

SENATE BILL NO. 294

INTRODUCED BY RAPP-SVRCEK, DARKO, ELLIOTT,  
PETERSON, VAUGHN

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

IN THE SENATE

JANUARY 31, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
	FIRST READING.
FEBRUARY 10, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 11, 1989	PRINTING REPORT.
FEBRUARY 14, 1989	SECOND READING, DO PASS.
FEBRUARY 15, 1989	ENGROSSING REPORT.
FEBRUARY 16, 1989	THIRD READING, PASSED. AYES, 46; NOES, 2.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.
FEBRUARY 20, 1989	FIRST READING.
MARCH 10, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 11, 1989	SECOND READING, CONCURRED IN.
MARCH 13, 1989	THIRD READING, CONCURRED IN. AYES, 96; NOES, 3.
	RETURNED TO SENATE.

MARCH 14, 1989

IN THE SENATE

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *294*  
 2 INTRODUCED BY *Larry Swank* *Markus Elliott*  
 3 BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS *Angela*  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT  
 6 OF FISH, WILDLIFE, AND PARKS TO REGULATE THE COMMERCIAL  
 7 TAKING OF AQUATIC FISH FOOD ORGANISMS, INCLUDING CRAYFISH;  
 8 REPEALING SECTION 87-4-604, MCA; AND PROVIDING AN IMMEDIATE  
 9 EFFECTIVE DATE."  
 10

#### 11 STATEMENT OF INTENT

12 A statement of intent is required for this bill because  
 13 rulemaking authority is granted to the department of fish,  
 14 wildlife, and parks in [section 1] to regulate the taking,  
 15 for sale or commercial distribution, of aquatic fish food  
 16 organisms. Even though the bill provides for approval of  
 17 permits for this activity on a case-by-case basis, the  
 18 legislature anticipates that commercial activities for  
 19 certain aquatic fish food organisms may increase to the  
 20 extent that there is a need for general rulemaking. It is  
 21 further anticipated that if this occurs, the department will  
 22 have gathered sufficient information through the permit  
 23 system and other monitoring to have sufficient knowledge to  
 24 adopt appropriate rules to prevent overharvest of these  
 25 organisms and conflicts with other uses of the waters.

1 (Section 2) allows the department by rule to set  
 2 reasonable fees for permits and for the use of traps, nets,  
 3 or seines in the taking of aquatic fish food organisms for  
 4 commercial purposes. It is intended that any fees should not  
 5 exceed an amount necessary to meet administrative and  
 6 monitoring costs of the department.  
 7

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

9 NEW SECTION. **Section 1.** Regulation of commercial  
 10 taking of aquatic fish food organisms -- permit --  
 11 rulemaking authority. (1) The department shall regulate the  
 12 taking, for sale or commercial distribution, of crayfish,  
 13 mysis shrimp, and other aquatic organisms that provide a  
 14 food source for fish.

15 (2) It is unlawful for a person to take aquatic fish  
 16 food organisms for commercial purposes without obtaining a  
 17 permit from the department. A permit applicant shall  
 18 provide the department with sufficient details of the  
 19 proposed operation to take any aquatic fish food organism  
 20 for sale or commercial distribution to enable the department  
 21 to evaluate any potential overharvest or conflict with  
 22 existing fishing and recreational uses of the waters.

23 (3) The department may:

24 (a) deny a permit if it determines that there is  
 25 substantial potential that the proposed operation may harm a

1 fishery or conflict with existing recreational uses of the  
2 waters;

3 (b) condition a permit to restrict the method of  
4 taking, the location of the taking, and the quality and  
5 quantity of harvest, to prevent overharvest or conflict with  
6 existing fishing and recreational uses of the waters; or

7 (c) require a permittee to submit harvest data to the  
8 department.

9 (4) A permit may be revoked for a violation of the  
10 conditions of the permit.

11 (5) The department may adopt rules for the regulation  
12 of commercial taking of aquatic fish food organisms,  
13 including but not limited to the setting of seasons, methods  
14 of taking, quantities of harvest, size limitations, and  
15 reporting requirements for a particular aquatic fish food  
16 organism, in order to prevent overharvest or conflict with  
17 fishing and recreational uses of the waters.

18 NEW SECTION. Section 2. Fees for commercial taking of  
19 aquatic fish food organisms -- use of fees. (1) To finance  
20 the administration and enforcement of the provisions of  
21 [section 1], the department may by rule set reasonable fees  
22 for:

23 (a) issuance of the permit required in [section 1];  
24 and

25 (b) use of traps, nets, or seines in Montana waters

1 for the taking of aquatic fish food organisms.

2 (2) The department shall deposit any fees collected  
3 under the provisions of subsection (1) in the state special  
4 revenue fund for use by the department.

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

10 NEW SECTION. Section 4. Repealer. Section 87-4-604,  
11 MCA, is repealed.

12 NEW SECTION. Section 5. Effective date. [This act] is  
13 effective on passage and approval.

-End-

APPROVED BY COMM.  
ON FISH AND GAME

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3 BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS *Anglin*  
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