

1 HOUSE BILL NO. 521
2 INTRODUCED BY D. LOGE
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REQUIREMENTS FOR RECREATIONAL USE ON
5 LANDS MANAGED BY STATE AGENCIES; EXPANDING THE APPLICABILITY OF CONSERVATION
6 LICENSES TO INCLUDE ALL GENERAL RECREATION; EXPANDING THE EXISTING AGREEMENT
7 AUTHORITY BETWEEN THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND THE DEPARTMENT
8 OF NATURAL RESOURCES AND CONSERVATION; REVISING "WILDLIFE CONSERVATION LICENSES"
9 TO "CONSERVATION LICENSES"; ESTABLISHING REPORTING REQUIREMENTS; REVISING PENALTIES;
10 PROVIDING AN APPROPRIATION; AMENDING SECTIONS 37-47-303, 37-47-304, 40-5-701, 76-17-102, 77-
11 1-801, 77-1-802, 77-1-804, 77-1-815, 81-7-123, 87-1-266, 87-1-506, 87-2-106, 87-2-201, 87-2-202, 87-2-204,
12 87-2-403, 87-2-519, 87-2-525, 87-2-801, 87-2-803, 87-2-805, 87-2-815, 87-2-816, 87-2-817, 87-2-818, 87-6-
13 302, AND 87-6-303, MCA; AND PROVIDING AN EFFECTIVE DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 **Section 1.** Section 37-47-303, MCA, is amended to read:

18 **"37-47-303. Guide's qualifications.** An applicant for a guide's license must:

- 19 (1) be 18 years of age or older and be physically capable and mentally competent to perform the
20 duties of a guide;
- 21 (2) be endorsed and recommended by an outfitter with a valid license, unless otherwise qualified
22 under guide standards established by the board pursuant to 37-47-201(4); and
- 23 (3) have been issued a valid ~~wildlife~~-conservation license."

24
25 **Section 2.** Section 37-47-304, MCA, is amended to read:

26 **"37-47-304. Application.** (1) Each applicant for an outfitter's or guide's license shall apply for a
27 license on a form furnished by the department.

28 (2) The application for an outfitter's license must include:

1 (2) The grant program is funded by private donations. State agencies shall, as appropriate,
2 facilitate private donations to the Montana public land access network account established in 76-17-103,
3 including but not limited to the following methods:

4 (a) a donation by a person of \$1 or more above the price of a ~~wildlife~~-conservation license
5 purchased pursuant to 87-2-202; and

6 (b) a donation by a person, as defined in 2-4-102, through the websites of the department of
7 natural resources and conservation, the department of fish, wildlife, and parks, and the state of Montana.

8 (3) (a) The department of natural resources and conservation shall adopt a logo for the Montana
9 public land access network grant program, using the acronym "MT-PLAN". The department of natural resources
10 and conservation and the department of fish, wildlife, and parks shall use the logo on signs and maps indicating
11 the locations and access points of public lands made accessible through the grant program.

12 (b) Subject to the limitations provided in 76-17-103(4), either department may be reimbursed from
13 the Montana public land access network account established in 76-17-103 for reasonable costs, as determined
14 by the board, that are associated with subsection (3)(a).

15 (4) The department of natural resources and conservation may adopt rules to implement the
16 provisions of this part. (Terminates June 30, 2027--sec. 10, Ch. 374, L. 2017.)"

17

18 **Section 5.** Section 77-1-801, MCA, is amended to read:

19 **"77-1-801. (Temporary) Recreational use license required to use state lands for general**

20 **recreational purposes -- penalty -- exemption.** (1) Except as provided in subsection ~~(3)~~ (2), a person 12
21 years of age or older shall obtain an annual recreational use license pursuant to 77-1-802 to use state lands, as
22 defined in 77-1-101, for general recreational purposes.

23 ~~(2) Except as provided in subsection (3), a person shall, upon the request of a peace officer or fish~~
24 ~~and game warden, present for inspection the person's recreational use license.~~

25 ~~(3)~~(2) If the department and the department of fish, wildlife, and parks consent to and sign an
26 agreement for hunting, fishing, and trapping purposes general recreational use pursuant to, as provided in 77-
27 1-815, a person is ~~not only~~ required to obtain a recreational use conservation license for general recreational
28 use of legally accessible state trust land for hunting, fishing, and trapping purposes.

1 (3) A person shall, on the request of a peace officer or fish and game warden, present for
2 inspection the person's conservation license.

3 (4) A ~~violator person found in violation~~ of ~~subsection (1) or (2) this section~~ or department rules
4 pertaining to the use of state trust land:

5 (a) for a first offense, shall be given a warning;

6 (b) for a second offense, is guilty of a misdemeanor and shall be fined not less than twice the cost
7 of a conservation license; and

8 (c) for a third offense, is guilty of a misdemeanor and shall be fined not \$50 or more than \$500 or
9 be imprisoned in the county jail for not more than 6 months, or both. (Void on occurrence of contingency--sec.
10 8, Ch. 596, L. 2003.)

11 **77-1-801. (Effective on occurrence of contingency) Recreational use license required to use**
12 **state lands for general recreational purposes -- penalty.** (1) A person 12 years of age or older shall obtain
13 an annual recreational use license pursuant to 77-1-802 to use state lands, as defined in 77-1-101, for general
14 recreational purposes.

15 (2) A person shall, upon the request of a peace officer or fish and game warden, present for
16 inspection the person's recreational use license.

17 (3) A ~~violator person found in violation~~ of subsection (1) or (2) pertaining to the use of state trust
18 land:

19 (a) for first offense, shall be given a warning;

20 (b) for second offense, is guilty of a misdemeanor and shall be fined not less than twice the cost of
21 a recreational use license; and

22 (c) for a third offense, is guilty of a misdemeanor and shall be fined not \$50 or more than \$500 or
23 be imprisoned in the county jail for not more than 6 months, or both."

24

25 **Section 6.** Section 77-1-802, MCA, is amended to read:

26 **"77-1-802. (Temporary) Recreational use -- fee.** (1) The fee for general recreational use on state
27 trust land must attain full market value whether the license is sold ~~on an individual basis or on a group basis~~
28 ~~through pursuant to 77-1-801 or under~~ an agreement with the department of fish, wildlife, and parks as provided

1 in 77-1-815.

2 (2) Money received by the department ~~from the sale of recreational use licenses for general~~
3 recreational use of state lands must be credited as follows:

4 (a) Except as provided in subsection (2)(b), ~~license~~ fees must be apportioned on a pro rata basis
5 to the land trusts, in proportion to the respective trust's percentage of acreage in the total acreage of all state
6 land trusts.

7 (b) Revenue from recreational use license fees, less 50 cents from the fee for each license that
8 must be returned to the license dealer as a commission, is distributable revenue and must be deposited
9 pursuant to 77-1-109 and used to pay for administrative costs as provided in 77-1-108.

10 (3) The department may contract with the department of fish, wildlife, and parks for the distribution
11 and sale of recreational use licenses through the license agents appointed by and the administrative offices of
12 the department of fish, wildlife, and parks and in accordance with the provisions of Title 87, chapter 2, part 9.
13 (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

14 **77-1-802. (Effective on occurrence of contingency) Recreational use license -- fee.** (1) The fee
15 for a recreational use license must attain full market value.

16 (2) Money received by the department ~~from the sale of recreational use licenses for general~~
17 recreational use of state lands must be credited as follows:

18 (a) Except as provided in subsection (2)(b), ~~license~~ fees must be apportioned on a pro rata basis
19 to the land trusts, in proportion to the respective trust's percentage contribution to the total acreage of all state
20 land trusts.

21 (b) Revenue from recreational use license fees, less 50 cents from the fee for each license that
22 must be returned to the license dealer as a commission, is distributable revenue and must be deposited
23 pursuant to 77-1-109 and used to pay for administrative costs as provided in 77-1-108.

24 (3) The department may contract with the department of fish, wildlife, and parks for the distribution
25 and sale of recreational use licenses through the license agents appointed by and the administrative offices of
26 the department of fish, wildlife, and parks and in accordance with the provisions of Title 87, chapter 2, part 9."

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28

Section 7. Section 77-1-804, MCA, is amended to read:

1 **"77-1-804. Rules for recreational use of state lands -- penalty.** (1) The board shall adopt rules
2 authorizing and governing the recreational use of state lands allowed under 77-1-203. The board shall use local
3 offices of the department to administer this program whenever practical.

4 (2) Rules adopted under this section must address the circumstances under which the board may
5 close legally accessible state lands to recreational use. Action by the board may be taken upon its own initiative
6 or upon petition by an individual, organization, corporation, or governmental agency. Closures may be of an
7 emergency, seasonal, temporary, or permanent nature. State lands may be closed by the board only after
8 public notice and opportunity for public hearing in the area of the proposed closure, except when the
9 department is acting under rules adopted by the board for an emergency closure. Closed lands must be posted
10 by the lessee or by the department at the request of the lessee at customary access points, with signs provided
11 or authorized by the department.

12 (3) Closure rules adopted pursuant to subsection (2) may categorically close state lands whose
13 use or status is incompatible with recreational use. Categorical or blanket closures may be imposed on state
14 lands due to:

- 15 (a) cabin site and home site leases and licenses;
- 16 (b) the seasonal presence of growing crops; and
- 17 (c) active military, commercial, or mineral leases.

18 (4) The board shall adopt rules that provide an opportunity for any individual, organization, or
19 governmental agency to petition the board for purposes of excluding a specified portion of state land from a
20 categorical closure that has been imposed under subsection (3).

21 (5) Under rules adopted by the board, state lands may be closed on a case-by-case basis for
22 certain reasons, including but not limited to:

- 23 (a) damage attributable to recreational use that diminishes the income-generating potential of the
24 state lands;
- 25 (b) damage to surface improvements of the lessee;
- 26 (c) the presence of threatened, endangered, or sensitive species or plant communities;
- 27 (d) the presence of unique or special natural or cultural features;
- 28 (e) wildlife protection;

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Drafter: Toni Henneman, 406-444-3593

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- 1 (f) noxious weed control; or
- 2 (g) the presence of buildings, structures, and facilities.
- 3 (6) (a) Rules adopted under this section may impose restrictions on general recreational activities,
- 4 including the discharge of weapons, camping, open fires, vehicle use, and any use that will interfere with the
- 5 presence of livestock.
- 6 (b) The board may also by rule restrict access on state lands in accordance with a block
- 7 management program administered by the department of fish, wildlife, and parks.
- 8 (c) Motorized vehicle use by recreationists on state lands is restricted to federal, state, and
- 9 dedicated county roads, trails developed by the department for motorized use, and roads designated by the
- 10 department to be open to motorized vehicle use.
- 11 (d) Recreational overnight use of state lands in a 30-day period is limited to 16 days:
- 12 (i) in a designated campground; and
- 13 (ii) on unleased, unlicensed lands outside a campground unless otherwise allowed by the
- 14 department.
- 15 (e) Pets on state lands must be on a leash or otherwise controlled to prevent harassment of
- 16 livestock or wildlife.
- 17 (f) Horses may be kept overnight on state lands if:
- 18 (i) the horses do not remain in a stream riparian zone for more than 1 hour; and
- 19 (ii) only feed certified as noxious weed seed free is present on state lands.
- 20 (g) A horse kept overnight on state lands where there is a lease or license must be kept in
- 21 compliance with the provisions of subsection (6)(f) and must be restrained.
- 22 (h) Restrictions on general recreational activities must comply with the following:
- 23 (i) at least 30 days prior to a restriction, except in the case of emergency, the lessee or the
- 24 department if requested by the lessee shall:
- 25 (A) post notice of the proposed restriction at frequent access points to the land where the
- 26 restriction is proposed; and
- 27 (B) issue a press release or a public service announcement detailing the proposed restriction;
- 28 (ii) except for seasonal restrictions and unless required for public safety, a restriction in an area

1 may not exceed 1 year; and

2 (iii) if a misuse of the land, including littering, may lead to a restriction, common access points must
3 be posted with notice of the possible restriction for 30 days with information detailing the misuse of land and
4 stating the penalties for the violation. If the misuse persists at the end of 30 days, a proposed restriction notice
5 may be posted in accordance with subsection (6)(h)(i).

6 (7) The board shall adopt rules providing for the issuance of a recreational special use license.
7 Commercial or concentrated recreational use, as defined in 77-1-101, is prohibited on state lands unless it
8 occurs under the provisions of a recreational special use license. The board may also adopt rules requiring a
9 recreational special use license for recreational use that is not commercial, concentrated, or within the definition
10 of general recreational use.

11 (8) (a) For a violation of rules adopted by the board pursuant to this section, the department may
12 assess a civil penalty of up to \$1,000 for each day of violation. The board shall adopt rules providing for notice
13 and opportunity for hearing in accordance with Title 2, chapter 4, part 6.

14 (b) If the department and the department of fish, wildlife, and parks consent to and sign an
15 agreement for general recreational use as provided in 77-1-815, a person who violates a department rule that
16 governs general recreational use is guilty of a misdemeanor and shall be fined not less than \$50 or more than
17 \$500. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any
18 current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this
19 state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the
20 court.

21 (c) Civil penaltiesPenalties collected under this subsection (8) must be deposited as provided in
22 87-1-601(8).

23 (9) Unauthorized dumping of refuse on state lands and destruction of property, which includes land
24 and improvements, are misdemeanor crimes punishable by a fine of not more than \$1,500."

25

26 **Section 8.** Section 77-1-815, MCA, is amended to read:

27 **"77-1-815. (Temporary) ~~Recreational use agreement for hunting, fishing, and trapping~~**

28 **Agreement for general recreational use on legally accessible state trust land.** (1) The board is authorized