

1 HOUSE BILL NO. 637

2 INTRODUCED BY S. BERGLEE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE
5 DEPARTMENT OF FISH, WILDLIFE, AND PARKS; REVISING GAME WARDEN AUTHORITY; REVISING
6 LAWS RELATED TO CLASS D-4 NONRESIDENT HOUND LICENSES; REVISING THE CALCULATION OF
7 PREFERENCE POINTS FOR PARTY APPLICANTS; REVISING RESTRICTIONS ON WHEN SPECIAL BEAR
8 AND MOUNTAIN LION LICENSES MAY BE USED; CLARIFYING WHEN APPRENTICE HUNTERS MAY
9 RECEIVE THEIR CERTIFICATE; REVISING LAWS RELATED TO SHOOTING PRESERVES; CLARIFYING
10 THE CLASSIFICATION OF WOLVES; REVISING LAWS RELATED TO UNLAWFUL USE OF BOATS,
11 EQUIPMENT, AND VEHICLES WHILE HUNTING; REVISING LAWS RELATED TO HARASSMENT OF GAME
12 BIRDS AND GAME ANIMALS; REVISING LAWS RELATED TO UNLAWFUL HUNTING WITHIN A
13 MUNICIPALITY; REVISING TURKEY TAGGING OFFENSES; PROVIDING AN APPROPRIATION;
14 AMENDING SECTIONS 61-12-401, 87-1-301, 87-1-504, 87-2-115, 87-2-519, 87-2-702, 87-2-810, 87-4-502,
15 87-4-522, 87-4-530, 87-5-131, 87-6-207, 87-6-401, 87-6-402, 87-6-404, 87-6-405, 87-6-412, AND 87-6-706,
16 MCA; REPEALING SECTIONS 87-1-505 AND 87-4-526, MCA; AND PROVIDING EFFECTIVE DATES."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19
20 **Section 1.** Section 61-12-401, MCA, is amended to read:

21 **"61-12-401. Taking vehicle into custody.** (1) The following law enforcement agencies and
22 department of fish, wildlife, and parks personnel may take into custody any vehicle found abandoned for a
23 period of 48 hours or more on a public highway or for a period of 5 days or more on a city street, public
24 property, or private property:

25 (a) the Montana highway patrol if the vehicle is on the right-of-way of any public highway other than a
26 county road;

27 (b) the sheriff of the county if the vehicle is on the right-of-way of any county road;

28 (c) the city police if the vehicle is on a city street; and

1 (d) a game warden, as defined in 19-8-101, if the vehicle is on state land or land managed by the
2 department of fish, wildlife, and parks.

3 (2) The Montana highway patrol, sheriff of the county, ~~or city police,~~ or department of fish, wildlife, and
4 parks may use their personnel, equipment, and facilities for the removal and storage of the vehicle or may hire
5 other personnel, equipment, and facilities for those purposes.

6 (3) If the Montana highway patrol, the sheriff of the county, ~~or the chief of police, of the city in which~~
7 ~~the vehicle is being stored or the department of fish, wildlife, and parks~~ has hired other personnel, equipment,
8 and facilities to remove and store a vehicle, the Montana highway patrol, sheriff, ~~or chief of police,~~ or
9 department of fish, wildlife, and parks shall:

10 (a) pay the person hired to remove the vehicle an amount not to exceed the amount for a removal
11 charge established by rules adopted by the department of environmental quality and may request
12 reimbursement of the hired removal charge from the motor vehicle recycling and disposal program of the
13 department of environmental quality in an amount and manner established by rules adopted by the department
14 of environmental quality for this purpose; or

15 (b) authorize the person hired to remove the vehicle to submit directly to the department of
16 environmental quality a claim for payment to be made directly to the person hired to remove the vehicle.

17 (4) (a) At the request of the owner or person in lawful possession or control of the private property,
18 the sheriff of the county in which the vehicle is located or the city police of the city in which the vehicle is located
19 may remove and hold it in the manner and upon the conditions provided in subsections (1) and (2).

20 (b) A private landowner owning property considered to be part of ways of this state open to the public,
21 as defined in 61-8-101, who can demonstrate meeting the 5-day waiting period in subsection (1) by calling one
22 of the law enforcement agencies listed in subsection (1) at the start of the 5-day period may remove the
23 abandoned vehicle within the conditions provided for in subsections (1) and (2)."

24
25 **Section 2.** Section 87-1-301, MCA, is amended to read:

26 **"87-1-301. Powers of commission.** (1) Except as provided in subsections (6) and (7), the
27 commission:

28 (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife,

1 fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment
2 of all other responsibilities of the department related to fish and wildlife as provided by law;

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

4 (c) except as provided in 23-1-111 and 87-1-303(3), shall establish the rules of the department
5 governing the use of lands owned or controlled by the department and waters under the jurisdiction of the
6 department;

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

9 (e) shall approve all acquisitions or transfers by the department of interests in land or water, except as
10 provided in 23-1-111 and 87-1-209(2) and (4);

11 (f) except as provided in 23-1-111, shall review and approve the budget of the department prior to its
12 transmittal to the office of budget and program planning;

13 (g) except as provided in 23-1-111, shall review and approve construction projects that have an
14 estimated cost of more than \$1,000 but less than \$5,000;

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

22 (i) shall set the policies for the salvage of antelope, deer, elk, or moose pursuant to 87-3-145; and

23 (j) shall comply with, adopt policies that comply with, and ensure the department implements in each
24 region the provisions of state wildlife management plans adopted following an environmental review conducted
25 pursuant to Title 75, chapter 1, parts 1 through 3.

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

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

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

- (i) separate deer licenses from nonresident elk combination licenses;
- (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;
- (iii) condition the use of the deer licenses; and
- (iv) limit the number of licenses sold.

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

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

(5) (a) Subject to the provisions of subsection (5)(b), the commission may adopt rules to:

- (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and
- (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts.

(b) The commission shall adopt rules for the use of and set quotas for the sale of Class D-4 nonresident hound ~~handler~~ licenses by hunting district, portions of a hunting district, group of districts, or administrative regions. ~~However, no more than two Class D-4 licenses may be issued in any one hunting district per license year.~~

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

- (i) harvest of lions by resident and nonresident hunters;
- (ii) history of quota overruns;
- (iii) composition, including age and sex, of the lion harvest;
- (iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

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

(6) The commission 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;

(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).

(7) Pursuant to 23-1-111, the commission does not oversee department activities related to the administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9."

Section 3. Section 87-1-504, MCA, is amended to read:

"87-1-504. Protection of private property -- duty of wardens. It is the duty of wardens to enforce and wardens have the power of peace officers in the enforcement of the provisions of 45-6-101, 45-6-203, 75-10-212(2), 77-1-801, 77-1-806, and rules adopted under 77-1-804 on private and state lands ~~being used for hunting and fishing.~~"

Section 4. Section 87-2-115, MCA, is amended to read:

"87-2-115. Nonresident elk and deer license preference point system. (1) The department shall establish a preference point system to distribute Class B-10 nonresident big game combination licenses and Class B-11 nonresident deer combination licenses.

(2) Nonresidents applying to purchase a Class B-10 or Class B-11 license may purchase a

1 preference point, upon payment of a nonrefundable \$50 fee, that gives an applicant who has more preference
2 points priority to receive a Class B-10 or Class B-11 license over an applicant who has purchased fewer
3 preference points.

4 (3) An applicant may:

5 (a) purchase only one preference point per license year; and

6 (b) purchase a preference point without applying for a Class B-10 or Class B-11 license. An applicant
7 not applying for a Class B-10 or Class B-11 license may purchase a preference point only between July 1 and
8 September 30 of that license year. The department shall delete an applicant's accumulated preference points if
9 the applicant does not apply for a Class B-10 or Class B-11 license for 3 consecutive years.

10 (4) Except as provided in subsection (3)(b), the department may not delete an applicant's
11 accumulated preference points unless the applicant obtains the license applied for, in which case the
12 department shall delete the applicant's accumulated preference points.

13 (5) The department shall issue 75% of the Class B-10 and Class B-11 licenses made available for
14 purchase pursuant to 87-2-505 and 87-2-510 by drawings in which the licenses are awarded to applicants in
15 the order of which applicants have purchased the greatest number of preference points. If the number of
16 licenses to be issued under this subsection exceeds the number of applicants who have purchased preference
17 points, the remaining licenses must be added to the licenses issued pursuant to subsection (6).

18 (6) The department shall issue 25% of the Class B-10 and Class B-11 licenses made available for
19 purchase pursuant to 87-2-505 and 87-2-510 by drawings in which the licenses are awarded to applicants who
20 have not purchased any preference points. If the number of licenses to be issued under this subsection
21 exceeds the number of applicants who have not purchased preference points, the remaining licenses must be
22 added to the licenses issued pursuant to subsection (5).

23 (7) Up to five applicants may apply as a party under this section. The department shall use an
24 average of the number of preference points accumulated by those applicants to determine their priority in
25 receiving licenses issued pursuant to subsection (5). The department shall ~~use any fraction that results from the~~
26 ~~calculation of an average when determining that priority~~ calculate the average rounded to the third decimal
27 place."
28

1 **Section 5.** Section 87-2-519, MCA, is amended to read:

2 **"87-2-519. Class D-4--nonresident hound handler license.** (1) Except as provided in subsections
3 (5) and (6), in order for a nonresident ~~hound handler~~ to use a dog or dogs to aid in the pursuit or harvest of
4 mountain lions, the nonresident ~~hound handler must~~ shall first purchase, for a fee of ~~\$500~~ \$250, a Class D-4
5 nonresident hound ~~handler~~ license. To be eligible, the nonresident must be:

6 (a) at least 18 years of age or older or turn 18 years of age before or during the season for which the
7 license is issued; and

8 (b) a holder of a nonresident wildlife conservation license and a Class D-1 nonresident mountain lion
9 license.

10 (2) Not more than ~~35~~ 50 Class D-4 licenses may be sold in any 1 license year.

11 (3) A Class D-4 license must be used as authorized by this section and any rule adopted by the
12 department or commission.

13 (4) A holder of a Class D-4 license may only pursue mountain lions for the purpose of personally
14 harvesting a mountain lion and may not assist any other person in the pursuit of a lion for harvest.

15 (5) A nonresident is not required to have a Class D-4 license to use a dog or dogs to aid in the pursuit
16 or harvest of mountain lions when the nonresident:

17 (a) is hunting with an outfitter licensed pursuant to Title 37, chapter 47, part 3; or

18 (b) is a nonresident landowner who owns 640 or more contiguous acres. Nonpaying guests of the
19 nonresident landowner may also hunt and pursue mountain lions on the landowner's property and any adjacent
20 public land without a Class D-4 license.

21 (6) A nonresident outfitter or guide licensed pursuant to Title 37, chapter 47, part 3, is not required to
22 have a Class D-4 license.

23 (7) After recovering the costs associated with license administration, the department shall use
24 revenue collected from the sale of licenses pursuant to this section for the management, conservation, and
25 monitoring of mountain lions.

26 ~~(8) The cost of the Class D-4 license must be adjusted annually based on any change to the~~
27 ~~consumer price index from the previous year. The consumer price index to be used for calculations is the~~
28 ~~consumer price index for all urban consumers (CPI-U). The adjusted cost must be rounded down to the nearest~~

1 ~~even-numbered amount."~~

2

3 **Section 6.** Section 87-2-702, MCA, is amended to read:

4 **"87-2-702. Restrictions on special licenses -- availability of bear and mountain lion licenses. (1)**

5 A person who has killed or taken any game animal, except a deer, an elk, or an antelope, during the current
6 license year is not permitted to receive a special license under this chapter to hunt or kill a second game animal
7 of the same species.

8 (2) The commission may require applicants for special permits authorized by this chapter to obtain a
9 valid big game license for that species for the current year prior to applying for a special permit.

10 (3) Except as provided in 87-2-815, a person may take only one grizzly bear in Montana with a
11 license authorized by 87-2-701.

12 (4) (a) Except as provided in 87-1-271(2) and 87-2-815, a person who receives a moose, mountain
13 goat, or limited mountain sheep license, as authorized by 87-2-701, with the exception of an antlerless moose
14 or an adult ewe game management license issued under 87-2-104, is not eligible to receive another special
15 license for that species for the next 7 years. For the purposes of this subsection (4)(a), "limited mountain sheep
16 license" means a license that is valid for an area in which the number of licenses issued is restricted.

17 (b) (i) Except as provided in 87-1-271(2) and 87-2-815, a person who takes a legal ram mountain
18 sheep with at least one horn that is equal to or greater than a three-fourths curl using an unlimited mountain
19 sheep license or a population management license issued pursuant to 87-2-701 is not eligible to receive
20 another special license for that species for the next 7 years. For the purposes of this subsection (4)(b)[(i)],
21 "unlimited mountain sheep license" means a license that is valid for an area in which the number of licenses
22 issued is not restricted.

23 [(ii) Before September 1 of each even-numbered year, the department shall report to the
24 environmental quality council information on:

25 (A) mountain sheep harvested pursuant to this subsection (4) from the Tendoy Mountain herd;

26 (B) efforts to collect tissue samples and other biological information from mountain sheep harvested
27 from the Tendoy Mountain herd to determine the immunity of surviving herd members to pneumonia outbreaks;
28 and

(C) attempts by the department to share tissue samples and other biological information collected from the Tendoy Mountain herd with Washington State University, other public entities, and private entities that research the interaction between mountain sheep and domestic sheep.]

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

~~(6) (a) Licenses for spring bear hunts must be available for purchase at department offices after April 15 of any license year. However, a person who purchases a license for a spring bear hunt after April 15 of any license year may not use the license until 24 hours after the license is issued.~~

~~(b) Licenses for fall bear hunts must be available for purchase at department offices after August 31 of any license year. However, a person who purchases a license for a fall bear hunt after August 31 of any license year may not use the license until 24 hours after the license is issued.~~

~~(7) Licenses for mountain lion hunts must be available for purchase at department offices after August 31 of any license year. However, a person who purchases a license for a mountain lion hunt after August 31 of any license year may not use the license until 5 days after the license is issued. (Bracketed language in (4)(b) terminates July 1, 2027--sec. 3, Ch. 186, L. 2017)."~~

Section 7. Section 87-2-810, MCA, is amended to read:

"87-2-810. Apprentice hunting certificate. (1) A person who is 10 years of age or older and who has not completed a hunter safety and education course pursuant to 87-2-105 is eligible to apply for use an apprentice hunting certificate that entitles the holder to obtain and use hunting licenses and permits in accordance with this title and the provisions of this section.

(2) A person may obtain an apprentice hunting certificate for no more than 2 license years before the person ~~must~~ shall complete a Montana hunter safety and education course pursuant to 87-2-105. Completing a Montana hunter safety and education course prior to turning 12 years of age does not preclude a person who is at least 10 years of age from being eligible to obtain and use hunting licenses pursuant to this section. As used in this subsection, "completing a Montana hunter safety and education course" means passing a hunter safety and education course or a bowhunter education course provided pursuant to 87-2-105(4) through (6), including the required test and field day.

(3) A person who obtains an apprentice hunting certificate must be in the company of a mentor when hunting and shall conduct all hunting in accordance with this section and within the terms and conditions of the license or permit issued.

(4) To qualify as a mentor who will accompany an apprentice hunter, a person must:

(a) be at least 21 years of age;

(b) if the apprentice hunter is under 18 years of age, be related to the apprentice hunter by blood, adoption, or marriage, be the legal guardian of the apprentice hunter, or be a person designated by a parent or legal guardian as being capable and qualified to assist the apprentice hunter;

(c) have completed a hunter safety and education course pursuant to 87-2-105;

(d) have a current Montana hunting license;

(e) have agreed to accompany and supervise the apprentice hunter and remain within sight of and direct voice contact with the apprentice hunter at all times while in the field; and

(f) confirm that the apprentice hunter possesses the physical and psychological capacity to safely and ethically engage in hunting activities.

(5) Subject to the conditions of this section, the department shall issue an apprentice hunting certificate upon payment of a fee of \$5. This fee must be deposited in the state special revenue fund account to the credit of the department for hunter education purposes.

(6) The department shall issue an apprentice hunting certificate that allows an apprentice hunter to be accompanied by multiple mentors.

(7) Except as provided in subsection (8), a person who obtains an apprentice hunting certificate may purchase any unlimited hunting license or permit by any applicable deadline for the fee established pursuant to this chapter, including:

(a) a reduced cost license for which the applicant qualifies. An apprentice hunter who is under 12 years of age is eligible to obtain the unlimited reduced cost licenses available to a person who is 12 years of age.

(b) a wild turkey tag if it is issued in an unlimited number.

(8) A person who obtains an apprentice hunting certificate is not eligible:

(a) to obtain a Class A-2 special bow and arrow license without having:

- 1 (i) completed a bowhunter education course; and
2 (ii) turned 12 years of age by January 16 of the license year;
3 (b) to obtain a black bear license;
4 (c) to obtain a mountain lion license;
5 (d) to obtain a Class D-3 resident hound training license;
6 (e) to obtain a wolf license;
7 (f) to participate in a drawing with a limited quota;
8 (g) to obtain a mountain sheep license in any area where the licenses are issued in unlimited
9 numbers; or
10 (h) to obtain an elk license if the apprentice hunter is under 15 years of age.
11 (9) An apprentice hunter who violates the terms of this section or a mentor who violates the terms of
12 this section while accompanying an apprentice hunter is subject to the loss of privileges granted by this section
13 for up to one full license season."
14

15 **Section 8.** Section 87-4-502, MCA, is amended to read:

16 **"87-4-502. Size, location, and posting of preserves.** Operating licenses or permits may be issued
17 to any person, partnership, association, or corporation for the operation of shooting preserves that meet the
18 following requirements:

- 19 (1) Each shooting preserve must be restricted to not more than ~~1,920~~2,560 contiguous acres and
20 must be located in areas that will not substantially reduce hunting areas available to the public as determined
21 by the department.
22 (2) The exterior boundaries of each shooting preserve must be clearly defined and posted with signs
23 erected around the extremity at intervals of 250 feet or less."
24

25 **Section 9.** Section 87-4-522, MCA, is amended to read:

26 **"87-4-522. Game hunted in preserve.** (1) Game that may be hunted under this part must be
27 confined to artificially propagated ring-necked pheasants with no color mutations, chukar partridges, Merriam's
28 turkeys, Hungarian partridges, and other species authorized by the department.

(2) A minimum of 100 birds cumulative of all species authorized ~~for to be hunted in~~ an individual shooting preserve must be released each year on the licensed area during the shooting preserve season.

(3) Artificially propagated upland game birds released on a shooting preserve during the shooting preserve season must be at least 14 weeks of age and must be marked prior to release in a manner that distinguishes them from wild upland game birds.

(4) For each shooting preserve season, a shooting preserve operator shall maintain a record of the total number, by species and source, of artificially propagated upland game birds released and harvested and the number of wild upland game birds harvested in the preserve. The record must be open to inspection by a delegated representative of the department at any reasonable time and must be the basis on which the game-recovery limits in 87-4-523 are determined."

Section 10. Section 87-4-530, MCA, is amended to read:

"87-4-530. Use of temporary holding pens. (1) During the shooting preserve season established in 87-4-521, artificially propagated upland game birds may be held in temporary holding pens for up to ~~60~~ 120 days after being delivered to a shooting preserve to acclimate them to the shooting preserve environment.

(2) Any bird held in a temporary holding pen that has not been released on the shooting preserve may not be sold without obtaining a game bird farm license under Title 87, chapter 4, part 9."

Section 11. Section 87-5-131, MCA, is amended to read:

"87-5-131. Process for delisting of gray wolf -- management following delisting. (1) If the United States fish and wildlife service removes the Northern Rocky Mountain or gray wolf from the United States' list of endangered or threatened wildlife, the department is authorized to remove the wolf from the state list of endangered species upon a determination by the department pursuant to this part that the wolf is no longer endangered.

(2) Following state delisting of the wolf, the department shall manage the wolf as a species in need of management until the department and the commission determine that the wolf no longer needs protection as a species in need of management and can be managed and protected as a game animal or furbearer. Upon making that determination, the commission may declare the wolf a ~~big-game~~ animal or a furbearer and may

1 regulate the taking of a wolf as a big game animal or furbearer.

2 (3) (a) Following state delisting of the wolf, the department, or the department of livestock, pursuant
3 to 81-7-102 and 81-7-103, may control wolves for the protection and safeguarding of livestock if the control
4 action is consistent with a wolf management plan approved by both the department and the department of
5 livestock.

6 (b) Any wolf management plan approved by the department and the department of livestock must
7 allow the issuance of special kill permits, also known as shoot-on-sight written take authorizations, by the
8 department to landowners or public land permittees who have experienced livestock depredation."
9

10 **NEW SECTION. Section 12. Unlawful harassment of game animals and game birds with vehicle**
11 **or device.** (1) A person may not concentrate, drive, rally, stir up, run, molest, flush, herd, chase, harass, or
12 impede the movement of or attempt to concentrate, drive, rally, stir up, run, molest, flush, herd, chase, harass,
13 or impede the movement of a game animal or game bird from or with the use or aid of a self-propelled, motor-
14 driven, or drawn vehicle or device. This section does not apply to landowners and their authorized agents
15 engaged in the immediate protection of that landowner's property.

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

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

22 (b) A person convicted of or who forfeits bond or bail after being charged with a second or
23 subsequent violation of this section within 5 years shall be fined not less than \$500 or more than \$1,000 or be
24 imprisoned for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing,
25 or trapping license issued by this state and the privilege to hunt, fish, and trap in this state for 24 months from
26 the date of conviction or forfeiture of bond or bail unless the court imposes a longer period.
27

28 **Section 13.** Section 87-6-207, MCA, is amended to read:

1 **"87-6-207. Unlawful use of boat.** (1) A person may not use a ~~powerboat, sailboat, or any boat under~~
2 ~~sail or any floating device towed by a powerboat, sailboat, or any boat under sail~~ motorboat or a sailboat as
3 defined in 23-2-502 for the purpose of killing, capturing, taking, pursuing, concentrating, driving, or stirring up
4 any upland game bird, migratory bird, game animal, or fur-bearing animal until the motor is shut off or the sails
5 are furled and the progress of the vessel has ceased.

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

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

13 (b) If a person is convicted or forfeits bond or bail after being charged with unlawful use of a boat to
14 kill or take a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear, the
15 person shall be fined not less than \$500 or more than \$2,000 or be imprisoned in the county detention center
16 for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational
17 use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months
18 from the date of conviction or forfeiture unless the court imposes a longer period.

19 (c) If a person is convicted or forfeits bond or bail after being charged with unlawful use of a boat to
20 kill or take a deer, antelope, elk, or mountain lion, the person shall be fined not less than \$300 or more than
21 \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the
22 person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the
23 privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court
24 imposes a longer period.

25 (d) If a person is convicted or forfeits bond or bail after being charged with unlawful use of a boat to
26 kill or take a fur-bearing animal, the person shall be fined not less than \$100 or more than \$1,000 or be
27 imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall
28 forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to

1 hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a
2 longer period, and any pelts possessed unlawfully must be confiscated."

3
4 **Section 14.** Section 87-6-401, MCA, is amended to read:

5 **"87-6-401. Unlawful use of equipment while hunting.** (1) A person may not:

6 (a) hunt or attempt to hunt any game animal or game bird by the aid or with the use of any snare,
7 except as allowed in 87-3-127 and 87-3-128, set gun, projected artificial light, trap, salt lick, or bait;

8 (b) use any recorded or electrically amplified bird or animal calls or sounds or recorded or electrically
9 amplified imitations of bird or animal calls or sounds to ~~assist in the hunting, taking, killing, or capturing of~~ hunt
10 wildlife except for predatory animals, wolves, and those birds not protected by state or federal law;

11 (c) while hunting, ~~take into a field or forest or have in the person's possession~~ use any device or
12 mechanism devised to silence, muffle, or minimize the report of any firearm, whether the device or mechanism
13 is operated from or attached to any firearm. This subsection (1)(c) does not prohibit the use of a device or
14 mechanism registered with the bureau of alcohol, tobacco, firearms and explosives to silence, muffle, or
15 minimize the report of a firearm when hunting wildlife.

16 (d) while hunting, ~~possess~~ use any electronic motion-tracking device or mechanism, as defined by
17 commission rule, that is designed to track the motion of a game animal and relay information on the animal's
18 movement to the hunter. A radio-tracking collar attached to a dog that is used by a hunter engaged in lawful
19 hunting activities is not considered a motion-tracking device or mechanism for purposes of this subsection
20 (1)(d).

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

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

24 (g) use a rifle to hunt or shoot upland game birds unless the use of rifles is permitted by the
25 department. This does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only,
26 not larger than a number 10 gauge, fired from the shoulder.

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

28 (2) A person convicted of a violation of this section 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, upon conviction or forfeiture of bond or bail, 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.

(3) A person convicted of hunting while using projected artificial light as described in subsection (1)(a) may be subject to the additional penalties provided in 87-6-901 through 87-6-903.

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

Section 15. Section 87-6-402, MCA, is amended to read:

"87-6-402. Unlawful hunting within city or town. (1) A person may not hunt or attempt to hunt any ~~deer~~ game animal within the boundaries of any incorporated or unincorporated city or town of this state except as allowed under a plan developed by a city or town and approved by the department pursuant to 7-3-1105, 7-3-1222, or 7-31-4110.

(2) A person convicted of a violation of this section 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, upon conviction or forfeiture of bond or bail, 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.

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

Section 16. Section 87-6-404, MCA, is amended to read:

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

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

(b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved 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

1 personally responsible. A defense that the dog was allowed to run at large by another person is not allowable
2 unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner
3 and that the owner took reasonable precautions to prevent the dog from running at large.

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

8 (3) A person may:

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

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

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

14 (d) train bird hunting dogs pursuant to the requirements of 87-3-602;

15 (e) conduct field trials for bird hunting dogs pursuant to the requirements of 87-3-603 or on private
16 land; and

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

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

23 (5) A nonresident who possesses a Class D-4 hound ~~handler~~ license may pursue mountain lions with
24 a dog or dogs pursuant to 87-2-519.

25 (6) (a) A person with a valid hunting license issued pursuant to Title 87, chapter 2, may use a dog to
26 track a wounded game animal during an appropriate open season. Any person using a dog in this manner:

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

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

(iii) may carry any weapon allowed by law;

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

and

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

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

(7) A person who is convicted of or who forfeits bond or bail after being charged with a violation of this section 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, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, and 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.

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

Section 17. Section 87-6-405, MCA, is amended to read:

"87-6-405. Unlawful use of vehicle while hunting. (1) Except as provided in 87-2-803, a person may not hunt or attempt to hunt any game animal or game bird from any self-propelled, motor-driven, or drawn vehicle. For the purposes of this section, the term "hunt" does not include:

(a) spotting game from a vehicle; or

(b) if hunting on, from, or across a road or trail or the shoulder, berm, or barrow pit right-of-way of a road or trail that is not a public highway, as defined in 61-1-101, a person who has both feet on the ground and whose body is outside of a vehicle.

(2) ~~A-While hunting a~~ person may not:

~~(a) concentrate, drive, rally, stir up, run, molest, flush, herd, chase, harass, or impede the movement~~

1 of or attempt to concentrate, drive, rally, stir up, run, molest, flush, herd, chase, harass, or impede the
2 movement of a game animal or game bird from or with the use or aid of a self-propelled, motor-driven, or drawn
3 vehicle. This subsection (2)(a) does not apply to landowners and their authorized agents engaged in the
4 immediate protection of that landowner's property.

5 ~~(b)(a)~~ use a motor-driven vehicle other than on a road or trail designated for travel by a landowner
6 unless permission has been given by that landowner;

7 ~~(e)(b)~~ use a motor-driven vehicle on a road or trail on state land if that road or trail is posted as closed
8 by the land management agency unless permission has been given by that land management agency. The
9 restriction in this subsection ~~(2)(e)~~ (2)(b) applies only to state land and not to federal land.

10 (c) use a motor-driven vehicle off-road on state land.

11 (3) The following penalties apply for a violation of this section:

12 (a) A person convicted of or who forfeits bond or bail after being charged with a violation of
13 subsection (1) shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention
14 center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, or
15 trapping license issued by this state and the privilege to hunt, fish, and trap in this state for 24 months from the
16 date of conviction or forfeiture of bond or bail unless the court imposes a longer period.

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

22 ~~(c) A person convicted of or who forfeits bond or bail after being charged with a second or subsequent~~
23 ~~violation of subsection (2)(a) within 5 years shall be fined not less than \$500 or more than \$1,000 or be~~
24 ~~imprisoned for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing,~~
25 ~~or trapping license issued by this state and the privilege to hunt, fish, and trap in this state for 24 months from~~
26 ~~the date of conviction or forfeiture of bond or bail unless the court imposes a longer period.~~

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

1

2 **Section 18.** Section 87-6-412, MCA, is amended to read:

3 **"87-6-412. Tagging of turkey offenses.** (1) A person who kills, captures, or possesses a wild turkey
4 by authority of any turkey tag or permit may not:

5 (a) fail or neglect to attach the tag to the turkey in compliance with instructions on the tag or to
6 electronically validate the tag in accordance with rules adopted pursuant to 87-2-119 prior to the person leaving
7 or the turkey being removed from the site of the kill;

8 (b) fail to validate the tag either electronically or by not filling out or punch marking the tag as
9 required; ~~or~~

10 (c) unless the tag was electronically validated, fail to keep the tag attached while the turkey is
11 possessed by the person; or

12 (d) tag a turkey with or electronically validate a license or tag that is restricted to a hunting district
13 other than the hunting district where the turkey was killed.

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

20

21 **Section 19.** Section 87-6-706, MCA, is amended to read:

22 **"87-6-706. Shooting preserve offenses.** (1) A person may not:

23 (a) hunt on a shooting preserve without obtaining a license pursuant to 87-4-504; or

24 (b) harvest game on a shooting preserve without tagging the game pursuant to 87-4-525.

25 (2) Each shooting preserve operator shall keep records in accordance with ~~87-4-526~~ 87-4-522.

26 (3) A person convicted of a violation of this section shall be fined not less than \$50 or more than
27 \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the
28 person, upon conviction or forfeiture of bond or bail, 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."

NEW SECTION. Section 20. Repealer. The following sections of the Montana Code Annotated are repealed:

87-1-505. Warden's power in protection of private property.

87-4-526. Shooting preserve records.

NEW SECTION. Section 21. Appropriation. (1) Subject to the provisions of subsection (2), for the biennium beginning July 1, 2021, in each fiscal year there is appropriated to the department of fish, wildlife, and parks for the purchase of pheasants to be released on state lands the following:

(a) \$500,000 from the state special revenue fund established in 87-1-601; and

(b) \$500,000 from the federal special revenue fund established in 87-1-601.

(2) If federal funds are received by the department of fish, wildlife, and parks for pheasant releases in excess of the federal special revenue appropriation provided in subsection (1), the state special revenue appropriation must be decreased by a commensurate amount and the federal special revenue appropriation must be increased by a commensurate amount.

(3) The legislature intends that the appropriations in this section be considered a part of the ongoing base for the 2023 legislative session.

NEW SECTION. Section 22. Codification instruction. [Section 12] is intended to be codified as an integral part of Title 87, chapter 6, part 1, and the provisions of Title 87, chapter 6, part 1, apply to [section 12].

NEW SECTION. Section 23. Effective dates. (1) Except as provided in subsection (2), [this act] is effective May 15, 2021.

(2) [Section 4] is effective March 1, 2022.

- END -