



AN ACT REVISING THE DEFINITION OF "GAME ANIMAL" TO INCLUDE GAME BIRDS AND FURBEARERS; REVISING THE DEFINITION OF "PREDATORY ANIMAL"; AND AMENDING SECTIONS 7-3-1105, 7-3-1222, 7-31-4110, 50-50-401, 87-1-293, 87-2-101, 87-2-520, 87-2-702, 87-2-803, 87-3-128, 87-4-406, 87-4-414, 87-4-418, 87-4-427, 87-6-101, 87-6-202, 87-6-204, 87-6-205, 87-6-206, 87-6-207, 87-6-208, 87-6-214, 87-6-215, 87-6-301, 87-6-304, 87-6-305, 87-6-401, 87-6-403, 87-6-404, 87-6-405, 87-6-411, AND 87-6-904, MCA.

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

Section 1. Section 7-3-1105, MCA, is amended to read:

"7-3-1105. Rules, ordinances, and resolutions of consolidated unit. (1) Within 2 years after ratification of the consolidation, the governing body of the consolidated unit of local government shall revise, repeal, or reaffirm all rules, ordinances, and resolutions in force within the participating county, cities, and towns at the time of consolidation. Each rule, ordinance, or resolution in force at the time of consolidation must remain in force within the former geographic jurisdiction until superseded by action of the new governing body. Ordinances and resolutions relating to public improvements to be paid for in whole or in part by special assessments may not be repealed.

(2) (a) A consolidated government may adopt, for the portion of the consolidated government that was formerly a city or town, a plan to control, remove, and restrict big game animals, as defined in 87-2-101, within the defined boundaries of the city or town limits for public health and safety purposes. Upon adoption of a plan, the consolidated government shall notify the department of fish, wildlife, and parks of the plan. If the department of fish, wildlife, and parks approves the plan or approves the plan with conditions, the consolidated government may implement the plan as approved or as approved with conditions.

(b) The plan may allow the hunting of big game animals and provide restrictions on the feeding of big game animals."

Section 2. Section 7-3-1222, MCA, is amended to read:

"7-3-1222. Procedure to enact ordinances and resolutions. (1) Ordinances and resolutions must be introduced in the commission only in written or printed form. All ordinances or resolutions, except ordinances making appropriations, must be confined to one subject, which must be clearly expressed in the title, except as provided in 7-3-1226. Ordinances making appropriations must be confined to the subject of appropriations. An ordinance may not be passed until it has been read on 3 separate days, unless the requirement of reading on 3 separate days has been dispensed with by a vote of not less than two-thirds of the members of the commission. The final reading must be in full unless a written or printed copy of the measure has been furnished to each member of the commission prior to final reading.

(2) The enacting clause of all ordinances passed by the commission must be: "Be it ordained by the city and county of _____", and the enacting clause of all ordinances submitted by the initiative must be: "Be it ordained by the people of the city and county of _____".

(3) An ordinance, resolution, or section of an ordinance or resolution may not be revised or amended unless the new ordinance or resolution contains the entire ordinance, resolution, or section of the ordinance or resolution as revised or amended.

(4) Every ordinance or resolution, upon its final passage, must be recorded in a book kept for that purpose and must be authenticated by the signatures of the president and clerk. Within 10 days after its final passage, each ordinance or resolution must be published at least once in the manner that the commission may provide by ordinance.

(5) Initiated ordinances adopted by the electors must be published and may be amended or repealed by the commission, as in the case of other ordinances.

(6) (a) A consolidated government may adopt, for the portion of the consolidated government that was formerly a city or town, a plan to control, remove, and restrict big game animals, as defined in 87-2-101, within the boundaries that are within the city or town limits for public health and safety purposes. Upon adoption of a plan, the consolidated government shall notify the department of fish, wildlife, and parks of the plan. If the department of fish, wildlife, and parks approves the plan or approves the plan with conditions, the consolidated government may implement the plan as approved or as approved with conditions.

(b) The plan may allow the hunting of big game animals and provide restrictions on the feeding of big game animals."

Section 3. Section 7-31-4110, MCA, is amended to read:

"7-31-4110. Restriction of wildlife. (1) A city or town may adopt a plan to control, remove, and restrict big game animals, as defined in 87-2-101, within the boundaries of the city or town limits for public health and safety purposes. Upon adoption of a plan, the city or town shall notify the department of fish, wildlife, and parks of the plan. If the department of fish, wildlife, and parks approves the plan or approves the plan with conditions, the city or town may implement the plan as approved or as approved with conditions.

(2) The plan may allow the hunting of big game animals and provide restrictions on the feeding of big game animals."

Section 4. Section 50-50-401, MCA, is amended to read:

"50-50-401. Tagging or declaration requirements for stored meat. (1) The owner or operator of an establishment, as defined in this chapter, shall not receive the carcass of a big game animal; or game bird; or any quarter, half, or whole carcass of beef or veal unless:

(a) it is properly stamped or tagged; or

(b) a written declaration is filed by the owner stating how it was obtained, the date placed in the locker, and the weight and type of meat.

(2) A declaration made under subsection (1)(b) of this section shall be retained for 1 year and shall be open to inspection by employees of the department."

Section 5. Section 87-1-293, MCA, is amended to read:

"87-1-293. (Temporary) Hunters against hunger -- findings -- optional donation -- rulemaking. (1)

The legislature finds that:

(a) hunters play a vital role in achieving population management objectives for big game animals;

(b) the donation of big game animals to charitable or nonprofit organizations for free distribution to people can help stop hunger; and

(c) hunters should have the option of donating \$1 or more above the purchase price for certain licenses toward a program that would process donated wild game and distribute the meat to those in need.

(2) A person who applies for or purchases a deer, antelope, elk, or wild buffalo license may donate \$1 or more in addition to the price of each license to the hunters against hunger program.

(3) The department shall deposit donations received pursuant to this section into the hunters against hunger account established in 87-1-628.

(4) The department shall adopt rules to implement the provisions of this section, including:

(a) providing the forms necessary for the hunters against hunger donation option;

(b) regulating the payment of funds from the hunters against hunger account to a nonprofit organization exempt from taxation under 26 U.S.C. 501(c)(3) for the processing of donated or seized big game animals; and

(c) establishing guidelines for the donation of big game animals to a nonprofit organization exempt from taxation under 26 U.S.C. 501(c)(3) that is paid from the hunters against hunger account and for the donation of processed game meat to those in need.

(5) In this section, the definitions in 87-2-101 apply. (Terminates June 30, 2019--sec. 7, Ch. 83, L. 2013.)"

Section 6. Section 87-2-101, MCA, is amended to read:

"87-2-101. Definitions. As used in Title 87, chapter 3, and this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Angling" or "fishing" means to take or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

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

(b) The term does not include:

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

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

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

(3) "Big game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

~~(3)~~(4) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

~~(4)~~(5) "Game animals" animal means ~~deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo~~ big game animals, upland game birds, migratory game birds, and

fur-bearing animals.

(5)(6) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Sander (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

(6)(7) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the 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 shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(7)(8) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

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

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

(10)(11) "Person" means an individual, association, partnership, or corporation.

(11)(12) "Predatory animals" means ~~coyote, weasel, skunk, and civet cat~~ badger, civet cat, coyote, raccoon, red fox, skunk, and weasel.

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

(13)(14) "Upland game birds" means sharp-tailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

~~(14)~~(15) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."

Section 7. Section 87-2-520, MCA, is amended to read:

"87-2-520. Supplemental game damage license -- terms and conditions. (1) If at any time the department determines, in conjunction with a landowner or a designated lessee acting as an agent for a landowner, that big game animals on the property are causing a level of damage to crops or other vegetation that merits removal of a specific number of big game animals or that the taking of a specific number of big game animals is advisable for game management purposes, the department may issue nontransferable resident and nonresident supplemental game damage hunting licenses for game management purposes on the property.

(2) Supplemental game damage hunting licenses may be issued only for antlerless animals and may be issued only for use on lands eligible for game damage assistance pursuant to 87-1-225. A landowner may not charge a fee to a hunter using a license obtained pursuant to this section.

(3) Supplemental game damage licenses may be issued to hunters as an alternative to issuing a kill permit to a landowner.

(4) (a) In a hunting district with unlimited license quotas, a landowner may designate the resident supplemental game damage license recipient upon approval of issuance.

(b) In a hunting district with limited permit quotas, a landowner may designate up to 75% of the resident supplemental game damage license recipients, with the remainder of the licenses offered to hunters in a manner prescribed by the department.

(5) If additional supplemental game damage licenses are available, the department may issue those licenses to resident and nonresident hunters.

(6) A licensee shall pay the regular license price or an adjusted price set by the commission for any supplemental game management license issued pursuant to subsection (1). Issuance of a supplemental game damage license authorizes the licensee to hunt, take, and possess the big game animal designated on the license. All hunting under a supplemental game damage license must be conducted on the property designated on the license and in accordance with department regulations."

Section 8. Section 87-2-702, MCA, is amended to read:

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

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

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

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

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

(b) Except as provided in 87-1-271(2) and 87-2-815, a person who takes a mountain sheep using an unlimited mountain sheep license, with the exception of a mountain sheep taken pursuant to an adult ewe license, as authorized by 87-2-701, is not eligible to receive another special license for that species for the next 7 years. For the purposes of this subsection (4)(b), "unlimited mountain sheep license" means a license that is valid for an area in which the number of licenses issued is not restricted.

(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."

Section 9. Section 87-2-803, MCA, is amended to read:

"87-2-803. Persons with disabilities -- service members -- definitions. (1) Persons with disabilities are entitled to fish and to hunt game birds, not including turkeys, with only a conservation license if they are residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule. A person who has purchased a conservation license and a resident fishing license or game bird license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the fishing license or game bird license previously purchased for that license year. A person who is certified as disabled pursuant to subsection (3) and who was issued a permit to hunt from a vehicle for license year 2014 or a subsequent license year is automatically entitled to a permit to hunt from a vehicle for subsequent license years if the criteria for obtaining a permit does not change.

(2) A resident of Montana who is certified as disabled by the department and who is not residing in an institution may purchase a Class A-3 deer A tag for \$6.50 and a Class A-5 elk tag for \$8. A person who has purchased a conservation license and a resident deer license or resident elk license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the deer license or elk license previously purchased and reissuance of the license for that license year at the rate established in this subsection.

(3) A person may be certified as disabled by the department and issued a permit to hunt from a vehicle, on a form prescribed by the department, if the person meets the requirements of subsection (9).

(4) (a) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection (4) as a permitholder, may hunt by shooting a firearm from:

(i) the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-101, except a state or federal highway;

(ii) within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public highway, where hunting is permitted; or

(iii) an off-highway vehicle or snowmobile, as defined in 61-1-101, in any area where hunting is permitted and that is open to motorized use, unless otherwise prohibited by law, as long as the off-highway vehicle or snowmobile is marked as described in subsection (4)(d) of this section.

(b) This subsection (4) does not allow a permitholder to shoot across the roadway of any public highway or to hunt on private property without permission of the landowner.

(c) A permit holder must have a companion to assist in immediately dressing any killed big game animal. The companion may also assist the permit holder by hunting a big game animal that has been wounded by the permit holder when the permit holder is unable to pursue and kill the wounded big game animal.

(d) Any vehicle from which a permit holder is hunting must be conspicuously marked with an orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle, or as prescribed by the department.

(5) A veteran or a disabled member of the armed forces who meets the qualifications in subsection (9) as a result of a combat-connected injury may apply at a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A tag, a Class B-8 deer B tag, and a special antelope license at one-half the license fee. Fifty licenses of each license type must be made available annually. Licenses issued to veterans or disabled members of the armed forces under this part do not count against the number of special antelope licenses reserved for people with permanent disabilities, as provided in 87-2-706.

(6) (a) A resident of Montana who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by department rule. An applicant for a license under this subsection need not obtain a wildlife conservation license as a prerequisite to licensure.

(b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued regular resident deer and elk licenses, in the manner provided in subsection (2) of this section, and must be accompanied by a companion, as provided in subsection (4)(c) of this section.

(7) The department shall adopt rules to establish the qualifications that a person must meet to be a companion and may adopt rules to establish when a companion can be a designated shooter for a disabled person.

(8) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers to a person experiencing a condition medically determined to be permanent and substantial and resulting in significant impairment of the person's functional ability.

(9) (a) A person qualifies for a permit to hunt from a vehicle if the person is certified by a licensed physician, a licensed chiropractor, a licensed physician assistant, or an advanced practice registered nurse to be nonambulatory, to have substantially impaired mobility, or to have a documented genetic condition that limits

the person's ability to walk or carry significant weight for long distances.

(b) For the purposes of this subsection (9), the following definitions apply:

(i) "Advanced practice registered nurse" means a registered professional nurse who has completed educational requirements related to the nurse's specific practice role, as specified by the board of nursing pursuant to 37-8-202, in addition to completing basic nursing education.

(ii) "Chiropractor" means a person who has a valid license to practice chiropractic in this state pursuant to Title 37, chapter 12, part 3.

(iii) "Documented genetic condition" means a diagnosis derived from genetic testing and confirmed by a licensed physician.

(iv) "Nonambulatory" means permanently, physically reliant on a wheelchair or a similar compensatory appliance or device for mobility.

(v) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy and who has a valid license to practice medicine or osteopathic medicine in this state.

(vi) "Physician assistant" has the meaning provided in 37-20-401.

(vii) "Substantially impaired mobility" means virtual inability to move on foot due to permanent physical reliance on crutches, canes, prosthetic appliances, or similar compensatory appliances or devices.

(10) Certification under subsection (9) must be on a form provided by the department.

(11) The department or a person who disagrees with a determination of disability or eligibility for a permit to hunt from a vehicle may request a review by the board of medical examiners pursuant to 37-3-203.

(12) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a contingency operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months outside of the state, upon request and upon presentation of the documentation described in subsection (12)(b), must be issued a free resident wildlife conservation license or a Class AAA resident combination sports license, which may not include a bear license, upon payment of the resident hunting access enhancement fee provided for in 87-2-202(3)(c), in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election. A member who participated in a contingency operation after September 11, 2001, that required the member to serve at least 2 months outside of the state may make an election in 2007 or in the year following the member's

return, based on the member's election, and in any of the 4 years after the member's election and be entitled to a free resident wildlife conservation license or a free Class AAA resident combination sports license in the year of election and in any of the 4 years after the member's election.

(b) To be eligible for the free resident wildlife conservation license or free Class AAA resident combination sports license provided for in subsection (12)(a), an applicant shall, in addition to the written application and proof of residency required in 87-2-202(1), provide to any regional department office or to the department headquarters in Helena, by mail or in person, the member's DD form 214 verifying the member's release or discharge from active duty. The applicant is responsible for providing documentation showing that the applicant participated in a contingency operation as provided in 10 U.S.C. 101(a)(13).

(c) A Montana resident who meets the service qualifications of subsection (12)(a) and the documentation required in subsection (12)(b) is entitled to a free Class A resident fishing license in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election.

(d) The department's general license account must be reimbursed by a quarterly transfer of funds from the general fund to the general license account for costs associated with the free licenses granted pursuant to this subsection (12) during the preceding calendar quarter. Reimbursement costs must be designated as license revenue.

(13) A member of the armed forces who forfeited a license or permit issued through a drawing as a result of deployment outside of the continental United States in support of a contingency operation as provided in 10 U.S.C. 101(a)(13) is guaranteed the same license or permit, without additional fee, upon application in the year of the member's return from deployment or in the first year that the license or permit is made available after the member's return."

Section 10. Section 87-3-128, MCA, is amended to read:

"87-3-128. Exceptions -- department personnel. The provisions of this chapter relating to methods of herding, driving, capturing, taking, locating, or concentrating of fish; or game animals, ~~game birds, or fur-bearing animals~~ do not apply to the department or to any employee ~~thereof~~ of the department while acting within the scope and course of the powers and duties of the department."

Section 11. Section 87-4-406, MCA, is amended to read:

"87-4-406. Definitions. As used in this part, the following definitions apply:

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

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

(3) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families suidae, camelidae, or hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

(4) "Department" means the department of fish, wildlife, and parks.

(5) "Facilities" means perimeter fences and other enclosures that provide for the confinement, handling, and quarantine of alternative livestock.

(6) "~~Game~~ Big game animals" means big game animals, as defined in 87-2-101, that are not the lawful property of any private person.

(7) "Person" means an individual, firm, corporation, association, or partnership."

Section 12. Section 87-4-414, MCA, is amended to read:

"87-4-414. Alternative livestock as private property -- source -- marking -- fee shooting prohibited.

(1) All alternative livestock lawfully possessed on a licensed alternative livestock ranch are private property for which the licensee is responsible as provided by law.

(2) The licensee may acquire, breed, grow, keep, pursue, handle, harvest, use, sell, or dispose of the alternative livestock and their progeny in any quantity and at any time of year as long as the licensee complies with the requirements of this part, except that the licensee may not allow the shooting of big game animals or alternative livestock, as defined in 87-2-101 or 87-4-406, or of any exotic big game species for a fee or other remuneration on an alternative livestock facility.

(3) A licensee shall mark alternative livestock in a manner approved by the department of livestock, as

required under subsection (4), and that indicates ownership and provides individual identification of animals for inspection, transportation, reporting, and taxation purposes.

(4) The department of livestock is responsible for the control, tracking, and distribution of identification tags used for the marking of alternative livestock. The department of livestock shall require that all imported alternative livestock are marked within 30 days of importation and that all other alternative livestock are marked prior to January 1 of each year. Each alternative livestock must be marked with identification that:

- (a) is unique to the animal;
- (b) is nontransferable;
- (c) has an emblem owned and registered by the department of livestock that is embossed on each identification tag; and
- (d) allows for the identification of alternative livestock from a distance.

(5) Upon the request of a licensee, the department of livestock may grant a temporary waiver as to the time for identification and to the manner of identification if necessary to address a special circumstance.

(6) Alternative livestock must be lawfully acquired by the licensee. Alternative livestock may be kept only on a licensed alternative livestock ranch. A licensee who keeps alternative livestock owned by, leased to, or leased from another person shall comply with all of the requirements of this part as if the animal belonged to the licensee. Records and reports submitted by the licensee pursuant to 87-4-417 must identify any alternative livestock kept by the licensee during the reporting period and the name and address of the owner or lessee.

(7) Except as otherwise provided in this part, laws applicable to big game animals do not apply to alternative livestock raised on a licensed alternative livestock ranch."

Section 13. Section 87-4-418, MCA, is amended to read:

"87-4-418. Unlawful capture. A person may not capture, take, or otherwise acquire any big game animal in this state for use on an alternative livestock ranch."

Section 14. Section 87-4-427, MCA, is amended to read:

"87-4-427. Revocation of license -- criteria -- penalties. (1) The department may revoke any alternative livestock ranch license or impose any of the penalties or conditions specified in subsection (3) if the licensee or the principal manager has committed or is responsible for any of the following acts or omissions:

(a) failure to operate an alternative livestock ranch according to the provisions of this part, rules adopted under this part, or stipulations of the alternative livestock ranch license;

(b) making a materially false statement in the license application;

(c) having pleaded guilty to or been convicted of a felony, including a case in which the sentence is suspended or imposition of the sentence is deferred, unless civil rights have been restored pursuant to law;

(d) two convictions or bond forfeitures of \$100 or more for violations of the fish and game laws or applicable regulations of any state or the United States within the preceding 5 years;

(e) negligent or willful misconduct of the alternative livestock ranch operation, including but not limited to the unauthorized egress and ingress of big game animal species or alternative livestock that:

(i) threatens public safety;

(ii) endangers native big game animal populations or habitat through the establishment of feral populations, genetic pollution, or competition for forage or habitat; or

(iii) increases the risk of transmission of disease to native wildlife and the alternative livestock of others;

(f) a material and willful falsification of any required alternative livestock ranch records or reports;

(g) the purposeful capture of wild animals within the perimeter fence of an alternative livestock ranch;

(h) repeated failure to maintain or repair required fences or facilities; or

(i) any other willful conduct or omission that creates a substantial threat to other alternative livestock and operators or to native wildlife or habitat.

(2) If misconduct under subsection (1)(e) is negligent, the licensee must be given notice and 30 days to correct the misconduct and any adverse impacts of the misconduct. Negligent misconduct may be grounds for license revocation only if the misconduct is not corrected after the initial notice or if the misconduct is repeated.

(3) If the department finds, after opportunity for a hearing required under 87-4-428, that an alternative livestock ranch licensee or the principal manager is responsible for any act or omission set out in subsection (1), the department may in its discretion impose any one or more of the following penalties upon the licensee:

(a) revocation of the alternative livestock ranch license for up to 5 years;

(b) imposition of a civil penalty not to exceed \$5,000, restoration of any damage to native wildlife, or both;

(c) deferral of the revocation of a license subject to the completion of or adherence to specified conditions; or

(d) reprimand of a licensee.

(4) In addition to the revocation of a license or other penalties allowed by this section, a person who purposely or knowingly violates this part or a rule adopted pursuant to this part is subject to the penalties provided in 87-6-705."

Section 15. Section 87-6-101, MCA, is amended to read:

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

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

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

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

(b) The term does not include:

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

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

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

(4) "Big game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

~~(4)~~(5) "Closed season" means the time during which ~~game birds, fish, and~~ game animals, and ~~fur-bearing animals~~ may not be lawfully taken.

~~(5)~~(6) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

~~(6)~~(7) "Conviction" means a judgment or sentence entered following a guilty plea, a nolo contendere

plea, a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person's appearance in court that has not been vacated.

~~(7)~~(8) "Field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game birds.

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

~~(9)~~(10) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or predatory animals.

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

~~(10)~~(11) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers.

~~(11)~~(12) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

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

~~(12)~~(13) "Game animal" means ~~deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo~~ big game animals, upland game birds, migratory game birds, and fur-bearing animals or furbearers.

~~(13)~~(14) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

~~(14)~~(15) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the 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 shooting,

wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

~~(15)~~(16) "Knowingly" has the meaning provided in 45-2-101.

~~(16)~~(17) "Livestock" includes ostriches, rheas, and emus.

~~(17)~~(18) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

~~(18)~~(19) "Negligently" has the meaning provided in 45-2-101.

~~(19)~~(20) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

~~(20)~~(21) "Open season" means the time during which ~~game birds, fish, and game and fur-bearing~~ animals may be lawfully taken.

~~(24)~~(22) "Participating state" means any state that enacts legislation to become a member of the Interstate Wildlife Violator Compact.

~~(22)~~(23) "Person" means an individual, association, partnership, and corporation.

~~(23)~~(24) "Possession" has the meaning provided in 45-2-101.

~~(24)~~(25) "Predatory animal" means ~~coyote, weasel, skunk, and civet cat~~ badger, civet cat, coyote, raccoon, red fox, skunk, and weasel.

~~(25)~~(26) "Purposely" has the meaning provided in 45-2-101.

~~(26)~~(27) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

~~(27)~~(28) "Resident" has the meaning provided in 87-2-102.

~~(28)~~(29) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

~~(29)~~(30) "Sale" means a contract by which a person:

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

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

~~(30)~~(31) "Supplemental feed attractant" means any food, garbage, or other attractant for big game animals. The term does not include growing plants or plants harvested for the feeding of livestock.

~~(34)~~(32) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

~~(32)~~(33) "Trap" means to take or participate in the taking of any wildlife protected by state law by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

~~(33)~~(34) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

~~(34)~~(35) "Wild animal" means an animal that is wild by nature as distinguished from common domestic animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

~~(35)~~(36) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity for use other than public exhibition.

~~(36)~~(37) "Wild buffalo" means buffalo or bison that have not been reduced to captivity.

~~(37)~~(38) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting wild animals for public viewing."

Section 16. Section 87-6-202, MCA, is amended to read:

"87-6-202. Unlawful possession, shipping, or transportation of game fish, bird, big game animal, or fur-bearing animal. (1) A person may not possess, ship, or transport all or part of any game fish, bird, big game animal, or fur-bearing animal that was unlawfully killed, captured, or taken, whether killed, captured, or taken in Montana or outside of Montana.

(2) This section does not prohibit the possession, shipping, or transportation of:

(a) hides, heads, or mounts of lawfully killed, captured, or taken game fish, birds, big game animals, or

fur-bearing animals, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided by federal law;

(b) naturally shed antlers or the antlers with a skull or portion of a skull attached from a big game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) paddlefish roe as caviar under the provisions of 87-4-601;

(e) captive-reared migratory waterfowl; or

(f) salvaged antelope, deer, elk, or moose subject to 87-3-145.

(3) A person may not possess, ship, or transport live fish away from the body of water in which the fish were taken except:

(a) as provided in Title 87, chapter 4, part 6, or as specifically permitted by the laws of this state;

(b) fish species approved by the commission for use as live bait and subject to any restrictions imposed by the commission; or

(c) within the boundaries of the eastern Montana fishing district, as established by commission regulations.

(4) The possession of all or part of a dead game fish, bird, big game animal, or fur-bearing animal is prima facie evidence that the person or persons in whose possession the fish, bird, or animal is found killed, captured, or took the fish, bird, or animal.

(5) The value of a game fish, bird, big game animal, or fur-bearing animal that is unlawfully possessed, shipped, or transported must be determined from the schedules of restitution values in 87-6-906 and 87-6-907. The value of game fish, birds, big game animals, or fur-bearing animals that are unlawfully possessed, shipped, or transported pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

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

(a) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a game fish or bird and if the value of all or part of the game fish or bird or combination thereof does not exceed \$1,000, the person 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 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.

(b) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed \$1,000, the person shall be fined not less than \$500 or more than \$2,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer period.

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful possession or transportation of a deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed \$1,000, the person shall be fined not less than \$300 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 shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period.

(d) If a person is convicted or forfeits bond or bail after being charged with unlawful shipping of a mountain sheep, moose, wild buffalo, caribou, mountain goat, black bear, grizzly bear, deer, antelope, elk, or mountain lion or any part of these animals and if the value of all or part of the animal or combination thereof does not exceed \$1,000, the person 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 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.

(e) If a person is convicted or forfeits bond or bail after being charged with unlawful possession, shipping, or transportation of a fur-bearing animal or pelt of a fur-bearing animal and if the value of all or part of the animal or combination thereof does not exceed \$1,000, the person shall be fined not less than \$100 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 shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and

any pelts possessed unlawfully must be confiscated.

(f) If a person is convicted under this section or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, big game animal, or fur-bearing animal or combination thereof exceeds \$1,000, the person shall be fined not more than \$50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(7) A person convicted of unlawful possession of more than double the legal bag limit may be subject to the additional penalties provided in 87-6-901.

(8) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken.

(9) 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 87-6-204, MCA, is amended to read:

"87-6-204. Hunting or fishing during closed season. (1) A person may not hunt or attempt to hunt:

(a) any big game animal or game bird or fish for or catch any fish during the closed season on any species of big game animal, game bird, or fish; or

(b) an upland game bird until the commission provides an open season on that upland game bird. The open season on mourning doves is restricted to the open season on upland game birds.

(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 during a closed season may be subject to the additional penalties provided in 87-6-901 and 87-6-902."

Section 18. Section 87-6-205, MCA, is amended to read:

"87-6-205. Waste of big game animal, game bird, or game fish. (1) Except as provided in subsection (3), a person responsible for the death of any big game animal, game bird, or game fish suitable for food may not purposely or knowingly waste the game by:

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 19. Section 87-6-206, MCA, is amended to read:

"87-6-206. Unlawful sale of game fish, bird, or game animal, ~~or fur-bearing animal.~~ (1) A person may not purposely or knowingly sell, purchase, or exchange all or part of any game fish, bird, or game animal, ~~or fur-bearing animal.~~

(2) The value of the game fish, bird, or game animal, ~~or fur-bearing animal~~ must be determined from the schedules of restitution values set out in 87-6-906 and 87-6-907. The value of game fish, birds, or game animals, ~~or fur-bearing animals~~ that are sold, purchased, or exchanged pursuant to a common scheme, as defined in 45-2-101, or as part of the same transaction, as defined in 46-1-202, may be aggregated in determining the value.

(3) This section does not prohibit the:

(a) sale, purchase, or exchange of hides, heads, or mounts of game fish, birds, or game animals, ~~or fur-bearing animals~~ that have been lawfully killed, captured, or taken, except that the sale or purchase of a hide, head, or mount of a grizzly bear is prohibited, except as provided by federal law;

(b) sale, purchase, or exchange of naturally shed antlers or the antlers with a skull or portion of a skull attached from a game animal that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(c) sale, purchase, or exchange of the bones of an elk, antelope, moose, or deer that has died from natural causes and that has not been unlawfully killed, captured, or taken or accidentally killed;

(d) donation, sale, purchase, or exchange of paddlefish roe as caviar under the provisions of 87-4-601; or

(e) sale, purchase, or exchange of captive-reared migratory waterfowl.

(4) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, or game animal, ~~or fur-bearing animal~~ or combination thereof does not exceed \$1,000, then the person 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 may be subject to forfeiture of any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or

trap in this state for a period set by the court.

(5) If a person is convicted or forfeits bond or bail after being charged with a violation of this section and if the value of all or part of the game fish, bird, or game animal, ~~or fur-bearing animal~~ or combination thereof exceeds \$1,000, then the person shall be fined not more than \$50,000 or be imprisoned in the state prison for not more than 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction.

(6) As used in this section:

(a) "lawfully killed, captured, or taken" means killed, captured, or taken in conformance with this title, the regulations adopted by the commission, and the rules adopted by the department under authority of this title; and

(b) "unlawfully killed, captured, or taken" means not lawfully killed, captured, or taken."

Section 20. Section 87-6-207, MCA, is amended to read:

"87-6-207. Unlawful use of boat. (1) A person may not use a powerboat, sailboat, or any boat under sail or any floating device towed by a powerboat, sailboat, or any boat under sail for the purpose of killing, capturing, taking, pursuing, concentrating, driving, or stirring up any upland game bird, big game animal, or fur-bearing animal.

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

(a) Unless otherwise provided in this subsection (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.

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

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

(d) If a person is convicted or forfeits bond or bail after being charged with unlawful use of a boat to kill or take a fur-bearing animal, the person shall be fined not less than \$100 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 shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated."

Section 21. Section 87-6-208, MCA, is amended to read:

"87-6-208. Unlawful use of aircraft. (1) Except as provided in 87-3-126, a person may not:

(a) kill, take, or shoot at any ~~game bird, game animal, or fur-bearing animal~~ from an aircraft, including a helicopter;

(b) use an aircraft, including a helicopter:

(i) to locate any big game animal for the purpose of hunting that animal during the same hunting day after the person has been airborne; or

(ii) for the purpose of concentrating, pursuing, driving, rallying, or stirring up any ~~game bird, migratory bird, game animal, or fur-bearing animal~~; or

(c) if in an aircraft, including a helicopter, spot or locate any big game animal or fur-bearing animal and communicate the location of the big game animal or fur-bearing animal to any person:

(i) on the ground by means of any air-to-ground communication signal or other device as an aid to hunting or pursuing wildlife; or

(ii) within the same hunting day after being airborne.

(2) Unless permitted by the department, a person may not use an aircraft, including a helicopter, for hunting purposes within the boundaries of a national forest except when cargo or persons are loaded and

unloaded at federal aviation agency approved airports, aircraft landing fields, or heliports that have been established on private property or that have been established by any federal, state, county, or municipal governmental body. Hunting purposes include the transportation of hunters or wildlife and hunting equipment and supplies. The provisions of this subsection do not apply:

- (a) during emergency situations;
 - (b) when search and rescue operations are being conducted; or
 - (c) for predator control as permitted by the department of livestock.
- (3) The following penalties apply for a violation of this section:

(a) Unless otherwise provided in this subsection (3), a person convicted of a violation of this section shall be fined not less than \$300 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.

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

(c) If a person is convicted or forfeits bond or bail after being charged with unlawful use of an aircraft to kill or take a fur-bearing animal, the person shall be fined not less than \$100 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 shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated."

Section 22. Section 87-6-214, MCA, is amended to read:

"87-6-214. Unlawful contest or prize. (1) (a) Except as provided in subsections (1)(b) and (1)(c), a person, firm, or club may not offer or give a prize, gift, or anything of value in connection with or as a bag limit

prize for the taking, capturing, killing, or in any manner acquiring any game, fowl, or fur-bearing, ~~fowl, or fur-bearing~~ animal or any bird or animal protected by law.

(b) A prize may be awarded for any one game bird or fur-bearing animal on the basis of size, quality, or rarity.

(c) A person may conduct or sponsor a contest for which the monetary prize, certificate, or award does not exceed \$50 for a person who kills a big game animal possessing the largest antlers or horns, carrying the greatest weight, or having the longest body or any similar contest based upon the size or weight of a big game animal or part of a big game animal. The monetary restriction provided in this subsection (1)(c) does not apply to recognition given by a nationally established and recognized Boone and Crockett trophy institute.

(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."

Section 23. Section 87-6-215, MCA, is amended to read:

"87-6-215. Harassment. (1) (a) A person may not:

(i) intentionally interfere with the lawful taking of a wild animal or fishing by another;

(ii) with intent to prevent or hinder its lawful taking or its capture, disturb a wild animal or engage in an activity or place in its way any object or substance that will tend to disturb or otherwise affect the behavior of a wild animal; or

(iii) disturb an individual engaged in the lawful taking of a wild animal or fishing with intent to prevent the taking of the animal or the capture of the fish.

(b) This subsection (1) does not:

(i) prohibit a landowner or lessee from taking reasonable measures to prevent imminent danger to domestic livestock and equipment; or

(ii) prohibit or curtail normal landowner operations or lawful uses of water.

(2) A person convicted of a violation of this section shall be fined not more than \$500 or be imprisoned for not more than 30 days, or both. A person convicted of a second or subsequent violation shall be fined not

more than \$1,000 or be imprisoned for not more than 1 year, or both.

(3) A court of general jurisdiction may enjoin conduct in violation of this section upon petition by a person affected or who reasonably may be affected by that conduct and upon a showing that the conduct is threatened or that it has occurred on a particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.

(4) As used in this section:

(a) "fishing" means the lawful means of fishing as described in 87-6-501;

(b) "taking" means the pursuit, hunting, trapping, shooting, or killing of a wild animal on land upon which the affected person has the right or privilege to pursue, hunt, trap, shoot, or kill the wild animal; and

(c) "wild animal" means a game animal, ~~migratory game bird, upland game bird, fur-bearing animal,~~ predatory animal, or fish."

Section 24. Section 87-6-301, MCA, is amended to read:

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

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

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

(c) hunt or trap or attempt to hunt or trap any game animal, ~~game bird, or fur-bearing animal~~ or fish for any fish within this state or possess, sell, purchase, ship, or reship any imported or other fur-bearing animal or parts of fur-bearing animals without first having obtained a proper and valid license or permit from the department to do so;

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

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

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

(3) 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.

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

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

Section 25. Section 87-6-304, MCA, is amended to read:

"87-6-304. License, permit, or tag offenses. (1) A person may not apply for, purchase, or possess more than one license, permit, or tag of any one class or more than one special license for any one species listed in 87-2-701. This provision does not apply to Class B-4 or Class B-5 licenses or to licenses issued under 87-2-104(2) for game management purposes. However, when more than one license, permit, or tag is authorized by the commission, a person may not apply for, purchase, or possess more licenses, permits, or tags than are authorized.

(2) The holder of a replacement license, permit, or tag may not make the replacement license, permit, or tag available for use by another person.

(3) Except as provided in 87-6-305(2), a person to whom a license or permit has been issued may not fish, hunt for any game bird or big game animal, or attempt to hunt for any fur-bearing animal in this state unless the person is carrying the required license or permit at the time.

(4) A person may not refuse to exhibit a license or permit and the identification used in purchasing a license or permit for inspection to a warden or other officer requesting to see it.

(5) A person may not at any time alter or change a license in any material manner or loan or transfer any

license to another person. A person other than the person to whom a license is issued may not use the license. A person may not attach the person's license to a big game animal killed by another person.

(6) 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."

Section 26. Section 87-6-305, MCA, is amended to read:

"87-6-305. Unlawful possession of hunting or fishing license or permit. (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of a hunting or fishing license or permit if the person knowingly carries or has physical control over a valid and unused:

(a) hunting license or permit issued to another person while in any location that the species to be hunted may inhabit;

(b) resident hunting license or permit or resident fishing license or permit issued to a nonresident; or

(c) hunting license or permit or fishing license or permit that was issued in violation of applicable law or rule.

(2) The prohibition in subsection (1) does not apply:

(a) to a person who is carrying or has physical control over a license or permit issued to that person's spouse or to any minor when the spouse or minor is hunting with that person; and

(b) when a properly obtained and validated license or permit is attached to a lawfully killed big game animal.

(3) Except as provided in subsection (4), a person who violates 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.

(4) A person who violates this section while engaged in a commercial activity, such as taxidermy, meat processing, outfitting, or guiding by carrying or having physical control over three or more hunting licenses that

are issued to another person or persons and that are used or intended to be used on game animals not taken by the person or persons to whom the licenses were issued or by knowingly carrying, having physical control of, or selling two or more licenses or permits that were issued in violation of applicable law or rule is guilty of a felony and upon conviction shall be fined not more than \$50,000 or be imprisoned in the state prison for not more than 5 years, or both. In addition, the person shall forfeit any current hunting, fishing, or trapping license or permit issued by this state and lose the privilege to hunt, fish, or trap in this state for not less than 3 years up to a revocation for life from the date of conviction."

Section 27. Section 87-6-401, MCA, is amended to read:

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

(a) hunt or attempt to hunt any big game animal 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, projected artificial light, trap, salt lick, or bait;

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

(c) while hunting, take into a field or forest or have in the person's possession any device or mechanism devised to silence, muffle, or minimize the report of any firearm, whether the device or mechanism is operated from or attached to any firearm;

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

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

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

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

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

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

(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 and 87-6-902.

(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 28. Section 87-6-403, MCA, is amended to read:

"87-6-403. Unlawful hunting from public highway. (1) Except as provided in 87-2-803(4), a person may not hunt or attempt to hunt any big game animal or game bird on, from, or across any public highway or the shoulder, berm, or barrow pit right-of-way of any public highway, as defined in 61-1-101, in the state.

(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 29. 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 big 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 personally responsible. A defense that the dog was allowed to run at large by another person is not allowable unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner

and that the owner took reasonable precautions to prevent the dog from running at large.

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

(3) A person may:

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

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

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

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

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

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

(i) shall maintain physical control of the dog at all times by means of a maximum 50-foot lead 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 big game animal using any weapon allowed by the valid hunting license;

and

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

(b) Dog handlers tracking a wounded big 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 big game animal.

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

(7) 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.

(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 30. 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(4), a person may not:

(a) hunt or attempt to hunt any big game animal or game bird from any self-propelled or drawn vehicle;

or

(b) use a self-propelled vehicle to intentionally concentrate, drive, rally, stir up, or harass wildlife, except predators of this state. This subsection (1)(b) does not apply to landowners and their authorized agents engaged in the immediate protection of that landowner's property.

(2) Except as provided in 87-2-803(4), a person may not, while hunting a big game animal or game bird:

(a) drive or attempt to drive, run or attempt to run, molest or attempt to molest, flush or attempt to flush, or harass or attempt to harass a big game animal or game bird with the use or aid of a motor-driven vehicle;

(b) use a motor-driven vehicle other than on an established road or trail unless the person has reduced a big game animal to possession and cannot easily retrieve the big game animal. In that case, a motor-driven vehicle may be used to retrieve the big game animal, except in areas where more restrictive regulations apply or where the landowner has not granted permission. After the retrieval, the motor-driven vehicle must be returned to an established road or trail by the shortest possible route. For purposes of safety and allowing normal travel, a motor-driven vehicle may be parked on the roadside or directly adjacent to a road or trail.

(c) drive through any retired cropland, brush area, slough area, timber area, open prairie, or unharvested

or harvested cropland, except upon an established road or trail, unless written permission has been given by the landowner and is in possession of the hunter.

(3) The restrictions in subsection (2) on motor-driven vehicle use off an established road or trail apply only to hunting on state or private land and not to hunting on federal land unless the federal agency specifically requests or approves state enforcement.

(4) 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.

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

Section 31. Section 87-6-411, MCA, is amended to read:

"87-6-411. Tagging of big game animal offenses. (1) Each license issued by the department authorizing the holder of the license to hunt big game animals, whether issued to a resident or a nonresident, must provide any tags, coupons, or markers as the department prescribes. When a person kills a big game animal under the license, the person shall immediately cut out from the tag, coupon, or other marker the date the animal was killed and attach the tag, coupon, or other marker to the animal, completely filled out with the name of the license holder, the license holder's address, and any other information requested on the tag, coupon, or other marker. The tag, coupon, or other marker must be kept attached to the carcass as long as any considerable portion of the carcass remains unconsumed. When a big game animal has been lawfully killed and the proper tag, coupon, or other marker is attached to the big game animal that was killed, the big game animal becomes the property of the person who lawfully killed the animal and may be possessed, used, stored, donated to another or to a charity, or transported.

(2) A person who kills any big game animal by authority of any license issued for the killing of the big game animal may not fail or neglect to cut out the day and month of the kill or provide any other information that is required and attach the tag, coupon, or other marker provided with the license issued to the carcass of the big game animal or portion of the big game animal.

(3) A person may not fail to keep the tag, coupon, or other marker attached to the big game animal or portion of the big game animal while the animal is possessed by the person.

(4) A person may not tag a big game animal with a tag restricted to a hunting district other than the hunting district where the big game animal was killed.

(5) 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."

Section 32. Section 87-6-904, MCA, is amended to read:

"87-6-904. Different penalty for unlawful attempt to hunt or trap. A person convicted of unlawfully attempting to hunt or trap a big game animal shall be fined not less than \$200 or more than \$600 or be imprisoned in the county detention center for not more than 60 days, or both."

Section 33. Coordination instructions. (1) If House Bill No. 279 and [this act] are passed and approved and if both contain a section that amends 87-6-101, then the reference to "game animal" in 87-6-101(30) in House Bill No. 279 must be changed to "big game animal".

(2) If House Bill No. 150 and [this act] are passed and approved and if both contain a section that amends 87-6-405, then the reference to "game animal" in 87-6-405(2)(a) in House Bill No. 150 must be changed to "big game animal".

(3) If House Bill No. 279 and [this act] are passed and approved and if both contain a section that amends 87-6-411, then the reference to "game animal" in 87-6-411(2) in House Bill No. 279 must be changed to "big game animal".

- END -

I hereby certify that the within bill,
SB 0334, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2015.

Speaker of the House

Signed this _____ day
of _____, 2015.

SENATE BILL NO. 334

INTRODUCED BY J. FIELDER

AN ACT REVISING THE DEFINITION OF "GAME ANIMAL" TO INCLUDE GAME BIRDS AND FURBEARERS; REVISING THE DEFINITION OF "PREDATORY ANIMAL"; AND AMENDING SECTIONS 7-3-1105, 7-3-1222, 7-31-4110, 50-50-401, 87-1-293, 87-2-101, 87-2-520, 87-2-702, 87-2-803, 87-3-128, 87-4-406, 87-4-414, 87-4-418, 87-4-427, 87-6-101, 87-6-202, 87-6-204, 87-6-205, 87-6-206, 87-6-207, 87-6-208, 87-6-214, 87-6-215, 87-6-301, 87-6-304, 87-6-305, 87-6-401, 87-6-403, 87-6-404, 87-6-405, 87-6-411, AND 87-6-904, MCA.