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INTRODUCED BY Chris GRINDE ^{HOUSE BILL NO. 439} Bnox Rehbein

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW WITH REGARD TO GAME WARDENS BY PROVIDING THAT A GAME WARDEN MAY NOT ENTER UPON PRIVATE LAND FOR INVESTIGATORY PURPOSES WITHOUT THE WRITTEN PERMISSION OF THE LANDOWNER OR THE LANDOWNER'S AGENT; AND AMENDING SECTION 87-1-506, MCA."

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

Section 1. Section 87-1-506, MCA, is amended to read:

"87-1-506. Enforcement powers of wardens. A warden may:

- (1) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;
- (2) search, without a warrant, any tent not used as a residence, or any boat, vehicle, box, locker, basket, creel, crate, game bag, or package or their contents upon probable cause to believe that any fish and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or fur-bearing animals has been violated;
- (3) search, with a search warrant, any dwelling house or other building;
- (4) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in violation of the law or the rules of the department;
- (5) seize and hold, subject to law or the orders of the department, devices ~~which~~ that have been used to unlawfully take game, fish, birds, or fur-bearing animals;
- (6) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the department, violation of which is a misdemeanor;
- (7) enforce the disorderly conduct and public nuisance laws, ~~{45-8-101 and 45-8-111}~~, as they apply to the operation of motorboats on all waters of the state;
- (8) as provided for in 37-47-345, investigate and make arrests for violations of the provisions of Title 37, chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of outfitters and guides in the state; ~~and~~
- (9) not enter upon private land for investigatory purposes without the written permission of the

1 landowner or an agent of the landowner; and

2 (10) exercise the other powers of peace officers in the enforcement of the fish and game laws, the
3 rules of the department, and judgments obtained for violation of those laws or rules."

4 -END-

APPROVED BY COM
ON FISH & GAME

1 HOUSE BILL NO. 439

2 INTRODUCED BY OHS, GRINDE, KNOX, REHBEIN, SLITER, GRIMES, ELLIS, STORY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW WITH REGARD TO GAME WARDENS BY
5 PROVIDING THAT A GAME WARDEN MAY NOT ENTER UPON PRIVATE LAND FOR INVESTIGATORY
6 PURPOSES WITHOUT THE WRITTEN PERMISSION OF THE LANDOWNER OR THE LANDOWNER'S AGENT;
7 AND AMENDING SECTION 87-1-506, MCA."

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

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11 **Section 1.** Section 87-1-506, MCA, is amended to read:

12 **"87-1-506. Enforcement powers of wardens.** A warden may:

13 (1) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

14 (2) search, without a warrant, any tent not used as a residence, or any boat, vehicle, box, locker,
15 basket, creel, crate, game bag, or package or their contents upon probable cause to believe that any fish
16 and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or
17 fur-bearing animals has been violated;

18 (3) search, with a search warrant, any dwelling house or other building;

19 (4) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed
20 in violation of the law or the rules of the department;

21 (5) seize and hold, subject to law or the orders of the department, devices ~~which~~ that have been
22 used to unlawfully take game, fish, birds, or fur-bearing animals;

23 (6) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the
24 department, violation of which is a misdemeanor;

25 (7) enforce the disorderly conduct and public nuisance laws, 45-8-101 and 45-8-111, as they
26 apply to the operation of motorboats on all waters of the state;

27 (8) as provided for in 37-47-345, investigate and make arrests for violations of the provisions of
28 Title 37, chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of
29 outfitters and guides in the state; ~~and~~

30 (9) not enter upon private land for investigatory purposes without the written permission of the

1 ~~landowner or an agent of the landowner; and.~~ THIS SUBSECTION MAY NOT BE CONSTRUED TO IMPAIR
2 OR IMPEDE THE ABILITY OF A GAME WARDEN TO ENTER PRIVATE PROPERTY DURING THE COURSE
3 OF A LAWFUL PURSUIT OR WHEN THE GAME WARDEN HAS PROBABLE CAUSE TO BELIEVE THAT A
4 FISH AND GAME VIOLATION HAS OCCURRED OR IS ABOUT TO OCCUR.

5 (10) exercise the other powers of peace officers in the enforcement of the fish and game laws, the
6 rules of the department, and judgments obtained for violation of those laws or rules."

7

-END-

1 HOUSE BILL NO. 439

2 INTRODUCED BY OHS, GRINDE, KNOX, REHBEIN, SLITER, GRIMES, ELLIS, STORY

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 5 ~~PROVIDING THAT A GAME WARDEN MAY NOT ENTER~~ ESTABLISHING A POLICY FOR THE DEPARTMENT
 6 OF FISH, WILDLIFE, AND PARKS REGARDING ENTRY UPON PRIVATE LAND FOR INVESTIGATORY
 7 PURPOSES WITHOUT THE WRITTEN PERMISSION OF BY REQUIRING THE DEPARTMENT TO WORK WITH
 8 THE LANDOWNER OR THE LANDOWNER'S AGENT; AND AMENDING SECTION 87-1-506, MCA ON LAND
 9 ENTRY AND USER POLICIES."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12
13 ~~Section 1. Section 87-1-506, MCA, is amended to read:~~14 ~~"87-1-506. Enforcement powers of wardens. A warden may:~~15 ~~(1) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;~~

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 17 ~~basket, creel, crate, game bag, or package or their contents upon probable cause to believe that any fish~~
 18 ~~and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or~~
 19 ~~fur-bearing animals has been violated;~~

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23 ~~(5) seize and hold, subject to law or the orders of the department, devices which that have been~~
 24 ~~used to unlawfully take game, fish, birds, or fur-bearing animals;~~

25 ~~(6) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the~~
 26 ~~department, violation of which is a misdemeanor;~~

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 28 ~~apply to the operation of motorboats on all waters of the state;~~

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7 ~~(10) exercise the other powers of peace officers in the enforcement of the fish and game laws, the~~
8 ~~rules of the department, and judgments obtained for violation of these laws or rules."~~

9
10 NEW SECTION. SECTION 1. ENTRY ON PRIVATE LAND -- POLICY. IT IS THE POLICY OF THE
11 DEPARTMENT TO MEET WITH AND WORK COOPERATIVELY WITH INDIVIDUAL PRIVATE LANDOWNERS
12 ON POLICIES REGARDING ENTRY OF THE DEPARTMENT TO PRIVATE LANDOWNERS' LAND AND TO
13 WORK WITH PUBLIC AND PRIVATE LAND MANAGERS TO RESOLVE AND REDUCE USER CONFLICTS.

14
15 NEW SECTION. SECTION 2. CODIFICATION INSTRUCTION. [SECTION 1] IS INTENDED TO BE
16 CODIFIED AS AN INTEGRAL PART OF TITLE 87, CHAPTER 1, PART 2, AND THE PROVISIONS OF TITLE
17 87, CHAPTER 1, PART 2, APPLY TO [SECTION 1].

18 -END-

1 HOUSE BILL NO. 439

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