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SB BILL NO. 174

INTRODUCED BY

HARP

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE CATCHING OF LAKE TROUT IN SPECIFIED WATERS FOR SPECULATIVE PURPOSES, FOR MARKET, OR FOR SALE; AND AMENDING SECTIONS 87-4-601 AND 87-4-605, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because it requires the department of fish, wildlife, and parks to modify rules to accommodate the catching of lake trout in specified waters. The legislature intends that rules promulgated under 87-4-609 designate the waters in which commercial lake trout fishing is permitted, as provided in 87-4-601(2)(f).

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

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

"87-4-601. (Temporary) Sale of fish or spawn unlawful -- exceptions. (1) Except as provided in subsections (2) and (3), a person may not, for speculative purposes, for market, or for sale, in any way, catch any of the fish ~~which~~ that in this title are classified as game fish or remove or cause to be removed the eggs or spawn of any ~~such~~ game fish. ~~No~~ A person may not sell or offer for sale any of the game fish of this state, as defined in this title, or the eggs or spawn from any game fish.

(2) The restrictions of subsection (1) do not apply to:

(a) the catching of fish in private ponds by the owners of private ponds;

(b) the taking of fish by state authorities for the purpose of obtaining eggs for propagation in state fish hatcheries or by any person who receives a permit from the department to take eggs for propagation purposes;

(c) the catching of whitefish by the holder of a valid fishing license fishing with hook and line or rod in specified waters designated by rules and regulations of the department;

(d) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within 1 mile of the Kootenai River, under rules and regulations as the fish, wildlife, and parks commission may

1 prescribe; or

2 (e) the sale by the department of fish eggs produced from brood stock owned by the department
3 but determined to be in excess of the department's needs; or

4 (f) the catching of lake trout (Salvelinus namaycush), also known as mackinaw, by the holder of
5 a valid fishing license with hook and line or rod in specified waters designated by rules and regulations of
6 the department.

7 (3) (a) A person issued a paddlefish tag under 87-2-306 who legally takes a paddlefish from the
8 Yellowstone River between the Burlington northern railroad bridge at Glendive to the confluence of
9 Cottonwood Creek and the Yellowstone River during an authorized paddlefish season may donate the
10 paddlefish roe, or eggs, to a Montana nonprofit corporation, as specified in subsection (3)(b), for processing
11 and marketing as caviar. A paddlefish may be brought only to the Intake fishing access site for donation
12 to the paddlefish roe donation program and must be a properly tagged, whole paddlefish. Roe separated
13 from the paddlefish is not acceptable for donation to the program. A paddlefish intentionally cut in any
14 manner to identify its sex is also unacceptable for donation to the program.

15 (b) The department shall develop rules for selecting one Montana nonprofit organization to accept
16 paddlefish egg donations and process and market the eggs as caviar. The department shall also develop
17 rules for the marketing and sale of caviar under this section.

18 (c) The department may enter into an agreement with the organization selected pursuant to the
19 rules provided for in subsection (3)(b) specifying times, sites, and other conditions under which paddlefish
20 eggs may be collected. The agreement must require the organization to maintain records of revenue
21 collected and related expenses incurred and to make the records available to the department and the
22 legislative auditor upon request.

23 (d) (i) Forty percent of the proceeds from the sale of paddlefish egg caviar products in excess of
24 the costs of collection, processing, and marketing must be deposited in a state special revenue fund
25 established for the department. The fund and any interest earned on the fund must be used to benefit the
26 paddlefish fishery, including fishing access, administration, improvements, habitat, and fisheries
27 management, or to provide information to the public regarding fishing in eastern Montana, which could
28 include the design and construction of interpretive displays.

29 (ii) Sixty percent of the proceeds from the sale of paddlefish egg caviar products in excess of the
30 costs of collection, processing, and marketing must be paid to the nonprofit organization that processes

1 and markets the caviar. The nonprofit organization's administrative costs must be paid from its share of
 2 the proceeds. An advisory committee must be appointed by the commission and consist of one member
 3 from the organization selected pursuant to the rules provided for in subsection (3)(b), two area local
 4 government representatives, and two representatives of area ~~sportsmen~~ outdoor recreationists. The
 5 advisory committee shall solicit and review historical, cultural, recreational, and fish and wildlife proposals
 6 and fund projects. The committee shall notify the commission of its actions. Proceeds may be used as seed
 7 money for grants. (Terminates June 30, 2003--sec. 2, Ch. 196, L. 1993.)

8 **87-4-601. (Effective July 1, 2003) Sale of fish or spawn unlawful -- exceptions.** (1) Except as
 9 provided in subsection (2), ~~no~~ a person may not, for speculative purposes, for market, or for sale, in any
 10 way, catch any of the fish ~~which~~ that in this title are classified as game fish or remove or cause to be
 11 removed the eggs or spawn of any ~~such~~ game fish. ~~No~~ A person may not sell or offer for sale any of the
 12 game fish of this state, as defined in this title, or the eggs or spawn ~~therefrom~~ from game fish.

13 (2) The restrictions of subsection (1) do not apply to:

14 (a) the catching of fish in private ponds by the owners ~~thereof~~ of private ponds;

15 (b) the taking of fish by state authorities for the purpose of obtaining eggs for propagation in state
 16 fish hatcheries or by any person who receives a permit from the department to take eggs for ~~such~~
 17 propagation purposes;

18 (c) the catching of whitefish by the holder of a valid fishing license fishing with hook and line or
 19 rod in specified waters designated by rules and regulations of the department;

20 (d) the taking of whitefish by nets or traps in the Kootenai River and in its tributary streams within
 21 1 mile of the Kootenai River, under ~~such~~ rules and regulations as the fish, wildlife, and parks commission
 22 may prescribe; ~~or~~

23 (e) the sale by the department of fish eggs produced from brood stock owned by the department
 24 but determined to be in excess of the department's needs; or

25 (f) the catching of lake trout (Salvelinus namaycush), also known as mackinaw, by the holder of
 26 a valid fishing license fishing with hook and line or rod in specified waters designated by rules and
 27 regulations of the department."

28
 29 **Section 2.** Section 87-4-605, MCA, is amended to read:

30 **"87-4-605. Records and report of whitefish or lake trout sales by fishing license holders.** A holder

1 of a fishing license who catches whitefish or lake trout (Salvelinus namaycush), also known as mackinaw,
2 for speculative purposes, for market, or for sale shall keep a record and make an annual report to the
3 department of the number of whitefish or lake trout sold and the date of each sale. The annual report shall
4 must be submitted to the appropriate department regional office within 15 days of the end of the license
5 year."

6 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0174, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

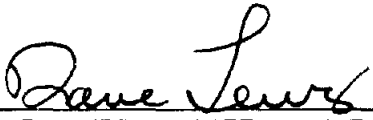
An act providing for the catching of lake trout in specified waters for speculative purposes, for market, or for sale.

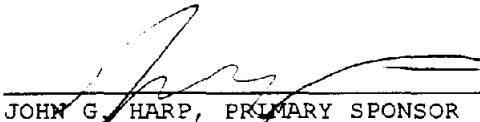
ASSUMPTIONS:

1. This legislation gives the Fish, Wildlife and Parks (FWP) Commission the authority to permit commercial lake trout fishing.
2. A thorough biological evaluation and public involvement process will be completed before individual waters are approved for commercial lake trout fishing. FWP is unable to estimate the cost and time this will take. Current staff assignments and budgets will be redirected to do the work.
3. FWP may need to update or develop new management plans to accommodate commercial lake trout fishing.

FISCAL IMPACT:

None


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


JOHN G. HARP, PRIMARY SPONSOR DATE

Fiscal Note for SB0174, as introduced

SB 174