

1 HOUSE BILL NO. 175

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND
6 PARKS TO PUBLISH AN ANNUAL PUBLIC REPORT ON HUNTING DISTRICT DATA; PROVIDING FOR THE
7 REPORT FOR THE HUNTING OF ELK, DEER, AND ANTELOPE; AND AMENDING SECTION 87-1-201,
8 MCA."

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

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12 **Section 1.** Section 87-1-201, MCA, is amended to read:

13 **"87-1-201. Powers and duties.** (1) Except as provided in subsection (13), the department shall
14 supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing
15 animals of the state and may implement voluntary programs that encourage hunting access on private lands
16 and that promote harmonious relations between landowners and the hunting public. The department possesses
17 all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state
18 for the enforcement of the fish and game laws and the rules adopted by the department.

19 (2) Except as provided in subsection (13), the department shall enforce all the laws of the state
20 regarding the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and
21 game and nongame birds within the state.

22 (3) The department has the exclusive power to spend for the protection, preservation,
23 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds
24 collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or
25 otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of
26 seized game or hides, from fines or damages collected for violations of the fish and game laws, or from
27 appropriations or received by the department from any other sources is under the control of the department and
28 is available for appropriation to the department.

(4) The department may discharge any appointee or employee of the department for cause at any time.

(5) The department may dispose of all property owned by the state used for the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish and game account in the state special revenue fund.

(6) (a) The department may not issue firearms within this state to anyone except:

(i) wardens; and

(ii) other qualified employees identified, trained, and certified by the department where necessary to perform assigned duties pursuant to subsection (7).

(b) Wardens, as authorized officers under 87-1-502, are the only department employees with the authority to enforce provisions of state law or administrative rule.

(7) (a) Department employees may be issued a firearm as allowed in subsection (6)(a)(ii) only after submitting a form of final approval as determined and approved by the department.

(b) Department-issued firearms may be carried by an employee other than a warden only when the employee is engaged in work that requires the carrying of a firearm, as determined by the department.

(c) When a department-issued firearm is no longer necessary to perform an employee's required duties, the employee shall return the issued firearm to secure storage in the regional office to which the employee is attached.

(8) Except as provided in subsection (13), the department is authorized to make, promulgate, and enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its judgment will accomplish the purpose of chapter 2.

(9) The department is authorized to promulgate rules relative to tagging, possession, or transportation of bear within or outside of the state.

(10) (a) The department shall implement programs that:

(i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

(ii) manage listed species, sensitive species, or a species that is a potential candidate for listing

1 under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists
2 in the maintenance or recovery of those species;

3 (iii) manage elk, deer, and antelope populations based on habitat estimates determined as
4 provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates
5 as provided in 87-1-323. In implementing an elk management plan, the department shall, as necessary to
6 achieve harvest and population objectives, request that land management agencies open public lands and
7 public roads to public access during the big game hunting season.

8 (iv) in accordance with the forest management plan required by 87-1-622, address fire mitigation,
9 pine beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50
10 contiguous acres in any state park, fishing access site, or wildlife management area under the department's
11 jurisdiction.

12 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential
13 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or
14 recovery of those species with the social and economic impacts of species maintenance or recovery.

15 (c) Any management plan developed by the department pursuant to this subsection (10) is subject
16 to the requirements of Title 75, chapter 1, part 1.

17 (d) This subsection (10) does not affect the ownership or possession, as authorized under law, of
18 a privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

19 (11) The department shall publish an annual game count, estimating to the department's best ability
20 the numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative
21 regions of the state. In preparing the publication, the department may incorporate field observations, hunter
22 reporting statistics, or any other suitable method of determining game numbers. The publication must include
23 an explanation of the basis used in determining the game count.

24 (12) The department shall report current sage grouse population numbers, including the number of
25 leks, to the Montana sage grouse oversight team, established in 2-15-243, and the environmental quality
26 council in accordance with 5-11-210 on an annual basis. The report must include seasonal and historic
27 population data available from the department or any other source.

28 (13) The department may not regulate the use or possession of firearms, firearm accessories, or

ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons and the special muzzleloader heritage hunting season established in 87-1-304;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(14) The department shall publish an annual public report that shows the number of licenses sold to nonresidents in the previous license year for each species in which the purchase of a license or permit is required. The report must also show how many licenses were issued through opportunities or programs for nonresidents, such as those for the following:

(a) youths;

(b) college students;

(c) nonresidents who were former residents;

(d) nonresident licenses purchased by utilizing an outfitter preference point;

(e) sponsorships by a landowner, family member, or current Montana resident; or

(f) any other license opportunity or program for nonresidents.

(15) The department shall publish an annual public report that shows the data on each hunting district for elk, deer, and antelope by both resident and nonresident hunters. The report must be created using currently available data and must include:

(a) the estimated number of resident hunters, nonresident hunters, and total hunters who hunted in the district;

(b) the estimated number of days the district was hunted by resident hunters, nonresident hunters, and total hunters;

(c) the estimated average number of days that resident hunters, nonresident hunters, and total hunters used the district per hunter; and

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