

1 SENATE BILL NO. 389

2 INTRODUCED BY HARGROVE, DEVLIN, TVEIT, SWYSGOOD, JABS, MESAROS, L. NELSON, GAGE,
3 BECK, JENKINS, DEBRUYCKER, KEATING, PECK, MCCANN, BENEDICT, FORRESTER, HOLLAND,
4 WILSON, BROWN, FOSTER, TOEWS, ZOOK, REHBEIN

5 BY REQUEST OF THE SENATE AGRICULTURE, LIVESTOCK, AND IRRIGATION COMMITTEE
6

7 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE ADMINISTRATION AND REGULATION OF
8 GAME FARMS BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND THE DEPARTMENT OF
9 LIVESTOCK; REVISING GAME FARM PROVISIONS REGARDING LICENSURE, DEFINITIONS, INSPECTIONS,
10 IMPORTATION, AND REPORTING; CREATING THE GAME FARM ADVISORY COUNCIL; AMENDING
11 SECTIONS 87-4-406, 87-4-408, 87-4-410, 87-4-414, 87-4-415, 87-4-417, 87-4-419, 87-4-422, 87-4-424,
12 AND 87-4-426, MCA; AND PROVIDING AN EFFECTIVE DATE."
13

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill in order to clarify rulemaking authority of the
16 department of fish, wildlife, and parks and the department of livestock with regard to the administration
17 and regulation of game farms.

18 (1) It is intended that the department of fish, wildlife, and parks have primary authority with regard
19 to rules governing:

20 (a) game farm licensure;

21 (b) reporting requirements;

22 (c) exterior fencing requirements;

23 (d) classification of species the importation of which may present a threat to the state's wildlife
24 population; and

25 (e) general enforcement of game farm licensing violations.

26 (2) It is intended that the department of livestock have primary authority with regard to rules
27 governing:

28 (a) transportation and identification of game farm animals;

29 (b) health inspection and game farm quarantines, including interior facilities; and

30 (c) importation restrictions on exotic species.

1 (3) It is intended that the department of livestock's rules address the issue of immediate
2 depopulation of game farm animals that test positive for tuberculosis.

3 (4) It is intended that both the department of fish, wildlife, and parks and the department of
4 livestock consider the feasibility of using DNA as an additional method of identification of game farm
5 animals.

6 (5) It is intended that the game farm advisory council advise both the department of fish, wildlife,
7 and parks and the department of livestock regarding the administration of game farm operations, which may
8 include input into the rules adopted pursuant to [this act].

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

11
12 **Section 1.** Section 87-4-406, MCA, is amended to read:

13 **"87-4-406. Definitions.** As used in this part, the following definitions apply:

14 (1) "Department" means the department of fish, wildlife, and parks.

15 (2) "Facilities" means perimeter fences and other enclosures that provide for the confinement,
16 handling, and quarantine of game farm animals.

17 (3) "Game animals" means game animals as defined in 87-2-101 that are not the lawful property
18 of any private person.

19 (4) "Game farm" means the enclosed land area upon which game farm animals may be kept for
20 purposes of obtaining, rearing in captivity, keeping, or selling game farm animals or parts of game farm
21 animals, as authorized under this part.

22 (5) "Game farm animal" means a privately owned caribou, reindeer, black bear, mountain lion,
23 white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the
24 state of Montana or any other cloven-hoofed ungulate as classified by the department.

25 (6) "Person" means an individual, firm, corporation, association, or partnership."
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27 **Section 2.** Section 87-4-408, MCA, is amended to read:

28 **"87-4-408. ~~Department jurisdiction—applicability of livestock laws and rules~~ Jurisdiction.** (1) The
29 department has primary jurisdiction over game farms with regard to licensing, reports and recordkeeping,
30 exterior fencing, classification of exotic species, removal of game farm animals under 87-4-410, inspection

1 under 87-4-413, and enforcement of the functions listed in this subsection.

2 (2) ~~A game farm licensee must also comply with all applicable laws and rules administered by the~~
 3 The department of livestock has primary jurisdiction over game farms relating to marking, inspection,
 4 transportation, importation, quarantine, and health and relating to the enforcement of the functions listed
 5 in this subsection."

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.

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

17 (4) The department may remove the base number of game animals from the game farm, at the
 18 expense of the department, by trapping them within 120 days from the date the number was determined.

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

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

26

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

28 **"87-4-414. Game farm animals as private property -- source -- marking.** (1) All game farm animals
 29 lawfully possessed on a licensed game farm are private property for which the licensee is responsible as
 30 provided by law.

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

4 (3) A licensee shall mark each game farm animal in a manner approved by the department of
5 livestock, as required under subsection (4), and that indicates ownership and provides individual
6 identification of animals for inspection, transportation, reporting, and taxation purposes.

7 (4) The department of livestock is responsible for the control, tracking, and distribution of
8 identification tags used for the marking of game farm animals. The department of livestock shall require that
9 each game farm animal be marked with identification that:

10 (a) is unique to the animal;

11 (b) is nontransferable;

12 (c) has an emblem owned and registered by the department of livestock that is embossed on each
13 identification tag; and

14 (d) allows for the identification of game farm animals from a distance.

15 (5) Game farm animals must be lawfully acquired by the licensee. Only a licensee may own or lease
16 a game farm animal.

17 ~~(5)(6)~~ Except for importation permits and health certificates required under 81-2-703, laws
18 applicable to game animals do not apply to game farm animals raised on a licensed game farm."
19

20 **Section 5.** Section 87-4-415, MCA, is amended to read:

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

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

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

30 (i) ~~the date of inspection;~~

- 1 ~~(iii) the place of origin and destination of the shipment;~~
 2 ~~(iii) the name and address of the owner of the game farm animals and of the purchaser or~~
 3 ~~transferee;~~
 4 ~~(iv) be conducted pursuant to 81-3-203(1) through (3) and must include the number, species, age,~~
 5 ~~and sex of game farm animals transported or disposed of;~~
 6 ~~(v) ear tag numbers and tattoos on each animal; and~~
 7 ~~(vi) any other information that the department of livestock may require.~~
 8 ~~(c) A copy of the certificate must be:~~
 9 ~~(i) retained by the inspector;~~
 10 ~~(ii) furnished by the inspector to the owner or shipper of the game farm animals, to accompany the~~
 11 ~~animals to their destination;~~
 12 ~~(iii) filed by the inspector with the department of livestock within 5 days of inspection; and~~
 13 ~~(iv) provided by the department of livestock to the department within 10 days of inspection.~~
 14 (b) A copy of the certificate of inspection must be provided by the department of livestock to the
 15 department within 10 days of the inspection.

16 (3) The department of livestock may quarantine any game farm animal pending inspection and
 17 health certification. The department shall advise the department of livestock regarding the importation or
 18 transportation of any game farm animal that the department reasonably believes may be infected with a
 19 disease specific to wildlife."
 20

21 **Section 6.** Section 87-4-417, MCA, is amended to read:

22 "**87-4-417. Records and reporting.** (1) Each game farm licensee shall keep and maintain for 3 years
 23 accurate written records of all purchases, transfers, ~~and sales, births, and deaths~~ of game farm animals,
 24 showing:

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

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

29 (c) individual identification of each game farm animal that was purchased, transferred, ~~or sold, or~~
 30 born or that died.

1 (2) ~~Within~~ Unless a different reporting frequency has been established pursuant to subsection (3),
2 within 2 weeks after January 1, ~~April 1,~~ and ~~September~~ July 1 of each year, the game farm licensee shall
3 file a report with the ~~director~~ department, showing the number and species of game farm animals ~~that were~~
4 on hand as of January 1, ~~April 1,~~ and ~~September~~ July 1 and the number and species of game farm animals
5 that ~~escaped, that were~~ bought, sold, ~~or propagated~~ transferred, recaptured, or born, or that died during
6 the reporting period.

7 (3) The department may by rule identify conditions under which:

8 (a) more frequent reports are required to allow the department to adequately monitor game farms
9 where violations have occurred or where problems are being resolved; and

10 (b) less frequent reports are required because of a history of proper game farm maintenance or a
11 historical absence of violations."

12
13 **Section 7.** Section 87-4-419, MCA, is amended to read:

14 "**87-4-419. Escape from game farm -- effect.** If a game farm animal escapes from a game farm,
15 the game farm licensee shall immediately notify the department of its escape and shall make every
16 reasonable effort to recapture it. If the escaped animal cannot be recaptured within ~~a reasonable time~~ 10
17 days of notification, the department may kill the animal. If recapture or killing of the animal is unsuccessful
18 within a reasonable time, ~~the animal~~ becomes the property of the state."

19
20 **Section 8.** Section 87-4-422, MCA, is amended to read:

21 "**87-4-422. Rulemaking.** (1) The department may adopt and enforce rules that are necessary to
22 implement the provisions of this part over which the department has primary jurisdiction and to coordinate
23 regulation of game farms with the department of livestock.

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

28 (3) The department of livestock may adopt rules addressing the transportation and importation of
29 game farm animals, restrictions on importation, identification, sale of animal parts, quarantine, and health
30 regulations."

1 **Section 9.** Section 87-4-424, MCA, is amended to read:

2 **"87-4-424. ~~Department restrictions~~ Restrictions on importation of certain species -- classification.**

3 (1) The department ~~or the department~~ of livestock may restrict from importation for purposes of game
4 farming any species or subspecies and their hybrids with native species that are determined through
5 scientific investigation to pose a threat to native wildlife or livestock through nonspecific genetic dilution,
6 habitat degradation or competition caused by feral populations of escaped game farm animals, parasites,
7 or disease. Importation permitted by the department of livestock must comply with the requirements of Title
8 81, chapter 2, part 7.

9 (2) In order to properly regulate importation, the department shall classify cloven-hoofed ungulates
10 that have been determined through scientific investigation to pose a threat to native wildlife or livestock
11 and notify the department of livestock of any changes in classification as they occur."

12
13 **Section 10.** Section 87-4-426, MCA, is amended to read:

14 **"87-4-426. Criteria for issuance of license -- fencing and enclosure requirements.** (1) A game farm
15 license may be issued by the department only to an applicant:

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

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

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

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

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

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

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

30 (c) it is demonstrated that the applicant or the applicant's principal manager has the necessary

1 skills to properly care for game farm animals or intends to employ a person who has those necessary skills;
2 and

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

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

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

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

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

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

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

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

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

1 **NEW SECTION. Section 11. Game farm advisory council -- appointment of members -- duties.** (1)

2 There is a game farm advisory council to advise the department and the department of livestock on the
3 administration of game farms in this state.

4 (2) The game farm advisory council is composed of five members, appointed by the governor as
5 follows:

6 (a) one member of the board of livestock or the department of livestock;

7 (b) one member of the fish, wildlife, and parks commission or the department;

8 (c) one member who is a representative of the game farm industry;

9 (d) one member who is a veterinarian licensed to practice veterinary medicine in this state; and

10 (e) one member who is a representative of the sportspersons of Montana.

11 (3) Members of the game farm advisory council shall serve 2-year terms. A member may serve one
12 additional consecutive 2-year term.

13 (4) The game farm advisory council is attached to the department and the department of livestock
14 in an advisory capacity only, as defined in 2-15-102.

15 (5) Council members are not entitled to compensation or travel expenses as provided in 2-15-122.

16
17 **NEW SECTION. Section 12. Codification instruction.** [Section 11] is intended to be codified as

18 an integral part of Title 87, chapter 4, part 4, and the provisions of Title 87, chapter 4, part 4, apply to

19 [section 11].

20

21 **NEW SECTION. Section 13. Effective date.** [This act] is effective July 1, 1995.

22

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0389, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying the administration and regulation of game farms by the Department of Fish, Wildlife and Parks and the Department of Livestock; revising game farm provisions regarding licensure, definitions, inspections, importation, and reporting; creating the Game Farm Advisory Council; and providing a FY96 effective date.

ASSUMPTIONS:

1. The Department of Fish, Wildlife and Parks (FWP) has primary jurisdiction over game farms with regard to licensing, reports and recordkeeping, exterior fencing, classification of exotic species, removal of game farm animals, inspection and enforcement.
2. The Department of Livestock has primary jurisdiction over game farms relating to marking, inspection, transportation, importation, quarantine, and health and the enforcement of those functions.
3. The Game Farm Advisory Council will be composed of five members, appointed by the Governor. The council will be attached to the Departments of FWP and Livestock in an advisory capacity only, and the members will not be entitled to compensation or travel expenses.
4. The Department of Livestock will need 1.00 FTE in order to provide the proper level of service, plus related operating and equipment expenditures. The new position will be comparable to and will work closely with the FWP game farm coordinator.
5. FWP will reduce travel associated with the game farms by 50%, ear tags for the game farm animals will become the responsibility of the Department of Livestock, and personnel time associated with the actual tagging of game farm animals will be reduced. Resulting savings will be redirected to other FWP priorities.

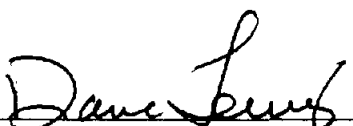
FISCAL IMPACT:

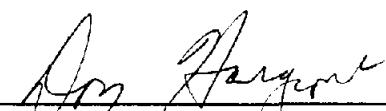
Department of Livestock

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
FTE	1.00	1.00
Personal Services	36,769	36,900
Operating Expenses	6,000	6,000
Equipment	<u>23,350</u>	<u>0</u>
Total	66,119	42,900
<u>Funding:</u>		
State Special Revenue	66,119	42,900
<u>Revenues:</u>		
Per capita fees (02)	17,500	17,500
<u>Net Impact:</u>		
State Special Revenue (02)	(48,619)	(25,400)

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Greater efficiency and better regulation of the game farm industry and protection of livestock and wildlife.

 2-18.95
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning


 DON HARGROVE, PRIMARY SPONSOR DATE

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23 (d) classification of species the importation of which may present a threat to the state's wildlife
24 population; ~~and~~

25 (e) general enforcement of game farm licensing violations; AND

26 (F) THE DEFINITION OF "REASONABLE TIME" IN THE CONTEXT OF 87-4-419(2), WHICH MUST
27 REFLECT SPECIFIC SEASONAL ISSUES RELATED TO BREEDING AND DISEASE.

28 (2) It is intended that the department of livestock have primary authority with regard to rules
29 governing:

30 (a) transportation and identification of game farm animals;

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16 (3) If at the time the license is issued all game animals cannot be removed from the licensed land,
17 the applicant and a representative of the department shall decide within 60 days the approximate number
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22 successfully removed by trapping, the public must be granted access to harvest those game animals during
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24 ~~costs incurred by the department in arranging the special hunt or providing for hunting on the applicant's~~
25 ~~land during the regular season must be reimbursed by the applicant.~~

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

28
29 **SECTION 4. SECTION 87-4-411, MCA, IS AMENDED TO READ:**

30 **"87-4-411. License and renewal fees -- deposit of fees.** (1) The department shall charge an initial

1 game farm license fee of ~~\$200~~ and shall charge an annual renewal fee of ~~\$50~~ based on the following scale:

2 (a) a game farm with 1 to 20 game farm animals, an initial license fee of \$200 and an annual
3 renewal fee of \$50;

4 (b) a game farm with 21 to 60 game farm animals, an initial license fee of \$300 and an annual
5 renewal fee of \$100; and

6 (c) a game farm with more than 60 game farm animals, an initial license fee of \$400 and an annual
7 renewal fee of \$200.

8 (2)(a) The One-half of the fees must be deposited in the state special revenue fund for the use of
9 the department for purposes of this part.

10 (b) One-half of the fees must be deposited in the state special revenue fund for the use of the
11 department of livestock in administering its game farm responsibilities."

12

13

14 **Section 5.** Section 87-4-414, MCA, is amended to read:

15 **"87-4-414. Game farm animals as private property -- source -- marking.** (1) All game farm animals
16 lawfully possessed on a licensed game farm are private property for which the licensee is responsible as
17 provided by law.

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

21 (3) A licensee shall mark each game farm animal in a manner approved by the department of
22 livestock, as required under subsection (4), and that indicates ownership and provides individual
23 identification of animals for inspection, transportation, reporting, and taxation purposes.

24 (4) The department of livestock is responsible for the control, tracking, and distribution of
25 identification tags used for the marking of game farm animals. The department of livestock shall require
26 that, WITHIN 30 DAYS OF IMPORTATION OR PRIOR TO JANUARY 1 OF EACH YEAR, each game farm
27 animal be marked with identification that:

28 (a) is unique to the animal;

29 (b) is nontransferable;

30 (c) has an emblem owned and registered by the department of livestock that is embossed on each

1 identification tag; and

2 (d) allows for the identification of game farm animals from a distance.

3 (5) Game farm animals must be lawfully acquired by the licensee. Only a licensee may own or lease
4 a game farm animal.

5 ~~(5)(6)~~ Except for importation permits and health certificates required under 81-2-703, laws
6 applicable to game animals do not apply to game farm animals raised on a licensed game farm."

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8 **Section 6.** Section 87-4-415, MCA, is amended to read:

9 **"87-4-415. Transportation and sale of game farm animals -- quarantine.** (1) Prior to selling,
10 transferring, transporting, or disposing of one or more game farm animals, the game farm licensee shall
11 contact the department of livestock to request an inspection by a department of livestock stock inspector
12 for all game farm animals, except carnivores and omnivores. In the case of carnivores and omnivores, the
13 game farm licensee shall contact the department to request an inspection by a department official. This
14 section applies to all game farm animals, whether alive or dead.

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

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

18 ~~(i) the date of inspection;~~

19 ~~(ii) the place of origin and destination of the shipment;~~

20 ~~(iii) the name and address of the owner of the game farm animals and of the purchaser or~~
21 ~~transferee;~~

22 ~~(iv) be conducted pursuant to 81-3-203(1) through (3) and must include the number, species, age,~~
23 ~~and sex, AND INDIVIDUAL IDENTIFICATION NUMBERS of game farm animals transported or disposed of;~~

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

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

26 ~~(c) A copy of the certificate must be:~~

27 ~~(i) retained by the inspector;~~

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

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

1 ~~(iv) provided by the department of livestock to the department within 10 days of inspection.~~

2 (b) A copy of the certificate of inspection must be provided by the department of livestock to the
3 department within 10 days of the inspection.

4 (3) The department of livestock may quarantine any game farm animal pending inspection and
5 health certification. The department shall advise the department of livestock regarding the importation or
6 transportation of any game farm animal that the department reasonably believes may be infected with a
7 disease specific to wildlife."

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9 **Section 7.** Section 87-4-417, MCA, is amended to read:

10 **"87-4-417. Records and reporting.** (1) Each game farm licensee shall keep and maintain for 3 years
11 accurate written records of all purchases, transfers, ~~and sales,~~ births, and deaths of game farm animals,
12 showing:

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

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

17 (c) individual identification of each game farm animal that was purchased, transferred, ~~or sold,~~ or
18 born or that died.

19 (2) ~~Within~~ Unless a different reporting frequency has been established pursuant to subsection (3),
20 within 2 weeks after January 1, ~~April 1,~~ and ~~September~~ July 1 of each year, the game farm licensee shall
21 file a report with the ~~director~~ department, showing the number and species of game farm animals that were
22 on hand as of January 1, ~~April 1,~~ and ~~September~~ July 1 and the number and species of game farm animals
23 that escaped, that were bought, sold, ~~or propagated~~ transferred, recaptured, or born, or that died during
24 the reporting period.

25 (3) The department may by rule identify conditions under which:

26 (a) more frequent reports are required to allow the department to adequately monitor game farms
27 where violations have occurred or where problems are being resolved; and

28 (b) less frequent reports are required because of a history of proper game farm maintenance or a
29 historical absence of violations."

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

7 (2) THE DEPARTMENT SHALL BY RULE ADOPT A DEFINITION OF "REASONABLE TIME", AS USED
 8 IN THIS SECTION, TAKING INTO CONSIDERATION SPECIFIC SEASONAL ISSUES RELATED TO BREEDING
 9 AND DISEASE."

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12 **"87-4-422. Rulemaking.** (1) The department may adopt and enforce rules that are necessary to
 13 implement the provisions of this part over which the department has primary jurisdiction and to coordinate
 14 regulation of game farms with the department of livestock.

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

19 (3) The department of livestock may adopt rules addressing the transportation and importation of
 20 game farm animals, restrictions on importation, identification, sale of animal parts, quarantine, and health
 21 regulations."

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 23 **Section 10.** Section 87-4-424, MCA, is amended to read:

24 **"87-4-424. ~~Department restrictions~~ Restrictions on importation of certain species -- classification.**

25 (1) The department ~~or the department~~ of livestock may restrict from importation for purposes of game
 26 farming any species or subspecies and their hybrids with native species that are determined through
 27 scientific investigation to pose a threat to native wildlife or livestock through nonspecific genetic dilution,
 28 habitat degradation or competition caused by feral populations of escaped game farm animals, parasites,
 29 or disease. Importation permitted by the department of livestock must comply with the requirements of Title
 30 81, chapter 2, part 7.

1 (2) In order to properly regulate importation, the department shall classify cloven-hoofed ungulates
2 that have been determined through scientific investigation to pose a threat to native wildlife or livestock
3 and notify the department of livestock of any changes in classification as they occur."
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5 **Section 11.** Section 87-4-426, MCA, is amended to read:

6 **"87-4-426. Criteria for issuance of license -- fencing and enclosure requirements.** (1) A game farm
7 license may be issued by the department only to an applicant:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (5) An applicant may request that the commission review a department proposal to deny a game
 19 farm license or to issue a license with stipulations by petitioning the commission for review within 10 days
 20 of the department's proposed decision. The commission shall decide whether to grant the license, propose
 21 to deny the license, or issue the license with stipulations. The commission's decision then becomes the
 22 department's proposed decision, subject to an opportunity for hearing under 87-4-428."
 23

24 **NEW SECTION. Section 12. Game farm advisory council -- appointment of members -- duties.** (1)

25 There is a game farm advisory council to advise the department and the department of livestock on the
 26 administration of game farms in this state.

27 (2) The game farm advisory council is composed of five members, appointed by the governor as
 28 follows:

29 (a) one member of the board of livestock or the department of livestock;

30 (b) one member of the fish, wildlife, and parks commission or the department;

- 1 (c) one member who is a representative of the game farm industry;
- 2 (d) one member who is a veterinarian licensed to practice veterinary medicine in this state; and
- 3 (e) one member who is a representative of the sportspersons of Montana.
- 4 (3) Members of the game farm advisory council shall serve 2-year terms. A member may serve one
- 5 additional consecutive 2-year term.
- 6 (4) The game farm advisory council is attached to the department and the department of livestock
- 7 in an advisory capacity only, as defined in 2-15-102.
- 8 (5) Council members are not entitled to compensation or travel expenses as provided in 2-15-122.

9

10 **NEW SECTION. Section 13. Codification instruction.** [Section ~~44~~ 12] is intended to be codified

11 as an integral part of Title 87, chapter 4, part 4, and the provisions of Title 87, chapter 4, part 4, apply to

12 [section ~~44~~ 12].

13

14 **NEW SECTION. Section 14. Effective date.** [This act] is effective July 1, 1995.

15

-END-

1 SENATE BILL NO. 389

2 INTRODUCED BY HARGROVE, DEVLIN, TVEIT, SWYSGOOD, JABS, MESAROS, L. NELSON, GAGE,
 3 BECK, JENKINS, DEBRUYCKER, KEATING, PECK, MCCANN, BENEDICT, FORRESTER, HOLLAND,
 4 WILSON, BROWN, FOSTER, TOEWS, ZOOK, REHBEIN

5 BY REQUEST OF THE SENATE AGRICULTURE, LIVESTOCK, AND IRRIGATION COMMITTEE
 6

7 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE ADMINISTRATION AND REGULATION OF
 8 GAME FARMS BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND THE DEPARTMENT OF
 9 LIVESTOCK; REVISING GAME FARM PROVISIONS REGARDING LICENSURE, FEES, DEFINITIONS,
 10 INSPECTIONS, IMPORTATION, AND REPORTING; CREATING THE GAME FARM ADVISORY COUNCIL;
 11 AMENDING SECTIONS 87-4-406, 87-4-408, 87-4-410, 87-4-411, 87-4-414, 87-4-415, 87-4-417,
 12 87-4-419, 87-4-422, 87-4-424, AND 87-4-426, MCA; AND PROVIDING AN EFFECTIVE DATE."
 13

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill in order to clarify rulemaking authority of the
 16 department of fish, wildlife, and parks and the department of livestock with regard to the administration
 17 and regulation of game farms.

18 (1) It is intended that the department of fish, wildlife, and parks have primary authority with regard
 19 to rules governing:

20 (a) game farm licensure;

21 (b) reporting requirements;

22 (c) exterior fencing requirements;

23 (d) classification of species the importation of which may present a threat to the state's wildlife
 24 population; ~~and~~

25 (e) general enforcement of game farm licensing violations; AND

26 (F) THE DEFINITION OF "REASONABLE TIME" IN THE CONTEXT OF 87-4-419(2), WHICH MUST
 27 REFLECT SPECIFIC SEASONAL ISSUES RELATED TO BREEDING AND DISEASE.

28 (2) It is intended that the department of livestock have primary authority with regard to rules
 29 governing:

30 (a) transportation and identification of game farm animals;

1 (b) health inspection and game farm quarantines, including interior facilities; and

2 (c) importation restrictions on exotic species.

3 (3) It is intended that the department of livestock's rules address the issue of immediate
4 depopulation of game farm animals that test positive for tuberculosis.

5 (4) It is intended that both the department of fish, wildlife, and parks and the department of
6 livestock consider the feasibility of using DNA as an additional method of identification of game farm
7 animals.

8 (5) It is intended that the game farm advisory council advise both the department of fish, wildlife,
9 and parks and the department of livestock regarding the administration of game farm operations, which may
10 include input into the rules adopted pursuant to [this act].

11

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

13

14 **Section 1.** Section 87-4-406, MCA, is amended to read:

15 **"87-4-406. Definitions.** As used in this part, the following definitions apply:

16 (1) "Department" means the department of fish, wildlife, and parks.

17 (2) "Facilities" means perimeter fences and other enclosures that provide for the confinement,
18 handling, and quarantine of game farm animals.

19 (3) "Game animals" means game animals as defined in 87-2-101 that are not the lawful property
20 of any private person.

21 (4) "Game farm" means the enclosed land area upon which game farm animals may be kept for
22 purposes of obtaining, rearing in captivity, keeping, or selling game farm animals or parts of game farm
23 animals, as authorized under this part.

24 (5) "Game farm animal" means a privately owned caribou, reindeer, black bear, mountain lion,
25 white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the
26 state of Montana or any other cloven-hoofed ungulate as classified by the department.

27 (6) "Person" means an individual, firm, corporation, association, or partnership."
28

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

30 **"87-4-408. ~~Department jurisdiction—applicability of livestock laws and rules~~ Jurisdiction.** (1) The

1 department has primary jurisdiction over game farms with regard to licensing, reports and recordkeeping,
 2 exterior fencing, classification of exotic species, removal of game farm animals under 87-4-410, inspection
 3 under 87-4-413, and enforcement of the functions listed in this subsection.

4 ~~(2) A game farm licensee must also comply with all applicable laws and rules administered by the~~
 5 The department of livestock has primary jurisdiction over game farms relating to marking, inspection,
 6 transportation, importation, quarantine, and health and relating to the enforcement of the functions listed
 7 in this subsection."

8
 9 **Section 3.** Section 87-4-410, MCA, is amended to read:

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

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

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

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

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

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

28
 29 **SECTION 4. SECTION 87-4-411, MCA, IS AMENDED TO READ:**

30 **"87-4-411. License and renewal fees -- deposit of fees.** (1) The department shall charge an initial

1 game farm license fee of ~~\$200~~ and shall charge an annual renewal fee of ~~\$50~~ based on the following scale:

2 (a) a game farm with 1 to 20 game farm animals, an initial license fee of \$200 and an annual
3 renewal fee of \$50;

4 (b) a game farm with 21 to 60 game farm animals, an initial license fee of \$300 and an annual
5 renewal fee of \$100; and

6 (c) a game farm with more than 60 game farm animals, an initial license fee of \$400 and an annual
7 renewal fee of \$200.

8 ~~(2)(a) The One half of the THE~~ fees must be deposited in the state special revenue fund for the use
9 of the department for purposes of this part.

10 ~~(b) One half of the fees must be deposited in the state special revenue fund for the use of the~~
11 ~~department of livestock in administering its game farm responsibilities."~~

12
13
14 **Section 5.** Section 87-4-414, MCA, is amended to read:

15 **"87-4-414. Game farm animals as private property -- source -- marking.** (1) All game farm animals
16 lawfully possessed on a licensed game farm are private property for which the licensee is responsible as
17 provided by law.

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

21 (3) A licensee shall mark each game farm animal in a manner approved by the department of
22 livestock, as required under subsection (4), and that indicates ownership and provides individual
23 identification of animals for inspection, transportation, reporting, and taxation purposes.

24 (4) The department of livestock is responsible for the control, tracking, and distribution of
25 identification tags used for the marking of game farm animals. The department of livestock shall require
26 that, WITHIN 30 DAYS OF IMPORTATION OR PRIOR TO JANUARY 1 OF EACH YEAR, each game farm
27 animal be marked with identification that:

28 (a) is unique to the animal;

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4 a game farm animal.

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6 applicable to game animals do not apply to game farm animals raised on a licensed game farm."

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14 section applies to all game farm animals, whether alive or dead.

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16 ~~marks, tags, and tattoos to identify ownership prior to issuance of a certificate of inspection.~~

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18 ~~(i) the date of inspection;~~

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

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6 animal is unsuccessful within a reasonable time, ~~it~~ the animal becomes the property of the state.

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17 ~~restrictions on importation, identification, sale of animal parts,~~ and the care and maintenance of game farm
18 animals.

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25 (1) The department ~~or the department~~ of livestock may restrict from importation for purposes of game
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9 (b) who has not been or whose principal manager has not been convicted of or who has not
10 forfeited bond of \$100 or more for more than one violation of the fish and game laws or applicable
11 regulations of any state or the United States within a 5-year period prior to application;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (5) An applicant may request that the commission review a department proposal to deny a game
 19 farm license or to issue a license with stipulations by petitioning the commission for review within 10 days
 20 of the department's proposed decision. The commission shall decide whether to grant the license, propose
 21 to deny the license, or issue the license with stipulations. The commission's decision then becomes the
 22 department's proposed decision, subject to an opportunity for hearing under 87-4-428."
 23

24 **NEW SECTION. Section 12. Game farm advisory council -- appointment of members -- duties.** (1)

25 There is a game farm advisory council to advise the department and the department of livestock on the
 26 administration of game farms in this state.

27 (2) The game farm advisory council is composed of five members, appointed by the governor as
 28 follows:

29 (a) one member of the board of livestock or the department of livestock;

30 (b) one member of the fish, wildlife, and parks commission or the department;

- 1 (c) one member who is a representative of the game farm industry;
- 2 (d) one member who is a veterinarian licensed to practice veterinary medicine in this state; and
- 3 (e) one member who is a representative of the sportspersons of Montana.
- 4 (3) Members of the game farm advisory council shall serve 2-year terms. A member may serve one
- 5 additional consecutive 2-year term.
- 6 (4) The game farm advisory council is attached to the department and the department of livestock
- 7 in an advisory capacity only, as defined in 2-15-102.
- 8 (5) Council members are not entitled to compensation or travel expenses as provided in 2-15-122.

9

10 **NEW SECTION. Section 13. Codification instruction.** [Section ~~44~~ 12] is intended to be codified

11 as an integral part of Title 87, chapter 4, part 4, and the provisions of Title 87, chapter 4, part 4, apply to

12 [section ~~44~~ 12].

13

14 **NEW SECTION. Section 14. Effective date.** [This act] is effective July 1, 1995.

15

-END-

1 SENATE BILL NO. 389

2 INTRODUCED BY TVEIT, HARGROVE, DEVLIN, SWYSGOOD, JABS, MESAROS, L. NELSON, GAGE,

3 BECK, JENKINS, DEBRUYCKER, KEATING, PECK, MCCANN, BENEDICT, FORRESTER, HOLLAND,

4 WILSON, BROWN, FOSTER, TOEWS, ZOOK, REHBEIN

5 BY REQUEST OF THE SENATE AGRICULTURE, LIVESTOCK, AND IRRIGATION COMMITTEE

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE ADMINISTRATION AND REGULATION OF
8 GAME FARMS BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND THE DEPARTMENT OF
9 LIVESTOCK; REVISING GAME FARM PROVISIONS REGARDING LICENSURE, FEES, DEFINITIONS,
10 INSPECTIONS, IMPORTATION, AND REPORTING; CREATING THE GAME FARM ADVISORY COUNCIL;
11 AMENDING SECTIONS 87-4-406, 87-4-408, 87-4-410, 87-4-411, 87-4-414, 87-4-415, 87-4-417,
12 87-4-419, 87-4-422, 87-4-424, AND 87-4-426, MCA; AND PROVIDING AN EFFECTIVE DATE."

THE ONLY CHANGE IN SB 389 IS IN THE SPONSORS' NAMES.
ONLY THE FRONT PAGE WILL BE REPRINTED.
PLEASE REFER TO **THIRD READING** COPY FOR COMPLETE TEXT.



HOUSE STANDING COMMITTEE REPORT

March 24, 1995

Page 1 of 6

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Bill 389 (third reading copy -- blue) be concurred in as amended.

Signed: Joe Barnett
Joe Barnett, Chair

Carried by: Rep. Rose

And, that such amendments read:

1. Page 1, line 17.

Following: "farms."

Insert: "It is intended that rules promulgated pursuant to Title 87, chapter 4, part 4, be adopted in accordance with the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1."

2. Page 2.

Following: line 10

Insert: "(6) It is the intent of the legislature that in adopting rules pursuant to 87-4-426(6), the department of fish, wildlife, and parks provide for a timely and simplified process for minor amendments to an existing license. This may include, when appropriate, a categorical exclusion under the provisions of Title 75, chapter 1, part 1."

3. Page 2.

Following: line 15

Insert: "(1) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families suidae, camelidae, or hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep,

Committee Vote:
Yes 18, No 0.

SB 389
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681439SC.Hbk

domestic goats that are not naturally occurring in the wild
in their country of origin, or bison."
Renumber: subsequent subsections

4. Page 2, line 24.
Strike: "reindeer,"

5. Page 2, line 26.
Following: "Montana"
Insert: ", a privately owned reindeer,"

6. Page 3, line 6.
Following: "quarantine,"
Insert: "hold orders, interior facilities,"

7. Page 3, line 14.
Following: "~~possible~~"
Insert: "to the extent possible"

8. Page 3, line 15.
Strike: "direction"
Insert: "observation"

9. Page 3, line 20.
Strike: "by trapping them"

10. Page 3, line 22.
Strike: "by trapping"

11. Page 3, line 27.
Strike: ", and the licensee may deal with them as provided for in
this part"
Following: "."
Insert: "Under certain circumstances, a licensee may request a
waiver from the identification and marking of animals in the
base number on a licensed game farm."

12. Page 4, line 26.

Following: "that"
Strike: "1"
Insert: "all imported game farm animals are marked"
Strike: "OR"
Insert: "and that all other game farm animals are marked"
Following: "YEAR"
Strike: ", each"
Insert: ". Each"

13. Page 4, line 27.
Following: "animal"
Insert: "must"

14. Page 5, line 3.
Following: "(5)"
Insert: "Upon the request of a licensee, the department of
livestock may grant a temporary waiver as to the time for
identification and to the manner of identification if
necessary to address a special circumstance. (6)"
Renumber: subsequent subsection

15. Page 5, lines 3 and 4.
Strike: "Only" on line 3 through "animal" on line 4.
Insert: "A game farm animal may be kept only on a licensed game
farm. A licensee who keeps a game farm animal owned by,
leased to, or leased from another person shall comply with
all of the requirements of this part as if the animal
belonged to the licensee. Records and reports submitted by
the licensee pursuant to 87-4-417 must identify any game
farm animal kept by the licensee during the reporting period
and the name and address of the owner or lessee"

16. Page 5, line 9.
Strike: "and"
Insert: ", "
Following: "sale"
Insert: ", **and disposal**"

17. Page 5, line 11.
Strike: "stock inspector"

Insert: "designated agent"

18. Page 5, lines 13 and 14.

Strike: "This" on line 13 through "dead." on line 14

Insert: "All dead game farm animals, except carnivores and omnivores, must be reported to the department of livestock within 1 working day of the discovery of the death."

19. Page 5, line 15.

Following: "(1)"

Insert: ", except inspection of carnivores and omnivores,"

20. Page 6, line 4.

Following: "quarantine"

Insert: "or issue a hold order on"

21. Page 6, line 10.

Following: "reporting"

Insert: " -- rules"

22. Page 6, line 18.

Following: "."

Insert: "However, a calf or fawn that dies prior to being marked pursuant to 87-4-414(4) need not be identified."

23. Page 6, lines 25 through 29.

Following: "(3)" on line 25

Strike: remainder of line 25 through violations." on line 29

Insert: "The department may establish by rule the conditions under which the frequency of reporting requirements may be reduced to one report a year or increased to three reports a year. The department may establish by rule the conditions under which a licensee may submit an abbreviated report. In adopting those rules, the department shall consider the number of animals present on a game farm, the number of reported transactions during previous reporting periods, a history of accurate recordkeeping, and a historical absence of violations."

24. Page 7, lines 15 through 18.
Strike: subsection (2) in its entirety
Renumber: subsequent subsection

25. Page 7, line 20.
Following: "of"
Insert: "game farm"
Following: "quarantine,"
Strike: "and"
Insert: "hold orders, interior facilities,"

26. Page 7, line 21.
Following: "regulations"
Insert: ", and the care and maintenance of game farm animals"

27. Page 7.
Following: line 21
Insert: "(3) Rules promulgated pursuant to this part must be adopted in accordance with the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1."

28. Page 7, line 24.
Strike: "Restrictions"
Insert: "Classification -- restrictions"
Strike: "-- classification"

29. Page 7, line 25 through page 8, line 3.
Following: "(1)" on line 25
Strike: remainder of line 25 through page 8, line 3 in their entirety
Insert: "In order to properly regulate importation:
 (a) the department shall classify cloven-hoofed ungulates that have been determined through scientific investigation to pose a threat to native wildlife or livestock through nonspecific genetic dilution or habitat degradation or competition caused by feral populations of escaped game farm animals and shall notify the department of livestock of any changes in classification as they occur; and
 (b) the department of livestock shall classify cloven-hoofed ungulates that have been determined through scientific investigation to pose a threat to native wildlife or livestock through parasites or disease.
(2) The department of livestock shall restrict from

importation for purposes of game farming any species or subspecies and their hybrids with native species that have been classified in accordance with subsection (1) as posing a threat to native wildlife or livestock. Importation permitted by the department of livestock must comply with the requirements of Title 81, chapter 2, part 7. Copies of import permits issued by the department of livestock must be shared with the department within 10 calendar days. Other pertinent documentation relating to importation must be shared as it becomes available."

30. Page 8, line 6.
Following: "requirements"
Insert: " -- rules"

31. Page 9.
Following: line 22
Insert: "(6) The department shall by rule establish:
 (a) criteria for the classification of amendments to an existing license as major or minor; and
 (b) an expeditious amendment process for minor amendments."

32. Page 10, line 7.
Following: "2-15-102."
Insert: "The department and the department of livestock shall provide staff support and assistance necessary for the council to perform its functions."

-END-



HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 389
Representative Story

March 28, 1995 8:25 am
Page 1 of 2

Mr. Chairman: I move to amend Senate Bill 389 (third reading copy -- blue).

Signed: _____

Robert Story
Representative Story

And, that such amendments to Senate Bill 389 read as follows:

1. Title, line 11.
Following: "SECTIONS"
Insert: "81-1-102,"

2. Page 2, line 13.
Insert: "**Section 1.** Section 81-1-102, MCA, is amended to read:
"**81-1-102. Duties and powers of department -- fees based on costs.** (1) The department shall exercise general supervision over and, so far as possible, protect the livestock interests of the state from theft and disease and recommend legislation which, in the judgment of the department, fosters this industry. The department may compel the attendance of witnesses, employ counsel to assist in the prosecution of violations of laws made for the protection of the livestock interests, and assist in the prosecution of persons charged with illegal branding or theft of livestock or any other crime under the laws of this state for the protection of stock owners. It may adopt rules governing the recording and use of livestock brands.

(2) The department shall by rule establish all fees that it is authorized to charge, commensurate with costs as provided in 37-1-134.

(3) The department shall perform the duties assigned to the department relating to the administration and regulation of game farms as described in Title 87, chapter 4, part 4.

Renumber: subsequent sections

3. Page 10, lines 10 and 12.
Strike: "12"

ADOPT

REJECT

SB 389

HOUSE

Insert: "13"

-END-

1 SENATE BILL NO. 389

2 INTRODUCED BY TVEIT, HARGROVE, DEVLIN, SWYSGOOD, JABS, MESAROS, L. NELSON, GAGE,
 3 BECK, JENKINS, DEBRUYCKER, KEATING, PECK, MCCANN, BENEDICT, FORRESTER, HOLLAND,
 4 WILSON, BROWN, FOSTER, TOEWS, ZOOK, REHBEIN

5 BY REQUEST OF THE SENATE AGRICULTURE, LIVESTOCK, AND IRRIGATION COMMITTEE
 6

7 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE ADMINISTRATION AND REGULATION OF
 8 GAME FARMS BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND THE DEPARTMENT OF
 9 LIVESTOCK; REVISING GAME FARM PROVISIONS REGARDING LICENSURE, FEES, DEFINITIONS,
 10 INSPECTIONS, IMPORTATION, AND REPORTING; CREATING THE GAME FARM ADVISORY COUNCIL;
 11 AMENDING SECTIONS 81-1-102, 87-4-406, 87-4-408, 87-4-410, 87-4-411, 87-4-414, 87-4-415,
 12 87-4-417, 87-4-419, 87-4-422, 87-4-424, AND 87-4-426, MCA; AND PROVIDING AN EFFECTIVE DATE."
 13

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill in order to clarify rulemaking authority of the
 16 department of fish, wildlife, and parks and the department of livestock with regard to the administration
 17 and regulation of game farms. IT IS INTENDED THAT RULES PROMULGATED PURSUANT TO TITLE 87,
 18 CHAPTER 4, PART 4, BE ADOPTED IN ACCORDANCE WITH THE MONTANA NEGOTIATED RULEMAKING
 19 ACT, TITLE 2, CHAPTER 5, PART 1.

20 (1) It is intended that the department of fish, wildlife, and parks have primary authority with regard
 21 to rules governing:

22 (a) game farm licensure;

23 (b) reporting requirements;

24 (c) exterior fencing requirements;

25 (d) classification of species the importation of which may present a threat to the state's wildlife
 26 population; ~~and~~

27 (e) general enforcement of game farm licensing violations; AND

28 (F) THE DEFINITION OF "REASONABLE TIME" IN THE CONTEXT OF 87-4-419(2), WHICH MUST
 29 REFLECT SPECIFIC SEASONAL ISSUES RELATED TO BREEDING AND DISEASE.

30 (2) It is intended that the department of livestock have primary authority with regard to rules

1 governing:

2 (a) transportation and identification of game farm animals;

3 (b) health inspection and game farm quarantines, including interior facilities; and

4 (c) importation restrictions on exotic species.

5 (3) It is intended that the department of livestock's rules address the issue of immediate
6 depopulation of game farm animals that test positive for tuberculosis.

7 (4) It is intended that both the department of fish, wildlife, and parks and the department of
8 livestock consider the feasibility of using DNA as an additional method of identification of game farm
9 animals.

10 (5) It is intended that the game farm advisory council advise both the department of fish, wildlife,
11 and parks and the department of livestock regarding the administration of game farm operations, which may
12 include input into the rules adopted pursuant to [this act].

13 (6) IT IS THE INTENT OF THE LEGISLATURE THAT IN ADOPTING RULES PURSUANT TO
14 87-4-426(6), THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS PROVIDE FOR A TIMELY AND
15 SIMPLIFIED PROCESS FOR MINOR AMENDMENTS TO AN EXISTING LICENSE. THIS MAY INCLUDE, WHEN
16 APPROPRIATE, A CATEGORICAL EXCLUSION UNDER THE PROVISIONS OF TITLE 75, CHAPTER 1, PART
17 1.

18

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

20

21 **SECTION 1. SECTION 81-1-102, MCA, IS AMENDED TO READ:**

22 **"81-1-102. Duties and powers of department -- fees based on costs.** (1) The department shall
23 exercise general supervision over and, so far as possible, protect the livestock interests of the state from
24 theft and disease and recommend legislation which, in the judgment of the department, fosters this
25 industry. The department may compel the attendance of witnesses, employ counsel to assist in the
26 prosecution of violations of laws made for the protection of the livestock interests, and assist in the
27 prosecution of persons charged with illegal branding or theft of livestock or any other crime under the laws
28 of this state for the protection of stock owners. It may adopt rules governing the recording and use of
29 livestock brands.

30 (2) The department shall by rule establish all fees that it is authorized to charge, commensurate

1 with costs as provided in 37-1-134.

2 (3) The department shall perform the duties assigned to the department relating to the
 3 administration and regulation of game farms as described in Title 87, chapter 4, part 4."

4
 5 **Section 2.** Section 87-4-406, MCA, is amended to read:

6 **"87-4-406. Definitions.** As used in this part, the following definitions apply:

7 (1) "CLOVEN-HOOFED UNGULATE" MEANS AN ANIMAL OF THE ORDER ARTIODACTYLA,
 8 EXCEPT A MEMBER OF THE FAMILIES SUIDAE, CAMELIDAE, OR HIPPOPOTAMIDAE. THE TERM DOES
 9 NOT INCLUDE DOMESTIC PIGS, DOMESTIC COWS, DOMESTIC YAKS, DOMESTIC SHEEP, DOMESTIC
 10 GOATS THAT ARE NOT NATURALLY OCCURRING IN THE WILD IN THEIR COUNTRY OF ORIGIN, OR
 11 BISON.

12 ~~(1)(2)~~ "Department" means the department of fish, wildlife, and parks.

13 ~~(2)(3)~~ "Facilities" means perimeter fences and other enclosures that provide for the confinement,
 14 handling, and quarantine of game farm animals.

15 ~~(3)(4)~~ "Game animals" means game animals as defined in 87-2-101 that are not the lawful property
 16 of any private person.

17 ~~(4)(5)~~ "Game farm" means the enclosed land area upon which game farm animals may be kept for
 18 purposes of obtaining, rearing in captivity, keeping, or selling game farm animals or parts of game farm
 19 animals, as authorized under this part.

20 ~~(5)(6)~~ "Game farm animal" means a privately owned caribou, ~~reindeer~~, black bear, mountain lion,
 21 white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the
 22 state of Montana, A PRIVATELY OWNED REINDEER, or any other cloven-hoofed ungulate as classified by
 23 the department.

24 ~~(6)(7)~~ "Person" means an individual, firm, corporation, association, or partnership."

25
 26 **Section 3.** Section 87-4-408, MCA, is amended to read:

27 **"87-4-408. ~~Department jurisdiction—applicability of livestock laws and rules~~ Jurisdiction.** (1) The
 28 department has primary jurisdiction over game farms with regard to licensing, reports and recordkeeping,
 29 exterior fencing, classification of exotic species, removal of game farm animals under 87-4-410, inspection
 30 under 87-4-413, and enforcement of the functions listed in this subsection.

1 (2) ~~A game farm licensee must also comply with all applicable laws and rules administered by the~~
 2 The department of livestock has primary jurisdiction over game farms relating to marking, inspection,
 3 transportation, importation, quarantine, HOLD ORDERS, INTERIOR FACILITIES, and health and relating to
 4 the enforcement of the functions listed in this subsection."

5
 6 **Section 4.** Section 87-4-410, MCA, is amended to read:

7 "**87-4-410. Removal of game animals.** (1) If game animals are present on the land ~~which~~ that is
 8 to be covered by a game farm license, the license ~~shall~~ must be issued but must be conditioned upon the
 9 applicant complying with this section.

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

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

17 (4) The department may remove the base number of game animals from the game farm, ~~at the~~
 18 expense of the department, by trapping them within 120 days from the date the number was determined.

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

24 (6) After compliance with this section, any animals from the base number that remain and their
 25 progeny belong to the licensee, ~~and the licensee may deal with them as provided for in this part.~~ UNDER
 26 CERTAIN CIRCUMSTANCES, A LICENSEE MAY REQUEST A WAIVER FROM THE IDENTIFICATION AND
 27 MARKING OF ANIMALS IN THE BASE NUMBER ON A LICENSED GAME FARM."

28
 29 **SECTION 5. SECTION 87-4-411, MCA, IS AMENDED TO READ:**

30 "**87-4-411. License and renewal fees -- deposit of fees.** (1) The department shall charge an initial

1 game farm license fee of ~~\$200~~ and shall charge an annual renewal fee of ~~\$50~~ based on the following scale:

2 (a) a game farm with 1 to 20 game farm animals, an initial license fee of \$200 and an annual
3 renewal fee of \$50;

4 (b) a game farm with 21 to 60 game farm animals, an initial license fee of \$300 and an annual
5 renewal fee of \$100; and

6 (c) a game farm with more than 60 game farm animals, an initial license fee of \$400 and an annual
7 renewal fee of \$200.

8 ~~(2)(a) The One half of the THE~~ fees must be deposited in the state special revenue fund for the use
9 of the department for purposes of this part.

10 ~~(b) One half of the fees must be deposited in the state special revenue fund for the use of the~~
11 ~~department of livestock in administering its game farm responsibilities."~~

12
13
14 **Section 6.** Section 87-4-414, MCA, is amended to read:

15 **"87-4-414. Game farm animals as private property -- source -- marking.** (1) All game farm animals
16 lawfully possessed on a licensed game farm are private property for which the licensee is responsible as
17 provided by law.

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

21 (3) A licensee shall mark each game farm animal in a manner approved by the department of
22 livestock, as required under subsection (4), and that indicates ownership and provides individual
23 identification of animals for inspection, transportation, reporting, and taxation purposes.

24 (4) The department of livestock is responsible for the control, tracking, and distribution of
25 identification tags used for the marking of game farm animals. The department of livestock shall require
26 that, ALL IMPORTED GAME FARM ANIMALS ARE MARKED WITHIN 30 DAYS OF IMPORTATION OR AND
27 THAT ALL OTHER GAME FARM ANIMALS ARE MARKED PRIOR TO JANUARY 1 OF EACH YEAR, each.
28 EACH game farm animal MUST be marked with identification that:

29 (a) is unique to the animal;

30 (b) is nontransferable;

1 (c) has an emblem owned and registered by the department of livestock that is embossed on each
 2 identification tag; and

3 (d) allows for the identification of game farm animals from a distance.

4 (5) UPON THE REQUEST OF A LICENSEE, THE DEPARTMENT OF LIVESTOCK MAY GRANT A
 5 TEMPORARY WAIVER AS TO THE TIME FOR IDENTIFICATION AND TO THE MANNER OF IDENTIFICATION
 6 IF NECESSARY TO ADDRESS A SPECIAL CIRCUMSTANCE.

7 (6) Game farm animals must be lawfully acquired by the licensee. ~~Only a licensee may own or lease~~
 8 ~~a game farm animal~~ A GAME FARM ANIMAL MAY BE KEPT ONLY ON A LICENSED GAME FARM. A
 9 LICENSEE WHO KEEPS A GAME FARM ANIMAL OWNED BY, LEASED TO, OR LEASED FROM ANOTHER
 10 PERSON SHALL COMPLY WITH ALL OF THE REQUIREMENTS OF THIS PART AS IF THE ANIMAL
 11 BELONGED TO THE LICENSEE. RECORDS AND REPORTS SUBMITTED BY THE LICENSEE PURSUANT TO
 12 87-4-417 MUST IDENTIFY ANY GAME FARM ANIMAL KEPT BY THE LICENSEE DURING THE REPORTING
 13 PERIOD AND THE NAME AND ADDRESS OF THE OWNER OR LESSEE.

14 ~~(6)(7)~~ Except for importation permits and health certificates required under 81-2-703, laws
 15 applicable to game animals do not apply to game farm animals raised on a licensed game farm."
 16

17 **Section 7.** Section 87-4-415, MCA, is amended to read:

18 **"87-4-415. Transportation and, sale, AND DISPOSAL of game farm animals -- quarantine.** (1) Prior
 19 to selling, transferring, transporting, or disposing of one or more game farm animals, the game farm licensee
 20 shall contact the department of livestock to request an inspection by a department of livestock ~~steek~~
 21 ~~inspector~~ DESIGNATED AGENT for all game farm animals, except carnivores and omnivores. In the case
 22 of carnivores and omnivores, the game farm licensee shall contact the department to request an inspection
 23 by a department official. ~~This section applies to all game farm animals, whether alive or dead.~~ ALL DEAD
 24 GAME FARM ANIMALS, EXCEPT CARNIVORES AND OMNIVORES, MUST BE REPORTED TO THE
 25 DEPARTMENT OF LIVESTOCK WITHIN 1 WORKING DAY OF THE DISCOVERY OF THE DEATH.

26 (2) (a) Inspection under subsection (1), EXCEPT INSPECTION OF CARNIVORES AND OMNIVORES,
 27 ~~must include examination of the game farm animal and all marks, tags, and tattoos to identify ownership~~
 28 ~~prior to issuance of a certificate of inspection.~~

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

30 (i) ~~the date of inspection;~~

1 ~~(ii) the place of origin and destination of the shipment;~~

2 ~~(iii) the name and address of the owner of the game farm animals and of the purchaser or~~
3 ~~transferee;~~

4 ~~(iv) be conducted pursuant to 81-3-203(1) through (3) and must include the number, species, age,~~
5 ~~and sex, AND INDIVIDUAL IDENTIFICATION NUMBERS of game farm animals transported or disposed of;~~

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

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

8 ~~(e) A copy of the certificate must be:~~

9 ~~(i) retained by the inspector;~~

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

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

13 ~~(iv) provided by the department of livestock to the department within 10 days of inspection.~~

14 ~~(b) A copy of the certificate of inspection must be provided by the department of livestock to the~~
15 ~~department within 10 days of the inspection.~~

16 (3) The department of livestock may quarantine OR ISSUE A HOLD ORDER ON any game farm
17 animal pending inspection and health certification. The department shall advise the department of livestock
18 regarding the importation or transportation of any game farm animal that the department reasonably
19 believes may be infected with a disease specific to wildlife."
20

21 **Section 8.** Section 87-4-417, MCA, is amended to read:

22 "**87-4-417. Records and reporting -- RULES.** (1) Each game farm licensee shall keep and maintain
23 for 3 years accurate written records of all purchases, transfers, ~~and sales, births, and deaths~~ of game farm
24 animals, showing:

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

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

29 (c) individual identification of each game farm animal that was purchased, transferred, ~~or sold, or~~
30 born or that died. HOWEVER, A CALF OR FAWN THAT DIES PRIOR TO BEING MARKED PURSUANT TO

1 87-4-414(4) NEED NOT BE IDENTIFIED.

2 (2) ~~Within~~ Unless a different reporting frequency has been established pursuant to subsection (3),
3 within 2 weeks after January 1, April 1, and September July 1 of each year, the game farm licensee shall
4 file a report with the director department, showing the number and species of game farm animals that were
5 on hand as of January 1, April 1, and September July 1 and the number and species of game farm animals
6 that escaped, that were bought, sold, or propagated transferred, recaptured, or born, or that died during
7 the reporting period.

8 ~~(3) The department may by rule identify conditions under which:~~

9 ~~(a) more frequent reports are required to allow the department to adequately monitor game farms~~
10 ~~where violations have occurred or where problems are being resolved; and~~

11 ~~(b) less frequent reports are required because of a history of proper game farm maintenance or a~~
12 ~~historical absence of violations.~~ THE DEPARTMENT MAY ESTABLISH BY RULE THE CONDITIONS UNDER

13 WHICH THE FREQUENCY OF REPORTING REQUIREMENTS MAY BE REDUCED TO ONE REPORT A YEAR
14 OR INCREASED TO THREE REPORTS A YEAR. THE DEPARTMENT MAY ESTABLISH BY RULE THE

15 CONDITIONS UNDER WHICH A LICENSEE MAY SUBMIT AN ABBREVIATED REPORT. IN ADOPTING THOSE
16 RULES, THE DEPARTMENT SHALL CONSIDER THE NUMBER OF ANIMALS PRESENT ON A GAME FARM,

17 THE NUMBER OF REPORTED TRANSACTIONS DURING PREVIOUS REPORTING PERIODS, A HISTORY OF
18 ACCURATE RECORDKEEPING, AND A HISTORICAL ABSENCE OF VIOLATIONS."

19

20 **Section 9.** Section 87-4-419, MCA, is amended to read:

21 **"87-4-419. Escape from game farm -- effect.** (1) If a game farm animal escapes from a game farm,
22 the game farm licensee shall immediately notify the department of its escape and shall make every
23 reasonable effort to recapture it. If the escaped animal cannot be recaptured within a reasonable time 10
24 days of notification A REASONABLE TIME, the department may kill the animal. If recapture or killing of the
25 animal is unsuccessful within a reasonable time, it the animal becomes the property of the state.

26 (2) THE DEPARTMENT SHALL BY RULE ADOPT A DEFINITION OF "REASONABLE TIME", AS USED
27 IN THIS SECTION, TAKING INTO CONSIDERATION SPECIFIC SEASONAL ISSUES RELATED TO BREEDING
28 AND DISEASE."

29

30 **Section 10.** Section 87-4-422, MCA, is amended to read:

1 **"87-4-422. Rulemaking.** (1) The department may adopt and enforce rules that are necessary to
 2 implement the provisions of this part over which the department has primary jurisdiction and to coordinate
 3 regulation of game farms with the department of livestock.

4 ~~(2) The rules may address but are not limited to the classifying of cloven hoofed ungulates,~~
 5 ~~requirements for facilities, reporting and recordkeeping requirements, transportation and importation,~~
 6 ~~restrictions on importation, identification, sale of animal parts, and the care and maintenance of game farm~~
 7 ~~animals.~~

8 ~~(3)(2) The department of livestock may adopt rules addressing the transportation and importation~~
 9 ~~of game farm animals, restrictions on importation, identification, sale of GAME FARM animal parts,~~
 10 ~~quarantine, and HOLD ORDERS, INTERIOR FACILITIES, health regulations, AND THE CARE AND~~
 11 ~~MAINTENANCE OF GAME FARM ANIMALS.~~

12 (3) RULES PROMULGATED PURSUANT TO THIS PART MUST BE ADOPTED IN ACCORDANCE
 13 WITH THE MONTANA NEGOTIATED RULEMAKING ACT, TITLE 2, CHAPTER 5, PART 1."

14
 15 Section 11. Section 87-4-424, MCA, is amended to read:

16 **"87-4-424. ~~Department restrictions~~ Restrictions CLASSIFICATION -- RESTRICTIONS on**
 17 **importation of certain species ~~--classification.~~ (1) The department or the department of livestock may**
 18 **restrict from importation for purposes of game farming any species or subspecies and their hybrids with**
 19 **native species that are determined through scientific investigation to pose a threat to native wildlife or**
 20 **livestock through nonspecific genetic dilution, habitat degradation or competition caused by feral**
 21 **populations of escaped game farm animals, parasites, or disease. Importation permitted by the department**
 22 **of livestock must comply with the requirements of Title 81, chapter 2, part 7.**

23 ~~(2) In order to properly regulate importation, the department shall classify cloven hoofed ungulates~~
 24 ~~that have been determined through scientific investigation to pose a threat to native wildlife or livestock~~
 25 ~~and notify the department of livestock of any changes in classification as they occur. IN ORDER TO~~
 26 ~~PROPERLY REGULATE IMPORTATION:~~

27 (A) THE DEPARTMENT SHALL CLASSIFY CLOVEN-HOOFED UNGULATES THAT HAVE BEEN
 28 DETERMINED THROUGH SCIENTIFIC INVESTIGATION TO POSE A THREAT TO NATIVE WILDLIFE OR
 29 LIVESTOCK THROUGH NONSPECIFIC GENETIC DILUTION OR HABITAT DEGRADATION OR COMPETITION
 30 CAUSED BY FERAL POPULATIONS OF ESCAPED GAME FARM ANIMALS AND SHALL NOTIFY THE

1 DEPARTMENT OF LIVESTOCK OF ANY CHANGES IN CLASSIFICATION AS THEY OCCUR; AND

2 (B) THE DEPARTMENT OF LIVESTOCK SHALL CLASSIFY CLOVEN-HOOFED UNGULATES THAT
 3 HAVE BEEN DETERMINED THROUGH SCIENTIFIC INVESTIGATION TO POSE A THREAT TO NATIVE
 4 WILDLIFE OR LIVESTOCK THROUGH PARASITES OR DISEASE.

5 (2) THE DEPARTMENT OF LIVESTOCK SHALL RESTRICT FROM IMPORTATION FOR PURPOSES
 6 OF GAME FARMING ANY SPECIES OR SUBSPECIES AND THEIR HYBRIDS WITH NATIVE SPECIES THAT
 7 HAVE BEEN CLASSIFIED IN ACCORDANCE WITH SUBSECTION (1) AS POSING A THREAT TO NATIVE
 8 WILDLIFE OR LIVESTOCK. IMPORTATION PERMITTED BY THE DEPARTMENT OF LIVESTOCK MUST
 9 COMPLY WITH THE REQUIREMENTS OF TITLE 81, CHAPTER 2, PART 7. COPIES OF IMPORT PERMITS
 10 ISSUED BY THE DEPARTMENT OF LIVESTOCK MUST BE SHARED WITH THE DEPARTMENT WITHIN 10
 11 CALENDAR DAYS. OTHER PERTINENT DOCUMENTATION RELATING TO IMPORTATION MUST BE
 12 SHARED AS IT BECOMES AVAILABLE."

13
 14 **Section 12.** Section 87-4-426, MCA, is amended to read:

15 **"87-4-426. Criteria for issuance of license -- fencing and enclosure requirements -- RULES.** (1) A
 16 game farm license may be issued by the department only to an applicant:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (5) An applicant may request that the commission review a department proposal to deny a game
28 farm license or to issue a license with stipulations by petitioning the commission for review within 10 days
29 of the department's proposed decision. The commission shall decide whether to grant the license, propose
30 to deny the license, or issue the license with stipulations. The commission's decision then becomes the

1 department's proposed decision, subject to an opportunity for hearing under 87-4-428.

2 (6) THE DEPARTMENT SHALL BY RULE ESTABLISH:

3 (A) CRITERIA FOR THE CLASSIFICATION OF AMENDMENTS TO AN EXISTING LICENSE AS
4 MAJOR OR MINOR; AND

5 (B) AN EXPEDITIOUS AMENDMENT PROCESS FOR MINOR AMENDMENTS."

6
7 NEW SECTION. Section 13. Game farm advisory council -- appointment of members -- duties. (1)

8 There is a game farm advisory council to advise the department and the department of livestock on the
9 administration of game farms in this state.

10 (2) The game farm advisory council is composed of five members, appointed by the governor as
11 follows:

12 (a) one member of the board of livestock or the department of livestock;

13 (b) one member of the fish, wildlife, and parks commission or the department;

14 (c) one member who is a representative of the game farm industry;

15 (d) one member who is a veterinarian licensed to practice veterinary medicine in this state; and

16 (e) one member who is a representative of the sportspersons of Montana.

17 (3) Members of the game farm advisory council shall serve 2-year terms. A member may serve one
18 additional consecutive 2-year term.

19 (4) The game farm advisory council is attached to the department and the department of livestock
20 in an advisory capacity only, as defined in 2-15-102. THE DEPARTMENT AND THE DEPARTMENT OF
21 LIVESTOCK SHALL PROVIDE STAFF SUPPORT AND ASSISTANCE NECESSARY FOR THE COUNCIL TO
22 PERFORM ITS FUNCTIONS.

23 (5) Council members are not entitled to compensation or travel expenses as provided in 2-15-122.

24

25 NEW SECTION. Section 14. Codification instruction. [Section ~~11-12~~ 13] is intended to be codified
26 as an integral part of Title 87, chapter 4, part 4, and the provisions of Title 87, chapter 4, part 4, apply to
27 [section ~~11-12~~ 13].

28

29 NEW SECTION. Section 15. Effective date. [This act] is effective July 1, 1995.

30

-END-