

## 1 HOUSE BILL NO. 148

2 INTRODUCED BY D. KARY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE USE OF MOTOR VEHICLES TO RETRIEVE  
5 BIG GAME ANIMALS ON CERTAIN LANDS WHERE MOTORIZED VEHICLE USE IS OTHERWISE  
6 RESTRICTED; AND AMENDING SECTION 87-3-125, MCA."

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

9

10 **Section 1.** Section 87-3-125, MCA, is amended to read:

11 **"87-3-125. Restrictions on use of motor vehicles while hunting.** (1) Except as provided in  
12 87-2-803(4)(a)(iii) and [section 2], a person, while hunting game animals or game birds, may not use a  
13 motor-driven vehicle other than on an established road or trail unless the person has reduced a big game animal  
14 to possession and cannot easily retrieve the big game animal. In that case a motor-driven vehicle may be used  
15 to retrieve the big game animal, except in areas where more restrictive regulations apply or where the landowner  
16 has not granted permission. After the retrieval, the motor-driven vehicle is to be returned to an established road  
17 or trail by the shortest possible route. For purposes of safety and allowing normal travel, a motor-driven vehicle  
18 may be parked on the roadside or directly adjacent to a road or trail.

19 (2) A person, while hunting game animals or game birds, may not drive or attempt to drive, run or attempt  
20 to run, molest or attempt to molest, flush or attempt to flush, or harass or attempt to harass a game animal or  
21 game bird with the use or aid of any motor-driven vehicle.

22 (3) A person, while hunting game animals or game birds, may not drive through any retired cropland,  
23 brush area, slough area, timber area, open prairie, or unharvested or harvested cropland, except upon an  
24 established road or trail, unless written permission has been given by the landowner and is in possession of the  
25 hunter.

26 (4) A person may not use a self-propelled vehicle to intentionally concentrate, drive, rally, stir up, or  
27 harass wildlife, except predators of this state. This subsection does not apply to landowners and their authorized  
28 agents engaged in the immediate protection of that landowner's property.

29 (5) The restrictions in subsections (1) through (3) on motor-driven vehicle use off an established road  
30 or trail apply only to hunting on state or private land, not to hunting on federal land unless the federal agency

1 specifically requests or approves state enforcement."  
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3 **NEW SECTION. Section 2. Use of motor vehicles to retrieve game.** (1) Subject to the provisions of  
4 this section, a person may use a motor-driven vehicle to retrieve a big game animal that the person has lawfully  
5 taken on land owned or managed by the state, a cooperating federal agency, or a cooperating private entity upon  
6 which the use of motor-driven vehicles is otherwise restricted.

7 (2) The person retrieving the big game animal:

8 (a) except as provided in subsection (9), may do so only between the hours of 10 a.m. and 4 p.m. on  
9 any day during, and up to 10 days after, the regular or special big game hunting season in which the animal was  
10 taken;

11 (b) must be accompanied by an escort; and

12 (c) shall use a reasonable and established travel route while avoiding unnecessary disturbance of the  
13 terrain, vegetation, or wildlife.

14 (3) The person retrieving the big game animal, the escort, and any other person assisting with the  
15 retrieval may not:

16 (a) hunt, attempt to hunt, or take an additional big game animal or discharge a hunting arm, including  
17 bow and arrow, except in self-defense while in the area accessed to retrieve the animal;

18 (b) transport any hunting or camping supplies or materials onto the land during the retrieval process; or

19 (c) hunt in the accessed area unless the person returns to the area after each person involved with the  
20 retrieval has exited the point of access.

21 (4) An escort:

22 (a) is entitled to receive a fee of \$50 for accompanying a person who is retrieving a big game animal in  
23 accordance with this section unless the escort is an employee of a state or federal agency and is on duty;

24 (b) may not be compelled by an employer or any private individual to serve as an escort while off duty;

25 (c) may contact a representative of the public agency managing any publicly owned land on which a big  
26 game animal is to be retrieved pursuant to this section and request a key to unlock any access barrier; and

27 (d) shall, in accordance with the provisions of subsection (8), notify the appropriate manager of or  
28 managing agency for the land accessed within 5 days before or after the access occurs and provide the following:

29 (i) the escort's name, mailing address, phone number, and employer, the dates and times the land was  
30 accessed, the number and type of big game animals retrieved, the point of access, travel routes, and vehicles

1 used for retrieval, and a brief, signed statement by the escort that the retrieval was conducted in accordance with  
2 this section; and

3 (ii) the name, mailing address, phone number, and conservation license number of the person who  
4 lawfully took the big game animal that was retrieved.

5 (5) The temporary use of a key requested pursuant to subsection (4)(c) for access to any publicly owned  
6 land may not be denied or obstructed by any public land manager having authority over the area where the  
7 retrieval is to occur.

8 (6) If an escort is unable to obtain a key for access to any public land within 72 hours of a request made  
9 pursuant to subsection (4)(c), the person retrieving the big game animal may circumvent any access barrier or  
10 security device necessary to access the land in accordance with this section as long as the person does so  
11 without permanently damaging public property or committing undue damage to terrain or vegetation.

12 (7) Intentional lack of cooperation by public employees having authority to facilitate access to land on  
13 which a big game animal is to be retrieved constitutes grounds for a charge of official misconduct pursuant to  
14 45-7-401 or obstructing a peace officer or other public servant pursuant to 45-7-302.

15 (8) An escort's notice to a public land manager may be delivered in person, electronically, or by mail.  
16 If delivered by mail, the notice must be postmarked within the timeframe specified in subsection (4)(d). No special  
17 form for the notice may be required, although forms may be provided by the land management agency for the  
18 convenience of escorts.

19 (9) Emergency access to land for big game retrieval may be requested by an escort and granted by a  
20 public land manager in exception to the terms of this section to prevent game meat spoilage during warm  
21 weather, possible consumption of the big game carcass by predators, or for other emergency conditions the  
22 authorized land manager considers sufficient.

23 (10) Any person who accesses public land to retrieve a big game animal pursuant to this section may  
24 not be charged with trespass under 45-6-203 or a violation of this title.

25 (11) The department shall make its best effort to apply the terms of this section to agreements for hunter  
26 access under the block management program. For any private or federally managed lands considered for  
27 inclusion in the block management program, those for which the terms of this section can be incorporated into  
28 a new or ongoing block management agreement with the private landowner or federal managing agency must  
29 be given a higher priority for inclusion in the block management program than those for which the terms of this  
30 section cannot be negotiated.

1 (12) The department and the department of natural resources and conservation shall make their best  
2 efforts to negotiate application of the terms of this section to lands owned, managed, or controlled by the United  
3 States.

4 (13) For the purposes of this section, the following definitions apply:

5 (a) "Escort" means a person who acts voluntarily and is a:

6 (i) full-time employee, as defined in 2-18-601, of:

7 (A) the department of fish, wildlife, and parks;

8 (B) the department of natural resources and conservation;

9 (C) the department of justice;

10 (D) a Montana county sheriff's office;

11 (E) a Montana police department;

12 (F) the United States bureau of land management, department of justice, department of homeland  
13 security, fish and wildlife service, or forest service;

14 (ii) current or former Montana legislator; or

15 (iii) private landowner, or the landowner's agent, who participates in the block management program  
16 administered by the department of fish, wildlife, and parks and on whose land the big game animal to be retrieved  
17 was taken.

18 (b) "Established travel route" means a road, trail, or other path that is authorized or used for motorized  
19 vehicle access for any other purpose such as land maintenance or any route that is or has been customarily used  
20 for motorized vehicle access or travel.

21 (c) "Reasonable" means that a travel route begins at the point of access nearest to or provides the  
22 easiest entry to the established travel route that is nearest to or provides the easiest access to the game animal  
23 that is to be retrieved.

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25 **NEW SECTION. Section 3. Codification instruction.** [Section 2] is intended to be codified as an  
26 integral part of Title 87, chapter 3, part 3, and the provisions of Title 87, chapter 3, part 3, apply to [section 2].

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