

1 HOUSE BILL NO. 353

2 INTRODUCED BY J. COHENOUR, W. GALT, E. ALBUS, R. GREGG, C. SPRUNGER, G. LAMMERS, B.

3 BARKER, P. FLOWERS, M. MARLER

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING THE DEPARTMENT OF FISH, WILDLIFE, AND

6 PARKS AUTHORITY TO MANAGE THE COLLECTING OF NATURALLY SHED ANTLERS AND HORNS OF

7 ELK, DEER, AND ANTELOPE AND THE ANTLERS OR HORNS OF A GAME ANIMAL, EXCEPT FOR

8 MOUNTAIN SHEEP, WITH A SKULL OR A PORTION OF A SKULL ATTACHED WITHIN THE STATE;

9 PROVIDING RULEMAKING AUTHORITY; IMPLEMENTING A WAITING PERIOD FOR NONRESIDENTS;

10 ESTABLISHING RESIDENT AND NONRESIDENT COLLECTING LICENSES; REVISING CRIMINAL ACTS

11 RELATED TO POSSESSING SHEDS; DEFINING "SHEDS"; AND AMENDING SECTIONS 87-1-201, 87-1-

12 304, 87-2-101, 87-2-106, 87-2-201, 87-2-202, 87-6-202, AND 87-6-206, MCA."

13

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

15

16 NEW SECTION. Section 1. Class F-1--resident shed collecting license. (1) A resident as defined

17 in 87-2-102, on payment of a \$10 fee, is entitled to receive a Class F-1 license that, except as provided in

18 subsection (2), authorizes the holder of the license to collect and possess naturally shed antlers and horns of

19 elk, deer, and antelope and the antlers or horns of a game animal, except for mountain sheep as provided in

20 87-3-315, with a skull or a portion of a skull attached that has died from natural causes and that has not been

21 unlawfully killed, captured, or taken or accidentally killed as prescribed by rules of the department.

22 (2) A license is not required by a landowner, their immediate family, or the landowner's employees

23 on the landowner's land for the collecting of naturally shed antlers and horns of elk, deer, and antelope or the

24 antlers or horns of a game animal, except for mountain sheep as provided in 87-3-315, with a skull or a portion

25 of a skull attached that has died from natural causes and that has not been unlawfully killed, captured, or taken

26 or accidentally killed.

27

28 NEW SECTION. Section 2. Class F-2--nonresident shed collecting license. (1) A person who is

1 not a resident as defined in 87-2-102, on payment of a \$50 fee, is entitled to receive a Class F-2 license that,
2 except as provided in subsection (2), authorizes the holder of the license to collect and possess naturally shed
3 antlers and horns of elk, deer, and antelope and the antlers or horns of a game animal, except for mountain
4 sheep as provided in 87-3-315, with a skull or a portion of a skull attached that has died from natural causes
5 and that has not been unlawfully killed, captured, or taken or accidentally killed as prescribed by rules of the
6 department.

7 (2) A license is not required by a landowner, their immediate family, or the landowner's employees
8 on the landowner's land for the collecting of naturally shed antlers and horns of elk, deer, and antelope or the
9 antlers or horns of a game animal, except for mountain sheep as provided in 87-3-315, with a skull or a portion
10 of a skull attached that has died from natural causes and that has not been unlawfully killed, captured, or taken
11 or accidentally killed.

12
13 **Section 3.** Section 87-1-201, MCA, is amended to read:

14 **"87-1-201. Powers and duties.** (1) Except as provided in subsection (13), the department shall
15 supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing
16 animals of the state and may implement voluntary programs that encourage hunting access on private lands
17 and that promote harmonious relations between landowners and the hunting public. The department possesses
18 all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state
19 for the enforcement of the fish and game laws and the rules adopted by the department.

20 (2) Except as provided in subsection (13), the department shall enforce all the laws of the state
21 regarding the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and
22 game and nongame birds within the state.

23 (3) The department has the exclusive power to spend for the protection, preservation,
24 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds
25 collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or
26 otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of
27 seized game or hides, from fines or damages collected for violations of the fish and game laws, or from
28 appropriations or received by the department from any other sources is under the control of the department and

1 is available for appropriation to the department.

2 (4) The department may discharge any appointee or employee of the department for cause at any
3 time.

4 (5) The department may dispose of all property owned by the state used for the protection,
5 preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds
6 that is of no further value or use to the state and shall turn over the proceeds from the sale to the state
7 treasurer to be credited to the fish and game account in the state special revenue fund.

8 (6) (a) The department may not issue firearms within this state to anyone except:

9 (i) wardens; and

10 (ii) other qualified employees identified, trained, and certified by the department where necessary
11 to perform assigned duties pursuant to subsection (7).

12 (b) Wardens, as authorized officers under 87-1-502, are the only department employees with the
13 authority to enforce provisions of state law or administrative rule.

14 (7) (a) Department employees may be issued a firearm as allowed in subsection (6)(a)(ii) only after
15 submitting a form of final approval as determined and approved by the department.

16 (b) Department-issued firearms may be carried by an employee other than a warden only when the
17 employee is engaged in work that requires the carrying of a firearm, as determined by the department.

18 (c) When a department-issued firearm is no longer necessary to perform an employee's required
19 duties, the employee shall return the issued firearm to secure storage in the regional office to which the
20 employee is attached.

21 (8) Except as provided in subsection (13), the department is authorized to make, promulgate, and
22 enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its
23 judgment will accomplish the purpose of chapter 2.

24 (9) The department is authorized to promulgate rules relative to tagging, possession, or
25 transportation of bear within or outside of the state.

26 (10) (a) The department shall implement programs that:

27 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for
28 listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

1 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing
2 under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists
3 in the maintenance or recovery of those species;

4 (iii) manage elk, deer, and antelope populations based on habitat estimates determined as
5 provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates
6 as provided in 87-1-323. In implementing an elk management plan, the department shall, as necessary to
7 achieve harvest and population objectives, request that land management agencies open public lands and
8 public roads to public access during the big game hunting season.

9 (iv) in accordance with the forest management plan required by 87-1-622, address fire mitigation,
10 pine beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50
11 contiguous acres in any state park, fishing access site, or wildlife management area under the department's
12 jurisdiction.

13 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential
14 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or
15 recovery of those species with the social and economic impacts of species maintenance or recovery.

16 (c) Any management plan developed by the department pursuant to this subsection (10) is subject
17 to the requirements of Title 75, chapter 1, part 1.

18 (d) This subsection (10) does not affect the ownership or possession, as authorized under law, of
19 a privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

20 (11) The department shall publish an annual game count, estimating to the department's best ability
21 the numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative
22 regions of the state. In preparing the publication, the department may incorporate field observations, hunter
23 reporting statistics, or any other suitable method of determining game numbers. The publication must include
24 an explanation of the basis used in determining the game count.

25 (12) The department shall report current sage grouse population numbers, including the number of
26 leks, to the Montana sage grouse oversight team, established in 2-15-243, and the environmental quality
27 council in accordance with 5-11-210 on an annual basis. The report must include seasonal and historic
28 population data available from the department or any other source.

(13) The department may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons and the special muzzleloader heritage hunting season established in 87-1-304;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(14) The department shall publish an annual public report that shows the number of licenses sold to nonresidents in the previous license year for each species in which the purchase of a license or permit is required. The report must also show how many licenses were issued through opportunities or programs for nonresidents, such as those for the following:

(a) youths;

(b) college students;

(c) nonresidents who were former residents;

(d) nonresident licenses purchased by utilizing an outfitter preference point;

(e) sponsorships by a landowner, family member, or current Montana resident; or

(f) any other license opportunity or program for nonresidents.

(15) Except for mountain sheep as provided in 87-3-315, the department shall promulgate rules relative to managing the collecting and possessing of naturally shed antlers and horns or the antlers or horns of a game animal with a skull or a portion of a skull attached that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed."

Section 4. Section 87-1-304, MCA, is amended to read:

"87-1-304. Fixing of seasons and bag and possession limits. (1) Subject to the provisions of 87-5-302 and subsections (7) through (9)-(10) of this section, the commission may:

- 1 (a) fix seasons, bag limits, possession limits, and season limits;
- 2 (b) open or close or shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing
3 animal as defined by 87-2-101;
- 4 (c) declare areas open to the hunting of deer, antelope, elk, moose, sheep, goat, mountain lion,
5 bear, wild buffalo or bison, and wolf by persons holding an archery stamp and the required license, permit, or
6 tag and designate times when only bows and arrows may be used to hunt deer, antelope, elk, moose, sheep,
7 goat, mountain lion, bear, wild buffalo or bison, and wolf in those areas;
- 8 (d) subject to the provisions of 87-1-301(6), restrict areas and species to hunting with only
9 specified hunting arms, including bow and arrow, for the reasons of safety or of providing diverse hunting
10 opportunities and experiences; and
- 11 (e) declare areas open to special license holders only and issue special licenses in a limited
12 number when the commission determines, after proper investigation, that a special season is necessary to
13 ensure the maintenance of an adequate supply of game birds, fish, or animals or fur-bearing animals. The
14 commission may declare a special season and issue special licenses when game birds, animals, or fur-bearing
15 animals are causing damage to private property or when a written complaint of damage has been filed with the
16 commission by the owner of that property. In determining to whom special licenses must be issued, the
17 commission may, when more applications are received than the number of animals to be killed, award permits
18 to those chosen under a drawing system. The procedures used for awarding the permits from the drawing
19 system must be determined by the commission.
- 20 (2) The commission may adopt rules governing the use of livestock and vehicles by archers during
21 special archery seasons.
- 22 (3) Subject to the provisions of 87-5-302 and subsection (7) of this section, the commission may
23 divide the state into fish and game districts and create fish, game, or fur-bearing animal districts throughout the
24 state. The commission may declare a closed season for hunting, fishing, or trapping in any of those districts
25 and later may open those districts to hunting, fishing, or trapping.
- 26 (4) The commission may declare a closed season on any species of game, fish, game birds, or fur-
27 bearing animals threatened with undue depletion from any cause. The commission may close any area or
28 district of any stream, public lake, or public water or portions thereof to hunting, trapping, or fishing for limited

1 periods of time when necessary to protect a recently stocked area, district, water, spawning waters, spawn-
2 taking waters, or spawn-taking stations or to prevent the undue depletion of fish, game, fur-bearing animals,
3 game birds, and nongame birds. The commission may open the area or district upon consent of a majority of
4 the property owners affected.

5 (5) The commission may authorize the director to open or close any special season upon 12 hours'
6 notice to the public.

7 (6) The commission may declare certain fishing waters closed to fishing except by persons under
8 15 years of age. The purpose of this subsection is to provide suitable fishing waters for the exclusive use and
9 enjoyment of juveniles under 15 years of age, at times and in areas the commission in its discretion considers
10 advisable and consistent with its policies relating to fishing.

11 (7) In an area immediately adjacent to a national park, the commission may not:

12 (a) prohibit the hunting or trapping of wolves; or

13 (b) close the area to wolf hunting or trapping unless a wolf harvest quota established by the
14 commission for that area has been met.

15 (8) The commission may authorize a wolf trapping season that opens the first Monday after
16 Thanksgiving and closes March 15 of the following calendar year, except that the commission may adjust the
17 dates for specific wolf management units based on regional recommendations.

18 (9) There is established a special muzzleloader heritage hunting season that begins on the second
19 Saturday after the end of the regular season and lasts 9 days. During this season, subject to the provisions of
20 87-6-401(1)(i) and rules adopted by the commission, a person may take a deer or elk with a valid license or
21 permit using plain lead projectiles and a muzzleloading rifle that is charged with loose black powder, loose
22 pyrodex, or an equivalent loose black powder substitute and ignited by a flintlock, wheel lock, matchlock, or
23 percussion mechanism using a percussion or musket cap. The muzzleloading rifle must be a minimum of 45
24 caliber and may not have more than two barrels.

25 (10) For an area controlled by the department that has date restrictions for its use, the commission
26 shall allow a resident, as defined in 87-2-102, with a license, as described in [section 1], access to the area 8
27 days in advance of a nonresident with a license, as described in [section 2], for the collecting of naturally shed
28 antlers and horns of elk, deer, and antelope or the antlers or horns of a game animal, except for mountain

1 sheep as provided in 87-3-315, with a skull or a portion of a skull attached that has died from natural causes
2 and that has not been unlawfully killed, captured, or taken or accidentally killed."

3
4 **Section 5.** Section 87-2-101, MCA, is amended to read:

5 **"87-2-101. Definitions.** As used in Title 87, chapter 3, and this chapter, unless the context clearly
6 indicates otherwise, the following definitions apply:

7 (1) "Angling" or "fishing" means to take or harvest fish or the act of a person possessing any
8 instrument, article, or substance for the purpose of taking or harvesting fish in any location that a fish might
9 inhabit.

10 (2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an
11 area inhabited by wildlife for the purpose of attracting game animals or game birds.

12 (b) The term does not include:

13 (i) decoys, silhouettes, or other replicas of wildlife body forms;

14 (ii) scents used only to mask human odor; or

15 (iii) types of scents that are approved by the commission for attracting game animals or game
16 birds.

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

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

21 (5) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and
22 whitefish); all species of the genus Sander (sandpike or sauger and walleyed pike or yellowpike perch); all
23 species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus
24 (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all
25 species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus
26 *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

27 (6) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or
28 the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the

purpose of shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take or harvest by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(7) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

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

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

(10) "Person" means an individual, association, partnership, or corporation.

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

(12) "Shed" means a naturally shed antler or horn of elk, deer, or antelope.

~~(12)~~(13) "Trap" means to take or harvest or participate in the taking or harvesting of any wildlife protected by the laws of the state by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

~~(13)~~(14) "Upland game birds" means sharp-tailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

~~(14)~~(15) "Wild buffalo or bison" or "wild buffalo" means a bison that:

- (a) has not been reduced to captivity;
- (b) has never been subject to the per capita fee under 15-24-921;
- (c) has never been owned by a person; and
- (d) is not the offspring of a bison that has been subject to the per capita fee under 15-24-921."

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

"87-2-106. Application for license. (1) A license may be procured from the director, a warden, or an

1 authorized agent of the director. The applicant shall state the applicant's name, age, [last four digits of the
2 applicant's social security number,] street address of permanent residence, mailing address, qualifying length of
3 time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and other
4 facts, data, or descriptions as may be required by the department. An applicant for a resident license shall
5 present a valid Montana driver's license, Montana driver's examiner's identification card, tribal identification
6 card, or other identification specified by the department to substantiate the required information. It is the
7 applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase
8 a license. Except as provided in subsections (2) through (4), the statements made by the applicant must be
9 subscribed to by the applicant.

10 (2) Except as provided in subsection (3), department employees or officers may issue licenses by
11 telephone, by mail, on the internet, or by other electronic means.

12 (3) To apply for a license under the provisions of 87-2-102(7), the applicant shall apply to the
13 director and shall subscribe to fulfillment of the requirements of 87-2-102(7). The director shall process the
14 application in an expedient manner.

15 (4) A resident may apply for and purchase a conservation license, hunting license, ~~or~~ fishing
16 license, or shed collecting license for the resident's spouse, parent, child, brother, or sister who is otherwise
17 qualified to obtain the license.

18 (5) A license is void unless subscribed to by the licensee.

19 (6) A person whose privilege to hunt, fish, or trap has been revoked is not eligible to purchase any
20 license until all terms of the court sentence in which the privilege was revoked, including making restitution,
21 have been met or the person is in compliance with installment payments specified by the court and the
22 department has received notification from the sentencing court to that effect pursuant to 87-6-922(2).

23 [(7) The department shall keep the applicant's social security number confidential, except that the
24 number may be provided to the department of public health and human services for use in administering Title
25 IV-D of the Social Security Act.]

26 (8) The department shall delete an applicant's social security number in any electronic database [5
27 years after the date that application is made for the most recent license]. (Bracketed language terminates or is
28 amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001.)"

1

2 **Section 7.** Section 87-2-201, MCA, is amended to read:

3 **"87-2-201. Conservation license required and prerequisite for other licenses.** (1) Except as
4 provided in 87-2-803(6) and 87-2-815, it is unlawful for any person to engage in any of the following without first
5 having purchased a conservation license as provided in this part:

6 (a) purchase or apply for a hunting, fishing, shed collecting, or trapping license;

7 (b) use lands owned or controlled by the department; or

8 (c) engage in general recreational use as defined in 77-1-101 on state trust land pursuant to an
9 agreement established under 77-1-815.

10 (2) If the department of natural resources and conservation and the department enter into an
11 agreement pursuant to 77-1-815, the department shall submit every other legislative session a report to the
12 legislature in accordance with 5-11-210 that documents the number of conservation licenses sold and revenue
13 received pursuant to this section. The first report ~~shall~~must be provided to the legislature by January 1, 2027."

14

15 **Section 8.** Section 87-2-202, MCA, is amended to read:

16 **"87-2-202. Application -- fee.** (1) Except as provided in 87-2-817(2), a conservation license must be
17 sold upon written application. The application must contain the applicant's name, age, [last four digits of the
18 applicant's social security number,] street address of permanent residence, mailing address, qualifying length of
19 time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must
20 be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's
21 examiner's identification card, a tribal identification card, or other identification specified by the department to
22 substantiate the required information when applying for a conservation license. It is the applicant's burden to
23 provide documentation establishing the applicant's identity and qualifications to purchase a conservation
24 license or to receive a free conservation license pursuant to 87-2-817(2).

25 (2) Hunting, fishing, shed collecting, or trapping licenses issued in a form determined by the
26 department must be recorded according to rules that the department may prescribe.

27 (3) (a) Resident conservation licenses may be purchased for a fee of \$8, of which 25 cents is a
28 voluntary search and rescue donation.

(b) Nonresident conservation licenses may be purchased for a fee of \$10, of which 25 cents is a voluntary search and rescue donation.

(c) A person who purchases a conservation license may make a written election not to pay the additional search and rescue donation in subsections (3)(a) and (3)(b). If a written election is made, the donation may not be collected.

[(4) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]

(5) The department shall delete the applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001. The \$2 conservation license fee increases in subsections (3)(a) and (3)(b) enacted by Ch. 596, L. 2003, are void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)"

Section 9. Section 87-6-202, MCA, is amended to read:

"87-6-202. Unlawful possession, shipping, or transportation of game fish, bird, game animal, or fur-bearing animal. (1) A person may not possess, ship, or transport all or part of any game fish, bird, game animal, or fur-bearing animal that was unlawfully killed, captured, or taken, whether killed, captured, or taken in Montana or outside of Montana.

(2) This section does not prohibit the possession, shipping, or transportation of:

(a) hides, heads, or mounts of lawfully killed, captured, or taken game fish, birds, game animals, or fur-bearing animals, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided by federal law;

(b) naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, collected, or taken or accidentally killed;

(c) the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

- 1 (d) paddlefish roe as caviar under the provisions of 87-4-601;
- 2 (e) captive-reared migratory waterfowl; or
- 3 (f) salvaged antelope, deer, elk, or moose subject to 87-3-145.
- 4 (3) A person may not possess, ship, or transport live fish away from the body of water in which the
- 5 fish were taken except:
- 6 (a) as provided in Title 87, chapter 4, part 6, or as specifically permitted by the laws of this state;
- 7 (b) fish species approved by the commission for use as live bait and subject to any restrictions
- 8 imposed by the commission; or
- 9 (c) within the boundaries of the eastern Montana fishing district, as established by commission
- 10 regulations.
- 11 (4) Except as provided in 87-3-310, possession of all or part of a dead game fish, bird, game
- 12 animal, or fur-bearing animal is prima facie evidence that the person or persons in whose possession the fish,
- 13 bird, or animal is found killed, captured, or took the fish, bird, or animal.
- 14 (5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed,
- 15 shipped, or transported must be determined from the schedules of restitution values in 87-6-906 and 87-6-907.
- 16 The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or
- 17 transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as
- 18 defined in 46-1-202, may be aggregated in determining the value.
- 19 (6) The following penalties apply for a violation of this section:
- 20 (a) If a person is convicted or forfeits bond or bail after being charged with unlawful possession,
- 21 shipping, or transportation of a game fish or bird and if the value of all or part of the game fish or bird or
- 22 combination thereof does not exceed \$1,000, the person shall be fined not less than \$50 or more than \$1,000
- 23 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person
- 24 may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the
- 25 privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes
- 26 for a period of time set by the court.
- 27 (b) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or
- 28 transportation of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or

1 any part of these animals and if the value of all or part of the animal or combination thereof does not exceed
2 \$1,000, the person shall be fined not less than \$500 or more than \$2,000 or be imprisoned in the county
3 detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting,
4 fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this
5 state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

6 (c) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or
7 transportation of a deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or
8 part of the animal or combination thereof does not exceed \$1,000, the person shall be fined not less than \$300
9 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In
10 addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the
11 privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court
12 imposes a longer period.

13 (d) If a person is convicted or forfeits bond or bail after being charged with unlawful shipping of a
14 mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, grizzly bear, deer, antelope, elk, or
15 mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof
16 does not exceed \$1,000, the person shall be fined not less than \$50 or more than \$1,000 or be imprisoned in
17 the county detention center for not more than 6 months, or both. In addition, the person may be subject to
18 forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or
19 trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set
20 by the court.

21 (e) If a person is convicted or forfeits bond or bail after being charged with unlawful possession,
22 shipping, or transportation of a fur-bearing animal or pelt of a fur-bearing animal and if the value of all or part of
23 the animal or combination thereof does not exceed \$1,000, the person shall be fined not less than \$100 or
24 more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In
25 addition, the person shall forfeit any current hunting, fishing, or trapping license issued by this state and the
26 privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court
27 imposes a longer period, and any pelts possessed unlawfully must be confiscated.

28 (f) If a person is convicted under this section or forfeits bond or bail after being charged with a

1 violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal
2 or combination thereof exceeds \$1,000, the person shall be fined not more than \$50,000 or be imprisoned in
3 the state prison for a term not to exceed 5 years, or both. In addition, the person shall forfeit any current
4 hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this
5 state for not less than 3 years up to a revocation for life from the date of conviction.

6 (7) A person convicted of unlawful possession of more than double the legal bag limit may be
7 subject to the additional penalties provided in 87-6-901.

8 (8) As used in this section:

9 (a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this
10 title, the regulations adopted by the commission, and the rules adopted by the department under authority of
11 this title;

12 (b) "possess" includes the act of killing, capturing, or taking a game fish, bird, game animal, or fur-
13 bearing animal regardless of whether the person takes or retains physical possession of the fish, bird, or
14 animal; and

15 (c) "unlawfully killed, captured, collected, or taken" means not lawfully killed, captured, collected,
16 or taken.

17 (9) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905
18 through 87-6-907."

19
20 **Section 10.** Section 87-6-206, MCA, is amended to read:

21 **"87-6-206. Unlawful sale of game fish, bird, game animal, or fur-bearing animal.** (1) A person
22 may not purposely or knowingly sell, purchase, or exchange all or part of any game fish, bird, game animal, or
23 fur-bearing animal.

24 (2) The value of the game fish, bird, game animal, or fur-bearing animal must be determined from
25 the schedules of restitution values set out in 87-6-906 and 87-6-907. The value of game fish, birds, game
26 animals, or fur-bearing animals that are sold, purchased, or exchanged pursuant to a common scheme, as
27 defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in
28 determining the value.

1 (3) This section does not prohibit the:

2 (a) sale, purchase, or exchange of hides, heads, or mounts of game fish, birds, game animals, or
3 fur-bearing animals that have been lawfully killed, captured, or taken, except that the sale or purchase of a hide,
4 head, or mount of a grizzly bear is prohibited, except as provided by federal law;

5 (b) sale, purchase, or exchange of naturally shed antlers or the antlers with a skull or portion of a
6 skull attached from a game animal that has died from natural causes and that has not been unlawfully killed,
7 captured, collected, or taken or accidentally killed;

8 (c) sale, purchase, or exchange of the bones of an elk, antelope, moose, or deer that has died
9 from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

10 (d) donation, sale, purchase, or exchange of paddlefish roe as caviar under the provisions of 87-4-
11 601; or

12 (e) sale, purchase, or exchange of captive-reared migratory waterfowl.

13 (4) If a person is convicted or forfeits bond or bail after being charged with a violation of this
14 section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination
15 thereof does not exceed \$1,000, then the person shall be fined not less than \$50 or more than \$1,000 or be
16 imprisoned in the county detention center for not more than 6 months, or both. In addition, the person may be
17 subject to forfeiture of any current hunting, fishing, or trapping license or permit issued by this state and the
18 privilege to hunt, fish, or trap in this state for a period set by the court.

19 (5) If a person is convicted or forfeits bond or bail after being charged with a violation of this
20 section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination
21 thereof exceeds \$1,000, then the person shall be fined not more than \$50,000 or be imprisoned in the state
22 prison for not more than 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or
23 trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than
24 3 years up to a revocation for life from the date of conviction.

25 (6) As used in this section:

26 (a) "lawfully killed, captured, collected, or taken" means killed, captured, collected, or taken in
27 conformance with this title, the regulations adopted by the commission, and the rules adopted by the
28 department under authority of this title; and

1 (b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken."

2

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

6 - END -