

1                                   \*\*\*\* BILL NO. \*\*\*\*  
2                                   INTRODUCED BY \*\*\*\*  
3                                   BY REQUEST OF THE \*\*\*\*  
4

5   A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF UPLAND GAME BIRDS;  
6   AMENDING SECTIONS 87-2-101 AND 87-6-101, MCA."

7  
8   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
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10           **Section 1.** Section 87-2-101, MCA, is amended to read:

11           **"87-2-101. Definitions.** As used in Title 87, chapter 3, and this chapter, unless the context clearly  
12   indicates otherwise, the following definitions apply:

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

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

18           (b)    The term does not include:

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

20           (ii)   scent used only to mask human odor; or

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

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

25           (4)    "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,  
26   mountain lion, bear, and wild buffalo.

27           (5)    "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and  
28   whitefish); all species of the genus Sander (sandpike or sauger and walleyed pike or yellowpike perch); all

1 species of the genus *Esox* (northern pike, pickerel, and muskellunge); all species of the genus *Micropterus*  
 2 (bass); all species of the genus *Polyodon* (paddlefish); all species of the family *Acipenseridae* (sturgeon); all  
 3 species of the genus *Lota* (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus  
 4 *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

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

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

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

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

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

19 (11) "Predatory animals" means coyote, weasel, skunk, and civet cat.

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

23 (13) "Upland game birds" means sharp-tailed grouse, blue grouse, spruce (Franklin) grouse, prairie  
 24 chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild  
 25 turkey, ~~and~~ chukar partridge, and California or Gambel's quail.

26 (14) "Wild buffalo or bison" or "wild buffalo" means a bison that:

27 (a) has not been reduced to captivity;

28 (b) has never been subject to the per capita fee under 15-24-921;

- 1 (c) has never been owned by a person; and
- 2 (d) is not the offspring of a bison that has been subject to the per capita fee under 15-24-921."

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

5 **"87-6-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions  
6 apply:

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

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

14 (3) "Aircraft" means any manned or unmanned aerial vehicle or device that is used or intended to  
15 be used for flight in the air.

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

18 (b) The term does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (13) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,  
 20 mountain lion, bear, and wild buffalo.

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

27 (15) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or  
 28 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

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

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

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

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

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

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

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

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

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

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

19 (25) "Predatory animal" means coyote, weasel, skunk, and civet cat.

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

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

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

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

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

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

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

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

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

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

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

12 (35) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie  
13 chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild  
14 turkey, ~~and~~ chukar partridge, and California or Gambel's quail.

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

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

20 (38) "Wild buffalo or bison" or "wild buffalo" means a bison that:

21 (a) has not been reduced to captivity;

22 (b) has never been subject to the per capita fee under 15-24-921;

23 (c) has never been owned by a person; and

24 (d) is not the offspring of a bison that has been subject to the per capita fee under 15-24-921.

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

28 Accreditation and good standing must be proven with a copy of an accreditation report completed as required

1 by the accrediting organization.

2 (40) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or in good  
3 standing with and accredited by the association of zoos and aquariums or the zoological association of America  
4 for the purpose of exhibiting wild animals for public viewing. Accreditation and good standing must be proven  
5 with a copy of an accreditation report completed as required by the accrediting organization."

6 - END -

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