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INTRODUCED BY House *Daniel Fuchs* BILL NO. 520

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO LIVESTOCK BY CLASSIFYING OSTRICHES, RHEAS, AND EMUS AS LIVESTOCK; AMENDING SECTIONS 15-1-101, 20-25-234, 23-2-633, 27-1-222, 33-1-206, 39-3-402, 60-7-201, 67-1-204, 69-14-707, 69-14-713, 69-14-801, 81-2-102, 81-2-702, 81-4-201, 81-4-215, 81-4-306, 81-4-401, 81-4-402, 81-4-601, 81-5-101, 81-5-104, 81-6-302, 81-7-401, AND 87-3-130, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

**Section 1.** Section 15-1-101, MCA, is amended to read:

**"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

(d) (i) The term "commercial", when used to describe property, means ~~any~~ property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except property described in subsection (1)(d)(ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the

- 1 function of a bona fide farm, ranch, or stock operation;
- 2 (D) mobile homes used exclusively as a residence except when held by a distributor or dealer of  
3 trailers or mobile homes as stock in trade;
- 4 (E) all property described in 15-6-135; and
- 5 (F) all property described in 15-6-136.
- 6 (e) The term "comparable property" means property that has similar use, function, and utility; that  
7 is influenced by the same set of economic trends and physical, governmental, and social factors; and that  
8 has the potential of a similar highest and best use.
- 9 (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.
- 10 (g) "Department" means the department of revenue provided for in 2-15-1301.
- 11 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2).  
12 The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other  
13 natural gas found in any coal formation.
- 14 (i) The term "improvements" includes all buildings, structures, fences, and improvements situated  
15 upon, erected upon, or affixed to land. When the department determines that the permanency of location  
16 of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be  
17 an improvement to real property. A mobile home or housetrailer may be determined to be permanently  
18 located only when it is attached to a foundation that cannot feasibly be relocated and only when the wheels  
19 are removed.
- 20 (j) The term "leasehold improvements" means improvements to mobile homes and mobile homes  
21 located on land owned by another person. This property is assessed under the appropriate classification,  
22 and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on  
23 leasehold improvements are a lien only on the leasehold improvements.
- 24 (k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,  
25 bison, ostriches, rheas, emus, and domestic ungulates.
- 26 (l) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer  
27 coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another  
28 by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet  
29 in width or 45 feet in length used as a principal residence.
- 30 (m) The term "personal property" includes everything that is the subject of ownership but that is

1 not included within the meaning of the terms "real estate" and "improvements".

2 (n) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in  
3 domestication to produce food or feathers.

4 (o) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters  
5 and things, real, personal, and mixed, capable of private ownership. This definition may not be construed  
6 to authorize the taxation of the stocks of ~~any~~ a company or corporation when the property of the company  
7 or corporation represented by the stocks is within the state and has been taxed.

8 (p) The term "real estate" includes:

9 (i) the possession of, claim to, ownership of, or right to the possession of land;

10 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501  
11 and Title 15, chapter 23, part 8; all timber belonging to individuals or corporations growing or being on the  
12 lands of the United States; and all rights and privileges appertaining to the mines, minerals, quarries, and  
13 timber.

14 (q) "Research and development firm" means an entity incorporated under the laws of this state or  
15 a foreign corporation authorized to do business in this state whose principal purpose is to engage in  
16 theoretical analysis, exploration, and experimentation and the extension of investigative findings and  
17 theories of a scientific and technical nature into practical application for experimental and demonstration  
18 purposes, including the experimental production and testing of models, devices, equipment, materials, and  
19 processes.

20 (r) The term "taxable value" means the percentage of market or assessed value as provided for in  
21 Title 15, chapter 6, part 1.

22 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,  
23 incorporated town, township, school district, irrigation district, or drainage district, ~~or any~~ a person,  
24 persons, or organized body authorized by law to establish tax levies for the purpose of raising public  
25 revenue.

26 (3) The term "state board" or "board" when used without other qualification means the state tax  
27 appeal board."

28

29 **Section 2.** Section 20-25-234, MCA, is amended to read:

30 **"20-25-234. Purpose.** The purpose of 20-25-233 through 20-25-236 is to promote more research

1 and education on sustainable agricultural practices, such as crop rotations, green manuring, integrated pest  
 2 management, and maintenance of livestock health and quality with reduced use of growth hormones and  
 3 antibiotics. Sections 20-25-233 through 20-25-236 are intended to foster economically and ecologically  
 4 beneficial means of soil improvement, pest management, irrigation, cultivation, harvesting, animal  
 5 husbandry, transportation, and marketing for Montana agriculture, based on methods designed to  
 6 accomplish the following:

7 (1) control pests and diseases of agricultural importance through management practices and  
 8 alternatives that reduce or eliminate dependence on pesticides and petrochemicals;

9 (2) improve soil fertility and tilth through the use of practices that reduce dependence on  
 10 synthetically compounded petrochemical-based fertilizers;

11 (3) produce, process, and distribute food and fiber in ways that consider the interactions among  
 12 soil, plants, water, air, animals, tillage, machinery, labor, energy, and transportation to enhance resource  
 13 efficiency, conservation, and public health; and

14 (4) provide Montana farmers and ranchers with useful agriculture production and marketing  
 15 information on alternative and specialty crops and livestock, including ostriches, rheas, and emus."

16

17 **Section 3.** Section 23-2-633, MCA, is amended to read:

18 "**23-2-633. Other unlawful operation.** ~~No~~ A person while operating a snowmobile may not use the  
 19 ~~same:~~

20 (1) Use the snowmobile for the purpose of driving, rallying, or harassing ~~any of the~~ game animals,  
 21 game birds, or fur-bearing animals of the state or ~~any~~ livestock, including ostriches, rheas, and emus. An  
 22 owner of livestock is not prohibited from managing or driving ~~his own~~ the owner's livestock by the use of  
 23 snowmobiles and may direct other persons to ~~se~~ manage or drive ~~his~~ the owner's livestock; by use of  
 24 snowmobiles. ~~and the~~ The department of fish, wildlife, and parks, including its duly authorized employees,  
 25 is not prohibited from managing or driving game animals, game birds, or fur-bearing animals by the use of  
 26 snowmobiles.

27 (2) ~~to~~ discharge a firearm from or upon a snowmobile;

28 (3) operate the snowmobile without a lighted headlight and taillight between the hours of dusk and  
 29 dawn."

30

1           **Section 4.** Section 27-1-222, MCA, is amended to read:

2           **"27-1-222. Exemplary damages for inhumane injuries to animals.** (1) For wrongful injuries to  
3 animals, being subjects of property, committed willfully or by gross negligence in disregard of humanity,  
4 exemplary damages may be given.

5           (2) As used in this section, "animals" includes ostriches, rheas, and emus."

6  
7           **Section 5.** Section 33-1-206, MCA, is amended to read:

8           **"33-1-206. Casualty insurance.** (1) Casualty insurance includes:

9           (a) vehicle insurance ~~which~~ that is insurance against loss of or damage to ~~any~~ a land vehicle or  
10 aircraft or ~~any~~ a draft or riding animal or to property while contained ~~therein~~ in the land vehicle or aircraft  
11 or ~~thereon~~ on the draft or riding animal or being loaded or unloaded ~~therein~~ in or ~~therefrom~~ from the vehicle  
12 or aircraft or upon or from the draft or riding animal from ~~any~~ a hazard or cause and against ~~any~~ a loss,  
13 liability, or expense resulting from or incidental to ownership, maintenance, or use of ~~any such~~ a vehicle,  
14 aircraft, or animal, ~~together with.~~ Casualty insurance also includes insurance against accidental death or  
15 accidental injury to individuals, including the named insured, while in, entering, alighting from, adjusting,  
16 repairing, cranking, or caused by being struck by a vehicle, aircraft, or draft or riding animal, ~~if such~~ the  
17 insurance is issued as an incidental part of insurance on the vehicle, aircraft, or draft or riding animal;

18           (b) liability insurance, ~~which~~ which is insurance against legal liability for the death, injury, or disability of  
19 ~~any~~ a human being or for damage to property and provision of medical, hospital, surgical, and disability  
20 benefits to injured persons and funeral and death benefits to dependents, beneficiaries, or personal  
21 representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental  
22 coverage with or supplemental to liability insurance;

23           (c) workers' compensation and employer's liability, ~~which~~ which is insurance of the obligations accepted  
24 by, imposed upon, or assumed by employers under law for death, disablement, or injury of employees;

25           (d) burglary and theft, ~~which~~ which is insurance against loss or damage by burglary, theft, robbery,  
26 forgery, fraud, deceptive practices, vandalism, criminal mischief, confiscation, or wrongful conversion,  
27 disposal, or concealment or from ~~any~~ an attempt at any of the foregoing, including supplemental coverage  
28 for medical, hospital, surgical, and funeral expense incurred by the named insured or any other person as  
29 a result of bodily injury during the commission of a burglary, robbery, or theft by another, ~~also~~ and including  
30 insurance against loss of or damage to ~~moneys~~ money, coins, bullion, securities, notes, drafts,

1 acceptances, or ~~any~~ other valuable papers and documents, resulting from any cause;

2 (e) personal property floater<sub>z</sub> which is insurance upon personal effects against loss or damage from  
3 ~~any a~~ cause under a personal property floater;

4 (f) glass<sub>z</sub> which is insurance against loss or damage to glass, including its lettering, ornamentation,  
5 and fittings;

6 (g) boiler and machinery<sub>z</sub> which is insurance against ~~any~~ liability and loss or damage to property  
7 or interest resulting from accident to or explosions of boilers, pipes, pressure containers, machinery, or  
8 apparatus and from making inspection of and issuing certificates of inspection upon boilers, machinery, and  
9 apparatus of any kind, whether or not insured;

10 (h) leakage and fire extinguishing equipment<sub>z</sub> which is insurance against loss or damage to ~~any~~  
11 property or interest caused by the breakage or leakage of sprinklers, hoses, pumps, and other fire  
12 extinguishing equipment or apparatus, water pipes, or containers or by water entering through leaks or  
13 openings in buildings and insurance against loss or damage to ~~such the~~ sprinklers, hoses, pumps, and other  
14 fire extinguishing equipment or apparatus;

15 (i) credit<sub>z</sub> which is insurance against loss or damage resulting from failure of debtors to pay their  
16 obligations to the insured;

17 (j) malpractice<sub>z</sub> which is insurance against legal liability of the insured and against loss, damage,  
18 or expense incidental to a claim of ~~such~~ liability, including medical, hospital, surgical, and funeral benefits  
19 to injured persons, irrespective of legal liability of the insured, arising out of the death, injury, or  
20 disablement of ~~any a~~ person or arising out of damage to the economic interest of ~~any a~~ person<sub>7</sub> as the result  
21 of negligence in rendering expert, fiduciary, or professional service;

22 (k) elevator<sub>z</sub> which is insurance against loss of or damage to ~~any~~ property of the insured, resulting  
23 from the ownership, maintenance, or use of elevators, except loss or damage by fire and from making  
24 inspection of and issuing certificates of inspection upon elevators;

25 (l) livestock, including ostriches, rheas, and emus, which is insurance against loss or damage to  
26 livestock and for services of a ~~veterinary~~ veterinarian for ~~such the~~ animals;

27 (m) entertainments<sub>z</sub> which is insurance indemnifying the producer of ~~any a~~ motion picture,  
28 television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition  
29 against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or  
30 sickness of performers, participants, directors, or other principals;

1 (n) miscellaneous, which is insurance against any other kind of loss, damage, or liability that is  
 2 properly a subject of insurance and that is not within any other kind of insurance as defined in this part,  
 3 if ~~such~~ the insurance is not disapproved by the commissioner as being contrary to law or public policy.

4 (2) Provision of medical, hospital, surgical, and funeral benefits and of coverage against accidental  
 5 death or injury as incidental to and part of other insurance as stated under subsections (1)(a) (vehicle),  
 6 (1)(b) (liability), (1)(d) (burglary), and (1)(j) (malpractice) ~~of subsection (1) shall~~ must for all purposes be  
 7 considered to be the same kind of insurance to which it is ~~so~~ incidental and ~~shall~~ may not be subject to  
 8 provisions of this code applicable to life or disability ~~insurances~~ insurance."

9

10 **Section 6.** Section 39-3-402, MCA, is amended to read:

11 **"39-3-402. Definitions.** As used in this part, the following definitions apply:

12 (1) "Commissioner" means the commissioner of labor and industry.

13 (2) "Employ" means to suffer or permit to work.

14 (3) "Employee" means an individual employed by an employer.

15 (4)(a) "Farm or ranch" means ~~any~~ an endeavor primarily engaged in cultivating the soil or in  
 16 connection with raising or harvesting ~~any~~ an agricultural or horticultural commodity, including the raising,  
 17 shearing, feeding, caring for, training, and management of livestock, bees, and poultry and fur-bearing  
 18 animals and wildlife.

19 (b) As used in this subsection (4), "livestock" includes ostriches, rheas, and emus.

20 (5) "Farm worker" means a person employed to do ~~any~~ a service performed on a farm or ranch.

21 (6) "Occupation" means ~~any~~ an occupation, service, trade, business, industry, or branch or group  
 22 of industries or employment or class of employment in which employees are gainfully employed.

23 (7) "Wage" means compensation due to an employee by reason of ~~his~~ employment, payable in legal  
 24 tender of the United States or check on banks convertible into cash on demand at full face value, subject  
 25 to an allowance as may be permitted by regulations of the commissioner under 39-3-403. The term "wage"  
 26 includes the reasonable cost to the employer of furnishing the employee with lodging or other facility if the  
 27 lodging or other facility is customarily furnished by the employer to ~~his~~ employees; ~~however.~~ However, the  
 28 inclusion may not exceed an amount equal to 40% of the total wage paid by the employer to the employee.  
 29 The term "wage" does not include the cost to the employer of providing meals or a meal allowance to the  
 30 employee or the value of ~~any~~ tips received by an employee as a gratuity for service."

1           **Section 7.** Section 60-7-201, MCA, is amended to read:

2           "**60-7-201. Grazing livestock on highway unlawful.** (1) A person who owns or possesses livestock  
3 may not permit the livestock to graze, remain upon, or occupy a part of the right-of-way of:

4           ~~(1)(a)~~ a state highway running through cultivated areas or a part of the fenced right-of-way of a  
5 state highway if in either case the highway has been designated by agreement between the highway  
6 commission and the secretary of transportation as a part of the national system of interstate and defense  
7 highways; or

8           ~~(2)(b)~~ a state highway designated by agreement between the highway commission and the  
9 secretary of transportation as a part of the federal-aid primary system, except as provided in 60-7-202.

10           (2) As used in this section, "livestock" includes ostriches, rheas, and emus.

11

12           **Section 8.** Section 67-1-204, MCA, is amended to read:

13           "**67-1-204. Lawfulness of flight and landings.** (1) Flight in aircraft over the lands and waters of this  
14 state is lawful, unless it is at such a low altitude as to interfere with the then-existing use to which the land  
15 or water or the space over the land or water is put by the owner or unless ~~se~~ conducted as to be  
16 imminently dangerous to persons or property lawfully on the land or water or in violation of the air  
17 commerce regulations ~~which~~ that have been or may be promulgated by the department of transportation  
18 of the United States.

19           (2) Aircraft landings and takeoffs from the public waters of this state are lawful if proper safety  
20 precautions regarding public waters, as prescribed in ~~Title 14~~ 14 CFR, part 91, ~~Code of Federal Regulations,~~  
21 are taken prior to ~~such~~ the landing or takeoff, except as otherwise provided by this section.

22           (3) Aircraft landings and takeoffs from public roads in this state are lawful if proper safety  
23 precautions, as approved by the governing jurisdiction of ~~such~~ the roads, are taken prior to ~~such~~ the landing  
24 or takeoff, except as otherwise provided in this section. However, the local governing jurisdiction ~~shall~~ may  
25 not incur ~~no~~ liability as a result of an approval under this subsection.

26           (4) ~~No~~ A person ~~shall~~ may not operate an aircraft, as pilot ~~thereof~~ of the aircraft, either in the air,  
27 on the water, or on the ground, in a careless or reckless manner so as to endanger the life or property of  
28 others, including the aircraft being operated and passengers carried ~~therein~~ in the aircraft.

29           (5) The willful and malicious use of aircraft in stunting or diving over livestock in a manner  
30 calculated to frighten or stampede them ~~shall be deemed~~ is an unlawful use ~~thereof~~ of aircraft, and actual



1 and punitive damages, in addition to the penalties provided by this part, may be recovered in an action for  
 2 damages caused ~~therefrom~~ by the willful and malicious use of the aircraft. As used in this subsection,  
 3 "livestock" includes ostriches, rheas, and emus.

4 (6) The landing of an aircraft on the private lands or waters of another without ~~his~~ consent is  
 5 unlawful, except in the case of a forced landing. For damages caused by a forced landing, however, the  
 6 owner or lessee of the aircraft or the pilot ~~shall be~~ is liable for actual damage caused by ~~such the~~ forced  
 7 landing.

8 (7) ~~No~~ A person may not knowingly operate, attempt to operate, or be in actual physical control  
 9 of an aircraft while under the influence of alcohol or drugs. "Under the influence" means that as a result  
 10 of taking into the body alcohol, drugs, or any combination ~~thereof~~ of alcohol and drugs, a person's ability  
 11 to safely operate the aircraft has been diminished to the slightest degree.

12 (8) A person having information regarding a violation of subsection (7) shall report ~~such the~~ the  
 13 information to the department."  
 14

15 **Section 9.** Section 69-14-707, MCA, is amended to read:

16 **"69-14-707. Liability for negligent destruction of domestic animals.** Every railroad corporation or  
 17 company operating ~~any a~~ a railroad or branch ~~thereof~~ of a railroad within the limits of this state ~~which shall~~  
 18 that negligently injure injures or kill any kills a horse, mare, gelding, filly, jack, jenny, mule, cow, heifer, bull,  
 19 ox, steer, calf, ostrich, rhea, emu, or other domestic animal by running ~~any an~~ an engine or car over or against  
 20 ~~any such the~~ the animal ~~shall be~~ is liable to the owner of ~~such the~~ the animal for the damages sustained by ~~such~~  
 21 the owner by reason thereof. The killing or injury ~~shall be~~ is prima facie evidence of negligence on the part  
 22 of ~~such the~~ the corporation or company."  
 23

24 **Section 10.** Section 69-14-713, MCA, is amended to read:

25 **"69-14-713. Violation of provisions dealing with injury to livestock.** (1)(a) Except as otherwise  
 26 provided, ~~every a~~ a person who violates any of the provisions of 69-14-701 through 69-14-712 relating to  
 27 livestock killed or injured by railroads is guilty of a misdemeanor.

28 (b) As used in this subsection (1), "livestock" includes ostriches, rheas, and emus.

29 (2) ~~Any A~~ A person ~~violating~~ who violates any of the provisions of 69-14-711 or 69-14-712 shall  
 30 upon conviction ~~thereof~~ of a violation be punished by a fine of not less than \$10 or more than \$300 or by

1 imprisonment in the county jail for a period of not less than 10 days or more than 60 days or by both ~~such~~  
2 a fine and imprisonment."

3

4 **Section 11.** Section 69-14-801, MCA, is amended to read:

5 **"69-14-801. Maintenance of loading platform by railroad.** (1)(a) ~~Every~~ A railroad company doing  
6 business in this state shall, within 60 days after notice from the commission, erect one or more platforms  
7 for the transfer of livestock, grain, and other commodities from wagons or otherwise to cars at each ~~and~~  
8 ~~every~~ station or siding designated in ~~such the~~ notice, ~~such~~ The platforms ~~to~~ must be erected so as not to  
9 endanger life and property.

10 (b) As used in this subsection (1), "livestock" includes ostriches, rheas, and emus.

11 (2) If ~~any~~ a railroad company, after receiving notice as provided for in this section, shall fail, refuse,  
12 or neglect to erect platforms as required by this section within the required 60 days, the commission ~~is~~  
13 ~~authorized and empowered and it is made its duty to~~ shall notify ~~such the~~ railroad company to appear  
14 before it at a certain time and place and show cause, if there is any, why ~~such the~~ commission should not  
15 issue an order requiring ~~such the~~ railroad company to comply with the requirements of this section. The  
16 commission ~~shall have power may~~, after ~~such the~~ hearing, ~~to~~ issue an order ~~upon said to the~~ railroad  
17 company commanding it to erect ~~such a~~ platform if the commission ~~shall~~ upon ~~such~~ examination and  
18 hearing ~~deem such~~ considers a platform necessary.

19 (3) ~~Any~~ A notice required to be served upon ~~any~~ a railroad company to carry out any of the  
20 provisions of this section or similar provisions relating to the enlarging of ~~such~~ platforms may be served  
21 upon ~~any an~~ agent of ~~said the~~ company within the state."

22

23 **Section 12.** Section 81-2-102, MCA, is amended to read:

24 **"81-2-102. Powers of department.** (1) The department may:

25 (a) supervise the sanitary conditions of livestock in this state, under the provisions of the  
26 constitution and statutes of this state and the rules adopted by the department. The department may  
27 quarantine a lot, yard, land, building, room, premises, enclosure, or other place or section in this state  
28 ~~which that~~ is or may be used or occupied by livestock and ~~which that~~ in the judgment of the department  
29 is infected or contaminated with an infectious, contagious, communicable, or dangerous disease or  
30 disease-carrying medium by which the disease may be communicated. The department may quarantine

1 livestock in this state when the livestock is affected with or has been exposed to disease or  
2 disease-carrying medium. The department may prescribe treatments and enforce sanitary rules ~~which~~ that  
3 are necessary and proper to circumscribe, extirpate, control, or prevent the disease.

4 (b) foster, promote, and protect the livestock industry in this state by the investigation of diseases  
5 and other subjects related to ways and means of prevention, extirpation, and control of diseases or to the  
6 care of livestock and its products and to this end may establish and maintain a laboratory, may make or  
7 cause to be made biologic products, curatives, and preventative agents, and may perform any other acts  
8 and things as may be necessary or proper in the fostering, promotion, or protection of the livestock industry  
9 in this state;

10 (c) impose and collect ~~such~~ fees as the department considers appropriate for the tests and services  
11 performed by it at the laboratory or elsewhere and for biologic products, curatives, and preventative agents  
12 made or caused to be made by the department. In fixing these fees, the department shall take into  
13 consideration the costs, both direct and indirect, of the tests, services, products, curatives, and agents.  
14 All fees ~~shall~~ must be deposited in the state special revenue fund for the use of the animal health functions  
15 of the department.

16 (d) adopt rules and orders ~~which~~ that it considers necessary or proper to prevent the introduction  
17 or spreading of infectious, contagious, communicable, or dangerous diseases affecting livestock in this state  
18 and to this end may adopt rules and orders necessary or proper governing inspections and tests of livestock  
19 intended for importation into this state before it may be imported into this state;

20 (e) adopt rules and orders ~~which~~ that it considers necessary or proper for the inspection, testing,  
21 and quarantine of all livestock imported into this state;

22 (f) adopt rules and orders ~~which~~ that it considers necessary or proper for the supervision,  
23 inspection, and control of the standards and sanitary conditions of slaughterhouses, meat depots, meat and  
24 meat food products, dairies, milk depots, milk and its byproducts, barns, dairy cows, factories, and other  
25 places and premises where meat or meat foods, milk or its products, or ~~any~~ byproducts thereof intended  
26 for sale or consumption as food are produced, kept, handled, or stored. An authorized representative of the  
27 department may take samples of a product ~~so~~ produced, kept, handled, or stored for analysis or testing by  
28 the department. The records of the samples and their analysis and test, when identified as to the sample  
29 by the oath of the officer taking it and verified as to the analysis or test by the oath of the chemist or  
30 bacteriologist making it, are prima facie evidence of the facts set forth in them when offered in evidence

1 in a prosecution or action at law or in equity for violation of part 1, 2, or 3 of this chapter, 81-9-201,  
2 81-20-101, 81-21-102, 81-21-103, or a rule or order of the board adopted thereunder. These standards,  
3 ~~insofar~~ as they relate to dairies or milk and its byproducts, may not include standards of weight or  
4 measurement.

5 (g) adopt rules and orders ~~which~~ that seem necessary or proper for the supervision and control of  
6 manufactured and refined foods for livestock and the manufacture, importation, sale, and method of using  
7 a biologic remedy or curative agent for the treatment of diseases of livestock. However, as far as  
8 practicable the standards approved by the United States department of agriculture ~~shall~~ must be adopted.

9 (h) install an adequate system of meat inspection in accordance with 81-9-216 through 81-9-220  
10 and 81-9-226 through 81-9-236 ~~which~~ that shall provide ways and means for shipping home-grown and  
11 home-killed meats into any city in this state. As far as practicable, the rules ~~shall~~ must conform with the  
12 meat-inspection requirements of the United States department of agriculture.

13 (i) slaughter or cause to be slaughtered ~~any~~ livestock in this state that are known to be affected  
14 with or ~~which~~ that has have been exposed to an infectious, contagious, communicable, or dangerous  
15 disease, when ~~such~~ the slaughter is necessary for the protection of other livestock, and destroy or cause  
16 to be destroyed all barns, stables, sheds, outbuildings, fixtures, furniture, or personal property infected with  
17 ~~any such~~ an infectious, contagious, communicable, or dangerous disease when they cannot be thoroughly  
18 cleaned and disinfected and the destruction is necessary to prevent the spreading of the disease;

19 (j) indemnify the owner of ~~any~~ property destroyed by order of the department or pursuant to ~~any~~  
20 rules adopted by the department under part 1, 2, or 3 of this chapter, 81-20-101, 81-21-102, or  
21 81-21-103;

22 (k) require persons, firms, and corporations engaged in the production or handling of meat, meat  
23 food products, dairy products, or ~~any~~ byproducts thereof to furnish statistics of the quantity and cost of  
24 the food and food products produced or handled and the name and address of persons supplying ~~them~~ any  
25 of the products.

26 (2) When in the exercise of its powers or the discharge of its duties it becomes necessary for  
27 employees of the department to investigate facts and conditions, they may administer oaths, take affidavits,  
28 and compel the attendance and testimony of witnesses.

29 (3) As used in this section, "livestock" includes ostriches, rheas, and emus.

30

1           **Section 13.** Section 81-2-702, MCA, is amended to read:

2           **"81-2-702. Definitions.** As used in this part, the following definitions apply:

3           (1) "Animals" means livestock, dogs, cats, rabbits, rodents, game animals, game farm animals,  
4 fur-bearing and wild animals, and poultry and other birds.

5           (2) "Biologics" means medicinal preparations made from living organisms and their products. ~~‡~~ The  
6 term includes but is not limited to serums, vaccines, antigens, and antitoxins.

7           (3) "Department" means the department of livestock.

8           (4) "Health certificate" means a legible record written on an official health certificate form of the  
9 state of origin or on an equivalent form of the U.S. department of agriculture attesting that the animals,  
10 animal semen, or animal biologics described on the certificate have been visually inspected by a federally  
11 accredited veterinarian and found to meet the entry requirements of the state of Montana.

12           (5) "Livestock" means cattle, horses, mules, asses, sheep, llamas, alpacas, bison, swine, ostriches,  
13 rheas, emus, and goats.

14           (6) "Permit" means an official document issued by the department after proper application that  
15 allows the movement of animals, animal semen, or animal biologics into Montana.

16           (7) "Poultry" means domesticated birds, including but not limited to chickens, turkeys, ducks,  
17 geese, guinea fowl, pigeons, and pheasants."

18  
19           **Section 14.** Section 81-4-201, MCA, is amended to read:

20           **"81-4-201. ~~Swine, sheep, llamas, alpacas, bison, and goats~~ Animals running at large.** It is unlawful  
21 for ~~any~~ an owner or person in control of swine, sheep, llamas, alpacas, bison, ostriches, rheas, emus, or  
22 goats to willfully permit the animals to run at large."

23  
24           **Section 15.** Section 81-4-215, MCA, is amended to read:

25           **"81-4-215. Liability of owners of stock for trespass.** If ~~any~~ cattle, horses, mules, asses, hogs,  
26 sheep, llamas, alpacas, bison, ostriches, rheas, emus, or other domestic animals break into ~~any~~ an  
27 enclosure and the fence of the enclosure is legal, as provided in 81-4-101, the owner of the animals is liable  
28 for all damages to the owner or occupant of the enclosure. This section may not be construed to require  
29 a legal fence in order to maintain an action for injury done by animals running at large contrary to law."

1           **Section 16.** Section 81-4-306, MCA, is amended to read:

2           **"81-4-306. Penalty for permitting animals to run at large in herd districts.** (1) ~~Any~~ A person who  
3 is the owner or entitled to the possession of ~~any~~ horses, mules, cattle, sheep, llamas, alpacas, bison, asses,  
4 hogs, ostriches, rheas, emus, or goats, and who willfully permits the animals to run at large within ~~any~~ a  
5 herd district; is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than  
6 \$50 or more than \$250 for each offense. Each day that each five head or less of horses, mules, cattle,  
7 sheep, llamas, alpacas, bison, asses, hogs, ostriches, rheas, emus, or goats are willfully permitted to run  
8 at large constitutes a separate offense.

9           (2) ~~Any~~ A person who is the owner or entitled to the possession of ~~any~~ a bull, stallion, or jackass  
10 over 1 year of age who willfully permits the animal to run at large within ~~any~~ a herd district is guilty of a  
11 misdemeanor and upon conviction shall be punished by a fine of not less than \$50 or more than \$250 for  
12 each offense. Each day that a bull is permitted to run at large constitutes a separate offense."  
13

14           **Section 17.** Section 81-4-401, MCA, is amended to read:

15           **"81-4-401. Certain livestock not to run at large in municipalities.** Horses, cattle, mules, sheep,  
16 llamas, alpacas, bison, goats, ostriches, rheas, emus, or swine may not be allowed to run at large in ~~any~~  
17 an incorporated city or town."  
18

19           **Section 18.** Section 81-4-402, MCA, is amended to read:

20           **"81-4-402. Punishment for permitting trespass of livestock.** ~~Any~~ A person owning livestock or  
21 having in charge ~~of any~~ horses, mules, cattle, sheep, llamas, alpacas, bison, goats, ostriches, rheas, emus,  
22 or swine who willfully and unlawfully permits the livestock to trespass in violation of any of the provisions  
23 of 81-4-401 is guilty of a misdemeanor and upon conviction shall be punished as provided by law."  
24

25           **Section 19.** Section 81-4-601, MCA, is amended to read:

26           **"81-4-601. Estray defined.** In this part, "estrays" means a horse, mule, mare, gelding, colt, llama,  
27 alpaca, bison, cow, ox, bull, stag, steer, heifer, calf, ostrich, rhea, emu, sheep, or lamb:

28           (1) not bearing a brand and the ownership of which cannot be determined by the stock inspector  
29 of the district in which the animal is found by inquiry among reputable resident stock owners or freeholders;

30           (2) bearing a recorded brand, the owner of which brand cannot be located at or through the post

1 office designated on the records of the department or which owner cannot be located by the stock  
 2 inspector of the district where the estray is found by inquiry among reputable resident stock owners or  
 3 freeholders; or

4 (3) ~~which~~ that bears an unrecorded brand, the owner of which unrecorded brand cannot be  
 5 ascertained by the stock inspector of the district in which the animal is found by inquiry among reputable  
 6 resident stock owners or freeholders."

7

8 **Section 20.** Section 81-5-101, MCA, is amended to read:

9 **"81-5-101. Moving livestock from customary range forbidden.** ~~Every~~ A person who willfully moves  
 10 or causes to be moved ~~any~~ cattle, horses, mules, swine, llamas, alpacas, bison, ostriches, rheas, emus,  
 11 or sheep from their customary range without the permission of the owner is punishable by imprisonment  
 12 in the county jail not exceeding 90 days or by fine not exceeding \$100, or both."

13

14 **Section 21.** Section 81-5-104, MCA, is amended to read:

15 **"81-5-104. Stolen livestock -- seizure and forfeiture of vehicle and certain other property used in**  
 16 **theft or transportation.** (1) The use of ~~any~~ a vehicle, money, equipment, or personalty for the theft or  
 17 transportation of ~~any~~ a stolen mule, horse, mare, colt, foal, filly, sheep, lamb, cow, calf, heifer, steer, bull,  
 18 llama, alpaca, bison, hogs, poultry, ostrich, rhea, emu, or the products of ~~any~~ stolen livestock is unlawful.  
 19 Any vehicle, money, equipment, or personalty used for the theft or unlawful transportation or upon  
 20 probable cause believed to be devoted wholly or in part to the theft or unlawful transportation must be  
 21 seized and held.

22 (2) Within 45 days after the seizure, ~~any~~ a peace officer or officer of the agency that seizes ~~any~~  
 23 the property shall file a petition to institute forfeiture proceedings with the clerk of the district court of the  
 24 county in which the seizure occurs. The clerk shall issue a summons at the request of the petitioning party,  
 25 who shall ~~cause~~ serve the summons ~~to be served~~ upon all owners or claimants of the property by one of  
 26 the following methods:

27 (a) upon an owner or claimant whose address is known, by personal service of a copy of the  
 28 petition and summons as provided in the Montana Rules of Civil Procedure;

29 (b) upon an owner or claimant whose address is unknown but who is believed to have an interest  
 30 in the property, by publication of the summons in one issue of a newspaper of general circulation in the

1 county where the seizure occurred or, if there is no newspaper of general county circulation, by publication  
 2 in one issue of a newspaper of general circulation in an adjoining county, and by mailing a copy of the  
 3 petition and summons to the most recent address of the owner or claimant, if any, shown in the records  
 4 of the division of motor vehicles.

5 (3) A vehicle is not subject to forfeiture under this section if:

6 (a) it is a stolen vehicle at the time it is used for unlawful transportation; or

7 (b) the vehicle owner is not in collusion with the party or parties guilty of the theft."  
 8

9 **Section 22.** Section 81-6-302, MCA, is amended to read:

10 **"81-6-302. Definitions.** As used in this part, the following definitions apply:

11 (1) "Commission" means the livestock crimestoppers commission created in 2-15-3104.

12 (2) "Department" means the department of livestock created in Title 2, chapter 15, part 31.

13 (3) "Livestock" includes ostriches, rheas, and emus in addition to other livestock.

14 ~~(3)~~(4) "Program" means the livestock crimestoppers program created under 81-6-313."  
 15

16 **Section 23.** Section 81-7-401, MCA, is amended to read:

17 **"81-7-401. Killing of dogs harassing, destroying, or injuring stock -- notice to owner -- penalty.** (1)

18 As used in this section, "harasses" means worries, chases, or runs after livestock, including ostriches,  
 19 rheas, and emus, in a manner that may lead to subsequent injury to the livestock.

20 (2) A dog, whether licensed or not, that, while off the premises owned or under control of its  
 21 owner and on property owned, leased, or controlled by the livestock owner, harasses, kills, wounds, or  
 22 injures livestock not belonging to the owner of the dog is considered a public nuisance and:

23 (a) may be killed immediately by the owner of the livestock or an agent or employee of the owner;  
 24 or

25 (b) the owner of the dog, when reasonably notified after due process, shall kill the dog within 24  
 26 hours of notification. If the owner fails to do so, an officer may be notified and shall kill the dog or cause  
 27 the dog to be killed.

28 (3) A dog may not be killed in a manner that will endanger a person.

29 (4) This section does not apply to a dog herding livestock under the direction of its owner or the  
 30 agents or employees of its owner.



1           (5) This section does not apply to a dog engaged in legitimate sport hunting or predator control  
2 activities under the direction of its owner or the agents or employees of its owner.

3           (6) The owner of a dog that harasses, kills, wounds, or injures livestock is guilty of a misdemeanor  
4 and upon conviction shall be fined not more than \$500."

5

6           **Section 24.** Section 87-3-130, MCA, is amended to read:

7           **"87-3-130. Taking of wildlife to protect persons or livestock.** ~~(1) Nothing in this~~ This chapter may  
8 not be construed to impose, by implication or otherwise, criminal liability for the taking of wildlife protected  
9 by this chapter if ~~such~~ the wildlife is molesting, assaulting, killing, or threatening to kill ~~any~~ a person or  
10 livestock. ~~Any~~ A person who so takes ~~any~~ wildlife protected by this chapter shall notify the department  
11 within 72 hours.

12           (2) As used in this section, "livestock" includes ostriches, rheas, and emus."

13

14           NEW SECTION. Section 25. Applicability. [This act] applies to tax years beginning after December  
15 31, 1995.

16

-END-

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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0520, as introduced

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DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the laws relating to livestock by classifying ostriches, rheas, and emus as livestock; and providing an applicability date.

ASSUMPTIONS:

1. The proposal would result in slight property tax revenue increases due to the inclusion of ostriches, rheas, and emus as livestock and therefore subject property tax per Title 15, MCA. The department of revenue has no data available to make an estimate of this slight revenue increase.
2. The proposal may result in a slight property tax revenue decrease due to the possibility that property on which ostriches, rheas, and emus are raised could qualify for an agricultural tax classification. The department of revenue has no data available to make an estimate of this slight revenue decrease.
3. The Department of Livestock currently regulates ostriches, rheas, and emus for disease control purposes and are considered as poultry or other birds under the current livestock definition.
4. There could be a fiscal impact to the Department of Livestock in the areas of stolen or strayed birds and/or additional predatory animal control, but these costs would be extremely difficult to calculate.

FISCAL IMPACT:

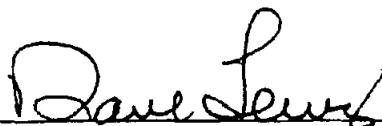
The proposal has an undetermined, slight impact on property tax revenues. Additional costs incurred with implementing the proposal could be absorbed within current funding levels.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:


The proposal has an undetermined, slight impact on property tax revenues of local governments.

TECHNICAL NOTES:

1. The proposal imposes a property tax on ostriches, rheas, and emus. Without language explicitly defining the valuation methodology for these animals the Department of Revenue feels that it would be very difficult to determine a fair market value for these birds.
2. It is unclear if the proposal intends to include ostriches, rheas, and emus as livestock subject to the per capita tax levy to pay expenses of enforcing livestock laws per 15-24-921, MCA.

 2-17-95

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



DAN FUCHS, PRIMARY SPONSOR                      DATE

Fiscal Note for HB520, as introduced

**HB 520**

## HOUSE BILL NO. 520

INTRODUCED BY FUCHS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO LIVESTOCK BY CLASSIFYING OSTRICHES, RHEAS, AND EMUS AS LIVESTOCK; AMENDING SECTIONS 15-1-101, 15-24-921, 20-25-234, 23-2-633, 27-1-222, ~~33-1-206~~, 39-3-402, ~~60-7-201~~, 67-1-204, ~~69-14-707~~, ~~69-14-713~~, ~~69-14-801~~, ~~81-2-102~~, 81-2-702, 81-4-201, ~~81-4-215~~, ~~81-4-306~~, ~~81-4-401~~, ~~81-4-402~~, ~~81-4-601~~, ~~81-5-101~~, 81-5-104, 81-6-302, 81-7-401, AND 87-3-130, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

**Section 1.** Section 15-1-101, MCA, is amended to read:

**"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

(d) (i) The term "commercial", when used to describe property, means ~~any~~ property used or owned by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except property described in subsection (1)(d)(ii).

(ii) The following types of property are not commercial:

(A) agricultural lands;

(B) timberlands and forest lands;

(C) single-family residences and ancillary improvements and improvements necessary to the

1 function of a bona fide farm, ranch, or stock operation;

2 (D) mobile homes used exclusively as a residence except when held by a distributor or dealer of  
3 trailers or mobile homes as stock in trade;

4 (E) all property described in 15-6-135; and

5 (F) all property described in 15-6-136.

6 (e) The term "comparable property" means property that has similar use, function, and utility; that  
7 is influenced by the same set of economic trends and physical, governmental, and social factors; and that  
8 has the potential of a similar highest and best use.

9 (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

10 (g) "Department" means the department of revenue provided for in 2-15-1301.

11 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2).  
12 The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other  
13 natural gas found in any coal formation.

14 (i) The term "improvements" includes all buildings, structures, fences, and improvements situated  
15 upon, erected upon, or affixed to land. When the department determines that the permanency of location  
16 of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be  
17 an improvement to real property. A mobile home or housetrailer may be determined to be permanently  
18 located only when it is attached to a foundation that cannot feasibly be relocated and only when the wheels  
19 are removed.

20 (j) The term "leasehold improvements" means improvements to mobile homes and mobile homes  
21 located on land owned by another person. This property is assessed under the appropriate classification,  
22 and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on  
23 leasehold improvements are a lien only on the leasehold improvements.

24 (k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,  
25 bison, ostriches, rheas, emus, and domestic ungulates.

26 (l) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer  
27 coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another  
28 by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet  
29 in width or 45 feet in length used as a principal residence.

30 (m) The term "personal property" includes everything that is the subject of ownership but that is

1 not included within the meaning of the terms "real estate" and "improvements".

2 (n) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in  
3 domestication to produce food or feathers.

4 (o) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters  
5 and things, real, personal, and mixed, capable of private ownership. This definition may not be construed  
6 to authorize the taxation of the stocks of ~~any~~ a company or corporation when the property of the company  
7 or corporation represented by the stocks is within the state and has been taxed.

8 (p) The term "real estate" includes:

9 (i) the possession of, claim to, ownership of, or right to the possession of land;

10 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501  
11 and Title 15, chapter 23, part 8; all timber belonging to individuals or corporations growing or being on the  
12 lands of the United States; and all rights and privileges appertaining to the mines, minerals, quarries, and  
13 timber.

14 (q) "Research and development firm" means an entity incorporated under the laws of this state or  
15 a foreign corporation authorized to do business in this state whose principal purpose is to engage in  
16 theoretical analysis, exploration, and experimentation and the extension of investigative findings and  
17 theories of a scientific and technical nature into practical application for experimental and demonstration  
18 purposes, including the experimental production and testing of models, devices, equipment, materials, and  
19 processes.

20 (r) The term "taxable value" means the percentage of market or assessed value as provided for in  
21 Title 15, chapter 6, part 1.

22 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,  
23 incorporated town, township, school district, irrigation district, or drainage district, ~~or any~~ a person,  
24 persons, or organized body authorized by law to establish tax levies for the purpose of raising public  
25 revenue.

26 (3) The term "state board" or "board" when used without other qualification means the state tax  
27 appeal board."

28

29 **SECTION 2. SECTION 15-24-921, MCA, IS AMENDED TO READ:**

30 **"15-24-921. Per capita tax levy to pay expenses of enforcing livestock laws. (1) In addition to**

1 appropriations made for those purposes, a per capita tax is authorized and directed to be levied by the  
2 department on all poultry and bees, all swine 3 months of age or older, and all other livestock 9 months  
3 of age or older in each county of this state for the purpose of aiding in the payment of the salaries and all  
4 expenses connected with the enforcement of the livestock laws of the state and for the payment of  
5 bounties on wild animals as provided in 81-7-104.

6 (2) As used in this section, "livestock" means cattle, sheep, swine, poultry, bees, goats, horses,  
7 mules, asses, llamas, alpacas, domestic bison, ostriches, rheas, and emus, and domestic ungulates."  
8

9 **Section 3.** Section 20-25-234, MCA, is amended to read:

10 **"20-25-234. Purpose.** The purpose of 20-25-233 through 20-25-236 is to promote more research  
11 and education on sustainable agricultural practices, such as crop rotations, green manuring, integrated pest  
12 management, and maintenance of livestock health and quality with reduced use of growth hormones and  
13 antibiotics. Sections 20-25-233 through 20-25-236 are intended to foster economically and ecologically  
14 beneficial means of soil improvement, pest management, irrigation, cultivation, harvesting, animal  
15 husbandry, transportation, and marketing for Montana agriculture, based on methods designed to  
16 accomplish the following:

17 (1) control pests and diseases of agricultural importance through management practices and  
18 alternatives that reduce or eliminate dependence on pesticides and petrochemicals;

19 (2) improve soil fertility and tilth through the use of practices that reduce dependence on  
20 synthetically compounded petrochemical-based fertilizers;

21 (3) produce, process, and distribute food and fiber in ways that consider the interactions among  
22 soil, plants, water, air, animals, tillage, machinery, labor, energy, and transportation to enhance resource  
23 efficiency, conservation, and public health; and

24 (4) provide Montana farmers and ranchers with useful agriculture production and marketing  
25 information on alternative and specialty crops and livestock, including ostriches, rheas, and emus."  
26

27 **Section 4.** Section 23-2-633, MCA, is amended to read:

28 **"23-2-633. Other unlawful operation.** ~~No~~ A person while operating a snowmobile may not ~~use the~~  
29 ~~same:~~

30 (1) Use the snowmobile for the purpose of driving, rallying, or harassing ~~any of the~~ game animals,

1 game birds, or fur-bearing animals of the state or ~~any~~ livestock, including ostriches, rheas, and emus. An  
 2 owner of livestock is not prohibited from managing or driving ~~his own~~ the owner's livestock by the use of  
 3 snowmobiles and may direct other persons to ~~se~~ manage or drive ~~his~~ the owner's livestock; by use of  
 4 snowmobiles. ~~and the~~ The department of fish, wildlife, and parks, including its duly authorized employees,  
 5 is not prohibited from managing or driving game animals, game birds, or fur-bearing animals by the use of  
 6 snowmobiles.

7 (2) ~~to~~ discharge a firearm from or upon a snowmobile;

8 (3) operate the snowmobile without a lighted headlight and taillight between the hours of dusk and  
 9 dawn."

10

11 **Section 5.** Section 27-1-222, MCA, is amended to read:

12 **"27-1-222. Exemplary damages for inhumane injuries to animals.** (1) For wrongful injuries to  
 13 animals, being subjects of property, committed willfully or by gross negligence in disregard of humanity,  
 14 exemplary damages may be given.

15 (2) As used in this section, "animals" includes ostriches, rheas, and emus."

16

17 ~~**Section 5.** Section 33-1-206, MCA, is amended to read:~~

18 ~~**"33-1-206. Casualty insurance.** (1) Casualty insurance includes:~~

19 ~~(a) vehicle insurance which that is insurance against loss of or damage to any a land vehicle or~~  
 20 ~~aircraft or any a draft or riding animal or to property while contained therein in the land vehicle or aircraft~~  
 21 ~~or thereon on the draft or riding animal or being loaded or unloaded therein in or therefrom from the vehicle~~  
 22 ~~or aircraft or upon or from the draft or riding animal from any a hazard or cause and against any a loss,~~  
 23 ~~liability, or expense resulting from or incidental to ownership, maintenance, or use of any such a vehicle,~~  
 24 ~~aircraft, or animal, together with. Casualty insurance also includes insurance against accidental death or~~  
 25 ~~accidental injury to individuals, including the named insured, while in, entering, alighting from, adjusting,~~  
 26 ~~repairing, oranking, or caused by being struck by a vehicle, aircraft, or draft or riding animal, if such the~~  
 27 ~~insurance is issued as an incidental part of insurance on the vehicle, aircraft, or draft or riding animal;~~

28 ~~(b) liability insurance, which is insurance against legal liability for the death, injury, or disability of~~  
 29 ~~any a human being or for damage to property and provision of medical, hospital, surgical, and disability~~  
 30 ~~benefits to injured persons and funeral and death benefits to dependents, beneficiaries, or personal~~

1 ~~representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental~~  
2 ~~coverage with or supplemental to liability insurance;~~

3 ~~(c) workers' compensation and employer's liability, which is insurance of the obligations accepted~~  
4 ~~by, imposed upon, or assumed by employers under law for death, disablement, or injury of employees;~~

5 ~~(d) burglary and theft, which is insurance against loss or damage by burglary, theft, robbery,~~  
6 ~~forgery, fraud, deceptive practices, vandalism, criminal mischief, confiscation, or wrongful conversion,~~  
7 ~~disposal, or concealment or from any an attempt at any of the foregoing, including supplemental coverage~~  
8 ~~for medical, hospital, surgical, and funeral expense incurred by the named insured or any other person as~~  
9 ~~a result of bodily injury during the commission of a burglary, robbery, or theft by another; also and including~~  
10 ~~insurance against loss of or damage to moneys money, coins, bullion, securities, notes, drafts,~~  
11 ~~acceptances, or any other valuable papers and documents, resulting from any cause;~~

12 ~~(e) personal property floater, which is insurance upon personal effects against loss or damage from~~  
13 ~~any a cause under a personal property floater;~~

14 ~~(f) glass, which is insurance against loss or damage to glass, including its lettering, ornamentation,~~  
15 ~~and fittings;~~

16 ~~(g) boiler and machinery, which is insurance against any liability and loss or damage to property~~  
17 ~~or interest resulting from accident to or explosions of boilers, pipes, pressure containers, machinery, or~~  
18 ~~apparatus and from making inspection of and issuing certificates of inspection upon boilers, machinery, and~~  
19 ~~apparatus of any kind, whether or not insured;~~

20 ~~(h) leakage and fire extinguishing equipment, which is insurance against loss or damage to any~~  
21 ~~property or interest caused by the breakage or leakage of sprinklers, hoses, pumps, and other fire~~  
22 ~~extinguishing equipment or apparatus, water pipes, or containers or by water entering through leaks or~~  
23 ~~openings in buildings and insurance against loss or damage to such the sprinklers, hoses, pumps, and other~~  
24 ~~fire extinguishing equipment or apparatus;~~

25 ~~(i) credit, which is insurance against loss or damage resulting from failure of debtors to pay their~~  
26 ~~obligations to the insured;~~

27 ~~(j) malpractice, which is insurance against legal liability of the insured and against loss, damage,~~  
28 ~~or expense incidental to a claim of such liability, including medical, hospital, surgical, and funeral benefits~~  
29 ~~to injured persons, irrespective of legal liability of the insured, arising out of the death, injury, or~~  
30 ~~disablement of any a person or arising out of damage to the economic interest of any a person, as the result~~



1 of negligence in rendering expert, fiduciary, or professional service;

2 ~~(k) elevator, which is insurance against loss of or damage to any property of the insured, resulting~~  
 3 ~~from the ownership, maintenance, or use of elevators, except loss or damage by fire and from making~~  
 4 ~~inspection of and issuing certificates of inspection upon elevators;~~

5 ~~(l) livestock, including ostriches, rheas, and emus, which is insurance against loss or damage to~~  
 6 ~~livestock and for services of a veterinary veterinarian for such the animals;~~

7 ~~(m) entertainments, which is insurance indemnifying the producer of any a motion picture,~~  
 8 ~~television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition~~  
 9 ~~against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or~~  
 10 ~~sickness of performers, participants, directors, or other principals;~~

11 ~~(n) miscellaneous, which is insurance against any other kind of loss, damage, or liability that is~~  
 12 ~~properly a subject of insurance and that is not within any other kind of insurance as defined in this part,~~  
 13 ~~if such the insurance is not disapproved by the commissioner as being contrary to law or public policy.~~

14 ~~(2) Provision of medical, hospital, surgical, and funeral benefits and of coverage against accidental~~  
 15 ~~death or injury as incidental to and part of other insurance as stated under subsections (1)(a) (vehicle),~~  
 16 ~~(1)(b) (liability), (1)(d) (burglary), and (1)(i) (malpractice) of subsection (1) shall must for all purposes be~~  
 17 ~~considered to be the same kind of insurance to which it is so incidental and shall may not be subject to~~  
 18 ~~provisions of this code applicable to life or disability insurances insurance."~~

19  
 20 **Section 6.** Section 39-3-402, MCA, is amended to read:

21 **"39-3-402. Definitions.** As used in this part, the following definitions apply:

22 (1) "Commissioner" means the commissioner of labor and industry.

23 (2) "Employ" means to suffer or permit to work.

24 (3) "Employee" means an individual employed by an employer.

25 (4)(a) "Farm or ranch" means ~~any~~ an endeavor primarily engaged in cultivating the soil or in  
 26 connection with raising or harvesting ~~any~~ an agricultural or horticultural commodity, including the raising,  
 27 shearing, feeding, caring for, training, and management of livestock, bees, and poultry and fur-bearing  
 28 animals and wildlife.

29 (b) As used in this subsection (4), "livestock" includes ostriches, rheas, and emus.

30 (5) "Farm worker" means a person employed to do ~~any~~ a service performed on a farm or ranch.

1 (6) "Occupation" means ~~any~~ an occupation, service, trade, business, industry, or branch or group  
2 of industries or employment or class of employment in which employees are gainfully employed.

3 (7) "Wage" means compensation due to an employee by reason of ~~his~~ employment, payable in legal  
4 tender of the United States or check on banks convertible into cash on demand at full face value, subject  
5 to an allowance as may be permitted by regulations of the commissioner under 39-3-403. The term "wage"  
6 includes the reasonable cost to the employer of furnishing the employee with lodging or other facility if the  
7 lodging or other facility is customarily furnished by the employer to ~~his~~ employees; ~~however~~. However, the  
8 inclusion may not exceed an amount equal to 40% of the total wage paid by the employer to the employee.  
9 The term "wage" does not include the cost to the employer of providing meals or a meal allowance to the  
10 employee or the value of ~~any~~ tips received by an employee as a gratuity for service."  
11

12 ~~Section 7. Section 60-7-201, MCA, is amended to read:~~

13 ~~"60-7-201. Grazing livestock on highway unlawful. (1) A person who owns or possesses livestock~~  
14 ~~may not permit the livestock to graze, remain upon, or occupy a part of the right-of-way of:~~

15 ~~(1)(a) a state highway running through cultivated areas or a part of the fenced right-of-way of a~~  
16 ~~state highway if in either case the highway has been designated by agreement between the highway~~  
17 ~~commission and the secretary of transportation as a part of the national system of interstate and defense~~  
18 ~~highways; or~~

19 ~~(2)(b) a state highway designated by agreement between the highway commission and the~~  
20 ~~secretary of transportation as a part of the federal aid primary system, except as provided in 60-7-202.~~

21 ~~(2) As used in this section, "livestock" includes ostriches, rheas, and emus."~~

22  
23 **Section 7.** Section 67-1-204, MCA, is amended to read:

24 **"67-1-204. Lawfulness of flight and landings.** (1) Flight in aircraft over the lands and waters of this  
25 state is lawful, unless it is at such a low altitude as to interfere with the then-existing use to which the land  
26 or water or the space over the land or water is put by the owner or unless ~~se~~ conducted as to be  
27 imminently dangerous to persons or property lawfully on the land or water or in violation of the air  
28 commerce regulations ~~which~~ that have been or may be promulgated by the department of transportation  
29 of the United States.

30 (2) Aircraft landings and takeoffs from the public waters of this state are lawful if proper safety

1 precautions regarding public waters, as prescribed in ~~Title 14~~ 14 CFR, part 91, ~~Code of Federal Regulations~~,  
 2 are taken prior to ~~such~~ the landing or takeoff, except as otherwise provided by this section.

3 (3) Aircraft landings and takeoffs from public roads in this state are lawful if proper safety  
 4 precautions, as approved by the governing jurisdiction of ~~such~~ the roads, are taken prior to ~~such~~ the landing  
 5 or takeoff, except as otherwise provided in this section. However, the local governing jurisdiction ~~shall~~ may  
 6 not incur ~~no~~ liability as a result of an approval under this subsection.

7 (4) ~~No~~ A person ~~shall~~ may not operate an aircraft, as pilot ~~thereof~~ of the aircraft, either in the air,  
 8 on the water, or on the ground, in a careless or reckless manner so as to endanger the life or property of  
 9 others, including the aircraft being operated and passengers carried ~~therein~~ in the aircraft.

10 (5) The willful and malicious use of aircraft in stunting or diving over livestock in a manner  
 11 calculated to frighten or stampede them ~~shall be deemed~~ is an unlawful use ~~thereof~~ of aircraft, and actual  
 12 and punitive damages, in addition to the penalties provided by this part, may be recovered in an action for  
 13 damages caused ~~therefrom~~ by the willful and malicious use of the aircraft. As used in this subsection,  
 14 "livestock" includes ostriches, rheas, and emus.

15 (6) The landing of an aircraft on the private lands or waters of another without ~~his~~ consent is  
 16 unlawful, except in the case of a forced landing. For damages caused by a forced landing, however, the  
 17 owner or lessee of the aircraft or the pilot ~~shall be~~ is liable for actual damage caused by ~~such~~ the forced  
 18 landing.

19 (7) ~~No~~ A person may not knowingly operate, attempt to operate, or be in actual physical control  
 20 of an aircraft while under the influence of alcohol or drugs. "Under the influence" means that as a result  
 21 of taking into the body alcohol, drugs, or any combination ~~thereof~~ of alcohol and drugs, a person's ability  
 22 to safely operate the aircraft has been diminished to the slightest degree.

23 (8) A person having information regarding a violation of subsection (7) shall report ~~such~~ the  
 24 information to the department."  
 25

26

26 ~~Section 9. Section 69-14-707, MCA, is amended to read:~~

27 ~~"69-14-707. Liability for negligent destruction of domestic animals. Every railroad corporation or~~  
 28 ~~company operating any a railroad or branch thereof of a railroad within the limits of this state which shall~~  
 29 ~~that negligently injure injures or kill any kills a horse, mare, gelding, filly, jack, jenny, mule, cow, heifer, bull,~~  
 30 ~~ox, steer, calf, ostrich, rhea, emu, or other domestic animal by running any an engine or car over or against~~

1 any such ~~the~~ animal shall be ~~is~~ liable to the owner of such ~~the~~ animal for the damages sustained by such  
 2 ~~the~~ owner by reason thereof. The killing or injury shall be ~~is~~ prima facie evidence of negligence on the part  
 3 of such ~~the~~ corporation or company."

4  
 5 **Section 10.** ~~Section 69-14-713, MCA, is amended to read:~~

6 ~~"69-14-713. Violation of provisions dealing with injury to livestock. (1)(a) Except as otherwise~~  
 7 ~~provided, every a person who violates any of the provisions of 69-14-701 through 69-14-712 relating to~~  
 8 ~~livestock killed or injured by railroads is guilty of a misdemeanor.~~

9 ~~(b) As used in this subsection (1), "livestock" includes ostriches, rheas, and emus.~~

10 ~~(2) Any A person violating who violates any of the provisions of 69-14-711 or 69-14-712 shall~~  
 11 ~~upon conviction thereof of a violation be punished by a fine of not less than \$10 or more than \$300 or by~~  
 12 ~~imprisonment in the county jail for a period of not less than 10 days or more than 60 days or by both such~~  
 13 ~~a fine and imprisonment."~~

14  
 15 **Section 11.** ~~Section 69-14-801, MCA, is amended to read:~~

16 ~~"69-14-801. Maintenance of loading platform by railroad. (1)(a) Every A railroad company doing~~  
 17 ~~business in this state shall, within 60 days after notice from the commission, erect one or more platforms~~  
 18 ~~for the transfer of livestock, grain, and other commodities from wagons or otherwise to cars at each and~~  
 19 ~~every station or siding designated in such the notice, such The platforms to must be erected so as not to~~  
 20 ~~endanger life and property.~~

21 ~~(b) As used in this subsection (1), "livestock" includes ostriches, rheas, and emus.~~

22 ~~(2) If any a railroad company, after receiving notice as provided for in this section, shall fail, refuse,~~  
 23 ~~or neglect to erect platforms as required by this section within the required 60 days, the commission is~~  
 24 ~~authorized and empowered and it is made its duty to shall notify such the railroad company to appear~~  
 25 ~~before it at a certain time and place and show cause, if there is any, why such the commission should not~~  
 26 ~~issue an order requiring such the railroad company to comply with the requirements of this section. The~~  
 27 ~~commission shall have power may, after such the hearing, to issue an order upon said to the railroad~~  
 28 ~~company commanding it to erect such a platform if the commission shall upon such examination and~~  
 29 ~~hearing deem such considers a platform necessary.~~

30 ~~(3) Any A notice required to be served upon any a railroad company to carry out any of the~~

1 provisions of this section or similar provisions relating to the enlarging of such platforms may be served  
2 upon any an agent of said the company within the state."

3  
4 **Section 12.** ~~Section 81-2-102, MCA, is amended to read:~~

5 **"81-2-102. Powers of department.** (1) ~~The department may:~~

6 ~~(a) supervise the sanitary conditions of livestock in this state, under the provisions of the~~  
7 ~~constitution and statutes of this state and the rules adopted by the department. The department may~~  
8 ~~quarantine a lot, yard, land, building, room, premises, enclosure, or other place or section in this state~~  
9 ~~which that is or may be used or occupied by livestock and which that in the judgment of the department~~  
10 ~~is infected or contaminated with an infectious, contagious, communicable, or dangerous disease or~~  
11 ~~disease-carrying medium by which the disease may be communicated. The department may quarantine~~  
12 ~~livestock in this state when the livestock is affected with or has been exposed to disease or~~  
13 ~~disease-carrying medium. The department may prescribe treatments and enforce sanitary rules which that~~  
14 ~~are necessary and proper to circumscribe, extirpate, control, or prevent the disease.~~

15 ~~(b) foster, promote, and protect the livestock industry in this state by the investigation of diseases~~  
16 ~~and other subjects related to ways and means of prevention, extirpation, and control of diseases or to the~~  
17 ~~care of livestock and its products and to this end may establish and maintain a laboratory, may make or~~  
18 ~~cause to be made biologic products, curatives, and preventative agents, and may perform any other acts~~  
19 ~~and things as may be necessary or proper in the fostering, promotion, or protection of the livestock industry~~  
20 ~~in this state;~~

21 ~~(c) impose and collect such fees as the department considers appropriate for the tests and services~~  
22 ~~performed by it at the laboratory or elsewhere and for biologic products, curatives, and preventative agents~~  
23 ~~made or caused to be made by the department. In fixing these fees, the department shall take into~~  
24 ~~consideration the costs, both direct and indirect, of the tests, services, products, curatives, and agents.~~  
25 ~~All fees shall must be deposited in the state special revenue fund for the use of the animal health functions~~  
26 ~~of the department.~~

27 ~~(d) adopt rules and orders which that it considers necessary or proper to prevent the introduction~~  
28 ~~or spreading of infectious, contagious, communicable, or dangerous diseases affecting livestock in this state~~  
29 ~~and to this end may adopt rules and orders necessary or proper governing inspections and tests of livestock~~  
30 ~~intended for importation into this state before it may be imported into this state;~~

1           ~~(e) adopt rules and orders which that it considers necessary or proper for the inspection, testing,~~  
2 ~~and quarantine of all livestock imported into this state;~~

3           ~~(f) adopt rules and orders which that it considers necessary or proper for the supervision,~~  
4 ~~inspection, and control of the standards and sanitary conditions of slaughterhouses, meat depots, meat and~~  
5 ~~meat food products, dairies, milk depots, milk and its byproducts, barns, dairy cows, factories, and other~~  
6 ~~places and premises where meat or meat foods, milk or its products, or any byproducts thereof intended~~  
7 ~~for sale or consumption as food are produced, kept, handled, or stored. An authorized representative of the~~  
8 ~~department may take samples of a product so produced, kept, handled, or stored for analysis or testing by~~  
9 ~~the department. The records of the samples and their analysis and test, when identified as to the sample~~  
10 ~~by the oath of the officer taking it and verified as to the analysis or test by the oath of the chemist or~~  
11 ~~bacteriologist making it, are prima facie evidence of the facts set forth in them when offered in evidence~~  
12 ~~in a prosecution or action at law or in equity for violation of part 1, 2, or 3 of this chapter, 81-9-201,~~  
13 ~~81-20-101, 81-21-102, 81-21-103, or a rule or order of the board adopted thereunder. These standards,~~  
14 ~~insofar as they relate to dairies or milk and its byproducts, may not include standards of weight or~~  
15 ~~measurement.~~

16           ~~(g) adopt rules and orders which that seem necessary or proper for the supervision and control of~~  
17 ~~manufactured and refined foods for livestock and the manufacture, importation, sale, and method of using~~  
18 ~~a biologic remedy or curative agent for the treatment of diseases of livestock. However, as far as~~  
19 ~~practicable the standards approved by the United States department of agriculture shall must be adopted.~~

20           ~~(h) install an adequate system of meat inspection in accordance with 81-9-216 through 81-9-220~~  
21 ~~and 81-9-226 through 81-9-236 which that shall provide ways and means for chipping home grown and~~  
22 ~~home killed meats into any city in this state. As far as practicable, the rules shall must conform with the~~  
23 ~~meat inspection requirements of the United States department of agriculture.~~

24           ~~(i) slaughter or cause to be slaughtered any livestock in this state that are known to be affected~~  
25 ~~with or which that has have been exposed to an infectious, contagious, communicable, or dangerous~~  
26 ~~disease, when such the slaughter is necessary for the protection of other livestock, and destroy or cause~~  
27 ~~to be destroyed all barns, stables, sheds, outbuildings, fixtures, furniture, or personal property infected with~~  
28 ~~any such an infectious, contagious, communicable, or dangerous disease when they cannot be thoroughly~~  
29 ~~cleaned and disinfected and the destruction is necessary to prevent the spreading of the disease;~~

30           ~~(j) indemnify the owner of any property destroyed by order of the department or pursuant to any~~

1 ~~rules adopted by the department under part 1, 2, or 3 of this chapter, 81-20-101, 81-21-102, or~~  
 2 ~~81-21-103;~~

3 ~~(k) require persons, firms, and corporations engaged in the production or handling of meat, meat~~  
 4 ~~food products, dairy products, or any byproducts thereof to furnish statistics of the quantity and cost of~~  
 5 ~~the food and food products produced or handled and the name and address of persons supplying them any~~  
 6 ~~of the products.~~

7 ~~(2) When in the exercise of its powers or the discharge of its duties it becomes necessary for~~  
 8 ~~employees of the department to investigate facts and conditions, they may administer oaths, take affidavits,~~  
 9 ~~and compel the attendance and testimony of witnesses.~~

10 ~~(3) As used in this section, "livestock" includes ostriches, rheas, and emus."~~

11

12 **Section 8.** Section 81-2-702, MCA, is amended to read:

13 **"81-2-702. Definitions.** As used in this part, the following definitions apply:

14 (1) "Animals" means livestock, dogs, cats, rabbits, rodents, game animals, game farm animals,  
 15 fur-bearing and wild animals, and poultry and other birds.

16 (2) "Biologics" means medicinal preparations made from living organisms and their products. ~~†~~ The  
 17 term includes but is not limited to serums, vaccines, antigens, and antitoxins.

18 (3) "Department" means the department of livestock.

19 (4) "Health certificate" means a legible record written on an official health certificate form of the  
 20 state of origin or on an equivalent form of the U.S. department of agriculture attesting that the animals,  
 21 animal semen, or animal biologics described on the certificate have been visually inspected by a federally  
 22 accredited veterinarian and found to meet the entry requirements of the state of Montana.

23 (5) "Livestock" means cattle, horses, mules, asses, sheep, llamas, alpacas, bison, swine, ostriches,  
 24 rheas, emus, and goats.

25 (6) "Permit" means an official document issued by the department after proper application that  
 26 allows the movement of animals, animal semen, or animal biologics into Montana.

27 (7) "Poultry" means domesticated birds, including but not limited to chickens, turkeys, ducks,  
 28 geese, guinea fowl, pigeons, and pheasants."

29

30 **Section 9.** Section 81-4-201, MCA, is amended to read:

1           ~~"81-4-201. Swine, sheep, llamas, alpacas, bison, and goats~~ Animals running at large. It is unlawful  
2 for ~~any an~~ owner or person in control of swine, sheep, llamas, alpacas, bison, ostriches, rheas, emus, or  
3 goats to willfully permit the animals to run at large."  
4

5           ~~Section 15. Section 81-4-215, MCA, is amended to read:~~

6           ~~"81-4-215. Liability of owners of stock for trespass. If any cattle, horses, mules, asses, hogs,~~  
7 ~~sheep, llamas, alpacas, bison, ostriches, rheas, emus, or other domestic animals break into any an~~  
8 ~~enclosure and the fence of the enclosure is legal, as provided in 81-4-101, the owner of the animals is liable~~  
9 ~~for all damages to the owner or occupant of the enclosure. This section may not be construed to require~~  
10 ~~a legal fence in order to maintain an action for injury done by animals running at large contrary to law."~~

11  
12           ~~Section 16. Section 81-4-306, MCA, is amended to read:~~

13           ~~"81-4-306. Penalty for permitting animals to run at large in herd districts. (1) Any A person who~~  
14 ~~is the owner or entitled to the possession of any horses, mules, cattle, sheep, llamas, alpacas, bison, asses,~~  
15 ~~hogs, ostriches, rheas, emus, or goats, and who willfully permits the animals to run at large within any a~~  
16 ~~herd district, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than~~  
17 ~~\$50 or more than \$250 for each offense. Each day that each five head or less of horses, mules, cattle,~~  
18 ~~sheep, llamas, alpacas, bison, asses, hogs, ostriches, rheas, emus, or goats are willfully permitted to run~~  
19 ~~at large constitutes a separate offense.~~

20           ~~(2) Any A person who is the owner or entitled to the possession of any a bull, stallion, or jackass~~  
21 ~~over 1 year of age who willfully permits the animal to run at large within any a herd district is guilty of a~~  
22 ~~misdemeanor and upon conviction shall be punished by a fine of not less than \$50 or more than \$250 for~~  
23 ~~each offense. Each day that a bull is permitted to run at large constitutes a separate offense."~~

24  
25           ~~Section 17. Section 81-4-401, MCA, is amended to read:~~

26           ~~"81-4-401. Certain livestock not to run at large in municipalities. Horses, cattle, mules, sheep,~~  
27 ~~llamas, alpacas, bison, goats, ostriches, rheas, emus, or swine may not be allowed to run at large in any~~  
28 ~~an incorporated city or town."~~

29  
30           ~~Section 18. Section 81-4-402, MCA, is amended to read:~~



1           ~~"81-4-402. Punishment for permitting trespass of livestock. Any A person owning livestock or~~  
 2 ~~having in charge of any horses, mules, cattle, sheep, llamas, alpacas, bison, goats, ostriches, rheas, emus,~~  
 3 ~~or swine who willfully and unlawfully permits the livestock to trespass in violation of any of the provisions~~  
 4 ~~of 81-4-401 is guilty of a misdemeanor and upon conviction shall be punished as provided by law."~~

5  
 6           ~~Section 19. Section 81-4-601, MCA, is amended to read:~~

7           ~~"81-4-601. Estray defined. In this part, "ostray" means a horse, mule, mare, gelding, colt, llama,~~  
 8 ~~alpaca, bison, cow, ox, bull, stag, steer, heifer, calf, ostrich, rhea, emu, sheep, or lamb:~~

9           ~~(1) not bearing a brand and the ownership of which cannot be determined by the stock inspector~~  
 10 ~~of the district in which the animal is found by inquiry among reputable resident stock owners or freeholders;~~

11           ~~(2) bearing a recorded brand, the owner of which brand cannot be located at or through the post~~  
 12 ~~office designated on the records of the department or which owner cannot be located by the stock~~  
 13 ~~inspector of the district where the estray is found by inquiry among reputable resident stock owners or~~  
 14 ~~freeholders; or~~

15           ~~(3) which that bears an unrecorded brand, the owner of which unrecorded brand cannot be~~  
 16 ~~ascertained by the stock inspector of the district in which the animal is found by inquiry among reputable~~  
 17 ~~resident stock owners or freeholders."~~

18  
 19           ~~Section 20. Section 81-5-101, MCA, is amended to read:~~

20           ~~"81-5-101. Moving livestock from customary range forbidden. Every A person who willfully moves~~  
 21 ~~or causes to be moved any cattle, horses, mules, swine, llamas, alpacas, bison, ostriches, rheas, emus,~~  
 22 ~~or sheep from their customary range without the permission of the owner is punishable by imprisonment~~  
 23 ~~in the county jail not exceeding 90 days or by fine not exceeding \$100, or both."~~

24  
 25           ~~Section 10. Section 81-5-104, MCA, is amended to read:~~

26           ~~"81-5-104. Stolen livestock -- seizure and forfeiture of vehicle and certain other property used in~~  
 27 ~~theft or transportation. (1) The use of any a vehicle, money, equipment, or personalty for the theft or~~  
 28 ~~transportation of any a stolen mule, horse, mare, colt, foal, filly, sheep, lamb, cow, calf, heifer, steer, bull,~~  
 29 ~~llama, alpaca, bison, hogs, poultry, ostrich, rhea, emu, or the products of any stolen livestock is unlawful.~~  
 30 ~~Any vehicle, money, equipment, or personalty used for the theft or unlawful transportation or upon~~

1 probable cause believed to be devoted wholly or in part to the theft or unlawful transportation must be  
2 seized and held.

3 (2) Within 45 days after the seizure, ~~any~~ a peace officer or officer of the agency that seizes ~~any~~  
4 the property shall file a petition to institute forfeiture proceedings with the clerk of the district court of the  
5 county in which the seizure occurs. The clerk shall issue a summons at the request of the petitioning party,  
6 who shall ~~cause~~ serve the summons ~~to be served~~ upon all owners or claimants of the property by one of  
7 the following methods:

8 (a) upon an owner or claimant whose address is known, by personal service of a copy of the  
9 petition and summons as provided in the Montana Rules of Civil Procedure;

10 (b) upon an owner or claimant whose address is unknown but who is believed to have an interest  
11 in the property, by publication of the summons in one issue of a newspaper of general circulation in the  
12 county where the seizure occurred or, if there is no newspaper of general county circulation, by publication  
13 in one issue of a newspaper of general circulation in an adjoining county<sup>7</sup> and by mailing a copy of the  
14 petition and summons to the most recent address of the owner or claimant, if any, shown in the records  
15 of the division of motor vehicles.

16 (3) A vehicle is not subject to forfeiture under this section if:

17 (a) it is a stolen vehicle at the time it is used for unlawful transportation; or

18 (b) the vehicle owner is not in collusion with the party or parties guilty of the theft."  
19

20 **Section 11.** Section 81-6-302, MCA, is amended to read:

21 **"81-6-302. Definitions.** As used in this part, the following definitions apply:

22 (1) "Commission" means the livestock crimestoppers commission created in 2-15-3104.

23 (2) "Department" means the department of livestock created in Title 2, chapter 15, part 31.

24 (3) "Livestock" includes ostriches, rheas, and emus in addition to other livestock.

25 ~~(3)(4)~~ "Program" means the livestock crimestoppers program created under 81-6-313."  
26

27 **Section 12.** Section 81-7-401, MCA, is amended to read:

28 **"81-7-401. Killing of dogs harassing, destroying, or injuring stock -- notice to owner -- penalty. (1)**

29 As used in this section, "harasses" means worries, chases, or runs after livestock, including ostriches,  
30 rheas, and emus, in a manner that may lead to subsequent injury to the livestock.

1 (2) A dog, whether licensed or not, that, while off the premises owned or under control of its  
 2 owner and on property owned, leased, or controlled by the livestock owner, harasses, kills, wounds, or  
 3 injures livestock not belonging to the owner of the dog is considered a public nuisance and:

4 (a) may be killed immediately by the owner of the livestock or an agent or employee of the owner;  
 5 or

6 (b) the owner of the dog, when reasonably notified after due process, shall kill the dog within 24  
 7 hours of notification. If the owner fails to do so, an officer may be notified and shall kill the dog or cause  
 8 the dog to be killed.

9 (3) A dog may not be killed in a manner that will endanger a person.

10 (4) This section does not apply to a dog herding livestock under the direction of its owner or the  
 11 agents or employees of its owner.

12 (5) This section does not apply to a dog engaged in legitimate sport hunting or predator control  
 13 activities under the direction of its owner or the agents or employees of its owner.

14 (6) The owner of a dog that harasses, kills, wounds, or injures livestock is guilty of a misdemeanor  
 15 and upon conviction shall be fined not more than \$500."

16

17 **Section 13.** Section 87-3-130, MCA, is amended to read:

18 "**87-3-130. Taking of wildlife to protect persons or livestock.** ~~(1) Nothing in this~~ This chapter may  
 19 not be construed to impose, by implication or otherwise, criminal liability for the taking of wildlife protected  
 20 by this chapter if ~~such~~ the wildlife is molesting, assaulting, killing, or threatening to kill ~~any~~ a person or  
 21 livestock. ~~Any~~ A person who so takes ~~any~~ wildlife protected by this chapter shall notify the department  
 22 within 72 hours.

23 (2) As used in this section, "livestock" includes ostriches, rheas, and emus."

24

25 NEW SECTION. **Section 14. Applicability.** [This act] applies to tax years beginning after December  
 26 31, 1995.

27

-END-

## 1 HOUSE BILL NO. 520

2 INTRODUCED BY FUCHS

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO LIVESTOCK  
5 BY CLASSIFYING OSTRICHES, RHEAS, AND EMUS AS LIVESTOCK; AMENDING SECTIONS 15-1-101,  
6 15-24-921, 20-25-234, 23-2-633, 27-1-222, ~~33-1-206~~, 39-3-402, ~~60-7-201~~, 67-1-204, ~~69-14-707~~,  
7 ~~69-14-713~~, ~~69-14-801~~, ~~81-2-102~~, 81-2-702, 81-4-201, ~~81-4-215~~, ~~81-4-306~~, ~~81-4-401~~, ~~81-4-402~~,  
8 ~~81-4-601~~, ~~81-5-101~~, 81-5-104, 81-6-302, 81-7-401, AND 87-3-130, MCA; AND PROVIDING AN  
9 APPLICABILITY DATE."

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL  
NOT BE REPRINTED. PLEASE REFER TO SECOND  
READING COPY (YELLOW) FOR COMPLETE TEXT.

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 6 ~~15-24-921, 20-25-234, 23-2-633, 27-1-222, 33-1-206, 39-3-402, 60-7-201, 67-1-204, 69-14-707,~~  
 7 ~~69-14-713, 69-14-801, 81-2-102, 81-2-702, 81-4-201, 81-4-216, 81-4-306, 81-4-401, 81-4-402,~~  
 8 ~~81-4-601, 81-5-101,~~ 81-5-104, 81-6-302, 81-7-401, AND 87-3-130, MCA; AND PROVIDING AN  
 9 APPLICABILITY DATE."

10

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

12

13 Section 1. Section 15-1-101, MCA, is amended to read:

14 "15-1-101. Definitions. (1) Except as otherwise specifically provided, when terms mentioned in  
 15 this section are used in connection with taxation, they are defined in the following manner:

16 (a) The term "agricultural" refers to:

17 (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and  
 18 vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for  
 19 commercial purposes; and

20 (ii) the raising of domestic animals and wildlife in domestication or a captive environment.

21 (b) The term "assessed value" means the value of property as defined in 15-8-111.

22 (c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the  
 23 profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

24 (d) (i) The term "commercial", when used to describe property, means ~~any~~ property used or owned  
 25 by a business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except  
 26 property described in subsection (1)(d)(ii).

27 (ii) The following types of property are not commercial:

28 (A) agricultural lands;

29 (B) timberlands and forest lands;

30 (C) single-family residences and ancillary improvements and improvements necessary to the

1 function of a bona fide farm, ranch, or stock operation;

2 (D) mobile homes used exclusively as a residence except when held by a distributor or dealer of  
3 trailers or mobile homes as stock in trade;

4 (E) all property described in 15-6-135; and

5 (F) all property described in 15-6-136.

6 (e) The term "comparable property" means property that has similar use, function, and utility; that  
7 is influenced by the same set of economic trends and physical, governmental, and social factors; and that  
8 has the potential of a similar highest and best use.

9 (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

10 (g) "Department" means the department of revenue provided for in 2-15-1301.

11 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2).  
12 The terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other  
13 natural gas found in any coal formation.

14 (i) The term "improvements" includes all buildings, structures, fences, and improvements situated  
15 upon, erected upon, or affixed to land. When the department determines that the permanency of location  
16 of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be  
17 an improvement to real property. A mobile home or housetrailer may be determined to be permanently  
18 located only when it is attached to a foundation that cannot feasibly be relocated and only when the wheels  
19 are removed.

20 (j) The term "leasehold improvements" means improvements to mobile homes and mobile homes  
21 located on land owned by another person. This property is assessed under the appropriate classification,  
22 and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on  
23 leasehold improvements are a lien only on the leasehold improvements.

24 (k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,  
25 bison, ostriches, rheas, emus, and domestic ungulates.

26 (l) The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer  
27 coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another  
28 by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet  
29 in width or 45 feet in length used as a principal residence.

30 (m) The term "personal property" includes everything that is the subject of ownership but that is

1 not included within the meaning of the terms "real estate" and "improvements".

2 (n) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in  
3 domestication to produce food or feathers.

4 (o) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters  
5 and things, real, personal, and mixed, capable of private ownership. This definition may not be construed  
6 to authorize the taxation of the stocks of ~~any~~ a company or corporation when the property of the company  
7 or corporation represented by the stocks is within the state and has been taxed.

8 (p) The term "real estate" includes:

9 (i) the possession of, claim to, ownership of, or right to the possession of land;

10 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501  
11 and Title 15, chapter 23, part 8; all timber belonging to individuals or corporations growing or being on the  
12 lands of the United States; and all rights and privileges appertaining to the mines, minerals, quarries, and  
13 timber.

14 (q) "Research and development firm" means an entity incorporated under the laws of this state or  
15 a foreign corporation authorized to do business in this state whose principal purpose is to engage in  
16 theoretical analysis, exploration, and experimentation and the extension of investigative findings and  
17 theories of a scientific and technical nature into practical application for experimental and demonstration  
18 purposes, including the experimental production and testing of models, devices, equipment, materials, and  
19 processes.

20 (r) The term "taxable value" means the percentage of market or assessed value as provided for in  
21 Title 15, chapter 6, part 1.

22 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,  
23 incorporated town, township, school district, irrigation district, or drainage district, ~~or any~~ a person,  
24 persons, or organized body authorized by law to establish tax levies for the purpose of raising public  
25 revenue.

26 (3) The term "state board" or "board" when used without other qualification means the state tax  
27 appeal board."

28

29 **SECTION 2. SECTION 15-24-921, MCA, IS AMENDED TO READ:**

30 **"15-24-921. Per capita tax levy to pay expenses of enforcing livestock laws. (1) In addition to**

1 appropriations made for those purposes, a per capita tax is authorized and directed to be levied by the  
2 department on all poultry and bees, all swine 3 months of age or older, and all other livestock 9 months  
3 of age or older in each county of this state for the purpose of aiding in the payment of the salaries and all  
4 expenses connected with the enforcement of the livestock laws of the state and for the payment of  
5 bounties on wild animals as provided in 81-7-104.

6 (2) As used in this section, "livestock" means cattle, sheep, swine, poultry, bees, goats, horses,  
7 mules, asses, llamas, alpacas, domestic bison, ostriches, rheas, and emus, and domestic ungulates."

8

9 **Section 3.** Section 20-25-234, MCA, is amended to read:

10 "**20-25-234. Purpose.** The purpose of 20-25-233 through 20-25-236 is to promote more research  
11 and education on sustainable agricultural practices, such as crop rotations, green manuring, integrated pest  
12 management, and maintenance of livestock health and quality with reduced use of growth hormones and  
13 antibiotics. Sections 20-25-233 through 20-25-236 are intended to foster economically and ecologically  
14 beneficial means of soil improvement, pest management, irrigation, cultivation, harvesting, animal  
15 husbandry, transportation, and marketing for Montana agriculture, based on methods designed to  
16 accomplish the following:

17 (1) control pests and diseases of agricultural importance through management practices and  
18 alternatives that reduce or eliminate dependence on pesticides and petrochemicals;

19 (2) improve soil fertility and tilth through the use of practices that reduce dependence on  
20 synthetically compounded petrochemical-based fertilizers;

21 (3) produce, process, and distribute food and fiber in ways that consider the interactions among  
22 soil, plants, water, air, animals, tillage, machinery, labor, energy, and transportation to enhance resource  
23 efficiency, conservation, and public health; and

24 (4) provide Montana farmers and ranchers with useful agriculture production and marketing  
25 information on alternative and specialty crops and livestock, including ostriches, rheas, and emus."

26

27 **Section 4.** Section 23-2-633, MCA, is amended to read:

28 "**23-2-633. Other unlawful operation.** No A person while operating a snowmobile may not use the  
29 same:

30 (1) Use the snowmobile for the purpose of driving, rallying, or harassing ~~any of the~~ game animals,



1 game birds, or fur-bearing animals of the state or ~~any~~ livestock, including ostriches, rheas, and emus. An  
 2 owner of livestock is not prohibited from managing or driving ~~his own~~ the owner's livestock by the use of  
 3 snowmobiles and may direct other persons to ~~so~~ manage or drive ~~his~~ the owner's livestock; by use of  
 4 snowmobiles. ~~and the~~ The department of fish, wildlife, and parks, including its duly authorized employees,  
 5 is not prohibited from managing or driving game animals, game birds, or fur-bearing animals by the use of  
 6 snowmobiles.

7 (2) ~~to~~ discharge a firearm from or upon a snowmobile;

8 (3) operate the snowmobile without a lighted headlight and taillight between the hours of dusk and  
 9 dawn."

10  
 11 **Section 5.** Section 27-1-222, MCA, is amended to read:

12 **"27-1-222. Exemplary damages for inhumane injuries to animals.** (1) For wrongful injuries to  
 13 animals, being subjects of property, committed willfully or by gross negligence in disregard of humanity,  
 14 exemplary damages may be given.

15 (2) As used in this section, "animals" includes ostriches, rheas, and emus."

16  
 17 ~~Section 5.~~ Section ~~33-1-206~~, MCA, is amended to read:

18 ~~"33-1-206. Casualty insurance.~~ (1) ~~Casualty insurance includes:~~

19 ~~(a) vehicle insurance which that is insurance against loss of or damage to any a land vehicle or~~  
 20 ~~aircraft or any a draft or riding animal or to property while contained therein in the land vehicle or aircraft~~  
 21 ~~or thereon on the draft or riding animal or being loaded or unloaded therein in or therefrom from the vehicle~~  
 22 ~~or aircraft or upon or from the draft or riding animal from any a hazard or cause and against any a loss,~~  
 23 ~~liability, or expense resulting from or incidental to ownership, maintenance, or use of any such a vehicle,~~  
 24 ~~aircraft, or animal, together with. Casualty insurance also includes insurance against accidental death or~~  
 25 ~~accidental injury to individuals, including the named insured, while in, entering, alighting from, adjusting,~~  
 26 ~~repairing, cranking, or caused by being struck by a vehicle, aircraft, or draft or riding animal, if such the~~  
 27 ~~insurance is issued as an incidental part of insurance on the vehicle, aircraft, or draft or riding animal;~~

28 ~~(b) liability insurance, which is insurance against legal liability for the death, injury, or disability of~~  
 29 ~~any a human being or for damage to property and provision of medical, hospital, surgical, and disability~~  
 30 ~~benefits to injured persons and funeral and death benefits to dependents, beneficiaries, or personal~~

1 ~~representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental~~  
 2 ~~coverage with or supplemental to liability insurance;~~

3 ~~(c) workers' compensation and employer's liability, which is insurance of the obligations accepted~~  
 4 ~~by, imposed upon, or assumed by employers under law for death, disablement, or injury of employees;~~

5 ~~(d) burglary and theft, which is insurance against loss or damage by burglary, theft, robbery,~~  
 6 ~~forgery, fraud, deceptive practices, vandalism, criminal mischief, confiscation, or wrongful conversion,~~  
 7 ~~disposal, or concealment or from any an attempt at any of the foregoing, including supplemental coverage~~  
 8 ~~for medical, hospital, surgical, and funeral expense incurred by the named insured or any other person as~~  
 9 ~~a result of bodily injury during the commission of a burglary, robbery, or theft by another; also and including~~  
 10 ~~insurance against loss of or damage to moneys money, coins, bullion, securities, notes, drafts,~~  
 11 ~~acceptances, or any other valuable papers and documents, resulting from any cause;~~

12 ~~(e) personal property floater, which is insurance upon personal effects against loss or damage from~~  
 13 ~~any a cause under a personal property floater;~~

14 ~~(f) glass, which is insurance against loss or damage to glass, including its lettering, ornamentation,~~  
 15 ~~and fittings;~~

16 ~~(g) boiler and machinery, which is insurance against any liability and loss or damage to property~~  
 17 ~~or interest resulting from accident to or explosions of boilers, pipes, pressure containers, machinery, or~~  
 18 ~~apparatus and from making inspection of and issuing certificates of inspection upon boilers, machinery, and~~  
 19 ~~apparatus of any kind, whether or not insured;~~

20 ~~(h) leakage and fire extinguishing equipment, which is insurance against loss or damage to any~~  
 21 ~~property or interest caused by the breakage or leakage of sprinklers, hoses, pumps, and other fire~~  
 22 ~~extinguishing equipment or apparatus, water pipes, or containers or by water entering through leaks or~~  
 23 ~~openings in buildings and insurance against loss or damage to such the sprinklers, hoses, pumps, and other~~  
 24 ~~fire extinguishing equipment or apparatus;~~

25 ~~(i) credit, which is insurance against loss or damage resulting from failure of debtors to pay their~~  
 26 ~~obligations to the insured;~~

27 ~~(j) malpractice, which is insurance against legal liability of the insured and against loss, damage,~~  
 28 ~~or expense incidental to a claim of such liability, including medical, hospital, surgical, and funeral benefits~~  
 29 ~~to injured persons, irrespective of legal liability of the insured, arising out of the death, injury, or~~  
 30 ~~disablement of any a person or arising out of damage to the economic interest of any a person, as the result~~

1 of negligence in rendering expert, fiduciary, or professional service;

2 (k) ~~elevator, which is insurance against loss of or damage to any property of the insured, resulting~~  
 3 ~~from the ownership, maintenance, or use of elevators, except loss or damage by fire and from making~~  
 4 ~~inspection of and issuing certificates of inspection upon elevators;~~

5 (l) ~~livestock, including ostriches, rheas, and emus, which is insurance against loss or damage to~~  
 6 ~~livestock and for services of a veterinary veterinarian for such the animals;~~

7 (m) ~~entertainments, which is insurance indemnifying the producer of any a motion picture,~~  
 8 ~~television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition~~  
 9 ~~against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or~~  
 10 ~~sickness of performers, participants, directors, or other principals;~~

11 (n) ~~miscellaneous, which is insurance against any other kind of loss, damage, or liability that is~~  
 12 ~~properly a subject of insurance and that is not within any other kind of insurance as defined in this part,~~  
 13 ~~if such the insurance is not disapproved by the commissioner as being contrary to law or public policy.~~

14 (2) ~~Provision of medical, hospital, surgical, and funeral benefits and of coverage against accidental~~  
 15 ~~death or injury as incidental to and part of other insurance as stated under subsections (1)(a) (vehicle),~~  
 16 ~~(1)(b) (liability), (1)(d) (burglary), and (1)(j) (malpractice) of subsection (1) shall must for all purposes be~~  
 17 ~~considered to be the same kind of insurance to which it is so incidental and shall may not be subject to~~  
 18 ~~provisions of this code applicable to life or disability insurances insurance."~~

19  
 20 **Section 6.** Section 39-3-402, MCA, is amended to read:

21 **"39-3-402. Definitions.** As used in this part, the following definitions apply:

22 (1) "Commissioner" means the commissioner of labor and industry.

23 (2) "Employ" means to suffer or permit to work.

24 (3) "Employee" means an individual employed by an employer.

25 (4)(a) "Farm or ranch" means ~~any~~ an endeavor primarily engaged in cultivating the soil or in  
 26 connection with raising or harvesting ~~any~~ an agricultural or horticultural commodity, including the raising,  
 27 shearing, feeding, caring for, training, and management of livestock, bees, and poultry and fur-bearing  
 28 animals and wildlife.

29 (b) As used in this subsection (4), "livestock" includes ostriches, rheas, and emus.

30 (5) "Farm worker" means a person employed to do ~~any~~ a service performed on a farm or ranch.

1 (6) "Occupation" means ~~any~~ an occupation, service, trade, business, industry, or branch or group  
2 of industries or employment or class of employment in which employees are gainfully employed.

3 (7) "Wage" means compensation due to an employee by reason of ~~his~~ employment, payable in legal  
4 tender of the United States or check on banks convertible into cash on demand at full face value, subject  
5 to an allowance as may be permitted by regulations of the commissioner under 39-3-403. The term "wage"  
6 includes the reasonable cost to the employer of furnishing the employee with lodging or other facility if the  
7 lodging or other facility is customarily furnished by the employer to ~~his~~ employees; ~~however~~. However, the  
8 inclusion may not exceed an amount equal to 40% of the total wage paid by the employer to the employee.  
9 The term "wage" does not include the cost to the employer of providing meals or a meal allowance to the  
10 employee or the value of ~~any~~ tips received by an employee as a gratuity for service."  
11

12 ~~Section 7. Section 60-7-201, MCA, is amended to read:~~

13 ~~"60-7-201. Grazing livestock on highway unlawful. (1) A person who owns or possesses livestock  
14 may not permit the livestock to graze, remain upon, or occupy a part of the right of way of:~~

15 ~~(1)(a) a state highway running through cultivated areas or a part of the fenced right of way of a  
16 state highway if in either case the highway has been designated by agreement between the highway  
17 commission and the secretary of transportation as a part of the national system of interstate and defense  
18 highways; or~~

19 ~~(2)(b) a state highway designated by agreement between the highway commission and the  
20 secretary of transportation as a part of the federal aid primary system, except as provided in 60-7-202.~~

21 ~~(2) As used in this section, "livestock" includes ostriches, rheas, and emus."~~

22  
23 **Section 7. Section 67-1-204, MCA, is amended to read:**

24 **"67-1-204. Lawfulness of flight and landings.** (1) Flight in aircraft over the lands and waters of this  
25 state is lawful, unless it is at such a low altitude as to interfere with the then-existing use to which the land  
26 or water or the space over the land or water is put by the owner or unless ~~se~~ conducted as to be  
27 imminently dangerous to persons or property lawfully on the land or water or in violation of the air  
28 commerce regulations ~~which~~ that have been or may be promulgated by the department of transportation  
29 of the United States.

30 (2) Aircraft landings and takeoffs from the public waters of this state are lawful if proper safety

1 precautions regarding public waters, as prescribed in ~~Title 14~~ 14 CFR, part 91, ~~Code of Federal Regulations~~,  
 2 are taken prior to ~~such the~~ the landing or takeoff, except as otherwise provided by this section.

3 (3) Aircraft landings and takeoffs from public roads in this state are lawful if proper safety  
 4 precautions, as approved by the governing jurisdiction of ~~such the~~ the roads, are taken prior to ~~such the~~ the landing  
 5 or takeoff, except as otherwise provided in this section. However, the local governing jurisdiction ~~shall~~ may  
 6 not incur ~~ne~~ liability as a result of an approval under this subsection.

7 (4) ~~No~~ A person ~~shall~~ may not operate an aircraft, as pilot ~~thereof~~ of the aircraft, either in the air,  
 8 on the water, or on the ground, in a careless or reckless manner so as to endanger the life or property of  
 9 others, including the aircraft being operated and passengers carried ~~therein~~ in the aircraft.

10 (5) The willful and malicious use of aircraft in stunting or diving over livestock in a manner  
 11 calculated to frighten or stampede them ~~shall be deemed~~ is an unlawful use ~~thereof~~ of aircraft, and actual  
 12 and punitive damages, in addition to the penalties provided by this part, may be recovered in an action for  
 13 damages caused ~~therefrom~~ by the willful and malicious use of the aircraft. As used in this subsection,  
 14 "livestock" includes ostriches, rheas, and emus.

15 (6) The landing of an aircraft on the private lands or waters of another without ~~his~~ consent is  
 16 unlawful, except in the case of a forced landing. For damages caused by a forced landing, however, the  
 17 owner or lessee of the aircraft or the pilot ~~shall be~~ is liable for actual damage caused by ~~such the~~ the forced  
 18 landing.

19 (7) ~~No~~ A person may not knowingly operate, attempt to operate, or be in actual physical control  
 20 of an aircraft while under the influence of alcohol or drugs. "Under the influence" means that as a result  
 21 of taking into the body alcohol, drugs, or any combination ~~thereof~~ of alcohol and drugs, a person's ability  
 22 to safely operate the aircraft has been diminished to the slightest degree.

23 (8) A person having information regarding a violation of subsection (7) shall report ~~such the~~ the  
 24 information to the department."

25  
 26 ~~Section 9. Section 69-14-707, MCA, is amended to read:~~

27 ~~"69-14-707. Liability for negligent destruction of domestic animals. Every railroad corporation or~~  
 28 ~~company operating any a railroad or branch thereof of a railroad within the limits of this state which shall~~  
 29 ~~that negligently injure injures or kill any kills a horse, mare, gelding, filly, jack, jenny, mule, ewe, heifer, bull,~~  
 30 ~~ox, steer, calf, ostrich, rhea, emu, or other domestic animal by running any an engine or car over or against~~

1 any such ~~the~~ animal shall be ~~is~~ liable to the owner of such ~~the~~ animal for the damages sustained by such  
 2 ~~the~~ owner by reason thereof. The killing or injury shall be ~~is~~ prima facie evidence of negligence on the part  
 3 of such ~~the~~ corporation or company."

4  
 5 ~~Section 10. Section 69-14-713, MCA, is amended to read:~~

6 ~~"69-14-713. Violation of provisions dealing with injury to livestock. (1)(a) Except as otherwise~~  
 7 ~~provided, every a person who violates any of the provisions of 69-14-701 through 69-14-712 relating to~~  
 8 ~~livestock killed or injured by railroads is guilty of a misdemeanor.~~

9 ~~(b) As used in this subsection (1), "livestock" includes ostriches, rheas, and emus.~~

10 ~~(2) Any A person violating who violates any of the provisions of 69-14-711 or 69-14-712 shall~~  
 11 ~~upon conviction thereof of a violation be punished by a fine of not less than \$10 or more than \$300 or by~~  
 12 ~~imprisonment in the county jail for a period of not less than 10 days or more than 60 days or by both such~~  
 13 ~~a fine and imprisonment."~~

14  
 15 ~~Section 11. Section 69-14-801, MCA, is amended to read:~~

16 ~~"69-14-801. Maintenance of loading platform by railroad. (1)(a) Every A railroad company doing~~  
 17 ~~business in this state shall, within 60 days after notice from the commission, erect one or more platforms~~  
 18 ~~for the transfer of livestock, grain, and other commodities from wagons or otherwise to cars at each and~~  
 19 ~~every station or siding designated in such the notice, such The platforms to must be erected so as not to~~  
 20 ~~endanger life and property.~~

21 ~~(b) As used in this subsection (1), "livestock" includes ostriches, rheas, and emus.~~

22 ~~(2) If any a railroad company, after receiving notice as provided for in this section, shall fail, refuse,~~  
 23 ~~or neglect to erect platforms as required by this section within the required 60 days, the commission is~~  
 24 ~~authorized and empowered and it is made its duty to shall notify such the railroad company to appear~~  
 25 ~~before it at a certain time and place and show cause, if there is any, why such the commission should not~~  
 26 ~~issue an order requiring such the railroad company to comply with the requirements of this section. The~~  
 27 ~~commission shall have power may, after such the hearing, to issue an order upon said to the railroad~~  
 28 ~~company commanding it to erect such a platform if the commission shall upon such examination and~~  
 29 ~~hearing deem such considers a platform necessary.~~

30 ~~(3) Any A notice required to be served upon any a railroad company to carry out any of the~~

1 ~~provisions of this section or similar provisions relating to the enlarging of such platforms may be served~~  
 2 ~~upon any an agent of said the company within the state."~~

3  
 4 ~~Section 12. Section 81-2-102, MCA, is amended to read:~~

5 ~~"81-2-102. Powers of department. (1) The department may:~~

6 ~~(a) supervise the sanitary conditions of livestock in this state, under the provisions of the~~  
 7 ~~constitution and statutes of this state and the rules adopted by the department. The department may~~  
 8 ~~quarantine a lot, yard, land, building, room, premises, enclosure, or other place or section in this state~~  
 9 ~~which that is or may be used or occupied by livestock and which that in the judgment of the department~~  
 10 ~~is infected or contaminated with an infectious, contagious, communicable, or dangerous disease or~~  
 11 ~~disease-carrying medium by which the disease may be communicated. The department may quarantine~~  
 12 ~~livestock in this state when the livestock is affected with or has been exposed to disease or~~  
 13 ~~disease-carrying medium. The department may prescribe treatments and enforce sanitary rules which that~~  
 14 ~~are necessary and proper to circumscribe, extirpate, control, or prevent the disease.~~

15 ~~(b) foster, promote, and protect the livestock industry in this state by the investigation of diseases~~  
 16 ~~and other subjects related to ways and means of prevention, extirpation, and control of diseases or to the~~  
 17 ~~care of livestock and its products and to this end may establish and maintain a laboratory, may make or~~  
 18 ~~cause to be made biologic products, curatives, and preventative agents, and may perform any other acts~~  
 19 ~~and things as may be necessary or proper in the fostering, promotion, or protection of the livestock industry~~  
 20 ~~in this state;~~

21 ~~(c) impose and collect such fees as the department considers appropriate for the tests and services~~  
 22 ~~performed by it at the laboratory or elsewhere and for biologic products, curatives, and preventative agents~~  
 23 ~~made or caused to be made by the department. In fixing these fees, the department shall take into~~  
 24 ~~consideration the costs, both direct and indirect, of the tests, services, products, curatives, and agents.~~  
 25 ~~All fees shall must be deposited in the state special revenue fund for the use of the animal health functions~~  
 26 ~~of the department.~~

27 ~~(d) adopt rules and orders which that it considers necessary or proper to prevent the introduction~~  
 28 ~~or spreading of infectious, contagious, communicable, or dangerous diseases affecting livestock in this state~~  
 29 ~~and to this end may adopt rules and orders necessary or proper governing inspections and tests of livestock~~  
 30 ~~intended for importation into this state before it may be imported into this state;~~

1           ~~(e) adopt rules and orders which that it considers necessary or proper for the inspection, testing,~~  
2           ~~and quarantine of all livestock imported into this state;~~

3           ~~(f) adopt rules and orders which that it considers necessary or proper for the supervision,~~  
4           ~~inspection, and control of the standards and sanitary conditions of slaughterhouses, meat depots, meat and~~  
5           ~~meat food products, dairies, milk depots, milk and its byproducts, barns, dairy cows, factories, and other~~  
6           ~~places and premises where meat or meat foods, milk or its products, or any byproducts thereof intended~~  
7           ~~for sale or consumption as food are produced, kept, handled, or stored. An authorized representative of the~~  
8           ~~department may take samples of a product so produced, kept, handled, or stored for analysis or testing by~~  
9           ~~the department. The records of the samples and their analysis and test, when identified as to the sample~~  
10           ~~by the oath of the officer taking it and verified as to the analysis or test by the oath of the chemist or~~  
11           ~~bacteriologist making it, are prima facie evidence of the facts set forth in them when offered in evidence~~  
12           ~~in a prosecution or action at law or in equity for violation of part 1, 2, or 3 of this chapter, 81-9-201,~~  
13           ~~81-20-101, 81-21-102, 81-21-103, or a rule or order of the board adopted thereunder. These standards,~~  
14           ~~insofar as they relate to dairies or milk and its byproducts, may not include standards of weight or~~  
15           ~~measurement.~~

16           ~~(g) adopt rules and orders which that seem necessary or proper for the supervision and control of~~  
17           ~~manufactured and refined foods for livestock and the manufacture, importation, sale, and method of using~~  
18           ~~a biologic remedy or curative agent for the treatment of diseases of livestock. However, as far as~~  
19           ~~practicable the standards approved by the United States department of agriculture shall must be adopted.~~

20           ~~(h) install an adequate system of meat inspection in accordance with 81-9-216 through 81-9-220~~  
21           ~~and 81-9-226 through 81-9-236 which that shall provide ways and means for shipping home-grown and~~  
22           ~~home-killed meats into any city in this state. As far as practicable, the rules shall must conform with the~~  
23           ~~meat inspection requirements of the United States department of agriculture.~~

24           ~~(i) slaughter or cause to be slaughtered any livestock in this state that are known to be affected~~  
25           ~~with or which that has have been exposed to an infectious, contagious, communicable, or dangerous~~  
26           ~~disease, when such the slaughter is necessary for the protection of other livestock, and destroy or cause~~  
27           ~~to be destroyed all barns, stables, sheds, outbuildings, fixtures, furniture, or personal property infected with~~  
28           ~~any such an infectious, contagious, communicable, or dangerous disease when they cannot be thoroughly~~  
29           ~~cleaned and disinfected and the destruction is necessary to prevent the spreading of the disease;~~

30           ~~(j) indemnify the owner of any property destroyed by order of the department or pursuant to any~~



1 ~~rules adopted by the department under part 1, 2, or 3 of this chapter, 81-20-101, 81-21-102, or~~  
 2 ~~81-21-103;~~

3 ~~(k) require persons, firms, and corporations engaged in the production or handling of meat, meat~~  
 4 ~~food products, dairy products, or any byproducts thereof to furnish statistics of the quantity and cost of~~  
 5 ~~the food and food products produced or handled and the name and address of persons supplying them any~~  
 6 ~~of the products.~~

7 ~~(2) When in the exercise of its powers or the discharge of its duties it becomes necessary for~~  
 8 ~~employees of the department to investigate facts and conditions, they may administer oaths, take affidavits,~~  
 9 ~~and compel the attendance and testimony of witnesses.~~

10 ~~(3) As used in this section, "livestock" includes ostriches, rhesus, and emus."~~

11

12 **Section 8.** Section 81-2-702, MCA, is amended to read:

13 **"81-2-702. Definitions.** As used in this part, the following definitions apply:

14 (1) "Animals" means livestock, dogs, cats, rabbits, rodents, game animals, game farm animals,  
 15 fur-bearing and wild animals, and poultry and other birds.

16 (2) "Biologics" means medicinal preparations made from living organisms and their products. ~~¶~~ The  
 17 term includes but is not limited to serums, vaccines, antigens, and antitoxins.

18 (3) "Department" means the department of livestock.

19 (4) "Health certificate" means a legible record written on an official health certificate form of the  
 20 state of origin or on an equivalent form of the U.S. department of agriculture attesting that the animals,  
 21 animal semen, or animal biologics described on the certificate have been visually inspected by a federally  
 22 accredited veterinarian and found to meet the entry requirements of the state of Montana.

23 (5) "Livestock" means cattle, horses, mules, asses, sheep, llamas, alpacas, bison, swine, ostriches,  
 24 rheas, emus, and goats.

25 (6) "Permit" means an official document issued by the department after proper application that  
 26 allows the movement of animals, animal semen, or animal biologics into Montana.

27 (7) "Poultry" means domesticated birds, including but not limited to chickens, turkeys, ducks,  
 28 geese, guinea fowl, pigeons, and pheasants."

29

30 **Section 9.** Section 81-4-201, MCA, is amended to read:

1           ~~"81-4-201. Swine, sheep, llamas, alpacas, bison, and goats~~ Animals running at large. It is unlawful  
 2 for any an owner or person in control of swine, sheep, llamas, alpacas, bison, ostriches, rheas, emus, or  
 3 goats to willfully permit the animals to run at large."

4  
 5           ~~Section 15. Section 81-4-215, MCA, is amended to read:~~

6           ~~"81-4-215. Liability of owners of stock for trespass. If any cattle, horses, mules, asses, hogs,~~  
 7 ~~sheep, llamas, alpacas, bison, ostriches, rheas, emus, or other domestic animals break into any an~~  
 8 ~~enclosure and the fence of the enclosure is legal, as provided in 81-4-101, the owner of the animals is liable~~  
 9 ~~for all damages to the owner or occupant of the enclosure. This section may not be construed to require~~  
 10 ~~a legal fence in order to maintain an action for injury done by animals running at large contrary to law."~~

11  
 12           ~~Section 16. Section 81-4-306, MCA, is amended to read:~~

13           ~~"81-4-306. Penalty for permitting animals to run at large in herd districts. (1) Any A person who~~  
 14 ~~is the owner or entitled to the possession of any horses, mules, cattle, sheep, llamas, alpacas, bison, asses,~~  
 15 ~~hogs, ostriches, rheas, emus, or goats, and who willfully permits the animals to run at large within any a~~  
 16 ~~herd district, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than~~  
 17 ~~\$50 or more than \$250 for each offense. Each day that each five head or less of horses, mules, cattle,~~  
 18 ~~sheep, llamas, alpacas, bison, asses, hogs, ostriches, rheas, emus, or goats are willfully permitted to run~~  
 19 ~~at large constitutes a separate offense.~~

20           ~~(2) Any A person who is the owner or entitled to the possession of any a bull, stallion, or jackass~~  
 21 ~~over 1 year of age who willfully permits the animal to run at large within any a herd district is guilty of a~~  
 22 ~~misdemeanor and upon conviction shall be punished by a fine of not less than \$50 or more than \$250 for~~  
 23 ~~each offense. Each day that a bull is permitted to run at large constitutes a separate offense."~~

24  
 25           ~~Section 17. Section 81-4-401, MCA, is amended to read:~~

26           ~~"81-4-401. Certain livestock not to run at large in municipalities. Horses, cattle, mules, sheep,~~  
 27 ~~llamas, alpacas, bison, goats, ostriches, rheas, emus, or swine may not be allowed to run at large in any~~  
 28 ~~an incorporated city or town."~~

29  
 30           ~~Section 18. Section 81-4-402, MCA, is amended to read:~~

1           ~~"81-4-402. Punishment for permitting trespass of livestock. Any A person owning livestock or~~  
 2 ~~having in charge of any horses, mules, cattle, sheep, llamas, alpacas, bison, goats, ostriches, rheas, emus,~~  
 3 ~~or swine who willfully and unlawfully permits the livestock to trespass in violation of any of the provisions~~  
 4 ~~of 81-4-401 is guilty of a misdemeanor and upon conviction shall be punished as provided by law."~~

5  
 6           **Section 19.** Section 81-4-601, MCA, is amended to read:

7           ~~"81-4-601. Estray defined. In this part, "estray" means a horse, mule, mare, gelding, colt, llama,~~  
 8 ~~alpaca, bison, cow, ox, bull, stag, steer, heifer, calf, ostrich, rhea, emu, sheep, or lamb:~~

9           ~~(1) not bearing a brand and the ownership of which cannot be determined by the stock inspector~~  
 10 ~~of the district in which the animal is found by inquiry among reputable resident stock owners or freeholders;~~

11           ~~(2) bearing a recorded brand, the owner of which brand cannot be located at or through the post~~  
 12 ~~office designated on the records of the department or which owner cannot be located by the stock~~  
 13 ~~inspector of the district where the estray is found by inquiry among reputable resident stock owners or~~  
 14 ~~freeholders; or~~

15           ~~(3) which that bears an unrecorded brand, the owner of which unrecorded brand cannot be~~  
 16 ~~ascertained by the stock inspector of the district in which the animal is found by inquiry among reputable~~  
 17 ~~resident stock owners or freeholders."~~

18  
 19           **Section 20.** Section 81-5-101, MCA, is amended to read:

20           ~~"81-5-101. Moving livestock from customary range forbidden. Every A person who willfully moves~~  
 21 ~~or causes to be moved any cattle, horses, mules, swine, llamas, alpacas, bison, ostriches, rheas, emus,~~  
 22 ~~or sheep from their customary range without the permission of the owner is punishable by imprisonment~~  
 23 ~~in the county jail not exceeding 90 days or by fine not exceeding \$100, or both."~~

24  
 25           **Section 10.** Section 81-5-104, MCA, is amended to read:

26           ~~"81-5-104. Stolen livestock -- seizure and forfeiture of vehicle and certain other property used in~~  
 27 ~~theft or transportation. (1) The use of any g vehicle, money, equipment, or personalty for the theft or~~  
 28 ~~transportation of any g stolen mule, horse, mare, colt, foal, filly, sheep, lamb, cow, calf, heifer, steer, bull,~~  
 29 ~~llama, alpaca, bison, hogs, poultry, ostrich, rhea, emu, or the products of any stolen livestock is unlawful.~~  
 30 ~~Any vehicle, money, equipment, or personalty used for the theft or unlawful transportation or upon~~

1 probable cause believed to be devoted wholly or in part to the theft or unlawful transportation must be  
2 seized and held.

3 (2) Within 45 days after the seizure, ~~any~~ a peace officer or officer of the agency that seizes ~~any~~  
4 the property shall file a petition to institute forfeiture proceedings with the clerk of the district court of the  
5 county in which the seizure occurs. The clerk shall issue a summons at the request of the petitioning party,  
6 who shall ~~cause~~ serve the summons ~~to be served~~ upon all owners or claimants of the property by one of  
7 the following methods:

8 (a) upon an owner or claimant whose address is known, by personal service of a copy of the  
9 petition and summons as provided in the Montana Rules of Civil Procedure;

10 (b) upon an owner or claimant whose address is unknown but who is believed to have an interest  
11 in the property, by publication of the summons in one issue of a newspaper of general circulation in the  
12 county where the seizure occurred or, if there is no newspaper of general county circulation, by publication  
13 in one issue of a newspaper of general circulation in an adjoining county, and by mailing a copy of the  
14 petition and summons to the most recent address of the owner or claimant, if any, shown in the records  
15 of the division of motor vehicles.

16 (3) A vehicle is not subject to forfeiture under this section if:

17 (a) it is a stolen vehicle at the time it is used for unlawful transportation; or

18 (b) the vehicle owner is not in collusion with the party or parties guilty of the theft."  
19

20 **Section 11. Section 81-6-302, MCA, is amended to read:**

21 **"81-6-302. Definitions. As used in this part, the following definitions apply:**

22 (1) "Commission" means the livestock crimestoppers commission created in 2-15-3104.

23 (2) "Department" means the department of livestock created in Title 2, chapter 15, part 31.

24 (3) "Livestock" includes ostriches, rheas, and emus in addition to other livestock.

25 ~~(3)(4)~~ "Program" means the livestock crimestoppers program created under 81-6-313."  
26

27 **Section 12. Section 81-7-401, MCA, is amended to read:**

28 **"81-7-401. Killing of dogs harassing, destroying, or injuring stock -- notice to owner -- penalty. (1)**

29 As used in this section, "harasses" means worries, chases, or runs after livestock, including ostriches,  
30 rheas, and emus, in a manner that may lead to subsequent injury to the livestock.

1 (2) A dog, whether licensed or not, that, while off the premises owned or under control of its  
 2 owner and on property owned, leased, or controlled by the livestock owner, harasses, kills, wounds, or  
 3 injures livestock not belonging to the owner of the dog is considered a public nuisance and:

4 (a) may be killed immediately by the owner of the livestock or an agent or employee of the owner;  
 5 or

6 (b) the owner of the dog, when reasonably notified after due process, shall kill the dog within 24  
 7 hours of notification. If the owner fails to do so, an officer may be notified and shall kill the dog or cause  
 8 the dog to be killed.

9 (3) A dog may not be killed in a manner that will endanger a person.

10 (4) This section does not apply to a dog herding livestock under the direction of its owner or the  
 11 agents or employees of its owner.

12 (5) This section does not apply to a dog engaged in legitimate sport hunting or predator control  
 13 activities under the direction of its owner or the agents or employees of its owner.

14 (6) The owner of a dog that harasses, kills, wounds, or injures livestock is guilty of a misdemeanor  
 15 and upon conviction shall be fined not more than \$500."  
 16

17 **Section 13.** Section 87-3-130, MCA, is amended to read:

18 **"87-3-130. Taking of wildlife to protect persons or livestock.** ~~(1) Nothing in this~~ This chapter may  
 19 not be construed to impose, by implication or otherwise, criminal liability for the taking of wildlife protected  
 20 by this chapter if ~~such~~ the wildlife is molesting, assaulting, killing, or threatening to kill ~~any~~ a person or  
 21 livestock. ~~Any~~ A person who so takes ~~any~~ wildlife protected by this chapter shall notify the department  
 22 within 72 hours.

23 (2) As used in this section, "livestock" includes ostriches, rheas, and emus."  
 24

25 **NEW SECTION. Section 14. Applicability.** [This act] applies to tax years beginning after December  
 26 31, 1995.

27 -END-