

SENATE BILL NO. 397

INTRODUCED BY BOULANGER, BRENDEN, THOMAS

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3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING PROVISIONAL HUNTING AND TRAPPING
5 SEASONS FOR CERTAIN LARGE PREDATORS WHEN RESTRICTIVE HARVEST REGULATIONS FOR ELK
6 ARE ADOPTED; ALLOWING USE OF HOUNDS ~~AND BAIT~~ WHEN HUNTING BLACK BEARS ~~DURING A~~
7 ~~PROVISIONAL SEASON; ALLOWING USE OF HOUNDS WHEN HUNTING AND~~ MOUNTAIN LIONS DURING
8 A PROVISIONAL SEASON; CREATING BEAR-BAITING ~~AND~~ A HOUND HUNTING LICENSES LICENSE;
9 ESTABLISHING WOLF TRAPPING REGULATIONS; ESTABLISHING REDUCED COST NONRESIDENT
10 LICENSES; PROVIDING PENALTIES; PROVIDING AN EXCEPTION TO THE REQUIREMENT THAT HUNTERS
11 WEAR ORANGE AND THE PROHIBITION ON WASTE OF GAME; AMENDING SECTIONS 87-1-301, 87-1-304,
12 87-2-507, 87-2-603, 87-2-701, 87-2-702, 87-5-111, 87-6-205, 87-6-301, 87-6-401, 87-6-404, ~~AND~~ 87-6-414, AND
13 87-6-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

16
17 NEW SECTION. **Section 1. Provisional seasons for certain large predators -- regulations --**
18 **nonresident licenses.** (1) When the commission adopts restrictive harvest regulations for elk in a hunting district
19 pursuant to the statewide elk management plan, the commission shall open the following provisional hunting and
20 trapping seasons in that district:

21 (a) spring black bear hunting from April 15 to June 30, during which hounds may be used pursuant to
22 [section 2] ~~and bait may be used pursuant to [section 3]~~;

23 (b) fall black bear hunting from September 1 to December 1, ~~during which bait may be used pursuant~~
24 ~~to [section 3]~~. Hounds may not be used during this season.

25 (c) winter mountain lion hunting from December 1 to April 15, during which hounds may be used
26 pursuant to [section 2]. A person who takes a mountain lion during a provisional season is not required to
27 purchase a trophy license in order to possess and transport the carcass.

28 (d) wolf hunting and trapping from September 1 to June 30. The trapping of wolves during a provisional
29 season must be conducted pursuant to [section 4 3]. ~~Except as provided in [section 4], bait may not be used~~
30 ~~during this season, but wolves may be taken incidentally to the use of bait for bears under subsection (1)(a) or~~

1 ~~(1)(b) of this section.~~

2 (2) (a) Except as provided in subsection (2)(b):

3 (i) the commission may not limit the number of licenses or permits available for use in a hunting district
4 during a provisional season opened pursuant to subsection (1); and

5 (ii) a provisional season must be held in a qualifying hunting district until the commission adopts standard
6 or liberal harvest regulations for elk in that district for 2 consecutive years.

7 (b) The commission may close or elect not to open a provisional wolf season if the statewide gray wolf
8 population falls below 200 wolves.

9 (3) The department shall issue nonresident black bear hunting, mountain lion hunting, and wolf hunting
10 and trapping licenses to be used during a provisional season for a fee of \$50 each. These licenses:

11 (a) may be issued only to a nonresident who is 12 years of age or older or who will turn 12 years old
12 before or during the provisional season for which the license is issued;

13 (b) except for wolf hunting licenses, may be used only in a hunting district with a provisional season; and

14 (c) entitle a holder to hunt the animal authorized by the license and to possess the carcass of that animal
15 as authorized by this section and commission rules.

16 (4) A person who obtains a black bear, mountain lion, wolf, or trapping license issued under Title 87,
17 chapter 2, may use that license in a hunting district that has a provisional season in accordance with the
18 provisions of this section.

19 (5) A person who obtains a black bear, mountain lion, or wolf hunting license under Title 87, chapter 2,
20 and under this section may take only one animal of that species in a license year except as otherwise allowed
21 by commission rules.

22 (6) A person hunting during a provisional season is not required to wear hunter orange under 87-6-414
23 outside of the general deer and elk season.

24 (7) A person hunting black bear during a provisional season may use electronic motion-tracking devices
25 or mechanisms.

26 (8) A person responsible for the death of a black bear during a provisional season may not abandon the
27 head or hide in the field.

28

29 **NEW SECTION. Section 2. Hound hunting license for provisional season.** (1) A person who is 12
30 years of age or older or who will turn 12 years old before or during the season for which the license is issued may,

1 upon payment of the following fee, receive a hound hunting license that entitles the holder to pursue black bears
2 and mountain lions with the aid of a dog or dogs in accordance with this section during a provisional season:

3 (a) resident, \$12.75;

4 (b) nonresident, \$169.75.

5 (2) A hound hunting license issued under this section is valid for the calendar year in which it is issued.

6 (3) (a) Except as provided in subsection (3)(b), when dogs are used to hunt black bears or mountain
7 lions during a provisional season, the following persons must have a valid hound hunting license and a valid black
8 bear or mountain lion hunting license in their possession:

9 (i) a person who owns pursuit dogs;

10 (ii) a person who has control of pursuit dogs owned by another person; and

11 (iii) a person who harvests a black bear or mountain lion with the use of dogs.

12 (b) A client of a licensed outfitter is not required to obtain a hound hunting license under this section.

13 (4) (a) Except as provided in subsection (4)(b), no more than 50 nonresident hound hunting licenses may
14 be made available under this section.

15 (b) If a person who has moved into Montana but who does not yet qualify as a resident under 87-2-102
16 obtains a nonresident hound hunting license under this section, the issuance of that license does not count
17 toward the restriction established in subsection (4)(a) if the person provides a notarized affidavit as proof of the
18 person's intention to become a bona fide resident.

19
20 ~~NEW SECTION. Section 3. Bear baiting license for provisional season -- regulations. (1) A person~~
21 ~~who is 12 years of age or older or who will turn 12 years old before or during the season for which the license is~~
22 ~~issued may, upon payment of the following fee, receive a bear baiting license that entitles the holder to use bait~~
23 ~~in accordance with this section to hunt black bears during a provisional season:~~

24 ~~(a) resident, \$12.75;~~

25 ~~(b) nonresident, \$31.75.~~

26 ~~(2) A bear baiting license issued under this section is valid for the calendar year in which it is issued. A~~
27 ~~person may only obtain one bear baiting license per calendar year.~~

28 ~~(3) Bait may be used only to hunt black bears and only during a provisional season under the following~~
29 ~~conditions:~~

30 ~~(a) No bait or bait containers may be placed for the purpose of attracting or taking black bears before~~

- 1 the opening of a provisional season:
- 2 ~~—— (b) All bait containers, any structures constructed at a bait site, and all materials must be removed and~~
3 ~~all excavations refilled no more than 7 days after the provisional season closes.~~
- 4 ~~—— (c) A person may maintain up to three bait sites, except that the number of bait sites maintained by~~
5 ~~outfitters may be specified by the land management agency in the outfitter's operating plan. Possession of a bear~~
6 ~~baiting license does not exempt the holder of the license from any restrictions placed on users of federal, state,~~
7 ~~or private lands.~~
- 8 ~~—— (d) Each bait site must be visibly marked at the nearest tree or on the bait container using a tag supplied~~
9 ~~by the department.~~
- 10 ~~—— (e) A bait site may not be located:~~
- 11 ~~—— (i) within 200 feet of any water, including a lake, pond, reservoir, or year-round, free-flowing stream or~~
12 ~~spring;~~
- 13 ~~—— (ii) within 200 yards of any maintained trail;~~
- 14 ~~—— (iii) within 200 yards of any road; or~~
- 15 ~~—— (iv) within a half mile of any designated campground, picnic area, administrative site, or dwelling.~~
- 16 ~~—— (f) Bait may be contained in a single metal container with a maximum size of 55 gallons that is securely~~
17 ~~attached at a bait site.~~
- 18 ~~—— (g) Except as provided in subsection (3)(f), bait may not be contained:~~
- 19 ~~—— (i) within paper, plastic, glass, metal, wood, or any other nonbiodegradable material; or~~
- 20 ~~—— (ii) in any excavated hole greater than 4 feet in diameter.~~
- 21 ~~—— (4) (a) Except as provided in subsection (4)(b), a person may not hunt over a bait site that does not~~
22 ~~comply with the provisions of this section.~~
- 23 ~~—— (b) Guides and clients of outfitters are not required to obtain a bear baiting license.~~
- 24 ~~—— (5) (a) Except as provided in subsection (5)(b), for the purposes of this section, the term "bait" means~~
25 ~~any substance placed to attract black bears.~~
- 26 ~~—— (b) The term does not include:~~
- 27 ~~—— (i) any part of any game animal or game fish, including from a commercial domestic source, such as~~
28 ~~pen-raised game birds or animals and hatchery-raised game fish; or~~
- 29 ~~—— (ii) salt in any form, liquid or solid.~~
- 30

1 **NEW SECTION.** **Section 3. Wolf trapping regulations for provisional season.** (1) A person trapping
2 wolves during a provisional season may do so only in accordance with [section 1], this section, and any other
3 applicable trapping rule adopted by the commission.

4 (2) A person may use only ground sets when trapping wolves during a provisional season. Ground sets
5 include any foothold trap, body-gripping trap, or snare originally set in or on the land, including any trap elevated
6 up to a maximum of 36 inches above the natural ground level.

7 (3) Snares must be equipped with diverters and a breakaway device or stop within the loop.

8 (4) The inside jaw spread of a foothold trap may not exceed 9 inches.

9 (5) Traps must be checked at least every 72 hours.

10 (6) A gray wolf trapped under this section may be dispatched at any time of day or night.

11 (7) (a) Except as provided in subsection (7)(b), a person may not:

12 (i) use any ground set within 30 feet of any visible bait;

13 (ii) use a dirt hole set with bait unless the bait remains covered at all times to protect raptors and other
14 meat-eating birds from being caught accidentally;

15 (iii) trap wolves within 200 yards of the perimeter of any designated dump or sanitary landfill;

16 (iv) use live animals as bait or an attractant; or

17 (v) use any part of a domestic or wild origin game bird, upland game bird, game fish, game animal, or
18 protected nongame wildlife as bait or an attractant.

19 (b) A person may trap wolves more than 30 feet:

20 (i) from a naturally killed big game species as long as the carcass is left undisturbed;

21 (ii) from a legally salvaged road kill; and

22 (iii) from a wolf carcass from which the hide has been removed.

23

24 **Section 4.** Section 87-1-301, MCA, is amended to read:

25 **"87-1-301. Powers of commission.** (1) Except as provided in subsection (7) and subject to the
26 provisions of [section 1], the commission:

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

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

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

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

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

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

7 (g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but
8 less than \$5,000; and

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

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

19 (3) ~~The Subject to [section 1], the~~ commission may adopt rules regarding the establishment of special
20 licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate
21 to promote or enhance hunting by Montana's youth and persons with disabilities.

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

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

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

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

27 (iv) limit the number of licenses sold.

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

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

1 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and
2 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321
3 through 87-1-325.

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

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

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

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

13 (6) (a) ~~The~~ Except as provided in [section 1], the commission may adopt rules to:

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

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

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

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

19 (ii) history of quota overruns;

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

21 (iv) historical outfitter use;

22 (v) conflicts among hunter groups;

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

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

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

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

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

- 1 (c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);
2 (d) the regulation of migratory game bird hunting pursuant to 87-3-403; or
3 (e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h)."
4

5 **Section 5.** Section 87-1-304, MCA, is amended to read:

6 **"87-1-304. Fixing of seasons and bag and possession limits.** (1) Subject to the provisions of [section
7 1] and 87-5-302, the commission may:

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

9 (b) open or close or shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing
10 animal as defined by 87-2-101;

11 (c) declare areas open to the hunting of deer, antelope, elk, moose, sheep, goat, mountain lion, bear,
12 wild buffalo or bison, and wolf by persons holding an archery stamp and the required license, permit, or tag and
13 designate times when only bows and arrows may be used to hunt deer, antelope, elk, moose, sheep, goat,
14 mountain lion, bear, wild buffalo or bison, and wolf in those areas;

15 (d) subject to the provisions of 87-1-301(7), restrict areas and species to hunting with only specified
16 hunting arms, including bow and arrow, for the reasons of safety or of providing diverse hunting opportunities and
17 experiences; and

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

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

29 (3) Subject to the provisions of 87-5-302, the commission may divide the state into fish and game
30 districts and create fish, game, or fur-bearing animal districts throughout the state. The commission may declare

1 a closed season for hunting, fishing, or trapping in any of those districts and later may open those districts to
2 hunting, fishing, or trapping.

3 (4) ~~The~~ Except as provided in [section 1], the commission may declare a closed season on any species
4 of game, fish, game birds, or fur-bearing animals threatened with undue depletion from any cause. The
5 commission may close any area or district of any stream, public lake, or public water or portions thereof to
6 hunting, trapping, or fishing for limited periods of time when necessary to protect a recently stocked area, district,
7 water, spawning waters, spawn-taking waters, or spawn-taking stations or to prevent the undue depletion of fish,
8 game, fur-bearing animals, game birds, and nongame birds. The commission may open the area or district upon
9 consent of a majority of the property owners affected.

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

12 (6) The commission may declare certain fishing waters closed to fishing except by persons under 15
13 years of age. The purpose of this subsection is to provide suitable fishing waters for the exclusive use and
14 enjoyment of juveniles under 15 years of age, at times and in areas the commission in its discretion considers
15 advisable and consistent with its policies relating to fishing."
16

17 **Section 6.** Section 87-2-507, MCA, is amended to read:

18 **"87-2-507. Class D-1--nonresident mountain lion license.** Except as provided in [section 1] or as
19 otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years
20 of age or older or who will turn 12 years old before or during the season for which the license is issued, upon
21 payment of a fee of \$320 may receive a Class D-1 license that entitles a holder who is 12 years of age or older
22 to hunt mountain lion and possess the carcass of the mountain lion as authorized by department rules. If a holder
23 of a valid mountain lion license under this section kills a mountain lion, the licensee shall purchase a trophy
24 license for a fee of \$50 within 10 days after the date of kill. The trophy license authorizes the holder to possess
25 and transport the trophy."
26

27 **Section 7.** Section 87-2-603, MCA, is amended to read:

28 **"87-2-603. Class C-2--nonresident trapper's license.** (1) ~~A~~ Except as provided in [section 1], a person
29 not a resident, as defined in 87-2-102, who is 12 years of age or older, upon making application and payment of
30 a fee of \$250 to the department, is entitled to a nonresident trapper's license that authorizes the holder to trap

1 and snare predatory animals and nongame wildlife within the state. ~~The~~ Except as provided in [section 1(1)(d)],
2 the trapping or snaring is permitted only after October 15 of each license year and in the manner provided by law
3 and the rules of the commission and at the places that may be designated in the license.

4 (2) A person not a resident whose state of residence does not sell nonresident trapper's licenses to
5 Montanans may not be issued a Class C-2 license under subsection (1)."

6

7 **Section 8.** Section 87-2-701, MCA, is amended to read:

8 **"87-2-701. Special licenses.** (1) An applicant who is 12 years of age or older or who will turn 12 years
9 old before or during the season for which the license is issued and is the holder of a resident wildlife conservation
10 license or a nonresident wildlife conservation license may apply for a special license that, in the judgment of the
11 department, is to be issued and shall pay the following fees:

- 12 (a) moose--resident, \$125; nonresident, \$750;
13 (b) mountain goat--resident, \$125; nonresident, \$750;
14 (c) mountain sheep--resident, \$125; nonresident, \$750;
15 (d) antelope--resident, \$14; nonresident, \$200;
16 (e) grizzly bear--resident, \$150; nonresident, \$1,000;
17 (f) except as provided in [section 1], black bear--nonresident, \$350;
18 (g) wild buffalo or bison--resident, \$125; nonresident, \$750.

19 (2) If a holder of a valid special grizzly bear license who is 12 years of age or older kills a grizzly bear,
20 the person shall purchase a trophy license for a fee of \$50 within 10 days after the date of the kill. The trophy
21 license authorizes the holder to possess and transport the trophy.

22 (3) Except as provided in 87-5-302 for special grizzly bear licenses, special licenses must be issued in
23 a manner prescribed by the department."

24

25 **Section 9.** Section 87-2-702, MCA, is amended to read:

26 **"87-2-702. Restrictions on special licenses -- availability of bear and mountain lion licenses.** (1)
27 A person who has killed or taken any game animal, except a deer, an elk, or an antelope, during the current
28 license year is not permitted to receive a special license under this chapter to hunt or kill a second game animal
29 of the same species.

30 (2) The commission may require applicants for special permits authorized by this chapter to obtain a valid

1 big game license for that species for the current year prior to applying for a special permit.

2 (3) A person may take only one grizzly bear in Montana with a license authorized by 87-2-701.

3 (4) (a) Except as provided in 87-1-271(2), a person who receives a moose, mountain goat, or limited
4 mountain sheep license, as authorized by 87-2-701, with the exception of an antlerless moose or an adult ewe
5 game management license issued under 87-2-104, is not eligible to receive another special license for that
6 species for the next 7 years. For the purposes of this subsection (4)(a), "limited mountain sheep license" means
7 a license that is valid for an area in which the number of licenses issued is restricted.

8 (b) Except as provided in 87-1-271(2), a person who takes a mountain sheep using an unlimited
9 mountain sheep license, with the exception of a mountain sheep taken pursuant to an adult ewe license, as
10 authorized by 87-2-701, is not eligible to receive another special license for that species for the next 7 years. For
11 the purposes of this subsection (4)(b), "unlimited mountain sheep license" means a license that is valid for an
12 area in which the number of licenses issued is not restricted.

13 (5) An application for a wild buffalo or bison license must be made on the same form and is subject to
14 the same license application deadline as the special license for moose, mountain goat, and mountain sheep.

15 (6) (a) Licenses for spring bear hunts must be available for purchase at department offices after April
16 15 of any license year. However, except for licenses obtained under [section 1], a person who purchases a
17 license for a spring bear hunt after April 15 of any license year may not use the license until 5 days after the
18 license is issued.

19 (b) Licenses for fall bear hunts must be available for purchase at department offices after August 31 of
20 any license year. However, except for licenses obtained under [section 1], a person who purchases a license for
21 a fall bear hunt after August 31 of any license year may not use the license until 5 days after the license is issued.

22 (7) Licenses for mountain lion hunts must be available for purchase at department offices after August
23 31 of any license year. However, except for licenses obtained under [section 1], a person who purchases a
24 license for a mountain lion hunt after August 31 of any license year may not use the license until 5 days after the
25 license is issued."

26

27 **SECTION 10. SECTION 87-5-111, MCA, IS AMENDED TO READ:**

28 **"87-5-111. Enforcement and penalty.** (1) ~~Any~~ A person who violates the provisions of this part or
29 ~~whoever fails to procure~~ obtain or violates the terms of any permit issued ~~thereunder shall be~~ under this part is
30 guilty of a misdemeanor.

1 (2) A person who violates the provisions of [section 1 or 3] related to the hunting or trapping of wolves
 2 during a provisional season or fails to obtain or violates the terms of a license issued to hunt or trap wolves under
 3 [section 1] is guilty of a misdemeanor.

4 ~~(2)(3) Upon a first conviction for a violation under this part, the court may fine the defendant~~ A person
 5 who violates this section may, upon conviction for a first offense, be fined an amount not to exceed \$250. Upon
 6 ~~a second such conviction, the defendant~~ A person convicted of a second offense under this section may be fined
 7 an amount not to exceed \$500 or be imprisoned in the county jail for any term not to exceed not more than 30
 8 days, or both. Upon subsequent such convictions, the defendant A person convicted of a subsequent violation
 9 shall be fined not less than \$500 or more than \$1,000, and in addition, the person may be imprisoned in the
 10 county jail for ~~any term not to exceed~~ not more than 6 months.

11 ~~(3)(4)~~ (4) Any officer employed and authorized by the director or any peace officer of the state or of any
 12 municipality or county within the state shall have authority to enforce the provisions of this part and the provisions
 13 of [sections 1 and 3] related to the hunting and trapping of wolves during a provisional season.

14 ~~(4)(5)~~ (5) Wildlife seized under the provisions of this part ~~shall~~ must be held by an officer or agent of the
 15 department pending disposition of court proceedings and thereafter be forfeited to the state for disposition as the
 16 director may ~~deem~~ find appropriate. Prior to forfeiture, the director may direct the transfer of wildlife so seized to
 17 a qualified zoological, educational, or scientific institution for safekeeping. The department is authorized to issue
 18 regulations to implement this subsection."

19

20 **Section 11.** Section 87-6-205, MCA, is amended to read:

21 **"87-6-205. Waste of game animal, game bird, or game fish.** (1) Except as provided in [section 1(8)]
 22 and subsection (3) of this section, a person responsible for the death of any game animal, game bird, or game
 23 fish suitable for food may not purposely or knowingly waste the game by:

24 (a) detaching or removing only the head, hide, antlers, tusks, or teeth or any or all of these parts from
 25 the carcass of a game animal;

26 (b) transporting, hanging, or storing the carcass in a manner that renders it unfit for human consumption;

27 or

28 (c) abandoning the carcass of a game animal or any portion of the carcass suitable for food in the field.

29 (2) A person in possession of a game animal or game animal parts, a game bird, or a game fish suitable
 30 for food may not purposely or knowingly waste the game by:

1 (a) transporting, storing, or hanging the animal, bird, or fish in a manner that renders it unfit for human
2 consumption; or

3 (b) disposing of or abandoning any portion of the animal, bird, or fish that is suitable for food.

4 (3) A person responsible for the death of a mountain lion, except as provided in 87-6-106, may not
5 abandon the head or hide in the field.

6 (4) A person responsible for the death of a grizzly bear wastes the game if the person abandons the
7 head or hide or any parts required by department or commission regulation for scientific purposes pursuant to
8 87-3-131.

9 (5) For the purposes of this section, the meat of a grizzly bear or a black bear that is found to be infected
10 with trichinosis is not considered to be suitable for food.

11 (6) A person convicted of a violation of this section may be fined not less than \$50 or more than \$1,000
12 or be imprisoned in the county jail for a term not to exceed 6 months, or both. In addition, the person, upon
13 conviction or forfeiture of bond or bail, shall:

14 (a) forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt,
15 fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer
16 period; and

17 (b) pay restitution pursuant to 87-6-905 through 87-6-907.

18 (7) A person convicted of waste of game by abandonment in the field may be subject to the additional
19 penalties provided in 87-6-901."

20

21 **SECTION 12. SECTION 87-6-301, MCA, IS AMENDED TO READ:**

22 **"87-6-301. Hunting, fishing, or trapping without license.** (1) Except as provided in 87-2-311 and
23 subsection (2) of this section, a person may not:

24 (a) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for
25 any fish within this state or possess within this state any game animal, game bird, fur-bearing animal, game fish,
26 or parts of those animals or birds except as provided by law or as provided by the department;

27 (b) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for
28 any fish, except at the places and during the periods and in the manner established by law or as prescribed by
29 the department;

30 (c) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for

1 any fish within this state or possess, sell, purchase, ship, or reship any imported or other fur-bearing animal or
 2 parts of fur-bearing animals without first having obtained a proper and valid license or permit from the department
 3 to do so;

4 (d) trap or attempt to trap predatory animals or nongame wildlife without a license, as prescribed in
 5 [section 1] or 87-2-603, if that person is not a resident; or

6 (e) hunt migratory game birds without first having obtained a valid migratory game bird license from the
 7 department if the person is 16 years of age or older.

8 (2) The provisions of this section do not require a person who accompanies a licensed disabled hunter,
 9 as authorized under 87-2-803(4), to be licensed in order to kill or attempt to kill a game animal that has been
 10 wounded by a disabled hunter when the disabled hunter is unable to pursue and kill the wounded game animal.
 11 However, the person must meet the qualifications for a license in the person's state of residence.

12 (3) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000
 13 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon
 14 conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping
 15 license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in
 16 77-1-101, for recreational purposes for a period of time set by the court.

17 (4) A person convicted of hunting without a license may be subject to the additional penalties provided
 18 in 87-6-901 and 87-6-902.

19 (5) 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 **Section 13.** Section 87-6-401, MCA, is amended to read:

23 **"87-6-401. Unlawful use of equipment while hunting.** (1) A person may not:

24 (a) except as allowed in [section 1], 87-3-127, and 87-3-128, hunt or attempt to hunt any game animal
 25 or game bird by the aid or with the use of any snare, ~~except as allowed in 87-3-127 and 87-3-128~~, set gun,
 26 projected artificial light, trap, salt lick, or bait;

27 (b) use any recorded or electrically amplified bird or animal calls or sounds or recorded or electrically
 28 amplified imitations of bird or animal calls or sounds to assist in the hunting, taking, killing, or capturing of wildlife
 29 except predatory animals and those birds not protected by state or federal law;

30 (c) while hunting, take into a field or forest or have in the person's possession any device or mechanism

1 devised to silence, muffle, or minimize the report of any firearm, whether the device or mechanism is operated
2 from or attached to any firearm;

3 (d) except as allowed in [section 1], while hunting, possess any electronic motion-tracking device or
4 mechanism, as defined by commission rule, that is designed to track the motion of a game animal and relay
5 information on the animal's movement to the hunter. A radio-tracking collar attached to a dog that is used by a
6 hunter engaged in lawful hunting activities is not considered a motion-tracking device or mechanism for purposes
7 of this subsection (1)(d).

8 (e) while hunting, use archery equipment that has been prohibited by rule of the commission;

9 (f) use a shotgun to hunt deer or elk except with weapon type and loads as specified by the department;

10 (g) use a rifle to hunt or shoot upland game birds unless the use of rifles is permitted by the department.

11 This does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than
12 a number 10 gauge, fired from the shoulder.

13 (h) use a rifle to hunt or shoot wild turkey during the spring wild turkey season.

14 (2) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000
15 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon
16 conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping
17 license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in
18 77-1-101, for recreational purposes for a period of time set by the court.

19 (3) A person convicted of hunting while using projected artificial light as described in subsection (1)(a)
20 may be subject to the additional penalties provided in 87-6-901 and 87-6-902.

21 (4) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through
22 87-6-907."

23

24 **Section 14.** Section 87-6-404, MCA, is amended to read:

25 **"87-6-404. Unlawful use of dog while hunting.** (1) Except as provided in subsections (3) through (6),
26 a person may not:

27 (a) chase any game animal or fur-bearing animal with a dog; or

28 (b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved
29 game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the dog is
30 personally responsible. A defense that the dog was allowed to run at large by another person is not allowable

1 unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner
2 and that the owner took reasonable precautions to prevent the dog from running at large.

3 (2) Except as provided in subsection (3)(d), a peace officer, game warden, or other person authorized
4 to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing
5 a hooved game animal may destroy that dog on public land or on private land at the request of the landowner
6 without criminal or civil liability.

7 (3) A person may:

8 (a) take game birds during the appropriate open season with the aid of a dog;

9 (b) hunt mountain lions during the winter open season, as established by the commission, with the aid
10 of a dog or dogs;

11 (c) hunt mountain lions or black bears during a provisional season open pursuant to [section 1] with the
12 aid of a dog or dogs;

13 ~~(c)(d)~~ hunt bobcats during the trapping season, as established by the commission, with the aid of a dog
14 or dogs; and

15 ~~(d)(e)~~ use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to
16 protect humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and
17 grain. The dog may not be destroyed pursuant to subsection (2).

18 (4) A resident who possesses a Class D-3 resident hound training license may pursue mountain lions
19 and bobcats with a dog or dogs during a training season from December 2 of each year to April 14 of the following
20 year.

21 (5) (a) A person with a valid hunting license issued pursuant to [section 1] or Title 87, chapter 2, may use
22 a dog to track a wounded game animal during an appropriate open season. Any person using a dog in this
23 manner:

24 (i) shall maintain physical control of the dog at all times by means of a maximum 50-foot lead attached
25 to the dog's collar or harness;

26 (ii) during the general season, whether handling or accompanying the dog, shall wear hunter orange
27 material pursuant to 87-6-414;

28 (iii) may carry any weapon allowed by law;

29 (iv) may dispose of the wounded game animal using any weapon allowed by the valid hunting license;

30 and

1 (v) shall immediately tag an animal that has been reduced to possession in accordance with 87-6-411.

2 (b) Dog handlers tracking a wounded game animal with a dog are exempt from licensing requirements
3 under [section 1] or Title 87, chapter 2, as long as they are accompanied by the licensed hunter who wounded
4 the game animal.

5 (6) Any person or association organized for the protection of game may run field trials at any time upon
6 obtaining written permission from the director.

7 (7) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000
8 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon
9 conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping
10 license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in
11 77-1-101, for recreational purposes for a period of time set by the court.

12 (8) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through
13 87-6-907."
14

15 **Section 15.** Section 87-6-414, MCA, is amended to read:

16 **"87-6-414. Failure to wear hunter orange while big game hunting.** (1) Except as provided in
17 subsection (3), a person may not hunt any big game animals in this state or accompany any hunter as an outfitter
18 or guide under any of the provisions of the laws of this state without wearing as exterior garments above the waist
19 a total of not less than 400 square inches of hunter orange material visible at all times while hunting.

20 (2) As used in this section, "hunter orange" means a daylight fluorescent orange color.

21 (3) This section does not apply to a person hunting:

22 (a) with a bow and arrow during the special archery season; or

23 (b) during a provisional season established under [section 1] outside of the general deer and elk season.

24 (4) The department shall make rules to implement this section.

25 (5) A person convicted of a violation of this section shall be punished by a fine of not less than \$10 or
26 more than \$20."
27

28 **NEW SECTION. SECTION 16. UNLAWFUL HUNTING OF MOUNTAIN LIONS AND BLACK BEARS DURING**
29 **PROVISIONAL SEASON. (1) A PERSON HUNTING MOUNTAIN LIONS OR BLACK BEARS DURING A PROVISIONAL SEASON**
30 **OPENED PURSUANT TO [SECTION 1] MAY NOT HUNT OR ATTEMPT TO HUNT A BLACK BEAR OR MOUNTAIN LION DURING THAT**

1 SEASON EXCEPT AS PROVIDED IN [SECTIONS 1 AND 2] OR WITHOUT FIRST HAVING OBTAINED A PROPER AND VALID LICENSE
 2 FROM THE DEPARTMENT TO DO SO.

3 (2) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION SHALL BE FINED NOT LESS THAN \$50 OR MORE THAN
 4 \$1,000 OR BE IMPRISONED IN THE COUNTY DETENTION CENTER FOR NOT MORE THAN 6 MONTHS, OR BOTH. IN ADDITION,
 5 THE PERSON, UPON CONVICTION OR FORFEITURE OF BOND OR BAIL, MAY BE SUBJECT TO FORFEITURE OF ANY CURRENT
 6 HUNTING, FISHING, OR TRAPPING LICENSE ISSUED BY THIS STATE AND THE PRIVILEGE TO HUNT, FISH, OR TRAP IN THIS
 7 STATE OR TO USE STATE LANDS, AS DEFINED IN 77-1-101, FOR RECREATIONAL PURPOSES FOR A PERIOD OF TIME SET BY
 8 THE COURT.

9

10 **SECTION 17. SECTION 87-6-601, MCA, IS AMENDED TO READ:**

11 **"87-6-601. Trapping and snaring offenses.** (1) A person may not use a snare trap for the purpose of
 12 snaring a fur-bearing animal, a predatory animal, or a nongame species unless:

13 (a) the snare trap is tagged with a numbered metal device identifying the owner's name, address, and
 14 telephone number;

15 (b) the consent of the landowner has been obtained for a set on private property; ~~and~~

16 (c) the snare trap is set in a manner and at a time so that it will not unduly endanger livestock. A person
 17 who injures livestock in snare traps is liable for damages to the owner of the livestock.

18 (d) if used during a provisional season to snare wolves, the snare is used in accordance with [section
 19 3].

20 (2) A person trapping fur-bearing animals, predatory animals, or any other animals shall fasten a metal
 21 tag to all traps bearing in legible English the name and address or wildlife conservation license number of the
 22 trapper, except that a tag is not required on traps used by landowners trapping on their own land or on an
 23 irrigation ditch right-of-way contiguous to the land.

24 (3) A holder of a Class C-2 trapper's license or a license issued under [section 1] may not trap or snare
 25 predatory animals or nongame wildlife on private property without obtaining written permission from the
 26 landowner, the lessee, or their agents.

27 (4) A person may not at any time willfully destroy, open or leave open, or partially destroy a house of any
 28 muskrat or beaver, except that trapping in the house of muskrats is not prohibited when authorized by the
 29 commission.

30 (5) (a) A person may not destroy, disturb, or remove any trap or snare belonging to another person or

1 remove wildlife from a trap or snare belonging to another person without permission of the owner of the trap or
2 snare, except that from March 1 to October 1 of each year a person may remove any snare from land owned or
3 leased by the person if the snare would endanger livestock.

4 (b) This subsection (5) does not apply to a law enforcement officer acting within the scope of the officer's
5 duty.

6 (6) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000
7 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon
8 conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping
9 license issued by the state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in
10 77-1-101, for recreational purposes for a period of time set by the court.

11 (7) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 and
12 87-6-906."

13
14 NEW SECTION. Section 18. Codification instruction. (1) [Section 1] is intended to be codified as
15 an integral part of Title 87, chapter 1, part 3, and the provisions of Title 87, chapter 1, part 3, apply to [section 1].

16 (2) ~~[Sections 2 and 3] are~~ [SECTION 2] IS intended to be codified as an integral part of Title 87, chapter
17 2, part 7, and the provisions of Title 87, chapter 2, part 7, apply to ~~[sections 2 and 3]~~ [SECTION 2].

18 (3) [Section 4 3] is intended to be codified as an integral part of Title 87, chapter 3, part 1, and the
19 provisions of Title 87, chapter 3, part 1, apply to [section 4 3].

20 (4) [SECTION 16] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 87, CHAPTER 6, PART 4, AND THE
21 PROVISIONS OF TITLE 87, CHAPTER 6, PART 4, APPLY TO [SECTION 16].

22
23 NEW SECTION. Section 19. Effective date. [This act] is effective on passage and approval.

24 - END -