

HOUSE BILL NO. 762

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO PUBLISH A BIENNIAL RIVER-USE REPORT; AMENDING SECTION 87-1-201, 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 87-1-201, MCA, is amended to read:

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

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

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

1 is available for appropriation to the department.

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

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

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

9 (i) wardens; and

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

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

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

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

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

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

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

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

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

1 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing  
2 under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists  
3 in the maintenance or recovery of those species;

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

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

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

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

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

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

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

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

3 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the  
4 establishment of special archery seasons and the special muzzleloader heritage hunting season established in  
5 87-1-304;

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

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

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

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

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

15 (a) youths;

16 (b) college students;

17 (c) nonresidents who were former residents;

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

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

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

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

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

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

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

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

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

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

4 (vii) the East Fork of the Bitterroot River from Sula to its confluence with the Bitterroot River;

5 (viii) the West Fork of the Bitterroot River from Painted Rocks dam to its confluence with the  
6 Bitterroot River;

7 (ix) the Bitterroot River to its confluence with the Clark Fork River;

8 (x) the Missouri River from the Holter dam to Cascade;

9 (xi) the Dearborn River from highway 200 to its confluence with the Missouri River;

10 (xii) the Jefferson River from Hell's Canyon to Three Forks, including a report for the month of  
11 October;

12 (xiii) the Gallatin River from the Yellowstone national park boundary to its confluence with the  
13 Missouri River;

14 (xiv) the Madison River from Beartrap Canyon to Grey Cliff north; and

15 (xv) the Big Horn River from the Afterbay access site to the Two Leggins fishing access site.

16 (b) The report must contain:

17 (i) the number of private canoes, kayaks, paddleboards, tubes, and other similar watercraft each  
18 week;

19 (ii) the number of private drift boats, rafts, and other similar watercraft each week;

20 (iii) the number of commercial watercraft used for fishing, outfitting, and guiding each week;

21 (iv) the number of commercial watercraft used for floating, sightseeing, and whitewater rafting each  
22 week; and

23 (v) the total number of watercraft each week.

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25 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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27 **NEW SECTION. Section 3. Termination.** [This act] terminates October 2, 2028.

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