

HOUSE BILL NO. 353

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

BARKER, P. FLOWERS, M. MARLER

A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING THE DEPARTMENT OF FISH, WILDLIFE, AND
PARKS AUTHORITY TO MANAGE THE COLLECTING OF NATURALLY SHED ANTLERS AND HORNS OF
ELK, DEER, AND ANTELOPE AND THE ANTLERS OR HORNS OF A GAME ANIMAL, EXCEPT FOR
MOUNTAIN SHEEP, WITH A SKULL OR A PORTION OF A SKULL ATTACHED WITHIN THE STATE;
PROVIDING RULEMAKING AUTHORITY; IMPLEMENTING A WAITING PERIOD FOR NONRESIDENTS;
ESTABLISHING RESIDENT AND NONRESIDENT COLLECTING LICENSES; ESTABLISHING VIOLATIONS
AND ESTABLISHING PENALTIES; REVISING CRIMINAL ACTS RELATED TO POSSESSING SHEDS;
DEFINING "SHEDS"; AND AMENDING SECTIONS 87-1-201, 87-1-304, 87-2-101, 87-2-106, 87-2-201, 87-2-
202, 87-6-202, AND 87-6-206, MCA."

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

NEW SECTION. Section 1. Class F-1--resident shed collecting license -- penalty. (1) A resident,
as defined in 87-2-102, who is 12 years of age or older shall obtain, on payment of a \$10 fee purchase of a
conservation license, is entitled to receive a Class F-1 license that, except as provided in subsection (2),
authorizes the holder of the license to collect and possess naturally shed antlers and horns of elk, deer, and
antelope and the antlers or horns of a game animal, except for mountain sheep as provided in 87-3-315, 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 as prescribed by rules of the department on publicly accessible land.

(2)——A license is not required by a landowner, their immediate family, or the landowner's employees
on the landowner's land for the collecting of naturally shed antlers and horns of elk, deer, and antelope or the
antlers or horns of a game animal, except for mountain sheep as provided in 87-3-315, 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.

(2) A person found in violation of this section:

(a) for a first offense, must be given a warning;

(b) for a second offense, is guilty of a misdemeanor and may be fined not less than twice the cost of a conservation license. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current shed hunting license and the privilege to shed hunt in this state for a period of time set by the court.

(c) for a third offense, is guilty of a misdemeanor and may be fined not less than \$500. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current shed hunting license and the privilege to shed hunt in this state for a period of time set by the court.

NEW SECTION. Section 2. Class F-2--nonresident shed collecting license -- penalty. (1) A person who is not a resident as defined in 87-2-102, and who is 12 years of age or older shall obtain, on payment of a \$50 fee, ~~is entitled to receive~~ a Class F-2 license ~~that, except as provided in subsection (2), authorizes the holder of the license to collect and possess~~ naturally shed antlers and horns of elk, deer, and antelope and the antlers or horns of a game animal, except for mountain sheep as provided in 87-3-315, 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 as prescribed by rules of the department on publicly accessible land.

(2) ~~A license is not required by a landowner, their immediate family, or the landowner's employees on the landowner's land for the collecting of naturally shed antlers and horns of elk, deer, and antelope or the antlers or horns of a game animal, except for mountain sheep as provided in 87-3-315, 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.~~

(2) A person found in violation of this section:

(a) for a first offense, must be given a warning;

(b) for a second offense, is guilty of a misdemeanor and may be fined not less than twice the cost of a Class F-2 license. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current shed hunting license and the privilege to shed hunt in this state for a period of time set by the court.

1 (c) for a third offense, is guilty of a misdemeanor and may be fined not less than \$500. In addition,
2 the person, upon conviction or forfeiture of bond or bail, shall forfeit any current shed hunting license and the
3 privilege to shed hunt in this state for a period of time set by the court.
4

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

6 **"87-1-201. Powers and duties.** (1) Except as provided in subsection (13), the department shall
7 supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing
8 animals of the state and may implement voluntary programs that encourage hunting access on private lands
9 and that promote harmonious relations between landowners and the hunting public. The department possesses
10 all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state
11 for the enforcement of the fish and game laws and the rules adopted by the department.

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

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

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

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

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

(i) wardens; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) The department shall report current sage grouse population numbers, including the number of leks, to the Montana sage grouse oversight team, established in 2-15-243, and the environmental quality council in accordance with 5-11-210 on an annual basis. The report must include seasonal and historic 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:

(a) fix seasons, bag limits, possession limits, and season limits;

(b) open or close or shorten or lengthen seasons on:

(i) any species of game, bird, fish, or fur-bearing animal as defined by 87-2-101; and

(ii) the collecting of naturally shed antlers and horns of elk, deer, and antelope or the antlers or horns of a game animal, except for mountain sheep as provided in 87-3-315, 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 on publicly accessible lands;

(c) declare areas open to the hunting of deer, antelope, elk, moose, sheep, goat, mountain lion,

bear, wild buffalo or bison, and wolf by persons holding an archery stamp and the required license, permit, or tag and designate times when only bows and arrows may be used to hunt deer, antelope, elk, moose, sheep, goat, mountain lion, bear, wild buffalo or bison, and wolf in those areas;

(d) subject to the provisions of 87-1-301(6), restrict areas and species to hunting with only specified hunting arms, including bow and arrow, for the reasons of safety or of providing diverse hunting opportunities and experiences; and

(e) declare areas open to special license holders only and issue special licenses in a limited number when the commission determines, after proper investigation, that a special season is necessary to ensure the maintenance of an adequate supply of game birds, fish, or animals or fur-bearing animals. The commission may declare a special season and issue special licenses when game birds, animals, or fur-bearing animals are causing damage to private property or when a written complaint of damage has been filed with the commission by the owner of that property. In determining to whom special licenses must be issued, the commission may, when more applications are received than the number of animals to be killed, award permits to those chosen under a drawing system. The procedures used for awarding the permits from the drawing system must be determined by the commission.

(2) The commission may adopt rules governing the use of livestock and vehicles by archers during special archery seasons.

(3) Subject to the provisions of 87-5-302 and subsection (7) of this section, the commission may divide the state into fish and game districts and create fish, game, or fur-bearing animal districts throughout the state. The commission may declare a closed season for hunting, fishing, or trapping in any of those districts and later may open those districts to hunting, fishing, or trapping.

(4) The commission may declare a closed season on any species of game, fish, game birds, or fur-bearing animals threatened with undue depletion from any cause. The commission may close any area or district of any stream, public lake, or public water or portions thereof to hunting, trapping, or fishing for limited periods of time when necessary to protect a recently stocked area, district, water, spawning waters, spawn-taking waters, or spawn-taking stations or to prevent the undue depletion of fish, game, fur-bearing animals, game birds, and nongame birds. The commission may open the area or district upon consent of a majority of the property owners affected.

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

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

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

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

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

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

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

(10) For an area controlled by the department that has date restrictions for its use, the commission shall allow a resident, as defined in 87-2-102, with a license, as described in [section 1], access to the area 8 days in advance of a nonresident with a license, as described in [section 2], for the collecting of naturally shed antlers and horns of elk, deer, and antelope or the antlers or horns of a game animal, except for mountain sheep as provided in 87-3-315, 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 5. Section 87-2-101, MCA, is amended to read:

1 **"87-2-101. Definitions.** As used in Title 87, chapter 3, and this chapter, unless the context clearly
2 indicates otherwise, the following definitions apply:

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

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

8 (b) The term does not include:

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

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

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

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

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

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

23 (6) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or
24 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
25 purpose of shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the
26 laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently
27 taken. The term includes an attempt to take or harvest by any means, including but not limited to pursuing,
28 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 authorized agent of the director. The applicant shall state the applicant's name, age, [last four digits of the applicant's social security number,] street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and other facts, data, or descriptions as may be required by the department. An applicant for a resident license shall

1 present a valid Montana driver's license, Montana driver's examiner's identification card, tribal identification
2 card, or other identification specified by the department to substantiate the required information. It is the
3 applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase
4 a license. Except as provided in subsections (2) through (4), the statements made by the applicant must be
5 subscribed to by the applicant.

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

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

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

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

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

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

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

25
26 **Section 7.** Section 87-2-201, MCA, is amended to read:

27 **"87-2-201. Conservation license required and prerequisite for other licenses.** (1) Except as
28 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

1 having purchased a conservation license as provided in this part:

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

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

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

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

10

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

12 **"87-2-202. Application -- fee.** (1) Except as provided in 87-2-817(2), a conservation license must be
13 sold upon written application. The application must contain the applicant's name, age, [last four digits of the
14 applicant's social security number,] street address of permanent residence, mailing address, qualifying length of
15 time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must
16 be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's
17 examiner's identification card, a tribal identification card, or other identification specified by the department to
18 substantiate the required information when applying for a conservation license. It is the applicant's burden to
19 provide documentation establishing the applicant's identity and qualifications to purchase a conservation
20 license or to receive a free conservation license pursuant to 87-2-817(2).

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

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

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

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

1 donation may not be collected.

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

5 (5) The department shall delete the applicant's social security number in any electronic database
6 [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or
7 is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001. The \$2 conservation license fee increases
8 in subsections (3)(a) and (3)(b) enacted by Ch. 596, L. 2003, are void on occurrence of contingency--sec. 8,
9 Ch. 596, L. 2003.)"

10

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

12 **"87-6-202. Unlawful possession, shipping, or transportation of game fish, bird, game animal, or**
13 **fur-bearing animal.** (1) A person may not possess, ship, or transport all or part of any game fish, bird, game
14 animal, or fur-bearing animal that was unlawfully killed, captured, or taken, whether killed, captured, or taken in
15 Montana or outside of Montana.

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

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

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

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

25 (d) paddlefish roe as caviar under the provisions of 87-4-601;

26 (e) captive-reared migratory waterfowl; or

27 (f) salvaged antelope, deer, elk, or moose subject to 87-3-145.

28 (3) A person may not possess, ship, or transport live fish away from the body of water in which the

1 fish were taken except:

2 (a) as provided in Title 87, chapter 4, part 6, or as specifically permitted by the laws of this state;

3 (b) fish species approved by the commission for use as live bait and subject to any restrictions
4 imposed by the commission; or

5 (c) within the boundaries of the eastern Montana fishing district, as established by commission
6 regulations.

7 (4) Except as provided in 87-3-310, possession of all or part of a dead game fish, bird, game
8 animal, or fur-bearing animal is prima facie evidence that the person or persons in whose possession the fish,
9 bird, or animal is found killed, captured, or took the fish, bird, or animal.

10 (5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed,
11 shipped, or transported must be determined from the schedules of restitution values in 87-6-906 and 87-6-907.
12 The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or
13 transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as
14 defined in 46-1-202, may be aggregated in determining the value.

15 (6) The following penalties apply for a violation of this section:

16 (a) If a person is convicted or forfeits bond or bail after being charged with unlawful possession,
17 shipping, or transportation of a game fish or bird and if the value of all or part of the game fish or bird or
18 combination thereof does not exceed \$1,000, the person shall be fined not less than \$50 or more than \$1,000
19 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person
20 may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the
21 privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes
22 for a period of time set by the court.

23 (b) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or
24 transportation of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or
25 any part of these animals and if the value of all or part of the animal or combination thereof does not exceed
26 \$1,000, the person shall be fined not less than \$500 or more than \$2,000 or be imprisoned in the county
27 detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting,
28 fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this

state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

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

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

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

(f) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, game animal, or fur-bearing animal or combination thereof exceeds \$1,000, the person shall be fined not more than \$50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this

state for not less than 3 years up to a revocation for life from the date of conviction.

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

(8) As used in this section:

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

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

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

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

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

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

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

(3) This section does not prohibit the:

(a) sale, purchase, or exchange of hides, heads, or mounts of game fish, birds, game animals, or fur-bearing animals that have been lawfully killed, captured, or taken, 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) sale, purchase, or exchange of 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) sale, purchase, or exchange of 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;

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

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

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

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

(6) As used in this section:

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

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

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

Amendment - 1st Reading-white - Requested by: Jill Cohenour - (H) Fish, Wildlife and Parks

- 2025

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Drafter: Maxwell Parson,

HB0353.001.001

1 [sections 1 and 2].

2 - END -

AMENDED