

HOUSE BILL NO. 172

INTRODUCED BY SWIFT, REHBERG, GIACOMETTO, GOULD,  
HOFFMAN, COBB, DRISCOLL, OWENS, THOMAS, ELLIOTT

IN THE HOUSE

|                  |                                                                            |
|------------------|----------------------------------------------------------------------------|
| JANUARY 13, 1989 | INTRODUCED AND REFERRED TO COMMITTEE<br>ON JUDICIARY.                      |
| JANUARY 14, 1989 | FIRST READING.                                                             |
| JANUARY 17, 1989 | ON MOTION BY CHIEF SPONSOR,<br>REPRESENTATIVE ELLIOTT ADDED AS<br>SPONSOR. |
| JANUARY 24, 1989 | COMMITTEE RECOMMEND BILL<br>DO PASS AS AMENDED. REPORT ADOPTED.            |
| JANUARY 25, 1989 | PRINTING REPORT.                                                           |
| JANUARY 26, 1989 | SECOND READING, DO PASS.                                                   |
| JANUARY 27, 1989 | ENGROSSING REPORT.                                                         |
| JANUARY 28, 1989 | THIRD READING, PASSED.<br>AYES, 70; NOES, 24.                              |
|                  | TRANSMITTED TO SENATE.                                                     |

IN THE SENATE

|                  |                                                                            |
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| JANUARY 30, 1989 | INTRODUCED AND REFERRED TO COMMITTEE<br>ON NATURAL RESOURCES.              |
|                  | FIRST READING.                                                             |
| MARCH 7, 1989    | COMMITTEE RECOMMEND BILL BE<br>CONCURRED IN AS AMENDED. REPORT<br>ADOPTED. |
| MARCH 8, 1989    | SECOND READING, CONCURRED IN.                                              |
| MARCH 10, 1989   | THIRD READING, CONCURRED IN.<br>AYES, 47; NOES, 1.                         |

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 13, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

MARCH 14, 1989

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 172  
 2 INTRODUCED BY Swift Rollberg  
 3 Hoffman Chubb Thom  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING IT CRIMINAL  
 5 MISCHIEF TO PURPOSELY OR KNOWINGLY INSERT INTO A TREE, LOG,  
 6 OR PIECE OF WOOD THAT IS INTENDED TO BE HARVESTED,  
 7 PROCESSED, OR MANUFACTURED A SUBSTANCE THAT IS HARD ENOUGH  
 8 TO DAMAGE A SAW OR OTHER EQUIPMENT; AND AMENDING SECTION  
 9 45-6-101, MCA."

10

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

12 **Section 1.** Section 45-6-101, MCA, is amended to read:

13 "45-6-101. Criminal mischief. (1) A person commits the  
 14 offense of criminal mischief if he knowingly or purposely:

15 (a) injures, damages, or destroys any property of  
 16 another or public property without consent;

17 (b) without consent tampers with property of another  
 18 or public property so as to endanger or interfere with  
 19 persons or property or its use;

20 (c) damages or destroys property with the purpose to  
 21 defraud an insurer; or

22 (d) places in a tree, log, or any other wood, any  
 23 steel, iron, ceramic, or other substance sufficiently hard  
 24 to damage a saw or other wood harvesting, processing, or  
 25 manufacturing equipment and he knows that the wood is

1 intended to be harvested, processed, or manufactured; or

2 (d)(e) fails to close a gate previously unopened which  
 3 he has opened, leading in or out of any enclosed premises.  
 4 This does not apply to gates located in cities or towns.

5 (2) A person convicted of criminal mischief shall be  
 6 ordered to make restitution in an amount and manner to be  
 7 set by the court. The court shall determine the manner and  
 8 amount of restitution after full consideration of the  
 9 convicted person's ability to pay the same. Upon good cause  
 10 shown by the convicted person, the court may modify any  
 11 previous order specifying the amount and manner of  
 12 restitution. Full payment of the amount of restitution  
 13 ordered shall be made prior to the release of state  
 14 jurisdiction over the person convicted.

15 (3) A person convicted of the offense of criminal  
 16 mischief shall be fined not to exceed \$500 or be imprisoned  
 17 in the county jail for any term not to exceed 6 months, or  
 18 both. If the offender commits the offense of criminal  
 19 mischief and causes pecuniary loss in excess of \$300,  
 20 injures or kills a commonly domesticated hooved animal, or  
 21 causes a substantial interruption or impairment of public  
 22 communication, transportation, supply of water, gas, or  
 23 power, or other public services, he shall be fined an amount  
 24 not to exceed \$50,000 or be imprisoned in the state prison  
 25 for any term not to exceed 10 years, or both."

-End-  
 -2-

INTRODUCED BILL

H B 172

APPROVED BY COMMITTEE  
ON JUDICIARY

## HOUSE BILL NO. 172

INTRODUCED BY SWIFT, REHBERG, GIACOMETTO, GOULD,  
HOFFMAN, COBB, DRISCOLL, OWENS, THOMAS, ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING IT CRIMINAL MISCHIEF TO PURPOSELY OR KNOWINGLY INSERT INTO A TREE, LOG, OR PIECE OF WOOD THAT IS INTENDED TO BE HARVESTED, PROCESSED, OR MANUFACTURED A SUBSTANCE THAT IS HARD ENOUGH TO DAMAGE A SAW OR OTHER EQUIPMENT; AND AMENDING SECTION 45-6-101, MCA."

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

**Section 1.** Section 45-6-101, MCA, is amended to read:

"45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if he knowingly or purposely:

(a) injures, damages, or destroys any property of another or public property without consent;

(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;

(c) damages or destroys property with the purpose to defraud an insurer; or

(d) places in a tree, log, or any other wood, any steel, iron, ceramic, or other substance sufficiently--hard  
WITH THE PURPOSE to damage a saw or other wood harvesting,

processing, or manufacturing equipment and-he-knows-that-the  
wood--is---intended---to---be---harvested,---processed,---or  
manufactured; or

(d)(e) fails to close a gate previously unopened which he has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.

(2) A person convicted of criminal mischief shall be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the same. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered shall be made prior to the release of state jurisdiction over the person convicted.

(3) A person convicted of the offense of criminal mischief shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of \$300, injures or kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, he shall be fined an amount

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- 1 not to exceed \$50,000 or be imprisoned in the state prison
- 2 for any term not to exceed 10 years, or both."

-End-

## HOUSE BILL NO. 172

INTRODUCED BY SWIFT, REHBERG, GIACOMETTO, GOULD,  
HOFFMAN, COBB, DRISCOLL, OWENS, THOMAS, ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING IT CRIMINAL MISCHIEF TO PURPOSELY OR KNOWINGLY INSERT INTO A TREE, LOG, OR PIECE OF WOOD THAT IS INTENDED TO BE HARVESTED, PROCESSED, OR MANUFACTURED A SUBSTANCE THAT IS HARD ENOUGH TO DAMAGE A SAW OR OTHER EQUIPMENT; AND AMENDING SECTION 45-6-101, MCA."

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

**Section 1.** Section 45-6-101, MCA, is amended to read:

"45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if he knowingly or purposely:

(a) injures, damages, or destroys any property of another or public property without consent;

(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;

(c) damages or destroys property with the purpose to defraud an insurer; or

(d) places in a tree, log, or any other wood, any steel, iron, ceramic, or other substance sufficiently--hard  
WITH THE PURPOSE to damage a saw or other wood harvesting,

processing, or manufacturing equipment and he knows that the  
wood--is--intended--to--be--harvested,--processed,--or  
manufactured; or

(d)(e) fails to close a gate previously unopened which he has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.

(2) A person convicted of criminal mischief shall be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the same. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered shall be made prior to the release of state jurisdiction over the person convicted.

(3) A person convicted of the offense of criminal mischief shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of \$300, injures or kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, he shall be fined an amount

HB 0172/02

- 1 not to exceed \$50,000 or be imprisoned in the state prison
- 2 for any term not to exceed 10 years, or both."

-End-

SENATE STANDING COMMITTEE REPORT

March 6, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 172 (third reading copy -- blue), respectfully report that HB 172 be amended and as so amended be concurred in:

Sponsor: Swift (Story)

1. Title, line 6.  
Following: line 5  
Strike: "MISCHIEF"  
Insert: "ENDANGERMENT"  
Following: "TO"  
Strike: "PURPOSELY OR"

2. Title, lines 6 through 9.  
Following: "KNOWINGLY"  
Strike: remainder of line 6 through "OTHER" on line 9  
Insert: "PLACE IN A TREE, LOG, OR ANY OTHER WOOD A SUBSTANCE FOR  
THE PURPOSE OF DAMAGING A SAW OR OTHER WOOD HARVESTING,  
PROCESSING, OR MANUFACTURING"

3. Title, line 10.  
Strike: "45-6-101"  
Insert: "45-5-207"

4. Page 1, line 13, through page 3, line 2.  
Strike: section 1 in its entirety  
Insert: "Section 1. Section 45-5-207, MCA, is amended to read:  
"45-5-207. Criminal endangerment -- penalty. (1) A person who knowingly engages in conduct that creates a substantial risk of death or serious bodily injury to another commits the offense of criminal endangerment. This conduct includes, but is not limited to, knowingly placing in a tree, log, or any other wood any steel, iron, ceramic, or other substance for the purpose of damaging a saw or other wood harvesting, processing, or manufacturing equipment.  
(2) A person convicted of the offense of criminal endangerment shall be fined an amount not to exceed \$50,000 or imprisoned in the state prison for a term not to exceed 10 years, or both."

AND AS AMENDED BE CONCURRED IN

Signed:

  
Thomas F. Keating, Chairman

SENATE

scrhb172.306

HB 172



## HOUSE BILL NO. 172

INTRODUCED BY SWIFT, REHBERG, GIACOMETTO, GOULD,  
HOFFMAN, COBB, DRISCOLL, OWENS, THOMAS, ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING IT CRIMINAL MISCHIEF ENDANGERMENT TO PURPOSELY OR KNOWINGLY INSERT INTO A TREE, LOG, OR PIECE OF WOOD THAT IS INTENDED TO BE HARVESTED, PROCESSED, OR MANUFACTURED A SUBSTANCE THAT IS HARD ENOUGH TO DAMAGE A SAW OR OTHER PLACE IN A TREE, LOG, OR ANY OTHER WOOD A SUBSTANCE FOR THE PURPOSE OF DAMAGING A SAW OR OTHER WOOD HARVESTING, PROCESSING, OR MANUFACTURING EQUIPMENT; AND AMENDING SECTION 45-6-101, 45-5-207, MCA."

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

**Section 1.** ~~Section 45-6-101, MCA, is amended to read:~~

~~"45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if he knowingly or purposefully~~

~~(a) injures, damages, or destroys any property of another or public property without consent;~~

~~(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;~~

~~(c) damages or destroys property with the purpose to defraud an insurer; or~~

~~(d) places in a tree, log, or any other wood, any steel, iron, ceramic, or other substance sufficiently hard with the purpose to damage a saw or other wood harvesting processing, or manufacturing equipment and he knows that the wood is intended to be harvested, processed, or manufactured; or~~

~~(e) fails to close a gate previously unopened which he has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.~~

~~(2) A person convicted of criminal mischief shall be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the same. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered shall be made prior to the release of state jurisdiction over the person convicted.~~

~~(3) A person convicted of the offense of criminal mischief shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both, if the offender commits the offense of criminal mischief and causes pecuniary loss in excess of \$300, injures or kills a commonly domesticated hoofed animal, or~~

1 causes-a-substantial-interruption-or--impairment--of--public  
2 communication,--transportation,--supply--of--water,--gas,--or  
3 power,--or-other-public-services,--he-shall-be-fined-an-amount  
4 not-to-exceed-\$50,000-or-be-imprisoned-in-the--state--prison  
5 for-any-term-not-to-exceed-10-years,--or-both."

6 **SECTION 1. SECTION 45-5-207, MCA, IS AMENDED TO READ:**

7 "45-5-207. Criminal endangerment -- penalty. (1) A  
8 person who knowingly engages in conduct that creates a  
9 substantial risk of death or serious bodily injury to  
10 another commits the offense of criminal endangerment. This  
11 conduct includes, but is not limited to, knowingly placing  
12 in a tree, log, or any other wood any steel, iron, ceramic,  
13 or other substance for the purpose of damaging a saw or  
14 other wood harvesting, processing, or manufacturing  
15 equipment.

16 (2) A person convicted of the offense of criminal  
17 endangerment shall be fined an amount not to exceed \$50,000  
18 or imprisoned in the state prison for a term not to exceed  
19 10 years, or both."

-End-