

## MEMORANDUM

TO: Hope Stockwell, Legislative Services Division Research Analyst  
FROM: Paul Sihler, FWP Chief of Staff  
Becky Dockter, FWP Chief Legal Counsel  
DATE: August 24, 2016  
RE: 2017 Legislative Proposals

In response to your request for the Montana Department of Fish, Wildlife & Parks' 2017 Legislative Proposals, we provide the following memorandum containing a list and a brief description of each proposal. As of this date, the following are FWP's official legislative proposals.

### 1. Modify classification of spotted skunks (civet cats)

Legislation is proposed to exclude "civet cat" from the definition of "predatory animals" at 87-2-101(11) and instead designate them as a species in need of management. Currently the definition of "predatory animals" is "coyote, weasel, skunk, and civet cat." Predatory animals are allowed to be trapped or snared by residents of Montana without a license and by nonresidents with a license. Civet cat is an imprecise way to include the spotted skunk. Because there are efforts to list the spotted skunk under the ESA, the Department desires to exclude these animals from the list of "predatory animals" and clarify that "skunk" in the definition means "striped skunk."

### 2. Revise Waiting Period for Bighorn Sheep Licenses

The Tendoy Mountain bighorn sheep depopulation included the take of sheep subject to the 7-year statutory wait. It was a disincentive for hunters to be a part of the depopulation project. Therefore, FWP would like to revise the 7-year wait so that hunters harvesting young rams or lambs would not be subject to the wait period. This would not violate the intent of the statute which was to provide a measure of fairness in the issuance of coveted licenses for trophy bighorn rams.

Legislation is proposed to revise 87-2-702 to clarify that only a person who receives an either-sex or an antlered bull moose, or a limited either-sex or limited legal ram mountain sheep license is not eligible to receive another special license for that species for the next 7 years. "Legal ram" would be defined to mean a ram of ¾ or greater curl.

### 3. Broaden the Use of Wolf License Account Funds to Include All Wolf Management and Delete Statutory Requirement To Allocate \$500,000 For Wolf Management

MCA §87-1-625 requires FWP to allocate \$500,000 annually to wolf management. The specific reference to a statutory allocation amount should be found in HB2 to make budget allocations consistent for wolf management as it is with all other species management.

In addition, MCA §87-1-623 limits the use of wolf license funds to wolf management defined narrowly and divided equally between: 1. Wolf collaring, and, 2. Lethal action to take wolves that attack livestock. However, the management of wolves is much more broad than these two

limited activities allow. FWP would like the statute to reflect a more broad definition of management, such as the one found in §87-1-625, that includes activities such as setting/monitoring hunting/trapping seasons for wolves.

Legislation is proposed to revise 87-1-625 to eliminate the \$500,000 required allocation and to revise 87-1-623 to include a more broad definition of management for spending wolf license dollars.

#### 4. Digital Carcass Tags

Currently, a person may take possession of a game animal by "cutting out from the license" and attaching the license or tag to the animal." In addition, other statutes provide that a person may not "fail to validate a tag by not filling out or punch marking the tag..." These specific references to paper documents would have to be altered to allow for smart-phone licenses/tags validation; a public service that other states have successfully adopted.

Legislation is required to ensure MCA §§ 87-6-411, 87-6-412 and other statutes that include the language specific to paper documents is broadened to allow for the use of smart phone carcass tags to be validated in the field.

#### 5. Extend Sunset Date For Paddlefish Caviar Program

Currently the legislation that created the Paddlefish Caviar Program sunsets on June 18, 2018 meaning that the program could not function through the 2019 season.

Legislation is propose to change the language at MCA §87-4-601 that indicates, "Until June 30, 2018, ..." and extend the sunset by another 2 years to June 30, 2020.

#### 6. Eliminate Language That Limits Coldwater Fish Propagation At the Fort Peck Hatchery

Currently, only 750,000 coldwater fish can be produced at the Fort Peck Hatchery. A water project being undertaken at the hatchery provides the ability to increase the quantity and quality of water to the hatchery and increase production of coldwater species without impacting warmwater production. Coldwater production is vital in the event of a hatchery catastrophic system failure.

Legislation is proposed to revise MCA § 87-3-325 to eliminate the sentence that limits coldwater fish production to 750,000 fish annually.

#### 7. Tightening Statute Pertaining To Fish Transport and Transplantation

Currently, although a fish pond owner is required to get fish from a lawful source, the statute does not explicitly require a commercial hatchery owner to verify the possession of a legal pond permit prior to transportation of fish to a private pond. This is a gap that allows for the unauthorized transport and placement of fish to continue to be a problem.

Legislation is proposed to include a requirement in MCA § 87-4-603 to require a commercial hatchery owner to verify the possession of a legal pond permit prior to transportation of fish to a private pond in addition to reporting current pond permit information.

In addition, the current statutory definition of a private fish pond excludes some ponds that the department believes could be permitted on a short term basis without any risk to game fish or fish species of concern. Legislation is proposed to allow for one time stocking permits in order to allow this activity.

#### 8. Cross-reference Statutes for Penalties Applicable to Hunting While Using Projected Artificial Light

Currently, the statute that lists the “additional penalties” to which a person convicted of hunting while using projected artificial light may be subjected excludes an additional penalty statute in the list. The list includes MCA §§87-6-901, 87-6-902, but excludes the statute, §87-6-903 entitled, “Additional penalty for use of artificial light or scope” that specifically applies to the substantive conviction for “hunting while using projected artificial light.” This appears to be a mistaken omission in the statutes.

Legislation is proposed to add to the list of addition penalties in MCA 87-6-401(3) the additional penalty at “§87-6-903.”

#### 9. Allocation of Wild Buffalo Licenses to Tribes For Traditional Purposes

The statute that previously allowed for the annual allocation of 2 YNP wild buffalo licenses per Montana Tribe (irrespective of treaty rights) sunsetted on July 1, 2015. Legislation is necessary to reauthorize FWP to allocate 2 wild buffalo licenses to each of the 8 Montana tribes to be identified by the statute.

This would be a new piece of legislation.