

1 HOUSE BILL NO. 292

2 INTRODUCED BY D. FUCHS

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE FISHING ACCESS ENHANCEMENT PROGRAM
 5 TO PROVIDE INCENTIVES TO LANDOWNERS WHO PROVIDE ACCESS TO OR ACROSS PRIVATE LAND
 6 FOR PUBLIC FISHING; ~~PROVIDING FOR INCREASED FISHING ACCESS AT PUBLIC ROAD BRIDGE~~
 7 ~~CROSSINGS; ADDING A FEE TO THE COST OF RESIDENT AND NONRESIDENT WILDLIFE~~
 8 ~~CONSERVATION LICENSES AND DEDICATING THE REVENUE TO THE FISHING ACCESS ENHANCEMENT~~
 9 ~~PROGRAM~~; INCLUDING FISHING ACCESS ENHANCEMENT WITHIN THE SCOPE OF ISSUES THAT MAY
 10 BE CONSIDERED BY THE GOVERNOR'S REVIEW COMMITTEE ON PRIVATE LANDS AND PUBLIC
 11 WILDLIFE; AMENDING ~~SECTIONS~~ SECTION 87-1-269 ~~AND 87-2-202~~, MCA; AND PROVIDING A
 12 DELAYED EFFECTIVE DATE AND A TERMINATION DATE."

13

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

15

16 NEW SECTION. **Section 1. Fishing access enhancement program created -- private landowner**
 17 **assistance to promote public fishing access -- rules.** (1) The department may establish, ~~within the block~~
 18 ~~management program established by administrative rule pursuant to authority contained in 87-1-301 and~~
 19 ~~87-1-303~~, programs of landowner assistance that encourage public access to and across private lands for
 20 purposes of fishing and may adopt rules to carry out program purposes. Rules may address but are not
 21 limited to incentives for private landowners who allow public fishing access on or across their lands, where
 22 LEGAL access does not presently exist ~~by law~~. Participation in the fishing access enhancement program is
 23 established through a cooperative agreement between a landowner and the department, including other
 24 resource management agencies when appropriate, that allows access for public fishing with certain
 25 restrictions or use rules. ~~Emphasis should be placed on long-term arrangements that provide permanent~~
 26 ~~easements, perpetual rights-of-way, and the construction of permanent access facilities, particularly at~~
 27 ~~public road bridge crossings.~~

28 (2) The department may also develop similar ~~efforts outside the scope of the block management~~
 29 ~~program~~ VOLUNTARY PROGRAMS that are designed to promote public access across private lands for fishing
 30 purposes.

1 (3) Participation in a program established under subsection (1) is voluntary. Programs may not be
 2 structured in a manner that provides assistance to a private landowner who charges a fee for fishing
 3 access to private land that is enrolled in the program or who does not provide reasonable public fishing
 4 access to private land that is enrolled in the program. The commission shall develop criteria by which
 5 tangible benefits are allocated to participating landowners, and the department may distribute the benefits
 6 to participating landowners.

7 (4) ~~In order to ensure the right of the public to access rivers and streams at public road bridge~~
 8 ~~crossings, the department may contract with a county or with the department of transportation to secure~~
 9 ~~or construct physical access facilities at bridge crossings that are owned by the county or the department~~
 10 ~~of transportation. Funds from the fishing access enhancement account established in [section 3] PURSUANT~~
 11 ~~TO 87-1-605 may also be used to purchase or lease public fishing access at county road bridge crossings~~
 12 ~~or for necessary parking facilities, trails, or ramps to facilitate fishing access to public waters at bridge~~
 13 ~~crossings.~~

14

15 **NEW SECTION. Section 2. Fishing access enhancement program -- benefits for providing fishing**
 16 **access -- cooperative agreement -- factors for determining benefits earned -- restriction on landowner**
 17 **liability.** (1) As provided in [section 1], the department may establish and administer a voluntary program
 18 to enhance ~~the block management program, to be known as the fishing access enhancement program.~~ The
 19 program must be designed to provide tangible benefits to participating private landowners who grant
 20 access to or across their land for public fishing. ~~Benefits must be funded from the account established in~~
 21 ~~[section 3].~~

22 ~~————(2) A landowner is not eligible for inclusion in the fishing access enhancement program if outfitting~~
 23 ~~or commercial fishing restricts public fishing opportunities on the landowner's property.~~

24 (3)(2) A contract for participation in the fishing access enhancement program is established
 25 through a cooperative agreement between the landowner and the department that will guarantee
 26 reasonable access for public fishing, which may include LEASES, easements, or rights-of-way to rivers,
 27 streams, ponds, or lakes on the landowner's property and LEASES OR easements for access along the banks
 28 or shorelines of rivers, streams, ponds, or lakes on the property. Landowners may also form a voluntary
 29 association when development of a unified cooperative agreement is advantageous. A cooperative
 30 agreement must contain a detailed description of the plan developed by the landowner and the department

1 and may include but is not limited to:

2 (a) fishing access management, which may include off-road parking, foot trails, and vehicle access
3 roads;

4 (b) services to be provided to the public;

5 (c) landowner property rules and other restrictions; ~~and~~

6 (d) any other management information to be gathered, which must be made available to the public;

7 AND

8 (E) NOTICE TO ADJACENT LANDOWNERS.

9 ~~(4)~~(3) If the department determines that the plan referred to in subsection ~~(3)~~ (2) may adversely
10 influence fish management decisions or fishing habitat on public lands ~~outside the block management area,~~
11 then other public land agencies, interested sportspersons, and affected landowners must be consulted. An
12 affected landowner's management goals and personal observations regarding fish populations and habitat
13 use must be considered in developing the plan.

14 ~~(5)~~(4) The commission shall develop rules for determining tangible benefits to be provided to a
15 landowner for providing public fishing access. Benefits will be provided to offset potential impacts
16 associated with public fishing access, including but not limited to those associated with general property
17 maintenance, conservation efforts, weed control, fire protection, liability insurance, roads, fences, and
18 parking area maintenance. Program priority must be given to properties that provide the greatest fishing
19 access for the lowest costs. Factors used in determining benefits may include but are not limited to:

20 (a) the number of days of public fishing provided by a participating landowner;

21 (b) fish habitat provided; and

22 (c) access provided to adjacent public lands.

23 ~~(6)~~(5) Benefits earned by a landowner under this section may be applied in, but application is not
24 limited to, the following manner:

25 (A) A LANDOWNER MAY RECEIVE DIRECT MONETARY COMPENSATION FOR PROVIDING FISHING ACCESS.

26 ~~(a)~~(B) A landowner may direct weed control payments to be made directly to the county weed
27 control board or may elect to receive payments directly.

28 ~~(b)~~(C) A landowner may direct fire protection payments to be made directly to the local fire district
29 or the county where the landowner resides or may elect to receive payments directly.

30 ~~(c)~~(D) A landowner may receive direct payment to offset insurance costs incurred for allowing

1 public fishing access.

2 ~~(d)(E)~~ The department may provide assistance in the construction and maintenance of roads,
3 fencing, gates, and parking facilities and in the signing of property.

4 ~~———(7) The commission may provide incentives in an amount up to \$8,000 a year to a landowner who~~
5 ~~participates in the fishing access enhancement program.~~

6 ~~(e)(6)~~ The restriction on liability of a landowner, agent, or tenant that is provided under
7 70-16-302(1) applies to a landowner who participates in the fishing access enhancement program.

8

9 ~~———NEW SECTION. Section 3. Fishing access enhancement account -- expenditure of revenue. There~~
10 ~~is an account in the state special revenue fund to the credit of the department. Revenue from the resident~~
11 ~~fishing access enhancement fee in 87-2-202(3)(c) and the nonresident fishing access enhancement fee~~
12 ~~in 87-2-202(3)(d) must be deposited in the account. Account proceeds may be used by the department~~
13 ~~only for purposes of the fishing access enhancement program provided for in [sections 1 and 2]. Interest~~
14 ~~earned on the account must be deposited in the account for the purposes of the program.~~

15

16 **Section 3.** Section 87-1-269, MCA, is amended to read:

17 **"87-1-269. (Temporary) Report required -- review committee.** (1) The governor shall appoint a
18 committee of persons interested in issues related to hunters, anglers, landowners, and outfitters, including
19 but not limited to the hunting access enhancement program, the fishing access enhancement program,
20 landowner-hunter relations, outfitting industry issues, and other issues related to private lands and public
21 wildlife. The committee must have broad representation of landowners, outfitters, and sportspeople. The
22 department may provide administrative assistance as necessary to assist the review committee.

23 (2) (a) The review committee shall report to the governor and to the ~~57th~~ 58th legislature regarding
24 the success of various elements of the hunting access enhancement program, including a report of annual
25 landowner participation, the number of acres annually enrolled in the program, hunter harvest success on
26 enrolled lands, the number of qualified applicants who were denied enrollment because of a shortfall in
27 funding, and an accounting of program expenditures, and make suggestions for funding, modification, or
28 improvement needed to achieve the objectives of the program.

29 (b) The review committee shall report to the governor and to the 58th legislature regarding the
30 success of the fishing access enhancement program and make suggestions for funding, modification, or

1 improvement needed to achieve the objectives of the program.

2 (3) The director may appoint additional advisory committees that are considered necessary to
3 assist in the implementation of the hunting access enhancement program and the fishing access
4 enhancement program and to advise the commission regarding the development of rules implementing the
5 hunting access enhancement program and the fishing access enhancement program. (Terminates March
6 1, 2006--sec. 6, Ch. 544, L. 1999.)"

7

8 ~~Section 5. Section 87-2-202, MCA, is amended to read:~~

9 ~~"87-2-202. Application -- fee -- expiration. (1) A wildlife conservation license must be sold upon~~
10 ~~written application. The application must contain the applicant's name, age, social security number,~~
11 ~~occupation, street address of permanent residence, mailing address, qualifying length of time as a resident~~
12 ~~in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by~~
13 ~~the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's~~
14 ~~identification card, or other identification specified by the department to substantiate the required~~
15 ~~information when applying for a wildlife conservation license. It is the applicant's burden to provide~~
16 ~~documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation~~
17 ~~license. It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an~~
18 ~~applicant who fails to produce the required identification at the time of application for licensure.~~

19 ~~(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be~~
20 ~~recorded according to rules that the department may prescribe.~~

21 ~~(3) (a) Resident wildlife conservation licenses may be purchased for a fee of \$4.~~

22 ~~(b) Nonresident wildlife conservation licenses may be purchased for a fee of \$5.~~

23 ~~(c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses~~
24 ~~the wildlife conservation license as a prerequisite to purchase a fishing license, an additional fishing access~~
25 ~~enhancement fee of \$2 is assessed. The additional fee must be used by the department only to encourage~~
26 ~~enhanced fishing access through the fishing access enhancement program established in [sections 1 and~~
27 ~~2]. The wildlife conservation license must be marked appropriately when the fishing access enhancement~~
28 ~~fee is paid. The resident fishing access enhancement fee is chargeable only once during any license year.~~

29 ~~(d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident~~
30 ~~uses the wildlife conservation license as a prerequisite to purchase a fishing license, an additional fishing~~

1 ~~access enhancement fee of \$4 is assessed. The additional fee must be used by the department only to~~
2 ~~encourage enhanced fishing access through the fishing access enhancement program established in~~
3 ~~[sections 1 and 2]. The wildlife conservation license must be marked appropriately when the fishing access~~
4 ~~enhancement fee is paid. The nonresident fishing access enhancement fee is chargeable only once during~~
5 ~~any license year.~~

6 ~~———(4) Licenses issued are void after the last day of February next succeeding their issuance.~~

7 ~~———(5) The department shall keep the applicant's social security number confidential, except that the~~
8 ~~number may be provided to the department of public health and human services for use in administering~~
9 ~~Title IV-D of the Social Security Act.~~

10 ~~———(6) The department shall delete the applicant's social security number in any electronic database~~
11 ~~5 years after the date that application is made for the most recent license."~~

12

13 NEW SECTION. Section 4. Codification instruction. [Sections 1 ~~through 3~~ AND 2] are intended to
14 be codified as an integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part
15 2, apply to [sections 1 ~~through 3~~ AND 2].

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17 NEW SECTION. Section 5. Effective date. [This act] is effective March 1, 2002.

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19 NEW SECTION. Section 6. Termination. [This act] terminates March 1, 2006.

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