

SENATE BILL NO. 371

INTRODUCED BY MOHAR, SPAETH, COBB, ELLISON, KENNERLY,
RANEY, B. BROWN, RAPP-SVRCEK, HAFHEY, STORY

IN THE SENATE

February 9, 1985	Introduced and referred to Committee on Fish and Game.
February 20, 1985	Committee recommend bill do pass as amended. Report adopted.
February 21, 1985	Bill printed and placed on members' desks.
February 22, 1985	Second reading, do pass.
February 23, 1985	Considered correctly engrossed.
February 25, 1985	Third reading, passed. Ayes, 47; Noes, 1.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Fish and Game.
March 21, 1985	Committee recommend bill be concurrred in as amended. Report adopted.
March 23, 1985	Second reading, pass consideration.
March 30, 1985	Second reading, concurrred in as amended.
April 1, 1985	Third reading, concurrred in. Returned to Senate with amendments.

IN THE SENATE

April 1, 1985

Received from House.

April 3, 1985

Second reading, amendments
concurrent in.

April 5, 1985

Third reading, amendments
concurrent in. Ayes, 44; Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

Senate BILL NO. 371

INTRODUCED BY Moran Smith Case Kennedy Raney Bob Brown Kapp-Smith Haffey
A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE

PURCHASE AND SALE OF GRIZZLY BEAR PARTS; PROVIDING FOR
DISPOSITION OF SEIZED GRIZZLY BEAR PARTS; REMOVING GRIZZLY
BEAR FROM THE DEFINITION OF GAME FARM ANIMALS; AMENDING
SECTIONS 87-1-511, 87-3-111, 87-4-406, AND 87-4-702, MCA."

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

Section 1. Section 87-1-511, MCA, is amended to read:

"87-1-511. Sale of confiscated birds and animals --
disposition of seized grizzly bears. (1) All birds,
animals, fish, heads, hides, teeth, or other parts of any
animal other than grizzly bear seized by any officer or
warden shall be sold, under the direction of the director or
wardens, at a time, place, and manner so as to receive the
highest price. The sale shall be at public auction to the
highest and best bidder. The director or his wardens shall
publish notice of the time and place of the sale, together
with a description of the birds, fish, animals, or parts or
portions of animals to be sold, in a newspaper of general
circulation published in the county where the sale is to be
held. The notice shall be published at least once, and the
sale shall not be less than 5 or more than 30 days after the

last publication. If the property seized is perishable, it
may be sold by those officers without publishing notice of
the sale. The property may be sold upon that public notice
and under those terms and conditions which in the discretion
of the officers seem conducive to securing full value.

(2) All grizzly bears or heads, hides, teeth, claws,
or other parts of grizzly bears seized by any officer or
warden must be donated to museums, educational institutions,
or persons conducting scientific studies."

Section 2. Section 87-3-111, MCA, is amended to read:

"87-3-111. Unlawful to buy, sell, possess, or
transport fish or game -- exceptions -- penalties. (1) It is
hereby made unlawful for any person to purchase, sell, offer
to sell, possess, ship, or transport any game fish, game
bird, migratory game bird, game animal, or fur-bearing
animal or part thereof protected by the laws of this state,
whether belonging to the same or different species from that
native to the state of Montana, except as specifically
permitted by the laws of this state.

(2) The provisions of this section shall not prohibit:

(a) the possession or transportation within the state
of any legally taken fish, game bird, migratory game bird,
game animal, or fur-bearing animal or part thereof; or

(b) the sale, purchase, or transportation of hides,
heads, or mounts of lawfully killed game--animals; game

1 birds, game fish, or fur-bearing animals, or game animals,
2 with the exception of the grizzly bear.

3 (3) Except as provided in subsection (4), any person
4 violating any of the provisions of this section is guilty of
5 a misdemeanor and upon conviction thereof shall be punished
6 as provided by law.

7 (4) Any person engaging in the activities prohibited
8 in subsection (1) in furtherance of a scheme to traffic in
9 the body parts of unlawfully taken species is guilty of a
10 felony and shall be punished by a fine of \$10,000 or
11 imprisonment in the state prison for a term of 1 year, or
12 both."

13 Section 3. Section 87-4-406, MCA, is amended to read:

14 "87-4-406. Definitions. As used in this part, the
15 following definitions apply:

16 (1) "Department" means the department of fish,
17 wildlife, and parks.

18 (2) "Game animals" means game animals as defined in
19 87-2-101 that are not the lawful property of any private
20 person.

21 (3) "Game farm" means the enclosed land area upon
22 which game farm animals may be kept for purposes of
23 obtaining, rearing in captivity, keeping, and selling game
24 animals or parts of game animals, as authorized under this
25 part.

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

6 (5) "Game farm shooting license" means the license
7 required under 87-4-421 for a game farm operator to hunt the
8 game farm animals indigenous to the state of Montana on his
9 game farm.

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

12 Section 4. Section 87-4-702, MCA, is amended to read:

13 "87-4-702. Possession of game by merchants,
14 hotelkeepers, or restaurant keepers. It is lawful for any
15 merchant, hotelkeeper, or restaurant keeper to have in his
16 possession, offer for sale, or sell game birds and game, and
17 game-birds except for grizzly bear, provided the game or
18 game birds are not killed in Montana."

19 NEW SECTION. Section 5. Extension of authority. Any
20 existing authority of the department of fish, wildlife, and
21 parks to make rules on the subject of the provisions of this
22 act is extended to the provisions of this act.

-End-

APPROVED BY COMM.
ON FISH AND GAME

SENATE BILL NO. 371

INTRODUCED BY MOHAR, SPAETH, COBB, ELLISON,
KENNERLY, RANEY, B. BROWN, RAPP-SVRCEK, HAFFEY, STORY

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE
PURCHASE AND SALE OF GRIZZLY BEAR PARTS; PROVIDING FOR
DISPOSITION OF SEIZED GRIZZLY BEAR PARTS; REMOVING GRIZZLY
BEAR FROM THE DEFINITION OF GAME FARM ANIMALS; AMENDING
SECTIONS 87-1-511, 87-3-111, 87-4-406, AND 87-4-702, MCA."

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animals, fish, heads, hides, teeth, or other parts of any
animal other than grizzly bear seized by any officer or
warden shall be sold, under the direction of the director or
wardens, at a time, place, and manner so as to receive the
highest price. The sale shall be at public auction to the
highest and best bidder. The director or his wardens shall
publish notice of the time and place of the sale, together
with a description of the birds, fish, animals, or parts or
portions of animals to be sold, in a newspaper of general
circulation published in the county where the sale is to be
held. The notice shall be published at least once, and the

sale shall not be less than 5 or more than 30 days after the
last publication. If the property seized is perishable, it
may be sold by those officers without publishing notice of
the sale. The property may be sold upon that public notice
and under those terms and conditions which in the discretion
of the officers seem conducive to securing full value.

(2) All grizzly bears or heads, hides, teeth, claws,
or other parts of grizzly bears seized by any officer or
warden must MAY be donated to museums, educational
institutions, GOVERNMENT AGENCIES, or persons conducting
scientific studies, AS APPROVED BY THE COMMISSION. IF
APPROVED UNDER FEDERAL LAW, PARTS MAY BE SOLD AT PUBLIC
AUCTION IF, AFTER APPROVAL BY THE COMMISSION, A REASONABLE
ATTEMPT HAS BEEN MADE TO DISPOSE OF THE PARTS."

Section 2. Section 87-3-111, MCA, is amended to read:

"87-3-111. Unlawful to buy, sell, possess, or
transport fish or game -- exceptions -- penalties. (1) It is
hereby made unlawful for any person to purchase, sell, offer
to sell, possess, ship, or transport any game fish, game
bird, migratory game bird, game animal, or fur-bearing
animal or part thereof protected by the laws of this state,
whether belonging to the same or different species from that
native to the state of Montana, except as specifically
permitted by the laws of this state.

(2) The provisions of this section shall not prohibit:



1 (a) the possession or transportation within the state
2 of any legally taken fish, game bird, migratory game bird,
3 game animal, or fur-bearing animal or part thereof; or

4 (b) the sale, purchase, or transportation of hides,
5 heads, or mounts of lawfully killed ~~game-animals~~, game
6 birds, game fish, or fur-bearing animals, or game animals,
7 with the exception of the grizzly bear.

8 (3) Except as provided in subsection (4), any person
9 violating any of the provisions of this section is guilty of
10 a misdemeanor and upon conviction thereof shall be punished
11 as provided by law.

12 (4) Any person engaging in the activities prohibited
13 in subsection (1) in furtherance of a scheme to traffic in
14 the body parts of unlawfully taken species is guilty of a
15 felony and shall be punished by a fine of \$10,000 or
16 imprisonment in the state prison for a term of 1 year, or
17 both."

18 Section 3. Section 87-4-406, MCA, is amended to read:
19 "87-4-406. Definitions. As used in this part, the
20 following definitions apply:

21 (1) "Department" means the department of fish,
22 wildlife, and parks.

23 (2) "Game animals" means game animals as defined in
24 87-2-101 that are not the lawful property of any private
25 person.

1 (3) "Game farm" means the enclosed land area upon
2 which game farm animals may be kept for purposes of
3 obtaining, rearing in captivity, keeping, and selling game
4 animals or parts of game animals, as authorized under this
5 part.

6 (4) "Game farm animal" means a privately owned
7 caribou, black bear, mountain lion, white-tailed deer, mule
8 deer, elk, moose, antelope, mountain sheep, or mountain goat
9 indigenous to the state of Montana or any other
10 cloven-hoofed ungulate as classified by the department.

11 (5) "Game farm shooting license" means the license
12 required under 87-4-421 for a game farm operator to hunt the
13 game farm animals indigenous to the state of Montana on his
14 game farm.

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

17 Section 4. Section 87-4-702, MCA, is amended to read:

18 "87-4-702. Possession of game by merchants,
19 hotelkeepers, or restaurant keepers. It is lawful for any
20 merchant, hotelkeeper, or restaurant keeper to have in his
21 possession, offer for sale, or sell game birds and game, and
22 game--birds except for grizzly bear, provided the game or
23 game birds are not killed in Montana."

24 NEW SECTION. Section 5. Extension of authority. Any
25 existing authority of the department of fish, wildlife, and

SB 0371/02

1 parks to make rules on the subject of the provisions of this
2 act is extended to the provisions of this act.

-End-

1 SENATE BILL NO. 371

2 INTRODUCED BY MOHAR, SPAETH, COBB, ELLISON,

3 KENNERLY, RANEY, B. BROWN, RAPP-SVRCEK, HAFPEY, STORY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE
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8 BEAR FROM THE DEFINITION OF GAME FARM ANIMALS; AMENDING
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14 disposition of seized grizzly bears. (1) All birds,
15 animals, fish, heads, hides, teeth, or other parts of any
16 animal other than grizzly bear seized by any officer or
17 warden shall be sold, under the direction of the director or
18 wardens, at a time, place, and manner so as to receive the
19 highest price. The sale shall be at public auction to the
20 highest and best bidder. The director or his wardens shall
21 publish notice of the time and place of the sale, together
22 with a description of the birds, fish, animals, or parts or
23 portions of animals to be sold, in a newspaper of general
24 circulation published in the county where the sale is to be
25 held. The notice shall be published at least once, and the

1 sale shall not be less than 5 or more than 30 days after the
2 last publication. If the property seized is perishable, it
3 may be sold by those officers without publishing notice of
4 the sale. The property may be sold upon that public notice
5 and under those terms and conditions which in the discretion
6 of the officers seem conducive to securing full value.

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8 or other parts of grizzly bears seized by any officer or
9 warden must MAY be donated to museums, educational
10 institutions, GOVERNMENT AGENCIES, or persons conducting
11 scientific studies, AS APPROVED BY THE COMMISSION. IF
12 APPROVED UNDER FEDERAL LAW, PARTS MAY BE SOLD AT PUBLIC
13 AUCTION IF, AFTER APPROVAL BY THE COMMISSION, A REASONABLE
14 ATTEMPT HAS BEEN MADE TO DISPOSE OF THE PARTS."

15 Section 2. Section 87-3-111, MCA, is amended to read:

16 "87-3-111. Unlawful to buy, sell, possess, or
17 transport fish or game -- exceptions -- penalties. (1) It is
18 hereby made unlawful for any person to purchase, sell, offer
19 to sell, possess, ship, or transport any game fish, game
20 bird, migratory game bird, game animal, or fur-bearing
21 animal or part thereof protected by the laws of this state,
22 whether belonging to the same or different species from that
23 native to the state of Montana, except as specifically
24 permitted by the laws of this state.

25 (2) The provisions of this section shall not prohibit;

1 (a) the possession or transportation within the state
2 of any legally taken fish, game bird, migratory game bird,
3 game animal, or fur-bearing animal or part thereof; or

4 (b) the sale, purchase, or transportation of hides,
5 heads, or mounts of lawfully killed ~~game-animals~~, game
6 birds, game fish, ~~or fur-bearing animals, or game animals,~~
7 with the exception of the grizzly bear.

8 (3) Except as provided in subsection (4), any person
9 violating any of the provisions of this section is guilty of
10 a misdemeanor and upon conviction thereof shall be punished
11 as provided by law.

12 (4) Any person engaging in the activities prohibited
13 in subsection (1) in furtherance of a scheme to traffic in
14 the body parts of unlawfully taken species is guilty of a
15 felony and shall be punished by a fine of \$10,000 or
16 imprisonment in the state prison for a term of 1 year, or
17 both."

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19 "87-4-406. Definitions. As used in this part, the
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24 87-2-101 that are not the lawful property of any private
25 person.

1 (3) "Game farm" means the enclosed land area upon
2 which game farm animals may be kept for purposes of
3 obtaining, rearing in captivity, keeping, and selling game
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5 part.

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12 required under 87-4-421 for a game farm operator to hunt the
13 game farm animals indigenous to the state of Montana on his
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17 Section 4. Section 87-4-702, MCA, is amended to read:
18 "87-4-702. Possession of game by merchants,
19 hotelkeepers, or restaurant keepers. It is lawful for any
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24 NEW SECTION. Section 5. Extension of authority. Any
25 existing authority of the department of fish, wildlife, and

SB 0371/02

- 1 parks to make rules on the subject of the provisions of this
- 2 act is extended to the provisions of this act.

-End-

STANDING COMMITTEE REPORT

HOUSE

MARCH 21 19 85

Page 1 of 2

AMENDMENTS
SENATE BILL NO. 371

MARCH 21 19 85
Page 2 of 2

MR. SPEAKER

We, your committee on FISH AND GAME

having had under consideration SENATE Bill No. 371

THIRD reading copy (BLUE color)

PROHIBIT PURCHASE AND SALE OF GRIZZLY BEAR PARTS

4. Page 4, line 23
Following: "Montana."
Insert: "(2) No merchant, hotelkeeper, or restaurant keeper may offer for sale or sell any grizzly bear or any head, hide, teeth, claws, or other part of a grizzly bear."

Respectfully report as follows: That SENATE Bill No. 371

BE AMENDED AS FOLLOWS:

- Page 3, line 7.
Strike: "with" through "bear"
Insert: "except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited"
- Page 4, line 19.
Following: "keepers."
Strike: "it"
Insert: "(1) Except as provided in subsection (2), it"
- Page 4, line 22.
Strike: "except for grizzly bear,"

AND AS AMENDED,
BE CONCURRED IN

XCKKQWGX

(CONTINUED)

Chairman.

BA
AAA 3-21-85

Bob Ream

BOB REAM,

Chairman.

COMMITTEE OF THE WHOLE AMENDMENT
HOUSE

3251720B.CW

PAGE 1 OF 2.

3-30-85
DATE

Page 2 of 2.
SB 371

March 30 19 85

8:30 AM
TIME

MR. CHAIRMAN: I MOVE TO AMEND SENATE BILL No. 371

third reading copy (blue) as follows:
Color

1. Title, line 5.
Following: "PROHIBITING"
Strike: "THE" through "SALE" on line 6
Insert: "CERTAIN PURCHASES AND SALES"
2. Title, line 8.
Following: "ANIMALS;"
Insert: "PROVIDING FOR REGISTRATION OF CERTAIN GRIZZLY BEAR PARTS;"
3. House Standing Committee Report, March 21, 1985.
Amendment 1, line 4.
Following: "prohibited"
Insert: ", except as provided in [section 5]"
4. Page 4, following line 23.
Insert: "NEW SECTION. Section 5. Registration for sale of certain grizzly bears. (1) A person in possession of a lawfully killed grizzly bear or a hide, head, or mount thereof may sell it if it has been registered with the department in the manner and upon forms provided by the department. The registration form must specifically describe the grizzly bear or the hide, head, or mount thereof and must accompany it upon any sale.
(2) Bears or parts thereof may be registered as follows: (a) before January 1, 1986, any lawfully killed grizzly bear or part thereof may be registered;
(b) on or after January 1, 1986, bears lawfully killed in Montana may be registered within 10 days after the date of kill, and bears lawfully killed outside Montana may be registered within three months after the date of kill upon presentation of proof of lawful kill.
(3) Registration under this section does not legalize any prior illegal act, such as the unlawful killing or theft of a grizzly bear or part thereof.

Renumber: subsequent section

5. Page 5, following line 2.
Insert: "NEW SECTION. Section 7. Codification instruction. Section 5 is intended to be codified as an integral part of Title 87, chapter 3.

~~ADOPT~~
~~REJECT~~

CONTINUED

Rep. Ream

ADOPT
REJECT

Bob Ream

Rep. Ream

~~Channa~~

1 SENATE BILL NO. 371

2 INTRODUCED BY MOHAR, SPAETH, COBB, ELLISON,
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6 PURCHASE--AND--SALE CERTAIN PURCHASES AND SALES OF GRIZZLY
7 BEAR PARTS; PROVIDING FOR DISPOSITION OF SEIZED GRIZZLY BEAR
8 PARTS; REMOVING GRIZZLY BEAR FROM THE DEFINITION OF GAME
9 FARM ANIMALS; PROVIDING FOR REGISTRATION OF CERTAIN GRIZZLY
10 BEAR PARTS; AMENDING SECTIONS 87-1-511, 87-3-111, 87-4-406,
11 AND 87-4-702, MCA."

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21 highest price. The sale shall be at public auction to the
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25 portions of animals to be sold, in a newspaper of general

1 circulation published in the county where the sale is to be
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23 animal or part thereof protected by the laws of this state,
24 whether belonging to the same or different species from that
25 native to the state of Montana, except as specifically

1 permitted by the laws of this state.

2 (2) The provisions of this section shall not prohibit:
3 (a) the possession or transportation within the state
4 of any legally taken fish, game bird, migratory game bird,
5 game animal, or fur-bearing animal or part thereof; or

6 (b) the sale, purchase, or transportation of hides,
7 heads, or mounts of lawfully killed ~~game-animals~~; game
8 birds, game fish, or fur-bearing animals, or game animals,
9 ~~with--the-exception-of-the-grizzly-bear~~ EXCEPT THAT THE SALE
10 OR PURCHASE OF A HIDE, HEAD, OR MOUNT OF A GRIZZLY BEAR IS
11 PROHIBITED, EXCEPT AS PROVIDED IN [SECTION 5].

12 (3) Except as provided in subsection (4), any person
13 violating any of the provisions of this section is guilty of
14 a misdemeanor and upon conviction thereof shall be punished
15 as provided by law.

16 (4) Any person engaging in the activities prohibited
17 in subsection (1) in furtherance of a scheme to traffic in
18 the body parts of unlawfully taken species is guilty of a
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20 imprisonment in the state prison for a term of 1 year, or
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11 caribou, black bear, mountain lion, white-tailed deer, mule
12 deer, elk, moose, antelope, mountain sheep, or mountain goat
13 indigenous to the state of Montana or any other
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17 game farm animals indigenous to the state of Montana on his
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19 (6) "Person" means an individual, firm, corporation,
20 association, or partnership."

21 Section 4. Section 87-4-702, MCA, is amended to read:
22 "87-4-702. Possession of game by merchants,
23 hotelkeepers, or restaurant keepers. ~~It~~ (1) EXCEPT AS
24 PROVIDED IN SUBSECTION (2), IT is lawful for any merchant,
25 hotelkeeper, or restaurant keeper to have in his possession,

1 offer for sale, or sell game birds and game, and-game-birds
 2 except-for-grizzly-bear, provided the game or game birds are
 3 not killed in Montana.

4 (2) NO MERCHANT, HOTELKEEPER, OR RESTAURANT KEEPER MAY
 5 OFFER FOR SALE OR SELL ANY GRIZZLY BEAR OR ANY HEAD, HIDE,
 6 TEETH, CLAWS, OR OTHER PART OF A GRIZZLY BEAR."

7 NEW SECTION. SECTION 5. REGISTRATION FOR SALE OF
 8 CERTAIN GRIZZLY BEARS. (1) A PERSON IN POSSESSION OF A
 9 LAWFULLY KILLED GRIZZLY BEAR OR A HIDE, HEAD, OR MOUNT
 10 THEREOF MAY SELL IT IF IT HAS BEEN REGISTERED WITH THE
 11 DEPARTMENT IN THE MANNER AND UPON FORMS PROVIDED BY THE
 12 DEPARTMENT. THE REGISTRATION FORM MUST SPECIFICALLY DESCRIBE
 13 THE GRIZZLY BEAR OR THE HIDE, HEAD, OR MOUNT THEREOF AND
 14 MUST ACCOMPANY IT UPON ANY SALE.

15 (2) BEARS OR PARTS THEREOF MAY BE REGISTERED AS
 16 FOLLOWS:

17 (A) BEFORE JANUARY 1, 1986, ANY LAWFULLY KILLED
 18 GRIZZLY BEAR OR PART THEREOF MAY BE REGISTERED.

19 (B) ON OR AFTER JANUARY 1, 1986, BEARS LAWFULLY KILLED
 20 IN MONTANA MAY BE REGISTERED WITHIN 10 DAYS AFTER THE DATE
 21 OF KILL, AND BEARS LAWFULLY KILLED OUTSIDE MONTANA MAY BE
 22 REGISTERED WITHIN 3 MONTHS AFTER THE DATE OF KILL UPON
 23 PRESENTATION OF PROOF OF LAWFUL KILL.

24 (3) REGISTRATION UNDER THIS SECTION DOES NOT LEGALIZE
 25 ANY PRIOR ILLEGAL ACT, SUCH AS THE UNLAWFUL KILLING OR THEFT

1 OF A GRIZZLY BEAR OR PART THEREOF.

2 NEW SECTION. Section 6. Extension of authority. Any
 3 existing authority of the department of fish, wildlife, and
 4 parks to make rules on the subject of the provisions of this
 5 act is extended to the provisions of this act.

6 NEW SECTION. SECTION 7. CODIFICATION INSTRUCTION.
 7 SECTION 5 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF
 8 TITLE 87, CHAPTER 3.

-End-