

SENATE BILL NO. 100

INTRODUCED BY C. LARSEN

BY REQUEST OF THE DEPARTMENT OF LIVESTOCK

A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING THE BOARD OF LIVESTOCK THE POWER TO CONTROL AND ERADICATE FERAL SWINE; PROVIDING RULEMAKING AUTHORITY; PROHIBITING THE POSSESSION, HUNTING, AND OTHER ACTIONS RELATED TO FERAL SWINE; ESTABLISHING LIMITS ON COST OF DEPARTMENT OF LIVESTOCK ENFORCEMENT ACTIONS; ESTABLISHING PENALTIES; AMENDING SECTIONS 81-4-207 AND 81-4-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 5 ~~6~~], unless the context indicates otherwise, the following definitions apply:

(1) "Board" means the board of livestock provided for in 2-15-3102.

(2) "Feral swine" means a hog, boar, or pig that appears to be untamed, undomesticated, or in a wild state.

NEW SECTION. SECTION 2. CONTROL OF FERAL SWINE. A PERSON, A STATE AGENCY, OR A FEDERAL AGENCY AUTHORIZED BY THE STATE OR THE FEDERAL GOVERNMENT IS ALLOWED TO CONTROL OR ERADICATE FERAL SWINE.

NEW SECTION. Section 3. Authority -- costs -- rulemaking. (1) The board is authorized to control and eradicate feral swine and may establish rules to implement ~~the provisions of this part~~ THE REPORTING REQUIREMENTS OF [SECTION 5].

(2) THE COST OF ENFORCEMENT ACTIONS UNDER [SECTIONS 1 THROUGH 6] MUST BE PAID FROM THE GENERAL FUND IF THE COST TO THE DEPARTMENT EXCEEDS \$1,000 AND FEDERAL FUNDS ARE NOT AVAILABLE TO PAY THE EXCESS COSTS.

NEW SECTION. Section 4. Prohibitions. (4) The following actions are prohibited:

(a)(1) importing, transporting, or possessing live feral swine;



- 1           ~~(b)(2)~~ intentionally, knowingly, or negligently allowing swine to live in a feral state;
- 2           ~~(c)(3)~~ except as provided in ~~[section 4] and subsection (2) of this section~~ [SECTIONS 2 AND 5], hunting,
- 3 trapping, or killing a feral swine or assisting in hunting, trapping, or killing a feral swine;
- 4           ~~(d)(4)~~ intentionally feeding a feral swine;
- 5           ~~(e)(5)~~ expanding the range of a feral swine; and
- 6           ~~(f)(6)~~ profiting from the release, hunting, trapping, or killing of a feral swine.
- 7           ~~(2) A person, a state agency, or a federal agency authorized by the state or the federal government is~~
- 8 ~~allowed to control or eradicate feral swine.~~

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10           **NEW SECTION. Section 5. Presence of feral swine -- notification -- immediate threat.** (1) Except

11 as provided in subsection (2), a person who believes feral swine are present on private or public property shall

12 notify the board and, if authorized, assist in the control or eradication of the feral swine.

13           (2) A person or the person's agent who encounters feral swine on property owned or leased by that

14 person may immediately eradicate the feral swine if the feral swine:

- 15           (a) poses an immediate threat of harm to a person or property; or
- 16           (b) will expand its range without immediate eradication.

17           (3) A person who eradicates a feral swine pursuant to subsection (2) shall notify the board as soon as

18 practicable, but no later than the limit established by board rule. The person shall follow instructions provided by

19 the board, including but not limited to the handling, preservation for testing, or disposal of the carcass.

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21           **NEW SECTION. Section 6. Penalties for violations.** A person violating the provisions of ~~[sections 4~~

22 ~~through 5]~~ [SECTION 4] is subject to:

- 23           (1) a fine of at least \$2,000 but not more than \$10,000 for each violation; and
- 24           (2) repayment of costs incurred by a state or federal agency for the control or eradication of a feral swine
- 25 as a result of the person's violation.

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27           **Section 7.** Section 81-4-207, MCA, is amended to read:

28           **"81-4-207. Castration of animals running at large -- notice to owner -- expense and charges.** (1)

29 ~~A~~ Except as provided in subsection (3), a person may take up and secure any animal found running at large on

30 the open range. After taking it up the person shall, without unnecessary delay, post at the United States post

1 office or as near as may be to the place where the animal was taken up a notice truly dated and subscribed by  
 2 the person or the person's agent to the effect that the animal, describing it by marks and brands, if any, color, and  
 3 sex, was taken up on the day named while it was running at large on the open range in the county, naming the  
 4 county, and that, unless claimed and removed within 5 days after the date of the posting, the animal will be  
 5 castrated at the expense of the owner. If the owner, person, firm, corporation, or association having management  
 6 or control of the animal is known to the person who took the animal up, personal service of the notice upon the  
 7 owner, person, firm, corporation, or association having management or control of the animal is the equivalent to  
 8 the posting. The notice, if personally served, may state that, unless the animal is claimed and removed within 2  
 9 days after the date of the notice served personally, the animal will be castrated at the expense of the owner.

10 (2) If the animal taken up is not claimed and removed within 5 days or 2 days, as the case may be, it may  
 11 lawfully be castrated in the usual manner and doing no more harm than is necessary. The expense of castration  
 12 must be paid by the owner. If the animal is claimed within the time prescribed, the claimant shall pay to the person  
 13 who took the animal up the reasonable expense of keeping and feeding the animal since it was taken up and also  
 14 the sum of \$5 for the taking up and giving of the notice. Upon making the payments, the claimant shall  
 15 immediately remove and take away the animal.

16 (3) A person shall report a swine running at large on the open range to the board. The board shall  
 17 determine if the swine is an animal running at large subject to this section or a feral swine subject to the  
 18 provisions of [sections 1 through 5 6]."

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20 **Section 8.** Section 81-4-208, MCA, is amended to read:

21 **"81-4-208. Killing of animal running at large -- notice -- posting and service.** (1) Except as  
 22 provided in subsection (3), if an animal running at large cannot, by reasonable effort, be captured, taken up, or  
 23 corralled, it may lawfully be killed unless the owner or person having the management or control of it takes the  
 24 animal off the open range and restrains it from running at large within 10 days after notice is given as provided  
 25 in this section. The notice must be signed by one or more taxpayers of the vicinity of the range on which the  
 26 animal is at large and must be substantially as follows:

27 "To whom it may concern:

28 Take notice, that a certain (stallion, ridgeling, unaltered male mule, or jackass, as the case may be) is  
 29 running at large on the open range (identify the range by general description) in .... County, Montana. Unless the  
 30 animal is removed from the range and restrained from running at large on open range within 10 days after the

1 date of this notice, it will be killed.

2 (Date) (Signature or signatures)"

3 (2) The notice must be posted at the post office nearest the place where the animal was last seen on  
4 the range and similar notices must be posted in two other of the most public places in the vicinity of the range,  
5 and the notice must at once be mailed to the owner or person having management or control of the animal if the  
6 owner's or person's name and address are known.

7 (3) A person shall report a swine running at large to the board. The board shall determine if the swine  
8 is an animal running at large subject to this section or a feral swine subject to the provisions of [sections 1 through  
9 5 6]."

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11 NEW SECTION. Section 9. Codification instruction. [Sections 1 through 5 6] are intended to be  
12 codified as an integral part of Title 81, and the provisions of Title 81 apply to [sections 1 through 5 6].

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14 NEW SECTION. Section 10. Effective date. [This act] is effective on passage and approval.

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