

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

SENATE BILL NO. 210
INTRODUCED BY Bishop Ream

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CLARIFYING THE LAW REGARDING VIOLATIONS OF FISH AND GAME CRIMINAL STATUTES AND RESIDENCY REQUIREMENTS; REVISING DEFINITIONS; REVISING PENALTIES; ALLOWING FORMER GAME WARDENS TO BE APPOINTED AS EX OFFICIO WARDENS; CREATING THE OFFENSE OF UNLAWFUL POSSESSION OF A HUNTING LICENSE OR PERMIT OF ANOTHER; CREATING THE FELONY OFFENSE OF SALE OF WILDLIFE OR WILDLIFE PARTS; AMENDING SECTIONS 87-1-102, 87-1-111, 87-1-503, 87-2-101, 87-2-102, 87-2-103, 87-2-106, 87-2-109, 87-2-110, 87-2-401, 87-2-402, 87-2-403, 87-2-404, 87-2-411, 87-2-501, 87-2-504, 87-2-507, 87-2-508, 87-2-509, 87-2-708, 87-2-803, 87-2-807, 87-3-101, 87-3-104, 87-3-109, 87-3-118, 87-3-301, 87-3-305, 87-3-402, 87-3-501, 87-5-404, AND 87-5-406, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

"87-1-102. Penalties. (1) A person who purposely ~~or~~ knowingly, or negligently violates any provision of this title, any other state law pertaining to fish and game, or the orders or rules of the commission or department is guilty of a misdemeanor, except if a felony is expressly provided by law, and shall be fined not less than ~~\$50~~ \$100 or more than ~~\$500~~ \$1,000, imprisoned in the county jail for not more than 6 months, or both, unless a different punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture of bond or bail, ~~shall~~ may be subject to forfeiture of his that person's license and the privilege to hunt, fish, or trap ~~within in~~ in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period ~~of not less than 24 months from the date of conviction or forfeiture~~ set by the court. If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to the department within 10 days.

(2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting, ~~or wasting~~ of

1 a bighorn sheep, moose, wild ~~bison~~ buffalo, caribou, mountain goat, black bear, or grizzly bear or any part
 2 of these animals shall be fined not less than \$500 or more than ~~\$1,000~~ \$2,000, imprisoned in the county
 3 jail for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or
 4 bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and
 5 the privilege to hunt, fish, or trap in this state for ~~not less than~~ 30 months from the date of conviction or
 6 forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the
 7 department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing,
 8 and trapping licenses to the department within 10 days.

9 (b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope,
 10 elk, or mountain lion, ~~or black bear~~ or any part of these animals ~~or wasting a deer, antelope, or elk~~ shall
 11 be fined not less than \$300 or more than \$1,000, imprisoned in the county jail for not more than 6 months,
 12 or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current
 13 hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state
 14 for ~~not less than~~ 24 months from the date of conviction or forfeiture, unless the court imposes a longer
 15 forfeiture period. For each conviction or forfeiture, the department shall notify the person of the loss of
 16 privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within
 17 10 days.

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

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

26 ~~(e)~~ A person convicted of purposely ~~or,~~ knowingly, or negligently taking, killing, trapping,
 27 possessing, transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal
 28 in violation of any provision of this title shall be fined not less than ~~\$50~~ \$100 or more than \$1,000, ~~or~~
 29 imprisoned in the county jail for not more than 6 months, or both. In addition, that person, upon conviction
 30 or forfeiture of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this

1 state for ~~not less than~~ 24 months from the date of conviction or forfeiture, unless the court imposes a
 2 longer forfeiture period, and any pelts possessed unlawfully must be confiscated. For each conviction or
 3 forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all
 4 hunting, fishing, and trapping licenses to the department within 10 days.

5 ~~(f)~~(e) A person convicted of hunting, fishing, or trapping while ~~his~~ that person's license is forfeited
 6 or ~~his~~ privilege denied shall be imprisoned in the county jail for not less than 5 days or more than 6 months.
 7 In addition, that person may be fined not less than \$500 or more than ~~\$1,000~~ \$2,000.

8 (3) A person convicted or who has forfeited bond or bail under this section and whose license
 9 privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or
 10 trapping license or permit during the period when license privileges have been forfeited. A person convicted
 11 of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping
 12 license during the period when license privileges have been forfeited shall be fined not less than \$500 or
 13 more than ~~\$1,000~~ \$2,000, or imprisoned in the county jail for not more than 60 days, or both.

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

21 (5) Notwithstanding the provision of subsection (1), the penalties provided by this section shall be
 22 in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2."
 23

24 **Section 2.** Section 87-1-111, MCA, is amended to read:

25 **"87-1-111. (Temporary) Restitution for illegal killing or possession of certain wildlife.** (1) In addition
 26 to other penalties provided by law, a person convicted or forfeiting bond or bail upon a charge of the illegal
 27 taking, killing, or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state
 28 for each ~~such~~ bird, mammal, or fish according to the following schedule:

- 29 (a) bighorn sheep, grizzly bear, and endangered species, \$2,000;
 30 (b) elk, mountain goat, caribou, bald eagle, black bear, and moose, \$1,000;

1 (c) mountain lion, ~~black bear~~, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer
 2 as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined
 3 by commission regulation, \$500;

4 (d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor
 5 not included in subsection (1)(c), swan, bobcat, white sturgeon, river-dwelling grayling, and paddlefish,
 6 \$300;

7 (e) ~~grayling and~~ fur-bearing animals, as defined in 87-2-101⁷, and not listed in subsection (1)(c) or
 8 (1)(d), \$100;

9 (f) game bird (except swan), \$25;

10 (g) game fish, \$10.

11 (2) When a court enters an order declaring bond or bail to be forfeited, the court may also order
 12 that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule
 13 in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not
 14 required for an order of restitution under this section. (Terminates June 30, 2003--sec. 2, Ch. 196, L.
 15 1993.)

16 **87-1-111. (Effective July 1, 2003) Restitution for illegal killing or possession of certain wildlife.**

17 (1) In addition to other penalties provided by law, a person convicted or forfeiting bond or bail upon a
 18 charge of the illegal killing, taking, or possession of a wild bird, mammal, or fish listed in this section shall
 19 reimburse the state for each such bird, mammal, or fish according to the following schedule:

20 (a) bighorn sheep, grizzly bear, and endangered species, \$2,000;

21 (b) elk, mountain goat, caribou, bald eagle, black bear, and moose, \$1,000;

22 (c) mountain lion, ~~black bear~~, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer
 23 as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined
 24 by commission regulation, \$500;

25 (d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor
 26 not included in subsection (1)(c), swan, bobcat, river-dwelling grayling, and white sturgeon, \$300;

27 (e) paddlefish, ~~grayling~~, and fur-bearing animals, as defined in 87-2-101⁷, and not listed in
 28 subsection (1)(c) or (1)(d), \$100;

29 (f) game bird (except swan), \$25;

30 (g) game fish, \$10.

1 (2) When a court enters an order declaring bond or bail to be forfeited, the court may also order
2 that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule
3 in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not
4 required for an order of restitution under this section."

5
6 **Section 3.** Section 87-1-503, MCA, is amended to read:

7 **"87-1-503. Ex officio wardens.** All sheriffs and their deputies, constables, all peace officers of the
8 state or any subdivision of the state, all state forest officers, and, as authorized by cooperative agreement,
9 all officers of the United States forest service, agents of the United States fish and wildlife service, peace
10 officers of the bureau of land management, national park service, and corps of engineers that are assigned
11 to duty in this state, former fish and game wardens, and field personnel of the department, as the director
12 may appoint, are ex officio wardens, without pay, except that the department may, in its discretion, allow
13 traveling expenses as provided for in 2-18-501 through 2-18-503, which, if allowed, must be paid upon
14 proper vouchers from the state fish and game funds. Ex officio wardens have the same powers with
15 reference to the enforcement of the fish and game laws of this state and the laws relating to parks and
16 outdoor recreation contained in chapters 1 and 2 of Title 23, except chapter 2, part 7, as regularly
17 appointed wardens, and it is their duty to assist, whenever possible, in the enforcement of those laws."

18
19 **Section 4.** Section 87-2-101, MCA, is amended to read:

20 **"87-2-101. Definitions.** As used in this chapter, ~~and~~ chapter 3, and 87-1-102, unless the context
21 clearly indicates otherwise, the following definitions apply:

22 (1) "Angling" or "fishing" means ~~the taking of or attempting to take fish by hook and single line~~
23 ~~or single rod, in hand or within immediate control~~ to take or the act of a person possessing any instrument,
24 article, or substance for the purpose of taking fish in any location that a fish might inhabit.

25 (2) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area
26 inhabited by wildlife for the purpose of attracting game animals or game birds. The term does not include
27 unscented decoys, silhouettes, or other replicas of wildlife body forms or scents used only to mask human
28 odor.

29 (3) "Closed season" means the time during which game birds, fish, and game and fur-bearing
30 animals may not be lawfully taken.

1 ~~(3)~~(4) "Commission" means the state fish, wildlife, and parks commission.

2 ~~(4)~~(5) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx,
3 wolverine, northern swift fox, and beaver.

4 ~~(5)~~(6) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,
5 mountain lion, bear, and wild buffalo.

6 ~~(6)~~(7) "Game fish" means all species of the family salmonidae (chars, trout, salmon, grayling, and
7 whitefish); all species of the genus stizostedion (sandpike or sauger and walleyed pike or yellowpike perch);
8 all species of the genus esox (northern pike, pickerel, and muskellunge); all species of the genus
9 micropterus (bass); all species of the genus polyodon (paddlefish); all species of the family acipenseridae
10 (sturgeon); all species of the genus lota (burbot or ling); and the species ictalurus punctatus (channel
11 catfish).

12 (8) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a
13 person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of
14 pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing wildlife protected by the
15 laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or
16 subsequently taken. The term includes an attempt to take by any means, including but not limited to
17 pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

18 ~~(7)~~(9) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and
19 swans; cranes, including little brown and sandhill; rails, including coots; wilson's snipes or jacksnipes; and
20 mourning doves; however, the open season on mourning doves ~~shall be~~ is restricted to the open season
21 on upland game birds as defined in subsection ~~(12)~~(15) below.

22 ~~(8)~~(10) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk,
23 crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

24 ~~(9)~~(11) "Open season" means the time during which game birds, fish, and game and fur-bearing
25 animals may be lawfully taken.

26 ~~(10)~~(12) "Person" means individuals, associations, partnerships, and corporations.

27 ~~(11)~~(13) "Predatory animals" means coyote, weasel, skunk, and civet cat.

28 (14) "Trap" means to take or participate in the taking of any wildlife protected by the laws of the
29 state by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife
30 or to remove wildlife from any of these devices.

1 ~~(12)~~(15) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse,
2 prairie chicken, sage hen or sage grouse, ruffed grouse, quail, pheasant, Hungarian partridge, ptarmigan,
3 wild turkey, and chukar partridge.

4 ~~(13)~~(16) "Wild buffalo" means buffalo or bison ~~which~~ that have not been reduced to captivity."
5

6 NEW SECTION. Section 5. Lawful means of angling or fishing. The only lawful means of angling
7 or fishing is by hook and single line or single rod, in hand or within immediate control. All other methods
8 of angling or fishing, unless authorized by commission rule, are unlawful.

9
10 **Section 6.** Section 87-2-102, MCA, is amended to read:

11 "**87-2-102. Resident defined.** In determining a resident for the purpose of issuing resident fishing,
12 hunting, and trapping licenses, the following provisions apply:

13 (1) A member of the regular armed forces of the United States, a member's dependent, as defined
14 in 15-30-113, who resides in the member's Montana household, or a member of the armed forces of a
15 foreign government attached to the regular armed forces of the United States is considered a resident for
16 the purposes of this chapter if:

17 (a) the member was a resident of Montana under the provisions of subsection ~~(2)~~(4) at the time
18 the member entered the armed forces and continues to meet residency criteria of subsection ~~(2)~~(4); or

19 (b) the member is currently stationed in and assigned to active duty in Montana, has resided in
20 Montana for at least 30 days, and presents official assignment orders and a certificate of competency, as
21 provided in 87-2-105, or a certificate verifying the successful completion of a hunter safety course in any
22 state or province. The 30-day residence requirement is waived in time of war. Reassignment to another
23 state, United States territory, or country terminates Montana residency for purposes of this section. The
24 designation of Montana by a member of the regular armed forces as a "home of record" or "home of
25 residence" in that member's armed forces records does not determine the member's residency for purposes
26 of this section.

27 ~~(2) A person who has been a resident of the state of Montana for a period of 6 months immediately~~
28 ~~prior to making application for a license is eligible to receive a resident hunting, fishing, or trapping license.~~
29 ~~A person is considered a resident if the person meets the following criteria:~~

30 ~~(a)~~ A person who has physically resided in Montana as the person's principal or primary home or

1 place of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately prior
 2 to making application for any license is eligible to receive hunting, fishing, and trapping licenses. As used
 3 in this section, a vacant lot or a premises used solely for business purposes is not considered a principal
 4 or primary home or place of abode.

5 (3) A person who obtains residency under subsection (2) may continue to be a resident for
 6 purposes of this section by physically residing in Montana as the person's principal or primary home or
 7 place of abode for not less than 120 days a year and by meeting the criteria of subsection (4) prior to
 8 making application for any resident hunting, fishing, or trapping license.

9 (4) In addition to the requirements of subsection (2) or (3), a person shall meet the following
 10 criteria to be considered a resident for purposes of this section:

11 (a) the person's principal or primary home or place of abode is in Montana ~~the person lives in~~
 12 Montana or has a fixed intent to return to this state when the person leaves it;

13 (b) the person files Montana state income tax returns as a resident if required to file ~~as a resident~~;

14 (c) the person licenses and titles in Montana as required by law any vehicles that the person owns
 15 and operates in Montana;

16 (d) the person does not ~~use~~ possess or apply for any resident hunting, fishing, or trapping licenses
 17 from another state or country or exercise resident hunting, fishing, or trapping privileges in another state
 18 or country ~~during the time the resident Montana license is valid~~; and

19 (e) if the person registers to vote, the person registers only in Montana.

20 (5) A student under 24 years of age who is enrolled in a post-secondary educational institution out
 21 of state and who would qualify for Montana resident tuition or otherwise meets the residence requirements
 22 of subsection (2) or (3) is considered a resident for purposes of this section.

23 ~~(3)(6)~~ Any An enrollee of a job corps camp located within the state of Montana is, after a period
 24 of 30 days within Montana, considered a resident for the purpose of making application for a fishing license
 25 as long as the person remains an enrollee in a Montana camp.

26 ~~(4)(7)~~ A person who does not reside in Montana but who meets all of the following requirements
 27 is a resident for purposes of obtaining hunting and fishing licenses:

28 (a) The person's principal employment is within this state and the income from this employment
 29 is the principal source of the applicant's family income.

30 (b) The person is required to pay and has paid Montana income tax in a timely manner and proper

1 amount.

2 (c) The person has been employed within this state on a full-time basis for at least 12 consecutive
3 months immediately preceding each application.

4 (d) The person's state of residency has laws substantially similar to this subsection ~~(4)~~ (7).

5 ~~(5)~~(8) An unmarried minor is considered a resident for the purposes of this section if the minor's
6 parents, legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for
7 purposes of this section. The minor is considered a resident for purposes of this section regardless of
8 whether the minor resides primarily in the state or otherwise qualifies as a resident. The resident parent or
9 guardian of the minor may be required to show proof of the parental, guardianship, or custodial relationship
10 to the minor.

11 (9) A person is not considered a resident for the purposes of this section if the person:

12 (a) claims residence in any other state or country for any purpose; or

13 (b) is an absentee property owner paying property tax on property in Montana.

14 (10) A license agent is not considered a representative of the state for the purpose of determining
15 a license applicant's residence status."

16

17 **Section 7.** Section 87-2-103, MCA, is amended to read:

18 **"87-2-103. License required.** (1) Except as provided in subsection (2), it is unlawful for a person
19 to:

20 (a) ~~pursue, hunt, or trap, take, shoot, or kill~~ or attempt to hunt or trap, take, shoot, or kill any game
21 animal, any game bird, or any fur-bearing animal or ~~take, kill, trap, or to~~ fish for any fish within this state
22 or ~~have, keep, or~~ possess within this state any game animal, game bird, fur-bearing animal, game fish, or
23 parts ~~thereof~~ of those animals or birds, except as ~~herein~~ provided by law or as provided by the department;
24 or

25 (b) ~~pursue, hunt, or trap, take, shoot, or kill~~ or attempt to hunt or trap, take, shoot, or kill any game
26 animal, game bird, or fur-bearing animal or ~~take, kill, trap, or to~~ fish for any fish, except at the places and
27 during the periods and in the manner ~~herein~~ defined by law or as defined by the department; or

28 (c) ~~pursue, hunt, or trap, take, shoot, or kill~~ or attempt to hunt or trap, take, shoot, or kill any game
29 animal, game bird, or fur-bearing animal or ~~take, kill, trap, or~~ fish for any fish within this state or ~~have,~~
30 ~~keep,~~ possess, sell, purchase, ship, or reship any imported or other fur-bearing animal or parts ~~thereof~~ of

1 fur-bearing animals without first having obtained a proper license or permit from the department to do so;
2 or

3 (d) trap or ~~snare or~~ attempt to trap ~~or snare~~ predatory animals or nongame wildlife without a
4 license, as prescribed in 87-2-603, if that person is not a resident as defined in 87-2-102.

5 (2) The provisions of this section do not require a person who accompanies a licensed disabled
6 hunter, as authorized under 87-2-803(4), to be licensed in order to ~~pursue, hunt, take, shoot, or~~ kill or
7 attempt to ~~pursue, hunt, take, shoot, or~~ kill a game animal that has been wounded by a disabled hunter
8 when the disabled hunter is unable to pursue and kill the wounded game animal. However, the person must
9 meet the qualifications for a license in the person's state of residence."
10

10

11 **Section 8.** Section 87-2-106, MCA, is amended to read:

12 **"87-2-106. Application for license -- penalties for violation -- forfeiture of privileges.** (1) A license
13 may be procured from the director, any warden, or any authorized agent of the director. The applicant shall
14 state the applicant's name, age, occupation, ~~place of~~ address of permanent residence, and post-office
15 address, the applicant's qualifying length of time as a resident in the state of Montana, whether a citizen
16 of the United States or an alien, and other facts, data, or descriptions as may be required by the
17 department. An applicant for a resident license shall present a valid Montana driver's license, Montana
18 driver's examiner's identification card, or other identification specified by the department to substantiate
19 the required information. It is the applicant's burden to provide documentation establishing the applicant's
20 identity and qualifications to purchase a license. It is unlawful and a misdemeanor for a license agent to sell
21 a hunting, fishing, or trapping license to an applicant who fails to produce the required identification at the
22 time of application for licensure. Except as provided in subsections (2) through (4), the statements made
23 by the applicant must be subscribed to before the officer or agent issuing the license.

24 (2) Except as provided in subsection (3), department employees or officers may issue licenses by
25 mail. Statements on an application for a license to be issued by mail need not be subscribed to before the
26 employee or officer.

27 (3) To apply for a license under the provisions of 87-2-102~~(4)~~(7), the applicant shall apply to the
28 director and shall submit at the time of application a notarized affidavit that attests to fulfillment of the
29 requirements of 87-2-102~~(4)~~(7). The director shall process the application in an expedient manner.

30 (4) A resident may apply for and purchase a wildlife conservation license, hunting license, or fishing

1 license for ~~his~~ the resident's spouse, parent, child, brother, or sister who is otherwise qualified to obtain
2 the license.

3 (5) A license is void unless subscribed to by the licensee and by an employee or officer of the
4 department or by a license agent or an authorized representative of the license agent.

5 (6) It is unlawful to subscribe to any statement, on any application or license, that is materially
6 false. Any material false statement contained in an application renders the license issued pursuant to it void.
7 A person violating any provision of this ~~statute~~ subsection is guilty of a misdemeanor.

8 (7) (a) A person not meeting the residency criteria set out in 87-2-102 who is convicted of
9 affirming to a false statement to obtain a resident license shall be:

10 (i) fined not less than the greater of \$100 or twice the cost of the nonresident license that
11 authorized the sought-after privilege or more than \$1,000;

12 (ii) imprisoned in the county jail for not more than 6 months; or

13 (iii) both fined and imprisoned.

14 (b) In addition to the penalties specified in subsection (7)(a), upon conviction or forfeiture of bond
15 or bail, the person shall forfeit any current hunting, fishing, and trapping licenses and the privilege to hunt,
16 fish, and trap in Montana for not less than 18 months.

17 (8) It is unlawful and a misdemeanor for a person to purposely or knowingly assist an unqualified
18 applicant in obtaining a resident license in violation of this section."
19

20 **Section 9.** Section 87-2-109, MCA, is amended to read:

21 "**87-2-109. Carrying and exhibiting license and identification.** (1) ~~Except as provided in [section~~
22 10(2)], it is unlawful for a person to whom a license or permit has been issued to fish ~~for or take any fish~~
23 ~~or pursue, to hunt, shoot, kill, or take~~ for any game bird or game animal, ~~or to attempt to trap, trap, or take~~
24 hunt for any fur-bearing animal in this state unless the person ~~has~~ is carrying the required license, licenses,
25 or permit ~~in the person's possession~~ at the time.

26 (2) It is unlawful to refuse to exhibit a license or permit and the identification used in purchasing
27 a license or permit for inspection to a warden or other officer requesting to see it."
28

29 **NEW SECTION. Section 10. Unlawful possession of hunting license or permit of another --**
30 **penalties.** (1) Except as provided in subsection (2), it is unlawful for a person to carry or have physical

1 control over a valid hunting license or permit issued to another person while in any location that the species
2 to be hunted may inhabit.

3 (2) The following exceptions apply to the prohibition in subsection (1):

4 (a) A person may carry or have physical control over a license or permit issued to that person's
5 spouse or to any minor when the spouse or minor is hunting with that person.

6 (b) The prohibition does not apply to a properly validated license or permit attached to a lawfully
7 killed game animal.

8 (3) Except as provided in subsection (4), a person who violates this section is guilty of a
9 misdemeanor punishable as provided in 87-1-102(1).

10 (4) A person who violates this section while engaged in a commercial activity, such as taxidermy,
11 meat processing, outfitting, or guiding by carrying or having physical control over three or more hunting
12 licenses issued to another person or persons, is guilty of a felony and upon conviction shall be fined not
13 more than \$50,000, imprisoned in the state prison for not more than 5 years, or both.

14 (5) In addition to the penalties set out in subsections (3) and (4), a person convicted under this
15 section or who pleads guilty to a violation of this section shall lose all hunting, fishing, and trapping permit
16 and license privileges for not less than 3 years or up to a lifetime revocation from the date of conviction.

17

18 **Section 11.** Section 87-2-110, MCA, is amended to read:

19 "**87-2-110. Alteration, attachment, or transfer of license.** ~~No~~ A person may not at any time alter
20 or change in any material manner or loan or transfer any license to another person. ~~any license, nor may~~
21 ~~any~~ A person other than the person to whom it a license is issued may not use it the license. A person may
22 not attach the person's license to a game animal killed by another person."

23

24 **Section 12.** Section 87-2-401, MCA, is amended to read:

25 "**87-2-401. Class A-1--resident upland game bird license.** Except as otherwise provided, a resident,
26 as defined by 87-2-102, who is 12 years of age or older may, upon payment of a fee of \$6, receive a Class
27 A-1 license ~~which that~~ will entitle the holder to ~~pursue, hunt, shoot, and kill~~ upland game birds, cranes,
28 rails, snipes, and mourning doves and possess the carcasses of upland game birds, cranes, rails, snipes,
29 and mourning doves as authorized by department rules."

30

1 **Section 13.** Section 87-2-402, MCA, is amended to read:

2 "**87-2-402. Class B-1--nonresident upland game bird license.** Except as otherwise provided in this
3 chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older, upon
4 payment of a fee of \$55 may receive a Class B-1 license ~~which shall entitle~~ that entitles the holder ~~thereof~~
5 to ~~pursue, hunt, shoot, and kill~~ upland game birds, cranes, rails, snipes, and mourning doves and possess
6 the carcasses of upland game birds, cranes, rails, snipes, and mourning doves as authorized by department
7 rules."

8

9 **Section 14.** Section 87-2-403, MCA, is amended to read:

10 "**87-2-403. (Temporary) Wild turkey tags and fee.** (1) The department may issue wild turkey tags
11 to the holder of a valid Class A-1 or Class B-1 license or as set out in subsection (3). Each tag ~~shall entitle~~
12 entitles the holder to ~~pursue, hunt, shoot, and kill~~ one wild turkey and possess the carcass ~~thereof of the~~
13 turkey, during ~~such~~ times and ~~such~~ places as that the department commission shall authorize ~~authorizes~~
14 an open season on wild turkey.

15 (2) The fee for a wild turkey tag is \$4 beginning March 1, 1992, and \$5 beginning March 1, 1994,
16 for residents and \$13 for nonresidents. Turkey tags ~~shall~~ must be issued either by a drawing system or in
17 unlimited number as authorized by department rules.

18 (3) Subject to the provisions of subsection (2), a person who is 62 years of age or older as
19 provided in 87-2-801, certified as disabled under 87-2-803, or a resident minor as described in 87-2-805
20 may purchase a wild turkey tag upon presentation of ~~his~~ that person's wildlife conservation license.
21 (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

22 **87-2-403. (Effective March 1, 2006) Wild turkey tags and fee.** (1) The department may issue wild
23 turkey tags to the holder of a valid Class A-1 or Class B-1 license or as set out in subsection (3). Each tag
24 ~~shall entitle~~ entitles the holder to ~~pursue, hunt, shoot, and kill~~ one wild turkey and possess the carcass
25 ~~thereof of the turkey~~, during ~~such~~ times and ~~such~~ places as that the department commission shall authorize
26 authorizes an open season on wild turkey.

27 (2) The fee for a wild turkey tag ~~shall be~~ is \$5. Turkey tags ~~shall~~ must be issued either by a
28 drawing system or in unlimited number as authorized by department rules.

29 (3) Subject to the provisions of subsection (2), a person who is 62 years of age or older as
30 provided in 87-2-801, certified as disabled under 87-2-803, or a resident minor as described in 87-2-805

1 may purchase a wild turkey tag upon presentation of his that person's wildlife conservation license."

2

3 **Section 15.** Section 87-2-404, MCA, is amended to read:

4 **"87-2-404. Three-day nonresident captive-reared bird hunting stamp.** A person who is 12 years
5 of age or older and who is not a resident, as defined in 87-2-102, may, upon payment of a fee of \$20,
6 receive a 3-day nonresident shooting preserve bird hunting stamp that authorizes the holder to ~~pursue,~~
7 ~~hunt, shoot, and kill~~ game specified under 87-4-522 on a shooting preserve licensed under 87-4-501 for
8 3 consecutive calendar days as indicated on the license."

9

10 **Section 16.** Section 87-2-411, MCA, is amended to read:

11 **"87-2-411. Stamp required to hunt waterfowl.** (1) It is unlawful for any person 15 years of age
12 or older to ~~pursue, hunt, shoot, or kill~~ waterfowl without first having obtained a valid waterfowl stamp from
13 the department. The fee for ~~such~~ the stamp is \$5.

14 (2) For the purpose of this section, the term "waterfowl" means wild ducks, wild geese, brant, and
15 swans."

16

17 **Section 17.** Section 87-2-501, MCA, is amended to read:

18 **"87-2-501. Class A-3, A-4, A-5, A-6, A-7--resident deer, elk, and bear licenses -- special Class A-7**
19 **resident and nonresident license requirements and preference.** (1) Except as otherwise provided in this
20 chapter, a resident, as defined by 87-2-102, or a nonresident who wishes to purchase a Class A-7 elk
21 license only, and who will be 12 years of age or older prior to September 15 of the season for which the
22 license is issued may, upon payment of the proper fee or fees, be entitled to purchase one each of the
23 following licenses at the prescribed cost ~~which~~ that will entitle the holder to ~~pursue, hunt, shoot, and kill~~
24 the game animal or animals authorized by the license held and to possess the carcasses of those game
25 animals as authorized by department rules:

26 (a) Class A-3, deer A tag, ~~\$11 beginning March 1, 1992, and \$13 beginning March 1, 1994;~~

27 (b) Class A-4, deer B tag, ~~\$7 beginning March 1, 1992, and \$8 beginning March 1, 1994;~~

28 (c) Class A-5, elk tag, ~~\$13 beginning March 1, 1992, and \$16 beginning March 1, 1994;~~

29 (d) Class A-6, black or brown bear tag, ~~\$11 beginning March 1, 1992, and \$15 beginning March~~
30 ~~1, 1994;~~

1 (e) Class A-7, antlerless elk tag, ~~\$13 beginning March 1, 1992, and \$16 beginning March 1, 1994.~~

2 (2) (a) The holder of a Class A-7 antlerless elk license is entitled to ~~take~~ hunt antlerless elk in areas
3 designated by the commission and at ~~such~~ the times and upon ~~such~~ the terms ~~as~~ set forth by the
4 commission.

5 (b) ~~No~~ A person may not take more than one elk during any license year, and a person holding a
6 Class A-7 antlerless elk tag may not take an elk during the same license year with a Class A-5 license or
7 nonresident elk tag. The use of Class A-7 antlerless elk licenses does not preclude the department's use
8 of special elk permits.

9 (c) A nonresident shall hold a nonresident Class B-10 license as a prerequisite to application for
10 a Class A-7 license.

11 (3) Subject to the limitation of subsection (5), a person who owns or is contracting to purchase
12 640 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where
13 Class A-7 licenses are awarded under this section ~~shall~~ must be issued, upon application, a Class A-7
14 license.

15 (4) An applicant who receives a Class A-7 license under subsection (3) may designate that the
16 license be issued to an immediate family member ~~or~~ a person employed by the landowner. A corporation
17 owning qualifying land under subsection (3) may designate one of its shareholders to receive the license.

18 (5) Fifteen percent of the Class A-7 licenses available each year under this section in a hunting
19 district must be available to landowners under subsection (3)."
20

21 **Section 18.** Section 87-2-504, MCA, is amended to read:

22 **"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses.** Except as otherwise
23 provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who will be 12 years
24 of age or older prior to September 15 of the season for which the license is issued and is a holder of a
25 nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations
26 prescribed by law and department regulation, be entitled to apply to the fish and game office, Helena,
27 Montana, to purchase one each of the following licenses: Class B-7, deer A tag, \$150; Class B-8, deer B
28 tag, \$50; and will entitle the holder to ~~pursue, hunt, shoot, and kill~~ the game animal or animals authorized
29 by the license held and to possess the carcasses of those animals as authorized by department rules. Unless
30 purchased as part of a B-10 or B-11 license, a Class B-7 license must be assigned for use in a specific

1 administrative region or portion ~~thereof~~ of a specific administrative region. If purchased as part of a Class
 2 B-11 license, the Class B-7 license is valid throughout the state. Not more than 5,000 Class B-7 licenses
 3 may be sold in any license year. Money received from the sale of Class B-7 licenses in excess of 1,700
 4 must be used as provided in 87-1-242(1). (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

5 **87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses.** Except as
 6 otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who will
 7 be 12 years of age or older prior to September 15 of the season for which the license is issued and is a
 8 holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to
 9 the limitations prescribed by law and department regulation, be entitled to apply to the fish and game office,
 10 Helena, Montana, to purchase one each of the following licenses: Class B-7, deer A tag, \$100; Class B-8,
 11 deer B tag, \$50; and will entitle the holder to ~~pursue, hunt, shoot, and kill~~ the game animal or animals
 12 authorized by the license held and to possess the carcasses of those animals as authorized by department
 13 rules. Unless purchased as part of a B-10 or B-11 license, a Class B-7 license must be assigned for use in
 14 a specific administrative region or portion ~~thereof~~ of a specific administrative region. If purchased as part
 15 of a Class B-11 license, the Class B-7 license is valid throughout the state."
 16

17 **Section 19.** Section 87-2-507, MCA, is amended to read:

18 **"87-2-507. (Temporary) Class D-1--nonresident mountain lion license.** Except as otherwise provided
 19 in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older,
 20 upon payment of a fee of \$320 may receive a Class D-1 license ~~which shall entitle~~ that entitles the holder
 21 ~~thereof to pursue, hunt, shoot, and kill~~ mountain lion and possess the carcass ~~thereof~~ of the mountain lion
 22 as authorized by department rules. If a holder of a valid mountain lion license under this section kills a
 23 mountain lion, ~~he the licensee must~~ shall purchase a trophy license for a fee of \$50 within 10 days after
 24 the date of kill. The trophy license authorizes the holder to possess and transport ~~such the~~ trophy.
 25 (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

26 **87-2-507. (Effective March 1, 2006) Class D-1--nonresident mountain lion license.** Except as
 27 otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12
 28 years of age or older, upon payment of a fee of \$300 may receive a Class D-1 license ~~which shall entitle~~
 29 that entitles the holder ~~thereof~~ of the mountain lion to ~~pursue, hunt, shoot, and kill~~ mountain lion and possess the carcass
 30 ~~thereof~~ of the mountain lion as authorized by department rules. If a holder of a valid mountain lion license

1 under this section kills a mountain lion, ~~he~~ the licensee must shall purchase a trophy license for a fee of \$50
 2 within 10 days after the date of kill. The trophy license authorizes the holder to possess and transport ~~such~~
 3 the trophy."

4
 5 **Section 20.** Section 87-2-508, MCA, is amended to read:

6 "**87-2-508. Class D-2--resident mountain lion license.** Except as otherwise provided in this chapter,
 7 a person who is a resident, as defined in 87-2-102, and who is 12 years of age or older, upon payment of
 8 a fee of ~~\$13 beginning March 1, 1992, and \$15 beginning March 1, 1994,~~ may receive a Class D-2 license
 9 ~~which shall entitle~~ that entitles the holder ~~thereof~~ to ~~pursue, hunt, shoot, and kill~~ mountain lion and possess
 10 the carcass ~~thereof~~ of the mountain lion as authorized by department rules. If a holder of a valid mountain
 11 lion license under this section kills a mountain lion, ~~he~~ the licensee must shall purchase a trophy license for
 12 a fee of \$50 within 10 days after the date of kill. The trophy license authorizes the holder to possess and
 13 transport ~~such~~ the trophy."

14
 15 **Section 21.** Section 87-2-509, MCA, is amended to read:

16 "**87-2-509. Tagging of carcasses of game animals.** (1) Each license issued by the department
 17 authorizing the holder of the license to ~~pursue, shoot, kill, capture, take, or possess~~ hunt game animals,
 18 whether issued to a resident or a nonresident, must provide any tags, coupons, or markers as the
 19 department prescribes. When any person ~~takes or~~ kills any game animal under the license, the person shall
 20 immediately cut out from the tag, coupon, or other marker the date the animal was killed ~~or taken~~ and
 21 attach the tag, coupon, or other marker to the animal, completely filled out with the name of the license
 22 holder, the license holder's address, and any other information requested on the tag, coupon, or other
 23 marker. The tag, coupon, or other marker must be kept attached to the carcass as long as any considerable
 24 portion of the carcass remains unconsumed, ~~and when~~. When a game animal has been lawfully killed and
 25 the proper tag, coupon, or other marker is attached to the game animal that was killed, the game animal
 26 becomes the property of the person who ~~tagged~~ lawfully killed the animal and may be possessed, used,
 27 stored, donated to another or to a charity, or transported.

28 (2) It is unlawful for a person who kills any game animal by authority of any license issued for the
 29 killing of the game animal to fail or neglect to cut out the day and month of the kill or provide any other
 30 information that is required and attach the tag, coupon, or other marker provided with the license issued

1 to the carcass of the game animal or portion of the game animal. It is unlawful for a person to fail to keep
 2 the tag, coupon, or other marker attached to the game animal or portion of the game animal while the
 3 animal is possessed by the person. It is unlawful for a person to tag a game animal with a tag restricted
 4 to a hunting district other than the hunting district where the game animal was killed."

5
 6 **Section 22.** Section 87-2-708, MCA, is amended to read:

7 **"87-2-708. Class A-2--special bow and arrow license.** A holder of a valid hunting license for which
 8 a special archery season is set by the department may receive, upon payment of an additional fee of \$8,
 9 a Class A-2 license ~~which shall authorize~~ that authorizes the holder ~~thereof~~ to pursue, hunt, shoot, and kill
 10 with bow and arrow the game animals ~~so~~ authorized by the licenses held and to possess the carcass
 11 ~~thereof~~ of the game animals during seasons and in areas, ~~as~~ designated by the department."

12
 13 **Section 23.** Section 87-2-803, MCA, is amended to read:

14 **"87-2-803. Disabled persons.** (1) Disabled persons are entitled to fish and to hunt game birds with
 15 only a conservation license if they are residents of Montana not residing in an institution and are certified
 16 as disabled as prescribed by departmental rule.

17 (2) A resident of Montana who is certified as disabled by the department and who is not residing
 18 in an institution may purchase regular resident deer and elk licenses at one-half the fee paid by a resident
 19 who is 15 years ~~old~~ of age or older and who is under 62 years of age.

20 (3) A resident or nonresident disabled person who is certified as disabled by the department and
 21 who is not residing in an institution may carry a permit on a form prescribed by the department. A disabled
 22 person issued a permit under this subsection is entitled to have the department stamp the permit with
 23 "Permission to Hunt From a Vehicle" if the person establishes to the satisfaction of the department that the
 24 person is permanently physically handicapped and nonambulatory or that the person's mobility is
 25 substantially impaired.

26 (4) A disabled person carrying a permit as required in subsection (3), upon which is stamped
 27 "Permission to Hunt From a Vehicle", may hunt by shooting a firearm from the shoulder, berm, or barrow
 28 pit right-of-way of a public highway, as defined in 61-1-202, ~~except a state or federal highway~~, or may
 29 hunt by shooting a firearm from within a self-propelled or drawn vehicle that is parked on a shoulder, berm,
 30 or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or ~~may hunt by~~

1 ~~shooting a firearm from within a self-propelled or drawn vehicle~~ that is parked in an area, not a public
2 highway, where hunting is permitted. Nothing in this subsection allows a disabled person to shoot across
3 the roadway of any public highway or to hunt on private property without permission of the landowner.
4 A disabled person who hunts as authorized in this subsection must have a companion to assist in
5 immediately dressing any killed game animal. The companion may also assist the disabled hunter by
6 ~~pursuing, hunting, taking, shooting, or killing~~ a game animal that has been wounded by the disabled hunter
7 when the disabled hunter is unable to pursue and kill the wounded game animal. Any vehicle from which
8 a disabled person is hunting must be conspicuously marked with an orange-colored international symbol
9 of the handicapped on the front, rear, and each side of the vehicle.

10 (5) A resident of Montana who is certified by the department as a blind individual, as defined in
11 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The
12 license is valid for the lifetime of the blind individual and allows the licensee to fish ~~with hook and line or~~
13 ~~rod~~, as authorized by department rule. An applicant for a license under this subsection need not obtain a
14 wildlife conservation license as a prerequisite to licensure."

15
16 **Section 24.** Section 87-2-807, MCA, is amended to read:

17 "**87-2-807. Taking migratory game birds for propagation -- avicultural permit.** (1) The department
18 may issue avicultural permits for taking, capturing, and possessing migratory game birds, as defined in
19 87-2-101~~(7)~~(9), for the purpose of propagation. Before issuing an avicultural permit, the department ~~must~~
20 shall determine that the applicant has been issued the appropriate federal permit or that the applicant will
21 receive the appropriate federal permit subject to concurrence by the department.

22 (2) An avicultural permit issued under this section must specify:

23 (a) the species of migratory game birds allowed to be taken under the permit;

24 (b) whether eggs or hatched birds, or both, may be taken;

25 (c) the number of eggs or hatched birds, or both, that may be taken;

26 (d) areas in which collection may be made;

27 (e) means by which collection may be made;

28 (f) the time period for which the permit is valid; and

29 (g) any other conditions imposed by the department under rules adopted pursuant to subsection

30 (5).

1 (3) Hatched migratory game birds or their eggs taken under an avicultural permit issued in
 2 accordance with this section remain the property of the state and may be disposed of only with the
 3 permission of the department. Progeny of hatched migratory game birds taken under permit as provided
 4 in this section become the private property of the holder of the permit who propagates ~~such~~ the migratory
 5 game birds, and the owner may sell or transfer ~~such~~ the birds as private property, subject to any applicable
 6 state or federal law or regulation.

7 (4) The department may charge a fee for issuing an avicultural permit, if necessary, not to exceed
 8 the cost of issuing ~~such~~ the permit.

9 (5) The department shall adopt rules implementing this section."
 10

11 **Section 25.** Section 87-3-101, MCA, is amended to read:

12 "**87-3-101. General restrictions.** Except as provided in 87-2-803(4), it is unlawful for anyone to
 13 ~~take, capture, shoot, kill, or attempt to take, capture, shoot, or kill~~ hunt or attempt to hunt any game animal
 14 or game bird:

15 (1) from any self-propelled or drawn vehicle;

16 (2) on, from, or across any public highway or the shoulder, berm, or barrow pit right-of-way of any
 17 public highway, as defined in 61-1-202, in the state of Montana; or

18 (3) by the aid or with the use of any set gun, jacklight, spotlight or other artificial light, trap, snare
 19 ~~(except as allowed in 87-3-107(1)), or salt lick, or bait; nor may any such set gun, jacklight or other~~
 20 ~~artificial light, trap, snare, salt lick, or other device to entrap or entice game animals or game birds be used,~~
 21 ~~made, or set."~~

22
 23 **Section 26.** Section 87-3-104, MCA, is amended to read:

24 "**87-3-104. Unlawful to hunt or fish during closed season.** It is unlawful and a misdemeanor for
 25 any person during the closed season on any species of game animal, game bird, or fish to attempt to ~~take,~~
 26 ~~shoot, kill, or capture~~ hunt or to ~~take, hunt, shoot, kill, or capture~~ any ~~such~~ game animal or ~~such~~ game bird
 27 or to fish for or catch any fish."
 28

29 **Section 27.** Section 87-3-109, MCA, is amended to read:

30 "**87-3-109. Attempting to take simulated wildlife decoy -- penalty.** (1) It is unlawful for a person

1 to discharge a firearm or other hunting implement at a simulated wildlife decoy in violation of any state
 2 statute or commission rule regulating the hunting ~~or taking~~ of the wildlife being simulated when the decoy
 3 is being used by a certified peace officer.

4 (2) Upon conviction, the penalty for attempting to ~~take hunt~~ a simulated wildlife decoy is the same
 5 as prescribed for ~~unlawful taking~~ the state statute or commission rule violated during the attempted hunting
 6 of the actual wildlife being simulated.

7 (3) In addition to any other penalty, a person convicted under this section shall pay restitution of
 8 \$50 to the department for the repair of damages to simulated wildlife decoys."

9

10 **Section 28.** Section 87-3-118, MCA, is amended to read:

11 "**87-3-118. ~~Sale~~ Felony sale or possession of unlawfully taken wildlife -- penalty.** (1) A person
 12 commits the offense of sale of unlawfully taken wildlife if ~~he~~ the person purposely or knowingly:

13 (a) sells, barter, purchases, or exchanges unlawfully taken wildlife for anything of value; or ~~if he~~

14 (b) offers to sell, barter, purchase, or exchange unlawfully taken wildlife for anything of value,
 15 ~~unlawfully taken wildlife.~~

16 (2) A person commits the offense of possession of unlawfully taken wildlife having a value of more
 17 than \$1,000 if ~~he~~ the person purposely or knowingly has actual or constructive possession of or transports
 18 or causes to be transported unlawfully taken wildlife having a value of more than \$1,000. The value of the
 19 unlawfully taken wildlife must be determined from the schedule of restitution values set out in 87-1-111.

20 (3) (a) A person commits the offense of unlawful sale or possession of wildlife if the person
 21 purposely or knowingly:

22 (i) sells, barter, purchases, or exchanges wildlife for anything of value;

23 (ii) attempts to sell, barter, purchase, or exchange wildlife for anything of value;

24 (iii) transports, causes to be transported, or is in the process of transporting out of state wildlife
 25 for purposes of sale, barter, purchase, or exchange for anything of value.

26 (b) For the purposes of this subsection (3), "wildlife" includes the edible meat, internal organs,
 27 tissue, fluids, or sex organs of wildlife having a value of more than \$1,000 or edible meat of wildlife in
 28 excess of 150 pounds, except meat allowed to be sold under the provisions of 71-3-1505.

29 (c) For purposes of determining the total pounds of edible meat of wildlife, any nonwildlife meat
 30 or ingredients mixed with the meat of wildlife must be included in the total.

1 (4) For purposes of this section, the value of all wildlife actually or constructively possessed,
 2 transported, sold, bartered, bought, or exchanged for anything of value within a 45-day period must be
 3 added together to determine whether the value of the wildlife is greater than \$1,000.

4 (5) A person who violates this section is guilty of a felony and upon conviction shall be fined not
 5 more than \$50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In
 6 addition, a person convicted under this section or who pleads guilty to a violation of this section shall lose
 7 all hunting, fishing, and trapping permits and license privileges for a minimum of 3 years or up to a
 8 maximum of a lifetime revocation from the date of conviction."

9
 10 **Section 29.** Section 87-3-301, MCA, is amended to read:

11 **"87-3-301. Shotgun loads regulated by department.** ~~No~~ A person may not use a shotgun to hunt,
 12 ~~kill, or shoot~~ deer or elk except with weapon type and loads as specified by the department."

13
 14 **Section 30.** Section 87-3-305, MCA, is amended to read:

15 **"87-3-305. Unlawful to take hunt deer within city or town boundaries.** It is unlawful to ~~shoot, kill,~~
 16 ~~take hunt, or cause to be shot, killed, taken, or captured~~ or ~~to attempt to shoot, kill, take, or capture~~ hunt
 17 any deer within the boundaries of any incorporated or unincorporated city or town of this state."

18
 19 **Section 31.** Section 87-3-402, MCA, is amended to read:

20 **"87-3-402. Unlawful to violate closed season on certain game birds.** It is unlawful for any person
 21 to hunt, ~~shoot, kill, capture, possess, or cause to be hunted, killed, or captured~~ or attempt to ~~shoot, kill,~~
 22 ~~or capture~~ hunt any quail, Chinese or Mongolian pheasant (commonly called ring-necked pheasant),
 23 Hungarian partridge, chukar partridge, sage grouse, sharp-tailed grouse, blue grouse, fool hen, prairie
 24 chicken, ruffed grouse, ptarmigan, or wild turkey until ~~such time as the department shall provide~~
 25 commission provides an open season on any quail, Chinese or Mongolian pheasant (commonly called
 26 ring-necked pheasant), Hungarian partridge, chukar partridge, sage grouse, sharp-tailed grouse, blue grouse,
 27 fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild turkey."

28
 29 **Section 32.** Section 87-3-501, MCA, is amended to read:

30 **"87-3-501. Open and closed season for fur-bearing animals -- exception.** (1) It ~~shall hereafter be~~

1 ~~is unlawful and a misdemeanor for any a person to shoot, trap, kill, or capture or cause to be shot, trapped,~~
 2 ~~killed, or captured or to attempt to shoot, trap, kill, or capture any marten or sable, otter, mink, muskrat,~~
 3 ~~beaver, fisher, Canada lynx, or black-footed ferret or hunt or attempt to trap or hunt any fur-bearing animal~~
 4 until ~~such time as~~ the commission ~~shall provide~~ provides an open season on any ~~marten or sable, otter,~~
 5 ~~mink, muskrat, beaver, fisher, Canada lynx, or black-footed ferret~~ fur-bearing animal. The furs and hides
 6 of ~~such~~ fur-bearing animals legally taken during the open season may be possessed, bought, and sold at
 7 any time except as ~~hereinafter~~ provided by law.

8 (2) When it is shown that muskrats or beaver are doing severe injury upon or are a menace to the
 9 structures, canal banks, or other works of an irrigation project or district or stock water pond, any employee
 10 or resident landowner on ~~such~~ the project or district may kill or trap or cause to be killed or trapped any
 11 muskrat or beaver upon or in menacing proximity to the structures, canal banks, or other works of ~~such~~
 12 the project or district or stock water pond during the closed season on muskrats or beaver, after having
 13 secured from the director a permit ~~so~~ to do so, except that from June 1 to August 31, both dates inclusive,
 14 of each year ~~no such a permit shall be~~ is not required."

15

16 **Section 33.** Section 87-5-404, MCA, is amended to read:

17 **"87-5-404. Flathead Lake bird preserve -- university of Montana biological reserve.** (1) Those
 18 ~~certain~~ islands, two in number, including lot one of block one, containing two and fifty-seven hundredths
 19 acres; lot two of block one, containing two and sixty hundredths acres; lot one of block two, containing
 20 one and sixty-five hundredths acres, all being in the villa site of islands situated in Flathead Lake in the
 21 county of Flathead, Montana, according to the official plat and survey of ~~said~~ the land returned to the
 22 general land office by the surveyor general, ~~be and the same are hereby made~~ a perpetual place of refuge
 23 for birds of all kinds, ~~the same and those lands are to be called and known as the~~ "Flathead Lake bird
 24 preserve", ~~which said lands shall be specially.~~ The lands are reserved for the breeding, propagating, and
 25 protection of all species of birds.

26 (2) It ~~shall be~~ is unlawful for any person to ~~kill, shoot, capture,~~ hunt, as defined in 87-2-101, or
 27 destroy or in any way injure any bird on ~~said~~ the islands or to interfere with their eggs or nests or to ~~shoot~~
 28 ~~at, wound, or kill~~ hunt any bird within a distance of 400 yards from the shoreline of ~~said~~ the islands.

29 (3) It ~~shall be~~ is unlawful for any person to ~~kill, shoot, capture,~~ hunt, as defined in 87-2-101, or
 30 destroy or in any way injure any bird or animal on the university of Montana biological reserve located on

1 the east shore of Flathead Lake or to interfere with their eggs or their young or their nests or to ~~shoot at,~~
 2 ~~wound, or kill~~ hunt any bird or any animal within 400 yards of ~~said~~ the university of Montana biological
 3 reserve or to discharge any firearms on ~~said~~ the reserve or within 400 yards ~~thereof~~ of the reserve."

4
 5 **Section 34.** Section 87-5-406, MCA, is amended to read:

6 **"87-5-406. Gates of the Mountains game preserve.** (1) Beginning in section 2, township 12 north,
 7 range 3 west, at the southeast corner of upper Holter Lake and proceeding westerly along the northern
 8 shoreline of ~~said~~ upper Holter Lake in the Gates of the Mountains area located in Lewis and Clark County,
 9 Montana, and then northerly along Stoney Point Beacon road, then northerly along the powerline to ~~said~~
 10 the beacon, then along the bulldozer road to the point of the ridge in section 23, township 13 north, range
 11 3 west, then northerly to the Missouri River, then easterly across ~~said~~ the river and lake to the forest
 12 service boundary to the wilderness boundary, then south following the wilderness boundary to the
 13 southeast corner of section 1, township 12 north, range 3 west, then west back to the upper Holter Lake
 14 to the point of beginning, intending ~~hereby~~ to include in ~~said~~ the game preserve all that territory adjacent
 15 to the Gates of the Mountains area, ~~shall be~~ is called and known as the Gates of the Mountains game
 16 preserve.

17 (2) It ~~shall be~~ is unlawful for any person to ~~shoot, kill, capture,~~ hunt, as defined in 87-2-101, or
 18 destroy or in any way injure any bird or fur-bearing animal in ~~said~~ the area or to interfere with their eggs
 19 or nests or to ~~shoot at, wound, or kill~~ hunt any bird or fur-bearing animal within ~~said~~ the preserve. ~~Said~~ The
 20 area ~~shall be~~ is closed to all hunting at all times."

21
 22 **NEW SECTION. Section 35. Severability.** If a part of [this act] is invalid, all valid parts that are
 23 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
 24 applications, the part remains in effect in all valid applications that are severable from the invalid
 25 applications.

26
 27 **NEW SECTION. Section 36. Codification instruction.** [Sections 5 and 10] are intended to be
 28 codified as an integral part of Title 87, chapter 2, part 1, and the provisions of Title 87, chapter 2, part 1,
 29 apply to [sections 5 and 10].

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0210, as introduced

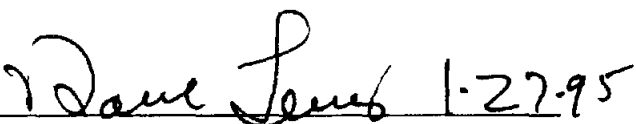
DESCRIPTION OF PROPOSED LEGISLATION:

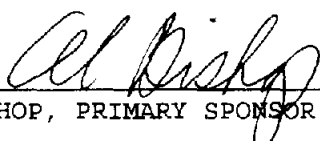
An act generally revising and clarifying the law regarding violations of fish and game criminal statutes and residency requirements; revising definitions; revising penalties; allowing former game wardens to be appointed ad ex-officio wardens; creating the offense of unlawful possession of a hunting license or permit of another; and creating the felony offense of sale of wildlife or wildlife parts.

ASSUMPTIONS:

1. Based on a Wisconsin study, the Department of Fish, Wildlife and Parks (FWP) estimates that violations will decrease by 25% when penalties are increased.
2. Fines for misdemeanors increase from not less than \$50 or more than \$500 to not less than \$100 or more than \$1,000.
3. Approximately 265 individuals annually are fined the minimum by Justices of the Peace. A 25% reduction would result in approximately 200 violators paying the revised \$100 minimum fine. Fine revenue will increase from \$13,250 to \$20,000.
4. Approximately 60 individuals annually are fined the \$500 maximum. In theory, 25% of the 60 or 15 individuals will be deterred from committing a misdemeanor. Approximately half or 23 of the 45 violators will be fined the \$1,000 maximum and 22 will be fined \$500. Fine revenue will increase from \$30,000 to \$33,000.
5. In accordance with 3-10-601, MCA, fines, penalties, forfeitures, and fees collected by Justices of the Peace are distributed 50% to county general fund and 50% to state treasure. The state treasurer distributes the funds as follows:
 - 27.88% to the state general fund
 - 09.09% to the Department of Fish, Wildlife and Parks
 - 11.76% to the Department of Transportation
 - 33.86% to the Highway Traffic Safety Division, Department of Justice
 - 00.57% to the Department of Livestock
 - 15.90% to the Department of Justice, Crime Victims Unit
 - 00.94% to the Department of Family Services
5. Restitution for illegal killing or possession of certain wildlife will increase. Based on historic information, it will increase by \$1,500 per year. FWP receives 100% of the restitutions.

(continued on page 2)


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


AL BISHOP, PRIMARY SPONSOR DATE
Fiscal Note for SB0210, as introduced

SB210

(continued)

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Revenues:</u>		
Fines:		
County General Fund	5,375	5,375
State General Fund	1,499	1,499
Department of Transportation	632	632
Highway Traffic Safety	1,820	1,820
Department of Livestock	31	31
Department of Family Services	50	50
Department of Fish, Wildlife & Parks	488	488
Crime Victims	<u>855</u>	<u>855</u>
Total	10,750	10,750
Restitution:		
Department of Fish, Wildlife & Parks	1,500	1,500

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Increase of fine revenue to the counties.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Serve as a deterrent and help stem the unlawful abuse of wildlife in Montana.

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0210, reference bill

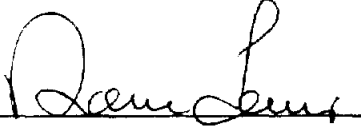
DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising and clarifying the law regarding violations of fish and game criminal statutes and residency requirements; revising definitions; revising penalties; allowing former game wardens to be appointed ad ex-officio wardens; creating the offense of unlawful possession of a hunting license or permit of another; creating the felony offense of sale of wildlife or wildlife parts; and providing that one-half of the money from certain fines relating to violations of state fish and game laws be deposited in the state general fund.

ASSUMPTIONS:

1. Based on a Wisconsin study, the Department of Fish, Wildlife and Parks (FWP) estimates that violations will decrease by 25% when penalties are increased.
2. Fines for misdemeanors change from not less than \$50 or more than \$500 to not less than \$50 or more than \$1,000.
3. Approximately 265 individuals annually are fined the minimum by Justices of the Peace. As the minimum fine will remain at \$50 there will be no change in projected revenues.
4. Approximately 60 individuals annually are fined the \$500 maximum. In theory, 25% of the 60 or 15 individuals will be deterred from committing a misdemeanor. Approximately half or 23 of the 45 violators will be fined the \$1,000 maximum and 22 will be fined \$500. Fine revenue will increase from \$30,000 to \$34,000.
5. In accordance with 3-10-601, MCA, fines, penalties, forfeitures, and fees collected by Justices of the Peace are distributed 50% to county general fund and 50% to state treasure. The state treasurer distributes the funds as follows:
 - 27.88% to the state general fund
 - 09.09% to the Department of Fish, Wildlife and Parks
 - 11.76% to the Department of Transportation
 - 33.86% to the Highway Traffic Safety Division, Department of Justice
 - 00.57% to the Department of Livestock
 - 15.90% to the Department of Justice, Crime Victims Unit
 - 00.94% to the Department of Family Services
6. Restitution for illegal killing or possession of certain wildlife will increase. Based on historic information, it will increase by \$1,500 per year. FWP receives 100% of the restitutions.
7. This legislation as amended will require that the state treasurer deposit in the general fund one-half of the money received from the fines pursuant to 87-1-102, MCA. FWP received \$247,676 in fine revenue in FY94 and projects the same revenue for each year of the biennium. In accordance with the amendment, one-half of the projected revenue will go to the general fund.

(continued on page 2)

 3-30-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 3-30-96
AL BISHOP, PRIMARY SPONSOR DATE

Fiscal Note for SB0210, reference bill

SB 210-#2

FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Revenues:</u>		
Fines:		
County General Fund	2,000	2,000
State General Fund	557	557
Department of Transportation	235	235
Highway Traffic Safety	677	677
Department of Livestock	12	12
Department of Family Services	19	19
Department of Fish, Wildlife & Parks	182	182
Crime Victims	<u>318</u>	<u>318</u>
Total	4,000	4,000
Restitution:		
Department of Fish, Wildlife & Parks	1,500	1,500
Redistribution FWP fine revenue:		
General Fund (01)	123,838	123,838
Fines - Fish/Game Violations (02)	(123,838)	(123,838)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Increase of fine revenue to the counties.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Serve as a deterrent and help stem the unlawful abuse of wildlife in Montana.

1 SENATE BILL NO. 210

2 INTRODUCED BY BISHOP, REAM

3 BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CLARIFYING THE LAW REGARDING
6 VIOLATIONS OF FISH AND GAME CRIMINAL STATUTES AND RESIDENCY REQUIREMENTS; REVISING
7 DEFINITIONS; REVISING PENALTIES; ALLOWING FORMER GAME WARDENS TO BE APPOINTED AS EX
8 OFFICIO WARDENS; CREATING THE OFFENSE OF UNLAWFUL POSSESSION OF A HUNTING LICENSE OR
9 PERMIT OF ANOTHER; CREATING THE FELONY OFFENSE OF SALE OF WILDLIFE OR WILDLIFE PARTS;
10 AMENDING SECTIONS 87-1-102, 87-1-111, 87-1-503, 87-2-101, 87-2-102, 87-2-103, 87-2-106,
11 87-2-109, 87-2-110, 87-2-401, 87-2-402, 87-2-403, 87-2-404, 87-2-411, 87-2-501, 87-2-504, 87-2-507,
12 87-2-508, 87-2-509, 87-2-708, 87-2-803, 87-2-807, 87-3-101, 87-3-104, 87-3-107, 87-3-109, 87-3-118,
13 87-3-301, 87-3-305, 87-3-402, 87-3-501, 87-5-404, AND 87-5-406, MCA; AND PROVIDING AN
14 EFFECTIVE DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 **Section 1.** Section 87-1-102, MCA, is amended to read:

19 **"87-1-102. Penalties.** (1) A person who purposely ~~or~~, knowingly, or negligently violates any
20 provision of this title, any other state law pertaining to fish and game, or the orders or rules of the
21 commission or department is guilty of a misdemeanor, except if a felony is expressly provided by law, and
22 shall be fined not less than ~~\$50~~ \$100 or more than ~~\$500~~ \$1,000, imprisoned in the county jail for not more
23 than 6 months, or both, unless a different punishment is expressly provided by law for the violation. In
24 addition, the person, upon conviction or forfeiture of bond or bail, ~~shall~~ may be subject to forfeiture of ~~his~~
25 that person's license and the privilege to hunt, fish, or trap ~~within in~~ this state or to use state lands, as
26 defined in 77-1-101, for recreational purposes for a period ~~of not less than 24 months from the date of~~
27 ~~conviction or forfeiture~~ set by the court. If the court imposes forfeiture of the person's license and privilege
28 to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss of privileges
29 as imposed by the court. The person shall surrender all licenses, as ordered by the court, to the department
30 within 10 days.

1 (2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting, ~~or wasting~~ of
 2 a bighorn sheep, moose, wild ~~bison~~ buffalo, caribou, mountain goat, black bear, or grizzly bear or any part
 3 of these animals shall be fined not less than \$500 or more than ~~\$1,000~~ \$2,000, imprisoned in the county
 4 jail for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or
 5 bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and
 6 the privilege to hunt, fish, or trap in this state for ~~not less than~~ 30 months from the date of conviction or
 7 forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the
 8 department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing,
 9 and trapping licenses to the department within 10 days.

10 (b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope,
 11 elk, or mountain lion, ~~or black bear~~ or any part of these animals ~~or wasting a deer, antelope, or elk~~ shall
 12 be fined not less than \$300 or more than \$1,000, imprisoned in the county jail for not more than 6 months,
 13 or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current
 14 hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state
 15 for ~~not less than~~ 24 months from the date of conviction or forfeiture, unless the court imposes a longer
 16 forfeiture period. For each conviction or forfeiture, the department shall notify the person of the loss of
 17 privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within
 18 10 days.

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

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

27 (e) A person convicted of purposely ~~or~~, knowingly, or negligently taking, killing, trapping,
 28 possessing, transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal
 29 in violation of any provision of this title shall be fined not less than ~~\$50~~ \$100 or more than \$1,000, ~~or~~
 30 imprisoned in the county jail for not more than 6 months, or both. In addition, that person, upon conviction

1 or forfeiture of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this
 2 state for not less than 24 months from the date of conviction or forfeiture, unless the court imposes a
 3 longer forfeiture period, and any pelts possessed unlawfully must be confiscated. For each conviction or
 4 forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all
 5 hunting, fishing, and trapping licenses to the department within 10 days.

6 ~~(f)(e)~~ A person convicted of hunting, fishing, or trapping while ~~his~~ that person's license is forfeited
 7 or ~~his~~ privilege denied shall be imprisoned in the county jail for not less than 5 days or more than 6 months.
 8 In addition, that person may be fined not less than \$500 or more than ~~\$1,000~~ \$2,000.

9 (3) A person convicted or who has forfeited bond or bail under this section and whose license
 10 privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or
 11 trapping license or permit during the period when license privileges have been forfeited. A person convicted
 12 of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping
 13 license during the period when license privileges have been forfeited shall be fined not less than \$500 or
 14 more than ~~\$1,000~~ \$2,000, ~~or~~ imprisoned in the county jail for not more than 60 days, or both.

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

22 (5) Notwithstanding the provision of subsection (1), the penalties provided by this section shall be
 23 in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2."
 24

25 **Section 2.** Section 87-1-111, MCA, is amended to read:

26 **"87-1-111. (Temporary) Restitution for illegal killing or possession of certain wildlife.** (1) In addition
 27 to other penalties provided by law, a person convicted or forfeiting bond or bail upon a charge of the illegal
 28 taking, killing, or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state
 29 for each such bird, mammal, or fish according to the following schedule:

30 (a) bighorn sheep, grizzly bear, and endangered species, \$2,000;

1 (b) elk, mountain goat, caribou, bald eagle, black bear, and moose, \$1,000;

2 (c) mountain lion, ~~black bear~~, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer
3 as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined
4 by commission regulation, \$500;

5 (d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor
6 not included in subsection (1)(c), swan, bobcat, white sturgeon, river-dwelling grayling, and paddlefish,
7 \$300;

8 (e) ~~grayling~~ and fur-bearing animals, as defined in 87-2-101, and not listed in subsection (1)(c) or
9 (1)(d), \$100;

10 (f) game bird (except swan), \$25;

11 (g) game fish, \$10.

12 (2) When a court enters an order declaring bond or bail to be forfeited, the court may also order
13 that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule
14 in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not
15 required for an order of restitution under this section. (Terminates June 30, 2003--sec. 2, Ch. 196, L.
16 1993.)

17 **87-1-111. (Effective July 1, 2003) Restitution for illegal killing or possession of certain wildlife.**

18 (1) In addition to other penalties provided by law, a person convicted or forfeiting bond or bail upon a
19 charge of the illegal killing, taking, or possession of a wild bird, mammal, or fish listed in this section shall
20 reimburse the state for each such bird, mammal, or fish according to the following schedule:

21 (a) bighorn sheep, grizzly bear, and endangered species, \$2,000;

22 (b) elk, mountain goat, caribou, bald eagle, black bear, and moose, \$1,000;

23 (c) mountain lion, ~~black bear~~, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer
24 as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined
25 by commission regulation, \$500;

26 (d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor
27 not included in subsection (1)(c), swan, bobcat, river-dwelling grayling, and white sturgeon, \$300;

28 (e) paddlefish, ~~grayling~~, and fur-bearing animals, as defined in 87-2-101, and not listed in
29 subsection (1)(c) or (1)(d), \$100;

30 (f) game bird (except swan), \$25;

1 (g) game fish, \$10.

2 (2) When a court enters an order declaring bond or bail to be forfeited, the court may also order
3 that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule
4 in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not
5 required for an order of restitution under this section."

6

7 **Section 3.** Section 87-1-503, MCA, is amended to read:

8 **"87-1-503. Ex officio wardens.** All sheriffs and their deputies, constables, all peace officers of the
9 state or any subdivision of the state, all state forest officers, and, as authorized by cooperative agreement,
10 ~~all~~ officers of the United States forest service, agents of the United States fish and wildlife service, peace
11 officers of the bureau of land management, national park service, and corps of engineers that are assigned
12 to duty in this state, former fish and game wardens, and field personnel of the department, as the director
13 may appoint, are ex officio wardens, without pay, except that the department may, in its discretion, allow
14 traveling expenses as provided for in 2-18-501 through 2-18-503, which, if allowed, must be paid upon
15 proper vouchers from the state fish and game funds. Ex officio wardens have the same powers with
16 reference to the enforcement of the fish and game laws of this state and the laws relating to parks and
17 outdoor recreation contained in chapters 1 and 2 of Title 23, except chapter 2, part 7, as regularly
18 appointed wardens, and it is their duty to assist, whenever possible, in the enforcement of those laws."

19

20 **Section 4.** Section 87-2-101, MCA, is amended to read:

21 **"87-2-101. Definitions.** As used in this chapter, ~~and chapter 3, and 87-1-102,~~ unless the context
22 clearly indicates otherwise, the following definitions apply:

23 (1) "Angling" or "fishing" means ~~the taking of or attempting to take fish by hook and single line~~
24 ~~or single rod, in hand or within immediate control to take or the act of a person possessing any instrument,~~
25 article, or substance for the purpose of taking fish in any location that a fish might inhabit.

26 (2) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area
27 inhabited by wildlife for the purpose of attracting game animals or game birds. The term does not include
28 unscented decoys, silhouettes, or other replicas of wildlife body forms or scents used only to mask human
29 odor.

30 (3) "Closed season" means the time during which game birds, fish, and game and fur-bearing

1 animals may not be lawfully taken.

2 ~~(3)~~(4) "Commission" means the state fish, wildlife, and parks commission.

3 ~~(4)~~(5) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx,
4 wolverine, northern swift fox, and beaver.

5 ~~(5)~~(6) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,
6 mountain lion, bear, and wild buffalo.

7 ~~(6)~~(7) "Game fish" means all species of the family salmonidae (chars, trout, salmon, grayling, and
8 whitefish); all species of the genus stizostedion (sandpike or sauger and walleyed pike or yellowpike perch);
9 all species of the genus esox (northern pike, pickerel, and muskellunge); all species of the genus
10 micropterus (bass); all species of the genus polyodon (paddlefish); all species of the family acipenseridae
11 (sturgeon); all species of the genus lota (burbot or ling); and the species ictalurus punctatus (channel
12 catfish).

13 (8) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a
14 person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of
15 pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing wildlife protected by the
16 laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or
17 subsequently taken. The term includes an attempt to take by any means, including but not limited to
18 pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

19 ~~(7)~~(9) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and
20 swans; cranes, including little brown and sandhill; rails, including coots; wilson's snipes or jacksnipes; and
21 mourning doves; however, the open season on mourning doves ~~shall be~~ is restricted to the open season
22 on upland game birds as defined in subsection ~~(12)~~(15) ~~below~~.

23 ~~(8)~~(10) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk,
24 crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

25 ~~(9)~~(11) "Open season" means the time during which game birds, fish, and game and fur-bearing
26 animals may be lawfully taken.

27 ~~(10)~~(12) "Person" means individuals, associations, partnerships, and corporations.

28 ~~(11)~~(13) "Predatory animals" means coyote, weasel, skunk, and civet cat.

29 (14) "Trap" means to take or participate in the taking of any wildlife protected by the laws of the
30 state by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife

1 or to remove wildlife from any of these devices.

2 ~~(12)~~(15) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse,
3 prairie chicken, sage hen or sage grouse, ruffed grouse, quail, pheasant, Hungarian partridge, ptarmigan,
4 wild turkey, and chukar partridge.

5 ~~(13)~~(16) "Wild buffalo" means buffalo or bison ~~which~~ that have not been reduced to captivity."
6

7 **NEW SECTION.** **Section 5. Lawful means of angling or fishing.** The only lawful means of angling
8 or fishing is by hook and single line or single rod, in hand or within immediate control. All other methods
9 of angling or fishing, unless authorized by commission rule, are unlawful.
10

11 **Section 6.** Section 87-2-102, MCA, is amended to read:

12 **"87-2-102. Resident defined.** In determining a resident for the purpose of issuing resident fishing,
13 hunting, and trapping licenses, the following provisions apply:

14 (1) A member of the regular armed forces of the United States, a member's dependent, as defined
15 in 15-30-113, who resides in the member's Montana household, or a member of the armed forces of a
16 foreign government attached to the regular armed forces of the United States is considered a resident for
17 the purposes of this chapter if:

18 (a) the member was a resident of Montana under the provisions of subsection ~~(2)~~(4) at the time
19 the member entered the armed forces and continues to meet residency criteria of subsection ~~(2)~~(4); or

20 (b) the member is currently stationed in and assigned to active duty in Montana, has resided in
21 Montana for at least 30 days, and presents official assignment orders and a certificate of competency, as
22 provided in 87-2-105, or a certificate verifying the successful completion of a hunter safety course in any
23 state or province. The 30-day residence requirement is waived in time of war. Reassignment to another
24 state, United States territory, or country terminates Montana residency for purposes of this section. The
25 designation of Montana by a member of the regular armed forces as a "home of record" or "home of
26 residence" in that member's armed forces records does not determine the member's residency for purposes
27 of this section.

28 (2) ~~A person who has been a resident of the state of Montana for a period of 6 months immediately~~
29 ~~prior to making application for a license is eligible to receive a resident hunting, fishing, or trapping license.~~
30 ~~A person is considered a resident if the person meets the following criteria:~~

1 ~~(4)~~ A person who has physically resided in Montana as the person's principal or primary home or
 2 place of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately prior
 3 to making application for any license is eligible to receive hunting, fishing, and trapping licenses. As used
 4 in this section, a vacant lot or a premises used solely for business purposes is not considered a principal
 5 or primary home or place of abode.

6 (3) A person who obtains residency under subsection (2) may continue to be a resident for
 7 purposes of this section by physically residing in Montana as the person's principal or primary home or
 8 place of abode for not less than 120 days a year and by meeting the criteria of subsection (4) prior to
 9 making application for any resident hunting, fishing, or trapping license.

10 (4) In addition to the requirements of subsection (2) or (3), a person shall meet the following
 11 criteria to be considered a resident for purposes of this section:

12 (a) the person's principal or primary home or place of abode is in Montana ~~the person lives in~~
 13 ~~Montana or has a fixed intent to return to this state when the person leaves it;~~

14 (b) the person files Montana state income tax returns as a resident if required to file ~~as a resident~~;

15 (c) the person licenses and titles in Montana as required by law any vehicles that the person owns
 16 and operates in Montana;

17 (d) the person does not ~~use~~ possess or apply for any resident hunting, fishing, or trapping licenses
 18 from another state or country or exercise resident hunting, fishing, or trapping privileges in another state
 19 or country ~~during the time the resident Montana license is valid~~; and

20 (e) if the person registers to vote, the person registers only in Montana.

21 (5) A student under 24 years of age who is enrolled in a post-secondary educational institution out
 22 of state and who would qualify for Montana resident tuition or otherwise meets the residence requirements
 23 of subsection (2) or (3) is considered a resident for purposes of this section.

24 ~~(3)(6)~~ Any An enrollee of a job corps camp located within the state of Montana is, after a period
 25 of 30 days within Montana, considered a resident for the purpose of making application for a fishing license
 26 as long as the person remains an enrollee in a Montana camp.

27 ~~(4)(7)~~ A person who does not reside in Montana but who meets all of the following requirements
 28 is a resident for purposes of obtaining hunting and fishing licenses:

29 (a) The person's principal employment is within this state and the income from this employment
 30 is the principal source of the applicant's family income.

1 (b) The person is required to pay and has paid Montana income tax in a timely manner and proper
2 amount.

3 (c) The person has been employed within this state on a full-time basis for at least 12 consecutive
4 months immediately preceding each application.

5 (d) The person's state of residency has laws substantially similar to this subsection ~~(4)~~ (7).

6 ~~(5)~~(8) An unmarried minor is considered a resident for the purposes of this section if the minor's
7 parents, legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for
8 purposes of this section. The minor is considered a resident for purposes of this section regardless of
9 whether the minor resides primarily in the state or otherwise qualifies as a resident. The resident parent or
10 guardian of the minor may be required to show proof of the parental, guardianship, or custodial relationship
11 to the minor.

12 (9) A person is not considered a resident for the purposes of this section if the person:

13 (a) claims residence in any other state or country for any purpose; or

14 (b) is an absentee property owner paying property tax on property in Montana.

15 (10) A license agent is not considered a representative of the state for the purpose of determining
16 a license applicant's residence status."

17

18 **Section 7.** Section 87-2-103, MCA, is amended to read:

19 **"87-2-103. License required.** (1) Except as provided in subsection (2), it is unlawful for a person
20 to:

21 (a) ~~pursue, hunt, or trap, take, shoot, or kill~~ or attempt to hunt or trap, take, shoot, or kill any game
22 animal, any game bird, or any fur-bearing animal or ~~take, kill, trap, or to~~ fish for any fish within this state
23 or ~~have, keep, or~~ possess within this state any game animal, game bird, fur-bearing animal, game fish, or
24 parts ~~thereof~~ of those animals or birds, except as ~~herein~~ provided by law or as provided by the department;
25 or

26 (b) ~~pursue, hunt, or trap, take, shoot, or kill~~ or attempt to hunt or trap, take, shoot, or kill any game
27 animal, game bird, or fur-bearing animal or ~~take, kill, trap, or to~~ fish for any fish, except at the places and
28 during the periods and in the manner ~~herein~~ defined by law or as defined by the department; or

29 (c) ~~pursue, hunt, or trap, take, shoot, or kill~~ or attempt to hunt or trap, take, shoot, or kill any game
30 animal, game bird, or fur-bearing animal or ~~take, kill, trap, or~~ fish for any fish within this state or ~~have,~~

1 ~~keep~~, possess, sell, purchase, ship, or reship any imported or other fur-bearing animal or parts ~~thereof~~ of
 2 fur-bearing animals without first having obtained a proper license or permit from the department to do so;
 3 or

4 (d) trap or ~~snare~~ or attempt to trap or ~~snare~~ predatory animals or nongame wildlife without a
 5 license, as prescribed in 87-2-603, if that person is not a resident as defined in 87-2-102.

6 (2) The provisions of this section do not require a person who accompanies a licensed disabled
 7 hunter, as authorized under 87-2-803(4), to be licensed in order to ~~pursue, hunt, take, shoot, or~~ kill or
 8 attempt to ~~pursue, hunt, take, shoot, or~~ kill a game animal that has been wounded by a disabled hunter
 9 when the disabled hunter is unable to pursue and kill the wounded game animal. However, the person must
 10 meet the qualifications for a license in the person's state of residence."
 11

12 **Section 8.** Section 87-2-106, MCA, is amended to read:

13 **"87-2-106. Application for license -- penalties for violation -- forfeiture of privileges.** (1) A license
 14 may be procured from the director, any warden, or any authorized agent of the director. The applicant shall
 15 state the applicant's name, age, occupation, ~~place of~~ address of permanent residence, and post-office
 16 address, the applicant's qualifying length of time as a resident in the state of Montana, whether a citizen
 17 of the United States or an alien, and other facts, data, or descriptions as may be required by the
 18 department. An applicant for a resident license shall present a valid Montana driver's license, Montana
 19 driver's examiner's identification card, or other identification specified by the department to substantiate
 20 the required information. It is the applicant's burden to provide documentation establishing the applicant's
 21 identity and qualifications to purchase a license. It is unlawful and a misdemeanor for a license agent to sell
 22 a hunting, fishing, or trapping license to an applicant who fails to produce the required identification at the
 23 time of application for licensure. Except as provided in subsections (2) through (4), the statements made
 24 by the applicant must be subscribed to before the officer or agent issuing the license.

25 (2) Except as provided in subsection (3), department employees or officers may issue licenses by
 26 mail. Statements on an application for a license to be issued by mail need not be subscribed to before the
 27 employee or officer.

28 (3) To apply for a license under the provisions of 87-2-102~~(4)~~(7), the applicant shall apply to the
 29 director and shall submit at the time of application a notarized affidavit that attests to fulfillment of the
 30 requirements of 87-2-102~~(4)~~(7). The director shall process the application in an expedient manner.

1 (4) A resident may apply for and purchase a wildlife conservation license, hunting license, or fishing
2 license for ~~his~~ the resident's spouse, parent, child, brother, or sister who is otherwise qualified to obtain
3 the license.

4 (5) A license is void unless subscribed to by the licensee and by an employee or officer of the
5 department or by a license agent or an authorized representative of the license agent.

6 (6) It is unlawful to subscribe to any statement, on any application or license, that is materially
7 false. Any material false statement contained in an application renders the license issued pursuant to it void.
8 A person violating any provision of this ~~statute~~ subsection is guilty of a misdemeanor.

9 (7) (a) A person not meeting the residency criteria set out in 87-2-102 who is convicted of
10 affirming to a false statement to obtain a resident license shall be:

11 (i) fined not less than the greater of \$100 or twice the cost of the nonresident license that
12 authorized the sought-after privilege or more than \$1,000;

13 (ii) imprisoned in the county jail for not more than 6 months; or

14 (iii) both fined and imprisoned.

15 (b) In addition to the penalties specified in subsection (7)(a), upon conviction or forfeiture of bond
16 or bail, the person shall forfeit any current hunting, fishing, and trapping licenses and the privilege to hunt,
17 fish, and trap in Montana for not less than 18 months.

18 (8) It is unlawful and a misdemeanor for a person to purposely or knowingly assist an unqualified
19 applicant in obtaining a resident license in violation of this section."
20

21 **Section 9.** Section 87-2-109, MCA, is amended to read:

22 "**87-2-109. Carrying and exhibiting license and identification.** (1) ~~Except as provided in [section~~
23 10(2)], it is unlawful for a person to whom a license or permit has been issued to fish ~~for or take any fish~~
24 ~~or pursue, to hunt, shoot, kill, or take for~~ any game bird or game animal, or to attempt to trap, trap, or take
25 hunt for any fur-bearing animal in this state unless the person ~~has~~ is carrying the required license, licenses,
26 or permit ~~in the person's possession~~ at the time.

27 (2) It is unlawful to refuse to exhibit a license or permit and the identification used in purchasing
28 a license or permit for inspection to a warden or other officer requesting to see it."
29

30 **NEW SECTION. Section 10. Unlawful possession of hunting license or permit of another --**

1 **penalties.** (1) Except as provided in subsection (2), it is unlawful for a person to carry or have physical
2 control over a valid AND UNUSED hunting license or permit issued to another person while in any location
3 that the species to be hunted may inhabit.

4 (2) The following exceptions apply to the prohibition in subsection (1):

5 (a) A person may carry or have physical control over a license or permit issued to that person's
6 spouse or to any minor when the spouse or minor is hunting with that person.

7 (b) The prohibition does not apply to a properly validated license or permit attached to a lawfully
8 killed game animal.

9 (3) Except as provided in subsection (4), a person who violates this section is guilty of a
10 misdemeanor punishable as provided in 87-1-102(1).

11 (4) A person who violates this section while engaged in a commercial activity, such as taxidermy,
12 meat processing, outfitting, or guiding by carrying or having physical control over three or more hunting
13 licenses THAT ARE issued to another person or persons AND THAT ARE USED OR INTENDED TO BE USED
14 ON GAME ANIMALS NOT TAKEN BY THE PERSON OR PERSONS TO WHOM THE LICENSES WERE
15 ISSUED, is guilty of a felony and upon conviction shall be fined not more than \$50,000, imprisoned in the
16 state prison for not more than 5 years, or both.

17 (5) In addition to the penalties set out in subsections (3) and (4), a person convicted under this
18 section or who pleads guilty to a violation of this section shall lose all hunting, fishing, and trapping permit
19 and license privileges for not less than 3 years or up to a lifetime revocation from the date of conviction.

20
21 **Section 11.** Section 87-2-110, MCA, is amended to read:

22 "**87-2-110. Alteration, attachment, or transfer of license.** ~~No~~ A person may not at any time alter
23 or change in any material manner or loan or transfer any license to another person. ~~any license, nor may~~
24 ~~any~~ A person other than the person to whom ~~it~~ a license is issued may not use ~~it~~ the license. A person may
25 not attach the person's license to a game animal killed by another person."

26
27 **Section 12.** Section 87-2-401, MCA, is amended to read:

28 "**87-2-401. Class A-1--resident upland game bird license.** Except as otherwise provided, a resident,
29 as defined by 87-2-102, who is 12 years of age or older may, upon payment of a fee of \$6, receive a Class
30 A-1 license ~~which that~~ will entitle the holder to ~~pursue, hunt, shoot, and kill~~ upland game birds, cranes,

1 rails, snipes, and mourning doves and possess the carcasses of upland game birds, cranes, rails, snipes,
2 and mourning doves as authorized by department rules."

3

4 **Section 13.** Section 87-2-402, MCA, is amended to read:

5 **"87-2-402. Class B-1--nonresident upland game bird license.** Except as otherwise provided in this
6 chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older, upon
7 payment of a fee of \$55 may receive a Class B-1 license ~~which shall entitle~~ that entitles the holder ~~thereof~~
8 to ~~pursue, hunt, shoot, and kill~~ upland game birds, cranes, rails, snipes, and mourning doves and possess
9 the carcasses of upland game birds, cranes, rails, snipes, and mourning doves as authorized by department
10 rules."

11

12 **Section 14.** Section 87-2-403, MCA, is amended to read:

13 **"87-2-403. (Temporary) Wild turkey tags and fee.** (1) The department may issue wild turkey tags
14 to the holder of a valid Class A-1 or Class B-1 license or as set out in subsection (3). Each tag ~~shall entitle~~
15 entitles the holder to ~~pursue, hunt, shoot, and kill~~ one wild turkey and possess the carcass ~~thereof of the~~
16 turkey, during ~~such~~ times and ~~such~~ places as that the ~~department commission shall authorize~~ authorizes
17 an open season on wild turkey.

18 (2) The fee for a wild turkey tag is \$4 beginning March 1, 1992, and \$5 beginning March 1, 1994,
19 for residents and \$13 for nonresidents. Turkey tags ~~shall~~ must be issued either by a drawing system or in
20 unlimited number as authorized by department rules.

21 (3) Subject to the provisions of subsection (2), a person who is 62 years of age or older as
22 provided in 87-2-801, certified as disabled under 87-2-803, or a resident minor as described in 87-2-805
23 may purchase a wild turkey tag upon presentation of ~~his~~ that person's wildlife conservation license.
24 (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

25 **87-2-403. (Effective March 1, 2006) Wild turkey tags and fee.** (1) The department may issue wild
26 turkey tags to the holder of a valid Class A-1 or Class B-1 license or as set out in subsection (3). Each tag
27 ~~shall entitle~~ entitles the holder to ~~pursue, hunt, shoot, and kill~~ one wild turkey and possess the carcass
28 ~~thereof of the turkey~~, during ~~such~~ times and ~~such~~ places as that the ~~department commission shall authorize~~
29 authorizes an open season on wild turkey.

30 (2) The fee for a wild turkey tag ~~shall be~~ is \$5. Turkey tags ~~shall~~ must be issued either by a

1 drawing system or in unlimited number as authorized by department rules.

2 (3) Subject to the provisions of subsection (2), a person who is 62 years of age or older as
3 provided in 87-2-801, certified as disabled under 87-2-803, or a resident minor as described in 87-2-805
4 may purchase a wild turkey tag upon presentation of ~~his~~ that person's wildlife conservation license."
5

6 **Section 15.** Section 87-2-404, MCA, is amended to read:

7 "**87-2-404. Three-day nonresident captive-reared bird hunting stamp.** A person who is 12 years
8 of age or older and who is not a resident, as defined in 87-2-102, may, upon payment of a fee of \$20,
9 receive a 3-day nonresident shooting preserve bird hunting stamp that authorizes the holder to ~~pursue,~~
10 ~~hunt, shoot, and kill~~ game specified under 87-4-522 on a shooting preserve licensed under 87-4-501 for
11 3 consecutive calendar days as indicated on the license."
12

13 **Section 16.** Section 87-2-411, MCA, is amended to read:

14 "**87-2-411. Stamp required to hunt waterfowl.** (1) It is unlawful for any person 15 years of age
15 or older to ~~pursue, hunt, shoot, or kill~~ waterfowl without first having obtained a valid waterfowl stamp from
16 the department. The fee for ~~such~~ the stamp is \$5.

17 (2) For the purpose of this section, the term "waterfowl" means wild ducks, wild geese, brant, and
18 swans."
19

20 **Section 17.** Section 87-2-501, MCA, is amended to read:

21 "**87-2-501. Class A-3, A-4, A-5, A-6, A-7--resident deer, elk, and bear licenses -- special Class A-7**
22 **resident and nonresident license requirements and preference.** (1) Except as otherwise provided in this
23 chapter, a resident, as defined by 87-2-102, or a nonresident who wishes to purchase a Class A-7 elk
24 license only, and who will be 12 years of age or older prior to September 15 of the season for which the
25 license is issued may, upon payment of the proper fee or fees, be entitled to purchase one each of the
26 following licenses at the prescribed cost ~~which that~~ that will entitle the holder to ~~pursue, hunt, shoot, and kill~~
27 the game animal or animals authorized by the license held and to possess the carcasses of those game
28 animals as authorized by department rules:

29 (a) Class A-3, deer A tag, ~~\$11 beginning March 1, 1992, and \$13 beginning March 1, 1994;~~

30 (b) Class A-4, deer B tag, ~~\$7 beginning March 1, 1992, and \$8 beginning March 1, 1994;~~

1 (c) Class A-5, elk tag, ~~\$13 beginning March 1, 1992, and \$16 beginning March 1, 1994;~~

2 (d) Class A-6, black or brown bear tag, ~~\$11 beginning March 1, 1992, and \$15 beginning March~~
3 ~~1, 1994;~~

4 (e) Class A-7, antlerless elk tag, ~~\$13 beginning March 1, 1992, and \$16 beginning March 1, 1994.~~

5 (2) (a) The holder of a Class A-7 antlerless elk license is entitled to ~~take~~ hunt antlerless elk in areas
6 designated by the commission and at ~~such~~ the times and upon ~~such~~ the terms as set forth by the
7 commission.

8 (b) ~~No~~ A person may not take more than one elk during any license year, and a person holding a
9 Class A-7 antlerless elk tag may not take an elk during the same license year with a Class A-5 license or
10 nonresident elk tag. The use of Class A-7 antlerless elk licenses does not preclude the department's use
11 of special elk permits.

12 (c) A nonresident shall hold a nonresident Class B-10 license as a prerequisite to application for
13 a Class A-7 license.

14 (3) Subject to the limitation of subsection (5), a person who owns or is contracting to purchase
15 640 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where
16 Class A-7 licenses are awarded under this section shall must be issued, upon application, a Class A-7
17 license.

18 (4) An applicant who receives a Class A-7 license under subsection (3) may designate that the
19 license be issued to an immediate family member or a person employed by the landowner. A corporation
20 owning qualifying land under subsection (3) may designate one of its shareholders to receive the license.

21 (5) Fifteen percent of the Class A-7 licenses available each year under this section in a hunting
22 district must be available to landowners under subsection (3)."
23

24 **Section 18.** Section 87-2-504, MCA, is amended to read:

25 **"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses.** Except as otherwise
26 provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who will be 12 years
27 of age or older prior to September 15 of the season for which the license is issued and is a holder of a
28 nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations
29 prescribed by law and department regulation, be entitled to apply to the fish and game office, Helena,
30 Montana, to purchase one each of the following licenses: Class B-7, deer A tag, \$150; Class B-8, deer B

1 tag, \$50; and will entitle the holder to ~~pursue, hunt, shoot, and kill~~ the game animal or animals authorized
 2 by the license held and to possess the carcasses of those animals as authorized by department rules. Unless
 3 purchased as part of a B-10 or B-11 license, a Class B-7 license must be assigned for use in a specific
 4 administrative region or portion ~~thereof~~ of a specific administrative region. If purchased as part of a Class
 5 B-11 license, the Class B-7 license is valid throughout the state. Not more than 5,000 Class B-7 licenses
 6 may be sold in any license year. Money received from the sale of Class B-7 licenses in excess of 1,700
 7 must be used as provided in 87-1-242(1). (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

8 **87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses.** Except as
 9 otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who will
 10 be 12 years of age or older prior to September 15 of the season for which the license is issued and is a
 11 holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to
 12 the limitations prescribed by law and department regulation, be entitled to apply to the fish and game office,
 13 Helena, Montana, to purchase one each of the following licenses: Class B-7, deer A tag, \$100; Class B-8,
 14 deer B tag, \$50; and will entitle the holder to ~~pursue, hunt, shoot, and kill~~ the game animal or animals
 15 authorized by the license held and to possess the carcasses of those animals as authorized by department
 16 rules. Unless purchased as part of a B-10 or B-11 license, a Class B-7 license must be assigned for use in
 17 a specific administrative region or portion ~~thereof~~ of a specific administrative region. If purchased as part
 18 of a Class B-11 license, the Class B-7 license is valid throughout the state."

19
 20 **Section 19.** Section 87-2-507, MCA, is amended to read:

21 **"87-2-507. (Temporary) Class D-1--nonresident mountain lion license.** Except as otherwise provided
 22 in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older,
 23 upon payment of a fee of \$320 may receive a Class D-1 license ~~which shall entitle~~ that entitles the holder
 24 ~~thereof to pursue, hunt, shoot, and kill~~ mountain lion and possess the carcass ~~thereof~~ of the mountain lion
 25 as authorized by department rules. If a holder of a valid mountain lion license under this section kills a
 26 mountain lion, ~~he~~ the licensee must shall purchase a trophy license for a fee of \$50 within 10 days after
 27 the date of kill. The trophy license authorizes the holder to possess and transport ~~such~~ the trophy.
 28 (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

29 **87-2-507. (Effective March 1, 2006) Class D-1--nonresident mountain lion license.** Except as
 30 otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12

1 years of age or older, upon payment of a fee of \$300 may receive a Class D-1 license ~~which shall entitle~~
 2 that entitles the holder ~~thereof~~ to ~~pursue, hunt, shoot, and kill~~ mountain lion and possess the carcass
 3 ~~thereof of the mountain lion~~ as authorized by department rules. If a holder of a valid mountain lion license
 4 under this section kills a mountain lion, ~~he~~ the licensee must shall purchase a trophy license for a fee of \$50
 5 within 10 days after the date of kill. The trophy license authorizes the holder to possess and transport ~~such~~
 6 the trophy."

7

8 **Section 20.** Section 87-2-508, MCA, is amended to read:

9 **"87-2-508. Class D-2--resident mountain lion license.** Except as otherwise provided in this chapter,
 10 a person who is a resident, as defined in 87-2-102, and who is 12 years of age or older, upon payment of
 11 a fee of ~~\$13 beginning March 1, 1992, and \$15 beginning March 1, 1994,~~ may receive a Class D-2 license
 12 ~~which shall entitle that entitles~~ the holder ~~thereof~~ to ~~pursue, hunt, shoot, and kill~~ mountain lion and possess
 13 the carcass ~~thereof of the mountain lion~~ as authorized by department rules. If a holder of a valid mountain
 14 lion license under this section kills a mountain lion, ~~he~~ the licensee must shall purchase a trophy license for
 15 a fee of \$50 within 10 days after the date of kill. The trophy license authorizes the holder to possess and
 16 transport ~~such~~ the trophy."

17

18 **Section 21.** Section 87-2-509, MCA, is amended to read:

19 **"87-2-509. Tagging of carcasses of game animals.** (1) Each license issued by the department
 20 authorizing the holder of the license to ~~pursue, shoot, kill, capture, take, or possess~~ hunt game animals,
 21 whether issued to a resident or a nonresident, must provide any tags, coupons, or markers as the
 22 department prescribes. When any person ~~takes or~~ kills any game animal under the license, the person shall
 23 immediately cut out from the tag, coupon, or other marker the date the animal was killed ~~or taken~~ and
 24 attach the tag, coupon, or other marker to the animal, completely filled out with the name of the license
 25 holder, the license holder's address, and any other information requested on the tag, coupon, or other
 26 marker. The tag, coupon, or other marker must be kept attached to the carcass as long as any considerable
 27 portion of the carcass remains unconsumed, ~~and when~~ When a game animal has been lawfully killed and
 28 the proper tag, coupon, or other marker is attached to the game animal that was killed, the game animal
 29 becomes the property of the person who ~~tagged~~ lawfully killed the animal and may be possessed, used,
 30 stored, donated to another or to a charity, or transported.

1 (2) It is unlawful for a person who kills any game animal by authority of any license issued for the
2 killing of the game animal to fail or neglect to cut out the day and month of the kill or provide any other
3 information that is required and attach the tag, coupon, or other marker provided with the license issued
4 to the carcass of the game animal or portion of the game animal. It is unlawful for a person to fail to keep
5 the tag, coupon, or other marker attached to the game animal or portion of the game animal while the
6 animal is possessed by the person. It is unlawful for a person to tag a game animal with a tag restricted
7 to a hunting district other than the hunting district where the game animal was killed."
8

9 **Section 22.** Section 87-2-708, MCA, is amended to read:

10 "**87-2-708. Class A-2--special bow and arrow license.** A holder of a valid hunting license for which
11 a special archery season is set by the department may receive, upon payment of an additional fee of \$8,
12 a Class A-2 license ~~which shall authorize~~ that authorizes the holder ~~thereof~~ to ~~pur-~~ ~~ue,~~ ~~hunt,~~ ~~shoot,~~ ~~and~~ ~~kill~~
13 with bow and arrow the game animals ~~so~~ authorized by the licenses held and to possess the carcass
14 ~~thereof~~ of the game animals during seasons and in areas, ~~as~~ designated by the department."
15

16 **Section 23.** Section 87-2-803, MCA, is amended to read:

17 "**87-2-803. Disabled persons.** (1) Disabled persons are entitled to fish and to hunt game birds with
18 only a conservation license if they are residents of Montana not residing in an institution and are certified
19 as disabled as prescribed by departmental rule.

20 (2) A resident of Montana who is certified as disabled by the department and who is not residing
21 in an institution may purchase regular resident deer and elk licenses at one-half the fee paid by a resident
22 who is 15 years ~~old~~ of age or older and who is under 62 years of age.

23 (3) A resident or nonresident disabled person who is certified as disabled by the department and
24 who is not residing in an institution may carry a permit on a form prescribed by the department. A disabled
25 person issued a permit under this subsection is entitled to have the department stamp the permit with
26 "Permission to Hunt From a Vehicle" if the person establishes to the satisfaction of the department that the
27 person is permanently physically handicapped and nonambulatory or that the person's mobility is
28 substantially impaired.

29 (4) A disabled person carrying a permit as required in subsection (3), upon which is stamped
30 "Permission to Hunt From a Vehicle", may hunt by shooting a firearm from the shoulder, berm, or barrow

1 pit right-of-way of a public highway, as defined in 61-1-202, except a state or federal highway, or may
 2 hunt by shooting a firearm from within a self-propelled or drawn vehicle that is parked on a shoulder, berm,
 3 or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or ~~may hunt by~~
 4 ~~shooting a firearm from within a self-propelled or drawn vehicle~~ that is parked in an area, not a public
 5 highway, where hunting is permitted. Nothing in this subsection allows a disabled person to shoot across
 6 the roadway of any public highway or to hunt on private property without permission of the landowner.
 7 A disabled person who hunts as authorized in this subsection must have a companion to assist in
 8 immediately dressing any killed game animal. The companion may also assist the disabled hunter by
 9 ~~pursuing, hunting, taking, shooting, or killing~~ a game animal that has been wounded by the disabled hunter
 10 when the disabled hunter is unable to pursue and kill the wounded game animal. Any vehicle from which
 11 a disabled person is hunting must be conspicuously marked with an orange-colored international symbol
 12 of the handicapped on the front, rear, and each side of the vehicle.

13 (5) A resident of Montana who is certified by the department as a blind individual, as defined in
 14 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The
 15 license is valid for the lifetime of the blind individual and allows the licensee to fish ~~with hook and line or~~
 16 ~~rod~~, as authorized by department rule. An applicant for a license under this subsection need not obtain a
 17 wildlife conservation license as a prerequisite to licensure."
 18

19 **Section 24.** Section 87-2-807, MCA, is amended to read:

20 **"87-2-807. Taking migratory game birds for propagation -- avicultural permit.** (1) The department
 21 may issue avicultural permits for taking, capturing, and possessing migratory game birds, as defined in
 22 87-2-1014~~(7)~~(9), for the purpose of propagation. Before issuing an avicultural permit, the department ~~must~~
 23 shall determine that the applicant has been issued the appropriate federal permit or that the applicant will
 24 receive the appropriate federal permit subject to concurrence by the department.

25 (2) An avicultural permit issued under this section must specify:

- 26 (a) the species of migratory game birds allowed to be taken under the permit;
- 27 (b) whether eggs or hatched birds, or both, may be taken;
- 28 (c) the number of eggs or hatched birds, or both, that may be taken;
- 29 (d) areas in which collection may be made;
- 30 (e) means by which collection may be made;

- 1 (f) the time period for which the permit is valid; and
- 2 (g) any other conditions imposed by the department under rules adopted pursuant to subsection
- 3 (5).
- 4 (3) Hatched migratory game birds or their eggs taken under an avicultural permit issued in
- 5 accordance with this section remain the property of the state and may be disposed of only with the
- 6 permission of the department. Progeny of hatched migratory game birds taken under permit as provided
- 7 in this section become the private property of the holder of the permit who propagates ~~such~~ the migratory
- 8 game birds, and the owner may sell or transfer ~~such~~ the birds as private property, subject to any applicable
- 9 state or federal law or regulation.
- 10 (4) The department may charge a fee for issuing an avicultural permit, if necessary, not to exceed
- 11 the cost of issuing ~~such~~ the permit.
- 12 (5) The department shall adopt rules implementing this section."

13

14 **Section 25.** Section 87-3-101, MCA, is amended to read:

15 **"87-3-101. General restrictions.** Except as provided in 87-2-803(4), it is unlawful for anyone to

16 ~~take, capture, shoot, kill, or attempt to take, capture, shoot, or kill~~ hunt or attempt to hunt any game animal

17 or game bird:

- 18 (1) from any self-propelled or drawn vehicle;
- 19 (2) on, from, or across any public highway or the shoulder, berm, or barrow pit right-of-way of any
- 20 public highway, as defined in 61-1-202, in the state of Montana; or
- 21 (3) by the aid or with the use of any set gun, jacklight, spotlight or other artificial light, trap, snare
- 22 ~~(except as allowed in 87-3-107(1) 87-3-127 AND 87-3-128), or salt lick, or bait; nor may any such set gun,~~
- 23 ~~jacklight or other artificial light, trap, snare, salt lick, or other device to entrap or entice game animals or~~
- 24 ~~game birds be used, made, or set."~~

25

26 **Section 26.** Section 87-3-104, MCA, is amended to read:

27 **"87-3-104. Unlawful to hunt or fish during closed season.** It is unlawful and a misdemeanor for

28 any person during the closed season on any species of game animal, game bird, or fish to attempt to ~~take,~~

29 ~~shoot, kill, or capture~~ hunt or to ~~take, hunt, shoot, kill, or capture~~ any ~~such~~ game animal or ~~such~~ game bird

30 or to fish for or catch any fish."

1 **SECTION 27. SECTION 87-3-107, MCA, IS AMENDED TO READ:**

2 **"87-3-107. Use of snare lawful under certain conditions.** (1) It ~~shall be~~ is lawful to use a snare
3 trap for the purpose of snaring ~~any animal or bird~~ a fur-bearing animal, a predatory animal, or a nongame
4 species under the following conditions:

5 (a) ~~Each~~ A snare trap must be tagged with a numbered metal device identifying the owner's name,
6 address, and telephone number.

7 (b) It is unlawful to set snare traps on private property without the landowner's consent.

8 (c) Snare traps ~~shall~~ must be set in a manner and at a time so as not to unduly endanger livestock.

9 (d) A person who injures livestock in snare traps is liable for damages to the owner of the livestock.

10 (2) A person convicted of violating the provisions of this section is guilty of a misdemeanor.

11 (3) The commission may adopt rules to enforce this section."
12

13 **Section 28.** Section 87-3-109, MCA, is amended to read:

14 **"87-3-109. Attempting to take simulated wildlife decoy -- penalty.** (1) It is unlawful for a person
15 to discharge a firearm or other hunting implement at a simulated wildlife decoy in violation of any state
16 statute or commission rule regulating the hunting ~~or taking~~ of the wildlife being simulated when the decoy
17 is being used by a certified peace officer.

18 (2) Upon conviction, the penalty for attempting to ~~take~~ hunt a simulated wildlife decoy is the same
19 as prescribed for ~~unlawful taking~~ the state statute or commission rule violated during the attempted hunting
20 of the actual wildlife being simulated.

21 (3) In addition to any other penalty, a person convicted under this section shall pay restitution of
22 \$50 to the department for the repair of damages to simulated wildlife decoys."
23

24 **Section 29.** Section 87-3-118, MCA, is amended to read:

25 **"87-3-118. ~~Sale~~ Felony sale or possession of ~~unlawfully taken~~ wildlife -- penalty.** (1) A person
26 commits the offense of sale of unlawfully taken wildlife if ~~he~~ the person purposely or knowingly;

27 (a) sells, barter, purchases, or exchanges unlawfully taken wildlife for anything of value; or if ~~he~~

28 (b) offers to sell, barter, purchase, or exchange unlawfully taken wildlife for anything of value;
29 ~~unlawfully taken wildlife.~~

30 (2) A person commits the offense of possession of unlawfully taken wildlife having a value of more

1 than \$1,000 if ~~he~~ the person purposely or knowingly has actual or constructive possession of or transports
 2 or causes to be transported unlawfully taken wildlife having a value of more than \$1,000. The value of the
 3 unlawfully taken wildlife must be determined from the schedule of restitution values set out in 87-1-111.

4 (3) (a) A person commits the offense of unlawful sale or possession of wildlife if the person
 5 purposely or knowingly:

6 (i) sells, barter, purchases, or exchanges wildlife for anything of value;

7 (ii) attempts to sell, barter, purchase, or exchange wildlife for anything of value;

8 (iii) transports, causes to be transported, or is in the process of transporting out of state wildlife
 9 for purposes of sale, barter, purchase, or exchange for anything of value.

10 (b) For the purposes of this subsection (3), "wildlife" includes the edible meat, internal organs,
 11 tissue, fluids, or sex organs of wildlife having a value of more than \$1,000 or edible meat of wildlife in
 12 excess of 150 pounds, except meat allowed to be sold under the provisions of 71-3-1505.

13 (c) For purposes of determining the total pounds of edible meat of wildlife, any nonwildlife meat
 14 or ingredients mixed with the meat of wildlife must be included in the total.

15 (4) For purposes of this section, the value of all wildlife actually or constructively possessed,
 16 transported, sold, bartered, bought, or exchanged for anything of value within a 45-day period must be
 17 added together to determine whether the value of the wildlife is greater than \$1,000.

18 (5) A person who violates this section is guilty of a felony and upon conviction shall be fined not
 19 more than \$50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In
 20 addition, a person convicted under this section or who pleads guilty to a violation of this section shall lose
 21 all hunting, fishing, and trapping permits and license privileges for a minimum of 3 years or up to a
 22 maximum of a lifetime revocation from the date of conviction."

23
 24 **Section 30.** Section 87-3-301, MCA, is amended to read:

25 **"87-3-301. Shotgun loads regulated by department.** ~~No~~ A person may not use a shotgun to hunt,
 26 ~~kill, or shoot~~ deer or elk except with weapon type and loads as specified by the department."

27
 28 **Section 31.** Section 87-3-305, MCA, is amended to read:

29 **"87-3-305. Unlawful to ~~take~~ hunt deer within city or town boundaries.** It is unlawful to ~~shoot, kill,~~
 30 ~~take~~ hunt, ~~or cause to be shot, killed, taken, or captured~~ or ~~to attempt to shoot, kill, take, or capture~~ hunt

1 any deer within the boundaries of any incorporated or unincorporated city or town of this state."

2
3 **Section 32.** Section 87-3-402, MCA, is amended to read:

4 **"87-3-402. Unlawful to violate closed season on certain game birds.** It is unlawful for any person
5 to hunt, ~~shoot, kill, capture, possess, or cause to be hunted, killed, or captured~~ or attempt to ~~shoot, kill,~~
6 ~~or capture~~ hunt any quail, Chinese or Mongolian pheasant (commonly called ring-necked pheasant),
7 Hungarian partridge, chukar partridge, sage grouse, sharp-tailed grouse, blue grouse, fool hen, prairie
8 chicken, ruffed grouse, ptarmigan, or wild turkey until ~~such time as the department shall provide~~
9 commission provides an open season on any quail, Chinese or Mongolian pheasant (commonly called
10 ring-necked pheasant), Hungarian partridge, chukar partridge, sage grouse, sharp-tailed grouse, blue grouse,
11 fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild turkey."

12
13 **Section 33.** Section 87-3-501, MCA, is amended to read:

14 **"87-3-501. Open and closed season for fur-bearing animals -- exception.** (1) ~~It shall hereafter be~~
15 is unlawful and a misdemeanor for ~~any a~~ person to ~~shoot, trap, kill, or capture or cause to be shot, trapped,~~
16 ~~killed, or captured or to attempt to shoot, trap, kill, or capture any marten or sable, otter, mink, muskrat,~~
17 ~~beaver, fisher, Canada lynx, or black-footed ferret~~ or hunt or attempt to trap or hunt any fur-bearing animal
18 until ~~such time as the commission shall provide~~ provides an open season on any ~~marten or sable, otter,~~
19 ~~mink, muskrat, beaver, fisher, Canada lynx, or black-footed ferret~~ fur-bearing animal. The furs and hides
20 of ~~such~~ fur-bearing animals legally taken during the open season may be possessed, bought, and sold at
21 any time except as ~~hereinafter~~ provided by law.

22 (2) When it is shown that muskrats or beaver are doing severe injury upon or are a menace to the
23 structures, canal banks, or other works of an irrigation project or district or stock water pond, any employee
24 or resident landowner on ~~each~~ the project or district may kill or trap or cause to be killed or trapped any
25 muskrat or beaver upon or in menacing proximity to the structures, canal banks, or other works of ~~each~~
26 the project or district or stock water pond during the closed season on muskrats or beaver, after having
27 secured from the director a permit ~~se~~ to do so, except that from June 1 to August 31, both dates inclusive,
28 of each year ~~no such a~~ permit ~~shall be~~ is not required."

29
30 **Section 34.** Section 87-5-404, MCA, is amended to read:

1 **"87-5-404. Flathead Lake bird preserve -- university of Montana biological reserve.** (1) Those
 2 ~~certain~~ islands, two in number, including lot one of block one, containing two and fifty-seven hundredths
 3 acres; lot two of block one, containing two and sixty hundredths acres; lot one of block two, containing
 4 one and sixty-five hundredths acres, all being in the villa site of islands situated in Flathead Lake in the
 5 county of Flathead, Montana, according to the official plat and survey of ~~said the~~ land returned to the
 6 general land office by the surveyor general, ~~be and the same~~ are ~~hereby made~~ a perpetual place of refuge
 7 for birds of all kinds, ~~the same~~ and those lands are to be called ~~and known as the~~ "Flathead Lake bird
 8 preserve", ~~which said lands shall be specially.~~ The lands are reserved for the breeding, propagating, and
 9 protection of all species of birds.

10 (2) It ~~shall be~~ is unlawful for any person to ~~kill, shoot, capture,~~ hunt, as defined in 87-2-101, or
 11 destroy or in any way injure any bird on ~~said the~~ islands or to interfere with their eggs or nests or to ~~shoot~~
 12 ~~at, wound, or kill~~ hunt any bird within a distance of 400 yards from the shoreline of ~~said the~~ islands.

13 (3) It ~~shall be~~ is unlawful for any person to ~~kill, shoot, capture,~~ hunt, as defined in 87-2-101, or
 14 destroy or in any way injure any bird or animal on the university of Montana biological reserve located on
 15 the east shore of Flathead Lake or to interfere with their eggs or their young or their nests or to ~~shoot at,~~
 16 ~~wound, or kill~~ hunt any bird or any animal within 400 yards of ~~said the~~ university of Montana biological
 17 reserve or to discharge any firearms on ~~said the~~ reserve or within 400 yards ~~thereof~~ of the reserve."

18
 19 **Section 35.** Section 87-5-406, MCA, is amended to read:

20 **"87-5-406. Gates of the Mountains game preserve.** (1) Beginning in section 2, township 12 north,
 21 range 3 west, at the southeast corner of upper Holter Lake and proceeding westerly along the northern
 22 shoreline of ~~said~~ upper Holter Lake in the Gates of the Mountains area located in Lewis and Clark County,
 23 Montana, and then northerly along Stoney Point Beacon road, then northerly along the powerline to ~~said~~
 24 the beacon, then along the bulldozer road to the point of the ridge in section 23, township 13 north, range
 25 3 west, then northerly to the Missouri River, then easterly across ~~said the~~ river and lake to the forest
 26 service boundary to the wilderness boundary, then south following the wilderness boundary to the
 27 southeast corner of section 1, township 12 north, range 3 west, then west back to the upper Holter Lake
 28 to the point of beginning, intending ~~hereby~~ to include in ~~said the~~ game preserve all that territory adjacent
 29 to the Gates of the Mountains area, ~~shall be~~ is called ~~and known as~~ the Gates of the Mountains game
 30 preserve.

1 SENATE BILL NO. 210

2 INTRODUCED BY BISHOP, REAM

3 BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CLARIFYING THE LAW REGARDING
6 VIOLATIONS OF FISH AND GAME CRIMINAL STATUTES AND RESIDENCY REQUIREMENTS; REVISING
7 DEFINITIONS; REVISING PENALTIES; ALLOWING FORMER GAME WARDENS TO BE APPOINTED AS EX
8 OFFICIO WARDENS; CREATING THE OFFENSE OF UNLAWFUL POSSESSION OF A HUNTING LICENSE OR
9 PERMIT OF ANOTHER; CREATING THE FELONY OFFENSE OF SALE OF WILDLIFE OR WILDLIFE PARTS;
10 AMENDING SECTIONS 87-1-102, 87-1-111, 87-1-503, 87-2-101, 87-2-102, 87-2-103, 87-2-106,
11 87-2-109, 87-2-110, 87-2-401, 87-2-402, 87-2-403, 87-2-404, 87-2-411, 87-2-501, 87-2-504, 87-2-507,
12 87-2-508, 87-2-509, 87-2-708, 87-2-803, 87-2-807, 87-3-101, 87-3-104, 87-3-107, 87-3-109, 87-3-118,
13 87-3-301, 87-3-305, 87-3-402, 87-3-501, 87-5-404, AND 87-5-406, MCA; AND PROVIDING AN
14 EFFECTIVE DATE."

15

16 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.



HOUSE STANDING COMMITTEE REPORT

March 10, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that Senate Bill 210 (third reading copy -- blue) be concurred in as amended.

Signed: Douglas T. Wagner
Doug Wagner, Chair

Carried by: Rep. Ream

And, that such amendments read:

1. Page 1, line 22.

Strike: "\$100"

Insert: "\$50"

2. Page 7, line 19.

Strike: "subsection"

Insert: "subsections"

Following: "(4)"

Insert: "(b) through (4) (e)"

3. Page 7, line 24.

Following: "section"

Insert: ", except that a reassigned member continues to qualify as a resident if the member's spouse and dependents continue to physically reside in Montana and the member continues to meet the residency criteria of subsections (4) (b) through (4) (e) "

4. Page 8, line 21.

Strike: "under 24 years of age"

Following: "enrolled"

Insert: "full-time"

-END-

SB 210

Committee Vote:
Yes 11, No 7.

HOUSE



HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 210
Representative Ream

March 24, 1995 2:18 pm
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 210 (third reading copy -- blue).

Signed: Bob Ream
Representative Ream

And, that such amendments to Senate Bill 210 read as follows:

1. Page 5, line 28.

Strike: "unscented"

Following: "forms"

Strike: "or"

Insert: " ; "

2. Page 5, line 29.

Following: "odor"

Insert: " ; or types of scents that are approved by the commission
for attracting game animals or game birds "

-END-

ADOPT

REJECT

95-1

①

SB 210

HOUSE

681418CW.Hbk



HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 210
Representative Ream

March 24, 1995 2:20 pm
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 210 (third reading copy -- blue).

Signed: Bobs Ream
Representative Ream

And, that such amendments to Senate Bill 210 read as follows:

- 1. Page 6, line 15.
- Strike: "pursuing,"
- Following: "killling,"
- Strike: "chasing, luring,"

-END-

ADOPT

89-7

2

SB 210

REJECT

HOUSE



HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 210
Representative Rehbein

March 24, 1995 3:43 pm
Page 1 of 3

Mr. Chairman: I move to amend Senate Bill 210 (third reading copy -- blue).

Signed: William Rehbein
Representative Rehbein

And, that such amendments to Senate Bill 210 read as follows:

1. Title, line 9.

Following: "PARTS;"

Insert: "PROVIDING THAT ONE-HALF OF THE MONEY FROM CERTAIN FINES
RELATING TO VIOLATIONS OF STATE FISH AND GAME LAWS BE
DEPOSITED IN THE STATE GENERAL FUND;"

2. Title, line 10.

Following: "87-1-503,"

Insert: "87-1-601,"

3. Page 5, line 19.

Following: line 18

Insert: "**Section 4.** Section 87-1-601, MCA, is amended to read:

"**87-1-601. Use of fish and game money.** (1) (a) Except as provided in subsection (7), all money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, or from damages collected for violations of the fish and game laws of this state, from appropriations, or received by the department from any other state source must be turned over to the state treasurer and placed ~~by him~~ in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

ADOPT

55-43

SB 210

REJECT

HOUSE

(i) the general license account;
(ii) the license drawing account;
(iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-412, 87-2-722, and 87-2-724; .
and
(iv) money received from the sale of any other hunting and fishing license.

(2) That money must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. That money must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in this code means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in ~~subsection~~ subsections (7) and (8), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, relating to violations of state fish and game laws under Title 87 must be deposited by the state treasurer and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) Money received by the department from the sale of surplus real property; exploration or development of oil, gas, or mineral deposits from lands acquired by the department except royalties or other compensation based on production; and from leases of interests in department real property not contemplated at the time of acquisition must be deposited in an account within the nonexpendable trust fund of the state treasury. The interest derived from the fund, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department, and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the collection of license drawing applications is not subject to the deposit requirements of 17-6-105. The department shall deposit license drawing application money within a reasonable time after receipt.

(7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or rules adopted

under 77-1-804 must be deposited as follows:

(a) 50% in an account for use by the department for the enforcement of 77-1-801, 77-1-806, and rules adopted under 77-1-804; and

(b) 50% in the state lands recreational use account established by 77-1-808 for use by the department of state lands in the management of state lands.

(8) After [the effective date of this act], the state treasurer shall deposit in the state general fund one-half of the money received from the fines pursuant to 87-1-102."

Renumber: subsequent sections

4. Page 11, line 23.

Following: line 22

Strike: "10(2)"

Insert: "11(2)"

5. Page 25, lines 11 and 13.

Strike: "5" in both places

Insert: "6

Strike: "10" in both places

Insert: "11"

-END-

1 SENATE BILL NO. 210

2 INTRODUCED BY BISHOP, REAM

3 BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CLARIFYING THE LAW REGARDING

6 VIOLATIONS OF FISH AND GAME CRIMINAL STATUTES AND RESIDENCY REQUIREMENTS; REVISING

7 DEFINITIONS; REVISING PENALTIES; ALLOWING FORMER GAME WARDENS TO BE APPOINTED AS EX

8 OFFICIO WARDENS; CREATING THE OFFENSE OF UNLAWFUL POSSESSION OF A HUNTING LICENSE OR

9 PERMIT OF ANOTHER; CREATING THE FELONY OFFENSE OF SALE OF WILDLIFE OR WILDLIFE PARTS;

10 PROVIDING THAT ONE-HALF OF THE MONEY FROM CERTAIN FINES RELATING TO VIOLATIONS OF

11 STATE FISH AND GAME LAWS BE DEPOSITED IN THE STATE GENERAL FUND; AMENDING SECTIONS

12 87-1-102, 87-1-111, 87-1-503, 87-1-601, 87-2-101, 87-2-102, 87-2-103, 87-2-106, 87-2-109, 87-2-110,

13 87-2-401, 87-2-402, 87-2-403, 87-2-404, 87-2-411, 87-2-501, 87-2-504, 87-2-507, 87-2-508, 87-2-509,

14 87-2-708, 87-2-803, 87-2-807, 87-3-101, 87-3-104, 87-3-107, 87-3-109, 87-3-118, 87-3-301, 87-3-305,

15 87-3-402, 87-3-501, 87-5-404, AND 87-5-406, MCA; AND PROVIDING AN EFFECTIVE DATE."

16

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

18

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

20 **"87-1-102. Penalties.** (1) A person who purposely ~~or~~, knowingly, or negligently violates any

21 provision of this title, any other state law pertaining to fish and game, or the orders or rules of the

22 commission or department is guilty of a misdemeanor, except if a felony is expressly provided by law, and

23 shall be fined not less than ~~\$50~~ ~~\$100~~ \$50 or more than ~~\$500~~ \$1,000, imprisoned in the county jail for not

24 more than 6 months, or both, unless a different punishment is expressly provided by law for the violation.

25 In addition, the person, upon conviction or forfeiture of bond or bail, ~~shall~~ may be subject to forfeiture of

26 ~~his~~ that person's license and the privilege to hunt, fish, or trap ~~within in~~ this state or to use state lands, as

27 defined in 77-1-101, for recreational purposes for a period ~~of not less than 24 months from the date of~~

28 ~~conviction or forfeiture~~ set by the court. If the court imposes forfeiture of the person's license and privilege

29 to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss of privileges

30 as imposed by the court. The person shall surrender all licenses, as ordered by the court, to the department

1 within 10 days.

2 (2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting, ~~or wasting~~ of
3 a bighorn sheep, moose, wild ~~bison~~ buffalo, caribou, mountain goat, black bear, or grizzly bear or any part
4 of these animals shall be fined not less than \$500 or more than ~~\$1,000~~ \$2,000, imprisoned in the county
5 jail for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or
6 bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and
7 the privilege to hunt, fish, or trap in this state for ~~not less than~~ 30 months from the date of conviction or
8 forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the
9 department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing,
10 and trapping licenses to the department within 10 days.

11 (b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope,
12 elk, or mountain lion, ~~or black bear~~ or any part of these animals ~~or wasting a deer, antelope, or elk~~ shall
13 be fined not less than \$300 or more than \$1,000, imprisoned in the county jail for not more than 6 months,
14 or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current
15 hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state
16 for ~~not less than~~ 24 months from the date of conviction or forfeiture, unless the court imposes a longer
17 forfeiture period. For each conviction or forfeiture, the department shall notify the person of the loss of
18 privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within
19 10 days.

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

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

28 (e) A person convicted of purposely ~~or,~~ knowingly, or negligently taking, killing, trapping,
29 possessing, transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal
30 in violation of any provision of this title shall be fined not less than ~~\$50~~ \$100 or more than \$1,000, ~~or~~

1 imprisoned in the county jail for not more than 6 months, or both. In addition, that person, upon conviction
 2 or forfeiture of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this
 3 state for not less than 24 months from the date of conviction or forfeiture, unless the court imposes a
 4 longer forfeiture period, and any pelts possessed unlawfully must be confiscated. For each conviction or
 5 forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all
 6 hunting, fishing, and trapping licenses to the department within 10 days.

7 ~~(f)~~(e) A person convicted of hunting, fishing, or trapping while his that person's license is forfeited
 8 or his privilege denied shall be imprisoned in the county jail for not less than 5 days or more than 6 months.
 9 In addition, that person may be fined not less than \$500 or more than ~~\$1,000~~ \$2,000.

10 (3) A person convicted or who has forfeited bond or bail under this section and whose license
 11 privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or
 12 trapping license or permit during the period when license privileges have been forfeited. A person convicted
 13 of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping
 14 license during the period when license privileges have been forfeited shall be fined not less than \$500 or
 15 more than ~~\$1,000~~ \$2,000, ~~or~~ imprisoned in the county jail for not more than 60 days, or both.

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

23 (5) Notwithstanding the provision of subsection (1), the penalties provided by this section shall be
 24 in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2."
 25

26 **Section 2.** Section 87-1-111, MCA, is amended to read:

27 **"87-1-111. (Temporary) Restitution for illegal killing or possession of certain wildlife.** (1) In addition
 28 to other penalties provided by law, a person convicted or forfeiting bond or bail upon a charge of the illegal
 29 taking, killing, or possession of a wild bird, mammal, or fish listed in this section shall reimburse the state
 30 for each such bird, mammal, or fish according to the following schedule:

- 1 (a) bighorn sheep, grizzly bear, and endangered species, \$2,000;
- 2 (b) elk, mountain goat, caribou, bald eagle, black bear, and moose, \$1,000;
- 3 (c) mountain lion, ~~black bear~~, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer
4 as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined
5 by commission regulation, \$500;
- 6 (d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor
7 not included in subsection (1)(c), swan, bobcat, white sturgeon, river-dwelling grayling, and paddlefish,
8 \$300;
- 9 (e) ~~grayling and~~ fur-bearing animals, as defined in 87-2-101, and not listed in subsection (1)(c) or
10 (1)(d), \$100;
- 11 (f) game bird (except swan), \$25;
- 12 (g) game fish, \$10.

13 (2) When a court enters an order declaring bond or bail to be forfeited, the court may also order
14 that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule
15 in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not
16 required for an order of restitution under this section. (Terminates June 30, 2003--sec. 2, Ch. 196, L.
17 1993.)

18 **87-1-111. (Effective July 1, 2003) Restitution for illegal killing or possession of certain wildlife.**

19 (1) In addition to other penalties provided by law, a person convicted or forfeiting bond or bail upon a
20 charge of the illegal killing, taking, or possession of a wild bird, mammal, or fish listed in this section shall
21 reimburse the state for each such bird, mammal, or fish according to the following schedule:

- 22 (a) bighorn sheep, grizzly bear, and endangered species, \$2,000;
- 23 (b) elk, mountain goat, caribou, bald eagle, black bear, and moose, \$1,000;
- 24 (c) mountain lion, ~~black bear~~, lynx, wolverine, buffalo, golden eagle, osprey, falcon, antlered deer
25 as defined by commission regulation, bull trout longer than 18 inches, and adult buck antelope as defined
26 by commission regulation, \$500;
- 27 (d) deer not included in subsection (1)(c), antelope not included in subsection (1)(c), fisher, raptor
28 not included in subsection (1)(c), swan, bobcat, river-dwelling grayling, and white sturgeon, \$300;
- 29 (e) ~~paddlefish, grayling,~~ and fur-bearing animals, as defined in 87-2-101, and not listed in
30 subsection (1)(c) or (1)(d), \$100;

1 (f) game bird (except swan), \$25;

2 (g) game fish, \$10.

3 (2) When a court enters an order declaring bond or bail to be forfeited, the court may also order
4 that some or all of the forfeited bond or bail be paid as restitution to the state according to the schedule
5 in subsection (1). A hearing to determine the amount of restitution, as required under 46-9-512, is not
6 required for an order of restitution under this section."

7

8 **Section 3.** Section 87-1-503, MCA, is amended to read:

9 "87-1-503. **Ex officio wardens.** All sheriffs and their deputies, constables, all peace officers of the
10 state or any subdivision of the state, all state forest officers, and, as authorized by cooperative agreement,
11 all officers of the United States forest service, agents of the United States fish and wildlife service, peace
12 officers of the bureau of land management, national park service, and corps of engineers that are assigned
13 to duty in this state, former fish and game wardens, and field personnel of the department, as the director
14 may appoint, are ex officio wardens, without pay, except that the department may, in its discretion, allow
15 traveling expenses as provided for in 2-18-501 through 2-18-503, which, if allowed, must be paid upon
16 proper vouchers from the state fish and game funds. Ex officio wardens have the same powers with
17 reference to the enforcement of the fish and game laws of this state and the laws relating to parks and
18 outdoor recreation contained in chapters 1 and 2 of Title 23, except chapter 2, part 7, as regularly
19 appointed wardens, and it is their duty to assist, whenever possible, in the enforcement of those laws."

20

21 **SECTION 4. SECTION 87-1-601, MCA, IS AMENDED TO READ:**

22 "87-1-601. **Use of fish and game money.** (1) (a) Except as provided in subsection (7), all money
23 collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game
24 or hides, or from damages collected for violations of the fish and game laws of this state, from
25 appropriations, or received by the department from any other state source must be turned over to the state
26 treasurer and placed ~~by him~~ in the state special revenue fund to the credit of the department.

27 (b) Any money received from federal sources must be deposited in the federal special revenue fund
28 to the credit of the department.

29 (c) All interest earned on money from the following sources must be placed in the state special
30 revenue fund to the credit of the department:

- 1 (i) the general license account;
- 2 (ii) the license drawing account;
- 3 (iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-412,
4 87-2-722, and 87-2-724; and
- 5 (iv) money received from the sale of any other hunting and fishing license.
- 6 (2) That money must be exclusively set apart and made available for the payment of all salaries,
7 per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of
8 this title. That money must be spent for those purposes by the department, subject to appropriation by the
9 legislature.
- 10 (3) Any reference to the fish and game fund in this code means fish and game money in the state
11 special revenue fund and the federal special revenue fund.
- 12 (4) Except as provided in ~~subsection~~ subsections (7) and (8), all money collected or received from
13 fines and forfeited bonds, except money collected or received by a justice's court, relating to violations of
14 state fish and game laws under Title 87 must be deposited by the state treasurer and credited to the
15 department in a state special revenue fund account for this purpose. Out of any fine imposed by a court
16 for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the
17 trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.
- 18 (5) Money received by the department from the sale of surplus real property; exploration or
19 development of oil, gas, or mineral deposits from lands acquired by the department except royalties or other
20 compensation based on production; and from leases of interests in department real property not
21 contemplated at the time of acquisition must be deposited in an account within the nonexpendable trust
22 fund of the state treasury. The interest derived from the fund, but not the principal, may be used only for
23 the purpose of operation, development, and maintenance of real property of the department, and only upon
24 appropriation by the legislature. If the use of money as set forth in this section would result in violation of
25 applicable federal laws or state statutes specifically naming the department or money received by the
26 department, then the use of this money must be limited in the manner, method, and amount to those uses
27 that do not result in a violation.
- 28 (6) Money received from the collection of license drawing applications is not subject to the deposit
29 requirements of 17-6-105. The department shall deposit license drawing application money within a
30 reasonable time after receipt.

1 (7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801,
2 77-1-806, or rules adopted under 77-1-804 must be deposited as follows:

3 (a) 50% in an account for use by the department for the enforcement of 77-1-801, 77-1-806, and
4 rules adopted under 77-1-804; and

5 (b) 50% in the state lands recreational use account established by 77-1-808 for use by the
6 department of state lands in the management of state lands.

7 (8) After [the effective date of this act], the state treasurer shall deposit in the state general fund
8 one-half of the money received from the fines pursuant to 87-1-102."

9
10 **Section 5.** Section 87-2-101, MCA, is amended to read:

11 **"87-2-101. Definitions.** As used in this chapter, ~~and chapter 3, and 87-1-102,~~ unless the context
12 clearly indicates otherwise, the following definitions apply:

13 (1) "Angling" or "fishing" means ~~the taking of or attempting to take fish by hook and single line~~
14 ~~or single rod, in hand or within immediate control~~ to take or the act of a person possessing any instrument,
15 article, or substance for the purpose of taking fish in any location that a fish might inhabit.

16 (2) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area
17 inhabited by wildlife for the purpose of attracting game animals or game birds. The term does not include
18 unscented decoys, silhouettes, or other replicas of wildlife body forms or; scents used only to mask human
19 odor; OR TYPES OF SCENTS THAT ARE APPROVED BY THE COMMISSION FOR ATTRACTING GAME
20 ANIMALS OR GAME BIRDS.

21 (3) "Closed season" means the time during which game birds, fish, and game and fur-bearing
22 animals may not be lawfully taken.

23 ~~(3)~~(4) "Commission" means the state fish, wildlife, and parks commission.

24 ~~(4)~~(5) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx,
25 wolverine, northern swift fox, and beaver.

26 ~~(5)~~(6) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,
27 mountain lion, bear, and wild buffalo.

28 ~~(6)~~(7) "Game fish" means all species of the family salmonidae (chars, trout, salmon, grayling, and
29 whitefish); all species of the genus stizostedion (sandpike or sauger and walleyed pike or yellowpike perch);
30 all species of the genus esox (northern pike, pickerel, and muskellunge); all species of the genus

1 micropterus (bass); all species of the genus polyodon (paddlefish); all species of the family acipenseridae
 2 (sturgeon); all species of the genus Ictalurus (burbot or ling); and the species Ictalurus punctatus (channel
 3 catfish).

4 (8) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a
 5 person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of
 6 pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing wildlife protected by the
 7 laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or
 8 subsequently taken. The term includes an attempt to take by any means, including but not limited to
 9 pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

10 ~~(7)~~(9) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and
 11 swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and
 12 mourning doves; however, the open season on mourning doves ~~shall be~~ is restricted to the open season
 13 on upland game birds as defined in subsection ~~(12)~~(15) below.

14 ~~(8)~~(10) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk,
 15 crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

16 ~~(9)~~(11) "Open season" means the time during which game birds, fish, and game and fur-bearing
 17 animals may be lawfully taken.

18 ~~(10)~~(12) "Person" means individuals, associations, partnerships, and corporations.

19 ~~(11)~~(13) "Predatory animals" means coyote, weasel, skunk, and civet cat.

20 (14) "Trap" means to take or participate in the taking of any wildlife protected by the laws of the
 21 state by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife
 22 or to remove wildlife from any of these devices.

23 ~~(12)~~(15) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse,
 24 prairie chicken, sage hen or sage grouse, ruffed grouse, quail, pheasant, Hungarian partridge, ptarmigan,
 25 wild turkey, and chukar partridge.

26 ~~(13)~~(16) "Wild buffalo" means buffalo or bison ~~which~~ that have not been reduced to captivity."
 27

28 **NEW SECTION. Section 6. Lawful means of angling or fishing.** The only lawful means of angling
 29 or fishing is by hook and single line or single rod, in hand or within immediate control. All other methods
 30 of angling or fishing, unless authorized by commission rule, are unlawful.

1 **Section 7.** Section 87-2-102, MCA, is amended to read:

2 **"87-2-102. Resident defined.** In determining a resident for the purpose of issuing resident fishing,
3 hunting, and trapping licenses, the following provisions apply:

4 (1) A member of the regular armed forces of the United States, a member's dependent, as defined
5 in 15-30-113, who resides in the member's Montana household, or a member of the armed forces of a
6 foreign government attached to the regular armed forces of the United States is considered a resident for
7 the purposes of this chapter if:

8 (a) the member was a resident of Montana under the provisions of subsection ~~(2)(4)~~ at the time
9 the member entered the armed forces and continues to meet residency criteria of ~~subsection~~ SUBSECTIONS
10 ~~(2)(4)~~ (B) THROUGH (4)(E); or

11 (b) the member is currently stationed in and assigned to active duty in Montana, has resided in
12 Montana for at least 30 days, and presents official assignment orders and a certificate of competency, as
13 provided in 87-2-105, or a certificate verifying the successful completion of a hunter safety course in any
14 state or province. The 30-day residence requirement is waived in time of war. Reassignment to another
15 state, United States territory, or country terminates Montana residency for purposes of this section,
16 EXCEPT THAT A REASSIGNED MEMBER CONTINUES TO QUALIFY AS A RESIDENT IF THE MEMBER'S
17 SPOUSE AND DEPENDENTS CONTINUE TO PHYSICALLY RESIDE IN MONTANA AND THE MEMBER
18 CONTINUES TO MEET THE RESIDENCY CRITERIA OF SUBSECTIONS (4)(B) THROUGH (4)(E). The
19 designation of Montana by a member of the regular armed forces as a "home of record" or "home of
20 residence" in that member's armed forces records does not determine the member's residency for purposes
21 of this section.

22 ~~(2) A person who has been a resident of the state of Montana for a period of 6 months immediately~~
23 ~~prior to making application for a license is eligible to receive a resident hunting, fishing, or trapping license.~~
24 ~~A person is considered a resident if the person meets the following criteria:~~

25 ~~(a) A person who has physically resided in Montana as the person's principal or primary home or~~
26 ~~place of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately prior~~
27 ~~to making application for any license is eligible to receive hunting, fishing, and trapping licenses. As used~~
28 ~~in this section, a vacant lot or a premises used solely for business purposes is not considered a principal~~
29 ~~or primary home or place of abode.~~

30 ~~(3) A person who obtains residency under subsection (2) may continue to be a resident for~~

1 purposes of this section by physically residing in Montana as the person's principal or primary home or
 2 place of abode for not less than 120 days a year and by meeting the criteria of subsection (4) prior to
 3 making application for any resident hunting, fishing, or trapping license.

4 (4) In addition to the requirements of subsection (2) or (3), a person shall meet the following
 5 criteria to be considered a resident for purposes of this section:

6 (a) the person's principal or primary home or place of abode is in Montana ~~the person lives in~~
 7 ~~Montana or has a fixed intent to return to this state when the person leaves it;~~

8 (b) the person files Montana state income tax returns as a resident if required to file ~~as a resident~~;

9 (c) the person licenses and titles in Montana as required by law any vehicles that the person owns
 10 and operates in Montana;

11 (d) the person does not ~~use~~ possess or apply for any resident hunting, fishing, or trapping licenses
 12 from another state or country or exercise resident hunting, fishing, or trapping privileges in another state
 13 or country during the time the resident Montana license is valid; and

14 (e) if the person registers to vote, the person registers only in Montana.

15 (5) A student under 24 years of age who is enrolled FULL-TIME in a post-secondary educational
 16 institution out of state and who would qualify for Montana resident tuition or otherwise meets the residence
 17 requirements of subsection (2) or (3) is considered a resident for purposes of this section.

18 ~~(3)(6)~~ Any An enrollee of a job corps camp located within the state of Montana is, after a period
 19 of 30 days within Montana, considered a resident for the purpose of making application for a fishing license
 20 as long as the person remains an enrollee in a Montana camp.

21 ~~(4)(7)~~ A person who does not reside in Montana but who meets all of the following requirements
 22 is a resident for purposes of obtaining hunting and fishing licenses:

23 (a) The person's principal employment is within this state and the income from this employment
 24 is the principal source of the applicant's family income.

25 (b) The person is required to pay and has paid Montana income tax in a timely manner and proper
 26 amount.

27 (c) The person has been employed within this state on a full-time basis for at least 12 consecutive
 28 months immediately preceding each application.

29 (d) The person's state of residency has laws substantially similar to this subsection ~~(4)~~ (7).

30 ~~(5)(8)~~ An unmarried minor is considered a resident for the purposes of this section if the minor's

1 parents, legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for
 2 purposes of this section. The minor is considered a resident for purposes of this section regardless of
 3 whether the minor resides primarily in the state or otherwise qualifies as a resident. The resident parent or
 4 guardian of the minor may be required to show proof of the parental, guardianship, or custodial relationship
 5 to the minor.

6 (9) A person is not considered a resident for the purposes of this section if the person:

7 (a) claims residence in any other state or country for any purpose; or

8 (b) is an absentee property owner paying property tax on property in Montana.

9 (10) A license agent is not considered a representative of the state for the purpose of determining
 10 a license applicant's residence status."

11
 12 **Section 8.** Section 87-2-103, MCA, is amended to read:

13 **"87-2-103. License required.** (1) Except as provided in subsection (2), it is unlawful for a person
 14 to:

15 (a) ~~pursue, hunt, or trap, take, shoot, or kill~~ or attempt to hunt or trap, take, shoot, or kill any game
 16 animal, any game bird, or any fur-bearing animal or ~~take, kill, trap, or to~~ fish for any fish within this state
 17 or ~~have, keep, or possess~~ within this state any game animal, game bird, fur-bearing animal, game fish, or
 18 parts ~~thereof~~ of those animals or birds, except as ~~herein~~ provided by law or as provided by the department;
 19 or

20 (b) ~~pursue, hunt, or trap, take, shoot, or kill~~ or attempt to hunt or trap, take, shoot, or kill any game
 21 animal, game bird, or fur-bearing animal or ~~take, kill, trap, or to~~ fish for any fish, except at the places and
 22 during the periods and in the manner ~~herein~~ defined by law or as defined by the department; or

23 (c) ~~pursue, hunt, or trap, take, shoot, or kill~~ or attempt to hunt or trap, take, shoot, or kill any game
 24 animal, game bird, or fur-bearing animal or ~~take, kill, trap, or~~ fish for any fish within this state or ~~have,~~
 25 ~~keep,~~ possess, sell, purchase, ship, or reship any imported or other fur-bearing animal or parts ~~thereof~~ of
 26 fur-bearing animals without first having obtained a proper license or permit from the department to do so;
 27 or

28 (d) trap or ~~snare or~~ attempt to trap or ~~snare~~ predatory animals or nongame wildlife without a
 29 license, as prescribed in 87-2-603, if that person is not a resident as defined in 87-2-102.

30 (2) The provisions of this section do not require a person who accompanies a licensed disabled

1 hunter, as authorized under 87-2-803(4), to be licensed in order to ~~pursue, hunt, take, shoot, or~~ kill or
2 attempt to ~~pursue, hunt, take, shoot, or~~ kill a game animal that has been wounded by a disabled hunter
3 when the disabled hunter is unable to pursue and kill the wounded game animal. However, the person must
4 meet the qualifications for a license in the person's state of residence."
5

6 **Section 9.** Section 87-2-106, MCA, is amended to read:

7 **"87-2-106. Application for license -- penalties for violation -- forfeiture of privileges.** (1) A license
8 may be procured from the director, any warden, or any authorized agent of the director. The applicant shall
9 state the applicant's name, age, occupation, ~~place of~~ address of permanent residence, and post-office
10 address, the applicant's qualifying length of time as a resident in the state of Montana, whether a citizen
11 of the United States or an alien, and other facts, data, or descriptions as may be required by the
12 department. An applicant for a resident license shall present a valid Montana driver's license, Montana
13 driver's examiner's identification card, or other identification specified by the department to substantiate
14 the required information. It is the applicant's burden to provide documentation establishing the applicant's
15 identity and qualifications to purchase a license. It is unlawful and a misdemeanor for a license agent to sell
16 a hunting, fishing, or trapping license to an applicant who fails to produce the required identification at the
17 time of application for licensure. Except as provided in subsections (2) through (4), the statements made
18 by the applicant must be subscribed to before the officer or agent issuing the license.

19 (2) Except as provided in subsection (3), department employees or officers may issue licenses by
20 mail. Statements on an application for a license to be issued by mail need not be subscribed to before the
21 employee or officer.

22 (3) To apply for a license under the provisions of 87-2-102~~(4)~~(7), the applicant shall apply to the
23 director and shall submit at the time of application a notarized affidavit that attests to fulfillment of the
24 requirements of 87-2-102~~(4)~~(7). The director shall process the application in an expedient manner.

25 (4) A resident may apply for and purchase a wildlife conservation license, hunting license, or fishing
26 license for ~~his~~ the resident's spouse, parent, child, brother, or sister who is otherwise qualified to obtain
27 the license.

28 (5) A license is void unless subscribed to by the licensee and by an employee or officer of the
29 department or by a license agent or an authorized representative of the license agent.

30 (6) It is unlawful to subscribe to any statement, on any application or license, that is materially

1 false. Any material false statement contained in an application renders the license issued pursuant to it void.

2 A person violating any provision of this ~~statute~~ subsection is guilty of a misdemeanor.

3 (7) (a) A person not meeting the residency criteria set out in 87-2-102 who is convicted of
4 affirming to a false statement to obtain a resident license shall be:

5 (i) fined not less than the greater of \$100 or twice the cost of the nonresident license that
6 authorized the sought-after privilege or more than \$1,000;

7 (ii) imprisoned in the county jail for not more than 6 months; or

8 (iii) both fined and imprisoned.

9 (b) In addition to the penalties specified in subsection (7)(a), upon conviction or forfeiture of bond
10 or bail, the person shall forfeit any current hunting, fishing, and trapping licenses and the privilege to hunt,
11 fish, and trap in Montana for not less than 18 months.

12 (8) It is unlawful and a misdemeanor for a person to purposely or knowingly assist an unqualified
13 applicant in obtaining a resident license in violation of this section."
14

15 **Section 10.** Section 87-2-109, MCA, is amended to read:

16 "**87-2-109. Carrying and exhibiting license and identification.** (1) ~~Except as provided in [section~~
17 ~~10(2) 11(2)],~~ it is unlawful for a person to whom a license or permit has been issued to fish ~~for or take any~~
18 ~~fish or pursue,~~ to hunt, shoot, kill, or take ~~for~~ any game bird or game animal, ~~or to attempt to trap, trap,~~
19 ~~or take~~ hunt for any fur-bearing animal in this state unless the person ~~has~~ is carrying the required license,
20 licenses, or permit ~~in the person's possession~~ at the time.

21 (2) It is unlawful to refuse to exhibit a license or permit and the identification used in purchasing
22 a license or permit for inspection to a warden or other officer requesting to see it."
23

24 **NEW SECTION. Section 11. Unlawful possession of hunting license or permit of another --**
25 **penalties.** (1) Except as provided in subsection (2), it is unlawful for a person to carry or have physical
26 control over a valid AND UNUSED hunting license or permit issued to another person while in any location
27 that the species to be hunted may inhabit.

28 (2) The following exceptions apply to the prohibition in subsection (1):

29 (a) A person may carry or have physical control over a license or permit issued to that person's
30 spouse or to any minor when the spouse or minor is hunting with that person.

1 (b) The prohibition does not apply to a properly validated license or permit attached to a lawfully
2 killed game animal.

3 (3) Except as provided in subsection (4), a person who violates this section is guilty of a
4 misdemeanor punishable as provided in 87-1-102(1).

5 (4) A person who violates this section while engaged in a commercial activity, such as taxidermy,
6 meat processing, outfitting, or guiding by carrying or having physical control over three or more hunting
7 licenses THAT ARE issued to another person or persons AND THAT ARE USED OR INTENDED TO BE USED
8 ON GAME ANIMALS NOT TAKEN BY THE PERSON OR PERSONS TO WHOM THE LICENSES WERE
9 ISSUED, is guilty of a felony and upon conviction shall be fined not more than \$50,000, imprisoned in the
10 state prison for not more than 5 years, or both.

11 (5) In addition to the penalties set out in subsections (3) and (4), a person convicted under this
12 section or who pleads guilty to a violation of this section shall lose all hunting, fishing, and trapping permit
13 and license privileges for not less than 3 years or up to a lifetime revocation from the date of conviction.
14

15 **Section 12.** Section 87-2-110, MCA, is amended to read:

16 "**87-2-110. Alteration, attachment, or transfer of license.** ~~No~~ A person may not at any time alter
17 or change in any material manner or loan or transfer any license to another person. ~~any license, nor may~~
18 ~~any~~ A person other than the person to whom ~~it~~ a license is issued may not use it the license. A person may
19 not attach the person's license to a game animal killed by another person."
20

21 **Section 13.** Section 87-2-401, MCA, is amended to read:

22 "**87-2-401. Class A-1--resident upland game bird license.** Except as otherwise provided, a resident,
23 as defined by 87-2-102, who is 12 years of age or older may, upon payment of a fee of \$6, receive a Class
24 A-1 license ~~which that~~ will entitle the holder to ~~pursue, hunt, shoot, and kill~~ upland game birds, cranes,
25 rails, snipes, and mourning doves and possess the carcasses of upland game birds, cranes, rails, snipes,
26 and mourning doves as authorized by department rules."
27

28 **Section 14.** Section 87-2-402, MCA, is amended to read:

29 "**87-2-402. Class B-1--nonresident upland game bird license.** Except as otherwise provided in this
30 chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older, upon

1 payment of a fee of \$55 may receive a Class B-1 license ~~which shall entitle~~ that entitles the holder thereof
 2 to ~~pursue, hunt, shoot, and kill~~ upland game birds, cranes, rails, snipes, and mourning doves and possess
 3 the carcasses of upland game birds, cranes, rails, snipes, and mourning doves as authorized by department
 4 rules."

5
 6 **Section 15.** Section 87-2-403, MCA, is amended to read:

7 **"87-2-403. (Temporary) Wild turkey tags and fee.** (1) The department may issue wild turkey tags
 8 to the holder of a valid Class A-1 or Class B-1 license or as set out in subsection (3). Each tag ~~shall entitle~~
 9 entitles the holder to ~~pursue, hunt, shoot, and kill~~ one wild turkey and possess the carcass ~~thereof of the~~
 10 turkey, during ~~such~~ times and ~~such~~ places as that the department commission shall authorize ~~authorizes~~
 11 an open season on wild turkey.

12 (2) The fee for a wild turkey tag is \$4 beginning March 1, 1992, and \$5 beginning March 1, 1994,
 13 for residents and \$13 for nonresidents. Turkey tags ~~shall~~ must be issued either by a drawing system or in
 14 unlimited number as authorized by department rules.

15 (3) Subject to the provisions of subsection (2), a person who is 62 years of age or older as
 16 provided in 87-2-801, certified as disabled under 87-2-803, or a resident minor as described in 87-2-805
 17 may purchase a wild turkey tag upon presentation of ~~his~~ that person's wildlife conservation license.
 18 (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

19 **87-2-403. (Effective March 1, 2006) Wild turkey tags and fee.** (1) The department may issue wild
 20 turkey tags to the holder of a valid Class A-1 or Class B-1 license or as set out in subsection (3). Each tag
 21 ~~shall entitle~~ entitles the holder to ~~pursue, hunt, shoot, and kill~~ one wild turkey and possess the carcass
 22 ~~thereof of the turkey~~, during ~~such~~ times and ~~such~~ places as that the department commission shall authorize
 23 authorizes an open season on wild turkey.

24 (2) The fee for a wild turkey tag ~~shall be~~ is \$5. Turkey tags ~~shall~~ must be issued either by a
 25 drawing system or in unlimited number as authorized by department rules.

26 (3) Subject to the provisions of subsection (2), a person who is 62 years of age or older as
 27 provided in 87-2-801, certified as disabled under 87-2-803, or a resident minor as described in 87-2-805
 28 may purchase a wild turkey tag upon presentation of ~~his~~ that person's wildlife conservation license."

29
 30 **Section 16.** Section 87-2-404, MCA, is amended to read:

1 **"87-2-404. Three-day nonresident captive-reared bird hunting stamp.** A person who is 12 years
 2 of age or older and who is not a resident, as defined in 87-2-102, may, upon payment of a fee of \$20,
 3 receive a 3-day nonresident shooting preserve bird hunting stamp that authorizes the holder to ~~pursue,~~
 4 ~~hunt, shoot, and kill~~ game specified under 87-4-522 on a shooting preserve licensed under 87-4-501 for
 5 3 consecutive calendar days as indicated on the license."

6

7 **Section 17.** Section 87-2-411, MCA, is amended to read:

8 **"87-2-411. Stamp required to hunt waterfowl.** (1) It is unlawful for any person 15 years of age
 9 or older to ~~pursue, hunt, shoot, or kill~~ waterfowl without first having obtained a valid waterfowl stamp from
 10 the department. The fee for ~~such~~ the stamp is \$5.

11 (2) For the purpose of this section, the term "waterfowl" means wild ducks, wild geese, brant, and
 12 swans."

13

14 **Section 18.** Section 87-2-501, MCA, is amended to read:

15 **"87-2-501. Class A-3, A-4, A-5, A-6, A-7--resident deer, elk, and bear licenses -- special Class A-7**
 16 **resident and nonresident license requirements and preference.** (1) Except as otherwise provided in this
 17 chapter, a resident, as defined by 87-2-102, or a nonresident who wishes to purchase a Class A-7 elk
 18 license only, and who will be 12 years of age or older prior to September 15 of the season for which the
 19 license is issued may, upon payment of the proper fee or fees, be entitled to purchase one each of the
 20 following licenses at the prescribed cost ~~which that~~ that will entitle the holder to ~~pursue, hunt, shoot, and kill~~
 21 the game animal or animals authorized by the license held and to possess the carcasses of those game
 22 animals as authorized by department rules:

23 (a) Class A-3, deer A tag, ~~\$11 beginning March 1, 1992, and \$13 beginning March 1, 1994;~~

24 (b) Class A-4, deer B tag, ~~\$7 beginning March 1, 1992, and \$8 beginning March 1, 1994;~~

25 (c) Class A-5, elk tag, ~~\$13 beginning March 1, 1992, and \$16 beginning March 1, 1994;~~

26 (d) Class A-6, black or brown bear tag, ~~\$11 beginning March 1, 1992, and \$15 beginning March~~
 27 ~~1, 1994;~~

28 (e) Class A-7, antlerless elk tag, ~~\$13 beginning March 1, 1992, and \$16 beginning March 1, 1994.~~

29 (2) (a) The holder of a Class A-7 antlerless elk license is entitled to ~~take~~ hunt antlerless elk in areas
 30 designated by the commission and at ~~such~~ the times and upon ~~such~~ the terms ~~as~~ set forth by the

1 commission.

2 (b) ~~No~~ A person may not take more than one elk during any license year, and a person holding a
3 Class A-7 antlerless elk tag may not take an elk during the same license year with a Class A-5 license or
4 nonresident elk tag. The use of Class A-7 antlerless elk licenses does not preclude the department's use
5 of special elk permits.

6 (c) A nonresident shall hold a nonresident Class B-10 license as a prerequisite to application for
7 a Class A-7 license.

8 (3) Subject to the limitation of subsection (5), a person who owns or is contracting to purchase
9 640 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where
10 Class A-7 licenses are awarded under this section ~~shall~~ must be issued, upon application, a Class A-7
11 license.

12 (4) An applicant who receives a Class A-7 license under subsection (3) may designate that the
13 license be issued to an immediate family member or a person employed by the landowner. A corporation
14 owning qualifying land under subsection (3) may designate one of its shareholders to receive the license.

15 (5) Fifteen percent of the Class A-7 licenses available each year under this section in a hunting
16 district must be available to landowners under subsection (3)."

17

18 **Section 19.** Section 87-2-504, MCA, is amended to read:

19 **"87-2-504. (Temporary) Class B-7 and B-8--nonresident deer licenses.** Except as otherwise
20 provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who will be 12 years
21 of age or older prior to September 15 of the season for which the license is issued and is a holder of a
22 nonresident conservation license may, upon payment of the proper fee or fees and subject to the limitations
23 prescribed by law and department regulation, be entitled to apply to the fish and game office, Helena,
24 Montana, to purchase one each of the following licenses: Class B-7, deer A tag, \$150; Class B-8, deer B
25 tag, \$50; and will entitle the holder to ~~pursue, hunt, shoot, and kill~~ the game animal or animals authorized
26 by the license held and to possess the carcasses of those animals as authorized by department rules. Unless
27 purchased as part of a B-10 or B-11 license, a Class B-7 license must be assigned for use in a specific
28 administrative region or portion ~~thereof~~ of a specific administrative region. If purchased as part of a Class
29 B-11 license, the Class B-7 license is valid throughout the state. Not more than 5,000 Class B-7 licenses
30 may be sold in any license year. Money received from the sale of Class B-7 licenses in excess of 1,700

1 must be used as provided in 87-1-242(1). (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

2 **87-2-504. (Effective March 1, 2006) Class B-7 and B-8--nonresident deer licenses.** Except as
 3 otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who will
 4 be 12 years of age or older prior to September 15 of the season for which the license is issued and is a
 5 holder of a nonresident conservation license may, upon payment of the proper fee or fees and subject to
 6 the limitations prescribed by law and department regulation, be entitled to apply to the fish and game office,
 7 Helena, Montana, to purchase one each of the following licenses: Class B-7, deer A tag, \$100; Class B-8,
 8 deer B tag, \$50; and will entitle the holder to ~~pursue, hunt, shoot, and kill~~ the game animal or animals
 9 authorized by the license held and to possess the carcasses of those animals as authorized by department
 10 rules. Unless purchased as part of a B-10 or B-11 license, a Class B-7 license must be assigned for use in
 11 a specific administrative region or portion ~~thereof~~ of a specific administrative region. If purchased as part
 12 of a Class B-11 license, the Class B-7 license is valid throughout the state."

13
 14 **Section 20.** Section 87-2-507, MCA, is amended to read:

15 **"87-2-507. (Temporary) Class D-1--nonresident mountain lion license.** Except as otherwise provided
 16 in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or older,
 17 upon payment of a fee of \$320 may receive a Class D-1 license ~~which shall entitle~~ that entitles the holder
 18 ~~thereof to pursue, hunt, shoot, and kill~~ mountain lion and possess the carcass ~~thereof~~ of the mountain lion
 19 as authorized by department rules. If a holder of a valid mountain lion license under this section kills a
 20 mountain lion, ~~he~~ the licensee must shall purchase a trophy license for a fee of \$50 within 10 days after
 21 the date of kill. The trophy license authorizes the holder to possess and transport ~~such~~ the trophy.
 22 (Terminates March 1, 2006--secs. 1, 2, Ch. 241, L. 1993.)

23 **87-2-507. (Effective March 1, 2006) Class D-1--nonresident mountain lion license.** Except as
 24 otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12
 25 years of age or older, upon payment of a fee of \$300 may receive a Class D-1 license ~~which shall entitle~~
 26 that entitles the holder ~~thereof to pursue, hunt, shoot, and kill~~ mountain lion and possess the carcass
 27 ~~thereof~~ of the mountain lion as authorized by department rules. If a holder of a valid mountain lion license
 28 under this section kills a mountain lion, ~~he~~ the licensee must shall purchase a trophy license for a fee of \$50
 29 within 10 days after the date of kill. The trophy license authorizes the holder to possess and transport ~~such~~
 30 the trophy."

1 **Section 21.** Section 87-2-508, MCA, is amended to read:

2 **"87-2-508. Class D-2--resident mountain lion license.** Except as otherwise provided in this chapter,
3 a person who is a resident, as defined in 87-2-102, and who is 12 years of age or older, upon payment of
4 a fee of ~~\$13 beginning March 1, 1992, and \$15 beginning March 1, 1994,~~ may receive a Class D-2 license
5 ~~which shall entitle~~ that entitles the holder thereof to pursue, hunt, shoot, and kill mountain lion and possess
6 the carcass thereof of the mountain lion as authorized by department rules. If a holder of a valid mountain
7 lion license under this section kills a mountain lion, ~~he~~ the licensee must shall purchase a trophy license for
8 a fee of \$50 within 10 days after the date of kill. The trophy license authorizes the holder to possess and
9 transport ~~such~~ the trophy."
10

11 **Section 22.** Section 87-2-509, MCA, is amended to read:

12 **"87-2-509. Tagging of carcasses of game animals.** (1) Each license issued by the department
13 authorizing the holder of the license to ~~pursue, shoot, kill, capture, take, or possess~~ hunt game animals,
14 whether issued to a resident or a nonresident, must provide any tags, coupons, or markers as the
15 department prescribes. When any person ~~takes or~~ kills any game animal under the license, the person shall
16 immediately cut out from the tag, coupon, or other marker the date the animal was killed ~~or taken~~ and
17 attach the tag, coupon, or other marker to the animal, completely filled out with the name of the license
18 holder, the license holder's address, and any other information requested on the tag, coupon, or other
19 marker. The tag, coupon, or other marker must be kept attached to the carcass as long as any considerable
20 portion of the carcass remains unconsumed, ~~and when~~. When a game animal has been lawfully killed and
21 the proper tag, coupon, or other marker is attached to the game animal that was killed, the game animal
22 becomes the property of the person who ~~tagged~~ lawfully killed the animal and may be possessed, used,
23 stored, donated to another or to a charity, or transported.

24 (2) It is unlawful for a person who kills any game animal by authority of any license issued for the
25 killing of the game animal to fail or neglect to cut out the day and month of the kill or provide any other
26 information that is required and attach the tag, coupon, or other marker provided with the license issued
27 to the carcass of the game animal or portion of the game animal. It is unlawful for a person to fail to keep
28 the tag, coupon, or other marker attached to the game animal or portion of the game animal while the
29 animal is possessed by the person. It is unlawful for a person to tag a game animal with a tag restricted
30 to a hunting district other than the hunting district where the game animal was killed."

1 **Section 23.** Section 87-2-708, MCA, is amended to read:

2 **"87-2-708. Class A-2--special bow and arrow license.** A holder of a valid hunting license for which
3 a special archery season is set by the department may receive, upon payment of an additional fee of \$8,
4 a Class A-2 license ~~which shall authorize~~ that authorizes the holder ~~thereof~~ to ~~pursue, hunt, shoot, and kill~~
5 with bow and arrow the game animals ~~so~~ authorized by the licenses held and to possess the carcass
6 ~~thereof~~ of the game animals during seasons and in areas, ~~as~~ designated by the department."

7

8 **Section 24.** Section 87-2-803, MCA, is amended to read:

9 **"87-2-803. Disabled persons.** (1) Disabled persons are entitled to fish and to hunt game birds with
10 only a conservation license if they are residents of Montana not residing in an institution and are certified
11 as disabled as prescribed by departmental rule.

12 (2) A resident of Montana who is certified as disabled by the department and who is not residing
13 in an institution may purchase regular resident deer and elk licenses at one-half the fee paid by a resident
14 who is 15 years ~~old~~ of age or older and who is under 62 years of age.

15 (3) A resident or nonresident disabled person who is certified as disabled by the department and
16 who is not residing in an institution may carry a permit on a form prescribed by the department. A disabled
17 person issued a permit under this subsection is entitled to have the department stamp the permit with
18 "Permission to Hunt From a Vehicle" if the person establishes to the satisfaction of the department that the
19 person is permanently physically handicapped and nonambulatory or that the person's mobility is
20 substantially impaired.

21 (4) A disabled person carrying a permit as required in subsection (3), upon which is stamped
22 "Permission to Hunt From a Vehicle", may hunt by shooting a firearm from the shoulder, berm, or barrow
23 pit right-of-way of a public highway, as defined in 61-1-202, except a state or federal highway, or may
24 hunt by shooting a firearm from within a self-propelled or drawn vehicle that is parked on a shoulder, berm,
25 or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or ~~may hunt by~~
26 ~~shooting a firearm from within a self-propelled or drawn vehicle~~ that is parked in an area, not a public
27 highway, where hunting is permitted. Nothing in this subsection allows a disabled person to shoot across
28 the roadway of any public highway or to hunt on private property without permission of the landowner.
29 A disabled person who hunts as authorized in this subsection must have a companion to assist in
30 immediately dressing any killed game animal. The companion may also assist the disabled hunter by

1 ~~pursuing, hunting, taking, shooting, or killing~~ a game animal that has been wounded by the disabled hunter
 2 when the disabled hunter is unable to pursue and kill the wounded game animal. Any vehicle from which
 3 a disabled person is hunting must be conspicuously marked with an orange-colored international symbol
 4 of the handicapped on the front, rear, and each side of the vehicle.

5 (5) A resident of Montana who is certified by the department as a blind individual, as defined in
 6 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The
 7 license is valid for the lifetime of the blind individual and allows the licensee to fish ~~with hook and line or~~
 8 ~~rod~~, as authorized by department rule. An applicant for a license under this subsection need not obtain a
 9 wildlife conservation license as a prerequisite to licensure."

10
 11 **Section 25.** Section 87-2-807, MCA, is amended to read:

12 **"87-2-807. Taking migratory game birds for propagation -- avicultural permit.** (1) The department
 13 may issue avicultural permits for taking, capturing, and possessing migratory game birds, as defined in
 14 87-2-101~~(7)~~(9), for the purpose of propagation. Before issuing an avicultural permit, the department ~~must~~
 15 shall determine that the applicant has been issued the appropriate federal permit or that the applicant will
 16 receive the appropriate federal permit subject to concurrence by the department.

17 (2) An avicultural permit issued under this section must specify:

18 (a) the species of migratory game birds allowed to be taken under the permit;

19 (b) whether eggs or hatched birds, or both, may be taken;

20 (c) the number of eggs or hatched birds, or both, that may be taken;

21 (d) areas in which collection may be made;

22 (e) means by which collection may be made;

23 (f) the time period for which the permit is valid; and

24 (g) any other conditions imposed by the department under rules adopted pursuant to subsection

25 (5).

26 (3) Hatched migratory game birds or their eggs taken under an avicultural permit issued in
 27 accordance with this section remain the property of the state and may be disposed of only with the
 28 permission of the department. Progeny of hatched migratory game birds taken under permit as provided
 29 in this section become the private property of the holder of the permit who propagates ~~such~~ the migratory
 30 game birds, and the owner may sell or transfer ~~such~~ the birds as private property, subject to any applicable

1 state or federal law or regulation.

2 (4) The department may charge a fee for issuing an avicultural permit, if necessary, not to exceed
3 the cost of issuing ~~such~~ the permit.

4 (5) The department shall adopt rules implementing this section."
5

6 **Section 26.** Section 87-3-101, MCA, is amended to read:

7 "**87-3-101. General restrictions.** Except as provided in 87-2-803(4), it is unlawful for anyone to
8 ~~take, capture, shoot, kill, or attempt to take, capture, shoot, or kill~~ hunt or attempt to hunt any game animal
9 or game bird:

10 (1) from any self-propelled or drawn vehicle;

11 (2) on, from, or across any public highway or the shoulder, berm, or barrow pit right-of-way of any
12 public highway, as defined in 61-1-202, in the state of Montana; or

13 (3) by the aid or with the use of any set gun, jacklight, spotlight or other artificial light, trap, snare
14 ~~(except as allowed in 87-3-107(1) 87-3-127 AND 87-3-128), or salt lick, or bait; nor may any such set gun,~~
15 ~~jacklight or other artificial light, trap, snare, salt lick, or other device to entrap or entice game animals or~~
16 ~~game birds be used, made, or set."~~

17

18 **Section 27.** Section 87-3-104, MCA, is amended to read:

19 "**87-3-104. Unlawful to hunt or fish during closed season.** It is unlawful and a misdemeanor for
20 any person during the closed season on any species of game animal, game bird, or fish to attempt to ~~take,~~
21 ~~shoot, kill, or capture~~ hunt or to ~~take, hunt, shoot, kill, or capture~~ any ~~such~~ game animal or ~~such~~ game bird
22 or to fish for or catch any fish."
23

24

24 **SECTION 28. SECTION 87-3-107, MCA, IS AMENDED TO READ:**

25 "**87-3-107. Use of snare lawful under certain conditions.** (1) It ~~shall be~~ is lawful to use a snare
26 trap for the purpose of snaring ~~any animal or bird~~ a fur-bearing animal, a predatory animal, or a nongame
27 species under the following conditions:

28 (a) ~~Each~~ A snare trap must be tagged with a numbered metal device identifying the owner's name,
29 address, and telephone number.

30 (b) It is unlawful to set snare traps on private property without the landowner's consent.

- 1 (c) Snare traps ~~shall~~ must be set in a manner and at a time so as not to unduly endanger livestock.
- 2 (d) A person who injures livestock in snare traps is liable for damages to the owner of the livestock.
- 3 (2) A person convicted of violating the provisions of this section is guilty of a misdemeanor.
- 4 (3) The commission may adopt rules to enforce this section."

5

6 **Section 29.** Section 87-3-109, MCA, is amended to read:

7 **"87-3-109. Attempting to take simulated wildlife decoy -- penalty.** (1) It is unlawful for a person
8 to discharge a firearm or other hunting implement at a simulated wildlife decoy in violation of any state
9 statute or commission rule regulating the hunting ~~or taking~~ of the wildlife being simulated when the decoy
10 is being used by a certified peace officer.

11 (2) Upon conviction, the penalty for attempting to ~~take hunt~~ a simulated wildlife decoy is the same
12 as prescribed for ~~unlawful taking~~ the state statute or commission rule violated during the attempted hunting
13 of the actual wildlife being simulated.

14 (3) In addition to any other penalty, a person convicted under this section shall pay restitution of
15 \$50 to the department for the repair of damages to simulated wildlife decoys."

16

17 **Section 30.** Section 87-3-118, MCA, is amended to read:

18 **"87-3-118. ~~Sale~~ Felony sale or possession of ~~unlawfully taken~~ wildlife -- penalty.** (1) A person
19 commits the offense of sale of unlawfully taken wildlife if ~~he~~ the person purposely or knowingly:

20 (a) sells, barter, purchases, or exchanges unlawfully taken wildlife for anything of value; or if he

21 (b) offers to sell, barter, purchase, or exchange unlawfully taken wildlife for anything of value;
22 ~~unlawfully taken wildlife.~~

23 (2) A person commits the offense of possession of unlawfully taken wildlife having a value of more
24 than \$1,000 if ~~he~~ the person purposely or knowingly has actual or constructive possession of or transports
25 or causes to be transported unlawfully taken wildlife having a value of more than \$1,000. The value of the
26 unlawfully taken wildlife must be determined from the schedule of restitution values set out in 87-1-111.

27 (3) (a) A person commits the offense of unlawful sale or possession of wildlife if the person
28 purposely or knowingly:

29 (i) sells, barter, purchases, or exchanges wildlife for anything of value;

30 (ii) attempts to sell, barter, purchase, or exchange wildlife for anything of value;

1 (iii) transports, causes to be transported, or is in the process of transporting out of state wildlife
 2 for purposes of sale, barter, purchase, or exchange for anything of value.

3 (b) For the purposes of this subsection (3), "wildlife" includes the edible meat, internal organs,
 4 tissue, fluids, or sex organs of wildlife having a value of more than \$1,000 or edible meat of wildlife in
 5 excess of 150 pounds, except meat allowed to be sold under the provisions of 71-3-1505.

6 (c) For purposes of determining the total pounds of edible meat of wildlife, any nonwildlife meat
 7 or ingredients mixed with the meat of wildlife must be included in the total.

8 (4) For purposes of this section, the value of all wildlife actually or constructively possessed,
 9 transported, sold, bartered, bought, or exchanged for anything of value within a 45-day period must be
 10 added together to determine whether the value of the wildlife is greater than \$1,000.

11 (5) A person who violates this section is guilty of a felony and upon conviction shall be fined not
 12 more than \$50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In
 13 addition, a person convicted under this section or who pleads guilty to a violation of this section shall lose
 14 all hunting, fishing, and trapping permits and license privileges for a minimum of 3 years or up to a
 15 maximum of a lifetime revocation from the date of conviction."

16
 17 **Section 31.** Section 87-3-301, MCA, is amended to read:

18 **"87-3-301. Shotgun loads regulated by department.** ~~No~~ A person may not use a shotgun to hunt,
 19 ~~kill, or shoot~~ deer or elk except with weapon type and loads as specified by the department."
 20

21 **Section 32.** Section 87-3-305, MCA, is amended to read:

22 **"87-3-305. Unlawful to ~~take~~ hunt deer within city or town boundaries.** It is unlawful to ~~shoot, kill,~~
 23 ~~take~~ hunt, ~~or cause to be shot, killed, taken, or captured~~ or ~~to~~ attempt to ~~shoot, kill, take, or capture~~ hunt
 24 any deer within the boundaries of any incorporated or unincorporated city or town of this state."
 25

26 **Section 33.** Section 87-3-402, MCA, is amended to read:

27 **"87-3-402. Unlawful to violate closed season on certain game birds.** It is unlawful for any person
 28 to ~~hunt, shoot, kill, capture, possess, or cause to be hunted, killed, or captured~~ or attempt to ~~shoot, kill,~~
 29 ~~or capture~~ hunt any quail, Chinese or Mongolian pheasant (commonly called ring-necked pheasant),
 30 Hungarian partridge, chukar partridge, sage grouse, sharp-tailed grouse, blue grouse, fool hen, prairie

1 chicken, ruffed grouse, ptarmigan, or wild turkey until ~~such time as the department shall provide~~
 2 commission provides an open season on any quail, Chinese or Mongolian pheasant (commonly called
 3 ring-necked pheasant), Hungarian partridge, chukar partridge, sage grouse, sharp-tailed grouse, blue grouse,
 4 fool hen, prairie chicken, ruffed grouse, ptarmigan, or wild turkey."

5
 6 **Section 34.** Section 87-3-501, MCA, is amended to read:

7 **"87-3-501. Open and closed season for fur-bearing animals -- exception.** (1) ~~It shall hereafter be~~
 8 is unlawful and a misdemeanor for any a person to shoot, trap, kill, or capture or cause to be shot, trapped,
 9 killed, or captured or to attempt to shoot, trap, kill, or capture any marten or sable, otter, mink, muskrat,
 10 beaver, fisher, Canada lynx, or black-footed ferret or hunt or attempt to trap or hunt any fur-bearing animal
 11 until such time as the commission shall provide provides an open season on any ~~marten or sable, otter,~~
 12 ~~mink, muskrat, beaver, fisher, Canada lynx, or black-footed ferret~~ fur-bearing animal. The furs and hides
 13 of ~~such~~ fur-bearing animals legally taken during the open season may be possessed, bought, and sold at
 14 any time except as ~~hereinafter~~ provided by law.

15 (2) When it is shown that muskrats or beaver are doing severe injury upon or are a menace to the
 16 structures, canal banks, or other works of an irrigation project or district or stock water pond, any employee
 17 or resident landowner on ~~such~~ the project or district may kill or trap or cause to be killed or trapped any
 18 muskrat or beaver upon or in menacing proximity to the structures, canal banks, or other works of ~~such~~
 19 the project or district or stock water pond during the closed season on muskrats or beaver, after having
 20 secured from the director a permit ~~se~~ to do so, except that from June 1 to August 31, both dates inclusive,
 21 of each year ~~no such a permit shall be~~ is not required."

22
 23 **Section 35.** Section 87-5-404, MCA, is amended to read:

24 **"87-5-404. Flathead Lake bird preserve -- university of Montana biological reserve.** (1) Those
 25 ~~certain~~ islands, two in number, including lot one of block one, containing two and fifty-seven hundredths
 26 acres; lot two of block one, containing two and sixty hundredths acres; lot one of block two, containing
 27 one and sixty-five hundredths acres, all being in the villa site of islands situated in Flathead Lake in the
 28 county of Flathead, Montana, according to the official plat and survey of ~~said~~ the land returned to the
 29 general land office by the surveyor general, ~~be and the same are hereby made~~ a perpetual place of refuge
 30 for birds of all kinds, ~~the same and those lands are to be called and known as the~~ "Flathead Lake bird

1 preserve", ~~which said lands shall be specially.~~ The lands are reserved for the breeding, propagating, and
 2 protection of all species of birds.

3 (2) It ~~shall be~~ is unlawful for any person to ~~kill, shoot, capture,~~ hunt, as defined in 87-2-101, or
 4 destroy or in any way injure any bird on ~~said the~~ the islands or to interfere with their eggs or nests or to ~~shoot~~
 5 ~~at, wound, or kill~~ hunt any bird within a distance of 400 yards from the shoreline of ~~said the~~ the islands.

6 (3) It ~~shall be~~ is unlawful for any person to ~~kill, shoot, capture,~~ hunt, as defined in 87-2-101, or
 7 destroy or in any way injure any bird or animal on the university of Montana biological reserve located on
 8 the east shore of Flathead Lake or to interfere with their eggs or their young or their nests or to ~~shoot at,~~
 9 ~~wound, or kill~~ hunt any bird or any animal within 400 yards of ~~said the~~ the university of Montana biological
 10 reserve or to discharge any firearms on ~~said the~~ the reserve or within 400 yards ~~thereof~~ of the reserve."

11
 12 **Section 36.** Section 87-5-406, MCA, is amended to read:

13 **"87-5-406. Gates of the Mountains game preserve.** (1) Beginning in section 2, township 12 north,
 14 range 3 west, at the southeast corner of upper Holter Lake and proceeding westerly along the northern
 15 shoreline of ~~said~~ upper Holter Lake in the Gates of the Mountains area located in Lewis and Clark County,
 16 Montana, and then northerly along Stoney Point Beacon road, then northerly along the powerline to ~~said~~
 17 the beacon, then along the bulldozer road to the point of the ridge in section 23, township 13 north, range
 18 3 west, then northerly to the Missouri River, then easterly across ~~said the~~ the river and lake to the forest
 19 service boundary to the wilderness boundary, then south following the wilderness boundary to the
 20 southeast corner of section 1, township 12 north, range 3 west, then west back to the upper Holter Lake
 21 to the point of beginning, intending ~~hereby~~ to include in said the game preserve all that territory adjacent
 22 to the Gates of the Mountains area, ~~shall be is~~ called and known as the Gates of the Mountains game
 23 preserve.

24 (2) It ~~shall be~~ is unlawful for any person to ~~shoot, kill, capture,~~ hunt, as defined in 87-2-101, or
 25 destroy or in any way injure any bird or fur-bearing animal in ~~said the~~ the area or to interfere with their eggs
 26 or nests or to ~~shoot at, wound, or kill~~ hunt any bird or fur-bearing animal within ~~said the~~ the preserve. ~~Said The~~
 27 area ~~shall be~~ is closed to all hunting at all times."

28
 29 **NEW SECTION. Section 37. Severability.** If a part of [this act] is invalid, all valid parts that are
 30 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its

1 applications, the part remains in effect in all valid applications that are severable from the invalid
2 applications.

3

4 **NEW SECTION.** **Section 38. Codification instruction.** [Sections ~~5~~ 6 and ~~40~~ 11] are intended to
5 be codified as an integral part of Title 87, chapter 2, part 1, and the provisions of Title 87, chapter 2, part
6 1, apply to [sections ~~5~~ 6 and ~~40~~ 11].

7

8 **NEW SECTION.** **Section 39. Effective date.** [This act] is effective July 1, 1995.

9

-END-