1	Sende BILL NO. 287 INTRODUCED BY <u>Manage</u> Bishop A BILL FOR AN ACT ENTITIED. "AN ACT DEPENDENTIAL FROM HUMITING HUMITING FROM HUMITING H
2	INTRODUCED BY
3	morenon Bishop
4	A BILL FOR AN ACT ENTITLED: "AN ACT PERMANENTLY PROHIBITING FROM HUNTING, FISHING, OR
5	TRAPPING A PERSON WHOSE HUNTING, FISHING, OR TRAPPING LICENSE HAS BEEN REVOKED THREE
6	TIMES; PROVIDING FOR THE FORFEITURE OF FIREARMS OR BOWS WHEN USED IN VIOLATING CERTAIN
7	HUNTING LAWS FOR THE THIRD TIME; REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS
8	TO AUCTION FORFEITED WEAPONS AND USE THE PROCEEDS FOR HUNTER EDUCATION; AND
9	AMENDING SECTION 87-1-102, MCA."
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	
13	Section 1. Section 87-1-102, MCA, is amended to read:
14	"87-1-102. Penalties. (1) A person who purposely, knowingly, or negligently violates a provision
15	of this title, any other state law pertaining to fish and game, or the orders or rules of the commission or
16	department is guilty of a misdemeanor, except if a felony is expressly provided by law, and shall be fined
17	an amount not less than \$50 or more than \$1,000 or imprisoned in the county jail for not more than 6
18	months, or both, unless a different punishment is expressly provided by law for the violation. In addition,
19	the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of that person's
20	license and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for
21	recreational purposes for a period set by the court. If the court imposes forfeiture of the person's license
22	and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss
23	of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to
24	the department within 10 days.
25	(2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep,
26	moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall
27	be fined an amount not less than \$500 or more than \$2,000 or imprisoned in the county jail for not more
28	than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit
29	any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to
30	hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture, unless the court



1 imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person 2 of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the 3 department within 10 days.

4 (b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, elk, or mountain lion or any part of these animals shall be fined an amount not less than \$300 or more than 5 \$1,000 or imprisoned in the county jail for not more than 6 months, or both. In addition, that person, upon 6 7 conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued 8 by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction 9 or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the 10 department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, 11 and trapping licenses to the department within 10 days.

12 (c) A person convicted of unlawfully attempting to trap or hunt a game animal shall be fined an 13 amount not less than \$200 or more than \$600 or imprisoned in the county jail for not more than 60 days, 14 or both.

15 (d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing, 16 transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation 17 of any provision of this title shall be fined an amount not less than \$100 or more than \$1,000, imprisoned 18 in the county jail for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture 19 of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24 20 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period, and 21 any pelts possessed unlawfully must be confiscated. For each conviction or forfeiture, the department shall 22 notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping 23 licenses to the department within 10 days.

24

(e) A person convicted of hunting, fishing, or trapping while that person's license is forfeited or 25 a privilege is denied shall be imprisoned in the county jail for not less than 5 days or more than 6 months. 26 In addition, that person may be fined an amount not less than \$500 or more than \$2,000.

(f) A person convicted of an offense that results in the loss of hunting, fishing, or trapping 27 28 privileges for the third time may not again lawfully hunt, fish, or trap or apply for a license to hunt, fish, 29 or trap in the state of Montana.

30

(3) A person convicted or who has forfeited bond or bail under this section and whose license



LC1180.01

privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or permit during the period when license privileges have been forfeited. A person convicted of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping license during the period when license privileges have been forfeited shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

6 (4) A person convicted or who has forfeited bond or bail under this section and who has been 7 ordered to pay restitution under the provisions of 87-1-111 may not apply for any special license under Title 8 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following 9 the date of conviction or restoration of license privileges, whichever is later. If the violation involved the 10 unlawful taking of a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special 11 license or enter a drawing for a special license or permit for the same species of game animal that was 12 unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period. A 13 person convicted of unlawfully applying for any special license under Title 87, chapter 2, part 7, or 14 unlawfully entering a drawing for a special license or permit shall be fined an amount not less than \$500 15 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

(5) (a) In addition to the other penalties imposed pursuant to this section, a person convicted for
 the third time of a hunting violation under 87-1-304 or 87-2-103 shall be ordered to forfeit to the
 department the firearm or bow used in the commission of the violation.

(b) In addition to the penalties imposed in 87-3-118, a person found guilty for the third time of
 violating 87-3-118(1)(a) or (1)(b) shall forfeit the person's firearm or bow to the department if the
 department is able to determine that the weapon was used to unlawfully kill the animal that is being sold,
 bartered, purchased, or exchanged.

(c) The department shall auction, to the public, weapons forfeited pursuant to this section, and the
 proceeds must be used to promote the hunter safety program.

25 (5)(6) Notwithstanding the provision of subsection (1), the penalties provided by this section are
 26 in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2."

27

- 3 -

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0287, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act permanently prohibiting from hunting, fishing or trapping a person whose hunting, fishing, or trapping license has been revoked three times; providing for the forfeitures of firearms or bows when used in violating certain hunting laws for the third time; and requiring the Department of Fish, Wildlife and Parks to auction forfeited weapons and use the proceeds for hunting education.

ASSUMPTIONS:

- 1. The Department of Fish, Wildlife and Parks (FWP) assumes that prior convictions occurring prior to the passage of this bill would count towards the three convictions.
- 2. There will be 10 cases a year where a person has been convicted for the third time.
- 3. The FWP will confiscate 10 rifles and two bows annually.
- 4. The FWP will hold one auction per year and sell the rifles for an average price of \$350 and the bows for \$200.
- 5. Costs associated with the auction will be absorbed within existing budgets.
- 6. Revenue generated from the auction will be used to enhance the hunter education program.

FISCAL IMPACT:

	FY98	FY99
<u>Expenditures:</u> Hunter Education Program	<u>Difference</u> 3,900	<u>Difference</u> 3,900
<u>Funding:</u> State Special Revenue (02)	3,900	3,900
<u>Revenue:</u> Auction Revenue (02)	3,900	3,900

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The number of three-time violators is expected to decrease due to impact of this bill with a corresponding decrease in future revenues.

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

WILLIAM CRISMORE, PRIMARY SPONSOR

Fiscal Note for <u>SB0287</u> as introduced SB 287

APPROVED BY COM ON FISH & GAME

1	SENATE BILL NO. 287
2	INTRODUCED BY CRISMORE, MESAROS, BISHOP
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT PERMANENTLY PROHIBITING FROM HUNTING, FISHING, OR
5	TRAPPING A PERSON WHOSE HUNTING, FISHING, OR TRAPPING LICENSE HAS BEEN REVOKED THREE
6	TIMES; PROVIDING FOR THE FORFEITURE OF FIREARMS OR BOWS WHEN USED IN VIOLATING CERTAIN
7	HUNTING LAWS FOR THE THIRD TIME; REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS
8	TO AUCTION FORFEITED WEAPONS AND USE THE PROCEEDS FOR HUNTER EDUCATION OR FOR THE
9	FISH AND WILDLIFE CRIMESTOPPERS PROGRAM; AND AMENDING SECTION 87-1-102, MCA."
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	
13	Section 1. Section 87-1-102, MCA, is amended to read:
14	"87-1-102. Penalties. (1) A person who purposely, knowingly, or negligently violates a provision
15	of this title, any other state law pertaining to fish and game, or the orders or rules of the commission or
16	department is guilty of a misdemeanor, except if a felony is expressly provided by law, and shall be fined
17	an amount not less than \$50 or more than \$1,000 or imprisoned in the county jail for not more than 6
18	months, or both, unless a different punishment is expressly provided by law for the violation. In addition,
19	the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of that person's
20	license and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for
21	recreational purposes for a period set by the court. If the court imposes forfeiture of the person's license
22	and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss
23	of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to
24	the department within 10 days.
25	(2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep,
26	moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall
27	be fined an amount not less than \$500 or more than \$2,000 or imprisoned in the county jail for not more
28	than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit
29	any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to
30	hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture, unless the court

SB0287.02

imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person
of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the
department within 10 days.

(b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, 4 elk, or mountain lion or any part of these animals shall be fined an amount not less than \$300 or more than 5 \$1,000 or imprisoned in the county jail for not more than 6 months, or both. In addition, that person, upon 6 conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued 7 by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction 8 or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the 9 department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, 10 and trapping licenses to the department within 10 days. 11

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

(d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing, 15 transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation 16 of any provision of this title shall be fined an amount not less than \$100 or more than \$1,000, imprisoned 17 in the county jail for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture 18 of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24 19 20 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period, and any pelts possessed unlawfully must be confiscated. For each conviction or forfeiture, the department shall 21 22 notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping 23 licenses to the department within 10 days.

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

27 (f) A person convicted of an offense that results in the loss of hunting, fishing, or trapping
 28 privileges for the third time may not again lawfully hunt, fish, or trap or apply for a license to hunt, fish,
 29 or trap in the state of Montana.

30

(3) A person convicted or who has forfeited bond or bail under this section and whose license



- 2 -

SB 287

SB0287.02

privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or permit during the period when license privileges have been forfeited. A person convicted of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping license during the period when license privileges have been forfeited shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

6 (4) A person convicted or who has forfeited bond or bail under this section and who has been ordered to pay restitution under the provisions of 87-1-111 may not apply for any special license under Title 7 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following 8 9 the date of conviction or restoration of license privileges, whichever is later. If the violation involved the 10 unlawful taking of a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special 11 license or enter a drawing for a special license or permit for the same species of game animal that was 12 unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period. A 13 person convicted of unlawfully applying for any special license under Title 87, chapter 2, part 7, or 14 unlawfully entering a drawing for a special license or permit shall be fined an amount not less than \$500 15 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

- (5) (a) In addition to the other penalties imposed pursuant to this section, a person convicted for
 the third time of a hunting violation under 87-1-304 or 87-2-103 OR 87-3-104 shall be ordered to forfeit
 to the department the firearm or bow used in the commission of the violation.
- (b) In addition to the penalties imposed in 87-3-118, a person found guilty for the third-time of
 violating 87-3-118(1)(a) or (1)(b) (2) shall forfeit the person's firearm or bow to the department if the
- 21 department is able to determine that the weapon was used to unlawfully kill the animal that is being sold,
- 22 <u>bartered</u>, purchased, or exchanged.
- 23 (c) The department shall auction, to the public, weapons forfeited pursuant to this section, and the
 24 proceeds must be used to promote the hunter safety program.
- 25 (5)(6) Notwithstanding the provision of subsection (1), the penalties provided by this section are 26 in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2."
- 27

28 NEW SECTION. SECTION 2. FORFEITURE PROCEDURE. (1) A FIREARM OR BOW SEIZED UNDER

29 87-1-102(5) MUST BE SEIZED BY THE ARRESTING AGENCY NO LATER THAN 10 DAYS AFTER THE

30 <u>CONVICTION.</u>



SB0287.02

۰.

1	(2) WITHIN 30 DAYS OF THE CONVICTION, THE DEFENDANT MAY MOVE THE COURT WITH
2	JURISDICTION OVER THE OFFENSE FOR A HEARING ON THE FORFEITURE.
3	(3) UPON A MOTION BY THE DEFENDANT, THE COURT SHALL HOLD A HEARING ON THE
4	FORFEITURE WITHIN 30 DAYS OF THE MOTION.
5	(4) THERE IS A REBUTTABLE PRESUMPTION OF FORFEITURE WHEN THE DEFENDANT HAS BEEN
6	CONVICTED OF A VIOLATION OF 87-2-103, 87-3-104, OR 87-3-118. IT IS NOT A DEFENSE THAT THE
7	CONVICTED PERSON IS NOT THE OWNER OF THE FIREARM OR BOW USED IN THE CRIME.
8	(5) IF THE DEFENDANT FAILS TO REQUEST A HEARING OR THE COURT ORDERS FORFEITURE
9	OF THE FIREARM OR BOW, THE DEPARTMENT SHALL AUCTION TO THE PUBLIC THE FIREARM OR BOW
10	FORFEITED PURSUANT TO 87-1-102(5) AND THIS SECTION AND THE PROCEEDS MUST BE USED TO
11	PROMOTE THE HUNTER SAFETY PROGRAM OR THE FISH AND WILDLIFE CRIMESTOPPERS PROGRAM.
12	-END-

.

1	SENATE BILL NO. 287
2	INTRODUCED BY CRISMORE, MESAROS, BISHOP
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT PERMANENTLY PROHIBITING FROM HUNTING, FISHING, OR
5	TRAPPING A PERSON WHOSE HUNTING, FISHING, OR TRAPPING LICENSE HAS BEEN REVOKED THREE
6	TIMES; PROVIDING FOR THE FORFEITURE OF FIREARMS OR BOWS WHEN USED IN VIOLATING CERTAIN
7	HUNTING LAWS FOR THE THIRD TIME FOR THE THIRD TIME; REQUIRING THE DEPARTMENT OF FISH,
8	WILDLIFE, AND PARKS TO AUCTION FORFEITED WEAPONS AND USE THE PROCEEDS FOR HUNTER
9	EDUCATION OR FOR THE FISH AND WILDLIFE CRIMESTOPPERS PROGRAM; AND AMENDING SECTION
10	87-1-102, MCA."
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	
14	Section 1. Section 87-1-102, MCA, is amended to read:
15	87-1-102. Penalties. (1) A person who purposely, knowingly, or negligently violates a provision
16	of this title, any other state law pertaining to fish and game, or the orders or rules of the commission or
17	department is guilty of a misdemeanor, except if a felony is expressly provided by law, and shall be fined
18	an amount not less than \$50 or more than \$1,000 or imprisoned in the county jail for not more than 6
19	months, or both, unless a different punishment is expressly provided by law for the violation. In addition,
20	the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of that person's
21	license and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for
22	recreational purposes for a period set by the court. If the court imposes forfeiture of the person's license
23	and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss
24	of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to
25	the department within 10 days.
26	(2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep,
27	moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall
28	be fined an amount not less than \$500 or more than \$2,000 or imprisoned in the county jail for not more
29	than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit
30	any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to



- 1 -

hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture, unless the court
imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person
of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the
department within 10 days.

(b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, 5 elk, or mountain lion or any part of these animals shall be fined an amount not less than \$300 or more than 6 7 \$1,000 or imprisoned in the county jail for not more than 6 months, or both. In addition, that person, upon 8 conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued 9 by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction 10 or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, 11 12 and trapping licenses to the department within 10 days.

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

16 (d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing, 17 transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation 18 of any provision of this title shall be fined an amount not less than \$100 or more than \$1,000, imprisoned 19 in the county jail for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture 20 of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24 21 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period, and 22 any pelts possessed unlawfully must be confiscated. For each conviction or forfeiture, the department shall 23 notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping 24 licenses to the department within 10 days.

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

(f) A person convicted of an offense that results in the loss of hunting, fishing, or trapping
 privileges for the third time may not again lawfully hunt, fish, or trap or apply for a license to hunt, fish,
 or trap in the state of Montana.



- 2 -

SB 287

1 (3) A person convicted or who has forfeited bond or bail under this section and whose license 2 privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or 3 trapping license or permit during the period when license privileges have been forfeited. A person convicted 4 of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping 5 license during the period when license privileges have been forfeited an amount not less than 6 \$500 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

(4) A person convicted or who has forfeited bond or bail under this section and who has been 7 8 ordered to pay restitution under the provisions of 87-1-111 may not apply for any special license under Title 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following 9 the date of conviction or restoration of license privileges, whichever is later. If the violation involved the 10 unlawful taking of a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special 11 license or enter a drawing for a special license or permit for the same species of game animal that was 12 unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period. A 13 person convicted of unlawfully applying for any special license under Title 87, chapter 2, part 7, or 14 15 unlawfully entering a drawing for a special license or permit shall be fined an amount not less than \$500 16 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

(5) (a) In addition to the other penalties imposed pursuant to this section, a person convicted for
 the third time FOR THE THIRD TIME of a hunting violation under 87-1-304 or 87-2-103 OR 87-3-104 shall
 be ordered to forfeit to the department the firearm or bow used in the commission of the violation.

(b) In addition to the penalties imposed in 87-3-118, a person found guilty for the third time FOR
 THE THIRD TIME of violating 87-3-118(1)(a) or (1)(b) (2) shall forfeit the person's firearm or bow to the

22 department if the department is able to determine that the weapon was used to unlawfully kill the animal

23 that is being sold, bartered, purchased, or exchanged.

24 (c) The department shall auction, to the public, weapons forfeited pursuant to this section, and the 25 proceeds must be used to promote the hunter safety program.

- 26 (5)(6) Notwithstanding the provision of subsection (1), the penalties provided by this section are 27 in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2."
- 28

29 <u>NEW SECTION. SECTION 2. FORFEITURE PROCEDURE. (1) A FIREARM OR BOW SEIZED UNDER</u> 30 87-1-102(5) MUST BE SEIZED BY THE ARRESTING AGENCY NO LATER THAN 10 DAYS AFTER THE

Legislative Services Division 1 CONVICTION.

(2) WITHIN 30 DAYS OF THE CONVICTION, THE DEFENDANT MAY MOVE THE COURT WITH 2 3 JURISDICTION OVER THE OFFENSE FOR A HEARING ON THE FORFEITURE. 4 (3) UPON A MOTION BY THE DEFENDANT, THE COURT SHALL HOLD A HEARING ON THE 5 FORFEITURE WITHIN 30 DAYS OF THE MOTION. (4) THERE IS A REBUTTABLE PRESUMPTION OF FORFEITURE WHEN THE DEFENDANT HAS BEEN 6 7 CONVICTED OF A VIOLATION OF 87-2-103, 87-3-104, OR 87-3-118. IT IS NOT A DEFENSE THAT THE 8 CONVICTED PERSON IS NOT THE OWNER OF THE FIREARM OR BOW USED IN THE CRIME. 9 (5) IF THE DEFENDANT FAILS TO REQUEST A HEARING OR THE COURT ORDERS FORFEITURE 10 OF THE FIREARM OR BOW, THE DEPARTMENT SHALL AUCTION TO THE PUBLIC THE FIREARM OR BOW 11 FORFEITED PURSUANT TO 87-1-102(5) AND THIS SECTION AND THE PROCEEDS MUST BE USED TO PROMOTE THE HUNTER SAFETY PROGRAM OR THE FISH AND WILDLIFE CRIMESTOPPERS PROGRAM. 12 13 -END-

٠

APPROVED BY COM ON FISH, WILDLIFE & PARKS

1	SENATE BILL NO. 287
2	INTRODUCED BY CRISMORE, MESAROS, BISHOP
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT PERMANENTLY PROHIBITING FROM HUNTING, FISHING, OR
5	TRAPPING A PERSON WHOSE HUNTING, FISHING, OR TRAPPING LICENSE HAS BEEN REVOKED THREE
6	TIMES; PROVIDING FOR THE FORFEITURE OF FIREARMS OR BOWS WHEN USED IN VIOLATING CERTAIN
7	HUNTING LAWS FOR THE THIRD TIME FOR THE THIRD SECOND TIME; REQUIRING THE DEPARTMENT
8	OF FISH, WILDLIFE, AND PARKS TO AUCTION FORFEITED WEAPONS AND USE THE PROCEEDS FOR
9	HUNTER EDUCATION OR FOR THE FISH AND WILDLIFE CRIMESTOPPERS PROGRAM; AND AMENDING
10	SECTION 87-1-102, MCA."
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	
14	Section 1. Section 87-1-102, MCA, is amended to read:
15	"87-1-102. Penalties. (1) A person who purposely, knowingly, or negligently violates a provision
16	of this title, any other state law pertaining to fish and game, or the orders or rules of the commission or
17	department is guilty of a misdemeanor, except if a felony is expressly provided by law, and shall be fined
18	an amount not less than \$50 or more than \$1,000 or imprisoned in the county jail for not more than 6
19	months, or both, unless a different punishment is expressly provided by law for the violation. In addition,
20	the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of that person's
21	license and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for
22	recreational purposes for a period set by the court. If the court imposes forfeiture of the person's license
23	and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss
24	of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to
25	the department within 10 days.
26	(2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep,
27	moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall
28	be fined an amount not less than \$500 or more than \$2,000 or imprisoned in the county jail for not more
29	than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit
30	any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to



- 1 -

.

hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture, unless the court
imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person
of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the
department within 10 days.

(b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, 5 elk, or mountain lion or any part of these animals shall be fined an amount not less than \$300 or more than 6 \$1,000 or imprisoned in the county jail for not more than 6 months, or both. In addition, that person, upon 7 conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued 8 by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction 9 or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the 10 department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, 11 and trapping licenses to the department within 10 days. 12

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

(d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing, 16 transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation 17 of any provision of this title shall be fined an amount not less than \$100 or more than \$1,000, imprisoned 18 19 in the county jail for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture 20 of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24 21 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period, and 22 any pelts possessed unlawfully must be confiscated. For each conviction or forfeiture, the department shall 23 notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping 24 licenses to the department within 10 days.

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

(f) A person convicted of an offense that results in the loss of hunting, fishing, or trapping
 privileges for the third time may not again lawfully hunt, fish, or trap or apply for a license to hunt, fish,
 or trap in the state of Montana.

Legislative Services Division

- 2 -

1 (3) A person convicted or who has forfeited bond or bail under this section and whose license 2 privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or 3 trapping license or permit during the period when license privileges have been forfeited. A person convicted 4 of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping 5 license during the period when license privileges have been forfeited shall be fined an amount not less than 6 \$500 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

7 (4) A person convicted or who has forfeited bond or bail under this section and who has been 8 ordered to pay restitution under the provisions of 87-1-111 may not apply for any special license under Title 9 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following 10 the date of conviction or restoration of license privileges, whichever is later. If the violation involved the 11 unlawful taking of a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special 12 license or enter a drawing for a special license or permit for the same species of game animal that was 13 unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period. A 14 person convicted of unlawfully applying for any special license under Title 87, chapter 2, part 7, or 15 unlawfully entering a drawing for a special license or permit shall be fined an amount not less than \$500 16 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

(5) (a) In addition to the other penalties imposed pursuant to this section, a person convicted for
 the third time FOR THE THIRD SECOND TIME of a hunting violation under 87 1-304 or 87-2-103 OR
 87-3-104 shall be ordered to forfeit to the department the firearm or bow used in the commission of the
 violation.

(b) In addition to the penalties imposed in 87-3-118, a person found guilty for the third time FOR
 THE THIRD SECOND TIME of violating 87-3-118(1)(a) or (1)(b) (2) shall forfeit the person's firearm or bow

23 to the department if the department is able to determine that the weapon was used to unlawfully kill the

- 24 animal that is being sold, bartered, purchased, or exchanged.
- 25 (c) The department shall auction, to the public, weapons forfoited pursuant to this section, and the
 26 proceeds must be used to promote the hunter safety program.
- 27 (5)(6) Notwithstanding the provision of subsection (1), the penalties provided by this section are
 28 in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2."
- 29
- 30

NEW SECTION. SECTION 2. FORFEITURE PROCEDURE. (1) A FIREARM OR BOW SEIZED UNDER



SB0287.04

.

5 a

1	87-1-102(5) MUST BE SEIZED BY THE ARRESTING AGENCY NO LATER THAN 10 DAYS AFTER THE
2	CONVICTION.
3	(2) WITHIN 30 DAYS OF THE CONVICTION, THE DEFENDANT MAY MOVE THE COURT WITH
4	JURISDICTION OVER THE OFFENSE FOR A HEARING ON THE FORFEITURE.
5	(3) UPON A MOTION BY THE DEFENDANT, THE COURT SHALL HOLD A HEARING ON THE
6	FORFEITURE WITHIN 30 DAYS OF THE MOTION.
7	(4) THERE IS A REBUTTABLE PRESUMPTION OF FORFEITURE WHEN THE DEFENDANT HAS BEEN
8	CONVICTED OF A VIOLATION OF 87-2-103, 87-3-104, OR 87-3-118. IT IS NOT A DEFENSE THAT THE
9	CONVICTED PERSON IS NOT THE OWNER OF THE FIREARM OR BOW USED IN THE CRIME.
10	(5) IF THE DEFENDANT FAILS TO REQUEST A HEARING OR THE COURT ORDERS FORFEITURE
11	OF THE FIREARM OR BOW, THE DEPARTMENT SHALL AUCTION TO THE PUBLIC THE FIREARM OR BOW
12	FORFEITED PURSUANT TO 87-1-102(5) AND THIS SECTION AND THE PROCEEDS MUST BE USED TO
13	PROMOTE THE HUNTER SAFETY PROGRAM OR THE FISH AND WILDLIFE CRIMESTOPPERS PROGRAM.
14	-END-

•

-

1	SENATE BILL NO. 287
2	INTRODUCED BY CRISMORE, MESAROS, BISHOP
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT PERMANENTLY PROHIBITING FROM HUNTING, FISHING, OR
5	TRAPPING A PERSON WHOSE HUNTING, FISHING, OR TRAPPING LICENSE HAS BEEN REVOKED THREE
6	TIMES; PROVIDING FOR THE FORFEITURE OF FIREARMS OR BOWS WHEN USED IN VIOLATING CERTAIN
7	HUNTING LAWS FOR THE THIRD TIME FOR THE THIRD SECOND TIME; REQUIRING THE DEPARTMENT
8	OF FISH, WILDLIFE, AND PARKS TO AUCTION FORFEITED WEAPONS AND USE THE PROCEEDS FOR
9	HUNTER EDUCATION OR FOR THE FISH AND WILDLIFE CRIMESTOPPERS PROGRAM; AND AMENDING
10	SECTION 87-1-102, MCA."
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	
14	Section 1. Section 87-1-102, MCA, is amended to read:
15	*87-1-102. Penalties. (1) A person who purposely, knowingly, or negligently violates a provision
16	of this title, any other state law pertaining to fish and game, or the orders or rules of the commission or
17	department is guilty of a misdemeanor, except if a felony is expressly provided by law, and shall be fined
18	an amount not less than \$50 or more than \$1,000 or imprisoned in the county jail for not more than 6
19	months, or both, unless a different punishment is expressly provided by law for the violation. In addition,
20	the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of that person's
21	license and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for
22	recreational purposes for a period set by the court. If the court imposes forfeiture of the person's license
23	and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss
24	of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to
25	the department within 10 days.
26	(2) {a} A person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep,
27	moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall
28	be fined an amount not less than \$500 or more than \$2,000 or imprisoned in the county jail for not more
29	than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit
30	any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to



- 1 -

SB0287.05

hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture, unless the court
imposes a longer forfeiture period. For each conviction or forfeiture, the department shall notify the person
of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the
department within 10 days.

5 (b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, 6 elk, or mountain lion or any part of these animals shall be fined an amount not less than \$300 or more than 7 \$1,000 or imprisoned in the county jail for not more than 6 months, or both. In addition, that person, upon 8 conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued 9 by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction 10 or forfeiture, unless the court imposes a longer forfeiture period. For each conviction or forfeiture, the 11 department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, 12 and trapping licenses to the department within 10 days.

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

16 (d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing, 17 transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation 18 of any provision of this title shall be fined an amount not less than \$100 or more than \$1,000, imprisoned 19 in the county jail for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture 20 of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24 21 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period, and 22 any pelts possessed unlawfully must be confiscated. For each conviction or forfeiture, the department shall 23 notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping 24 licenses to the department within 10 days.

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

(f) A person convicted of an offense that results in the loss of hunting, fishing, or trapping
 privileges for the third time may not again lawfully hunt, fish, or trap or apply for a license to hunt, fish,
 or trap in the state of Montana.



- 2 -

SB 287

1 (3) A person convicted or who has forfeited bond or bail under this section and whose license 2 privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or 3 trapping license or permit during the period when license privileges have been forfeited. A person convicted 4 of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping 5 license during the period when license privileges have been forfeited shall be fined an amount not less than 6 \$500 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

7 (4) A person convicted or who has forfeited bond or bail under this section and who has been 8 ordered to pay restitution under the provisions of 87-1-111 may not apply for any special license under Title 9 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following 10 the date of conviction or restoration of license privileges, whichever is later. If the violation involved the 11 unlawful taking of a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special 12 license or enter a drawing for a special license or permit for the same species of game animal that was 13 unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period. A 14 person convicted of unlawfully applying for any special license under Title 87, chapter 2, part 7, or 15 unlawfully entering a drawing for a special license or permit shall be fined an amount not less than \$500 16 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

17 (5) (a) In addition to the other penalties imposed pursuant to this section, a person convicted for
 the third-time FOR THE THIRD SECOND TIME of a hunting violation under 87-1-304 or 87-2-103 OR
 19 87-3-104 chall MAY be ordered to forfeit to the department the firearm or bow used in the commission of
 the violation.

(b) In addition to the penalties imposed in 87-3-118, a person found guilty for the third time FOR
 THE THIRD SECOND TIME of violating 87-3-118(1)(a) or (1)(b) (2) shall MAY BE ORDERED TO forfeit the
 person's firearm or bow to the department if the department is able to determine that the weapon was used
 to unlawfully kill the animal that is being sold, bartered, purchased, or exchanged.

25

26

- <u>(c) The department shall-auction, to the public, weapons forfaited pursuant to this section, and the</u>
- 27 (5)(6) Notwithstanding the provision of subsection (1), the penalties provided by this section are
 28 in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2."
- 29 30
- NEW SECTION. SECTION 2. FORFEITURE PROCEDURE. (1) A FIREARM OR BOW SEIZED UNDER



SB0287.05

.

۰.

1	87-1-102(5) MUST BE SEIZED BY THE ARRESTING AGENCY NO LATER THAN 10 DAYS AFTER THE
2	CONVICTION.
3	(2) WITHIN 30 DAYS OF THE CONVICTION, THE DEFENDANT MAY MOVE THE COURT WITH
4	JURISDICTION OVER THE OFFENSE FOR A HEARING ON THE FORFEITURE.
5	(3) UPON A MOTION BY THE DEFENDANT, THE COURT SHALL HOLD A HEARING ON THE
6	FORFEITURE WITHIN 30 DAYS OF THE MOTION.
7	(4) THERE IS A REBUTTABLE PRESUMPTION OF FORFEITURE WHEN THE DEFENDANT HAS BEEN
8	CONVICTED OF A VIOLATION OF 87-2-103, 87-3-104, OR 87-3-118. IT IS NOT A DEFENSE THAT THE
9	CONVICTED PERSON IS NOT THE OWNER OF THE FIREARM OR BOW USED IN THE CRIME.
10	(5) IF THE DEFENDANT FAILS TO REQUEST A HEARING OR THE COURT ORDERS FORFEITURE
11	OF THE FIREARM OR BOW, THE DEPARTMENT SHALL AUCTION TO THE PUBLIC THE FIREARM OR BOW
12	FORFEITED PURSUANT TO 87-1-102(5) AND THIS SECTION AND THE PROCEEDS MUST BE USED TO
13	PROMOTE THE HUNTER SAFETY PROGRAM OR THE FISH AND WILDLIFE CRIMESTOPPERS PROGRAM.
14	-END-