

House BILL NO. 464

INTRODUCED BY

*Handwritten signature: James New Bishop*

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ADDRESS INCIDENTS OF DISEASE OR ILLEGAL INTRODUCTION OF FISH; PROVIDING A 2-YEAR MORATORIUM ON THE ISSUANCE OF NEW FISH POND LICENSES; AMENDING SECTION 87-4-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

WHEREAS, whirling disease was recently discovered in the world famous fishery of the upper Madison River and is the leading suspect for the 90% reduction in the numbers of wild rainbow trout in those waters; and

WHEREAS, Governor Racicot, in a recent communication to concerned parties, stated, "There is genuine reason to believe whirling disease is the worst disease threat our wild trout have ever faced"; and

WHEREAS, Governor Racicot has further stated that it is essential for the Department of Fish, Wildlife, and Parks to mobilize an unprecedented effort to research and combat this disease; and

WHEREAS, the wild trout fisheries in Montana provide in excess of \$125 million in annual benefits to the state's economy; and

WHEREAS, the wild trout fisheries provide inestimable recreational pleasures for the citizens of the state; and

WHEREAS, there is significant potential for whirling disease to spread to other blue ribbon trout waters of the state; and

WHEREAS, the Department of Fish, Wildlife, and Parks currently lacks both the authority and the staffing to combat a similar spread of disease; and

WHEREAS, whirling disease primarily results from the introduction of infected hatchery or wild fish; and

WHEREAS, the illegal introduction and movement of fish pose a serious threat to Montana's wild fisheries, including native fisheries.

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

1           **Section 1.** Section 87-4-603, MCA, is amended to read:

2           **"87-4-603. Fish pond license for artificial lake or pond -- records.** (1) A person who owns or  
3 lawfully controls an artificial lake or pond may apply to the director for a fish pond license. The holder of  
4 a private fish pond license may stock ~~his~~ the fish pond with ~~fry~~ fish procured from ~~any~~ a lawful source.  
5 The department may designate the species of fish ~~which~~ that may be released in the pond and otherwise  
6 condition the license ~~when~~ if there is a possibility of fish escaping from the pond into adjacent streams or  
7 lakes. The license holder may take fish from the lake or pond in any manner. Before a license holder may  
8 sell fish or eggs or fry from the lake or pond, ~~he~~ the license holder shall furnish a corporate surety bond to  
9 the state for \$500, conditioned to the effect that ~~he~~ the license holder will not sell fish or spawn from any  
10 of the public waters of this state or violate the conditions of ~~his~~ the license and also conditioned to the  
11 effect that ~~he~~ the license holder will submit an annual report on transactions to the director.

12           (2) "Artificial lake or pond", as used in this section, does not include a natural pond or body of  
13 water, including streams and rivers, created by natural means or any portion of the streambed or lakebed  
14 of a natural pond or body of water. It includes only bodies of water created by artificial means or diversion  
15 of water ~~which~~ that do not exceed 500 acres of surface area.

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

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

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

21           (ii) dates of sales or purchases;

22           (iii) names and any fish pond license number of purchasers or sellers; and

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

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

27           (5) Whenever the department has reasonable cause to believe that a fish species in the body of  
28 water may have been illegally introduced or may have a disease that may affect fish in another body of  
29 water, the department shall notify the landowner by mail of the intention to enter upon the land and shall  
30 enter only after notice has been given to the landowner or after every reasonable effort has been made to

1 notify the landowner. The department may enter upon land under the provisions of this subsection for the  
2 purposes of inspecting the pond or the body of water, the species of fish in the pond or the body of water,  
3 the presence of disease in a fish species, the construction of any impoundment, dam, or fish barrier, and  
4 the physical connection of an artificial lake or pond to an adjacent natural lake, pond, or body of water,  
5 including a stream or river. The department is responsible for actual damages to any property.

6 (6) If the department finds an illegal introduction of fish or the presence of disease in fish in a  
7 licensed fish pond, an artificial lake or pond, or a natural lake, pond, or body of water, the department may  
8 order or take appropriate action to address any threat to the state's fisheries resources, including quarantine  
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10 the private owner is not responsible for an illegal introduction or the introduction of fish with a disease, the  
11 department may replace the destroyed fish without charge to the private owner if the department has  
12 surplus hatchery fish or eggs available."

13  
14 **NEW SECTION. Section 2. Moratorium on issuance of fish pond licenses.** From [the effective date  
15 of this act] until July 1, 1997, the department of fish, wildlife, and parks may not issue a new license for  
16 a fish pond under the provisions of 87-4-603.

17  
18 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

19  
20 **NEW SECTION. Section 4. Termination.** [Section 2] terminates July 1, 1997.

21 -END-

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2 INTRODUCED BY HARPER, SHEA, SIMON, BISHOP

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16 ~~a fish pond under the provisions of 87-4-603.~~

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18 ~~NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.~~

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20 ~~NEW SECTION. Section 4. Termination. [Section 2] terminates July 1, 1997.~~

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28 WHEREAS, MANY LANDOWNERS WITH FISH PONDS AND HATCHERIES NEED REASSURANCE  
29 THAT THEIR FISH ARE DISEASE-FREE.

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1 INTRODUCTION OF FISH SPECIES. Whenever the department has reasonable cause to believe that a fish  
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-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 15, 1995

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration HB 464 (third reading copy -- blue), respectfully report that HB 464 be amended as follows and as so amended be concurred in.

Signed:   
Senator Ken Mesaros, Chair

That such amendments read:

1. Page 2, line 24.  
Strike: "and any fish pond license number"

-END-



Amd. Coord.  
Sec. of Senate

SEN. JACOBSON  
Senator Carrying Bill

HB 464  
SENATE

601115SC.SPv

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