

1 HOUSE BILL NO. 619

2 INTRODUCED BY D. ANKNEY

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FISH, WILDLIFE, AND PARKS FOREST MANAGEMENT
5 LAWS TO IMPLEMENT PROVISIONS OF THE GENERAL APPROPRIATIONS ACT; REQUIRING A FOREST
6 MANAGEMENT PLAN AND A SUSTAINABLE YIELD STUDY; ESTABLISHING THAT COSTS TO IMPLEMENT
7 THE FOREST MANAGEMENT PLAN ARE AN AUTHORIZED EXPENDITURE; AMENDING SECTIONS
8 87-1-201 AND 87-1-621, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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12 **NEW SECTION. Section 1. Forest management plan -- sustainable yield study required --**

13 **definition.** (1) The commission shall adopt a forest management plan, based on an annual sustainable yield, to
14 implement the provisions of 87-1-201(9)(a)(iv).

15 (2) The department, under the direction of the commission, shall, before July 1, 2012, commission a study
16 by a qualified independent third party to determine, using scientific principles, the annual sustainable yield on
17 forested department lands. The department shall direct the qualified independent third party to determine the
18 annual sustainable yield pursuant to all state and federal laws.

19 (3) The annual sustainable yield constitutes the annual timber sale requirement for the timber sale
20 program administered by the department.

21 (4) The commission shall review and redetermine the annual sustainable yield at least once every 5
22 years.

23 (5) Expenditures necessary to meet the requirements of this section are authorized to be made by the
24 department pursuant to 87-1-601.

25 (6) For the purposes of this section, the term "annual sustainable yield" means the quantity of timber that
26 can be harvested from forested department lands each year, taking into account the ability of forested lands to
27 generate replacement tree growth and in accordance with:

28 (a) the provisions of 87-1-201(9)(a)(iv);

29 (b) state and federal laws, including but not limited to the laws pertaining to wildlife, recreation, and
30 maintenance of watersheds; and

1 (c) water quality standards that protect fisheries and aquatic life and that are adopted under the
2 provisions of Title 75, chapter 5.

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4 **Section 2.** Section 87-1-201, MCA, is amended to read:

5 **"87-1-201. Powers and duties.** (1) The department shall supervise all the wildlife, fish, game, game and
6 nongame birds, waterfowl, and the game and fur-bearing animals of the state and may implement voluntary
7 programs that encourage hunting access on private lands and that promote harmonious relations between
8 landowners and the hunting public. The department possesses all powers necessary to fulfill the duties prescribed
9 by law and to bring actions in the proper courts of this state for the enforcement of the fish and game laws and
10 the rules adopted by the department.

11 (2) The department shall enforce all the laws of the state regarding the protection, preservation,
12 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

13 (3) The department has the exclusive power to spend for the protection, preservation, management, and
14 propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired
15 for that purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or
16 received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from
17 fines or damages collected for violations of the fish and game laws, or from appropriations or received by the
18 department from any other sources is under the control of the department and is available for appropriation to
19 the department.

20 (4) The department may discharge any appointee or employee of the department for cause at any time.

21 (5) The department may dispose of all property owned by the state used for the protection, preservation,
22 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no
23 further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited
24 to the fish and game account in the state special revenue fund.

25 (6) The department may not issue permits to carry firearms within this state to anyone except regularly
26 appointed officers or wardens.

27 (7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations
28 not inconsistent with the provisions of Title 87, chapter 2, that in its judgment will accomplish the purpose of
29 chapter 2.

30 (8) The department is authorized to promulgate rules relative to tagging, possession, or transportation

1 of bear within or outside of the state.

2 (9) (a) The department shall implement programs that:

3 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under
4 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

5 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under
6 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the
7 maintenance or recovery of those species;

8 (iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in
9 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided
10 in 87-1-323. In implementing an elk management plan, the department shall, as necessary to achieve harvest
11 and population objectives, request that land management agencies open public lands and public roads to public
12 access during the big game hunting season.

13 (iv) in accordance with the forest management plan required by [section 1], address fire mitigation, pine
14 beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50 contiguous
15 acres in any state park, fishing access site, or wildlife management area under the department's jurisdiction.

16 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential
17 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery
18 of those species with the social and economic impacts of species maintenance or recovery.

19 (c) Any management plan developed by the department pursuant to this subsection (9) is subject to the
20 requirements of Title 75, chapter 1, part 1.

21 (d) This subsection (9) does not affect the ownership or possession, as authorized under law, of a
22 privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

23 (10) The department shall publish an annual game count, estimating to the department's best ability the
24 numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative
25 regions of the state. In preparing the publication, the department may incorporate field observations, hunter
26 reporting statistics, or any other suitable method of determining game numbers. The publication must include an
27 explanation of the basis used in determining the game count."

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29 **Section 3.** Section 87-1-621, MCA, is amended to read:

30 **"87-1-621. (Temporary) Forest management account.** (1) There is a special revenue account called

1 the forest management account to the credit of the department of fish, wildlife, and parks.

2 (2) The forest management account consists of money deposited into the account from forest
3 management projects undertaken pursuant to ~~87-1-201(9)(a)(iv)~~ [section 1] and from any other source. Any
4 interest earned by the account must be deposited into the account.

5 (3) Except as otherwise directed by state or federal law, funds from the forest management account are
6 statutorily appropriated, as provided in 17-7-502, to the department and must be used by the department to
7 implement forest management projects that may result pursuant to the provisions of ~~87-1-201(9)(a)(iv)~~ [section
8 1]. (Terminates June 30, 2013--sec. 8, Ch. 330, L. 2009.)

9 **87-1-621. (Effective July 1, 2013) Forest management account.** (1) There is a special revenue
10 account called the forest management account to the credit of the department of fish, wildlife, and parks.

11 (2) The forest management account consists of money deposited into the account from forest
12 management projects undertaken pursuant to ~~87-1-201(9)(a)(iv)~~ [section 1] and from any other source. Any
13 interest earned by the account must be deposited into the account.

14 (3) Except as otherwise directed by state or federal law, funds from the forest management account must
15 be used by the department to implement forest management projects that may result pursuant to the provisions
16 of ~~87-1-201(9)(a)(iv)~~ [section 1]."

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18 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an
19 integral part of Title 87, chapter 1, part 6, and the provisions of Title 87, chapter 1, part 6, apply to [section 1].

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21 **COORDINATION SECTION. Section 5. Coordination instruction.** If House Bill No. 2 is not passed
22 and approved in a form that provides funding to the department of fish, wildlife, and parks to calculate an annual
23 sustainable yield for department-owned lands, then [this act] is void.

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25 **NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 2011.

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