 2.

Strike: "only"

8. Page 4, line 7.

Strike: "may"

Insert: "shall"

9. Page 4, line 17.

Following: "number of"

Insert: "remaining"

10. Page 4, line 17

Strike: "farm"

11. Page 4, line 18.

Strike: "that the applicant will raise thereon"

12. Page 5, line 23.

Following: "provisions"

Strike: "remainder of line 23 through "conditions" on line 24

13. Page 6, line 8.

Strike: "as it considers"

Insert: "as may be determined"

14. Page 6, line 17

Following: "game"

Insert: "farm"

15. Page 6, lines 23 and 24.

Strike: subsection (1) in its entirety

Re-number: subsequent subsections

16. Page 7, lines 2 and 3

Strike: "attach to"

Insert: "otherwise cause to accompany"

17. Page 7, line 10.

Strike: "24 hours of"

Insert: "a reasonable time after"

18. Page 7, lines 15 through 17.

Strike: subsection (1) in its entirety

Re-number: subsequent subsections

19. Page 7, line 20.

Following: "farm,"

Insert: "only"

20. Page 8, line 14.

Strike: "by number"

21. Page 8, line 18.

Following: "game"

Insert: "farm"

22. Page 8, line 19.

Following: "game"

Insert: "farm"

23. Page 8, line 23.

Following: "farm"

Insert: "except as provided in [section 5]"

24. Page 8, line 25.

Following: first "game"

Insert: "farm"

25. Page 9, line 6.

Strike: "must"

Insert: "may"

26. Page 9, line 9.  
Strike: "indigenous"  
Following: "game"  
Insert: "farm"  
Following: "animal"  
Insert: "indigenous to the state"
27. Page 9, line 22.  
Following: "enforces"  
Insert: "only such"  
Following: "rules"  
Insert: "as are"
28. Page 9, line 24.  
Strike: "must"  
Insert: "may"
29. Page 10, line 20.  
Following: "valid."  
Insert: "(1)"
30. Page 10, line 21.  
Strike: "may"  
Insert: "shall"
31. Page 10, line 22  
Following: "license"  
Strike: remainder of line 22 through "section" on line 25  
Insert: ". (2) A game bird farm having a valid license on October 1, 1983, shall receive a game bird farm license.  
(3) A fur farm having a valid license on October 1, 1983, shall receive a fur farm license."
32. Page 11, line 2.  
Following: "35],"  
Strike: "game"  
Insert: "the following definitions apply: (1) "Game"
33. Page 11.  
Following: line 5  
Insert: "(2) "Game bird farm" means an enclosed area upon which game birds may be kept for purposes of obtaining, rearing in captivity, keeping, and selling game birds or parts of game birds as authorized under [sections 20 through 35]."
34. Page 12, line 4.  
Strike: "may"  
Insert: "shall"
35. Page 12, line 15.  
Following: "if"  
Insert: "the"
36. Page 12, line 16.  
Strike: "may"  
Insert: "shall"
37. Page 12, line 17.  
Strike: "only"
38. Page 12, line 22.  
Following: "rule"  
Strike: remainder of line 22 through "renewal" on line 23.
39. Page 13, line 7.  
Following: "provision"  
Strike: remainder of line 7 through "license" on line 9  
Insert: "under which the license was granted"
40. Page 13, line 18.  
Following: second "facilities"  
Strike: remainder of line 18 through "or" on line 20  
Insert: "and"
41. Page 13, line 20.  
Following: "such farm"  
Strike: remainder of line 20 through "time" on line 21  
Insert: "on a scheduled basis or on such other reasonable basis as may be determined necessary"
42. Page 14, line 6.  
Following: "game"  
Insert: "farm"
43. Page 14, line 21.  
Following: "enforce"  
Insert: "only such"  
Following: "rules"  
Insert: "as are"
44. Page 14, line 22.  
Strike: "must"  
Insert: "may"
45. Page 17, line 17.  
Strike: "furbearer"  
Insert: "the following definitions apply: (1) "Furbearer"
46. Page 17, following line 19  
Insert: "(2) "Fur farm" means the enclosed land area upon which furbearers may be kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers as authorized under [sections 36 through 48]."

47. Page 18, line 14.

Strike: "may"

Insert: "shall"

48. Page 19, line 1.

Strike: "may"

Insert: "shall"

49. Page 19, line 2.

Strike: "only"

50. Page 19, line 7.

Following: "rule"

Strike: remainder of line 7 through "renewal" on line 8

51. Page 19, line 16.

Following: "provision"

Strike: remainder of line 16 through "license" on line 18

Insert: "under which it was granted"

52. Page 20, line 2.

Following: "farm"

Strike: remainder of line 2 through "or" on line 3

Insert: "and"

53. Page 20, line 4.

Strike: "at any reasonable time"

Insert: "on a scheduled basis or on such other reasonable basis  
as may be determined necessary"

54. Page 21, line 4.

Following: "enforce"

Insert: "only such"

Following: "rules"

Insert: "as are"

55. Page 21, line 5.

Strike: "must"

Insert: "may"

56. Page 21.

Following: line 23

Insert: "Section 49. Fee limitation for multiple licenses. If  
a person is issued more than one license under [sections 1  
through 48], the total assessment for initial fees or for  
renewal fees for all licenses issued to such person may not  
exceed the amount of the largest individual license fee.

Section 50. Waiver of initial fee. No initial license  
fee may be assessed against any person who held a game farm,  
game bird farm, or fur farm permit on October 1, 1983, unless  
there is a break in licensing of more than 1 year."

57. Page 22, line 2.

Strike: "48"

Insert: "49"

58. Page 22, line 4.

Strike: "48"

Insert: "49"

59. Page 11, line 1.

Following: "defined"

Insert: "(1)"

60. Page 17, line 16.

Following: "Definition."

Insert: "(1)"



## 1 STATEMENT OF INTENT

2 SENATE BILL 448

3 Senate Fish and Game Committee

4

5 This bill requires the Department of Fish, Wildlife,  
6 and Parks to make rules for game animal farms under section  
7 17, game bird farms under section 32, and fur farms under  
8 section 47. It is the intent of the Legislature that these  
9 rules address procedural items necessary for a timely and  
10 efficient processing of applications and licenses and  
11 provide the information necessary for administration of the  
12 criteria provided in those sections. ~~IT IS INTENDED THAT~~  
13 ~~THE LICENSE FEES TO BE SET BY THE DEPARTMENT BE IN AN AMOUNT~~  
14 ~~COMMENSURATE WITH THE COSTS OF PROCESSING THE APPLICATIONS~~  
15 ~~AND ADMINISTERING THE PROVISIONS OF THE ACT.~~

REFERENCE BILL

SB 448

## SENATE BILL NO. 448

INTRODUCED BY LANE, TOME, E. SMITH, BOYLAN,

CHRISTIAENS, FULLER, GALT, MAZUREK

BY REQUEST OF THE DEPARTMENTS OF

AGRICULTURE AND FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE GAME ANIMAL FARMS, GAME BIRD FARMS, AND FUR FARMS; REPEALING SECTIONS 87-4-401 THROUGH 87-4-405, MCA."

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

Section 1. Definitions. As used in [sections 1 through 18], the following definitions apply:

~~11. "DEPARTMENT" MEANS THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS.~~

~~12. "Game animals" means game animals as defined in 87-2-101 that are not the lawful property of any private person.~~

~~13. "Game farm" means the enclosed land area upon which game farm animals may be kept for purposes of obtaining, rearing in captivity, keeping, and selling game animals or parts of game animals, as authorized under [sections 1 through 18].~~

~~14. "Game farm animal" means a privately owned caribou, bear, mountain lion, white-tailed deer, mule deer,~~

elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana or any other cloven-hoofed ungulate as classified by the department.

~~15. "Game farm shooting license" means the license required under [sections 1 through 21 SECTION 16] for a game farm licensee OPERATOR to hunt the game farm animals indigenous to the state of Montana on his game farm.~~

~~16. "Person" means an individual, firm, corporation, association, or partnership.~~

Section 2. License required. No person may operate a game farm in this state without first obtaining a game farm license from the department.

Section 3. Department jurisdiction -- applicability of livestock laws and rules. (1) The department has primary jurisdiction over game farms.

(2) A game farm licensee must also comply with all applicable laws and rules administered by the department of livestock.

Section 4. Application for license -- limitations on issuance. (1) Any person desiring to obtain a game farm license shall make written application to the department.

The application shall specify:

- (a) the applicant's name;
- (b) the applicant's address;
- (c) the exact legal description of the land upon which

1 the game farm is to be located, together with the nature of  
2 the applicant's title thereto, whether in fee, under lease,  
3 by contract for deed, or otherwise;

4 (d) the species of game animals proposed to be kept or  
5 reared on the game farm;

6 (e) the type of fencing contemplated;

7 (f) the source from which the applicant intends to  
8 acquire the game animals;

9 (g) if the applicant is not a Montana resident, the  
10 name and address of a Montana resident designated by the  
11 applicant as his local agent;

12 (h) if the applicant is a corporation, the full names  
13 and addresses of all stockholders owning more than 10% of  
14 the stock in the corporation; and

15 (i) information demonstrating that the applicant is  
16 responsible.

17 (2) A game farm license may **SHALL** be issued only to a  
18 responsible applicant who owns or leases the premises on  
19 which the operations are to be conducted and who has  
20 properly fenced the land upon which the game farm is to be  
21 located. The fencing must be designed and constructed to  
22 prevent the escape of the species of game farm animals kept  
23 on the land and to prevent the entry of the same species of  
24 game animals.

25 (3) Within 60 days of receiving the application, the

1 department shall notify the applicant of its decision to  
2 approve or deny the application. If required fencing has not  
3 been completed, the department may **SHALL** approve the  
4 application only subject to completion of the fencing. If  
5 the application is denied, the department shall specify the  
6 reasons for denial.

7 Section 5. Removal of game animals. (1) If game  
8 animals are present on the land which is to be covered by a  
9 game farm license, the license may **SHALL** be issued but must  
10 be conditioned upon the applicant complying with this  
11 section.

12 (2) Before the fence surrounding any such land may be  
13 closed, all game animals must to the extent possible be  
14 driven therefrom by the applicant, at the applicant's  
15 expense and under the direction of a representative of the  
16 department.

17 (3) If at the time the license is issued all game  
18 animals cannot be removed from the licensed land, the  
19 applicant and a representative of the department shall  
20 decide the approximate number of **REMAINING** game farm animals  
21 of each indigenous species ~~that the applicant will raise~~  
22 thereon. This number is the "base number".

23 (4) The department may remove the base number of game  
24 animals from the game farm by trapping them within 120 days  
25 from the date the number was determined.

1 (5) If the department decides not to remove the game  
2 animals or if some game animals were not successfully  
3 removed by trapping, the public must be granted access to  
4 harvest those game animals during a special hunt set for  
5 that purpose during the next regularly scheduled hunting  
6 season. All administrative costs incurred by the department  
7 in arranging the special hunt or providing for hunting on  
8 the applicant's land during the regular season must be  
9 reimbursed by the applicant.

10 (6) After compliance with this section, any animals  
11 from the base number that remain and their progeny belong to  
12 the licensee, and the licensee may deal with them as  
13 provided for in [sections 1 through 18].

14 Section 6. License and renewal fees -- deposit of  
15 fees. (1) The department shall charge an initial game farm  
16 license fee of \$100 and for each year thereafter shall  
17 charge an annual renewal fee of \$25.

18 (2) The fees must be deposited in the earmarked  
19 revenue fund for the use of the department for purposes of  
20 [sections 1 through 18].

21 Section 7. Term of license -- nontransferability.  
22 (1) A game farm license expires on January 31 of the year  
23 succeeding the year of issuance. Application for renewal  
24 must be made before a license expires. The department shall  
25 renew the license upon payment of the renewal fee if the

1 licensee has not violated any provisions of ~~[sections 1~~  
2 ~~through 18]~~ or conditions under which the license was  
3 granted.

4 (2) A game farm license is nontransferable.

5 Section 8. Inspection. (1) Upon receipt of an  
6 application for a game farm license, the department shall  
7 inspect the land proposed to be covered by the license.

8 (2) After issuance of a game farm license, the  
9 department may inspect the game farm or the licensee's game  
10 farm books on a scheduled basis or on such other reasonable  
11 basis as ~~it considers~~ AS MAY BE DETERMINED necessary.

12 Section 9. Game farm animals as private property. (1)  
13 All game farm animals lawfully raised on a licensed game  
14 farm are the private property of the licensee.

15 (2) The licensee may acquire, breed, grow, keep,  
16 pursue, capture, kill, use, sell, or dispose of the game  
17 farm animals and their progeny in any quantity, at any time  
18 of year, and in any manner, as long as he complies with the  
19 requirements of [sections 1 through 18].

20 (3) Before allowing hunting of any game FARM animals  
21 on a game farm, the game farm licensee must obtain a game  
22 farm shooting license from the department.

23 (4) The laws applicable to game animals do not apply  
24 to game farm animals raised on a licensed game farm.

25 Section 10. Transportation and sale of game farm

~~(1) No person may sell, dispose of, or transport a living game farm animal except as provided in this section.~~

~~(2)(1) Whenever the licensee of a licensed game farm sells or disposes of one or more game farm animals, he shall, at the same time, deliver to the recipient or attach to OTHERWISE CAUSE TO ACCOMPANY each such game farm animal an invoice or bill of sale signed by the licensee or his agent stating the number of the game farm license, the date of disposition, the species, the number disposed of, and the name and address of the transferee. This invoice or bill of sale authorizes transportation of the game farm animal or animals being sold, transferred, or disposed of.~~

~~(3)(2) Within 24 hours of a REASONABLE TIME AFTER disposition, the licensee or his agent shall mail postpaid a duplicate of the invoice or bill of sale to the department of livestock and the department.~~

Section 11. Sale of game parts, meats, and byproducts.

~~(1) No person may sell, dispose of, or transport the carcass, parts, or byproducts of a game farm animal except as provided in this section.~~

~~(2)(1) A game farm licensee may sell or otherwise dispose of the carcass, parts, or byproducts of a properly identified game farm animal taken from a game farm, ONLY upon preparing an invoice or bill of sale and attaching a copy of it to the carcass or container and keeping a copy~~

for his records. Upon the attaching of the invoice or bill of sale to the carcass, parts, or byproducts of the game farm animal, the same may be transported within the state to the transferee named on the invoice or bill of sale.

~~(3)(2) The licensee may sell game farm animals for meat upon compliance with all applicable health laws.~~

Section 12. Records and reporting. (1) Each game farm licensee shall keep and maintain for 3 years accurate written records of all purchases, transfers, and sales of game farm animals showing:

(a) the number of each species of game farm animal purchased by the game farm licensee and from whom purchased;

(b) the number of each species of game farm animal transferred or sold, the date of transfer or sale, and the name and address of the person to whom the transfer or sale was made; and

(c) identification by number of each game farm animal purchased, transferred, or sold.

(2) On or before January 31 of each year, the game farm licensee shall file a report with the director, showing the number and species of game EARM animals on hand as of January 1 and the number and species of game EARM animals bought or sold during the past year.

Section 13. Unlawful capture. No person may capture, take, or otherwise acquire any game animal in this state for

1 use on a game farm ~~EXCEPT AS PROVIDED IN SECTION 5~~.

2 Section 14. Escape from game farm -- effect. If a  
3 game ~~EARM~~ animal escapes from a game farm, the game farm  
4 licensee shall immediately notify the department of its  
5 escape and shall make every reasonable effort to recapture  
6 it. If the escaped animal cannot be recaptured within a  
7 reasonable time, it becomes the property of the state.

8 Section 15. Taxation. All game farm animals raised on  
9 a game farm ~~must~~ MAY be assessed as personal property of the  
10 owner.

11 Section 16. Game farm shooting license. (1) Before a  
12 game farm licensee may hunt any ~~indigenous~~ game ~~EARM~~ animals  
13 ~~INDIGENOUS TO THE STATE~~ of Montana on his game farm, he must  
14 first obtain a game farm shooting license.

15 (2) The department shall issue to a game farm licensee  
16 a game farm shooting license on an annual basis for the  
17 number of animals that he wishes to hunt.

18 (3) The department shall issue individual tags to the  
19 game farm licensee at a charge of \$15 a tag. The tags ~~must~~  
20 contain such information as the department requires. A tag  
21 must be attached to each animal immediately after it is  
22 killed and must accompany the animal until it is taken to  
23 its final destination.

24 Section 17. Rulemaking. (1) The department may adopt  
25 and enforce ~~ONLY SUCH~~ rules ~~AS ARE~~ necessary to implement

1 the provisions of [sections 1 through 18].

2 (2) The rules ~~must~~ MAY address but are not limited to  
3 classifying of cloven-hoofed ungulates, fencing  
4 requirements, reporting requirements, transportation and  
5 importation, identification, sale of animal parts, the care  
6 and maintenance of game farm animals, and game farm shooting  
7 licenses.

8 Section 18. Revocation of license. (1) A game farm  
9 license may be revoked for failure to operate the game farm  
10 according to the provisions of [sections 1 through 18] or  
11 rules adopted under [sections 1 through 18].

12 (2) Upon discovery of a violation, the department  
13 shall give notice of the violation to the licensee, with a  
14 statement of a specific time in which the violation must be  
15 corrected.

16 (3) Upon failure of the licensee to correct the  
17 violation, the department may institute revocation  
18 proceedings. If the department institutes revocation  
19 proceedings, it shall provide reasonable notice and  
20 opportunity for a hearing to the licensee. After hearing and  
21 upon proof of violation, the department may revoke the game  
22 farm license.

23 Section 19. Current licenses valid. ~~(1)~~ A game farm  
24 having a valid license on October 1, 1983, may ~~SHALL~~ receive  
25 a game farm license ~~in-the-manner-provided-by--[sections--1~~

1 through--18)--for-renewal-of-game-farm-licenses,-except-that  
 2 no-renewal-fee-may-be-charged-until--1--year--after--initial  
 3 licensure-under-this-section.

4 (2) A GAME BIRD FARM HAVING A VALID LICENSE ON OCTOBER  
 5 1, 1983, SHALL RECEIVE A GAME BIRD FARM LICENSE.

6 (3) A FUR FARM HAVING A VALID LICENSE ON OCTOBER 1,  
 7 1983, SHALL RECEIVE A FUR FARM LICENSE.

8 Section 20. Game birds defined. For purposes of  
 9 [sections 20 through 35], ~~game~~ THE FOLLOWING DEFINITIONS  
 10 APPLY:

11 (1) "GAME birds" means all birds defined as game birds  
 12 in 87-2-101, except that the only pheasants included are  
 13 ring-necked pheasants, and quail are not included.

14 (2) "GAME BIRD FARM" MEANS AN ENCLOSED AREA UPON WHICH  
 15 GAME BIRDS MAY BE KEPT FOR PURPOSES OF OBTAINING, BEARING IN  
 16 CAPTIVITY, KEEPING, AND SELLING GAME BIRDS OR PARTS OF GAME  
 17 BIRDS AS AUTHORIZED UNDER [SECTIONS 20 THROUGH 35].

18 Section 21. Exemption. [Sections 20 through 35] do not  
 19 apply to a person who owns, controls, or propagates game  
 20 birds for purposes other than sale or conveyance of game  
 21 birds or parts thereof and who notifies the department and  
 22 receives its written authorization and exemption.

23 Section 22. Game bird farm license required. Except as  
 24 provided in [section 21], no person may own, control, or  
 25 propagate game birds unless he holds a current game bird

1 farm license from the department.

2 Section 23. Application for game bird farm license --  
 3 limitation on issuance. (1) A person desiring to obtain a  
 4 game bird farm license shall make a written application to  
 5 the department. The application must specify:

- 6 (a) the name of the applicant;
- 7 (b) his address;
- 8 (c) the species of game bird and any plans to  
 9 propagate them;
- 10 (d) the legal description of the lands to be included;
- 11 (e) the type of fence or enclosure that the applicant  
 12 contemplates erecting;
- 13 (f) the source of game birds; and
- 14 (g) for a nonresident owner, the name and address of a  
 15 local resident agent.

16 (2) (a) A game bird farm license may ~~may~~ SHALL be issued  
 17 only to a responsible applicant who owns or leases the  
 18 premises on which the operations are to be conducted and who  
 19 has properly fenced or otherwise enclosed the place where  
 20 such game bird farm is to be located.

21 (b) Any game bird farm owned by a nonresident must  
 22 have a resident agent who is responsible for the daily  
 23 operation of the farm and who is authorized by the  
 24 nonresident owner to receive service of process.

25 (3) Within 30 days of receiving the application, the

1 department shall notify the applicant of its decision to  
 2 approve or deny the application. If ~~THE~~ required fencing or  
 3 enclosure has not been completed, the department ~~may~~ **SHALL**  
 4 approve the application ~~only~~ subject to the fencing or  
 5 enclosure being completed. If the application is denied, the  
 6 department shall specify the reasons for denial.

7 Section 24. License and renewal fee -- deposit of  
 8 fees. (1) Game bird farm license and annual renewal fees  
 9 must be set by department rule ~~in amounts not to exceed \$100~~  
 10 ~~for initial licensing and \$25 for annual renewal.~~

11 (2) The fees must be deposited in the earmarked  
 12 revenue fund for the use of the department for purposes of  
 13 [sections 20 through 35].

14 Section 25. Term of permit -- conditions --  
 15 changes in operation. (1) A game bird farm license is valid  
 16 only for the license year for which it is issued. The  
 17 licensee shall apply for renewal annually, and the  
 18 department shall renew the license if the licensee has not  
 19 violated any provision of ~~[sections 20 through 35]~~ **rules**  
 20 ~~adopted under [sections 20 through 35] or any condition of~~  
 21 ~~the license~~ **UNDER WHICH THE LICENSE WAS GRANTED.**

22 (2) The licensee shall notify the department of any  
 23 proposed changes in the species managed or in the size or  
 24 location of the enclosure prior to the institution of such  
 25 change.

1 Section 26. License nontransferable. A game bird farm  
 2 license is nontransferable.

3 Section 27. Inspection. Upon receipt of an  
 4 application, the department shall inspect the game bird farm  
 5 facilities and shall thereafter inspect the facilities ~~at~~  
 6 ~~least biennially. The department may inspect any game bird~~  
 7 ~~farm or~~ **AND** the records required to be kept by such farm ~~at~~  
 8 ~~any reasonable time~~ **ON A SCHEDULED BASIS OR ON SUCH OTHER**  
 9 **REASONABLE BASIS AS MAY BE DETERMINED NECESSARY.**

10 Section 28. Game farm birds as private property. All  
 11 birds lawfully raised in a licensed game bird farm are the  
 12 private property of the licensee, and the licensee may sell  
 13 or transfer such birds as private property.

14 Section 29. Transportation of birds. Any birds  
 15 purchased for use on a game bird farm or any birds raised on  
 16 a game bird farm may be transported only in compliance with  
 17 Title 81, chapter 2, part 7, and applicable administrative  
 18 rules.

19 Section 30. Sale of meat. A licensee may sell game  
 20 **EARM** birds or parts thereof only in compliance with all  
 21 health laws applicable to the sale of game meat.

22 Section 31. Records and reporting. (1) Each licensee  
 23 shall keep accurate records of the number and species of  
 24 birds purchased, transferred, or sold and the name of each  
 25 person to whom or from whom such birds were purchased,



1 transferred, or sold.

2 (2) On or before January 31 of each year, each  
3 licensee shall file a report with the director, showing the  
4 number and species of birds on hand on January 1 and the  
5 number and kinds of birds purchased, transferred, or sold  
6 during the past year. All records described in this section  
7 must be kept for not less than 3 years.

8 Section 32. Rulemaking. The department may adopt and  
9 enforce ONLY SUCH rules AS ARE necessary to implement the  
10 provisions of [sections 20 through 35]. The rules must MAY  
11 address but are not limited to fencing requirements,  
12 reporting requirements, the care and maintenance of birds  
13 held by game bird farm operators, and licensing requirements  
14 for applicants.

15 Section 33. Release of birds. Game bird farm licensees  
16 may release birds into the wild only with the prior approval  
17 of the director.

18 Section 34. Field trials -- permits. (1) As used in  
19 this section, "field trial" means an examination to  
20 determine the ability of dogs to point, flush, or retrieve  
21 game birds.

22 (2) No person may conduct a field trial unless he has  
23 received a permit under this section. Applicants for a  
24 permit to conduct a field trial must make application to the  
25 director upon a form furnished by the department for that

1 purpose. The application must be signed and sworn to by the  
2 applicant, stating the applicant's name and address, the  
3 name and address of any national affiliate, the place for  
4 the field trial clearly defined, the date or dates of the  
5 proposed field trial, whether live birds are to be used, and  
6 any other information required by the director to determine  
7 the advisability of granting permission for the proposed  
8 field trial. The application must state that if a permit is  
9 granted, the applicant will carefully flush all wild game  
10 birds from fields used for the field trial each day before  
11 the field trial begins and will not permit dogs to run free  
12 in fields that have not been carefully flushed. The  
13 application must be presented to the director not less than  
14 20 days prior to the date proposed for the field trial.

15 (3) The director may refuse any application that he  
16 determines is not in the best interests of the protection,  
17 preservation, propagation, and conservation of game birds in  
18 this state. Any denial by the director of such application  
19 must state the reasons therefor and must be mailed to the  
20 applicant within 10 days of receipt of the application.

21 (4) No applicant receiving a permit to conduct a field  
22 trial may violate or authorize violation of any of the terms  
23 of the permit.

24 (5) All live game birds used in a field trial must be  
25 tagged before being planted or released and may be planted

1 or released only in the presence of a representative of the  
2 department. If an untagged bird is shot during any field  
3 trial, the person to whom the permit was issued must  
4 immediately replace it with a live bird.

5 (6) (a) Dogs may be trained in open fields at any time  
6 without permission of the director only if:

7 (i) no live game birds are killed or captured during  
8 training; and

9 (ii) the training is more than 1 mile from any bird  
10 nesting or management area or game preserve.

11 (b) A person may train dogs with a method that will  
12 kill birds acquired from a game bird farm only after  
13 receiving a written permit from the department and only in  
14 compliance with the terms of the permit.

15 Section 35. Revocation of license. (1) A game bird  
16 farm license may be revoked for failure to operate the game  
17 bird farm according to provisions of [sections 20 through  
18 35] or rules adopted under [sections 20 through 35].

19 (2) Upon discovery of a violation, the department  
20 shall give notice of such violation to the licensee, with a  
21 statement of a specific time by which the violation must be  
22 corrected.

23 (3) Upon failure of the licensee to correct the  
24 violation, the department may institute revocation  
25 proceedings. If the department institutes revocation

1 proceedings, it shall provide reasonable notice and  
2 opportunity for a hearing to the licensee. After hearing,  
3 upon proof of violation, the department may revoke the game  
4 bird farm license.

5 Section 36. Definition. For purposes of [sections 36  
6 through 48], "furbearer" THE FOLLOWING DEFINITIONS APPLY:

7 (1) "FURBEARER" means a marten or sable, otter,  
8 muskrat, fisher, bobcat, lynx, wolverine, or beaver. The  
9 term does not include fox or mink.

10 (2) "FUR FARM" MEANS THE ENCLOSED LAND AREA UPON WHICH  
11 FURBEARERS MAY BE KEPT FOR PURPOSES OF OBTAINING, REARING IN  
12 CAPTIVITY, KEEPING, AND SELLING FURBEARERS OR PARTS OF  
13 FURBEARERS AS AUTHORIZED UNDER [SECTIONS 36 THROUGH 48].

14 Section 37. Fur farm license required --  
15 applicability. (1) Except as provided in subsection (2), no  
16 person may own, control, or propagate furbearers unless he  
17 holds a current fur farm license from the department.

18 (2) [Sections 36 through 48] do not apply to the  
19 ownership, control, or propagation of furbearers if the  
20 ownership, control, or propagation is not for the sale or  
21 conveyance of furbearers or parts thereof.

22 Section 38. Application for permit. (1) Any person  
23 desiring to obtain a fur farm license shall make a written  
24 application to the department. The application must specify:

25 (a) the name of the applicant;

1 (b) his address;

2 (c) species of furbearers and any plan to propagate

3 them;

4 (d) the legal description of the lands to be included;

5 (e) the type of fence that the applicant contemplates

6 erecting;

7 (f) the source of furbearers.

8 (2) (a) A fur farm license ~~may~~ **SHALL** be issued only to

9 a responsible applicant who owns or leases the premises on

10 which the operations are to be conducted and who has

11 properly fenced the place where such fur farm is to be

12 located.

13 (b) Any fur farm owned by a nonresident must have a

14 resident agent who is responsible for the daily operation of

15 the fur farm and who is authorized by the nonresident owner

16 to receive service of process.

17 (3) Within 30 days of receiving the application, the

18 department shall notify the applicant of its decision to

19 approve or deny the application. If required fencing has not

20 been completed, the department ~~may~~ **SHALL** approve the

21 application ~~only~~ subject to the fencing being completed. If

22 the application is denied, the department shall specify the

23 reasons for denial.

24 Section 39. License and renewal fee -- deposit. (1)

25 Fur farm license and annual renewal fees must be set by

1 department rule ~~in amounts not to exceed \$100 for initial~~

2 ~~licensing and \$25 for annual renewal.~~

3 (2) The fees must be deposited in the earmarked

4 revenue fund for the use of the department for purposes of

5 [sections 36 through 48].

6 Section 40. Term of permit -- conditions -- changes

7 in operation. (1) A fur farm license is valid ~~only~~ for the

8 license year in which it is issued. The licensee shall apply

9 for renewal annually, and the department shall renew the

10 license if the licensee has not violated any provision of

11 ~~[sections 36 through 48] or any condition of the license~~ **UNDER WHICH IT**

12 **WAS GRANTED.**

13 (2) The licensee shall notify the department of any

14 proposed changes in the species managed or in the size or

15 location of the enclosure prior to the institution of such

16 change.

17 Section 41. License nontransferable. A fur farm

18 license is nontransferable.

19 Section 42. Inspection. Upon receipt of an application

20 for a license, the department shall inspect each fur farm

21 and thereafter shall inspect each fur farm ~~biennially~~ **the**

22 ~~department may inspect any fur farm or~~ **AND** the records

23 required to be kept by such fur farm ~~at any reasonable time~~

24 **ON A SCHEDULED BASIS OR ON SUCH OTHER REASONABLE BASIS AS**

25

1 MAY BE DETERMINED NECESSARY.

2 Section 43. Furbearers as private property. All  
3 furbearers lawfully raised on a licensed fur farm are the  
4 private property of the licensee, and the licensee may sell  
5 or transfer such furbearers as private property.

6 Section 44. Transportation of furbearers. Any  
7 furbearers purchased for use on a fur farm or any furbearers  
8 raised on a fur farm may be transported only in compliance  
9 with Title 81, chapter 2, part 7, and applicable  
10 administrative rules.

11 Section 45. Sale of furs. A fur farm owner who desires  
12 to sell furs shall comply with all the requirements of Title  
13 87, chapter 4, part 3.

14 Section 46. Records and reporting. (1) Each licensee  
15 shall keep accurate records of the number and species of  
16 furbearers purchased, transferred, or sold and the name of  
17 each person to whom or from whom such furbearers were  
18 purchased, transferred, or sold.

19 (2) On or before January 31 of each year, each  
20 licensee shall file a report with the director, showing the  
21 number and species of furbearers on hand on January 1 and  
22 the number and species of furbearers purchased, transferred,  
23 or sold during the past year. All records described in this  
24 section must be kept for not less than 3 years.

25 Section 47. Rulemaking. The department may adopt and

1 enforce ONLY SUCH rules AS ARE necessary to implement  
2 [sections 36 through 48]. The rules must MAY address but are  
3 not limited to fencing requirements, reporting requirements,  
4 the care and maintenance of the furbearers held by fur farm  
5 operators, and licensing requirements for applicants.

6 Section 48. Revocation of license. (1) A fur farm  
7 license may be revoked for failure to operate the fur farm  
8 according to the provisions of [sections 36 through 48] or  
9 rules adopted under [sections 36 through 48].

10 (2) Upon discovery of a violation, the department  
11 shall give notice of such violation to the licensee, with a  
12 statement of a specific time by which the violation must be  
13 corrected.

14 (3) Upon failure of the licensee to correct the  
15 violation, the department may institute revocation  
16 proceedings. If the department institutes revocation  
17 proceedings, it shall provide reasonable notice and  
18 opportunity for a hearing to the licensee. After hearing,  
19 upon proof of violation, the department may revoke the fur  
20 farm license.

21 HERE IS A NEW MCA SECTION THAT READS:

22 Section 49. Fee limitation for multiple licenses. If a  
23 person is issued more than one license under [sections 1  
24 through 48], the total assessment for initial fees or for  
25 renewal fees for all licenses issued to such person may not

1 exceed the amount of the largest individual license fee.

2 THERE IS A NEW MCA SECTION THAT READS:

3 Section 50. Waiver of initial fee. No initial license  
4 fee may be assessed against any person who held a game farm,  
5 game bird farm, or fur farm permit on October 1, 1983,  
6 unless there is a break in licensing of more than 1 year.

7 Section 51. Repealer. Sections 87-4-401 through  
8 87-4-405, MCA, are repealed.

9 Section 52. Codification instruction. Sections 1  
10 through 18 and 20 through ~~40~~ 42 are intended to be codified  
11 as an integral part of Title 87, and the provisions of Title  
12 87 apply to sections 1 through 18 and 20 through ~~40~~ 42.

-End-