HOUSE BILL NO. 595

INTRODUCED BY HARPER, BRANDEWIE BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

IN THE HOUSE

FEBRUARY 11, 1993 INTRODUCED AND REFERRED TO COMMITTEE ON FISH & GAME.

FIRST READING.

FEBRUARY 18, 1993 COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.

FEBRUARY 19, 1993 PRINTING REPORT.

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FEBRUARY 20, 1993 SECOND READING, DO PASS.

FEBRUARY 22, 1993 ENGROSSING REPORT.

FEBRUARY 23, 1993 THIRD READING, PASSED. AYES, 96; NOES, 1.

FEBRUARY 24, 1993 TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 2, 1993

MARCH 17, 1993

MARCH 18, 1993

MARCH 19, 1993

RETURNED TO HOUSE.

AYES, 40; NOES, 7.

ON FISH & GAME.

FIRST READING.

IN THE HOUSE

MARCH 20, 1993

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

COMMITTEE RECOMMEND BILL BE

CONCURRED IN. REPORT ADOPTED.

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN.

INTRODUCED AND REFERRED TO COMMITTEE

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LC 1435/01

House BILL NO. 595 1 1 INTRODUCED BY 2 2 misdemeanors punishable by a fine exceeding \$500 or BY REQUEST OF THE DEPARTMENT OF 3 3 imprisonment exceeding 6 months, or both such-fine-and FISH, WILDLIFE, AND PARKS 4 4 imprisonment: 5 5 A BILL FOR AN ACT ENTITLED: "AN ACT GIVING JUSTICE OF THE 6 6 PEACE COURTS CONCURRENT JURISDICTION WITH DISTRICT COURTS OF 7 7 FISH AND GAME VIOLATIONS THAT ARE PUNISHABLE BY A FINE 8 8 EXCEEDING \$1,000 OR IMPRISONMENT EXCEEDING 6 MONTHS, OR 9 9 10 BOTH: PROVIDING FOR A CIVIL, RATHER THAN A CRIMINAL, 10 RESTITUTION PENALTY: AND AMENDING SECTIONS 3-10-303 AND 11 11 87-5-721, MCA." 12 12 13 13 HE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 14 14 15 Section 1. Section 3-10-303, MCA, is amended to read: 15 16 16 "3-10-303. Criminal jurisdiction. The justices' courts have jurisdiction of public offenses committed within the 17 17 respective counties in which such the courts are established 18 18 19 as follows: 19 20 misdemeanor punishable as provided in 87-1-102, and the (1) jurisdiction of all misdemeanors punishable by a 20 fine not exceeding \$500 or imprisonment not exceeding 6 21 department, upon conviction of the person, shall revoke any 21 22 months, or both such-fine-and-imprisonment; 22 license or permit issued by it under this title to the 23 23 (2) jurisdiction of all misdemeanor violations of fish person and deny any application by the person for a license 24 or permit under this title for a period not to exceed 2 24 and game statutes punishable by a fine of not more than

\$1,000 or imprisonment for not more than 6 months, or both;

(4) concurrent jurisdiction with district courts of all misdemeanor violations of fish and game statutes punishable by a fine exceeding \$1,000 or imprisonment exceeding 6 months, or both. (4)(5) jurisdiction to act as examining and committing courts and for such that purpose to conduct preliminary hearings; (5)(6) jurisdiction of all violations of Title 61, chapter 10; and (6)(7) all misdemeanor violations of Title 81, chapter 8, part 2.* Section 2. Section 87-5-721, MCA, is amended to read: "87-5-721. Penalty -- license and permit revocation and denial. (1) Except as provided in subsection (2), a person who violates a provision of this part is quilty of a

years from the date of the conviction.

(3) concurrent jurisdiction with district courts of all

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-2-INTRODUCED BILL

HB 595

(2) A person who intentionally imports, introduces, or
 transplants fish in violation of this part:

3 (a) is guilty of a misdemeanor punishable by a fine of 4 not less than \$500 and--may--be--fined--up-to-the-amount 5 necessary-to--eliminate--or--mitigate--the--effects--of--the 6 violation or more than \$1,000 or imprisonment for not more 7 than 6 months, or both; and

8 (b) is civilly liable for the amount necessary to 9 eliminate or mitigate the effects of the violation. The 10 damages may be recovered on behalf of the public by the 11 department or by the county attorney of the county in which 12 the violation occurred, in a civil action in a court of 13 competent jurisdiction. Money recovered by the department or a county attorney must be deposited in the state special 14 15 revenue fund as provided in 87-1-601(1).

16 (b)(c) upon conviction or forfeiture of bond or bail, 17 shall forfeit from the date of conviction or forfeiture any current hunting, fishing, or trapping license issued under 18 19 this title and the privilege to hunt, fish, or trap in this 20 state for not less than 24 months. If the time necessary to 21 eliminate or mitigate the effects of the violation exceeds 22 24 months, a person may be required to forfeit the privilege 23 to hunt, fish, or trap in this state for more than 24 24 months. If the effects of the violation cannot be eliminated or mitigated, a person may be required to forfeit the 25

LC 1435/01

1 privilege to hunt, fish, or trap in this state for the

2 lifetime of that person."

-End-

STATE OF MONTANA - FISCAL NOTE Form BD-15 In compliance with a written request, there is hereby submitted a Fiscal Note for <u>HB0595, as introduced</u>.

<u>DESCRIPTION OF PROPOSED LEGISLATION</u>: An act giving Justice of the Peace courts concurrent jurisdiction with district courts of fish and game violations that are punishable by a fine exceeding \$1,000 or imprisonment exceeding 6 months, or both, and providing for a civil, rather than a criminal restitution penalty.

ASSUMPTIONS :

1. The courts will convict one person per biennium for intentionally importing, introducing or transplanting fish illegally. The civil liability to eliminate or mitigate the effects of the violation will be \$1,500 per incident.

FISCAL IMPACT: The Department of Fish, Wildlife and Parks will receive \$1,500 per biennium to use to eliminate or mitigate the effects of illegal introductions.

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

HAL HARPER, PRIMARY SPONSOR DATE

Fiscal Note for <u>HB0595</u>, as introduced HISSES 53rd Legislature

LC 1435/01

APPROVED BY COMM. ON FISH AND GAME

1	House BILL NO. 595
2	INTRODUCED BY Jon Danis
3	BY REQUEST OF THE DEPARTMENT OF
4	FISH, WILDLIFE, AND PARKS
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT GIVING JUSTICE OF THE

PEACE COURTS CONCURRENT JURISDICTION WITH DISTRICT COURTS OF
FISH AND GAME VIOLATIONS THAT ARE PUNISHABLE BY A FINE
EXCEEDING \$1,000 OR IMPRISONMENT EXCEEDING 6 MONTHS, OR
BOTH; PROVIDING FOR A CIVIL, RATHER THAN A CRIMINAL,
RESTITUTION PENALTY; AND AMENDING SECTIONS 3-10-303 AND
87-5-721, MCA."

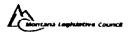
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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 3-10-303, MCA, is amended to read: 16 "3-10-303. Criminal jurisdiction. The justices' courts 17 have jurisdiction of public offenses committed within the 18 respective counties in which such the courts are established 19 as follows:

20 (1) jurisdiction of all misdemeanors punishable by a
21 fine not exceeding \$500 or imprisonment not exceeding 6
22 months, or both such-fine-and-imprisonment;

23 (2) jurisdiction of all <u>misdemeanor</u> violations of fish
24 and game statutes punishable by a fine of not more than
25 \$1,000 or imprisonment for not more than 6 months, or both;



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1 (3) concurrent jurisdiction with district courts of all 2 misdemeanors punishable by a fine exceeding \$500 or 3 imprisonment exceeding 6 months, or both such-fine-and 4 imprisonment: 5 (4) concurrent jurisdiction with district courts of all 6 misdemeanor violations of fish and game statutes punishable by a fine exceeding \$1,000 or imprisonment exceeding 6 7 8 months, or both. (4)(5) jurisdiction to act as examining and committing 9 10 courts and for such that purpose to conduct preliminary 11 hearings; 12 {5}(6) jurisdiction of all violations of Title 61, 13 chapter 10; and (7) all misdemeanor violations of Title 81, chapter 14 8, part 2." 15 Section 2. Section 87-5-721, MCA, is amended to read: 16 87-5-721. Penalty -- license and permit revocation and 17 18 denial. (1) Except as provided in subsection (2), a person 19 who violates a provision of this part is guilty of a misdemeanor punishable as provided in 87-1-102, and the 20 21 department, upon conviction of the person, shall revoke any 22 license or permit issued by it under this title to the 23 person and deny any application by the person for a license 24 or permit under this title for a period not to exceed 2

HB 595

years from the date of the conviction.

SECOND READING

LC 1435/01

1 (2) A person who intentionally imports, introduces, or transplants fish in violation of this part: 2 (a) is guilty of a misdemeanor punishable by a fine of 3 not less than \$500 and--may--be--fined--up-to-the-amount 4 5 necessary-to--eliminate--or--mitigate--the--effects--of--the 6 violation or more than \$1,000 or imprisonment for not more than 6 months, or both; and 7 8 (b) is civilly liable for the amount necessary to eliminate or mitigate the effects of the violation. The 9 damages may be recovered on behalf of the public by the 10 11 department or by the county attorney of the county in which 12 the violation occurred, in a civil action in a court of

13 competent jurisdiction. Money recovered by the department or 14 a county attorney must be deposited in the state special 15 revenue fund as provided in 87-1-601(1).

16 (b)(c) upon conviction or forfeiture of bond or bail, 17 shall forfeit from the date of conviction or forfeiture any current hunting, fishing, or trapping license issued under 18 this title and the privilege to hunt, fish, or trap in this 19 20 state for not less than 24 months. If the time necessary to 21 eliminate or mitigate the effects of the violation exceeds 22 24 months, a person may be required to forfeit the privilege 23 to hunt, fish, or trap in this state for more than 24 months. If the effects of the violation cannot be eliminated 24 25 or mitigated, a person may be required to forfeit the LC 1435/01

1 privilege to hunt, fish, or trap in this state for the

2 lifetime of that person."

-End-

LC 1435/01

touse BILL NO. 595 1 1 (3) concurrent jurisdiction with district courts of all INTRODUCED BY misdemeanors punishable by a fine exceeding \$500 or 2 2 BY REQUEST OF THE DEPARTMENT OF imprisonment exceeding 6 months, or both such-fine-and ٦ 3 FISH. WILDLIFE, AND PARKS 4 imprisonment; 4 5 5 A BILL FOR AN ACT ENTITLED: "AN ACT GIVING JUSTICE OF THE 6 6 PEACE COURTS CONCURRENT JURISDICTION WITH DISTRICT COURTS OF 7 7 FISH AND GAME VIOLATIONS THAT ARE PUNISHABLE BY A FINE 8 8 months, or both. EXCEEDING \$1,000 OR IMPRISONMENT EXCEEDING 6 MONTHS, OR 9 9 BOTH: PROVIDING FOR A CIVIL, RATHER THAN A CRIMINAL, 10 10 11 RESTITUTION PENALTY; AND AMENDING SECTIONS 3-10-303 AND 11 hearings; 87-5-721. MCA." 12 12 13 13 chapter 10; and BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 14 14 8, part 2." 15 15 Section 1. Section 3-10-303, MCA, is amended to read: "3-10-303. Criminal jurisdiction. The justices' courts 16 16 have jurisdiction of public offenses committed within the 17 17 18 respective counties in which such the courts are established 18 19 as follows: 19 20 (1) jurisdiction of all misdemeanors punishable by a 20 21 fine not exceeding \$500 or imprisonment not exceeding 6 21 22 months, or both such-fine-and-imprisonment; 22 23 (2) jurisdiction of all misdemeanor violations of fish 23 24 and game statutes punishable by a fine of not more than 24 25 \$1,000 or imprisonment for not more than 6 months, or both: 25

(4) concurrent jurisdiction with district courts of all misdemeanor violations of fish and game statutes punishable by a fine exceeding \$1,000 or imprisonment exceeding 6 (4)(5) jurisdiction to act as examining and committing courts and for such that purpose to conduct preliminary +5+(6) jurisdiction of all violations of Title 61.

(6)(7) all misdemeanor violations of Title 81, chapter

Section 2. Section 87-5-721, MCA, is amended to read:

"87-5-721. Penalty -- license and permit revocation and denial. (1) Except as provided in subsection (2), a person who violates a provision of this part is guilty of a misdemeanor punishable as provided in 87-1-102, and the department, upon conviction of the person, shall revoke any license or permit issued by it under this title to the person and deny any application by the person for a license or permit under this title for a period not to exceed 2 years from the date of the conviction. HB 595

-2-

THIRD READING

LC 1435/01

(2) A person who intentionally imports, introduces, or
 transplants fish in violation of this part:

3 (a) is guilty of a mindemeanor punishable by a fine of
4 not less than \$500 and-may-be-fined-up-to-the-amount
5 necessary-to-eliminate-or-mitigate-the-affects-of-the
6 violation or more than \$1,000 or imprisonment for not more
7 than 6 months, or both; and

(b) is civilly liable for the amount necessary to 8 9 eliminate or mitigate the effects of the violation. The 10 damages may be recovered on behalf of the public by the 11 department or by the county attorney of the county in which 12 the violation occurred, in a civil action in a court of competent jurisdiction. Money recovered by the department or 13 14 a county attorney must be deposited in the state special revenue fund as provided in 87-1-601(1). 15

(b)(c) upon conviction or forfeiture of bond or bail, 16 17 shall forfeit from the date of conviction or forfeiture any 18 current hunting, fishing, or trapping license issued under 19 this title and the privilege to hunt, fish, or trap in this 20 state for not less than 24 months. If the time necessary to 21 eliminate or mitigate the effects of the violation exceeds 22 24 months, a person may be required to forfeit the privilege 23 to hunt, fish, or trap in this state for more than 24 24 months. If the effects of the violation cannot be eliminated 25 or mitigated, a person may be required to forfeit the

LC 1435/01

1 privilege to hunt, fish, or trap in this state for the

2 lifetime of that person."

-End-

HB 0595/02

1 (3) concurrent jurisdiction with district courts of all HOUSE BILL NO. 595 1 2 misdemeanors punishable by a fine exceeding \$500 or INTRODUCED BY HARPER, BRANDEWIE 2 3 imprisonment exceeding 6 months, or both such-fine-and BY REQUEST OF THE DEPARTMENT OF 3 4 imprisonment; FISH, WILDLIFE, AND PARKS 4 5 (4) concurrent jurisdiction with district courts of all 5 6 misdemeanor violations of fish and game statutes punishable A BILL FOR AN ACT ENTITLED: "AN ACT GIVING JUSTICE OF THE 6 7 by a fine exceeding \$1,000 or imprisonment exceeding 6 PEACE COURTS CONCURRENT JURISDICTION WITH DISTRICT COURTS OF 7 FISH AND GAME VIOLATIONS THAT ARE PUNISHABLE BY A FINE 8 months, or both. 8 9 (4) (5) jurisdiction to act as examining and committing EXCEEDING \$1,000 OR IMPRISONMENT EXCEEDING 6 MONTHS, OR 9 10 courts and for such that purpose to conduct preliminary BOTH; PROVIDING FOR A CIVIL, RATHER THAN A CRIMINAL, 10 11 hearings; RESTITUTION PENALTY; AND AMENDING SECTIONS 3-10-303 AND 11 12 {5}(6) jurisdiction of all violations of Title 61, 87-5-721, MCA." 12 13 chapter 10; and 13 14 (7) all misdemeanor violations of Title 81, chapter BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 14 8, part 2." 15 Section 1. Section 3-10-303, MCA, is amended to read: 15 Section 2. Section 87-5-721, MCA, is amended to read: 16 *3-10-303. Criminal jurisdiction. The justices' courts 16 *87-5-721. Penalty -- license and permit revocation and 17 have jurisdiction of public offenses committed within the 17 18 denial. (1) Except as provided in subsection (2), a person respective counties in which such the courts are established 18 19 who violates a provision of this part is guilty of a as follows: 19 20 misdemeanor punishable as provided in 87-1-102, and the (1) jurisdiction of all misdemeanors punishable by a 20 21 department, upon conviction of the person, shall revoke any fine not exceeding \$500 or imprisonment not exceeding 6 21 license or permit issued by it under this title to the 22 months, or both such-fine-and-imprisonment; 22 23 (2) jurisdiction of all misdemeanor violations of fish person and deny any application by the person for a license 23 24 or permit under this title for a period not to exceed 2 and game statutes punishable by a fine of not more than 24 25 years from the date of the conviction. \$1,000 or imprisonment for not more than 6 months, or both; 25



HB 0595/02

HB 595 REFERENCE BILL

-2-

(2) A person who intentionally imports, introduces, or
 transplants fish in violation of this part:

(a) is guilty of a misdemeanor punishable by a fine of
not less than \$500 and--may--be--fined--up-to-the-amount
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violation or more than \$1,000 or imprisonment for not more
than 6 months, or both; and

8 (b) is civilly liable for the amount necessary to 9 eliminate or mitigate the effects of the violation. The 10 damages may be recovered on behalf of the public by the 11 department or by the county attorney of the county in which 12 the violation occurred, in a civil action in a court of 13 competent jurisdiction. Money recovered by the department or 14 a county attorney must be deposited in the state special 15 revenue fund as provided in 87-1-601(1).

16 tb;(c) upon conviction or forfeiture of bond or bail, 17 shall forfeit from the date of conviction or forfeiture any 18 current hunting, fishing, or trapping license issued under 19 this title and the privilege to hunt, fish, or trap in this 20 state for not less than 24 months. If the time necessary to 21 eliminate or mitigate the effects of the violation exceeds 22 24 months, a person may be required to forfeit the privilege 23 to hunt, fish, or trap in this state for more than 24 24 months. If the effects of the violation cannot be eliminated 25 or mitigated, a person may be required to forfeit the HB 0595/02

1 privilege to hunt, fish, or trap in this state for the

2 lifetime of that person."

-End-

-4-