

HOUSE BILL NO. 897

INTRODUCED BY J. COHENOUR, M. MARLER, T. RUNNING WOLF, J. SECKINGER

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A NONRESIDENT WILDLIFE MANAGEMENT AREA SHED HUNTING LICENSE; IMPLEMENTING A WAITING PERIOD FOR NONRESIDENTS; ESTABLISHING VIOLATIONS AND ESTABLISHING PENALTIES; DEFINING "SHED HUNT" AND "SHED HUNTING"; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 87-1-304, 87-2-101, 87-2-201, AND 87-2-202, MCA."

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

NEW SECTION. Section 1. Class F--nonresident wildlife management area shed hunting license. (1) A person who is not a resident as defined in 87-2-102, on payment of a \$50 fee, is entitled to receive a Class F license that authorizes the holder of the license to shed hunt as defined in 87-1-201 in a wildlife management area.

(2) A person found in violation of this section:

(a) for a first offense, must be given a warning;

(b) for a second offense, is guilty of a misdemeanor and shall be fined not more than twice the cost of a Class F license. In addition, the person, on conviction or forfeiture of bond or bail, may be subject to forfeiture of any current shed hunting license and the privilege to shed hunt in a wildlife management area for a period of time set by the court.

(c) for a third offense, is guilty of a misdemeanor and shall be fined not more than \$500. In addition, the person, on conviction or forfeiture of bond or bail, shall forfeit any current shed hunting license and the privilege to shed hunt in a wildlife management area for a period of time set by the court.

Section 2. Section 87-1-304, MCA, is amended to read:

"87-1-304. Fixing of seasons and bag and possession limits. (1) Subject to the provisions of 87-5-302 and subsections (7) through (9) of this section, the commission may:

- 1 (a) fix seasons, bag limits, possession limits, and season limits;
- 2 (b) open or close or shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing
3 animal as defined by 87-2-101;
- 4 (c) declare areas open to the hunting of deer, antelope, elk, moose, sheep, goat, mountain lion,
5 bear, wild buffalo or bison, and wolf by persons holding an archery stamp and the required license, permit, or
6 tag and designate times when only bows and arrows may be used to hunt deer, antelope, elk, moose, sheep,
7 goat, mountain lion, bear, wild buffalo or bison, and wolf in those areas;
- 8 (d) subject to the provisions of 87-1-301(6), restrict areas and species to hunting with only
9 specified hunting arms, including bow and arrow, for the reasons of safety or of providing diverse hunting
10 opportunities and experiences; and
- 11 (e) declare areas open to special license holders only and issue special licenses in a limited
12 number when the commission determines, after proper investigation, that a special season is necessary to
13 ensure the maintenance of an adequate supply of game birds, fish, or animals or fur-bearing animals. The
14 commission may declare a special season and issue special licenses when game birds, animals, or fur-bearing
15 animals are causing damage to private property or when a written complaint of damage has been filed with the
16 commission by the owner of that property. In determining to whom special licenses must be issued, the
17 commission may, when more applications are received than the number of animals to be killed, award permits
18 to those chosen under a drawing system. The procedures used for awarding the permits from the drawing
19 system must be determined by the commission.
- 20 (2) The commission may adopt rules governing the use of livestock and vehicles by archers during
21 special archery seasons.
- 22 (3) Subject to the provisions of 87-5-302 and subsection (7) of this section, the commission may
23 divide the state into fish and game districts and create fish, game, or fur-bearing animal districts throughout the
24 state. The commission may declare a closed season for hunting, fishing, or trapping in any of those districts
25 and later may open those districts to hunting, fishing, or trapping.
- 26 (4) The commission may declare a closed season on any species of game, fish, game birds, or fur-
27 bearing animals threatened with undue depletion from any cause. The commission may close any area or
28 district of any stream, public lake, or public water or portions thereof to hunting, trapping, or fishing for limited

1 periods of time when necessary to protect a recently stocked area, district, water, spawning waters, spawn-
2 taking waters, or spawn-taking stations or to prevent the undue depletion of fish, game, fur-bearing animals,
3 game birds, and nongame birds. The commission may open the area or district upon consent of a majority of
4 the property owners affected.

5 (5) The commission may authorize the director to open or close any special season upon 12 hours'
6 notice to the public.

7 (6) The commission may declare certain fishing waters closed to fishing except by persons under
8 15 years of age. The purpose of this subsection is to provide suitable fishing waters for the exclusive use and
9 enjoyment of juveniles under 15 years of age, at times and in areas the commission in its discretion considers
10 advisable and consistent with its policies relating to fishing.

11 (7) In an area immediately adjacent to a national park, the commission may not:

12 (a) prohibit the hunting or trapping of wolves; or

13 (b) close the area to wolf hunting or trapping unless a wolf harvest quota established by the
14 commission for that area has been met.

15 (8) The commission may authorize a wolf trapping season that opens the first Monday after
16 Thanksgiving and closes March 15 of the following calendar year, except that the commission may adjust the
17 dates for specific wolf management units based on regional recommendations.

18 (9) There is established a special muzzleloader heritage hunting season that begins on the second
19 Saturday after the end of the regular season and lasts 9 days. During this season, subject to the provisions of
20 87-6-401(1)(i) and rules adopted by the commission, a person may take a deer or elk with a valid license or
21 permit using plain lead projectiles and a muzzleloading rifle that is charged with loose black powder, loose
22 pyrodex, or an equivalent loose black powder substitute and ignited by a flintlock, wheel lock, matchlock, or
23 percussion mechanism using a percussion or musket cap. The muzzleloading rifle must be a minimum of 45
24 caliber and may not have more than two barrels.

25 (10) For the purpose of shed hunting as defined in 87-2-101 in a wildlife management area, the
26 commission shall allow a resident as defined in 87-2-102 access to the area 7 days in advance of a
27 nonresident. A nonresident who violates this subsection (10) is subject to the penalties provided for in [section
28 11."

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2 **Section 3.** Section 87-2-101, MCA, is amended to read:

3 **"87-2-101. Definitions.** As used in Title 87, chapter 3, and this chapter, unless the context clearly
4 indicates otherwise, the following definitions apply:

5 (1) "Angling" or "fishing" means to take or harvest fish or the act of a person possessing any
6 instrument, article, or substance for the purpose of taking or harvesting fish in any location that a fish might
7 inhabit.

8 (2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an
9 area inhabited by wildlife for the purpose of attracting game animals or game birds.

10 (b) The term does not include:

11 (i) decoys, silhouettes, or other replicas of wildlife body forms;

12 (ii) scents used only to mask human odor; or

13 (iii) types of scents that are approved by the commission for attracting game animals or game
14 birds.

15 (3) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx,
16 wolverine, northern swift fox, and beaver.

17 (4) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,
18 mountain lion, bear, and wild buffalo.

19 (5) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and
20 whitefish); all species of the genus Sander (sandpike or sauger and walleyed pike or yellowpike perch); all
21 species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus
22 (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all
23 species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus
24 *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

25 (6) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or
26 the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the
27 purpose of shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the
28 laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently

1 taken. The term includes an attempt to take or harvest by any means, including but not limited to pursuing,
2 shooting, wounding, killing, chasing, luring, possessing, or capturing.

3 (7) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans;
4 cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning
5 doves.

6 (8) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean,
7 or other animal not otherwise legally classified by statute or regulation of this state.

8 (9) "Open season" means the time during which game birds, game fish, game animals, and fur-
9 bearing animals may be lawfully taken.

10 (10) "Person" means an individual, association, partnership, or corporation.

11 (11) "Predatory animals" means coyote, weasel, skunk, and civet cat.

12 (12) "Shed hunt" or "shed hunting" means to collect the naturally shed antlers or horns of elk, deer,
13 and antelope and the antlers or horns of a game animal, except for mountain sheep as provided in 87-3-315,
14 with a skull or a portion of a skull attached that has died from natural causes and that has not been unlawfully
15 killed, captured, or taken or accidentally killed.

16 ~~(12)~~(13) "Trap" means to take or harvest or participate in the taking or harvesting of any wildlife
17 protected by the laws of the state by setting or placing any mechanical device, snare, deadfall, pit, or device
18 intended to take wildlife or to remove wildlife from any of these devices.

19 ~~(13)~~(14) "Upland game birds" means sharp-tailed grouse, blue grouse, spruce (Franklin) grouse, prairie
20 chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild
21 turkey, and chukar partridge.

22 ~~(14)~~(15) "Wild buffalo or bison" or "wild buffalo" means a bison that:

23 (a) has not been reduced to captivity;

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

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

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

27
28 **Section 4.** Section 87-2-201, MCA, is amended to read:

1 **"87-2-201. Conservation license required and prerequisite for other licenses.** (1) Except as
2 provided in 87-2-803(6) and 87-2-815, it is unlawful for any person to engage in any of the following without first
3 having purchased a conservation license as provided in this part:

4 (a) purchase or apply for a hunting, fishing, nonresident wildlife management area shed hunting, or
5 trapping license;

6 (b) use lands owned or controlled by the department; or

7 (c) engage in general recreational use as defined in 77-1-101 on state trust land pursuant to an
8 agreement established under 77-1-815.

9 (2) If the department of natural resources and conservation and the department enter into an
10 agreement pursuant to 77-1-815, the department shall submit every other legislative session a report to the
11 legislature in accordance with 5-11-210 that documents the number of conservation licenses sold and revenue
12 received pursuant to this section. The first report shall be provided to the legislature by January 1, 2027."

13
14 **Section 5.** Section 87-2-202, MCA, is amended to read:

15 **"87-2-202. Application -- fee.** (1) Except as provided in 87-2-817(2), a conservation license must be
16 sold upon written application. The application must contain the applicant's name, age, [last four digits of the
17 applicant's social security number,] street address of permanent residence, mailing address, qualifying length of
18 time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must
19 be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's
20 examiner's identification card, a tribal identification card, or other identification specified by the department to
21 substantiate the required information when applying for a conservation license. It is the applicant's burden to
22 provide documentation establishing the applicant's identity and qualifications to purchase a conservation
23 license or to receive a free conservation license pursuant to 87-2-817(2).

24 (2) Hunting, fishing, nonresident wildlife management area shed hunting, or trapping licenses
25 issued in a form determined by the department must be recorded according to rules that the department may
26 prescribe.

27 (3) (a) Resident conservation licenses may be purchased for a fee of \$8, of which 25 cents is a
28 voluntary search and rescue donation.

1 (b) Nonresident conservation licenses may be purchased for a fee of \$10, of which 25 cents is a
2 voluntary search and rescue donation.

3 (c) A person who purchases a conservation license may make a written election not to pay the
4 additional search and rescue donation in subsections (3)(a) and (3)(b). If a written election is made, the
5 donation may not be collected.

6 [(4) The department shall keep the applicant's social security number confidential, except that the
7 number may be provided to the department of public health and human services for use in administering Title
8 IV-D of the Social Security Act.]

9 (5) The department shall delete the applicant's social security number in any electronic database
10 [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or
11 is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001. The \$2 conservation license fee increases
12 in subsections (3)(a) and (3)(b) enacted by Ch. 596, L. 2003, are void on occurrence of contingency--sec. 8,
13 Ch. 596, L. 2003.)"

14
15 NEW SECTION. Section 6. Codification instruction. [Section 1] is intended to be codified as an
16 integral part of Title 87, chapter 2, part 5, and the provisions of Title 87, chapter 2, part 5, apply to [section 1].

17 - END -