

HOUSE BILL NO. 524

INTRODUCED BY T. FRANCE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE USE OF SNARE TRAPS ON PUBLIC LANDS; REQUIRING THE USE OF RELAXING SNARE TRAPS; REQUIRING SNARE TRAPS TO BE MARKED; PROVIDING RULEMAKING AUTHORITY; PROVIDING PENALTIES; AND AMENDING SECTIONS 87-1-303 AND 87-6-601, MCA."

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

NEW SECTION. Section 1. Requirements for snare traps on public lands. (1) A snare trap set on public land must be a relaxing snare trap and marked pursuant to this section with marking flags, flagging tape, or sign material approved by the commission.

(2) Each snare trap or group of snare traps must be marked with a minimum of four marking flags or a minimum of four flagging tape or sign locations while the snare trap or group of snare traps is set. If marking flags are used, they must be at least 4 inches by 5 inches in size. If flagging tape is used, a minimum of 8 inches of flagging tape must be visible.

(3) Marking flags, flagging tape, or sign material must be placed 3 to 6 feet above ground and must be visible above existing vegetation from at least 50 yards away in any direction.

(4) The marking flags, flagging tape, or sign material must be removed when the snare trap or group of snare traps is removed.

Section 2. Section 87-1-303, MCA, is amended to read:

"87-1-303. Rules for use of lands and waters. (1) Except as provided in 23-1-111, 87-1-301(6), [section 1], and subsection (3) of this section, the commission may adopt and enforce rules governing uses of lands that are acquired or held under easement by the commission or lands that it operates under agreement with or in conjunction with a federal or state agency or private owner. The rules must be adopted in the interest of public health, public safety, and protection of property in regulating the use of these lands. All lease and

1 easement agreements must itemize uses as listed in 87-1-209.

2 (2) Except as provided in 87-1-301(6), the commission may adopt and enforce rules governing
3 recreational uses of all public fishing reservoirs, public lakes, rivers, and streams that are legally accessible to
4 the public or on reservoirs and lakes that it operates under agreement with or in conjunction with a federal or
5 state agency or private owner. These rules must be adopted in the interest of public health, public safety, public
6 welfare, and protection of property and public resources in regulating swimming, hunting, fishing, trapping,
7 boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the
8 operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized
9 boats, waterskiing, surfboarding, picnicking, camping, sanitation, and use of firearms on the reservoirs, lakes,
10 rivers, and streams or at designated areas along the shore of the reservoirs, lakes, rivers, and streams. Areas
11 regulated pursuant to the authority contained in this section must be areas that are legally accessible to the
12 public. These rules are subject to review and approval by the department of public health and human services
13 with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show
14 that endorsement.

15 (3) (a) The commission may not regulate or classify domestic livestock trailing as a commercial
16 activity or commercial use that is subject to licensing, permitting, or fee requirements. Domestic livestock
17 trailing on land owned or controlled by the department is exempt from the requirements of Title 75, chapter 1,
18 parts 1 through 3.

19 (b) The commission may authorize domestic livestock trailing across land owned or controlled by the
20 department that is designated as a wildlife management area. The commission may adopt rules governing the
21 timing of and the route to be used for domestic livestock trailing activities to the extent that the rules are
22 necessary both to enable the trailing of domestic livestock across the designated wildlife management area and
23 to protect and enhance state lands. The rules may not:

- 24 (i) require a fee for domestic livestock trailing or related activities; or
25 (ii) prohibit or unreasonably interfere with domestic livestock trailing activities.

26 (4) For the purposes of this section, the following definitions apply:

27 (a) "Domestic livestock" means domestic animals kept for farm and ranch purposes, including but not
28 limited to horses, cattle, sheep, goats, and dogs.

(b) "Domestic livestock trailing" means the entering upon and crossing of department lands and the use of the lands for forage by domestic livestock for a maximum of 96 consecutive hours."

Section 3. Section 87-6-601, MCA, is amended to read:

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

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

(b) if set on public lands, a relaxing snare trap and flagging or signage are used pursuant to [section 11];

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

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

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

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

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

(5) (a) A person may not destroy, disturb, or remove any trap or snare belonging to another person or remove wildlife from a trap or snare belonging to another person without permission of the owner of the trap or snare, except that from March 1 to October 1 of each year a person may remove any snare from land owned or leased by the person if the snare would endanger livestock.

(b) This subsection (5) does not apply to a law enforcement officer acting within the scope of the

1 officer's duty.

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

7 (7) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 and
8 87-6-906."

9

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

12 - END -