

1 SENATE BILL NO. 256

2 INTRODUCED BY P. FLOWERS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE OWNER OF A LOCKED GATE ON A
5 PUBLIC ROAD THAT PREVENTS ACCESS TO PUBLIC LAND MAY BE PROSECUTED FOR
6 HARASSMENT; AMENDING SECTIONS 7-14-2136 AND 87-6-215, MCA; AND PROVIDING AN IMMEDIATE
7 EFFECTIVE DATE."

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

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11 **Section 1.** Section 7-14-2136, MCA, is amended to read:

12 **"7-14-2136. Penalty for failure to remove encroachment promptly.** If the encroachment is not
13 removed immediately or removal is not diligently conducted, the one who causes, owns, or controls the
14 encroachment:

15 (1) is liable to a penalty of \$10 for each day the same continues; and16 (2) may be prosecuted under 87-6-215 if the encroachment is a locked gate that prevents access to
17 public land."

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19 **Section 2.** Section 87-6-215, MCA, is amended to read:20 **"87-6-215. Harassment.** (1) (a) A person may not:

21 (i) intentionally interfere with the lawful taking of a wild animal or fishing by another;

22 (ii) with intent to prevent or hinder its lawful taking or its capture, disturb a wild animal or engage in an
23 activity or place in its way any object or substance that will tend to disturb or otherwise affect the behavior of a
24 wild animal; or25 (iii) disturb an individual engaged in the lawful taking of a wild animal or fishing with intent to prevent
26 the taking of the animal or the capture of the fish; or27 (iv) pursuant to the provisions of Title 7, chapter 14, part 21, encroach on a highway or county road
28 with a locked gate that prevents access to public land.

1 (b) This subsection (1) does not:

2 (i) prohibit a landowner or lessee from taking reasonable measures to prevent imminent danger to
3 domestic livestock and equipment; or

4 (ii) prohibit or curtail normal landowner operations or lawful uses of water.

5 (2) A person convicted of or who forfeits bond or bail after being charged with a violation of this
6 section shall be fined not more than \$500 or be imprisoned for not more than 30 days, or both. In addition, the
7 person may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and
8 the privilege to hunt, fish, and trap in this state or to use state lands, as defined in 77-1-101, for recreational
9 purposes for a period of time set by the court.

10 (3) A person convicted of or who forfeits bond or bail after being charged with a second or
11 subsequent violation of this section within 5 years shall be fined not less than \$500 or more than \$1,000 or be
12 imprisoned for not more than 6 months, or both. In addition, the person shall forfeit any current hunting, fishing,
13 or trapping license issued by this state and the privilege to hunt, fish, and trap in this state for 24 months from
14 the date of conviction or forfeiture of bond or bail unless the court imposes a longer period.

15 (4) A court of general jurisdiction may enjoin conduct in violation of this section upon petition by a
16 person affected or who reasonably may be affected by that conduct and upon a showing that the conduct is
17 threatened or that it has occurred on a particular premises in the past and that it is not unreasonable to expect
18 that under similar circumstances it will be repeated.

19 (5) As used in this section:

20 (a) "fishing" means the lawful means of fishing as described in 87-6-501;

21 (b) "taking" means the pursuit, hunting, trapping, shooting, or killing of a wild animal on land upon
22 which the affected person has the right or privilege to pursue, hunt, trap, shoot, or kill the wild animal; and

23 (c) "wild animal" means a game animal, migratory game bird, upland game bird, fur-bearing animal,
24 predatory animal, or fish."

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26 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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