

HOUSE BILL NO. 31

INTRODUCED BY T. WASHBURN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO WOLF HUNTING;
5 CREATING A STATEWIDE GENERAL WOLF HUNTING SEASON AND ESTABLISHING HUNTING SEASON
6 DATES; CREATING A WOLF POPULATION MAINTENANCE LEVEL; CREATING A REQUIREMENT FOR A
7 WOLF TRAPPING SAFETY AND EDUCATION COURSE; INCREASING THE NUMBER OF ALLOWED WOLF
8 LICENSES; REVISING FEES FOR CERTAIN WOLF LICENSES; ALLOWING RECORDED OR
9 ELECTRONICALLY AMPLIFIED CALLS OR SOUNDS IN WOLF HUNTING; EXEMPTING WOLF HUNTING
10 OUTSIDE THE GENERAL DEER AND ELK HUNTING SEASON FROM REQUIREMENT TO WEAR HUNTER
11 ORANGE; AND AMENDING SECTIONS 87-1-217, 87-1-301, 87-1-304, 87-2-102, 87-2-105, 87-2-523, 87-2-524,
12 87-6-401, AND 87-6-414, MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **NEW SECTION. Section 1. Hunting of wolves -- districts -- seasons.** (1) There is a statewide general
17 wolf hunting season from October 1 to February 28. The commission may not divide the state into hunting districts
18 for this season, except as provided in subsection (2).

19 (2) The commission may create separate wolf hunting districts west and immediately adjacent to Glacier
20 national park or north and immediately adjacent to Yellowstone national park where the general wolf hunting
21 season is open from September 15 to February 28.

22 (3) The commission shall establish a special archery season for wolves that must coincide with the
23 special archery season for deer and elk.

24
25 **Section 2.** Section 87-1-217, MCA, is amended to read:

26 **"87-1-217. Policy for management of large predators -- legislative intent.** (1) In managing large
27 predators, the primary goals of the department, in the order of listed priority, are to:

28 (a) protect humans, livestock, and pets;

29 (b) preserve and enhance the safety of the public during outdoor recreational and livelihood activities;

30 and

1 (c) preserve citizens' opportunities to hunt large game species.

2 (2) As used in this section:

3 (a) "large game species" means deer, elk, mountain sheep, moose, antelope, and mountain goats; and

4 (b) "large predators" means bears, mountain lions, and wolves.

5 (3) With regard to large predators, it is the intent of the legislature that the specific provisions of this
6 section concerning the management of large predators will control the general supervisory authority of the
7 department regarding the management of all wildlife.

8 (4) For the management of wolves in accordance with the priorities established in subsection (1), the
9 department may use lethal action to take problem wolves that attack livestock if the state objective for breeding
10 pairs has been met. For the purposes of this subsection, "problem wolves" means any individual wolf or pack of
11 wolves with a history of livestock predation.

12 (5) The department shall work with the livestock loss board and the United States department of
13 agriculture wildlife services to establish the conditions under which wolf carcasses or parts of wolf carcasses are
14 retrieved during wolf management activities and when those carcasses or parts of carcasses are made available
15 to the livestock loss board for sale or auction pursuant to 2-15-3113.

16 (6) The department shall ensure that county commissioners and tribal governments in areas that have
17 identifiable populations of large predators have the opportunity for consultation and coordination with state and
18 federal agencies prior to state and federal policy decisions involving large predators and large game species.

19 (7) The department shall maintain at least 15 wolf breeding pairs and a population of at least 150 wolves
20 but no more than 250 wolves."

21

22 **Section 3.** Section 87-1-301, MCA, is amended to read:

23 **"87-1-301. Powers of commission.** (1) Except as provided in [section 1] and subsection (7) of this
24 section, the commission:

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

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

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

- 1 (d) must have the power within the department to establish wildlife refuges and bird and game preserves;
- 2 (e) shall approve all acquisitions or transfers by the department of interests in land or water, except as
- 3 provided in 87-1-209(4);
- 4 (f) shall review and approve the budget of the department prior to its transmittal to the budget office;
- 5 (g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but
- 6 less than \$5,000; and
- 7 (h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided
- 8 in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as
- 9 provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider
- 10 landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular
- 11 hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal
- 12 opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting
- 13 district where a restriction on elk hunting on public property is proposed.
- 14 (2) The commission may adopt rules regarding the use and type of archery equipment that may be
- 15 employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in
- 16 archery equipment change.
- 17 (3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons,
- 18 conditions, programs, or other provisions that the commission considers appropriate to promote or enhance
- 19 hunting by Montana's youth and persons with disabilities.
- 20 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:
- 21 (i) separate deer licenses from nonresident elk combination licenses;
- 22 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the
- 23 deer tag;
- 24 (iii) condition the use of the deer licenses; and
- 25 (iv) limit the number of licenses sold.
- 26 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and
- 27 appropriate to regulate the harvest by nonresident big game combination license holders:
- 28 (i) for the biologically sound management of big game populations of elk, deer, and antelope;
- 29 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and
- 30 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321

1 through 87-1-325.

2 (5) (a) Subject to the provisions of 87-2-115, the commission may adopt rules establishing license
3 preference systems to distribute hunting licenses and permits:

4 (i) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant
5 who has been unsuccessful for a shorter period of time; and

6 (ii) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(a), "qualifying
7 landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by
8 the commission.

9 (b) The commission shall square the number of points purchased by an applicant per species when
10 conducting drawings for licenses and permits.

11 (6) (a) The commission may adopt rules to:

12 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

13 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting
14 districts.

15 (b) The commission shall consider, but is not limited to consideration of, the following factors:

16 (i) harvest of lions by resident and nonresident hunters;

17 (ii) history of quota overruns;

18 (iii) composition, including age and sex, of the lion harvest;

19 (iv) historical outfitter use;

20 (v) conflicts among hunter groups;

21 (vi) availability of public and private lands; and

22 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

23 (7) The commission may not regulate the use or possession of firearms, firearm accessories, or
24 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

25 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the
26 establishment of special archery seasons;

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

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

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

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

2

3 **Section 4.** Section 87-1-304, MCA, is amended to read:

4 **"87-1-304. Fixing of seasons and bag and possession limits.** (1) ~~Subject~~ Except as provided in
5 [section 1] and subject to the provisions of 87-5-302, the commission may:

6 (a) fix seasons, bag limits, possession limits, and season limits;

7 (b) open or close or shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing
8 animal as defined by 87-2-101;

9 (c) declare areas open to the hunting of deer, antelope, elk, moose, sheep, goat, mountain lion, bear,
10 wild buffalo or bison, and wolf by persons holding an archery stamp and the required license, permit, or tag and
11 designate times when only bows and arrows may be used to hunt deer, antelope, elk, moose, sheep, goat,
12 mountain lion, bear, wild buffalo or bison, and wolf in those areas;

13 (d) subject to the provisions of 87-1-301(7), restrict areas and species to hunting with only specified
14 hunting arms, including bow and arrow, for the reasons of safety or of providing diverse hunting opportunities and
15 experiences; and

16 (e) declare areas open to special license holders only and issue special licenses in a limited number
17 when the commission determines, after proper investigation, that a special season is necessary to ensure the
18 maintenance of an adequate supply of game birds, fish, or animals or fur-bearing animals. The commission may
19 declare a special season and issue special licenses when game birds, animals, or fur-bearing animals are
20 causing damage to private property or when a written complaint of damage has been filed with the commission
21 by the owner of that property. In determining to whom special licenses must be issued, the commission may,
22 when more applications are received than the number of animals to be killed, award permits to those chosen
23 under a drawing system. The procedures used for awarding the permits from the drawing system must be
24 determined by the commission.

25 (2) The commission may adopt rules governing the use of livestock and vehicles by archers during
26 special archery seasons.

27 (3) ~~Subject~~ Except as provided in [section 1] and subject to the provisions of 87-5-302, the commission
28 may divide the state into fish and game districts and create fish, game, or fur-bearing animal districts throughout
29 the state. The commission may declare a closed season for hunting, fishing, or trapping in any of those districts
30 and later may open those districts to hunting, fishing, or trapping.

1 (4) The commission may declare a closed season on any species of game, fish, game birds, or
2 fur-bearing animals threatened with undue depletion from any cause. The commission may close any area or
3 district of any stream, public lake, or public water or portions thereof to hunting, trapping, or fishing for limited
4 periods of time when necessary to protect a recently stocked area, district, water, spawning waters, spawn-taking
5 waters, or spawn-taking stations or to prevent the undue depletion of fish, game, fur-bearing animals, game birds,
6 and nongame birds. The commission may open the area or district upon consent of a majority of the property
7 owners affected.

8 (5) The commission may authorize the director to open or close any special season upon 12 hours'
9 notice to the public.

10 (6) The commission may declare certain fishing waters closed to fishing except by persons under 15
11 years of age. The purpose of this subsection is to provide suitable fishing waters for the exclusive use and
12 enjoyment of juveniles under 15 years of age, at times and in areas the commission in its discretion considers
13 advisable and consistent with its policies relating to fishing."
14

15 **Section 5.** Section 87-2-102, MCA, is amended to read:

16 **"87-2-102. Resident defined.** In determining whether a person is a resident for the purpose of issuing
17 resident hunting, fishing, and trapping licenses, the following provisions apply:

18 (1) (a) A member of the regular armed forces of the United States, a member's dependent, as defined
19 in 15-30-2115, who resides in the member's Montana household, or a member of the armed forces of a foreign
20 government attached to the regular armed forces of the United States is considered a resident for the purposes
21 of this chapter if:

22 (i) the member was a resident of Montana under the provisions of subsection (4) at the time the member
23 entered the armed forces and continues to meet the residency criteria of subsections (4)(b) through (4)(e); or

24 (ii) the member is currently stationed in and assigned to active duty in Montana, has resided in Montana
25 for at least 30 days, and presents official assignment orders and proof of completion of a hunter safety course
26 or, if applicable, a wolf trapping safety and education course approved by the department, as provided in
27 87-2-105, or a certificate verifying the successful completion of a hunter safety course in any state or province.
28 The 30-day residence requirement is waived in time of war. Reassignment to another state, United States
29 territory, or country terminates Montana residency for purposes of this section, except that a reassigned member
30 continues to qualify as a resident if the member's spouse and dependents continue to physically reside in

1 Montana and the member continues to meet the residency criteria of subsections (4)(b) through (4)(e). The
2 designation of Montana by a member of the regular armed forces as a "home of record" or "home of residence"
3 in that member's armed forces records does not determine the member's residency for purposes of this section.

4 (b) A member of the regular armed forces of the United States who is otherwise considered a Montana
5 resident pursuant to subsection (1)(a)(i) does not forfeit that status as a resident because the member, by virtue
6 of that membership, also possesses, has applied for, or has received resident hunting, fishing, or trapping
7 privileges in another state or country.

8 (2) A person who has physically resided in Montana as the person's principal or primary home or place
9 of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately before making
10 application for any license is eligible to receive resident hunting, fishing, and trapping licenses. As used in this
11 section, a vacant lot or a premises used solely for business purposes is not considered a principal or primary
12 home or place of abode.

13 (3) A person who obtains residency under subsection (2) may continue to be a resident for purposes of
14 this section by physically residing in Montana as the person's principal or primary home or place of abode for not
15 less than 120 days a year and by meeting the criteria of subsection (4) prior to making application for any resident
16 hunting, fishing, or trapping license.

17 (4) In addition to the requirements of subsection (2) or (3), a person shall meet the following criteria to
18 be considered a resident for purposes of this section:

19 (a) the person's principal or primary home or place of abode is in Montana;

20 (b) the person files Montana state income tax returns as a resident if required to file;

21 (c) the person licenses and titles in Montana as required by law any vehicles that the person owns and
22 operates in Montana;

23 (d) except as provided in subsection (1)(b), the person does not possess or apply for any resident
24 hunting, fishing, or trapping licenses from another state or country or exercise resident hunting, fishing, or
25 trapping privileges in another state or country; and

26 (e) if the person registers to vote, the person registers only in Montana.

27 (5) A student who is enrolled full-time in a postsecondary educational institution out of state and who
28 would qualify for Montana resident tuition or who otherwise meets the residence requirements of subsection (2)
29 or (3) is considered a resident for purposes of this section.

30 (6) An enrollee of a job corps camp located within the state of Montana is, after a period of 30 days within

1 Montana, considered a resident for the purpose of making application for a fishing license as long as the person
2 remains an enrollee in a Montana camp.

3 (7) A person who does not reside in Montana but who meets all of the following requirements is a
4 resident for purposes of obtaining hunting and fishing licenses:

5 (a) The person's principal employment is within this state and the income from this employment is the
6 principal source of the applicant's family income.

7 (b) The person is required to pay and has paid Montana income tax in a timely manner and proper
8 amount.

9 (c) The person has been employed within this state on a full-time basis for at least 12 consecutive
10 months immediately preceding each application.

11 (d) The person's state of residency has laws substantially similar to this subsection (7).

12 (8) An unmarried minor is considered a resident for the purposes of this section if the minor's parents,
13 legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for purposes of this
14 section. The minor is considered a resident for purposes of this section regardless of whether the minor resides
15 primarily in the state or otherwise qualifies as a resident. The resident parent or guardian of the minor may be
16 required to show proof of the parental, guardianship, or custodial relationship to the minor.

17 (9) A person is not considered a resident for the purposes of this section if the person:

18 (a) claims residence in any other state or country for any purpose; or

19 (b) is an absentee property owner paying property tax on property in Montana.

20 (10) A license agent is not considered a representative of the state for the purpose of determining a
21 license applicant's residence status."

22

23 **Section 6.** Section 87-2-105, MCA, is amended to read:

24 **"87-2-105. Safety instruction required.** (1) Except for a youth who qualifies for a license pursuant to
25 87-2-805(4), a hunting license may not be issued to a person who is born after January 1, 1985, unless the
26 person authorized to issue the license determines proof of completion of:

27 (a) a Montana hunter safety and education course established in subsection ~~(4)~~ (5) or ~~(6)~~ (7);

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

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

1 (2) A hunting license may not be issued to a member of the regular armed forces of the United States
2 or to a member of the armed forces of a foreign government attached to the armed forces of the United States
3 who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to
4 a member's dependents, as defined in 15-30-2115, who reside in the member's Montana household, unless the
5 person authorized to issue the license determines proof of completion of a hunter safety course approved by the
6 department or a hunter safety course in any state or province.

7 (3) A bow and arrow license may not be issued to a resident or nonresident unless the person authorized
8 to issue the license receives an archery license issued for a prior hunting season or determines proof of
9 completion of a bowhunter education course from the national bowhunter education foundation or any other
10 bowhunter education program approved by the department. Neither the department nor the license agent is
11 required to provide records of past archery license purchases. As part of the department's bow and arrow
12 licensing procedures, the department shall notify the public regarding bowhunter education requirements.

13 (4) (a) A Class E-1 resident wolf license, as provided in 87-2-523, or a Class E-2 nonresident wolf
14 license, as provided in 87-2-524, may not be issued unless the person authorized to issue the license:

15 (i) is shown by the applicant a Class E-1 resident wolf license or Class E-2 nonresident wolf license
16 issued to the applicant for a prior wolf hunting season; or

17 (ii) is presented a certificate of completion by the applicant of a wolf trapping safety and education course
18 approved by the department as provided in subsection (8).

19 ~~(4)~~(5) The department shall provide for a hunter safety and education course that includes instruction
20 in the safe handling of firearms and for that purpose may cooperate with any reputable organization having as
21 one of its objectives the promotion of hunter safety and education. The department may designate as an
22 instructor any person it finds to be competent to give instructions in hunter safety and education, including the
23 handling of firearms. A person appointed shall give the course of instruction and shall issue a certificate of
24 completion from Montana's hunter safety and education course to a person successfully completing the course.

25 ~~(5)~~(6) The department shall provide for a course of instruction from the national bowhunter education
26 foundation or any other bowhunter education program approved by the department and for that purpose may
27 cooperate with any reputable organization having as one of its objectives the promotion of safety in the handling
28 of bow hunting tackle. The department may designate as an instructor any person it finds to be competent to give
29 bowhunter education instruction. A person appointed shall give the course of instruction and shall issue a
30 certificate of completion to any person successfully completing the course.

1 ~~(6)~~(7) The department may develop an adult hunter safety and education course.

2 (8) The department shall provide for a wolf trapping safety and education course administered by the
3 department.

4 ~~(7)~~(9) The department may adopt rules regarding how a person authorized to issue a license determines
5 proof of completion of a required course."

6

7 **Section 7.** Section 87-2-523, MCA, is amended to read:

8 **"87-2-523. Class E-1--resident wolf license.** (1) ~~Except~~ Subject to 87-2-105 and except as otherwise
9 provided in this chapter, a person who is a resident, as defined in 87-2-102, and who is 12 years of age or older
10 or who will turn 12 years old before or during the season for which the license is issued, upon payment of a fee
11 of \$19 per license, may immediately receive a up to five Class E-1 license licenses that ~~entitles~~ entitle a holder
12 who is 12 years of age or older to hunt ~~a wolf~~ or trap wolves and possess the ~~carcass~~ carcasses of the ~~wolf~~
13 wolves as authorized by commission rules.

14 (2) Fees collected pursuant to this section must be deposited and used in accordance with 87-1-623."

15

16 **Section 8.** Section 87-2-524, MCA, is amended to read:

17 **"87-2-524. Class E-2--nonresident wolf license.** (1) ~~Except~~ Subject to [section 2] and except as
18 otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years
19 of age or older or who will turn 12 years old before or during the season for which the license is issued, upon
20 payment of a fee of ~~\$350~~ \$49 per license, may immediately receive a up to five Class E-2 license licenses that
21 ~~entitles~~ entitle a holder who is 12 years of age or older to hunt ~~a wolf~~ or trap wolves and possess the ~~carcass~~
22 carcasses of the ~~wolf~~ wolves as authorized by commission rules.

23 (2) Fees collected pursuant to this section must be deposited and used in accordance with 87-1-623."

24

25 **Section 9.** Section 87-6-401, MCA, is amended to read:

26 **"87-6-401. Unlawful use of equipment while hunting.** (1) A person may not:

27 (a) hunt or attempt to hunt any game animal or game bird by the aid or with the use of any snare, except
28 as allowed in 87-3-127 and 87-3-128, set gun, projected artificial light, trap, salt lick, or bait;

29 (b) use any recorded or electrically amplified bird or animal calls or sounds or recorded or electrically
30 amplified imitations of bird or animal calls or sounds to assist in the hunting, taking, killing, or capturing of wildlife

1 except for predatory animals, wolves, and those birds not protected by state or federal law;

2 (c) while hunting, take into a field or forest or have in the person's possession any device or mechanism
3 devised to silence, muffle, or minimize the report of any firearm, whether the device or mechanism is operated
4 from or attached to any firearm;

5 (d) while hunting, possess any electronic motion-tracking device or mechanism, as defined by
6 commission rule, that is designed to track the motion of a game animal and relay information on the animal's
7 movement to the hunter. A radio-tracking collar attached to a dog that is used by a hunter engaged in lawful
8 hunting activities is not considered a motion-tracking device or mechanism for purposes of this subsection (1)(d).

9 (e) while hunting, use archery equipment that has been prohibited by rule of the commission;

10 (f) use a shotgun to hunt deer or elk except with weapon type and loads as specified by the department;

11 (g) use a rifle to hunt or shoot upland game birds unless the use of rifles is permitted by the department.

12 This does not prohibit the shooting of wild waterfowl from blinds over decoys with a shotgun only, not larger than
13 a number 10 gauge, fired from the shoulder.

14 (h) use a rifle to hunt or shoot wild turkey during the spring wild turkey season.

15 (2) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000
16 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon
17 conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping
18 license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in
19 77-1-101, for recreational purposes for a period of time set by the court.

20 (3) A person convicted of hunting while using projected artificial light as described in subsection (1)(a)
21 may be subject to the additional penalties provided in 87-6-901 and 87-6-902.

22 (4) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through
23 87-6-907."

24

25 **Section 10.** Section 87-6-414, MCA, is amended to read:

26 **"87-6-414. Failure to wear hunter orange while big game hunting.** (1) Except as provided in
27 subsection (3), a person may not hunt any big game animals in this state or accompany any hunter as an outfitter
28 or guide under any of the provisions of the laws of this state without wearing as exterior garments above the waist
29 a total of not less than 400 square inches of hunter orange material visible at all times while hunting.

30 (2) As used in this section, "hunter orange" means a daylight fluorescent orange color.

1 (3) This section does not apply to a person hunting;

2 (a) with a bow and arrow during the special archery season; or

3 (b) wolves outside the general deer and elk season as authorized by commission rules.

4 (4) The department shall make rules to implement this section.

5 (5) A person convicted of a violation of this section shall be punished by a fine of not less than \$10 or
6 more than \$20."

7
8 NEW SECTION. Section 11. Codification instruction. [Section 1] is intended to be codified as an
9 integral part of Title 87, and the provisions of Title 87 apply to [section 1].

10 - END -