

1 HOUSE BILL NO. 443

2 INTRODUCED BY M. MENAHAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY OF THE DEPARTMENT OF FISH,
5 WILDLIFE, AND PARKS TO MANAGE CERTAIN SPECIES; REVISING DEFINITIONS OF "NONGAME
6 WILDLIFE" AND "MANAGEMENT"; GRANTING RULEMAKING AUTHORITY; AMENDING SECTIONS 87-2-101,
7 87-5-102, AND 87-5-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 87-2-101, MCA, is amended to read:
12 **"87-2-101. Definitions.** As used in 87-1-102, chapter 3, and this chapter, unless the context clearly
13 indicates otherwise, the following definitions apply:

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

16 (2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area
17 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 birds.

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

24 (4) "Commission" means the state fish, wildlife, and parks commission.

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

27 (6) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,
28 mountain lion, bear, and wild buffalo.

29 (7) "Game fish" means all species of the family salmonidae (chars, trout, salmon, grayling, and whitefish);
30 all species of the genus ~~stizostedion~~ 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 (bass);
2 all species of the genus polyodon (paddlefish); all species of the family acipenseridae (sturgeon); all species of
3 the genus lota (burbot or ling); the species perca flavescens (yellow perch); all species of the genus pomoxis
4 (crappie); and the species ictalurus punctatus (channel catfish).

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

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

13 (10) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or
14 other animal not otherwise ~~legally classified by statute or regulation of this state~~ included in a definition in this
15 section.

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

18 (12) "Person" means individuals, associations, partnerships, and corporations.

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

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

23 (15) "Upland game birds" means sharptailed 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.

26 (16) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."
27

28 **Section 2.** Section 87-5-102, MCA, is amended to read:

29 **"87-5-102. Definitions.** As used in this part, the following definitions apply:

30 (1) "Account" means the nongame wildlife account established in 87-5-121.

1 (2) "Commercial purposes" means the collection, harvest, possession, or transportation of a species or
 2 subspecies of nongame wildlife from the wild with the intent to barter, offer for sale, ship or transport for eventual
 3 sale, or sell the animal or any part of the animal.

4 (3) "Ecosystem" means a system of living organisms and their environment, each influencing the
 5 existence of the other and both necessary for the maintenance of life.

6 (4) "Endangered species" means a species or subspecies of wildlife that is actively threatened with
 7 extinction due to any of the following factors:

8 (a) the destruction, drastic modification, or severe curtailment of its habitat;

9 (b) its overutilization for scientific, commercial, or sporting purposes;

10 (c) the effect on it of disease, pollution, or predation;

11 (d) other natural or artificial factors affecting its prospects of survival or recruitment within the state; or

12 (e) any combination of the foregoing factors.

13 (5) "Management" means the collection and application of biological information for the purposes of
 14 ~~increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity~~
 15 ~~of their habitat and maintaining those levels~~ conserving populations of wildlife consistent with other uses of land
 16 and habitat. The term includes the entire range of activities that constitute a modern scientific resource program,
 17 including but not limited to research, census, law enforcement, habitat improvement, control, and education. The
 18 term also includes the periodic ~~or total~~ protection of species or populations as well as regulated taking.

19 (6) "Nongame wildlife" means a wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other
 20 wild animal not otherwise ~~legally classified by statute or regulation of this state~~ included in a definition in 87-2-101.
 21 ~~Animals designated by statute or regulation of this state as predatory in nature are not classified as nongame~~
 22 ~~wildlife for purposes of this part.~~

23 ~~(7) "Optimum carrying capacity" means that point at which a given habitat can support healthy~~
 24 ~~populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat~~
 25 ~~to continue that function.~~

26 ~~(8)~~(7) "Person" means an individual, firm, corporation, association, or partnership.

27 ~~(9)~~(8) "Take" means to harass, hunt, capture, or kill or attempt to harass, hunt, capture, or kill wildlife.

28 ~~(10)~~(9) "Wildlife" means a wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild
 29 animal or any part, product, egg, or offspring or the dead body or parts of the animal."
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1 **Section 3.** Section 87-5-105, MCA, is amended to read:

2 **"87-5-105. Regulations to manage nongame wildlife.** (1) On the basis of the determinations made
3 pursuant to 87-5-104, the department shall issue management regulations. The regulations must set forth species
4 or subspecies of nongame wildlife that the department considers to be in need of management pursuant to
5 87-5-104 through 87-5-106, giving their common and scientific names by species and subspecies.

6 (2) The department shall by regulation establish limitations relating to taking, possession, transportation,
7 exportation, processing, sale or offer for sale, or shipment considered necessary to manage nongame wildlife
8 that is designated in need of management.

9 (3) Nothing in this part may be interpreted to limit the management of rodents or vertebrate pests:

10 (a) pursuant to Title 7, chapter 22, part 22 or 25, or Title 80, chapter 7, part 11, on private land or land
11 managed by the department of natural resources and conservation; or

12 (b) on private land by the landowner."

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14 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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