

SENATE BILL NO. 151

INTRODUCED BY J. PETERSON

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ISSUANCE OF ARCHERY-ONLY ELK PERMITS AT 2007 LEVELS IN CERTAIN AREAS; AMENDING SECTIONS 87-1-301 AND 87-1-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

**Section 1.** Section 87-1-301, MCA, is amended to read:

**"87-1-301. Powers of commission.** (1) Except as provided in subsection (7), the commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) except as provided in 87-1-303(3), shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in 87-1-209(4);

(f) shall review and approve the budget of the department prior to its transmittal to the budget office;

(g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000; and

(h) subject to the provisions of 87-1-304(7), shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting district where a restriction on elk hunting on public property is

1 proposed.

2 (2) The commission may adopt rules regarding the use and type of archery equipment that may be  
3 employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in  
4 archery equipment change.

5 (3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons,  
6 conditions, programs, or other provisions that the commission considers appropriate to promote or enhance  
7 hunting by Montana's youth and persons with disabilities.

8 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

9 (i) separate deer licenses from nonresident elk combination licenses;

10 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the  
11 deer tag;

12 (iii) condition the use of the deer licenses; and

13 (iv) except as provided in 87-1-304(7), limit the number of licenses sold.

14 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and  
15 appropriate to regulate the harvest by nonresident big game combination license holders:

16 (i) for the biologically sound management of big game populations of elk, deer, and antelope;

17 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

18 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321  
19 through 87-1-325.

20 (5) (a) Subject to the provisions of 87-2-115, the commission may adopt rules establishing license  
21 preference systems to distribute hunting licenses and permits:

22 (i) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant  
23 who has been unsuccessful for a shorter period of time; and

24 (ii) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(a), "qualifying  
25 landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by  
26 the commission.

27 (b) The commission shall square the number of points purchased by an applicant per species when  
28 conducting drawings for licenses and permits.

29 (6) (a) The commission may adopt rules to:

30 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

1 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting  
2 districts.

3 (b) The commission shall consider, but is not limited to consideration of, the following factors:

4 (i) harvest of lions by resident and nonresident hunters;

5 (ii) history of quota overruns;

6 (iii) composition, including age and sex, of the lion harvest;

7 (iv) historical outfitter use;

8 (v) conflicts among hunter groups;

9 (vi) availability of public and private lands; and

10 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

11 (7) The commission may not regulate the use or possession of firearms, firearm accessories, or  
12 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

13 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the  
14 establishment of special archery seasons;

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

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

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

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

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

22 **"87-1-304. Fixing of seasons and bag and possession limits.** (1) Subject to the provisions of  
23 87-5-302 and subsection (7) of this section, the commission may:

24 (a) fix seasons, bag limits, possession limits, and season limits;

25 (b) open or close or shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing  
26 animal as defined by 87-2-101;

27 (c) declare areas open to the hunting of deer, antelope, elk, moose, sheep, goat, mountain lion, bear,  
28 wild buffalo or bison, and wolf by persons holding an archery stamp and the required license, permit, or tag and  
29 designate times when only bows and arrows may be used to hunt deer, antelope, elk, moose, sheep, goat,  
30 mountain lion, bear, wild buffalo or bison, and wolf in those areas;

1 (d) subject to the provisions of 87-1-301(7), restrict areas and species to hunting with only specified  
2 hunting arms, including bow and arrow, for the reasons of safety or of providing diverse hunting opportunities and  
3 experiences; and

4 (e) declare areas open to special license holders only and issue special licenses in a limited number  
5 when the commission determines, after proper investigation, that a special season is necessary to ensure the  
6 maintenance of an adequate supply of game birds, fish, or animals or fur-bearing animals. The commission may  
7 declare a special season and issue special licenses when game birds, animals, or fur-bearing animals are  
8 causing damage to private property or when a written complaint of damage has been filed with the commission  
9 by the owner of that property. In determining to whom special licenses must be issued, the commission may,  
10 when more applications are received than the number of animals to be killed, award permits to those chosen  
11 under a drawing system. The procedures used for awarding the permits from the drawing system must be  
12 determined by the commission.

13 (2) The commission may adopt rules governing the use of livestock and vehicles by archers during  
14 special archery seasons.

15 (3) Subject to the provisions of 87-5-302 and subsection (7) of this section, the commission may divide  
16 the state into fish and game districts and create fish, game, or fur-bearing animal districts throughout the state.  
17 The commission may declare a closed season for hunting, fishing, or trapping in any of those districts and later  
18 may open those districts to hunting, fishing, or trapping.

19 (4) The commission may declare a closed season on any species of game, fish, game birds, or  
20 fur-bearing animals threatened with undue depletion from any cause. The commission may close any area or  
21 district of any stream, public lake, or public water or portions thereof to hunting, trapping, or fishing for limited  
22 periods of time when necessary to protect a recently stocked area, district, water, spawning waters, spawn-taking  
23 waters, or spawn-taking stations or to prevent the undue depletion of fish, game, fur-bearing animals, game birds,  
24 and nongame birds. The commission may open the area or district upon consent of a majority of the property  
25 owners affected.

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

28 (6) The commission may declare certain fishing waters closed to fishing except by persons under 15  
29 years of age. The purpose of this subsection is to provide suitable fishing waters for the exclusive use and  
30 enjoyment of juveniles under 15 years of age, at times and in areas the commission in its discretion considers

1 advisable and consistent with its policies relating to fishing.

2 (7) Unless the elk population for a hunting district falls below 85% of the objective level determined  
3 according to 87-1-323(1), the commission may not limit or reduce the number of archery-only elk permits  
4 available or implement limited-entry archery-only elk permits in areas that were part of hunting districts 401, 403,  
5 410, 411, 412, 417, 420, 426, 441, 447, 450, 455, 500, 502, 510, 511, 520, 530, 570, 575, 580, 590, 620, 621,  
6 622, 700, 701, 702, 704, and 705, as those districts existed in 2007."

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

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10 NEW SECTION. Section 4. Termination. [This act] terminates December 31, 2015.

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