

SENATE BILL NO. 298

INTRODUCED BY B. MOLNAR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO HUNTING BY DISABLED PERSONS; PROVIDING REQUIREMENTS FOR CROSSBOWS; REVISING RULEMAKING AUTHORITY; ALLOWING A DISABLED HUNTER TO HUNT WITHOUT A COMPANION OR WITH A COMPANION NOT LICENSED TO HUNT; ESTABLISHING REPORTING REQUIREMENTS; AMENDING SECTIONS 37-3-203, 87-1-301, 87-2-105, 87-2-803, AND 87-2-817, MCA; AND PROVIDING A TERMINATION DATE."

WHEREAS, Montana sold 58,326 archery permits in 2021; and
WHEREAS, 48 states allow crossbow use during archery seasons; and
WHEREAS, no states have reported problems with the use of crossbows; and
WHEREAS, no cases of fraud related to the use of a crossbow have been reported in intermountain states; and
WHEREAS, the compound technology used in vertical bows is the same used in crossbows; and
WHEREAS, the rights of Montana's disabled population are protected by the Americans With Disabilities Act and the Rehabilitation Act; and
WHEREAS, an accommodation for a disability that cannot be used is not an accommodation; and
WHEREAS, Article IX, section 7, of the Montana Constitution preserves for the individual the right to harvest wild game animals.

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

NEW SECTION. Section 1. Permit to hunt with crossbow -- reporting. (1) Except as provided in [section 2], the department shall issue a permit to hunt with a crossbow during an archery-only season if the person applying for the permit meets the requirements of subsection (2), complies with the provisions of subsection (3), and purchases the necessary licenses and permits.

(2) (a) A person qualifies for a permit to hunt with a crossbow, on payment of a fee of \$10, if the

1 person is certified by a physician, as defined in 87-2-803, to have a permanent condition that severely limits the
2 person's ability to draw and hold a long bow, a recurve bow, or a compound bow of sufficient draw weight to
3 hunt a game animal, and the person:

4 (i) purchased a Class A-2 special bow and arrow license in the past 3 years; or

5 (ii) completed a crossbow education course pursuant to 87-2-105 prior to applying for a permit to
6 hunt with a crossbow.

7 (b) Certification under this subsection (2) must be on a form prescribed by the department and
8 signed by the physician.

9 (c) The department or a person who disagrees with a certification of eligibility for a permit to hunt
10 with a crossbow submitted pursuant to this subsection (2) may request a review by the board of medical
11 examiners pursuant to 37-3-203.

12 (3) A person issued a permit to hunt with a crossbow may use a scope only if the scope is not
13 battery-assisted and has a magnification of no more than four times. While hunting, a crossbow may not be
14 equipped with a mechanical arrow or bolt drop compensation device, including but not limited to jack plates.

15 (4) A person issued a permit to hunt with a crossbow is automatically entitled to a permit to hunt
16 with a crossbow for subsequent license years if the criteria for obtaining a permit do not change.

17 (5) A person issued a permit to hunt with a crossbow shall complete hunter surveys issued by the
18 department. At a minimum, the department shall survey each person regarding the season or seasons in which
19 the person used the permit and the person's success rate, including the number of shots the person attempted,
20 the estimated range of the shots, and whether the person harvested, wounded, or lost an animal.

21 (6) The department shall report, in accordance with 5-11-210, to the environmental quality council
22 established in 5-16-101, on the number of persons issued a permit to hunt with a crossbow in the previous
23 license year, the certified conditions that qualified the persons to obtain a permit, and the results of the hunter
24 surveys received pursuant to subsection (5).

25 (7) The number of crossbow licenses issued for disabled persons must be 1% of the number of
26 archery licenses sold the previous year.

27
28 **NEW SECTION. Section 2. Denial of crossbow permit -- requirements -- appeal.** (1) The

department may deny a permit application pursuant to [section 1] if the department documents that:

(a) use of a crossbow by the applicant will biologically damage wildlife populations;

(b) administering the permit is an excessive cost to the department; or

(c) the permit will adversely affect the archery season.

(2) A denial pursuant to subsection (1) may be appealed to the commission.

(3) (a) A commission denial may be appealed to district court in the county where the applicant resides.

(b) The prevailing party is entitled to costs enumerated in 25-10-201 and reasonable attorney fees as determined by the court.

(c) If the commission denial is reversed but the applicant missed the archery season during which the permit was applied for, the department shall issue a permit of the applicant's choice for the next available season without reducing the number of permits available.

Section 3. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties -- rulemaking authority. (1) The board may:

(a) adopt rules necessary or proper to carry out the requirements in Title 37, chapter 3, parts 1 through 4, and of chapters covering podiatry, acupuncture, physician assistants, nutritionists, and emergency care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and 50-6-203, respectively. Rules adopted for emergency care providers with an endorsement to provide community-integrated health care must address the scope of practice, competency requirements, and educational requirements.

(b) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(c) aid the county attorneys of this state in the enforcement of parts 1 through 4 and 8 of this chapter as well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers licensed by the board. The board also may assist the county attorneys of this state in the prosecution of persons, firms, associations, or corporations charged with violations of the provisions listed in this subsection (1)(c).

(d) review certifications of disability and determinations of eligibility for a permit to hunt from a

vehicle as provided in 87-2-803(11) and certifications of conditions of eligibility for a permit to hunt with a crossbow as provided in [section 1]; and

(e) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary.

(2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness.

(b) The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state.

(3) (a) The board shall report annually on the number and types of complaints it has received involving physician practices in providing written certification, as defined in 16-12-502, for the use of marijuana for a debilitating medical condition provided for in Title 16, chapter 12, part 5. The report must contain:

(i) the number of complaints received by the board pursuant to 37-1-308;

(ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-307;

(iii) the general nature of the complaints;

(iv) the number of investigations conducted into physician practices in providing written certification; and

(v) the number of physicians disciplined by the board for their practices in providing written certification for the use of marijuana for a debilitating medical condition.

(b) Except as provided in subsection (3)(c), the report may not contain individual identifying information regarding the physicians about whom the board received complaints.

(c) For each physician against whom the board takes disciplinary action related to the physician's practices in providing written certification for the use of marijuana for a debilitating medical condition, the report

1 must include:

2 (i) the name of the physician;

3 (ii) the general results of the investigation of the physician's practices; and

4 (iii) the disciplinary action taken against the physician.

5 (d) The board shall provide the report to the economic affairs interim committee in accordance with
6 5-11-210 and shall make a copy of the report available on the board's website.

7 (4) The board may enter into agreements with other states for the purposes of mutual recognition
8 of licensing standards and licensing of physicians and emergency care providers from other states under the
9 terms of a mutual recognition agreement."

10

11 **Section 4.** Section 87-1-301, MCA, is amended to read:

12 **"87-1-301. Powers of commission.** (1) Except as provided in subsections (6) and (7), the
13 commission:

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

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

18 (c) except as provided in 23-1-111 and 87-1-303(3), shall establish the rules of the department
19 governing the use of lands owned or controlled by the department and waters under the jurisdiction of the
20 department;

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

23 (e) shall approve all acquisitions or transfers by the department of interests in land or water, except
24 as provided in 23-1-111 and 87-1-209(2) and (4);

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

27 (g) except as provided in 23-1-111, shall review and approve construction projects that have an
28 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~~ Except as provided in [section 1], 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;

- 1 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property;
2 and
3 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-
4 1-321 through 87-1-325.
- 5 (5) (a) Subject to the provisions of subsection (5)(b), the commission may adopt rules to:
6 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and
7 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated
8 hunting districts.
- 9 (b) The commission shall adopt rules for the use of and set quotas for the sale of Class D-4
10 nonresident hound licenses by hunting district, portions of a hunting district, group of districts, or administrative
11 regions.
- 12 (c) The commission shall consider, but is not limited to consideration of, the following factors:
13 (i) harvest of lions by resident and nonresident hunters;
14 (ii) history of quota overruns;
15 (iii) composition, including age and sex, of the lion harvest;
16 (iv) historical outfitter use;
17 (v) conflicts among hunter groups;
18 (vi) availability of public and private lands; and
19 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all
20 hunters.
- 21 (6) The commission may not regulate the use or possession of firearms, firearm accessories, or
22 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:
23 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the
24 establishment of special archery seasons and the special muzzleloader heritage hunting season established in
25 87-1-304;
26 (b) for human safety, the restriction of certain areas to the use of only specified hunting arms,
27 including bows and arrows, traditional handguns, and muzzleloading rifles;
28 (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.

(8) The commission may adjust the number of crossbow licenses issued to disabled persons if damage to the wildlife population is shown or if there is social strife caused by the addition of this number of disabled archers to archery season participants. If the cap is reached, the commission may increase the cap if experience shows a lack of fraud, damage to the wildlife resource, or expense to the state."

Section 5. Section 87-2-105, MCA, is amended to read:

"87-2-105. Hunter safety and education required. (1) Except for a youth who qualifies for a license pursuant to 87-2-805(4) or a person who has been issued an apprentice hunting certificate pursuant to 87-2-810, a hunting license may not be issued to a person born after January 1, 1985, unless the person authorized to issue the license determines proof of completion of:

(a) a Montana hunter safety and education course established in subsection (4) or (6);

(b) a hunter safety course in any other state or province; or

(c) a Montana hunter safety and education course that qualifies the person for a provisional certificate as provided in 87-2-126.

(2) A hunting license may not be issued to a member of the regular armed forces of the United States or to a member of the armed forces of a foreign government attached to the armed forces of the United States who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to a member's spouse or dependent, as defined in 87-2-102, who resides in the member's household, unless the person authorized to issue the license determines proof of completion of a hunter safety and education course approved by the department or a hunter safety course in any state or province.

(3) A bow and arrow license may not be issued to a resident or nonresident unless the person authorized to issue the license receives an archery license issued for a prior hunting season or determines

1 proof of completion of a bowhunter education course from the national bowhunter education foundation or any
2 other bowhunter education program approved by the department. Neither the department nor the license agent
3 is required to provide records of past archery license purchases. As part of the department's bow and arrow
4 licensing procedures, the department shall notify the public regarding bowhunter education requirements.

5 (4) The department shall provide for a hunter safety and education course that includes instruction
6 in the safe handling of firearms and for that purpose may cooperate with any reputable organization having as
7 one of its objectives the promotion of hunter safety and education. The department may designate as an
8 instructor any person it finds to be competent to give instructions in hunter safety and education, including the
9 handling of firearms. A person appointed shall give the course of instruction and shall issue a certificate of
10 completion from Montana's hunter safety and education course to a person successfully completing the course.

11 (5) The department shall provide for a course of instruction from the national bowhunter education
12 foundation or any other bowhunter education program approved by the department and for that purpose may
13 cooperate with any reputable organization having as one of its objectives the promotion of safety in the
14 handling of bow hunting tackle. The department may designate as an instructor any person it finds to be
15 competent to give bowhunter education instruction. A person appointed shall give the course of instruction and
16 shall issue a certificate of completion to a person successfully completing the course.

17 (6) The department may develop an adult hunter safety and education course and develop or
18 adopt a crossbow safety course.

19 (7) As part of the department's licensing procedures, the department shall notify the public
20 regarding crossbow education requirements.

21 (7)(8) The department may adopt rules regarding how a person authorized to issue a license
22 determines proof of completion of a required course."

23
24 **Section 6.** Section 87-2-803, MCA, is amended to read:

25 **"87-2-803. Licenses for persons with disabilities -- definitions.** (1) Persons with disabilities who
26 are residents of Montana not residing in an institution and are certified as disabled as prescribed by
27 departmental rule may purchase the following for one-half the cost:

28 (a) a Class A fishing license;

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68th Legislature

Drafter: Casey Pallister, (406) 444-3067

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1 (b) a Class A-1 upland game bird license;

2 (c) a Class A-3 deer A tag;

3 (d) a Class A-5 elk tag.

4 (2) A person who has purchased a wildlife conservation license and a resident fishing license,
5 game bird license, deer tag, or elk tag for a particular license year and who is subsequently certified as disabled
6 is entitled to a refund for one-half of the cost of the fishing license, game bird license, deer tag, or elk tag
7 previously purchased for that license year.

8 (3) A person who is certified as disabled pursuant to subsection (4) and who was issued a permit
9 to hunt from a vehicle for license year 2014 or a subsequent license year is automatically entitled to a permit to
10 hunt from a vehicle for subsequent license years if the criteria for obtaining a permit do not change.

11 (4) A person may be certified as disabled by the department and issued a permit to hunt from a
12 vehicle, on a form prescribed by the department, if the person meets the requirements of subsection (9).

13 (5) (a) A person with a disability carrying a permit to hunt from a vehicle, referred to in this
14 subsection (5) as a permitholder, may hunt by shooting a firearm from:

15 (i) the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-101,
16 except a state or federal highway;

17 (ii) within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-
18 of-way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public
19 highway, where hunting is permitted; or

20 (iii) an off-highway vehicle or snowmobile, as defined in 61-1-101, in any area where hunting is
21 permitted and that is open to motorized use, unless otherwise prohibited by law, as long as the off-highway
22 vehicle or snowmobile is marked as described in subsection (5)(d)(e) of this section.

23 (b) This subsection (5) does not allow a permitholder to shoot across the roadway of any public
24 highway or to hunt on private property without permission of the landowner.

25 (c) (i) The department may not require:

26 (A) a permitholder to hunt with a companion unless case-specific documentation is provided; or

27 (B) that a companion possess a license for the game animal being hunted.

28 (ii) A permitholder must have a companion to may assist in immediately dressing any killed game

1 animal. The companion may also assist the permitholder by hunting a game animal that has been wounded by
2 the permitholder when the permitholder is unable to pursue and kill the wounded game animal provided that the
3 companion uses a weapon allowed for the season and district.

4 (d) A permitholder hunting without a companion who is unable to pursue and kill a wounded game
5 animal may be charged with wasting a game animal pursuant to 87-6-205.

6 ~~(d)~~(e) Any vehicle from which a permitholder is hunting must be conspicuously marked with an
7 orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle,
8 or as prescribed by the department.

9 (6) (a) A resident of Montana who is certified by the department as experiencing blindness, as
10 defined in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of
11 \$10. The license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by
12 department rule. A wildlife conservation license is not a prerequisite to licensure under this subsection (6)(a).

13 (b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301,
14 may be issued regular resident deer and elk licenses, in the manner provided in subsection (1) of this section,
15 and must be accompanied by a companion, as provided in subsection (5)(c) of this section.

16 (7) The department shall adopt rules to establish the qualifications that a person must meet to be a
17 companion and may adopt rules to establish when a companion can be a designated shooter for a disabled
18 person.

19 (8) As used in this section, "disabled person", "person with a disability", or "disabled" means or
20 refers to a person experiencing a condition medically determined to be permanent and substantial and resulting
21 in significant impairment of the person's functional ability.

22 (9) (a) A person qualifies for a permit to hunt from a vehicle if the person is certified by a licensed
23 physician, a licensed chiropractor, a licensed physician assistant, or an advanced practice registered nurse to
24 be nonambulatory, to have substantially impaired mobility, or to have a documented genetic condition that limits
25 the person's ability to walk or carry significant weight for long distances.

26 (b) For the purposes of this subsection (9), the following definitions apply:

27 (i) "Advanced practice registered nurse" means a registered professional nurse who has
28 completed educational requirements related to the nurse's specific practice role, as specified by the board of

nursing pursuant to 37-8-202, in addition to completing basic nursing education.

(ii) "Chiropractor" means a person who has a valid license to practice chiropractic in this state pursuant to Title 37, chapter 12, part 3.

(iii) "Documented genetic condition" means a diagnosis derived from genetic testing and confirmed by a licensed physician.

(iv) "Nonambulatory" means permanently, physically reliant on a wheelchair or a similar compensatory appliance or device for mobility.

(v) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy and who has a valid license to practice medicine or osteopathic medicine in this state.

(vi) "Physician assistant" has the meaning provided in 37-20-401.

(vii) "Substantially impaired mobility" means virtual inability to move on foot due to permanent physical reliance on crutches, canes, prosthetic appliances, or similar compensatory appliances or devices.

(10) Certification under subsection (9) must be on a form provided by the department.

(11) The department or a person who disagrees with a determination of disability or eligibility for a permit to hunt from a vehicle may request a review by the board of medical examiners pursuant to 37-3-203."

Section 7. Section 87-2-817, MCA, is amended to read:

"87-2-817. Licenses for service members. (1) A veteran or a disabled member of the armed forces who meets the qualifications in 87-2-803(9) or [section 1] as a result of a combat-connected injury may apply at a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A tag, a Class B-8 deer B tag, and a special antelope license made available under 87-2-506(3) for one-half of the license fee. Licenses issued to veterans or disabled members of the armed forces under this part do not count against the number of special antelope licenses reserved for people with permanent disabilities, as provided in 87-2-706.

(2) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a contingency operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months outside of the state, upon request and upon presentation of the documentation described in subsection (2)(c),

1 must be issued a free resident wildlife conservation license and a Class A resident fishing license or a Class
2 AAA resident combination sports license, which may not include a Class A-6 black bear tag, upon payment of
3 the resident base hunting license fee in 87-2-116 and the purchase of the resident aquatic invasive species
4 prevention pass pursuant to 87-2-130, in the license year that the member returns from military service or in the
5 year following the member's return, based on the member's election, and in any of the 4 years after the
6 member's election.

7 (b) If a Montana resident who meets the service qualifications of subsection (2)(a) is subsequently
8 required to serve another 2 months or more outside of the state under the same service qualifications, the
9 entitlement to free licenses provided pursuant to subsection (2)(a) resets and the member may start a new 5-
10 year entitlement period beginning in the license year that the member returns from the subsequent military
11 service or in the year following the member's return, based on the member's election. There is no limit on the
12 number of times the entitlement period may be reset if the Montana resident repeatedly meets the service
13 qualifications of subsection (2)(a).

14 (c) To be eligible for the free licenses provided for in subsection (2)(a) or (2)(b), an applicant shall,
15 in addition to the written application and proof of residency required in 87-2-202(1), provide to any regional
16 department office or to the department headquarters in Helena, by mail or in person, the member's DD form
17 214 verifying the member's release or discharge from active duty. The applicant is responsible for providing
18 documentation showing that the applicant participated in a contingency operation as provided in 10 U.S.C.
19 101(a)(13).

20 (d) The department's general license account must be reimbursed by a quarterly transfer of funds
21 from the general fund to the general license account for costs associated with the free licenses granted
22 pursuant to this subsection (2) during the preceding calendar quarter. Reimbursement costs must be
23 designated as license revenue.

24 (3) A member of the armed forces who forfeited a license or permit issued through a drawing as a
25 result of deployment outside of the continental United States in support of a contingency operation as provided
26 in 10 U.S.C. 101(a)(13) is guaranteed the same license or permit, without additional fee, upon application in the
27 year of the member's return from deployment or in the first year that the license or permit is made available
28 after the member's return."

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11 - END -