

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~~ PROVIDING 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 -- rulemaking. (1) The commission may offer for sale 400 permits to hunt with a crossbow as provided in this section. Permit numbers may be adjusted at the discretion of the commission.

(2) 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)~~ (3), complies with the provisions of subsection ~~(3)~~ (4), and purchases the necessary licenses and permits.

~~(2)~~ (3) (a) A person qualifies for a permit to hunt with a crossbow as an accommodation, on payment of a fee of \$10, if the person is certified by a physician, ~~as defined in 87-2-803~~, to have a permanent ~~condition~~ disability that severely limits the person's ability to draw and hold a long bow, a recurve bow, or a compound bow of sufficient draw weight to hunt a game animal, and the person:

(i) is a resident as defined in 87-2-102; and

~~(i)~~ (ii) either:

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

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

(b) Certification under this subsection ~~(2)~~ (3) must be on a form prescribed by the department and signed by the physician.

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

~~(3)~~ (4) The commission shall adopt rules designating which crossbows and crossbow accessories may be used. A person issued a permit to hunt with a crossbow may use a scope only if the scope is not battery-assisted and has a magnification of no more than four times. While hunting, a crossbow may not be equipped with a mechanical arrow or bolt drop compensation device, including but not limited to jack plates.

~~(4)~~ (5) A person issued a permit to hunt with a crossbow is automatically entitled to a permit to hunt with a crossbow for subsequent license years if the criteria for obtaining a permit do not change.

~~(5)~~ (6) A person issued a permit to hunt with a crossbow shall complete hunter surveys issued by the department. At a minimum, the department shall survey each person regarding the season or seasons in which the person used the permit and the person's success rate, including the number of shots the person attempted, the estimated range of the shots, and whether the person harvested, wounded, or lost an animal.

~~(6)~~ (7) The department shall report, in accordance with 5-11-210, to the environmental quality council established in 5-16-101, on the number of persons issued a permit to hunt with a crossbow in the previous

license year, the certified conditions that qualified the persons to obtain a permit, and the results of the hunter surveys received pursuant to subsection ~~(5)~~ (6).

(8) During archery-only seasons, a crossbow is considered nontraditional archery equipment for use only by persons with disabilities who have been issued a permit by the department to modify archery equipment.

(9) As used in this section, the following definitions apply:

(a) "Disability" means a physical condition arising from a birth defect, accident, illness, or a military combat-related activity, that precludes the individual from drawing, holding, or firing vertical archery equipment during the legal pursuit of game or nongame animals in Montana.

(b) "Accommodation" means a privilege granted by the state that is useful to a petitioning physically disabled individual to help accomplish common tasks or endeavors enjoyed by able-bodied individuals.

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:

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 must include:

(i) the name of the physician;

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

(iii) the disciplinary action taken against the physician.

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

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

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

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

~~(a) shall set the policies for the protection, preservation, management, and propagation of the~~

Amendment - 1st Reading-white (S) Fish and Game

68th Legislature

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SB0298.001.023

~~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 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;~~

~~(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 4. 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