

## HB 443 Change the Definition of Nongame Animal

### This legislation does 3 things:

- Clarifies the definition of nongame wildlife in two statutes;
- Modernizes the definition of management under the Nongame and Endangered Species Act; and
- Ensures that any rodents or vertebrate pests that are also nongame animals can always be managed on:
  - private land by the landowner; and
  - through rodent control districts and as vertebrate pests on private land;
  - by DNRC on land that it manages.

### Why Does the Definition of Nongame Need to be Changed?

Under statutes defining the *Power and Duties* of Montana Fish, Wildlife & Parks (FWP), FWP is supposed to manage all wildlife, including “fish, game, and nongame animals” (87-1-201 (9)(a)(i) MCA). However, because of an unfortunate definition of “nongame animal” in statute, many animals traditionally thought of as nongame are technically not. So what is the problem with the definition? The current statute defines “nongame animals” as animals that are not “otherwise classified” elsewhere in Montana statutes. And the following animals—traditionally considered nongame animals—are “otherwise classified” under Montana statutes—so they are precluded from being considered nongame:

- Hawks, falcons, osprey, eagles, and owls are not considered nongame animals because they are defined as “raptors” under falconry statutes (87-5-202 MCA);
- Bats are not considered nongame because they are defined as “wild animals” under rabies control statutes (50-23-101 MCA) and “vertebrate pests” under the Dept. of Agriculture’s vertebrate pest program; and
- Prairie dogs are not considered nongame animals because they are classified as “vertebrate pests” by Dept. of Agriculture and “rodents” under rodent control districts (80-7-1101 and 7-22-2207 (6), MCA).
- Additionally, the following animals are “otherwise classified” in Montana statutes so are not technically considered nongame animals:
  - **Birds:** blackbirds, cowbirds, house sparrows, feral pigeons, and starlings
  - **Mammals:** Armatous ground squirrel, Columbia ground squirrel, field mice, ground squirrels, jackrabbits, mice, pocket gopher, raccoons, rats, Richardson ground squirrel, and thirteen-striped ground squirrel.

### Some other Animals that are NOT nongame animals:

- **Coyotes, weasels, skunks,** and civet cats are “predatory animals.”
- **Bison or Wild Buffalo** are “game animals.”
- **Marten, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver** are “fur-bearing animals.”
- **Wolves:** will become a big game animal or a furbearer once they are delisted from the Endangered Species list (87-5-131 MCA).

### **What Can FWP do for Nongame Animals?**

The “Nongame and Endangered Species Conservation Act” spells out in statute what FWP can and cannot do with nongame animals. Specifically FWP is supposed to:

- “conduct investigations” on the “population, distribution, habitat needs, limiting factors, and other biological and ecological data” of nongame (87-5-104 MCA).
- If species are declining, FWP can “manage” nongame animals (87-5-105 MCA).
- It can spend money from the “nongame wildlife account” that can be used for research and management programs (87-5-121 MCA).

The nongame statutes only apply to nongame animals. Consequently, all the animals mentioned above (that are not game animals, predatory animals, furbearers, etc.) fall through the cracks—requiring FWP to manage all wildlife, but giving no direction on how to accomplish that under current law.

### **HB 443 Modernizes the Definition of “Management” Under the Nongame and Endangered Species Act.**

- HB 443 *removes* the requirement that management means “increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining those levels” and replaces that requirement with “conserving populations of wildlife consistent with other uses of land and habitat.”
- HB 443 also adds “control” to the list of activities allowed by FWP is allowed to do as it “manages” nongame animals.

### **Can Rodents and Prairie Dogs Still be Controlled?**

Section 3 of SB 344 allows prairie dogs and rodents (as well as other vertebrate pests) to be controlled:

- In Rodent Control Districts and as County Vertebrate Pests (pursuant to Title 7, chapter 22, part 22 or 25);
- As Vertebrate Pests by the Dept of Agriculture (Title 80, chapter 7, part 11);
- On lands owned/managed by the department of natural resources and conservation; or
- On private land by the landowner."