

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND
5 PARKS TO PUBLISH A BIENNIAL RIVER-USE REPORT; AMENDING SECTION 87-1-201, MCA; AND
6 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

7

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

9

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

11 **"87-1-201. Powers and duties.** (1) Except as provided in subsection (13), the department shall
12 supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing
13 animals of the state and may implement voluntary programs that encourage hunting access on private lands
14 and that promote harmonious relations between landowners and the hunting public. The department possesses
15 all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state
16 for the enforcement of the fish and game laws and the rules adopted by the department.

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

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

27 (4) The department may discharge any appointee or employee of the department for cause at any
28 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 under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the maintenance or recovery of those species;

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

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

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

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

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

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

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

26 (13) The department may not regulate the use or possession of firearms, firearm accessories, or
27 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

28 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the

1 establishment of special archery seasons and the special muzzleloader heritage hunting season established in
2 87-1-304;

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

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

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

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

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

12 (a) youths;

13 (b) college students;

14 (c) nonresidents who were former residents;

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

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

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

18 (15) (a) The department shall publish a biennial public report, no later than October 1 of even-
19 numbered years, that shows the number and purpose of all watercraft between May 15 and September 15 for
20 the following river stretches:

21 (i) the Blackfoot River from the Harry Morgan fishing access site to its confluence with the Clark
22 Fork River;

23 (ii) the Clark Fork River system from Warm Springs to Plains;

24 (iii) the North Fork of the Flathead River to its confluence with the Flathead River;

25 (iv) the Middle Fork of the Flathead River to its confluence with the Flathead River;

26 (v) the South Fork of the Flathead River from below the Hungry Horse dam to its confluence with
27 the Flathead River;

28 (vi) the Flathead River above Flathead Lake from Blankenship bridge to Sportsman's bridge;

- 1 (vii) the East Fork of the Bitterroot River from Sula to its confluence with the Bitterroot River;
2 (viii) the West Fork of the Bitterroot River from Painted Rocks dam to its confluence with the
3 Bitterroot River;
4 (ix) the Bitterroot River to its confluence with the Clark Fork River;
5 (x) the Missouri River from the Holter dam to Cascade;
6 (xi) the Dearborn River from highway 200 to its confluence with the Missouri River;
7 (xii) the Jefferson River from Hell's Canyon to Three Forks, including a report for the month of
8 October;
9 (xiii) the Gallatin River from the Yellowstone national park boundary to its confluence with the
10 Missouri River;
11 (xiv) the Madison River from Beartrap Canyon to Grey Cliff north; and
12 (xv) the Big Horn River from the Afterbay access site to the Two Leggins fishing access site.
13 (b) The report must contain:
14 (i) the number of private canoes, kayaks, paddleboards, tubes, and other similar watercraft each
15 week;
16 (ii) the number of private drift boats, rafts, and other similar watercraft each week;
17 (iii) the number of commercial watercraft used for fishing, outfitting, and guiding each week;
18 (iv) the number of commercial watercraft used for floating, sightseeing, and whitewater rafting each
19 week; and
20 (v) the total number of watercraft each week.

21
22 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.
23

24 NEW SECTION. Section 3. Termination. [This act] terminates October 2, 2028.
25

- END -