

1 HOUSE BILL NO. 372

2 INTRODUCED BY T. WASHBURN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PREFERENCE POINT SYSTEM FOR
5 DISTRIBUTING CERTAIN NONRESIDENT HUNTING LICENSES ~~AND PERMITS~~; AMENDING SECTION
6 87-1-301, MCA; AND PROVIDING ~~A DELAYED AN~~ EFFECTIVE DATE."

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

9
10 **Section 1.** Section 87-1-301, MCA, is amended to read:
11 **"87-1-301. Powers of commission.** (1) The commission:
12 (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife,
13 fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment
14 of all other responsibilities of the department as provided by law;
15 (b) shall establish the hunting, fishing, and trapping rules of the department;
16 (c) shall establish the rules of the department governing the use of lands owned or controlled by the
17 department and waters under the jurisdiction of the department;
18 (d) must have the power within the department to establish wildlife refuges and bird and game preserves;
19 (e) shall approve all acquisitions or transfers by the department of interests in land or water, except as
20 provided in 87-1-209(4);
21 (f) shall review and approve the budget of the department prior to its transmittal to the budget office;
22 (g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but
23 less than \$5,000; and
24 (h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided
25 in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as
26 provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider
27 landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular
28 hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal
29 opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting
30 district where a restriction on elk hunting on public property is proposed.

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

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

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

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

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

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

12 (iv) limit the number of licenses sold.

13 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and
14 appropriate to regulate the harvest by nonresident big game combination license holders:

15 (i) for the biologically sound management of big game populations of elk, deer, and antelope;

16 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

17 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321
18 through 87-1-325.

19 (5) ~~The~~ Subject to the provisions of [section 2], the commission may adopt rules establishing license
20 preference systems to distribute hunting licenses and permits:

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

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

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

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

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

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

- 1 (i) harvest of lions by resident and nonresident hunters;
 2 (ii) history of quota overruns;
 3 (iii) composition, including age and sex, of the lion harvest;
 4 (iv) historical outfitter use;
 5 (v) conflicts among hunter groups;
 6 (vi) availability of public and private lands; and
 7 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters."
 8

9 ~~NEW SECTION. Section 2. Nonresident license and permit preference point system.~~ (1) The
 10 department shall establish a preference point system to distribute the nonresident licenses listed in subsection
 11 (2) and any applicable special permit of a single class or type.

12 ~~(2) In addition to payment of any other applicable fee established in Title 87, chapter 2, nonresidents~~
 13 ~~applying to purchase one of the following nonresident licenses may purchase a preference point upon payment~~
 14 ~~of the corresponding nonrefundable fee:~~

15 ~~(a) elk, \$50;~~

16 ~~(b) deer, \$50;~~

17 ~~(c) antelope, \$30;~~

18 ~~(d) mountain lion, \$30.~~

19 ~~(3) The purchase of a preference point gives an applicant who has more preference points priority to~~
 20 ~~receive the license and applicable permit for the species for which the point was purchased over an applicant who~~
 21 ~~has purchased fewer preference points for that species.~~

22 ~~(4) An applicant may:~~

23 ~~(a) purchase only one preference point per species per license year; and~~

24 ~~(b) purchase a preference point for a species without applying for a hunting license for that species. An~~
 25 ~~applicant not applying for a hunting license for a species may purchase a preference point for that species only~~
 26 ~~between July 1 and September 30 prior to the applicable license year. The department shall delete an applicant's~~
 27 ~~accumulated preference points for a species if the applicant does not apply for a hunting license for that species~~
 28 ~~for 2 consecutive years.~~

29 ~~(5) Except as provided in subsection (4)(b), the department may not delete an applicant's accumulated~~
 30 ~~preference points for a species unless the applicant is successful in the applicant's first choice hunting district~~

1 for that species, in which case the department shall delete the applicant's accumulated preference points.

2 ~~—— (6) The department shall issue 75% of the licenses available for purchase for a species by a drawing~~
 3 ~~in which the licenses are awarded to applicants in the order of which applicants have purchased the greatest~~
 4 ~~number of preference points for that species. If the number of licenses to be issued under this subsection~~
 5 ~~exceeds the number of applicants who have purchased preference points, the remaining licenses must be added~~
 6 ~~to the licenses issued pursuant to subsection (7).~~

7 ~~—— (7) The department shall issue 25% of the licenses available for purchase for a species by a drawing~~
 8 ~~in which the licenses are awarded to applicants who have not purchased any preference points for that species.~~
 9 ~~If the number of licenses to be issued under this subsection exceeds the number of applicants who have not~~
 10 ~~purchased preference points, the remaining licenses must be added to the licenses issued pursuant to subsection~~
 11 ~~(6).~~

12 ~~—— (8) For the purposes of this section and to meet the intent of 87-2-506, the department may issue a~~
 13 ~~number of special permits to nonresidents in an administrative region, hunting district, or other designated area~~
 14 ~~that is equivalent to 10% of the final quota of special permits set by the commission for the same administrative~~
 15 ~~region, hunting district, or other designated area in the previous license year.~~

16 ~~—— (9) Up to six applicants may apply as a party under this section. The department shall use an average~~
 17 ~~of the number of preference points accumulated by those applicants to determine the priority given to the party~~
 18 ~~in receiving licenses issued pursuant to subsection (6). The department shall consider any fraction that results~~
 19 ~~from the calculation of an average when determining that priority.~~

20

21 NEW SECTION. SECTION 2. NONRESIDENT ELK AND DEER LICENSE PREFERENCE POINT SYSTEM. (1) THE
 22 DEPARTMENT SHALL ESTABLISH A PREFERENCE POINT SYSTEM TO DISTRIBUTE CLASS B-10 NONRESIDENT BIG GAME
 23 COMBINATION LICENSES AND CLASS B-11 NONRESIDENT DEER COMBINATION LICENSES.

24 (2) IN ADDITION TO PAYMENT OF ANY FEES ESTABLISHED IN 87-2-113, 87-2-505, AND 87-2-510, NONRESIDENTS
 25 APPLYING TO PURCHASE A CLASS B-10 OR CLASS B-11 LICENSE MAY PURCHASE A PREFERENCE POINT, UPON PAYMENT
 26 OF A NONREFUNDABLE \$50 FEE, THAT GIVES AN APPLICANT WHO HAS MORE PREFERENCE POINTS PRIORITY TO RECEIVE
 27 A CLASS B-10 OR CLASS B-11 LICENSE OVER AN APPLICANT WHO HAS PURCHASED FEWER PREFERENCE POINTS.

28 (3) AN APPLICANT MAY:

29 (A) PURCHASE ONLY ONE PREFERENCE POINT PER LICENSE YEAR; AND

30 (B) PURCHASE A PREFERENCE POINT WITHOUT APPLYING FOR A CLASS B-10 OR CLASS B-11 LICENSE. AN

1 APPLICANT NOT APPLYING FOR A CLASS B-10 OR CLASS B-11 LICENSE MAY PURCHASE A PREFERENCE POINT ONLY
 2 BETWEEN JULY 1 AND SEPTEMBER 30 PRIOR TO THE APPLICABLE LICENSE YEAR. THE DEPARTMENT SHALL DELETE AN
 3 APPLICANT'S ACCUMULATED PREFERENCE POINTS IF THE APPLICANT DOES NOT APPLY FOR A CLASS B-10 OR CLASS B-11
 4 LICENSE FOR 2 CONSECUTIVE YEARS.

5 (4) EXCEPT AS PROVIDED IN SUBSECTION (3)(B), THE DEPARTMENT MAY NOT DELETE AN APPLICANT'S
 6 ACCUMULATED PREFERENCE POINTS UNLESS THE APPLICANT OBTAINS THE LICENSE APPLIED FOR, IN WHICH CASE THE
 7 DEPARTMENT SHALL DELETE THE APPLICANT'S ACCUMULATED PREFERENCE POINTS.

8 (5) THE DEPARTMENT SHALL ISSUE 75% OF THE CLASS B-10 AND CLASS B-11 LICENSES MADE AVAILABLE FOR
 9 PURCHASE PURSUANT TO 87-2-505 AND 87-2-510 BY DRAWINGS IN WHICH THE LICENSES ARE AWARDED TO APPLICANTS
 10 IN THE ORDER OF WHICH APPLICANTS HAVE PURCHASED THE GREATEST NUMBER OF PREFERENCE POINTS. IF THE NUMBER
 11 OF LICENSES TO BE ISSUED UNDER THIS SUBSECTION EXCEEDS THE NUMBER OF APPLICANTS WHO HAVE PURCHASED
 12 PREFERENCE POINTS, THE REMAINING LICENSES MUST BE ADDED TO THE LICENSES ISSUED PURSUANT TO SUBSECTION
 13 (6).

14 (6) THE DEPARTMENT SHALL ISSUE 25% OF THE CLASS B-10 AND CLASS B-11 LICENSES MADE AVAILABLE FOR
 15 PURCHASE PURSUANT TO 87-2-505 AND 87-2-510 BY DRAWINGS IN WHICH THE LICENSES ARE AWARDED TO APPLICANTS
 16 WHO HAVE NOT PURCHASED ANY PREFERENCE POINTS. IF THE NUMBER OF LICENSES TO BE ISSUED UNDER THIS
 17 SUBSECTION EXCEEDS THE NUMBER OF APPLICANTS WHO HAVE NOT PURCHASED PREFERENCE POINTS, THE REMAINING
 18 LICENSES MUST BE ADDED TO THE LICENSES ISSUED PURSUANT TO SUBSECTION (5).

19 (7) UP TO FIVE APPLICANTS MAY APPLY AS A PARTY UNDER THIS SECTION. THE DEPARTMENT SHALL USE AN
 20 AVERAGE OF THE NUMBER OF PREFERENCE POINTS ACCUMULATED BY THOSE APPLICANTS TO DETERMINE THEIR PRIORITY
 21 IN RECEIVING LICENSES ISSUED PURSUANT TO SUBSECTION (5). THE DEPARTMENT SHALL CONSIDER ANY FRACTION THAT
 22 RESULTS FROM THE CALCULATION OF AN AVERAGE WHEN DETERMINING THAT PRIORITY.

23
 24 NEW SECTION. Section 3. Codification instruction. [Section 2] is intended to be codified as an
 25 integral part of Title 87, chapter 2, part 1, and the provisions of Title 87, chapter 2, part 1, apply to [section 2].

26
 27 NEW SECTION. Section 4. Effective date. [This act] is effective ~~March 1, 2012~~ JULY 1, 2011.

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