

1 **Section 2.** Section 87-4-408, MCA, is amended to read:

2 **"87-4-408. Department jurisdiction -- applicability of livestock laws and rules.** (1) The department
3 has primary jurisdiction over game farms.

4 (2) A game farm licensee must ~~also~~ comply with all applicable laws and rules administered by the
5 department ~~of livestock~~ relating to marking, inspection, transportation, and health."

6

7 **Section 3.** Section 87-4-410, MCA, is amended to read:

8 **"87-4-410. Removal of game animals.** (1) If game animals are present on the land ~~which~~ that is
9 to be covered by a game farm license, the license ~~shall~~ must be issued but must be conditioned upon the
10 applicant complying with this section.

11 (2) Before the fence surrounding any ~~such~~ land to be covered by a game farm may be closed, all
12 game animals must to the extent possible be driven ~~therefrom~~ from the land by the applicant, at the
13 applicant's expense and under the direction of a representative of the department of fish, wildlife, and
14 parks.

15 (3) If at the time the license is issued all game animals cannot be removed from the licensed land,
16 the applicant and a representative of the department of fish, wildlife, and parks shall decide within 60 days
17 the approximate number of remaining game animals of each indigenous species. This number is the "base
18 number".

19 (4) The department of fish, wildlife, and parks may remove the base number of game animals from
20 the game farm, at the expense of the department of fish, wildlife, and parks, by trapping them within 120
21 days from the date the number was determined.

22 (5) If the department of fish, wildlife, and parks decides not to remove the game animals or if some
23 game animals were not successfully removed by trapping, the public must be granted access to harvest
24 those game animals during a special hunt set for that purpose during the next regularly scheduled hunting
25 season. ~~All administrative costs incurred by the department in arranging the special hunt or providing for~~
26 ~~hunting on the applicant's land during the regular season must be reimbursed by the applicant.~~

27 (6) After compliance with this section, any animals from the base number that remain and their
28 progeny belong to the licensee, and the licensee may deal with them as provided for in this part."

29

30 **Section 4.** Section 87-4-411, MCA, is amended to read:

1 **"87-4-411. License and renewal fees -- administrative fee -- deposit of fees.** (1) The department
2 shall charge an initial game farm license fee of \$200 and shall charge an annual renewal fee of \$50.

3 (2) In addition to the license fees set out in subsection (1), the department may charge an
4 administrative fee, to be determined by rule, that is commensurate with the cost of administering the
5 provisions of this part.

6 (3) The fees must be deposited in the state special revenue fund for the use of the department for
7 purposes of this part."

8
9 **Section 5.** Section 87-4-412, MCA, is amended to read:

10 **"87-4-412. Term of license -- renewal -- transferability.** (1) A game farm license expires on
11 January 31 of the year succeeding the year of issuance. Application for renewal must be made before a
12 license expires. The department shall renew the license upon payment of the renewal fee if the licensee
13 has complied with all recording and reporting requirements.

14 (2) A game farm license for a specific facility is transferable with the consent of the department.
15 The department's consent must be given if:

- 16 (a) the transferee meets the requirements of 87-4-426(1);
17 (b) the game farm and facilities are in compliance with requirements in place at the time the license
18 was issued;
19 (c) the game farm is not under quarantine by the department ~~of livestock~~;
20 (d) game farm animals to be transferred are not prohibited under this part and department rules;
21 and
22 (e) the transfer is not proposed as a means to evade a requirement imposed on the licensee."
23

24 **Section 6.** Section 87-4-413, MCA, is amended to read:

25 **"87-4-413. Inspection.** (1) Upon receipt of an application for a game farm license, the department
26 shall inspect the land proposed to be covered by the license. The department of fish, wildlife, and parks
27 may inspect the land and advise the department regarding the granting of the game farm application. The
28 department of fish, wildlife, and parks shall also inspect the land to determine the presence of wild animals
29 in order to facilitate removal under 87-4-410.

30 (2) After issuance of a game farm license, the department may inspect the game farm or the

1 licensee's game farm books on a scheduled basis or on ~~such~~ any other reasonable basis ~~as~~ that may be
2 determined necessary."

3

4 **Section 7.** Section 87-4-414, MCA, is amended to read:

5 **"87-4-414. Game farm animals as private property -- source.** (1) All game farm animals lawfully
6 possessed on a licensed game farm are private property for which the licensee is responsible as provided
7 by law.

8 (2) The licensee may acquire, breed, grow, keep, pursue, ~~capture,~~ handle, harvest, use, sell, or
9 dispose of the game farm animals and their progeny in any quantity and at any time of year as long as the
10 licensee complies with the requirements of this part.

11 (3) A licensee shall mark each game farm animal in a manner approved by the department ~~of~~
12 ~~livestock~~ that indicates ownership and provides individual identification of animals for inspection,
13 transportation, reporting, and taxation purposes.

14 (4) Game farm animals must be lawfully acquired by the licensee.

15 (5) Except for importation permits and health certificates required under 81-2-703, laws applicable
16 to game animals do not apply to game farm animals raised on a licensed game farm."

17

18 **Section 8.** Section 87-4-415, MCA, is amended to read:

19 **"87-4-415. Transportation and sale of game farm animals -- quarantine.** (1) Prior to selling,
20 transferring, transporting, or disposing of one or more game farm animals, the game farm licensee shall
21 contact the department ~~of livestock~~ to request an inspection by a department ~~of livestock~~ stock inspector
22 for all game farm animals ~~except carnivores and omnivores. In the case of carnivores and omnivores, the~~
23 ~~game farm licensee shall contact the department to request an inspection by a department official.~~ This
24 section applies to all game farm animals, whether alive or dead.

25 (2) (a) Inspection under subsection (1) must include examination of the game farm animal and all
26 marks, tags, and tattoos to identify ownership prior to issuance of a certificate of inspection.

27 (b) A certificate of inspection must be made in triplicate and must specify:

28 (i) the date of inspection;

29 (ii) the place of origin and destination of the shipment;

30 (iii) the name and address of the owner of the game farm animals and of the purchaser or

1 transferee;

2 (iv) the number, species, age, and sex of game farm animals transported or disposed of;

3 (v) ear tag numbers and tattoos on each animal; and

4 (vi) any other information that the department ~~of livestock~~ may require.

5 (c) A copy of the certificate must be:

6 (i) retained by the inspector;

7 (ii) furnished by the inspector to the owner or shipper of the game farm animals, to accompany the
8 animals to their destination;

9 (iii) filed by the inspector with the department ~~of livestock~~ within 5 days of inspection; and

10 (iv) provided by the department ~~of livestock~~ to the department of fish, wildlife, and parks within 10
11 days of inspection.

12 (3) The department ~~of livestock~~ may quarantine any game farm animal pending inspection and
13 health certification. The department shall advise the department of ~~livestock~~ fish, wildlife, and parks
14 regarding the importation or transportation of any game farm animal that the department reasonably
15 believes may be infected with a disease specific to wildlife."
16

17 **Section 9.** Section 87-4-417, MCA, is amended to read:

18 **"87-4-417. Records and reporting.** (1) Each game farm licensee shall keep and maintain for 3
19 years accurate written records of all purchases, transfers, and sales of game farm animals showing:

20 (a) the number of each species of game farm animal purchased by the game farm licensee and from
21 whom purchased;

22 (b) the number of each species of game farm animal transferred or sold, the date of transfer or sale,
23 and the name and address of the person to whom the transfer or sale was made; and

24 (c) individual identification of each game farm animal purchased, transferred, or sold.

25 (2) Within 2 weeks after January 1, ~~April 1, and September 1~~ of each year, the game farm licensee
26 shall file a report with the ~~director~~ department, showing the number and species of game farm animals on
27 hand as of January 1, ~~April 1, and September 1~~ and the number and species of game farm animals bought,
28 sold, or propagated during the reporting period."
29

30 **Section 10.** Section 87-4-419, MCA, is amended to read:

1 **"87-4-419. Escape from game farm -- effect.** If a game farm animal escapes from a game farm,
2 the game farm licensee shall immediately notify the department and the department of fish, wildlife, and
3 parks of its escape and shall make every reasonable effort to recapture it. If the escaped animal cannot
4 be recaptured within ~~a reasonable time~~ 10 days of notification, the department of fish, wildlife, and parks
5 may kill the animal. If recapture and killing of the animal are unsuccessful within a reasonable time, the
6 animal becomes the property of the state."

7
8 **Section 11.** Section 87-4-422, MCA, is amended to read:

9 **"87-4-422. Rulemaking.** (1) The department may adopt and enforce rules that are necessary to
10 implement the provisions of this part and to coordinate regulation of game farms with the department of
11 livestock fish, wildlife, and parks.

12 (2) The rules may address but are not limited to the classifying of cloven-hoofed ungulates,
13 requirements for facilities, reporting and recordkeeping requirements, transportation and importation,
14 restrictions on importation, identification, sale of animal parts, and the care and maintenance of game farm
15 animals."

16
17 **Section 12.** Section 87-4-424, MCA, is amended to read:

18 **"87-4-424. Department restrictions on importation of certain species.** The department ~~or the~~
19 ~~department of livestock~~ may restrict from importation for purposes of game farming any species or
20 subspecies and their hybrids with native species that are determined through scientific investigation to pose
21 a threat to native wildlife or livestock through nonspecific genetic dilution, habitat degradation or
22 competition caused by feral populations of escaped game farm animals, parasites, or disease."

23
24 **Section 13.** Section 87-4-426, MCA, is amended to read:

25 **"87-4-426. Criteria for issuance of license -- fencing and enclosure requirements.** (1) A game farm
26 license may be issued by the department only to an applicant:

27 (a) who owns or leases the premises on which the operations are to be conducted;

28 (b) ~~who has not been or whose principal manager has not been convicted of or who has not~~
29 ~~forfeited bond of \$100 or more for more than one violation of the fish and game laws or applicable~~
30 ~~regulations of any state or the United States within a 5-year period prior to application;~~

1 ~~(e)~~ who has not or whose principal manager has not at any time pleaded guilty to or been convicted
2 of a felony, unless civil rights have been restored pursuant to law. A person may not apply for licensure
3 during any time in which a deferred or suspended felony sentence is in effect.

4 ~~(d)~~(c) who is or whose principal manager is at least 18 years of age.

5 (2) A game farm license must be issued by the department if:

6 (a) the applicant has properly fenced the perimeter of the land upon which the game farm is to be
7 located with fencing designed and constructed to prevent the escape of the species of game farm animal
8 kept on the game farm and to prevent the entry of the same species of game animal or other native game
9 animal species capable of interbreeding with or contracting diseases or parasites from game farm animals;

10 (b) the application is for a single location;

11 (c) it is demonstrated that the applicant or the applicant's principal manager has the necessary
12 skills to properly care for game farm animals or intends to employ a person who has those necessary skills;
13 and

14 (d) the application has not been denied under this section or issued with stipulations under
15 subsection (3).

16 (3) An application for a game farm license may be denied in its entirety or issued with stipulations
17 if necessary to prevent public safety hazards or significant negative impacts to Montana's wildlife
18 resources. Denial of an application or stipulations attached to a game farm license must be based on one
19 or more of the following potential impacts ascribed to the physical location of the proposed game farm:

20 (a) substantial loss or destruction of critical seasonal game animal habitat or habitat of federally
21 designated threatened or endangered species under the Endangered Species Act of 1973, 16 U.S.C. 1531,
22 et seq., including but not limited to ~~traditional~~ critical breeding, birthing, rearing, and wintering areas;

23 (b) blockage or disruption of major traditional seasonal migration corridors or major travel routes;

24 (c) unacceptable threat of introduction or transmission of serious diseases or parasites to native
25 wildlife populations, as determined by the state veterinarian appointed pursuant to 81-1-301;

26 (d) unacceptable threat of escape of captive game farm animals and establishment of feral
27 populations that would result in habitat damage or competition with or genetic pollution of native wildlife
28 populations;

29 (e) the creation of a significant threat to the safety of the general public and surrounding
30 landowners by the shooting of game farm animals.

1 (4) If the department determines that it will propose, within the time allowed under 87-4-409(3),
2 to deny a game farm license or issue a license with stipulations, the applicant must be given an opportunity
3 to make changes to the application within 30 days of receipt of the department's written determination in
4 order to mitigate or correct any problems or deficiencies. The department shall reconsider the application
5 with the proposed changes within 30 days of receipt of changes to the application before granting,
6 proposing to deny, or proposing to issue the license with stipulations.

7 (5) An applicant may request that the ~~commission~~ board review a department proposal to deny a
8 game farm license or to issue a license with stipulations by petitioning the ~~commission~~ board for review
9 within 10 days of the department's proposed decision. The ~~commission~~ board shall decide whether to
10 grant the license, propose to deny the license, or issue the license with stipulations. The ~~commission's~~
11 board's decision then becomes the department's proposed decision, subject to an opportunity for hearing
12 under 87-4-428."

13

14 **Section 14.** Section 87-4-427, MCA, is amended to read:

15 "**87-4-427. Revocation of license -- criteria -- penalties.** (1) The department may revoke any game
16 farm license or impose any of the penalties or conditions specified in subsection (3) if the licensee or the
17 principal manager has committed or is responsible for any of the following acts or omissions:

18 (a) failure to operate a game farm according to the provisions of this part, rules adopted under this
19 part, or stipulations of the game farm license;

20 (b) making a materially false statement in the license application;

21 (c) having pleaded guilty to or been convicted of a felony, including a case in which the sentence
22 is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant to
23 law;

24 (d) ~~two convictions or bond forfeitures of \$100 or more for violations of the fish and game laws~~
25 ~~or applicable regulations of any state or the United States within the preceding 5 years;~~

26 ~~(e)~~ negligent or willful misconduct of the game farm operation, including but not limited to the
27 unauthorized egress and ingress of game animal species or game farm animals that:

28 (i) threatens public safety;

29 (ii) endangers native game animal populations or habitat through the establishment of feral
30 populations, genetic pollution, or competition for forage or habitat; or

1 (iii) increases the risk of transmission of disease to native wildlife and the game farm animals of
2 others;

3 ~~(f)~~(e) a material and willful falsification of any required game farm records or reports;

4 ~~(g)~~(f) the purposeful capture of wild animals within the perimeter fence of a game farm;

5 ~~(h)~~(g) repeated failure to maintain or repair required fences or facilities; or

6 ~~(i)~~(h) any other willful conduct or omission that creates a substantial threat to other game farm
7 animals and operators or to native wildlife or habitat.

8 (2) If misconduct under subsection ~~(1)(e)~~ (1)(d) is negligent, the licensee must be given notice and
9 30 days to correct the misconduct and any adverse impacts of the misconduct. Negligent misconduct may
10 be grounds for license revocation only if the misconduct is not corrected after the initial notice or if the
11 misconduct is repeated.

12 (3) If the department finds, after opportunity for a hearing required under 87-4-428, that a game
13 farm licensee or the principal manager is responsible for any act or omission set out in subsection (1), the
14 department may in its discretion impose any one or more of the following penalties upon the licensee:

15 (a) revocation of the game farm license for up to 5 years;

16 (b) imposition of a civil penalty not to exceed \$5,000, restoration of any damage to native wildlife,
17 or both;

18 (c) deferral of the revocation of a license subject to the completion of or adherence to specified
19 conditions; or

20 (d) reprimand of a licensee.

21 (4) In addition to the revocation of a license or other penalties allowed by this section, a person
22 who purposely or knowingly violates this part or a rule adopted pursuant to this part is subject to criminal
23 prosecution and a fine of not more than \$1,000, imprisonment in the county jail for not more than 1 year,
24 or both. Any violation of 87-3-118 is subject to prosecution and penalties under that section."
25

26 **NEW SECTION. Section 15. Game farm advisory council -- appointment of members -- duties.** (1)

27 There is a game farm advisory council to advise the department on the administration of game farms in this
28 state.

29 (2) The game farm advisory council must be composed of seven members, appointed as follows:

30 (a) two members of the board, to be chosen by the board;

1 (b) two members who are representatives of the game farm industry and who are licensed game
2 farm operators, to be chosen by the members of the Montana game breeders' association;

3 (c) two members who are representatives of the department of fish, wildlife, and parks, to be
4 chosen by the fish, wildlife, and parks commission; and

5 (d) one member who is a veterinarian licensed to practice veterinary medicine in this state, to be
6 chosen by the board of veterinary medicine.

7 (3) Members of the game farm advisory council shall serve 2-year terms. The initial appointments
8 of members under subsections (2)(a) through (2)(c) must be made on a staggered basis, with one member
9 appointed to a 1-year term and one member appointed to a 2-year term. A member may serve one
10 additional consecutive 2-year term.

11 (4) The game farm advisory council is attached to the department in an advisory capacity only, as
12 defined in 2-15-102.

13 (5) Costs associated with the game farm advisory council must be paid by the Montana game
14 breeders' association. Council members are not entitled to compensation or travel expenses as provided
15 in 2-15-122.

16
17 **NEW SECTION. Section 16. Codification instruction.** (1) Sections 87-4-406, 87-4-407, 87-4-408,
18 87-4-409, 87-4-410, 87-4-411, 87-4-412, 87-4-413, 87-4-414, 87-4-415, 87-4-416, 87-4-417, 87-4-418,
19 87-4-419, 87-4-420, 87-4-422, 87-4-423, 87-4-424, 87-4-426, 87-4-427, and 87-4-428, MCA, are
20 intended to be renumbered and codified as an integral part of Title 81.

21 (2) [Section 15] is intended to be codified as an integral part of Title 81, and the provisions of Title
22 81 apply to [section 15].

23
24 **NEW SECTION. Section 17. Effective date.** [This act] is effective July 1, 1995.

25 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0215, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act transferring the general administration and regulation of game farms from the Department of Fish, Wildlife and Parks to the Department of Livestock; retaining certain game farm regulatory functions with the Department of Fish, Wildlife and Parks, including limited inspection functions, the removal of wild animals on game farms and the capture of escaped game farm animals; revising game farm provisions regarding licensure, fees, definitions inspections and reporting and creating the game farm advisory council.

ASSUMPTIONS:

1. Fish, Wildlife and Parks (FWP) will continue to inspect game farms at the time of application, will establish the base number of game animals on the proposed game farm property, and will remove the base number of game animals within 120 days.
2. FWP will provide information to Department of Livestock (DoL) concerning the potential impacts of importation of exotic species on native wildlife.
3. FWP will evaluate potential wildlife impacts and the determination of "critical" breeding, birthing, rearing, and wintering areas in evaluating DoL environmental assessments for game farm applications.
4. FWP currently collects approximately \$5,000 per year from game farm license fees. Effective July 1, 1995, game farm license fees will be paid to DoL.
5. FWP currently spends approximately \$150,000 per year for the regulation and administration of the game farm program: \$5,000 of game farm license fees and \$145,000 of general license account funds support this budget.
6. FWP costs under this bill for game farm inspections, wild animal removal, ingress/egress monitoring, capturing escaped game farm animals, and coordinating functions with DoL will be \$30,000 per year. These costs will be supported with general license funds and will be absorbed within the FWP Executive Budget present law base recommendation.
7. When FWP received the responsibility to regulate game farms, it was necessary to redirect the time and budgets of game wardens, wildlife biologists, attorneys, and administrators to meet this added responsibility. FWP will redirect the time and budgets currently spent on administrating and monitoring game farms to other priorities.
8. With the transfer of general administration and regulation of game farms to DoL, it will be necessary to add to DOL 2.50 FTE (program officer, grade 16, veterinarian, grade 19, and part-time administrative assistant, plus associated operating expenses and equipment expenses including two vehicles and personal computers in FY96 only.
9. DoL will collect initial and annual renewal fees. In addition, DoL will charge an administrative fee, to be determined by rule, that is commensurate with the cost of administering the program.

(continued on page 2)

Dave Lewis 1-27-95

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

Larry Tveit

LARRY TVEIT, PRIMARY SPONSOR DATE

Fiscal Note for SB0215, as introduced

SB 215

FISCAL IMPACT:

Department of Livestock

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
FTE	2.50	2.50
Personal Services	95,642	95,979
Operating Expenses	11,500	11,500
Equipment	<u>46,350</u>	<u>0</u>
Total	153,492	107,479
<u>Revenue:</u>		
License Fees	5,000	5,000
Administrative Fees	<u>148,492</u>	<u>102,479</u>
Total	153,492	107,479

Net Impact:

Department of Fish, Wildlife and Parks will have a decrease in revenue of \$5,000 each year from game farm license fees. The fees will now go to the Department of Livestock.

The Department of Livestock will receive the \$5,000 annual license fee revenues and will be able to charge an administrative fee sufficient to cover the costs of administering the program.

TECHNICAL NOTES:

1. Black bears and mountain lions are removed from game farm regulation statutes, but are not incorporated in other statutes.
2. Department is not defined as Department of Livestock.