SENATE BILL NO. 84

INTRODUCED BY B. BROWN

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING LAWS FOR AIRCRAFT USE IN RELATION TO WILDLIFE AND NATIONAL FOREST LANDS; DEFINING AN "AIRCRAFT" TO INCLUDE UNMANNED AERIAL VEHICLES AND OTHER AIRBORNE DEVICES FOR THE PURPOSES OF HUNTING, HAZING, HARASSING, AND OTHERWISE INTERACTING WITH WILDLIFE; REMOVING THE OBLIGATION FOR THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO PERMIT AIRCRAFT ACTIVITY ON NATIONAL FOREST LAND; AMENDING SECTIONS 87-6-101, 87-6-107, AND 87-6-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”

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

Section 1. 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) "Aircraft" means any manned or unmanned aerial vehicle or device that is used or intended to be used for flight in the air.

~~(3)~~(4) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an

turkey, and chukar partridge.

~~(35)~~(36) "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.

~~(36)~~(37) "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.

~~(37)~~(38) "Wild buffalo or bison" or "wild buffalo" means a bison that:

(a) has not been reduced to captivity;

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

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

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

~~(38)~~(39) "Wildlife sanctuary" means a facility organized as a Montana nonprofit corporation pursuant to Title 35, chapter 2, or in good standing with and accredited by the American sanctuary association or the global federation of animal sanctuaries for the purpose of providing homes for nonreleasable wild animals. Accreditation and good standing must be proven with a copy of an accreditation report completed as required by the accrediting organization.

~~(39)~~(40) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or in good standing with and accredited by the association of zoos and aquariums or the zoological association of America for the purpose of exhibiting wild animals for public viewing. Accreditation and good standing must be proven with a copy of an accreditation report completed as required by the accrediting organization."

Section 2. Section 87-6-107, MCA, is amended to read:

"**87-6-107. Unlawful harassment of game animals and game birds with vehicle or device.** (1) A person may not concentrate, drive, rally, stir up, run, molest, flush, herd, chase, harass, or impede the movement of or attempt to concentrate, drive, rally, stir up, run, molest, flush, herd, chase, harass, or impede the movement of a game animal, ~~or~~ game bird, or wolf from or with the use or aid of a self-propelled, motor-driven, or drawn vehicle or device, including aircraft. This section does not apply to landowners and their

authorized agents engaged in the immediate protection of that landowner's property.

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

(a) A person convicted of or who forfeits bond or bail after being charged with 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 may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, and 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) A person convicted of or who forfeits bond or bail after being charged with a second or subsequent violation of this section within 5 years shall be fined not less than $500 or more than $1,000 or be imprisoned 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, and trap in this state for 24 months from the date of conviction or forfeiture of bond or bail unless the court imposes a longer period."

Section 3. 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, or wolf from an aircraft~~, including a helicopter~~;

(b) use an aircraft~~, including a helicopter~~:

(i) to locate any game animal for the purpose of hunting that animal during the same ~~hunting~~ CALENDAR day ~~after the person has been airborne~~ using ~~an aircraft within the same area~~; 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 wolf; or

(c) if in or using an aircraft~~, including a helicopter~~, spot or locate any game animal, ~~or~~ fur-bearing animal, or wolf and communicate the location of the game animal, ~~or~~ fur-bearing animal, or wolf 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~~ CALENDAR day after ~~being airborne in the same area.~~ USING THE

AIRCRAFT.

(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~~ SECTION 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, wolf, 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.

(4) As used in this section, "aircraft" has the meaning provided in 87-6-101."

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

- END -

AMEND