

HOUSE BILL 69

Introduced by Vogel

12/29	Introduced
12/30	Referred to Fish & Game
12/31	Fiscal Note Requested
1/04	First Reading
1/05	Hearing
1/05	Tabled in Committee
1/08	Fiscal Note Received
1/08	Fiscal Note Printed

1 HOUSE BILL NO. 69

2 INTRODUCED BY VOGEL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SEPARATE
5 PENALTY FOR HABITUAL FISH AND GAME VIOLATIONS BY PROVIDING
6 FOR THE MANDATORY LOSS OF HUNTING, FISHING, AND TRAPPING
7 PERMITS AND LICENSE PRIVILEGES AND BY PROVIDING FOR AN
8 ADDITIONAL FINE AND IMPRISONMENT; AMENDING SECTION 87-1-102,
9 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

12 Section 1. Section 87-1-102, MCA, is amended to read:

13 "87-1-102. Penalties. (1) (a) A Except as otherwise
14 provided by law, a person who purposely or knowingly
15 violates any provision of this title, any other state law
16 pertaining to fish and game, or the orders or rules of the
17 commission or department is guilty of a misdemeanor~~except~~
18 ~~if a felony is expressly provided by law~~ and shall be fined
19 not less than \$50 or more than \$500, imprisoned in the
20 county jail for not more than 6 months, or both~~unless a~~
21 ~~different punishment is expressly provided by law for the~~
22 violation. In addition, the person, upon conviction or
23 forfeiture of bond or bail, ~~shall be~~ is subject to
24 forfeiture of ~~his~~ the person's license and the privilege to
25 hunt, fish, or trap within this state or to use state lands,

1 as defined in 77-1-101, for recreational purposes for a
2 period of not less than 24 months from the date of
3 conviction or forfeiture.

4 (b) (i) A person who is convicted of four or more
5 misdemeanor violations of this title within a 5-year period:

6 (A) is subject to the mandatory loss of all hunting,
7 fishing, and trapping permits and license privileges for a
8 period of 5 years from the date of conviction; and

9 (B) may be fined up to \$10,000, imprisoned in the
10 county jail for not more than 6 months, or both.

11 (ii) The loss of permits and privileges and a fine or
12 imprisonment imposed under this subsection (1)(b) is in
13 addition to any other penalty expressly provided by law for
14 the violation.

15 (2) (a) A person convicted of unlawfully taking,
16 killing, possessing, transporting, or wasting of a bighorn
17 sheep, moose, wild bison, caribou, mountain goat, or grizzly
18 bear or any part of these animals shall be fined not less
19 than \$500 or more than \$1,000, imprisoned in the county jail
20 for not more than 6 months, or both. In addition, that
21 person, upon conviction or forfeiture of bond or bail, shall
22 forfeit any current hunting, fishing, recreational use, or
23 trapping license issued by this state and the privilege to
24 hunt, fish, or trap in this state for not less than 30
25 months from the date of conviction or forfeiture.

1 (b) A person convicted of unlawfully taking, killing,
2 possessing, or transporting a deer, antelope, elk, mountain
3 lion, or black bear or any part of these animals or wasting
4 a deer, antelope, or elk shall be fined not less than \$300
5 or more than \$1,000, imprisoned in the county jail for not
6 more than 6 months, or both. In addition, that person, upon
7 conviction or forfeiture of bond or bail, shall forfeit any
8 current hunting, fishing, or trapping license issued by this
9 state and the privilege to hunt, fish, or trap in this state
10 for not less than 24 months from the date of conviction or
11 forfeiture.

12 (c) A person convicted of unlawfully attempting to
13 trap, take, shoot, or kill a game animal shall be fined not
14 less than \$200 or more than \$600, imprisoned in the county
15 jail for not more than 60 days, or both.

16 (d) A person convicted of unlawfully taking, killing,
17 possessing, transporting, shipping, labeling, packaging, or
18 wasting or unlawfully attempting to take, kill, or possess
19 any game bird, wild turkey, or fish or any part of any such
20 bird or fish or of failure to tag a game animal or game bird
21 as prescribed by law shall be fined not less than \$50 or
22 more than \$200 or, imprisoned in the county jail for not
23 more than 30 days, or both.

24 (e) A person convicted of purposely or knowingly
25 taking, killing, possessing, transporting, shipping,

1 labeling, or packaging a fur-bearing animal or pelt of a
2 fur-bearing animal in violation of any provision of this
3 title shall be fined not less than \$50 or more than \$1,000,
4 or imprisoned in the county jail for not more than 6 months,
5 or both. In addition, that person, upon conviction or
6 forfeiture of bond or bail, shall forfeit any current
7 license and the privilege to hunt, fish, or trap for not
8 less than 24 months from the date of conviction or
9 forfeiture and any pelts possessed unlawfully must be
10 confiscated.

11 (f) A person convicted of hunting, fishing, or trapping
12 while his the person's license is forfeited or his privilege
13 denied shall be imprisoned in the county jail for not less
14 than 5 days or more than 6 months. In addition, that person
15 may be fined not less than \$500 or more than \$1,000.

16 (3) A person convicted or who has forfeited bond or
17 bail under this section and whose license privileges are
18 forfeited may not purchase, acquire, obtain, possess, or
19 apply for a hunting, fishing, or trapping license or permit
20 during the period when license privileges have been
21 forfeited. A person convicted of unlawfully purchasing,
22 acquiring, obtaining, possessing, or applying for a hunting,
23 fishing, or trapping license during the period when license
24 privileges have been forfeited shall be fined not less than
25 \$500 or more than \$1,000, or imprisoned in the county jail

1 for not more than 60 days, or both.

2 (4) A person convicted or who has forfeited bond or
3 bail under subsection (2) and who has been ordered to pay
4 restitution under the provisions of 87-1-111 may not apply
5 for any special license under Title 87, chapter 2, part 7,
6 or enter any drawing for a special license or permit for a
7 period of 5 years following the date of conviction or
8 restoration of license privileges, whichever is later. A
9 person convicted of unlawfully applying for any special
10 license under Title 87, chapter 2, part 7, or unlawfully
11 entering a drawing for a special license or permit shall be
12 fined not less than \$500 or more than \$1,000, ~~or~~ imprisoned
13 in the county jail for not more than 60 days, or both.

14 (5) Notwithstanding the ~~provision~~ provisions of
15 subsection (1), the penalties provided by this section ~~shall~~
16 ~~be~~ are in addition to any penalties provided in Title 37,
17 chapter 47, and Title 87, chapter 4, part 2."

18 NEW SECTION. **Section 2.** Effective date. [This act] is
19 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 HB 0069, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a separate penalty for habitual fish and game violations by providing for the mandatory loss of hunting, fishing and trapping permits and license privileges and by providing for an additional fine and imprisonment.

ASSUMPTIONS:

1. The Department of Fish, Wildlife and Parks Enforcement Division issues approximately 4,500 citations per year. This includes Title 87 violations (hunting and fishing) and boating and snowmobile violations.
2. This bill only applies to hunting and fishing violations (Title 87).
3. In order to track only Title 87 violators, a new computer program would have to be developed to identify those violators who have received four or more violations. This would cost \$1,000.
4. Only violations after the passage of this bill would be considered. Therefore, it would require a few years before many violators accumulated four or more violations.
5. Wardens would be required to contact the court when the computer identified a violator with more than three violations. The court would then issue an order for additional fines and mandatory loss of all hunting, fishing and trapping privileges. This will require an undeterminable but increasing amount of warden time.

FISCAL IMPACT:

Expenditures: Cost to develop new computer program - \$1,000

Revenues: None during the 1995 biennium.

Net Impact: A net cost to the department of \$1,000 this biennium.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: None

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Impact for the 1995 biennium would be minimal, but, as the data base grows, the record keeping will increase, as will the costs to enforce the provisions. Potential fine revenue will also increase.

TECHNICAL NOTES:

87-1-102(1) (a) (A), MCA, is unclear as to date of applicable conviction--the fourth or last conviction might clarify.

David M Lewis 1-7-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Wag 1-8-93

Randy Vogel, PRIMARY SPONSOR DATE
Fiscal Note for HB 0069, as introduced

HB 19