

SENATE BILL NO. 136

INTRODUCED BY J. BALYEAT, SONJU, JACKSON, STEINBEISSER, WARBURTON, BROWN, ARTHUN, HINKLE, BRENDEN, C. SMITH, G. BENNETT, SKEES, VINCENT, KERNS, TAYLOR, O'NEIL, WITTICH, O'HARA, MURPHY, ESSMANN, GALLUS, LEWIS, HUTTON, RIPLEY, VUCKOVICH, WASHBURN, JENT, WALKER, EHLI, WAGNER, HAMLETT, EDMUNDS, VAN DYK, PRIEST, M. BLASDEL, E. BUTTREY, A. KNUDSEN, M. MORE, J. SHOCKLEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING RESIDENCY REQUIREMENTS FOR HUNTING LICENSES; ~~DEFINING NONRESIDENTS BORN IN MONTANA AS RESIDENTS FOR THE PURPOSE OF OBTAINING CERTAIN LICENSES;~~ AMENDING SECTIONS ~~87-2-102, 87-2-106, AND 87-1-290,~~ 87-2-514, AND 87-2-515, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

~~Section 1.~~ Section 87-2-102, MCA, is amended to read:

~~"87-2-102. Resident defined.~~ In determining whether a person is a resident for the purpose of issuing resident hunting, fishing, and trapping licenses, the following provisions apply:

~~(1) (a) A member of the regular armed forces of the United States, a member's dependent, as defined in 15-30-2115, who resides in the member's Montana household, or a member of the armed forces of a foreign government attached to the regular armed forces of the United States is considered a resident for the purposes of this chapter if:~~

~~(i) the member was a resident of Montana under the provisions of subsection (4) at the time the member entered the armed forces and continues to meet the residency criteria of subsections (4)(b) through (4)(e); or~~

~~(ii) the member is currently stationed in and assigned to active duty in Montana, has resided in Montana for at least 30 days, and presents official assignment orders and proof of completion of a hunter safety course approved by the department, as provided in 87-2-105, or a certificate verifying the successful completion of a hunter safety course in any state or province. The 30-day residence requirement is waived in time of war. Reassignment to another state, United States territory, or country terminates Montana residency for purposes of this section, except that a reassigned member continues to qualify as a resident if the member's spouse and dependents continue to physically reside in Montana and the member continues to meet the residency criteria~~

1 of subsections (4)(b) through (4)(e). The designation of Montana by a member of the regular armed forces as a
2 "home of record" or "home of residence" in that member's armed forces records does not determine the member's
3 residency for purposes of this section.

4 ~~———— (b) A member of the regular armed forces of the United States who is otherwise considered a Montana~~
5 ~~resident pursuant to subsection (1)(a)(i) does not forfeit that status as a resident because the member, by virtue~~
6 ~~of that membership, also possesses, has applied for, or has received resident hunting, fishing, or trapping~~
7 ~~privileges in another state or country.~~

8 ~~———— (2) A person who has physically resided in Montana as the person's principal or primary home or place~~
9 ~~of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately before making~~
10 ~~application for any license is eligible to receive resident hunting, fishing, and trapping licenses. As used in this~~
11 ~~section, a vacant lot or a premises used solely for business purposes is not considered a principal or primary~~
12 ~~home or place of abode.~~

13 ~~———— (3) A person who obtains residency under subsection (2) may continue to be a resident for purposes of~~
14 ~~this section by physically residing in Montana as the person's principal or primary home or place of abode for not~~
15 ~~less than 120 days a year and by meeting the criteria of subsection (4) prior to making application for any resident~~
16 ~~hunting, fishing, or trapping license.~~

17 ~~———— (4) In addition to the requirements of subsection (2) or (3), a person shall meet the following criteria to~~
18 ~~be considered a resident for purposes of this section:~~

19 ~~———— (a) the person's principal or primary home or place of abode is in Montana;~~

20 ~~———— (b) the person files Montana state income tax returns as a resident if required to file;~~

21 ~~———— (c) the person licenses and titles in Montana as required by law any vehicles that the person owns and~~
22 ~~operates in Montana;~~

23 ~~———— (d) except as provided in subsection subsections (1)(b) and (9), the person does not possess or apply~~
24 ~~for any resident hunting, fishing, or trapping licenses from another state or country or exercise resident hunting,~~
25 ~~fishing, or trapping privileges in another state or country; and~~

26 ~~———— (e) if the person registers to vote, the person registers only in Montana.~~

27 ~~———— (5) A student who is enrolled full-time in a postsecondary educational institution out of state and who~~
28 ~~would qualify for Montana resident tuition or who otherwise meets the residence requirements of subsection (2)~~
29 ~~or (3) is considered a resident for purposes of this section.~~

30 ~~———— (6) An enrollee of a job corps camp located within the state of Montana is, after a period of 30 days within~~

1 Montana, considered a resident for the purpose of making application for a fishing license as long as the person
2 remains an enrollee in a Montana camp:

3 ~~—— (7) A person who does not reside in Montana but who meets all of the following requirements is a
4 resident for purposes of obtaining hunting and fishing licenses:~~

5 ~~—— (a) The person's principal employment is within this state and the income from this employment is the
6 principal source of the applicant's family income:~~

7 ~~—— (b) The person is required to pay and has paid Montana income tax in a timely manner and proper
8 amount:~~

9 ~~—— (c) The person has been employed within this state on a full-time basis for at least 12 consecutive
10 months immediately preceding each application:~~

11 ~~—— (d) The person's state of residency has laws substantially similar to this subsection (7):~~

12 ~~—— (8) An unmarried minor is considered a resident for the purposes of this section if the minor's parents,
13 legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for purposes of this
14 section. The minor is considered a resident for purposes of this section regardless of whether the minor resides
15 primarily in the state or otherwise qualifies as a resident. The resident parent or guardian of the minor may be
16 required to show proof of the parental, guardianship, or custodial relationship to the minor:~~

17 ~~—— (9) A person who does not reside in Montana but who was born in Montana and who applies for a license
18 pursuant to 87-2-106(5) is considered a resident for the purpose of obtaining any hunting license for which a
19 drawing is not required, regardless of whether the person also possesses, has applied for, or has received
20 resident hunting, fishing, or trapping privileges in another state. The person is considered to be and shall apply
21 as a nonresident in order to obtain any special hunting license pursuant to this chapter.~~

22 ~~—— (9)(10) A person is not considered a resident for the purposes of this section if the person:~~

23 ~~—— (a) claims residence in any other state or country for any purpose; or~~

24 ~~—— (b) is an absentee property owner paying property tax on property in Montana.~~

25 ~~—— (10)(11) A license agent is not considered a representative of the state for the purpose of determining
26 a license applicant's residence status."~~

27

28 ~~—— **Section 2.** Section 87-2-106, MCA, is amended to read:~~

29 ~~—— **"87-2-106. Application for license --- penalties for violation --- forfeiture of privileges.** (1) A license
30 may be procured from the director, a warden, or an authorized agent of the director. The applicant shall state the~~

1 applicant's name, age, [last four digits of the applicant's social security number,] occupation, street address of
2 permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status
3 as a citizen of the United States or as an alien and other facts, data, or descriptions as may be required by the
4 department. An applicant for a resident license shall present a valid Montana driver's license, Montana driver's
5 examiner's identification card, tribal identification card, or other identification specified by the department to
6 substantiate the required information. It is the applicant's burden to provide documentation establishing the
7 applicant's identity and qualifications to purchase a license. It is a misdemeanor for a license agent to sell a
8 hunting, fishing, or trapping license to an applicant who fails to produce the required identification at the time of
9 application for licensure. Except as provided in subsections (2) through (4), the statements made by the applicant
10 must be subscribed to before the officer or agent issuing the license.

11 ~~———— (2) Except as provided in subsection (3), department employees or officers may issue licenses by~~
12 ~~telephone, by mail, on the internet, or by other electronic means. Statements on an application for a license to~~
13 ~~be issued by telephone, by mail, on the internet, or by other electronic means need not be subscribed to before~~
14 ~~the employee or officer.~~

15 ~~———— (3) To apply for a license under the provisions of 87-2-102(7), the applicant shall apply to the director~~
16 ~~and shall submit at the time of application a notarized affidavit that attests to fulfillment of the requirements of~~
17 ~~87-2-102(7). The director shall process the application in an expedient manner.~~

18 ~~———— (4) A resident may apply for and purchase a wildlife conservation license, hunting license, or fishing~~
19 ~~license for the resident's spouse, parent, child, brother, or sister who is otherwise qualified to obtain the license.~~

20 ~~———— (5) To apply for a resident hunting license under the provisions of 87-2-102(9), the applicant shall apply~~
21 ~~at any department regional office or at the department's state office in Helena and present a birth certificate~~
22 ~~verifying the applicant's birth in Montana.~~

23 ~~———— (5)(6) A license is void unless subscribed to by the licensee.~~

24 ~~———— (6)(7) It is unlawful to subscribe to or make any statement, on an application or license, that is materially~~
25 ~~false. Any material false statement contained in an application renders the license issued pursuant to it void. A~~
26 ~~person violating any provision of this subsection is guilty of a misdemeanor.~~

27 ~~———— (7)(8) A person whose privilege to hunt, fish, or trap has been revoked is not eligible to purchase any~~
28 ~~license until all terms of the court sentence in which the privilege was revoked, including making restitution, have~~
29 ~~been met or the person is in compliance with installment payments specified by the court and the department has~~
30 ~~received notification from the sentencing court to that effect pursuant to 87-1-102(1).~~

1 ~~_____ (8)(9)~~ It is unlawful for a nonresident to apply for or purchase for a nonresident's use the following
 2 resident licenses and permits:

3 ~~_____ (a)~~ wildlife conservation license;

4 ~~_____ (b)~~ hunting license or permit; or

5 ~~_____ (c)~~ fishing license or permit.

6 ~~_____ (9)(10)~~ (a) A person not meeting the residency criteria set out in 87-2-102 who is convicted of affirming
 7 to or making a false statement to obtain a resident license or who is convicted of applying for or purchasing a
 8 resident license in violation of subsection (8) ~~(9)~~ shall be:

9 ~~_____ (i)~~ fined not less than the greater of \$100 or twice the cost of the nonresident license that authorized the
 10 sought-after privilege or more than \$1,000;

11 ~~_____ (ii)~~ imprisoned in the county jail for not more than 6 months; or

12 ~~_____ (iii)~~ both fined and imprisoned:

13 ~~_____ (b)~~ In addition to the penalties specified in subsection (9)(a) ~~(10)(a)~~, upon conviction or forfeiture of bond
 14 or bail, the person shall forfeit any current hunting, fishing, and trapping licenses and the privilege to hunt, fish,
 15 and trap in Montana for not less than 18 months:

16 ~~_____ (10)(11)~~ It is a misdemeanor for a person to purposely or knowingly assist an unqualified applicant in
 17 obtaining a resident license in violation of this section:

18 ~~_____ [(11)(12)]~~ The department shall keep the applicant's social security number confidential, except that the
 19 number may be provided to the department of public health and human services for use in administering Title
 20 IV-D of the Social Security Act.]

21 ~~_____ (12)(13)~~ The department shall delete an applicant's social security number in any electronic database
 22 [5 years after the date that application is made for the most recent license]. (Bracketed language terminates or
 23 is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001.)"

24

25 ~~_____ Section 3.~~ Section 87-2-514, MCA, is amended to read:

26 ~~_____ "87-2-514. Nonresident child of resident allowed to purchase nonresident licenses at reduced~~
 27 ~~cost.~~ (1) Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102,
 28 but who is the natural or adopted child of a resident, as defined in 87-2-102, and who meets the qualifications
 29 of subsection (3) may purchase a Class B nonresident fishing license, a Class B-1 nonresident upland game bird
 30 license, and a Class B-7 nonresident deer A tag at the reduced cost specified in subsection (2) and may purchase

1 a Class B-15 nonresident child's elk license as provided in 87-2-515. This section does not allow a nonresident
2 child of a resident to purchase nonresident combination licenses at a reduced price:

3 ~~———— (2) The fee for a nonresident license purchased pursuant to subsection (1) is twice the amount charged
4 for an equivalent resident license. The nonresident child shall also purchase a nonresident wildlife conservation
5 license as prescribed in 87-2-202 and pay the nonresident hunting access enhancement fee in 87-2-202(3)(d)
6 if the nonresident child purchases a hunting license.~~

7 ~~———— (3) To qualify for a license pursuant to subsection (1), a nonresident child of a resident shall apply at any
8 department regional office or at the department's state office in Helena and present proof of the following:~~

9 ~~———— (a) a birth certificate verifying the applicant's birth in Montana;~~

10 ~~———— (b)(a) a high school diploma from a Montana public, private, or home school or certified verification that
11 the applicant has passed the general educational development test in Montana; and~~

12 ~~———— (c)(b) proof that the applicant has a natural or adoptive parent who is a current Montana resident, as
13 defined in 87-2-102.~~

14 ~~———— (4) A qualified nonresident child of a resident may purchase licenses pursuant to subsection (1) for up
15 to 6 license years after receiving a diploma or passing the general educational development test as provided in
16 subsection (3)(b):~~

17 ~~———— (5) A nonresident child of a resident who has been issued a hunting license pursuant to this section is
18 not eligible to apply for or be issued any nonresident special permit.~~

19 ~~———— (6) A nonresident child of a resident who has been issued a hunting license pursuant to this section must
20 be accompanied by a licensed resident family member while hunting in the field."~~

21

22 **SECTION 1. SECTION 87-1-290, MCA, IS AMENDED TO READ:**

23 **"87-1-290. (Effective March 1, 2011) Hunting access account.** (1) There is a hunting access account
24 in the state special revenue fund. Funds deposited in this account may be used only for the purpose of funding
25 any hunting access program established by law or by the department through administrative rule.

26 (2) The following funds must be deposited in the account:

27 (a) 25% of the fee for Class B-10 nonresident big game combination licenses pursuant to 87-2-505(1)(c)
28 and 25% of the fee for Class B-11 nonresident deer combination licenses pursuant to 87-2-510(1)(b);

29 (b) 25% of the fee for hunting licenses issued to nonresident ~~children~~ relatives of a resident pursuant
30 to 87-2-514; and

1 (c) the hunting access enhancement fees assessed pursuant to 87-2-202(3)(c) and (3)(d).

2 (3) Any interest or income earned on the account must be deposited in the account."

3

4 **SECTION 2. SECTION 87-2-514, MCA, IS AMENDED TO READ:**

5 **"87-2-514. Nonresident child relative of resident allowed to purchase nonresident licenses at**
6 **reduced cost -- definitions.** (1) For the purposes of this section, the following definitions apply:

7 (a) "Nonresident relative of a resident" means a person born in Montana who is the natural or adoptive
8 child, sibling, or parent of a resident but is not a resident.

9 (b) "Resident" means a resident as defined in 87-2-102.

10 (2) ~~Except as otherwise provided in this chapter, a person who is not a resident, as defined in 87-2-102,~~
11 ~~but who is the natural or adopted child~~ nonresident relative of a resident, ~~as defined in 87-2-102,~~ and who meets
12 the qualifications of subsection ~~(3)~~(5) may purchase:

13 (a) a Class B nonresident fishing license;

14 (b) a Class B-1 nonresident upland game bird license; ~~and;~~

15 (c) a Class B-7 nonresident deer A tag; and

16 (d) ~~at the reduced cost specified in subsection (2) and may purchase~~ a Class B-15 nonresident child's
17 elk license as provided in 87-2-515.

18 (3) This section does not allow a nonresident child relative of a resident to purchase nonresident
19 combination licenses at a reduced price.

20 (2)(4) The fee for a nonresident license purchased pursuant to subsection ~~(1)~~(2) is twice the amount
21 charged for an equivalent resident license. The nonresident child relative of a resident shall also purchase a
22 nonresident wildlife conservation license as prescribed in 87-2-202 and pay the nonresident hunting access
23 enhancement fee in 87-2-202(3)(d) if the nonresident child relative of a resident purchases a hunting license.

24 (3)(5) To qualify for a license pursuant to subsection ~~(1)~~(2), a nonresident child relative of a resident shall
25 apply at any department regional office or at the department's state office in Helena and present proof of the
26 following:

27 (a) a birth certificate verifying the applicant's birth in Montana OR DOCUMENTATION THAT THE APPLICANT
28 WAS BORN TO PARENTS WHO WERE RESIDENTS AT THE TIME OF BIRTH;

29 (b) ~~a high school diploma from a Montana public, private, or home school or certified verification that the~~
30 ~~applicant has passed the general educational development test in Montana~~

1 **(b) evidence that the person previously held a Montana resident hunting or fishing license or has passed**
 2 **a hunter safety course in Montana pursuant to 87-2-105; and**

3 (c) proof that the applicant ~~has a natural or adoptive parent who is a current Montana resident, as defined~~
 4 ~~in 87-2-102 is a nonresident relative of a resident.~~

5 ~~(4) A qualified nonresident child of a resident may purchase licenses pursuant to subsection (1) for up~~
 6 ~~to 6 license years after receiving a diploma or passing the general educational development test as provided in~~
 7 ~~subsection (3)(b).~~

8 ~~————(5) A nonresident child of a resident who has been issued a hunting license pursuant to this section is~~
 9 ~~not eligible to apply for or be issued any nonresident special permit.~~

10 ~~————(6) A nonresident child of a resident who has been issued a hunting license pursuant to this section must~~
 11 ~~be accompanied by a licensed resident family member while hunting in the field."~~

12

13 **SECTION 3. SECTION 87-2-515, MCA, IS AMENDED TO READ:**

14 **"87-2-515. Class B-15 nonresident child's elk license.** (1) Except as otherwise provided in this
 15 chapter, a nonresident ~~child~~ relative of a resident who is qualified to purchase licenses pursuant to 87-2-514 may
 16 purchase a Class B-15 nonresident ~~child's~~ elk license for twice the amount charged for a resident Class A-5 elk
 17 tag.

18 (2) A Class B-15 license entitles the holder to hunt elk in areas designated by the commission, at the
 19 times and upon the terms set forth by the commission, and to possess the carcass of an elk authorized by the
 20 license as set forth in department rules."

21

22 **NEW SECTION. Section 4. Effective date.** [This act] is effective March 1, 2012.

23

- END -