

SENATE BILL NO. 260

INTRODUCED BY B. BROWN, HARPER, YELLOWTAIL, BISHOP

BY REQUEST OF THE DEPARTMENT
OF FISH, WILDLIFE, AND PARKS

IN THE SENATE

JANUARY 27, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON FISH & GAME.

FIRST READING.

FEBRUARY 15, 1989

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 16, 1989

PRINTING REPORT.

FEBRUARY 17, 1989

SECOND READING, DO PASS.

FEBRUARY 18, 1989

ENGROSSING REPORT.

FEBRUARY 20, 1989

THIRD READING, PASSED.
AYES, 50; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 19, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON FISH & GAME.

FEBRUARY 21, 1989

FIRST READING.

MARCH 15, 1989

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 18, 1989

SECOND READING, CONCURRED IN.

MARCH 20, 1989

THIRD READING, CONCURRED IN.
AYES, 96; NOES, 0.

RETURNED TO SENATE.

IN THE SENATE

MARCH 21, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *260*
 2 INTRODUCED BY *Bob Brown* *Yellowtail*
 3 BY REQUEST OF THE DEPARTMENT *Bishop*
 4 OF FISH, WILDLIFE, AND PARKS

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS
 7 RELATING TO THE INTRODUCTION, PROLIFERATION, AND SPREAD OF
 8 UNDESIRABLE FISH SPECIES AND FISH PATHOGENS; REGULATING THE
 9 INTRASTATE MOVEMENT OF DISEASED FISH OR EGGS; REQUIRING
 10 PERMITS FOR IMPORTATION OF SALMONID AND NONSALMONID FISH OR
 11 EGGS; PROVIDING FOR INSPECTION OF FISH HATCHERIES AND
 12 CULTURE FACILITIES; ESTABLISHING A DUTY TO REPORT FISH
 13 PATHOGENS; REVISING FISH POND LICENSE REGULATIONS; AMENDING
 14 SECTIONS 87-3-221, 87-3-222, 87-3-224, 87-4-603, 87-5-703,
 15 AND 87-5-715, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
 16 FOR RULEMAKING AUTHORITY."

17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 **Section 1.** Section 87-3-221, MCA, is amended to read:

20 "87-3-221. Importation of salmonid fish or eggs
 21 unlawful -- exception -- certification -- permit. (1) It is
 22 unlawful to bring live or dead salmonid fish or eggs into
 23 the state of Montana for any purpose unless such the
 24 importations are shipped direct from the hatchery--where
 25 reared source to destination and a written certification is

1 provided that the importation or source is free of such
 2 infectious--organisms as all fish pathogens specified by the
 3 department may--specify as posing a threat to existing
 4 fisheries accompanies the shipment. Such certification shall
 5 Certification must be made in the state of origin by a fish
 6 pathologist designated for this purpose by the United States
 7 secretary of the interior or by the--state--fish--wildlife,
 8 and--parks approved by the director. Certification of the
 9 source may be by inspection of--the--hatchery--of--origin
 10 conducted annually or at such other times as the state fish,
 11 wildlife--and--parks director may order. A--copy of the
 12 certification shall accompany each shipment.

13 (2) In addition to the certification required in
 14 subsection (1), all importations of live salmonid fish or
 15 eggs must be accompanied by a permit issued by the
 16 department. The department shall issue an import permit upon
 17 application to the department showing that the proposed
 18 importation presents no substantial threat to the health of
 19 state fisheries. The department may condition the permit as
 20 necessary to protect fisheries from the introduction and
 21 spread of pathogens. It is unlawful to import live salmonid
 22 fish or eggs into Montana without first obtaining the permit
 23 required by this subsection or to violate any conditions of
 24 the permit."

25 **NEW SECTION. Section 2.** Intrastate movement of

diseased fish or eggs unlawful. It is unlawful to move live or dead salmonid fish or eggs from one in-state location to another when the fish or eggs are known to be infected with fish pathogens specified by the department as posing a threat to fisheries.

Section 3. Section 87-3-222, MCA, is amended to read:

"87-3-222. When certification unnecessary. (1) Nothing in 87-3-221 through 87-3-224 ~~shall or~~ [section 2] may restrict the importation and transportation of dead salmonid fish or eggs when ~~such the~~ fish or eggs have been processed or prepared in a manner ~~whereby-such-infectious-organisms-as~~ that kills those fish pathogens specified by the department ~~may--specify--have--been--killed~~ as posing a threat to fisheries.

(2) ~~Salmon--caught--and--brought--directly--into--North America--and~~ Dead salmonid fish or eggs transported into Montana for processing ~~or-sale or any-salmonid caught wild in-North-America-shall-be~~ are exempt from the requirement for certification. However, it is unlawful to discard, place, or allow uncertified salmonid fish, parts, or eggs that have been transported into Montana to enter into surface waters other than sewage or disposal systems."

NEW SECTION. Section 4. Permit required for importation of nonsalmonid fish or eggs. Except when intended for use in home or office aquariums, importations

of live nonsalmonid fish or eggs must be accompanied by a permit as described for salmonids in 87-3-221(2). The permit may require that the importation be inspected and approved by a department biologist prior to release or placement.

Section 5. Section 87-3-224, MCA, is amended to read:

"87-3-224. Enforcement. The cargo and vehicle involved in a violation of 87-3-221 through 87-3-223 or [sections 2 and 4] may, at the option of the department, either be denied the right to proceed further within the state of Montana or be quarantined until inspected by a designated biologist from the department. The department shall inform the department of highways of the provisions regarding importation of salmonid and nonsalmonid fish and eggs so that the department of highways may enforce ~~such the~~ provisions at ports of entry and checking stations under 60-2-303."

NEW SECTION. Section 6. Inspection, quarantine, and disinfection of fish hatcheries and culture facilities. (1) The department may conduct inspections for the presence of fish pathogens at any fish hatchery or culture facility. Inspections may be conducted at the request of the hatchery or facility or by order of the department. The expense of inspection must be paid by the hatchery or facility requesting the inspection or by the department when the inspection is ordered by the department.

1 (2) When a fish hatchery or culture facility is found
 2 to be contaminated or to contain fish or eggs infected with
 3 specified fish pathogens, the department may order
 4 appropriate action, including quarantine, destruction of
 5 infected fish or eggs, or disinfection of all or part of the
 6 hatchery or facility. The owner of the hatchery or facility
 7 is liable for all costs and expenses associated with the
 8 cleanup and the disposition of infected fish or eggs.

9 NEW SECTION. Section 7. Duty to report fish
 10 pathogens. A person, including the owner or custodian of a
 11 fish hatchery or culture facility, who has reason to suspect
 12 the presence of fish pathogens specified by the department
 13 as posing a threat to existing fisheries shall immediately
 14 give notice to the department.

15 NEW SECTION. Section 8. Civil liability. A person,
 16 firm, or corporation that violates any provision of this
 17 part pertaining to fish disease or rules or orders of the
 18 department is liable for damages caused by the violation.
 19 The damages may be recovered by the person, firm, or
 20 corporation damaged or by the department on behalf of the
 21 public in a civil action in a court of competent
 22 jurisdiction.

23 **Section 9.** Section 87-4-603, MCA, is amended to read:

24 ***87-4-603.** Fish pond license for artificial lake or
 25 pond -- records. (1) A person who owns or lawfully controls

1 an artificial lake or pond may apply to the director for a
 2 fish pond license. The holder of a private fish pond license
 3 may stock his fish pond with fry procured from any lawful
 4 source. The department may designate the species of fish
 5 which may be released in the pond and otherwise condition
 6 the license when there is a possibility of fish escaping
 7 from the pond into adjacent streams or lakes. The license
 8 holder may take fish from the lake or pond in any manner.
 9 Before a license holder may sell fish or eggs or fry from
 10 the lake or pond, he shall furnish a corporate surety bond
 11 to the state for \$500, conditioned to the effect that he
 12 will not sell fish or spawn from any of the public waters of
 13 this state or violate the conditions of his license and also
 14 conditioned to the effect that he will submit an annual
 15 report on transactions to the director ~~the quantity of fish,~~
 16 ~~fish eggs, and spawn taken from the lake or pond. This~~
 17 ~~report shall be made under oath annually during the month of~~
 18 ~~January. A record of all transactions must be kept showing~~
 19 ~~the species and numbers or pounds of fish sold, number and~~
 20 ~~species of eggs sold, number and species of fry sold, name~~
 21 ~~of person or persons to whom sold, and the date of~~
 22 ~~transaction.~~

23 (2) "Artificial lake or pond" as used in this section
 24 does not include a natural pond or body of water created by
 25 natural means or any portion of the streambed or lakebed

1 thereof of a natural pond or body of water. It includes only
2 bodies of water created by artificial means or diversion of
3 water which do not exceed 500 acres of surface area.

4 (3) The department may condition the license to
5 require the construction, implementation, and maintenance of
6 measures or devices to prevent fish in an artificial lake or
7 pond from escaping into adjacent waters.

8 (4) (a) Each licensee who sells fish or eggs shall
9 keep accurate records of:

10 (i) the species and quantities of fish or eggs sold or
11 purchased;

12 (ii) dates of sales or purchases;

13 (iii) names of purchasers or sellers; and

14 (iv) locations to or from which fish or eggs are
15 transferred.

16 (b) On or before January 31 of each year, each
17 licensee who sells fish or eggs shall file a report with the
18 department, on forms made available by the department,
19 summarizing the records required under subsection (4)(a)."

20 **NEW SECTION. Section 10. Term of license -- license**
21 **not transferable.** (1) A licensee who sells fish or eggs
22 under 87-4-603 shall renew the license annually. The license
23 expires on January 31 of the year succeeding the year of
24 issuance. Application for renewal must be made before a
25 license expires. The department shall renew the license if

1 the licensee has not violated any condition upon which the
2 license was granted.

3 (2) A licensee who does not sell fish or eggs is not
4 required to renew his license. However, a new license is
5 required when a licensee proposes to plant a new species or
6 stock a pond not designated in the original license.

7 (3) A fish pond license granted under 87-4-603 is not
8 transferable.

9 **NEW SECTION. Section 11. Revocation of fish pond**
10 **license.** (1) A fish pond license may be revoked for failure
11 to operate or use the pond according to the terms or
12 conditions of the license or state statutes, rules, or
13 orders covering importation, transportation, or introduction
14 of fish or eggs.

15 (2) If the department discovers a violation under this
16 section, it may institute revocation proceedings after
17 providing reasonable notice and opportunity for a hearing to
18 the licensee. After hearing and upon proof of the violation,
19 the department may revoke the fish pond license.

20 **Section 12. Section 87-5-715, MCA, is amended to read:**

21 **"87-5-715. Extermination or control of transplanted or**
22 **introduced wildlife or feral species posing threat. With the**
23 **exception--of--the--species--listed--in--87-5-714,--any Any**
24 **wildlife or feral species transplanted or introduced in the**
25 **state may be exterminated or controlled by the department if**

1 the commission, ~~after scientific investigation by the~~
 2 ~~department and after public hearing,~~ determines that the
 3 species poses harm to native wildlife or plants or to
 4 agricultural production. ~~If the threat of harm is immediate,~~
 5 ~~the commission may by emergency rule, without hearing,~~
 6 ~~authorize the department to take immediate action to control~~
 7 ~~or exterminate a transplanted or introduced wildlife or~~
 8 ~~feral species."~~

9 **Section 13.** Section 87-5-703, MCA, is amended to read:

10 "87-5-703. Applicability to other provisions for
 11 importation or introduction of wildlife. Sections 87-5-701
 12 through 87-5-704, 87-5-711, 87-5-713 through 87-5-716, and
 13 87-5-721 do not apply to the importation of wildlife for the
 14 commercial pet trade or to the provisions on importation or
 15 introduction of wildlife contained in the following laws:

- 16 (1) Title 80;
- 17 (2) 87-3-207 and 87-3-208;
- 18 (3) 87-3-221 through 87-3-224 or [sections 2, 4, and 6
 19 through 8];
- 20 (4) 87-4-422;
- 21 (5) 87-5-112;
- 22 (6) 87-5-205;
- 23 (7) 87-5-302; or
- 24 (8) Title 81, chapter 2."

25 **NEW SECTION. Section 14.** Extension of authority. Any

1 existing authority to make rules on the subject of the
 2 provisions of [this act] is extended to the provisions of
 3 [this act].

4 **NEW SECTION. Section 15.** Codification instruction.

5 (1) [Sections 2, 4, and 6 through 8] are intended to be
 6 codified as an integral part of Title 87, chapter 3, part 2,
 7 and the provisions of Title 87, chapter 3, part 2, apply to
 8 [sections 2, 4, and 6 through 8].

9 (2) [Sections 10 and 11] are intended to be codified
 10 as an integral part of Title 87, chapter 4, part 6, and the
 11 provisions of Title 87, chapter 4, part 6, apply to
 12 [sections 10 and 11].

13 **NEW SECTION. Section 16.** Effective date. [Section 14
 14 and this section] are effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB260, as introduced.

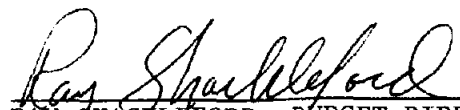
DESCRIPTION OF PROPOSED LEGISLATION:

SB260 would revise the laws relating to the introduction, proliferation and spread of undesirable fish species and fish pathogens; regulate the intrastate movement of diseased fish and eggs, require permits for importation of salmonid and nonsalmonid fish or eggs, provide for inspection of fish hatcheries and culture facilities, establish a duty to report fish pathogens and revise fish pond regulations.

ASSUMPTIONS:

1. Consistent with existing trends, there will be 15-25 importation permits issued annually.
2. The Department of Fish, Wildlife and Parks will absorb the cost of any inspections of fish hatcheries with existing staff and budget.
3. Proposed law will increase efficiency over the current method of approving fish and egg imports, which will offset the increase in paperwork.
4. Any damages recovered by the department for the public through a civil liability lawsuit will return to the department, but there is no evidence to indicate any potential lawsuits.
5. Only commercial fish pond license applicants will be impacted by the proposed annual renewal on January 31; private pond licensees will remain on the existing schedule which provides for no renewal or expiration date.
6. Any costs for a hearing on the revocation of a fish pond license will be absorbed by the department.

FISCAL IMPACT: None

 2/3/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

 2/3/89
BOB BROWN, PRIMARY SPONSOR DATE

Fiscal Note for SB260, as introduced

SB 260

APPROVED BY COMM.
ON FISH AND GAME

SENATE BILL NO. 260

INTRODUCED BY B. BROWN, HARPER, YELLOWTAIL, BISHOP

BY REQUEST OF THE DEPARTMENT

OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE INTRODUCTION, PROLIFERATION, AND SPREAD OF UNDESIRABLE FISH SPECIES AND FISH PATHOGENS; REGULATING THE INTRASTATE MOVEMENT OF DISEASED FISH OR EGGS; REQUIRING PERMITS FOR IMPORTATION OF SALMONID AND NONSALMONID FISH OR EGGS; PROVIDING FOR INSPECTION OF FISH HATCHERIES AND CULTURE FACILITIES; ESTABLISHING A DUTY TO REPORT FISH PATHOGENS; REVISING FISH POND LICENSE REGULATIONS; AMENDING SECTIONS 87-3-221, 87-3-222, 87-3-224, 87-4-603, 87-5-703, AND 87-5-715, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR RULEMAKING AUTHORITY."

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

Section 1. Section 87-3-221, MCA, is amended to read:

"87-3-221. Importation of salmonid fish or eggs unlawful -- exception -- certification -- permit. (1) It is unlawful to bring live or dead salmonid fish or eggs into the state of Montana for any purpose unless such the importations are shipped direct from the hatchery--where reared source to destination and a written certification is

provided that the importation or source is free of such infectious--organisms--as all fish pathogens specified by the department may--specify as posing a threat to existing fisheries accompanies the shipment. Such certification--shall Certification must be made in-the-state-of-origin by a fish pathologist designated-for-this-purpose-by-the-United-States secretary-of-the-interior-or-by-the--state--fish,--wildlife, and--parks approved by the director. Certification of the source may be by inspection of--the--hatchery--of--origin conducted annually or at such other times as the state-fish, wildlife,--and--parks director may order. A--copy-of-the certification--shall-accompany-each-shipment.

(2) In addition to the certification required in subsection (1), all importations of live salmonid fish or eggs must be accompanied by a permit issued by the department. The department shall issue an import permit upon application to the department showing that the proposed importation--presents IMPORTATIONS PRESENT no substantial threat to the health of state fisheries. The department may condition the permit as necessary to protect fisheries from the introduction and spread of pathogens. IMPORT PERMITS APPLY TO ALL IMPORTATIONS FROM SPECIFIED AND CERTIFIED SPECIES AND SOURCES BY A PERMITTEE UNTIL JANUARY 31 OF THE YEAR SUCCEEDING THE YEAR OF ISSUANCE, WHEN THE PERMIT EXPIRES. HOWEVER, A SEPARATE PERMIT IS REQUIRED FOR

1 IMPORTATIONS BY A PERMITTEE FOR SPECIES OR FROM SOURCES
 2 UNSPECIFIED IN HIS OTHER PERMIT OR PERMITS. It is unlawful
 3 to import live salmonid fish or eggs into Montana without
 4 first obtaining the permit required by this subsection or to
 5 violate any conditions of the permit."

6 NEW SECTION. Section 2. Intrastate movement of
 7 diseased fish or eggs unlawful. It is unlawful to move live
 8 or dead salmonid fish or eggs from one in-state location to
 9 another when the fish or eggs are known to be infected with
 10 fish pathogens specified by the department as posing a
 11 threat to fisheries WITHOUT WRITTEN DEPARTMENT APPROVAL.

12 Section 3. Section 87-3-222, MCA, is amended to read:
 13 "87-3-222. When certification unnecessary. (1) Nothing
 14 in 87-3-221 through 87-3-224 shall or [section 2] may
 15 restrict the importation and transportation of dead salmonid
 16 fish or eggs when such the fish or eggs have been processed
 17 or prepared in a manner whereby such infectious organisms as
 18 that kills those fish pathogens specified by the department
 19 may--specify--have--been--killed as posing a threat to
 20 fisheries.

21 (2) Salmon--caught--and--brought--directly--into--North
 22 America--and Dead salmonid fish or eggs transported into
 23 Montana for processing or sale or any salmonid caught wild
 24 in--North--America--shall--be are exempt from the requirement
 25 for certification. However, it is unlawful to discard,

1 place, or allow uncertified salmonid fish, parts, or eggs
 2 that have been transported into Montana to enter into
 3 surface waters other than sewage or disposal systems."

4 NEW SECTION. Section 4. Permit required for
 5 importation of nonsalmonid fish or eggs. Except when
 6 intended for use in home or office aquariums, importations
 7 of live nonsalmonid fish or eggs must be accompanied by a
 8 permit as described for salmonids in 87-3-221(2). The permit
 9 may require that the importation be inspected and approved
 10 by a department biologist prior to release or placement.

11 Section 5. Section 87-3-224, MCA, is amended to read:
 12 "87-3-224. Enforcement. The cargo and vehicle involved
 13 in a violation of 87-3-221 through 87-3-223 or [sections 2
 14 and 4] may, at the option of the department, either be
 15 denied the right to proceed further within the state of
 16 Montana or be quarantined until inspected by a designated
 17 biologist from the department. The department shall inform
 18 the department of highways of the provisions regarding
 19 importation of salmonid and nonsalmonid fish and eggs so
 20 that the department of highways may enforce such the
 21 provisions at ports of entry and checking stations under
 22 60-2-303."

23 NEW SECTION. Section 6. Inspection, quarantine, and
 24 disinfection of fish hatcheries and culture facilities. (1)
 25 The department may conduct inspections for the presence of

1 fish pathogens at any fish hatchery or culture facility.
 2 Inspections may be conducted at the request of the hatchery
 3 or facility or by order of the department. The expense of
 4 inspection must be paid by the hatchery or facility
 5 requesting the inspection or by the department when the
 6 inspection is ordered by the department.

7 (2) When a fish hatchery or culture facility is found
 8 to be contaminated or to contain fish or eggs infected with
 9 specified fish pathogens, the department may order
 10 appropriate action, including quarantine, destruction of
 11 infected fish or eggs, or disinfection of all or part of the
 12 hatchery or facility. AN ORDER FOR DESTRUCTION OF INFECTED
 13 FISH OR EGGS MAY NOT BE ISSUED UNLESS THE INFECTION IS
 14 CONFIRMED BY TWO LABORATORIES. The owner of the hatchery or
 15 facility is liable for all costs and expenses associated
 16 with the cleanup and the disposition of infected fish or
 17 eggs. WHEN DESTRUCTION OF EGGS IS ORDERED AT A PRIVATE
 18 FACILITY AND THE DEPARTMENT HAS SURPLUS EGGS AVAILABLE, THE
 19 DEPARTMENT MAY REPLACE THE DESTROYED EGGS WITHOUT CHARGE TO
 20 THE PRIVATE FACILITY.

21 NEW SECTION. Section 7. Duty to report fish
 22 pathogens. A person, including the owner or custodian of a
 23 fish hatchery or culture facility, who has reason to suspect
 24 the presence of fish pathogens specified by the department
 25 as posing a threat to existing fisheries shall immediately

1 give notice to the department.

2 NEW SECTION. Section 8. Civil liability. A person,
 3 firm, or corporation that violates any provision of this
 4 part pertaining to fish disease or rules or orders of the
 5 department is liable for damages caused by the violation.
 6 The damages may be recovered by the person, firm, or
 7 corporation damaged or by the department on behalf of the
 8 public in a civil action in a court of competent
 9 jurisdiction. ALL MONEY COLLECTED BY THE DEPARTMENT UNDER
 10 THIS SECTION MUST BE DEPOSITED IN THE STATE SPECIAL REVENUE
 11 FUND AS PROVIDED IN 87-1-601(1).

12 Section 9. Section 87-4-603, MCA, is amended to read:
 13 "87-4-603. Fish pond license for artificial lake or
 14 pond -- records. (1) A person who owns or lawfully controls
 15 an artificial lake or pond may apply to the director for a
 16 fish pond license. The holder of a private fish pond license
 17 may stock his fish pond with fry procured from any lawful
 18 source. The department may designate the species of fish
 19 which may be released in the pond and otherwise condition
 20 the license when there is a possibility of fish escaping
 21 from the pond into adjacent streams or lakes. The license
 22 holder may take fish from the lake or pond in any manner.
 23 Before a license holder may sell fish or eggs or fry from
 24 the lake or pond, he shall furnish a corporate surety bond
 25 to the state for \$500, conditioned to the effect that he

will not sell fish or spawn from any of the public waters of this state or violate the conditions of his license and also conditioned to the effect that he will submit an annual report on transactions to the director the quantity of fish, fish eggs, and spawn taken from the lake or pond. This report shall be made under oath annually during the month of January. A record of all transactions must be kept showing the species and numbers or pounds of fish sold, number and species of eggs sold, number and species of fry sold, name of person or persons to whom sold, and the date of transaction.

(2) "Artificial lake or pond" as used in this section does not include a natural pond or body of water created by natural means or any portion of the streambed or lakebed thereof of a natural pond or body of water. It includes only bodies of water created by artificial means or diversion of water which do not exceed 500 acres of surface area.

(3) The department may condition the license to require the construction, implementation, and maintenance of measures or devices to prevent fish in an artificial lake or pond from escaping into adjacent waters.

(4) (a) Each licensee who sells fish or eggs shall keep accurate records of:

(i) the species and quantities of fish or eggs sold or purchased;

(ii) dates of sales or purchases;
(iii) names of purchasers or sellers; and
(iv) locations to or from which fish or eggs are transferred.

(b) On or before January 31 of each year, each licensee who sells fish or eggs shall file a report with the department, on forms made available by the department, summarizing the records required under subsection (4)(a)."

NEW SECTION. Section 10. Term of license -- license not transferable. (1) A licensee who sells fish or eggs under 87-4-603 shall renew the license annually. The license expires on January 31 of the year succeeding the year of issuance. Application for renewal must be made before a license expires. The department shall renew the license if the licensee has not violated any condition upon which the license was granted.

(2) A licensee who does not sell fish or eggs is not required to renew his license. However, a new license is required when a licensee proposes to plant a new species or stock a pond not designated in the original license.

(3) A fish pond license granted under 87-4-603 is not transferable.

NEW SECTION. Section 11. Revocation of fish pond license. (1) A fish pond license may be revoked for failure to operate or use the pond according to the terms or

conditions of the license or state statutes, rules, or orders covering importation, transportation, or introduction of fish or eggs.

(2) If the department discovers a violation under this section, it may institute revocation proceedings after providing reasonable notice and opportunity for a hearing to the licensee. After hearing and upon proof of the violation, the department may revoke the fish pond license.

Section 12. Section 87-5-715, MCA, is amended to read:

~~"87-5-715. Extermination or control of transplanted or introduced wildlife or feral species posing threat. With the exception of the species listed in 87-5-714, any~~ Any wildlife or feral species transplanted or introduced in the state may be exterminated or controlled by the department if the commission, after scientific investigation by the department and after public hearing, determines that the species poses harm to native wildlife or plants or to agricultural production. ~~if the threat of harm is immediate, the commission may by emergency rule, without hearing, authorize the department to take immediate action to control or exterminate a transplanted or introduced wildlife or feral species."~~

Section 13. Section 87-5-703, MCA, is amended to read:

"87-5-703. Applicability to other provisions for importation or introduction of wildlife. Sections 87-5-701

through 87-5-704, 87-5-711, 87-5-713 through 87-5-716, and 87-5-721 do not apply to the importation of wildlife for the commercial pet trade or to the provisions on importation or introduction of wildlife contained in the following laws:

(1) Title 80;

(2) 87-3-207 and 87-3-208;

(3) 87-3-221 through 87-3-224 or [sections 2, 4, and 6 through 8];

(4) 87-4-422;

(5) 87-5-112;

(6) 87-5-205;

(7) 87-5-302; or

(8) Title 81, chapter 2."

NEW SECTION. **Section 14.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 15.** Codification instruction. (1) [Sections 2, 4, and 6 through 8] are intended to be codified as an integral part of Title 87, chapter 3, part 2, and the provisions of Title 87, chapter 3, part 2, apply to [sections 2, 4, and 6 through 8].

(2) [Sections 10 and 11] are intended to be codified as an integral part of Title 87, chapter 4, part 6, and the provisions of Title 87, chapter 4, part 6, apply to

SB 0260/02

- 1 [sections 10 and 11].
- 2 NEW SECTION. **Section 16.** Effective date. [Section 14
- 3 and this section] are effective on passage and approval.

-End-

SENATE BILL NO. 260

INTRODUCED BY B. BROWN, HARPER, YELLOWTAIL, BISHOP

BY REQUEST OF THE DEPARTMENT

OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE INTRODUCTION, PROLIFERATION, AND SPREAD OF UNDESIRABLE FISH SPECIES AND FISH PATHOGENS; REGULATING THE INTRASTATE MOVEMENT OF DISEASED FISH OR EGGS; REQUIRING PERMITS FOR IMPORTATION OF SALMONID AND NONSALMONID FISH OR EGGS; PROVIDING FOR INSPECTION OF FISH HATCHERIES AND CULTURE FACILITIES; ESTABLISHING A DUTY TO REPORT FISH PATHOGENS; REVISING FISH POND LICENSE REGULATIONS; AMENDING SECTIONS 87-3-221, 87-3-222, 87-3-224, 87-4-603, 87-5-703, AND 87-5-715, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR RULEMAKING AUTHORITY."

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

Section 1. Section 87-3-221, MCA, is amended to read:

"87-3-221. Importation of salmonid fish or eggs unlawful -- exception -- certification -- permit. (1) It is unlawful to bring live or dead salmonid fish or eggs into the state of Montana for any purpose unless such the importations are shipped direct from the hatchery--where reared source to destination and a written certification is

provided that the importation or source is free of such infectious--organisms as all fish pathogens specified by the department may--specify as posing a threat to existing fisheries accompanies the shipment. Such certification shall Certification must be made in the state of origin by a fish pathologist designated for this purpose by the United States secretary of the interior or by the--state--fish,--wildlife, and--parks approved by the director. Certification of the source may be by inspection of--the--hatchery--of--origin conducted annually or at such other times as the state-fish, wildlife,--and--parks director may order. A--copy of the certification shall accompany each shipment.

(2) In addition to the certification required in subsection (1), all importations of live salmonid fish or eggs must be accompanied by a permit issued by the department. The department shall issue an import permit upon application to the department showing that the proposed importation presents IMPORTATIONS PRESENT no substantial threat to the health of state fisheries. The department may condition the permit as necessary to protect fisheries from the introduction and spread of pathogens. IMPORT PERMITS APPLY TO ALL IMPORTATIONS FROM SPECIFIED AND CERTIFIED SPECIES AND SOURCES BY A PERMITTEE UNTIL JANUARY 31 OF THE YEAR SUCCEEDING THE YEAR OF ISSUANCE, WHEN THE PERMIT EXPIRES. HOWEVER, A SEPARATE PERMIT IS REQUIRED FOR

IMPORTATIONS BY A PERMITTEE FOR SPECIES OR FROM SOURCES UNSPECIFIED IN HIS OTHER PERMIT OR PERMITS. It is unlawful to import live salmonid fish or eggs into Montana without first obtaining the permit required by this subsection or to violate any conditions of the permit."

NEW SECTION. Section 2. Intrastate movement of diseased fish or eggs unlawful. It is unlawful to move live or dead salmonid fish or eggs from one in-state location to another when the fish or eggs are known to be infected with fish pathogens specified by the department as posing a threat to fisheries WITHOUT WRITTEN DEPARTMENT APPROVAL.

Section 3. Section 87-3-222, MCA, is amended to read:

"87-3-222. When certification unnecessary. (1) Nothing in 87-3-221 through 87-3-224 shall or [section 2] may restrict the importation and transportation of dead salmonid fish or eggs when such the fish or eggs have been processed or prepared in a manner ~~whereby such infectious organisms as~~ that kills those fish pathogens specified by the department ~~may--specify--have--been--killed~~ as posing a threat to fisheries.

(2) ~~Salmon--caught--and--brought--directly--into--North America--and~~ Dead salmonid fish or eggs transported into Montana for processing ~~or sale or any salmonid caught wild in North America--shall--be~~ are exempt from the requirement for certification. However, it is unlawful to discard,

place, or allow uncertified salmonid fish, parts, or eggs that have been transported into Montana to enter into surface waters other than sewage or disposal systems."

NEW SECTION. Section 4. Permit required for importation of nonsalmonid fish or eggs. Except when intended for use in home or office aquariums, importations of live nonsalmonid fish or eggs must be accompanied by a permit as described for salmonids in 87-3-221(2). The permit may require that the importation be inspected and approved by a department biologist prior to release or placement.

Section 5. Section 87-3-224, MCA, is amended to read:

"87-3-224. Enforcement. The cargo and vehicle involved in a violation of 87-3-221 through 87-3-223 or [sections 2 and 4] may, at the option of the department, either be denied the right to proceed further within the state of Montana or be quarantined until inspected by a designated biologist from the department. The department shall inform the department of highways of the provisions regarding importation of salmonid and nonsalmonid fish and eggs so that the department of highways may enforce such the provisions at ports of entry and checking stations under 60-2-303."

NEW SECTION. Section 6. Inspection, quarantine, and disinfection of fish hatcheries and culture facilities. (1) The department may conduct inspections for the presence of

fish pathogens at any fish hatchery or culture facility. Inspections may be conducted at the request of the hatchery or facility or by order of the department. The expense of inspection must be paid by the hatchery or facility requesting the inspection or by the department when the inspection is ordered by the department.

(2) When a fish hatchery or culture facility is found to be contaminated or to contain fish or eggs infected with specified fish pathogens, the department may order appropriate action, including quarantine, destruction of infected fish or eggs, or disinfection of all or part of the hatchery or facility. AN ORDER FOR DESTRUCTION OF INFECTED FISH OR EGGS MAY NOT BE ISSUED UNLESS THE INFECTION IS CONFIRMED BY TWO LABORATORIES. The owner of the hatchery or facility is liable for all costs and expenses associated with the cleanup and the disposition of infected fish or eggs. WHEN DESTRUCTION OF EGGS IS ORDERED AT A PRIVATE FACILITY AND THE DEPARTMENT HAS SURPLUS EGGS AVAILABLE, THE DEPARTMENT MAY REPLACE THE DESTROYED EGGS WITHOUT CHARGE TO THE PRIVATE FACILITY.

NEW SECTION. Section 7. Duty to report fish pathogens. A person, including the owner or custodian of a fish hatchery or culture facility, who has reason to suspect the presence of fish pathogens specified by the department as posing a threat to existing fisheries shall immediately

give notice to the department.

NEW SECTION. Section 8. Civil liability. A person, firm, or corporation that violates any provision of this part pertaining to fish disease or rules or orders of the department is liable for damages caused by the violation. The damages may be recovered by the person, firm, or corporation damaged or by the department on behalf of the public in a civil action in a court of competent jurisdiction. ALL MONEY COLLECTED BY THE DEPARTMENT UNDER THIS SECTION MUST BE DEPOSITED IN THE STATE SPECIAL REVENUE FUND AS PROVIDED IN 87-1-601(1).

Section 9. Section 87-4-603, MCA, is amended to read:

"87-4-603. Fish pond license for artificial lake or pond -- records. (1) A person who owns or lawfully controls an artificial lake or pond may apply to the director for a fish pond license. The holder of a private fish pond license may stock his fish pond with fry procured from any lawful source. The department may designate the species of fish which may be released in the pond and otherwise condition the license when there is a possibility of fish escaping from the pond into adjacent streams or lakes. The license holder may take fish from the lake or pond in any manner. Before a license holder may sell fish or eggs or fry from the lake or pond, he shall furnish a corporate surety bond to the state for \$500, conditioned to the effect that he

will not sell fish or spawn from any of the public waters of this state or violate the conditions of his license and also conditioned to the effect that he will submit an annual report on transactions to the director ~~the quantity of fish, fish eggs, and spawn taken from the lake or pond. This report shall be made under oath annually during the month of January. A record of all transactions must be kept showing the species and numbers or pounds of fish sold, number and species of eggs sold, number and species of fry sold, name of person or persons to whom sold, and the date of transaction.~~

(2) "Artificial lake or pond" as used in this section does not include a natural pond or body of water created by natural means or any portion of the streambed or lakebed thereof of a natural pond or body of water. It includes only bodies of water created by artificial means or diversion of water which do not exceed 500 acres of surface area.

(3) The department may condition the license to require the construction, implementation, and maintenance of measures or devices to prevent fish in an artificial lake or pond from escaping into adjacent waters.

(4) (a) Each licensee who sells fish or eggs shall keep accurate records of:

(i) the species and quantities of fish or eggs sold or purchased;

(ii) dates of sales or purchases;
(iii) names of purchasers or sellers; and
(iv) locations to or from which fish or eggs are transferred.

(b) On or before January 31 of each year, each licensee who sells fish or eggs shall file a report with the department, on forms made available by the department, summarizing the records required under subsection (4)(a)."

NEW SECTION. Section 10. Term of license -- license not transferable. (1) A licensee who sells fish or eggs under 87-4-603 shall renew the license annually. The license expires on January 31 of the year succeeding the year of issuance. Application for renewal must be made before a license expires. The department shall renew the license if the licensee has not violated any condition upon which the license was granted.

(2) A licensee who does not sell fish or eggs is not required to renew his license. However, a new license is required when a licensee proposes to plant a new species or stock a pond not designated in the original license.

(3) A fish pond license granted under 87-4-603 is not transferable.

NEW SECTION. Section 11. Revocation of fish pond license. (1) A fish pond license may be revoked for failure to operate or use the pond according to the terms or

conditions of the license or state statutes, rules, or orders covering importation, transportation, or introduction of fish or eggs.

(2) If the department discovers a violation under this section, it may institute revocation proceedings after providing reasonable notice and opportunity for a hearing to the licensee. After hearing and upon proof of the violation, the department may revoke the fish pond license.

Section 12. Section 87-5-715, MCA, is amended to read:

"87-5-715. Extermination or control of transplanted or introduced wildlife or feral species posing threat. With the exception of the species listed in 87-5-714, any Any wildlife or feral species transplanted or introduced in the state may be exterminated or controlled by the department if the commission after scientific investigation by the department and after public hearing, determines that the species poses harm to native wildlife or plants or to agricultural production. If the threat of harm is immediate, the commission may by emergency rule, without hearing, authorize the department to take immediate action to control or exterminate a transplanted or introduced wildlife or feral species."

Section 13. Section 87-5-703, MCA, is amended to read:

"87-5-703. Applicability to other provisions for importation or introduction of wildlife. Sections 87-5-701

through 87-5-704, 87-5-711, 87-5-713 through 87-5-716, and 87-5-721 do not apply to the importation of wildlife for the commercial pet trade or to the provisions on importation or introduction of wildlife contained in the following laws:

(1) Title 80;

(2) 87-3-207 and 87-3-208;

(3) 87-3-221 through 87-3-224 or [sections 2, 4, and 6 through 8];

(4) 87-4-422;

(5) 87-5-112;

(6) 87-5-205;

(7) 87-5-302; or

(8) Title 81, chapter 2."

NEW SECTION. Section 14. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 15. Codification instruction.

(1) [Sections 2, 4, and 6 through 8] are intended to be codified as an integral part of Title 87, chapter 3, part 2, and the provisions of Title 87, chapter 3, part 2, apply to [sections 2, 4, and 6 through 8].

(2) [Sections 10 and 11] are intended to be codified as an integral part of Title 87, chapter 4, part 6, and the provisions of Title 87, chapter 4, part 6, apply to

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- 1 [sections 10 and 11].
- 2 NEW SECTION. **Section 16.** Effective date. [Section 14
- 3 and this section] are effective on passage and approval.

-End-

SENATE BILL NO. 260

INTRODUCED BY B. BROWN, HARPER, YELLOWTAIL, BISHOP

BY REQUEST OF THE DEPARTMENT

OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE INTRODUCTION, PROLIFERATION, AND SPREAD OF UNDESIRABLE FISH SPECIES AND FISH PATHOGENS; REGULATING THE INTRASTATE MOVEMENT OF DISEASED FISH OR EGGS; REQUIRING PERMITS FOR IMPORTATION OF SALMONID AND NONSALMONID FISH OR EGGS; PROVIDING FOR INSPECTION OF FISH HATCHERIES AND CULTURE FACILITIES; ESTABLISHING A DUTY TO REPORT FISH PATHOGENS; REVISING FISH POND LICENSE REGULATIONS; AMENDING SECTIONS 87-3-221, 87-3-222, 87-3-224, 87-4-603, 87-5-703, AND 87-5-715, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR RULEMAKING AUTHORITY."

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

Section 1. Section 87-3-221, MCA, is amended to read:

"87-3-221. Importation of salmonid fish or eggs unlawful -- exception -- certification -- permit. (1) It is unlawful to bring live or dead salmonid fish or eggs into the state of Montana for any purpose unless such the importations are shipped direct from the hatchery--where reared source to destination and a written certification is

provided that the importation-or source is free of such infectious--organisms-as all fish pathogens specified by the department may--specify as posing a threat to existing fisheries accompanies the shipment. Such-certification-shall Certification must be made in-the-state-of-origin by a fish pathologist designated-for-this-purpose-by-the-United-States secretary-of-the-interior-or-by-the--state--fish--wildlife, and --parks approved by the director. Certification of the source may be by inspection of--the--hatchery--of--origin conducted annually or at such other times as the state-fish, wildlife--and--parks director may order. A--copy-of-the certification-shall-accompany-each-shipment:

(2) In addition to the certification required in subsection (1), all importations of live salmonid fish or eggs must be accompanied by a permit issued by the department. The department shall issue an import permit upon application to the department showing that the proposed importation-presents IMPORTATIONS PRESENT no substantial threat to the health of state fisheries. The department may condition the permit as necessary to protect fisheries from the introduction and spread of pathogens. IMPORT PERMITS APPLY TO ALL IMPORTATIONS FROM SPECIFIED AND CERTIFIED SPECIES AND SOURCES BY A PERMITTEE UNTIL JANUARY 31 OF THE YEAR SUCCEEDING THE YEAR OF ISSUANCE, WHEN THE PERMIT EXPIRES. HOWEVER, A SEPARATE PERMIT IS REQUIRED FOR

1 IMPORTATIONS BY A PERMITTEE FOR SPECIES OR FROM SOURCES
 2 UNSPECIFIED IN HIS OTHER PERMIT OR PERMITS. It is unlawful
 3 to import live salmonid fish or eggs into Montana without
 4 first obtaining the permit required by this subsection or to
 5 violate any conditions of the permit."

6 NEW SECTION. Section 2. Intrastate movement of
 7 diseased fish or eggs unlawful. It is unlawful to move live
 8 or dead salmonid fish or eggs from one in-state location to
 9 another when the fish or eggs are known to be infected with
 10 fish pathogens specified by the department as posing a
 11 threat to fisheries WITHOUT WRITTEN DEPARTMENT APPROVAL.

12 Section 3. Section 87-3-222, MCA, is amended to read:

13 "87-3-222. When certification unnecessary. (1) Nothing
 14 in 87-3-221 through 87-3-224 shall or [section 2] may
 15 restrict the importation and transportation of dead salmonid
 16 fish or eggs when such the fish or eggs have been processed
 17 or prepared in a manner whereby-such-infectious-organisms-as
 18 that kills those fish pathogens specified by the department
 19 may--specify--have--been--killed as posing a threat to
 20 fisheries.

21 (2) Salmon--caught--and--brought--directly--into--North
 22 America-and Dead salmonid fish or eggs transported into
 23 Montana for processing or-sale or any-salmonid caught wild
 24 in-North-America-shall-be are exempt from the requirement
 25 for certification. However, it is unlawful to discard,

1 place, or allow uncertified salmonid fish, parts, or eggs
 2 that have been transported into Montana to enter into
 3 surface waters other than sewage or disposal systems."

4 NEW SECTION. Section 4. Permit required for
 5 importation of nonsalmonid fish or eggs. Except when
 6 intended for use in home or office aquariums, importations
 7 of live nonsalmonid fish or eggs must be accompanied by a
 8 permit as described for salmonids in 87-3-221(2). The permit
 9 may require that the importation be inspected and approved
 10 by a department biologist prior to release or placement.

11 Section 5. Section 87-3-224, MCA, is amended to read:

12 "87-3-224. Enforcement. The cargo and vehicle involved
 13 in a violation of 87-3-221 through 87-3-223 or [sections 2
 14 and 4] may, at the option of the department, either be
 15 denied the right to proceed further within the state of
 16 Montana or be quarantined until inspected by a designated
 17 biologist from the department. The department shall inform
 18 the department of highways of the provisions regarding
 19 importation of salmonid and nonsalmonid fish and eggs so
 20 that the department of highways may enforce such the
 21 provisions at ports of entry and checking stations under
 22 60-2-303."

23 NEW SECTION. Section 6. Inspection, quarantine, and
 24 disinfection of fish hatcheries and culture facilities. (1)
 25 The department may conduct inspections for the presence of

1 fish pathogens at any fish hatchery or culture facility.
 2 Inspections may be conducted at the request of the hatchery
 3 or facility or by order of the department. The expense of
 4 inspection must be paid by the hatchery or facility
 5 requesting the inspection or by the department when the
 6 inspection is ordered by the department.

7 (2) When a fish hatchery or culture facility is found
 8 to be contaminated or to contain fish or eggs infected with
 9 specified fish pathogens, the department may order
 10 appropriate action, including quarantine, destruction of
 11 infected fish or eggs, or disinfection of all or part of the
 12 hatchery or facility. AN ORDER FOR DESTRUCTION OF INFECTED
 13 FISH OR EGGS MAY NOT BE ISSUED UNLESS THE INFECTION IS
 14 CONFIRMED BY TWO LABORATORIES. The owner of the hatchery or
 15 facility is liable for all costs and expenses associated
 16 with the cleanup and the disposition of infected fish or
 17 eggs. WHEN DESTRUCTION OF EGGS IS ORDERED AT A PRIVATE
 18 FACILITY AND THE DEPARTMENT HAS SURPLUS EGGS AVAILABLE, THE
 19 DEPARTMENT MAY REPLACE THE DESTROYED EGGS WITHOUT CHARGE TO
 20 THE PRIVATE FACILITY.

21 NEW SECTION. Section 7. Duty to report fish
 22 pathogens. A person, including the owner or custodian of a
 23 fish hatchery or culture facility, who has reason to suspect
 24 the presence of fish pathogens specified by the department
 25 as posing a threat to existing fisheries shall immediately

1 give notice to the department.

2 NEW SECTION. Section 8. Civil liability. A person,
 3 firm, or corporation that violates any provision of this
 4 part pertaining to fish disease or rules or orders of the
 5 department is liable for damages caused by the violation.
 6 The damages may be recovered by the person, firm, or
 7 corporation damaged or by the department on behalf of the
 8 public in a civil action in a court of competent
 9 jurisdiction. ALL MONEY COLLECTED BY THE DEPARTMENT UNDER
 10 THIS SECTION MUST BE DEPOSITED IN THE STATE SPECIAL REVENUE
 11 FUND AS PROVIDED IN 87-1-601(1).

12 Section 9. Section 87-4-603, MCA, is amended to read:
 13 "87-4-603. Fish pond license for artificial lake or
 14 pond -- records. (1) A person who owns or lawfully controls
 15 an artificial lake or pond may apply to the director for a
 16 fish pond license. The holder of a private fish pond license
 17 may stock his fish pond with fry procured from any lawful
 18 source. The department may designate the species of fish
 19 which may be released in the pond and otherwise condition
 20 the license when there is a possibility of fish escaping
 21 from the pond into adjacent streams or lakes. The license
 22 holder may take fish from the lake or pond in any manner.
 23 Before a license holder may sell fish or eggs or fry from
 24 the lake or pond, he shall furnish a corporate surety bond
 25 to the state for \$500, conditioned to the effect that he

will not sell fish or spawn from any of the public waters of this state or violate the conditions of his license and also conditioned to the effect that he will submit an annual report on transactions to the director the quantity of fish, fish-eggs, and spawn taken from the lake or pond. This report shall be made under oath annually during the month of January. A record of all transactions must be kept showing the species and numbers or pounds of fish sold, number and species of eggs sold, number and species of fry sold, name of person or persons to whom sold, and the date of transaction.

(2) "Artificial lake or pond" as used in this section does not include a natural pond or body of water created by natural means or any portion of the streambed or lakebed thereof of a natural pond or body of water. It includes only bodies of water created by artificial means or diversion of water which do not exceed 500 acres of surface area.

(3) The department may condition the license to require the construction, implementation, and maintenance of measures or devices to prevent fish in an artificial lake or pond from escaping into adjacent waters.

(4) (a) Each licensee who sells fish or eggs shall keep accurate records of:

(i) the species and quantities of fish or eggs sold or purchased;

(ii) dates of sales or purchases;

(iii) names of purchasers or sellers; and

(iv) locations to or from which fish or eggs are transferred.

(b) On or before January 31 of each year, each licensee who sells fish or eggs shall file a report with the department, on forms made available by the department, summarizing the records required under subsection (4)(a)."

NEW SECTION. Section 10. Term of license -- license not transferable. (1) A licensee who sells fish or eggs under 87-4-603 shall renew the license annually. The license expires on January 31 of the year succeeding the year of issuance. Application for renewal must be made before a license expires. The department shall renew the license if the licensee has not violated any condition upon which the license was granted.

(2) A licensee who does not sell fish or eggs is not required to renew his license. However, a new license is required when a licensee proposes to plant a new species or stock a pond not designated in the original license.

(3) A fish pond license granted under 87-4-603 is not transferable.

NEW SECTION. Section 11. Revocation of fish pond license. (1) A fish pond license may be revoked for failure to operate or use the pond according to the terms or

1 conditions of the license or state statutes, rules, or
2 orders covering importation, transportation, or introduction
3 of fish or eggs.

4 (2) If the department discovers a violation under this
5 section, it may institute revocation proceedings after
6 providing reasonable notice and opportunity for a hearing to
7 the licensee. After hearing and upon proof of the violation,
8 the department may revoke the fish pond license.

9 **Section 12.** Section 87-5-715, MCA, is amended to read:

10 "**87-5-715. Extermination or control of transplanted or**
11 **introduced wildlife or feral species posing threat. With the**
12 **exception--of--the--species--listed--in--87-5-714;--any Any**
13 **wildlife or feral species transplanted or introduced in the**
14 **state may be exterminated or controlled by the department if**
15 **the commission--after--scientific--investigation--by--the**
16 **department--and--after--public--hearing; determines that the**
17 **species poses harm to native wildlife or plants or to**
18 **agricultural production. If the threat of harm is immediate,**
19 **the--commission--may--by--emergency--rule;--without--hearing;**
20 **authorize the department to take immediate action to control**
21 **or exterminate a--transplanted--or--introduced--wildlife--or**
22 **feral species."**

23 **Section 13.** Section 87-5-703, MCA, is amended to read:

24 "**87-5-703. Applicability to other provisions for**
25 **importation or introduction of wildlife. Sections 87-5-701**

1 through 87-5-704, 87-5-711, 87-5-713 through 87-5-716, and
2 87-5-721 do not apply to the importation of wildlife for the
3 commercial pet trade or to the provisions on importation or
4 introduction of wildlife contained in the following laws:

- 5 (1) Title 80;
- 6 (2) 87-3-207 and 87-3-208;
- 7 (3) 87-3-221 through 87-3-224 or [sections 2, 4, and 6
8 through 8];
- 9 (4) 87-4-422;
- 10 (5) 87-5-112;
- 11 (6) 87-5-205;
- 12 (7) 87-5-302; or
- 13 (8) Title 81, chapter 2."

14 **NEW SECTION. Section 14.** Extension of authority. Any
15 existing authority to make rules on the subject of the
16 provisions of [this act] is extended to the provisions of
17 [this act].

18 **NEW SECTION. Section 15.** Codification instruction.
19 (1) [Sections 2, 4, and 6 through 8] are intended to be
20 codified as an integral part of Title 87, chapter 3, part 2,
21 and the provisions of Title 87, chapter 3, part 2, apply to
22 [sections 2, 4, and 6 through 8].

23 (2) [Sections 10 and 11] are intended to be codified
24 as an integral part of Title 87, chapter 4, part 6, and the
25 provisions of Title 87, chapter 4, part 6, apply to

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- 1 {sections 10 and 11}.
- 2 NEW SECTION. **Section 16.** Effective date. [Section 14
- 3 and this section] are effective on passage and approval.

-End-