

HOUSE BILL NO. 247

INTRODUCED BY LAVIN, FITZPATRICK, GALT, GLIMM, RANDALL, REGIER, REICHNER

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING PERMITS TO SALVAGE CERTAIN GAME ACCIDENTALLY KILLED BY VEHICLES; REVISING POWERS OF THE FISH, WILDLIFE, AND PARKS COMMISSION; REVISING RULES FOR UNLAWFUL POSSESSION, SHIPPING, AND TRANSPORTATION OF GAME; AND AMENDING SECTIONS 87-1-301 AND 87-6-202, MCA."

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

**NEW SECTION. Section 1. Permit to salvage game animals, fur-bearing animals, and game birds.**

(1) A peace officer may issue permits to applicants for the purpose of salvaging ~~game animals, fur-bearing animals, migratory game birds, and upland game birds, as those terms are defined in 87-2-101, ANTELOPE, DEER, ELK, OR MOOSE~~ that have been accidentally killed as a result of a vehicle collision.

(2) For purposes of this section, "peace officer" means a sheriff, deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game warden, park ranger, campus security officer, or airport police officer.

**Section 2.** Section 87-1-301, MCA, is amended to read:

**"87-1-301. Powers of commission.** (1) Except as provided in subsection (7), the commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) except as provided in 87-1-303(3), shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in 87-1-209(4);

(f) shall review and approve the budget of the department prior to its transmittal to the budget office;

(g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but

1 less than \$5,000; and

2 (h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided  
3 in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as  
4 provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider  
5 landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular  
6 hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal  
7 opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting  
8 district where a restriction on elk hunting on public property is proposed.

9 ~~(i) shall set the policies for the salvage of game animals, fur-bearing animals, migratory game birds, and~~  
10 ~~upland game birds~~ ANTELOPE, DEER, ELK, OR MOOSE pursuant to [section 1].

11 (2) The commission may adopt rules regarding the use and type of archery equipment that may be  
12 employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in  
13 archery equipment change.

14 (3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons,  
15 conditions, programs, or other provisions that the commission considers appropriate to promote or enhance  
16 hunting by Montana's youth and persons with disabilities.

17 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

18 (i) separate deer licenses from nonresident elk combination licenses;

19 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the  
20 deer tag;

21 (iii) condition the use of the deer licenses; and

22 (iv) limit the number of licenses sold.

23 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and  
24 appropriate to regulate the harvest by nonresident big game combination license holders:

25 (i) for the biologically sound management of big game populations of elk, deer, and antelope;

26 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

27 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321  
28 through 87-1-325.

29 (5) (a) Subject to the provisions of 87-2-115, the commission may adopt rules establishing license  
30 preference systems to distribute hunting licenses and permits:

1 (i) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant  
2 who has been unsuccessful for a shorter period of time; and

3 (ii) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(a), "qualifying  
4 landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by  
5 the commission.

6 (b) The commission shall square the number of points purchased by an applicant per species when  
7 conducting drawings for licenses and permits.

8 (6) (a) The commission may adopt rules to:

9 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

10 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting  
11 districts.

12 (b) The commission shall consider, but is not limited to consideration of, the following factors:

13 (i) harvest of lions by resident and nonresident hunters;

14 (ii) history of quota overruns;

15 (iii) composition, including age and sex, of the lion harvest;

16 (iv) historical outfitter use;

17 (v) conflicts among hunter groups;

18 (vi) availability of public and private lands; and

19 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

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

22 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the  
23 establishment of special archery seasons;

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

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

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

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

29

30 **Section 3.** Section 87-6-202, MCA, is amended to read:

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

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

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

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

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

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

14           (e) captive-reared migratory waterfowl; or

15           (f) ~~salvaged game animals, fur-bearing animals, migratory game birds, or upland game birds~~ ANTELOPE,  
 16 DEER, ELK, OR MOOSE subject to [section 1].

17           (3) A person may not possess, ship, or transport live fish away from the body of water in which the fish  
 18 were taken except:

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

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

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

24           (4) The possession of all or part of a dead game fish, bird, game animal, or fur-bearing animal is prima  
 25 facie evidence that the person or persons in whose possession the fish, bird, or animal is found killed, captured,  
 26 or took the fish, bird, or animal.

27           (5) The value of a game fish, bird, game animal, or fur-bearing animal that is unlawfully possessed,  
 28 shipped, or transported must be determined from the schedules of restitution values in 87-6-906 and 87-6-907.  
 29 The value of game fish, birds, game animals, or fur-bearing animals that are unlawfully possessed, shipped, or  
 30 transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined

1 in 46-1-202, may be aggregated in determining the value.

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

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

9 (b) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or  
10 transportation of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or  
11 any part of these animals and if the value of all or part of the animal or combination thereof does not exceed  
12 \$1,000, the person shall be fined not less than \$500 or more than \$2,000 or be imprisoned in the county detention  
13 center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing,  
14 recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30  
15 months from the date of conviction or forfeiture unless the court imposes a longer period.

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

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

30 (e) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping,

1 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  
2 or combination thereof does not exceed \$1,000, the person shall be fined not less than \$100 or more than \$1,000  
3 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall  
4 forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap  
5 in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and  
6 any pelts possessed unlawfully must be confiscated.

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

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

15 (8) As used in this section:

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

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

19 (9) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through  
20 87-6-907."

21  
22 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an  
23 integral part of Title 87, chapter 3, and the provisions of Title 87, chapter 3, apply to [section 1].

24 - END -