

1 HOUSE BILL NO. 305

2 INTRODUCED BY S. BERGLEE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO ROADSIDE
5 MENAGERIES, WILDLIFE SANCTUARIES, AND ZOOS; AUTHORIZING THE PERMITTING OF WILDLIFE
6 SANCTUARIES; AUTHORIZING PERMITS TO OBTAIN WILD ANIMALS; REVISING REVOCATION
7 PROVISIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING FEES AND PENALTIES; PROVIDING
8 DEFINITIONS; AND AMENDING SECTIONS 87-4-801, 87-4-802, 87-4-803, 87-4-804, 87-4-806, 87-5-709, 87-
9 6-101, AND 87-6-715, MCA."

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

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13 **Section 1.** Section 87-4-801, MCA, is amended to read:14 **"87-4-801. Definitions.** As used in this part unless the context requires otherwise, the following
15 definitions apply:

16 (1) "Roadside menagerie" means any place where one or more wild animals, including birds, reptiles,
17 and the like, are kept in captivity for the evident purpose of exhibition, ~~or~~ attracting trade, or other commercial
18 purposes on or off the facility premises. It does not include the exhibition of any animal by an educational
19 institution or by a traveling theatrical exhibition or circus based outside of Montana.

20 (2) "Wild animal" means an animal that is wild by nature as distinguished from the common domestic
21 animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

22 (3) "Wild animal menagerie" means any place where one or more bears or large cats, including
23 cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats are kept in
24 captivity for use other than public exhibition.

25 (4) "Wildlife sanctuary" means a facility organized as a Montana nonprofit corporation pursuant to
26 Title 35, chapter 2, or accredited by the American sanctuary association or the global federation of animal
27 sanctuaries for the purpose of providing homes for nonreleasable wild animals.

28 (4)(5) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any

1 facility participating in the ~~American zoo and aquarium association~~ of zoos and aquariums or the zoological
2 association of America accreditation program for the purpose of exhibiting wild animals for public viewing."

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4 **Section 2.** Section 87-4-802, MCA, is amended to read:

5 **"87-4-802. Department regulations.** The department shall adopt and enforce reasonable regulations
6 for the housing, care, treatment, feeding, and sanitation of animals kept in roadside menageries, wild animal
7 menageries, wildlife sanctuaries, and zoos, for the protection of the public from injury by those animals, and for
8 the licensing of roadside menageries, wild animal menageries, wildlife sanctuaries, and zoos."

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10 **Section 3.** Section 87-4-803, MCA, is amended to read:

11 **"87-4-803. Permits.** (1) The department may grant permits for roadside menageries, wild animal
12 menageries, wildlife sanctuaries, and zoos. Application for a permit must be made to the director on a form
13 prescribed by the director. The annual permit fee for five or less animals is \$10. The annual permit fee for more
14 than five animals is \$25. Permits expire on December 31 but may be renewed upon payment of the annual fee
15 and submission of a renewal application. This section does not apply to the United States, the state of
16 Montana, or any county or city. A person who subscribes to any false statement in application for a permit is
17 subject to the provisions of 87-6-715 and may be denied a permit.

18 (2) (a) A permit application for a roadside menagerie must include:

19 (i) the applicant's name and address;

20 (ii) the exact location of the facility;

21 (iii) a list of species and the number of animals to be held in the facility;

22 (iv) the type of facility contemplated, including cage specifications;

23 (v) a copy of all required federal permits for exhibition of wild animals; and

24 (vi) a copy of a liability insurance policy to cover bodily injury or property damage.

25 (b) A permit application for a wild animal menagerie must include:

26 (i) the applicant's name and address;

27 (ii) the exact location of the facility, together with the nature of the applicant's title to the land, whether
28 in fee, under lease, by contract for deed, or otherwise;

- 1 (iii) a list of species and the number of animals to be held in the facility;
- 2 (iv) the type of facility contemplated, including cage specifications; and
- 3 (v) information demonstrating that the applicant is responsible.
- 4 (c) A permit application for a wildlife sanctuary or a zoo must include:
- 5 (i) the applicant's name and address;
- 6 (ii) the exact location of the facility;
- 7 (iii) a copy of the nonprofit corporation documents approved by the secretary of state's office;
- 8 (iv) a copy of the required federal permits for exhibition of wild animals; and
- 9 (v) if applicable, a copy of the ~~American zoo and aquarium~~ association of zoos and aquariums, the
- 10 zoological association of America, the American sanctuary association, or the global federation of animal
- 11 sanctuaries accreditation program specific to the facility.

12 (3) Renewal applications for roadside menageries and wild animal menageries must include an

13 accounting of all wild animals on the facility.

14 (4) A permit may not be granted by the department until it has satisfactorily verified that the provisions

15 for housing and caring for the animals and for protecting the public are proper and adequate and in accordance

16 with the standards established by the department.

17 (5) A permit is not transferable to another person."

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19 **Section 4.** Section 87-4-804, MCA, is amended to read:

20 **"87-4-804. Permit to obtain wild animals.** (1) It is unlawful to obtain wild animals for a roadside

21 menagerie, wild animal menagerie, wildlife sanctuary, or zoo by capture from the wild or by purchase except as

22 authorized by the department in accordance with the terms of a permit.

23 (2) Application for a capture permit may be made only by a wildlife sanctuary or a zoo and must be

24 made to the director on a form prescribed by the director. After investigation by the department, the director

25 may issue a capture permit without charge if the director finds:

- 26 (a) that all provisions of this part and of the department regulations are complied with by the applicant;
- 27 and
- 28 (b) that the number and species of wildlife desired is not excessive under the circumstances.

1 (3) If wild animals are to be obtained by capture for use in a wildlife sanctuary or zoes a zoo, the
 2 permit must designate the number and the means of capture, but ownership of the wild animals captured ~~shall~~
 3 must remain in the state of Montana.

4 (4) Roadside menageries, wild animal menageries, wildlife sanctuaries, and zoos may obtain captive-
 5 bred wild animals from a licensed zoo, menagerie, alternative livestock ranch, fur farm, game bird farm, wildlife
 6 sanctuary, or animal rehabilitation center.

7 (5) Wild animals may be bought, sold, or transferred under regulations that the department
 8 prescribes.

9 (6) The number of wild animals in a wild animal menagerie may not exceed 10."
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11 **Section 5.** Section 87-4-806, MCA, is amended to read:

12 **"87-4-806. Inspection, permit revocation, and redemption of wildlife.** All A roadside menageries
 13 menagerie, wild animal ~~menageries~~ menagerie, wildlife sanctuary, ~~and zoes or zoo~~ and all equipment used in
 14 connection with ~~any~~ a roadside menagerie, wild animal menagerie, wildlife sanctuary, or zoo must be open to
 15 inspection at all reasonable hours. If upon inspection it is found that the roadside menagerie, wild animal
 16 menagerie, wildlife sanctuary, or zoo is not being operated in accordance with this part or with the department
 17 regulations, the director ~~shall~~ may revoke the permit without right of renewal, ~~and~~ if a permit is revoked, the
 18 department shall ~~redeem~~ take possession of all wildlife obtained by capture or unlawful propagation."
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20 **Section 6.** Section 87-5-709, MCA, is amended to read:

21 **"87-5-709. Exceptions and exemptions to possession and sale of exotic wildlife.** (1) Sections
 22 87-5-705 through 87-5-708 and this section do not apply to:

23 (a) institutions that have established that their proposed facilities are adequate to provide secure
 24 confinement of wildlife, including:

25 (i) an accredited zoological garden or wildlife sanctuary chartered by the state as a nonprofit
 26 corporation;

27 (ii) a roadside menagerie permitted under 87-4-803 that was established for the purpose of exhibition
 28 or attracting trade;

1 (iii) a research facility for testing and science that employs individuals licensed under 37-34-301 or that
2 submits evidence to the department that it meets animal testing standards as provided by the national institutes
3 of health, the national science foundation, the centers for disease control and prevention, the United States
4 department of agriculture, or another similar nationally recognized and approved testing standard; or
5 (b) domestic animals.

6 (2) Authorization for possession must be provided by the department for exotic wildlife possessed as
7 of January 1, 2004, and the authorization may include any conditions and restrictions necessary to minimize
8 risks."

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10 **Section 7.** Section 87-6-101, MCA, is amended to read:

11 **"87-6-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
12 apply:

13 (1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose,
14 antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or
15 any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be
16 regulated pursuant to Title 87, chapter 4, part 8.

17 (2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may
18 be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of
19 alternative livestock, as authorized under Title 87, chapter 4, part 4.

20 (3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an
21 area inhabited by wildlife for the purpose of attracting game animals or game birds.

22 (b) The term does not include:

23 (i) decoys, silhouettes, or other replicas of wildlife body forms;

24 (ii) scents used only to mask human odor; or

25 (iii) types of scents that are approved by the commission for attracting game animals or game birds.

26 (4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing
27 animals may not be lawfully taken.

28 (5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the

1 families Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows,
2 domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of
3 origin, or bison.

4 (6) "Conviction" means a judgment or sentence entered following a guilty plea, a nolo contendere
5 plea, a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction
6 authorized to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person's
7 appearance in court that has not been vacated.

8 (7) "Field trial" has the meaning provided in 87-3-601.

9 (8) "Fishing" means to take or harvest fish or the act of a person possessing any instrument, article, or
10 substance for the purpose of taking or harvesting fish in any location that a fish might inhabit.

11 (9) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the
12 business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing
13 animals or predatory animals.

14 (b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state
15 of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident
16 fur dealers.

17 (10) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing
18 in captivity, keeping, and selling furbearers or parts of furbearers.

19 (11) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink,
20 bobcat, lynx, wolverine, northern swift fox, and beaver.

21 (b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

22 (12) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,
23 mountain lion, bear, and wild buffalo.

24 (13) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and
25 whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all
26 species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus
27 (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all
28 species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus

1 Pomoxis (crappie); and the species Ictalurus punctatus (channel catfish).

2 (14) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or the
3 act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of
4 shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the laws of this
5 state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term
6 includes an attempt to take or harvest by any means, including but not limited to pursuing, shooting, wounding,
7 killing, chasing, luring, possessing, or capturing.

8 (15) "Knowingly" has the meaning provided in 45-2-101.

9 (16) "Livestock" includes ostriches, rheas, and emus.

10 (17) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans;
11 cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning
12 doves.

13 (18) "Negligently" has the meaning provided in 45-2-101.

14 (19) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or
15 other animal not otherwise legally classified by statute or regulation of this state.

16 (20) "Open season" means the time during which game birds, fish, and game and fur-bearing animals
17 may be lawfully taken.

18 (21) "Participating state" means any state that enacts legislation to become a member of the Interstate
19 Wildlife Violator Compact.

20 (22) "Person" means an individual, association, partnership, and corporation.

21 (23) "Possession" has the meaning provided in 45-2-101.

22 (24) "Predatory animal" means coyote, weasel, skunk, and civet cat.

23 (25) "Purposely" has the meaning provided in 45-2-101.

24 (26) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons,
25 hawks, eagles, ospreys, and owls.

26 (27) "Resident" has the meaning provided in 87-2-102.

27 (28) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for
28 the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the

1 exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based
2 outside of Montana.

3 (29) "Sale" means a contract by which a person:

4 (a) transfers an interest in either game or fish for a price; or

5 (b) transfers, barter, or exchanges an interest either in game or fish for an article or thing of value.

6 (30) "Site of the kill" means the location where a game animal or game bird expires and the person
7 responsible for the death takes physical possession of the carcass.

8 (31) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals.

9 The term does not include growing plants or plants harvested for the feeding of livestock.

10 (32) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving,
11 or preparing all or part of the dead bodies of any wildlife.

12 (33) "Trap" means to take or harvest or participate in the taking or harvesting of any wildlife protected
13 by state law by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife
14 or to remove wildlife from any of these devices.

15 (34) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie
16 chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild
17 turkey, and chukar partridge.

18 (35) "Wild animal" means an animal that is wild by nature as distinguished from common domestic
19 animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

20 (36) "Wild animal menagerie" means any place where one or more bears or large cats, including
21 cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in
22 captivity for use other than public exhibition.

23 (37) "Wild buffalo" means buffalo or bison that have not been reduced to captivity.

24 (38) "Wildlife sanctuary" means a facility organized as a Montana nonprofit corporation pursuant to
25 Title 35, chapter 2, or accredited by the American sanctuary association or the global federation of animal
26 sanctuaries for the purpose of providing homes for nonreleasable wild animals.

27 ~~(38)~~(39) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any
28 facility participating in the ~~American zoo and aquarium~~ association of zoos and aquariums or the zoological

1 association of America accreditation program for the purpose of exhibiting wild animals for public viewing."
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Section 8. Section 87-6-715, MCA, is amended to read:

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"87-6-715. Menagerie, sanctuary, and zoo offenses. (1) A person may not:

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(a) operate a roadside menagerie or wild animal menagerie without a permit obtained pursuant to 87-

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4-803;

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(b) subscribe to any false statement in an application for a permit; or

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(c) obtain wild animals for a roadside menagerie, wild animal menagerie, wildlife sanctuary, or zoo by

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capture from the wild or by purchase except in accordance with 87-4-804.

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(2) A person convicted of a violation of this section shall be fined not less than \$50 or more than

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\$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the

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person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing,

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or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands,

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as defined in 77-1-101, for recreational purposes for a period of time set by the court."

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- END -