SENATE BILL NO. 427

INTRODUCED BY W. CURDY

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING LAWS RELATED TO TRAPPING SETBACKS; CREATING CERTAIN SETBACKS FOR TRAPPING ON PUBLIC LANDS; PROVIDING RULEMAKING AUTHORITY; PROVIDING PENALTIES; AND AMENDING SECTIONS 87-1-301 AND 87-6-601, MCA.”

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

NEW SECTION. **Section 1. Trapping setbacks.** (1) Except as provided in subsection (2), the following setbacks are required for trapping on public lands:

(a) for furbearers, predators, and nongame wildlife, ground sets and snares must be set back 50 feet from the edge of roads and hiking trails that are designated by administrative signs or numbers; and

(b) for wolves, ground sets and snares must be set back 150 feet from the edge of roads and hiking trails that are designated by administrative signs or numbers.

(2) Trapping setbacks may not be applied to roads that are closed year-round to motor vehicles and off-highway vehicles, as defined in 23-2-801, including but not limited to kelly-humped roads that are inaccessible by motor vehicles and off-highway vehicles but are lawfully accessible by snowmobile.

(3) The commission may:

(a) expand trap setback distances for roads and trails in high-use areas adjacent to urban population centers; and

(b) establish trap setback distances for other areas, including campgrounds, recreational sites, and public land trailheads.

Section 2. Section 87-1-301, MCA, is amended to read:

"**87-1-301. Powers of commission.** (1) ~~Except~~ Subject to [section 1] and except as provided in subsections (6) and (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 related to fish and wildlife as provided by law;

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

(c) except as provided in 23-1-111 and 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 23-1-111 and 87-1-209(2) and (4);

(f) except as provided in 23-1-111, shall review and approve the budget of the department prior to its transmittal to the office of budget and program planning;

(g) except as provided in 23-1-111, shall review and approve construction projects that have an estimated cost of more than $1,000 but less than $5,000;

(h) 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 proposed.

(i) shall set the policies for the salvage of antelope, deer, elk, or moose pursuant to 87-3-145;

(j) shall comply with, adopt policies that comply with, and ensure the department implements in each region the provisions of state wildlife management plans adopted following an environmental review conducted pursuant to Title 75, chapter 1, parts 1 through 3; and

(k) shall review and approve the issuance of an either-sex or antlerless elk license, permit, or combination thereof to a landowner or a landowner's designee pursuant to 87-2-513.

(2) The commission may adopt rules regarding the use and type of archery equipment that may be

employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

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

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

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

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

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

(iv) limit the number of licenses sold.

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

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

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

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

(5) (a) Subject to the provisions of subsection (5)(b), the commission may adopt rules to:

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

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

(b) The commission shall adopt rules for the use of and set quotas for the sale of Class D-4 nonresident hound licenses by hunting district, portions of a hunting district, group of districts, or administrative regions.

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

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

(ii) history of quota overruns;

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

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

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

(6) The commission 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).

(7) Pursuant to 23-1-111, the commission does not oversee department activities related to the administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9."

Section 3. Section 87-6-601, MCA, is amended to read:

"**87-6-601. Trapping and snaring offenses.** (1) A person may not use a trap or snare for the purpose of trapping or snaring a fur-bearing animal, a predatory animal, or a nongame species unless:

(a) the trap or snare is tagged with a metal tag bearing an individual identifying number issued by the department or the owner's name and address unless the person is trapping or snaring on the person's land or an irrigation ditch right-of-way contiguous to the person's land; and

(b) the trap or snare is set in a manner, including in accordance with any setback requirement

established pursuant to [section 1], and at a time so that it will not unduly endanger livestock. A person who injures livestock in a trap or snare is liable for damages to the owner of the livestock.

(2) A person may not use a trap or snare for the purpose of trapping or snaring a fur-bearing animal, a predatory animal, or a nongame species on private property without obtaining permission from the landowner, the lessee, or their agents.

(3) A person may not at any time willfully destroy, open or leave open, or partially destroy a house of any muskrat or beaver, except that trapping in the house of muskrats is not prohibited when authorized by the commission.

(4) A person shall set a trap in accordance with any setback requirement established pursuant to [section 1].

~~(4)~~(5) (a) A person may not destroy, disturb, or remove any trap or snare belonging to another person or remove wildlife from a trap or snare belonging to another person without permission of the owner of the trap or snare, except that from March 1 to October 1 of each year a person may remove any snare from land owned or leased by the person if the snare would endanger livestock.

(b) This subsection ~~(4)~~ (5) does not apply to a law enforcement officer acting within the scope of the officer's duty.

~~(5)~~(6) A person convicted of a violation of this section shall be fined not less than $50 or more than $1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by the state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

~~(6)~~(7) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 and 87-6-906."

NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 87, chapter 3, part 1, and the provisions of Title 87, chapter 3, part 1, apply to [section 1].

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