

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

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