

HOUSE BILL NO. 361

INTRODUCED BY T. WASHBURN

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ISSUANCE OF ARCHERY-ONLY ELK PERMITS AT 2007 LEVELS; PROVIDING EXCEPTIONS; AMENDING SECTION 87-1-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

WHEREAS, the Montana Fish, Wildlife, and Parks Commission is required to set policies that protect, preserve, manage, and propagate state wildlife; and

WHEREAS, the Commission is responsible for establishing hunting rules that manage elk in a sustainable manner and that consider available habitat and the Department's statewide elk management plan; and

WHEREAS, the Commission has failed to manage elk in accordance with population objectives, continuing to reduce the number of available archery-only hunting permits while elk populations continue to rise.

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

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

**"87-1-301. Powers of commission.** (1) The commission:

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

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

(c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in 87-1-209(4);

(f) shall review and approve the budget of the department prior to its transmittal to the budget office;

(g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but

1 less than \$5,000; and

2 (h) subject to subsection (1)(i), shall manage elk, deer, and antelope populations based on habitat  
3 estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or  
4 below population estimates as provided in 87-1-323. In developing or implementing an elk management plan,  
5 the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding  
6 public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the  
7 written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's  
8 property within the particular hunting district where a restriction on elk hunting on public property is proposed.

9 ~~\_\_\_\_\_ (i) may not limit or reduce the number of archery-only elk permits available in a hunting district from the~~  
10 ~~number issued for that district in 2007 OR IMPLEMENT LIMITED-ENTRY ARCHERY-ONLY ELK PERMITS IN A DISTRICT IN~~  
11 ~~WHICH ARCHERY-ONLY ELK PERMITS WERE NOT REQUIRED IN 2007 unless the elk population in that district falls below~~  
12 ~~70% of the objective level determined according to 87-1-323(1).~~

13 (I) UNLESS THE ELK POPULATION FOR A HUNTING DISTRICT FALLS BELOW 85% OF THE OBJECTIVE LEVEL  
14 DETERMINED ACCORDING TO 87-1-323(1), MAY NOT:

15 (I) LIMIT OR REDUCE THE NUMBER OF ARCHERY-ONLY ELK PERMITS AVAILABLE IN A HUNTING DISTRICT FROM THE  
16 NUMBER ISSUED FOR THAT DISTRICT IN 2007 AND SHALL ISSUE THOSE PERMITS IN THE SAME MANNER IN WHICH THEY  
17 WERE ISSUED IN 2007; OR

18 (II) IMPLEMENT LIMITED-ENTRY ARCHERY-ONLY ELK PERMITS IN A DISTRICT IN WHICH ARCHERY-ONLY ELK PERMITS  
19 WERE NOT REQUIRED IN 2007.

20 (2) The commission may adopt rules regarding the use and type of archery equipment that may be  
21 employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in  
22 archery equipment change.

23 (3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons,  
24 conditions, programs, or other provisions that the commission considers appropriate to promote or enhance  
25 hunting by Montana's youth and persons with disabilities.

26 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

27 (i) separate deer licenses from nonresident elk combination licenses;

28 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the  
29 deer tag;

30 (iii) condition the use of the deer licenses; and

- 1 (iv) limit the number of licenses sold, except as provided in subsection (1)(i).
- 2 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and  
3 appropriate to regulate the harvest by nonresident big game combination license holders:
- 4 (i) for the biologically sound management of big game populations of elk, deer, and antelope;
- 5 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and
- 6 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321  
7 through 87-1-325.
- 8 (5) The commission may adopt rules establishing license preference systems to distribute hunting  
9 licenses and permits:
- 10 (a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant  
11 who has been unsuccessful for a shorter period of time; and
- 12 (b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying  
13 landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by  
14 the commission.
- 15 (6) (a) The commission may adopt rules to:
- 16 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and
- 17 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting  
18 districts.
- 19 (b) The commission shall consider, but is not limited to consideration of, the following factors:
- 20 (i) harvest of lions by resident and nonresident hunters;
- 21 (ii) history of quota overruns;
- 22 (iii) composition, including age and sex, of the lion harvest;
- 23 (iv) historical outfitter use;
- 24 (v) conflicts among hunter groups;
- 25 (vi) availability of public and private lands; and
- 26 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters."  
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28 NEW SECTION. Section 2. Effective date. [This act] is effective May 13, 2011.

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30 NEW SECTION. Section 3. Termination. [This act] terminates February 28, 2014.

31 - END -