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HOUSE BILL NO. 516

INTRODUCED BY R. LENHART

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE STATUTORY BASIS FOR THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND THE FISH, WILDLIFE, AND PARKS COMMISSION TO DIRECT THE DISPERSAL OR REMOVAL OF CONCENTRATIONS OF BIG GAME ANIMALS POSING A THREAT TO LANDOWNERS AND LIVESTOCK OR THE HEALTH OF WILDLIFE, HABITAT, OR THE PUBLIC; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT; AND AMENDING SECTION 87-1-225, MCA."

WHEREAS, concentrations of big game animals may cause damage to private and public lands; and

WHEREAS, management of big game populations requires the cooperation of all landowners, both public and private; and

WHEREAS, the primary method of managing big game populations is by the harvesting of big game animals through public hunting; and

WHEREAS, existing laws are not adequate to address problems associated with the concentration of big game animals given the nature of wildlife populations, their movement across the landscape, and existing property ownership laws the choices made by some landowners in managing their property; and

WHEREAS, wildlife resources are valuable to the citizens of Montana without regard to political boundaries; and

WHEREAS, it is the intent of the Montana Wildlife Damage Mitigation Act to keep big game populations in balance with the available habitat and minimize, alleviate, and resolve game damage problems.

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

NEW SECTION. Section 1. Short title. [Sections 1 through 9] may be cited as the "Montana Wildlife Damage Mitigation Act".

NEW SECTION. Section 2. Prohibition on creating or maintaining conditions leading to concentration of big game animals -- definition. (1) As used in [sections 1 through 9], "concentration"

1 means the occurrence of big game animals within the boundary of a property under the ownership of one  
2 person or entity in such numbers as to pose a potential threat to the health of the animals, a detriment to  
3 the habitat on which the animals rely, or an imbalance in the total number of animals or the age or sex  
4 characteristics of the population in the district.

5 (2) An owner of real property may not create or maintain a concentration of big game animals that  
6 results or may result in:

7 (a) damage to adjoining property, whether public or private;

8 (b) the inability of the department to manage big game animals ~~to maintain a stable~~ within  
9 population objectives, population, or to maintain the health of big game animals; ~~or the habitat on~~  
10 ~~which the big game animals rely~~; or

11 (c) the transmission of disease.

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13 **NEW SECTION. Section 3. Determination of existence of concentration of big game animals.** A  
14 person who owns land adjacent to lands alleged to be creating or maintaining concentrations of big  
15 game animals within any hunting district established by the commission may make a request for the  
16 department to investigate the concentration of big game animals within the district. Upon receipt of the  
17 request for investigation, the department shall review the request and determine if a landowner is creating  
18 or maintaining a condition that results in a concentration of big game animals.

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20 **NEW SECTION. Section 4. Mitigation of circumstances causing concentrations of big game**  
21 **animals.** If the department determines that a landowner is creating or maintaining a condition that results  
22 in the concentration of big game animals, it may reduce the concentration of big game animals with  
23 requirements including but not limited to:

24 (1) dispersing the big game animals with a department directed plan;

25 (2) ~~allowing the department to conducting~~ department programs with the affected landowners  
26 permission to reduce the numbers of big game animals through hunting; and

27 (3) as set by the commission;

28 ~~—(3) (a) adjusting the length and scheduling of hunting seasons;~~

29 ~~—(4) (b) increasing the number of licenses issued for the hunting of big game animals within the~~  
30 ~~district; and~~

31 ~~—(5) (c) modifying or restricting the type and number of licenses issued for the hunting of big~~  
32 ~~game within the district.~~

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**NEW SECTION. Section 5. Remedies for creating or maintaining conditions resulting in concentration of big game animals.** A landowner who fails to comply with the mitigation proposals, except those mitigation proposals recommending hunts on private property, directed by the department as provided in [section 4], ~~except those mitigation proposals requiring hunts on private property~~, is subject to the imposition of any or all of the following:

- ~~(1) disqualification from participation in the block management program;~~
- (a) ~~(2)~~ loss of landowner preferences for hunting licenses;
- (b) ~~(3)~~ loss of nonresident set-aside licenses on the property; and
- (c) ~~(4)~~ restricting or prohibiting the harvest of antlered animals in locations of concentration.

**NEW SECTION. Section 6. Method of determining if landowner is creating or maintaining conditions resulting in concentration of big game animals.** The ~~department~~ commission shall adopt rules that specify the procedures and criteria to be followed in determining whether a landowner is creating or maintaining conditions that result in the concentration of big game animals that violates [Section 2 (2)]. In adopting rules, the ~~department~~ commission shall include provisions that:

- (1) consider all relevant scientific information regarding the game animals in the district and the nature and condition of the habitat in the district;
- (2) review the record of harvest of big game animals in the district, the issuance of big game hunting licenses, and the big game hunting success rate;
- (3) consider the land ownership in the district and land use practices;
- (4) provide an opportunity for the landowner alleged to be creating or maintaining concentrations of big game animals to present contrary evidence; and
- (5) provide an opportunity for other district landowners to provide evidence, information and documentation ~~testimony~~ regarding the effects of big game concentrations on their property.

**NEW SECTION. Section 7. Notification and time limits.** In adopting rules, the department shall provide, at a minimum:

- (1) written notification to the landowner alleged to be creating or maintaining a concentration of big game animals; and
- (2) an opportunity for the landowner who is alleged to be creating or maintaining a concentration of big game animals to respond within 90 days.

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NEW SECTION. **Section 8. Advisory committees.** (1) The commission shall establish a committee to advise the commission regarding statewide rules to determine the existence of a concentration of big game animals and the procedures for reviewing written requests as described in [Section 3] ~~complaints~~ that a landowner is creating or maintaining a concentration of big game animals.

(2) (a) The committee must include at least five but no more than seven members, including but not limited to:

- (i) a landowner who either owns or controls by lease at least 3,000 acres;
- (ii) a resident who has purchased a conservation license for a period of 5 consecutive years;
- (iii) a representative of a federal land management agency with experience in wildlife biology;
- (iv) a department big game biologist; and
- (v) a Montana fish, wildlife, and parks commissioner.

(b) The director shall provide support, including staff, that is appropriate for the committee to carry out its duties including compensation and per diem as provided in Section 2-15-122 (5).

(3) (a) The director shall appoint a committee for each fish, wildlife and parks administrative region composed of five members each to review a written ~~complaint~~ request within the corresponding administrative region alleging concentrations of big game animals. The committee is to include:

- (i) a resident landowner in the district in which the alleged concentration is occurring, but not the person filing the complaint or the landowner against whom the allegations are made;
- (ii) a Montana fish, wildlife, and parks commissioner representing the district in which the complaint has been filed;
- (iii) a person who holds a resident hunting license and is familiar with the district where the alleged concentration is occurring;
- (iv) a representative of a federal land management agency if there are federally owned lands in the district where the alleged concentration is occurring; and
- (v) a department big game biologist who is responsible for the monitoring of big game animals in the district where the alleged concentration is occurring.

(b) The committee shall review the written complaint and make recommendations to the director as to its validity and possible mitigation options. The director shall provide support, including staff, that is appropriate for the committee to carry out its duties.



