



Re: HB 176 - Allow crossbows to be used for hunting during archery season

Mr. Chairman and Members of the Committee:

My name is Joelle Selk, President of the Montana Bowhunters Association. We oppose this bill because while it seems like a well-intentioned effort to increase hunter opportunity, it will in fact ultimately diminish bowhunting seasons and opportunities in Montana. There are many nuances regarding the effects of crossbows to archery seasons and I will outline several of these during my testimony. I am happy to provide source material from my research upon request.

Over the past 20 years, the MBA has monitored the advance of crossbows into archery-only seasons in other states. One effect which crossbows have is a significant increase to archery harvest capability. During the first ten years of crossbow inclusion in Ohio, harvest rates during archery season increased twenty-nine-fold. In 2009, crossbows were allowed into archery season in Michigan. By the 2010 archery season, the deer harvest had increased by 12%. While this trend may be sustainable in states with deer overpopulations, it poses potential negative impacts to Montana's game populations. Currently, big game losses due to weather events, predator depredation, and various other factors have FWP and sportsmen scrambling to maintain healthy deer, elk, and antelope populations in many areas. We are concerned that inclusion of crossbows into Montana's archery-only season will ultimately decrease game populations, and in turn, our seasons and opportunities.

A second potential impact is that of overcrowding. When limited permits were introduced into the Breaks and 21 areas outside the Breaks, overcrowding and diminishing hunt quality were cited as reasons. Montana currently sells about 44,000 archery stamps annually. This number could increase significantly with the allowance of crossbows into archery seasons. Michigan provides an example of this trend as well. Once crossbows were allowed within their archery season, the number of archery stamps steadily increased from 45,692 in 2009 to 88,565 in 2012. The overall proportion of archers using a crossbow during that period increased from 19% to 37%. Nineteen percent of the hunters using a crossbow in 2011 had never hunted with anything other than a firearm prior to the expanded use of crossbows. The allowance of crossbows into Montana archery-only seasons may have a similar effect in recruiting more rifle hunters into archery seasons. This may produce overcrowding in many more areas, increasing the possibility of additional limited permit areas. The net effect for Montana is that increased recruitment of crossbow users into archery-only season will likely result in diminished opportunities for Montana bowhunters.

Proponents argue that crossbows are needed to provide accommodations for the physical limitations of youth, women, hunters 65 and older, and disabled archers. Current compound bows have 80% let-offs to accommodate bowhunters with less physical strength. The MBA's youth and adult female members prove every season that they are up to the challenge of

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bowhunting. I've included recent newsletters with my testimony demonstrating these successes. In order to enhance the participation of disabled bowhunters, in 2002, we assisted FWP in implementing the Permit To Modify Archery Equipment. This permit allows adaptations to archery equipment to provide accommodations to individuals with disabilities. The PTMAE meets the requirements of the Americans with Disabilities Act and I've provided a document detailing that along with my testimony. Over the past decade we have worked with a number of individuals to tailor equipment suitable to their specific needs. MBA maintains a fund to assist individuals with purchasing adaptive equipment. We have developed a resource packet detailing various equipment adaptations and have provided this to MonTech at the University of Montana as well as to FWP for use during bowhunter education classes. I've provided a copy of this packet along with my testimony.

Finally, the Pope & Young Club and the Professional Bowhunters Society do not consider the crossbow to meet bowhunting fair chase standards. Fair chase requires that the hunter does not have an unfair advantage over the animal. Crossbows eliminate the need to come to full draw while in the presence of prey animals, thereby affording the hunter an unfair advantage while bowhunting. Due to this unfair advantage, the Pope & Young Club does not enter trophies collected by crossbow hunters into its record book. The MBA was founded to promote bowhunting according to fair chase standards and we promote these ideals in fostering and protecting bowhunting opportunities. In conclusion, the allowance of crossbows into archery seasons will not enhance Montana's bowhunting opportunities and we urge you to vote "no" to this bill.

Thank you.

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Bowhunting with Disabilities in Montana



Bowhunting with Disabilities in Montana

History of Bowhunting in Montana

The first bowhunters of Montana were the Native Americans. They proved the efficacy of archery equipment by hunting small and big game alike, from fish to bison. Many advocates for bowhunting have followed, chief among them the Montana Bowhunters Association (MBA). The MBA has actively promoted and preserved archery opportunities since 1973. From the early 1970s, when archery season was set at one week for elk and two weeks for deer, the MBA has spearheaded increased season lengths and opportunities. We now have a six-week archery-only season and archery opportunities for elk, deer, antelope, moose, mountain goat, bighorn sheep, bison, wolf, black bear, and mountain lion.

Challenge of Bowhunting

"When bowhunting, you find you get closer to the woodland critters. The flora and the forest floor becomes clearer. You look at things more closely. You're more aware. You know the limited range of the bow is only 40 yards or so. You must try to outwait that approaching deer. Careful not to make the slightest movement or sound hoping that your scent won't suddenly waft his way. That's when you'll know for sure and appreciate deeply what bowhunting is all about." – Fred Bear

"If asked to sketch a mental picture of the typical archer I would be hard put. They seem to come in all shapes, sizes, colors and backgrounds. Inwardly they seem to have in common a love for the outdoors, a reverence for wildlife, and a close tie with history." – Fred Bear

History of the Permit To Modify Archery Equipment (PTMAE)

The Montana Bowhunters Association's mission is to preserve and promote bowhunting opportunities. We are aware of the interests of hunters with disabilities who wish to participate in bowhunting. To that end, we partnered with FWP to develop the Permit To Modify Archery Equipment (PTMAE). PTMAE was developed to accommodate hunters with disabilities and was based on the recommendations of the Crossbow Archery Committee, a constituent's group which included representatives from Access Montana Outdoors. The FWP Commission formally adopted the PTMAE in February 2002.

The MBA offers technical expertise and funding to any hunter who requires modification to their bow. We have dedicated funding to assist with the modification of bows to suit the specific needs of individuals. The MBA and FWP stand ready to assist hunters with disabilities in modifying their equipment to suit their needs. The MBA wishes to work collaboratively with hunters to find customized solutions to enable their participation in bowhunting.

Permit to Modify Archery Equipment (PTMAE)

This permit allows a person with a disability to use modified archery tackle that supports the bow, and draws, holds, and releases the string to accommodate the individual's disability. The permit holder must have a companion to assist in aspects of the hunt. The companion may also assist the permit holder by hunting (by the legal use of archery equipment only) a game animal that has been wounded by the permit holder when the hunter with a disability is unable to pursue and kill the wounded animal. **Crossbows may not be used during archery season.**

What does PTMAE entitle me to do?

The PTMAE allows a person with a disability to use modified archery tackle that supports the bow, and draws, holds and releases the string to accommodate the individual disability (arrows, however, are not exempt, and still need to meet current requirements for the archery season as defined in the annual regulations).

Who can apply?

To qualify for PTMAE, the applicant—resident or nonresident--must be certified by a licensed physician (M.D. or D.O.) and must meet at least one of the following **permanent** medical conditions:

- Amputation involving 4 fingers at the proximal interphalangeal joint, wrist, elbow or shoulder.
- Spinal cord injury at the level of T-1 or above, resulting in permanent disability of at least 80% to a hand, wrist, arm or shoulder.
- Muscle weakness resulting in a permanent disability of the muscles of the shoulder, arm and back used in drawing and holding a bow.
- Impaired range of motion of the shoulder, elbow or wrist that would prohibit the applicant from raising and holding a bow in the horizontal position.
- Coordination deficit. (See application for specific details).

Guidelines and Permit Application Available from Montana FWP

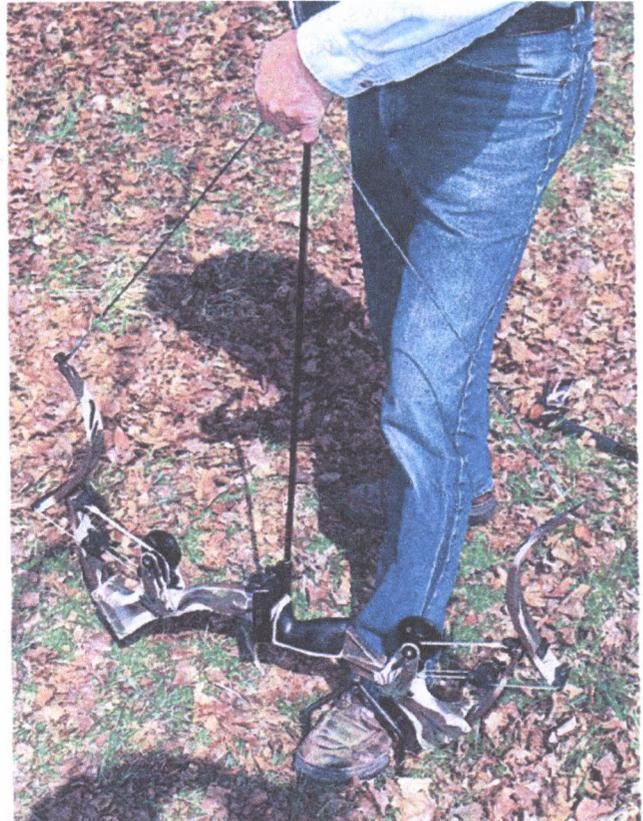
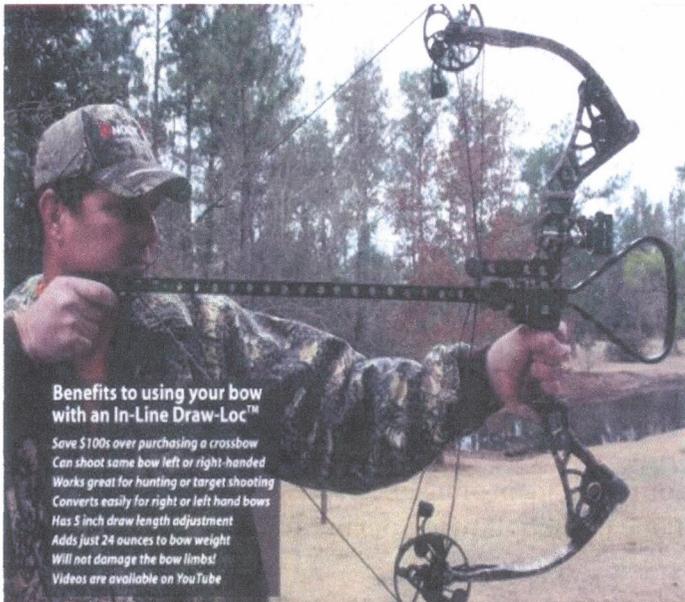
<http://fwp.mt.gov/recreation/ctb/licensing.html#modifyArcheryEquipment>

MonTech

MonTECH is focused on increasing outdoor recreation opportunities for Montanans with disabilities and those who experience limitations through aging in a variety of ways. First, MonTECH helps Montanans participate in wildlife viewing, fishing, hunting, and other related activities, such as camping and hiking, by offering an equipment library that checks out assistive technology to aid in the pursuit of these activities. This equipment library was originally made possible by the Montana Access To Outdoor Recreation project. Contact: 877-243-5511

<http://montech.ruralinstitute.umt.edu/>

Draw-Loc



Using foot, leg & back muscles allows for drawing higher weight.

Safety blocks trigger. Anti-dryfire lever. Use loop for precise nocking point.

Two modes to attach: left foot and hip, or adjustable strap (see photo). Whichever is easier.

Hickory Creek Archery, 21595 Yankee Town Road
Saucier, MS 39574 www.drawloc.com (228) 822-2649

DRAW-LOC™ HICKORY CREEK

Draw-Loc is a registered trademark of Hickory Creek Archery, Inc. © 2011. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of Hickory Creek Archery, Inc.

Draw-Loc enables the hunter to easily draw the bow and holds an arrow at full draw until the hunter is ready to shoot.

Draw-Loc converts easily for right or left handed bows

Adds only 24 oz. to bow weight

Easy installation that will not damage bow

Hickory Creek, Inc

21595 Yankeetown Road, Saucier, Mississippi 39574

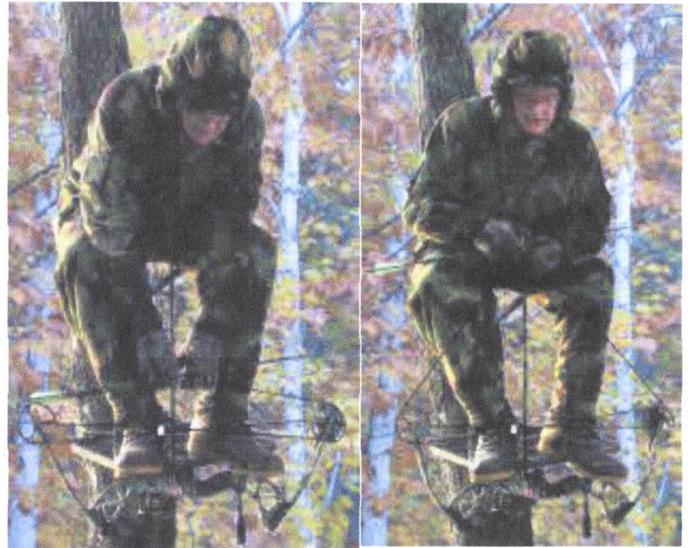
<http://www.drawloc.com/content/line-draw-loc-trigger-slow-motion>

The Lock-a-Draw

- Does not alter your bow
- Comes with its special bow mounted quiver
- Carries on the quiver
- Attaches to the bow at the quiver mounting block
- Use with any arrow rest. Does not block the arrow rest threaded hole
- Weighs only about half a pound

Bow Hunter's Advantage
906-482-6557

Web site: <http://www.bowdrawlock.com>



Compound Bow Rest and Holder

Supports the bow and archer's arm

- Steadies the bow while aiming and firing to improve accuracy
- Holds the bow in a ready position, reducing movement which spooks game
- Aims over a wide area
- Increases hunting success
- Does not harm the tree
- Light and easy to carry

Bow Hunter's Advantage
906-482-6557

Web site: <http://www.bowdrawlock.com>



Compound Bow Mount

The new **Model CB100 Compound Bow Mount** will hold any standard compound bow and will work for any limited mobility user. Our equipment compensates for all types of physical disabilities. We can help paraplegics lacking the torso strength to hold up a weapon, limited mobility quadriplegics who lack the arm strength to hold up a weapon and the finger control to pull the trigger, blind shooters that require equipment for spotters, and complete high quads that have no arm or hand movement at all.

Model CB100 is designed for individuals with limited hand and arm movement and strength. This piece of equipment works on most all models of compound bows and can be used with right hand or left hand bows. It allows the limited mobility user to pivot the bow left and right and up and down while the mount holds the entire weight of the bow. The CB100 mount requires the use of a Draw-Loc or similar product (which is not included) to hold the bow at full draw for the user.

**For more information, please visit our website at www.beadaptive.com
1-877-595-5634 or 260-244-7031**



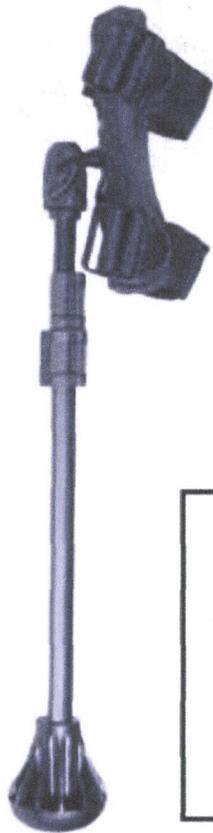
Steady Ready Bow Brace

Arrow Brace and More

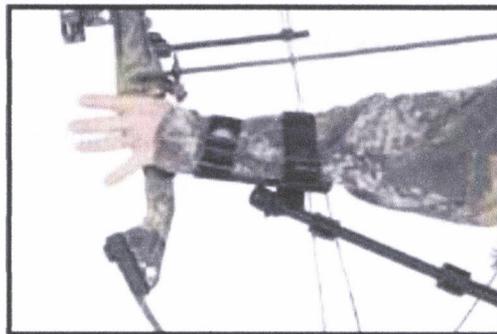
For the bowhunter, our "Steady Ready" makes it easy to draw a heavy poundage bow and hold it for minutes at a time because the steady arm absorbs all of the tension. The Steady Ready allows you to target your prey with pinpoint accuracy. Like any shooting, it takes a little practice to learn to work it correctly. Before you know it, you'll feel comfortable and confident knowing your projectile will fly to the bullseye.

Aging and Disabled Hunters Stay in the Game

Whether you're physically challenged, injured, or advancing in years, you won't have to give up your favorite sport. The steadiness you'll feel when using the Knight & Hale "Steady Ready" will enable you to shoot at longer distances with a bow or gun with greater accuracy. This shooting rest will help virtually anyone become a better shooter. Whether you have a loss of strength due to a rotator cuff injury, muscle tear or strain, or simple maturity, the Steady Ready will put you back into the woods.



Adjustable Steady Arm
and Belly Brace

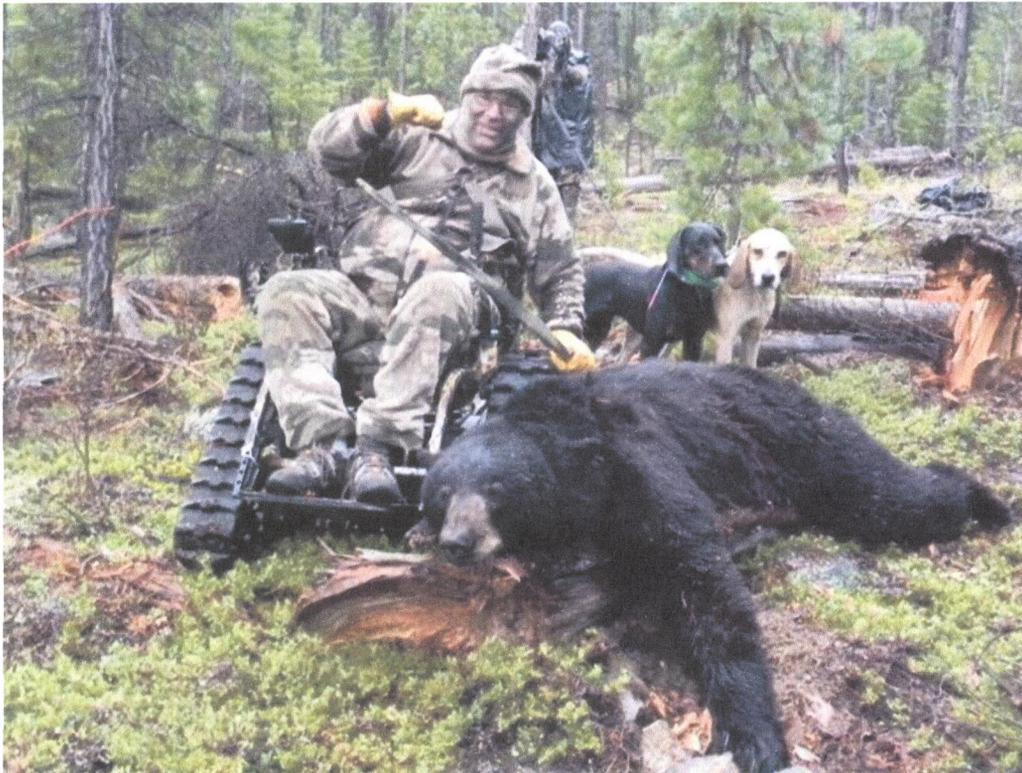


Secure Forearm Attachment

<http://www.gamecalls.net/huntingproducts/archerygear.html>

Action Trackchair

<http://www.actiontrackchair.com>



Specs

Height 39 Inches

Length 42" / 48" w/ rear idlers

Weight 350 lbs Approx.

Tilt angle for Chair 20 degrees each way

Motors 24 volt DC 24:1 ratio high thrust motor

Speed 3-4 MPH

Turning Radius Zero

Ground Clearance 3.5 inches

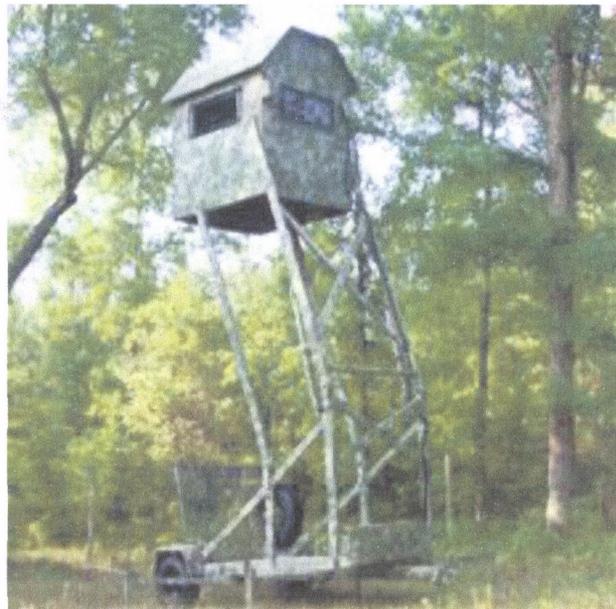
Range Variable up to 6 Miles

Blinds and Tree Stands

Hunting blinds are very versatile tools for hunters as they can accommodate wheelchairs and multiple people for hunters who require assistance. Blinds come in many sizes and types and can go from a standard ground level blind to blinds that are able to lift the hunter to heights of twenty feet.

HuntMaster tree stand

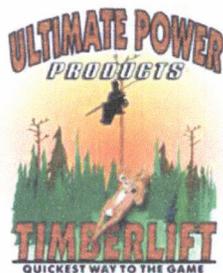
<http://www.new-heightsinc.com/>



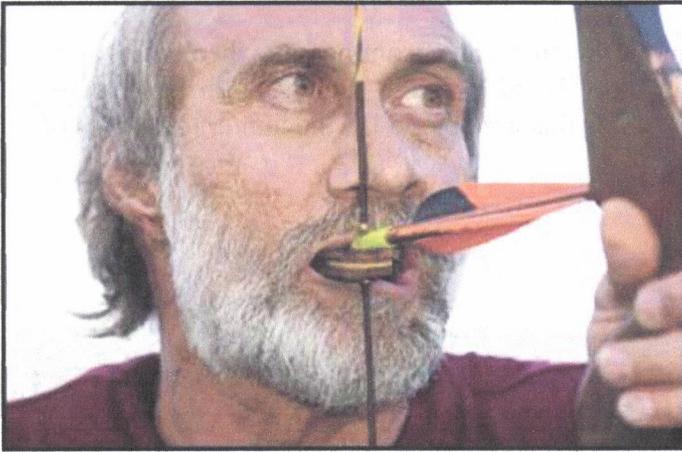
The Timberlift, a motorized tree stand that lifts you and your gear up the tree and back down again safely.

Ultimate Power Products
P.O. Box 127
214 Nassau Street
Brundidge, Alabama
36010

Phone: 334.735.3030
Fax: 334.735.3106
E-Mail:
sales@timberlift.com



Releases



Jim Onderko demonstrates success in using a mouth tab release with his big game harvests.

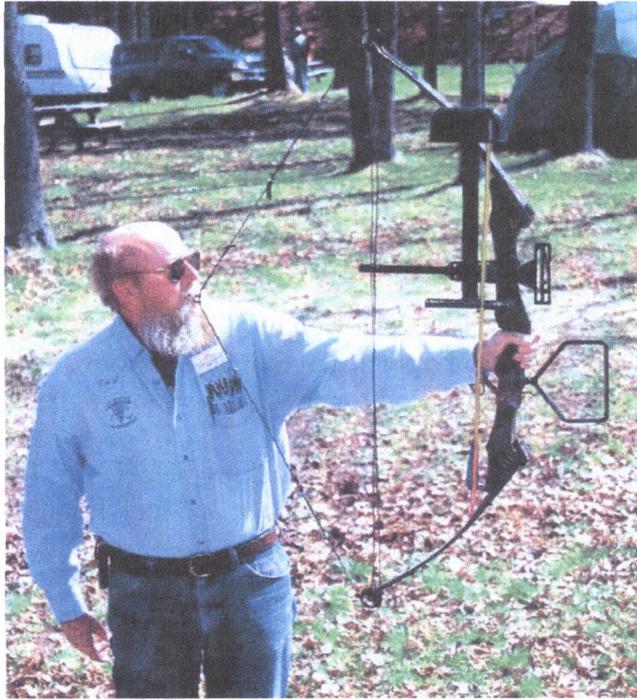


Jim with Caribou



Jim Onderko - Elk

Releases



Karl Lockwood with a mouth release



George Bolender of NY using wheelchair mount and mouth release

Resources and Equipment

Action Tracker: The Action Trackchair off-road wheelchair. Allows hunters to navigate mountain roads, woods, shallow streams, muddy and snowy terrain and much more.

Ameristep: Wheelchair accessible ground blinds.

BE Adaptive Equipment: Various equipment for all ranges of physical limitations. Compound bow mounting system and release systems.

Compound Bow Rest and Holder: Takes the weight of bow and archer's arm and steadies the bow while aiming and firing. The ideal draw lock companion. Converted Crossbow: Adapted for persons with physical disabilities. An option for someone without upper body function.

Draw-Loc: The Draw-Loc is a self retaining draw locking mechanism for compound bows. This product is designed to allow one to draw their bow back and lock it in the fully drawn, ready to shoot position. Also sold as a complete unit for anyone.

Extreme 4X4 Wheelchair: No ordinary power chair. Drives on sand, soft, wet or uneven terrain

Hunt Master Tree Stand: A product conceived by a hunter and lover of the outdoors for others who share this passion and want the finest and most versatile means of enjoying this time spent with nature.

Lone Star Field Products: Versatile Rest System for wheelchair users

Making Of A Mouth Tab: By Bard Prentis for PCBA

Physically Challenged Bowhunters of America: National organization formed to assist physically disabled persons with actively participating in bowhunting and archery sports.

Pullin Archery: Holds bow string fully drawn and ready to release.

Shooting Pal: A shooting rest for cameras, archery, and firearms.

Steady Ready Shooting Rest: Adjustable arm support makes it easier to hold bow at full draw

Timberlift: Timberlift now available to physically challenged hunters It's nice when a product surfaces that really gets challenged hunter's fired up. If you have been waiting for someone to come up with a powered tree climbing stand that can be used by people without legs or upper body strength, it's finally here.

Lock-a-Draw Draw lock: Having Difficulty Drawing Your Compound Bow? The Lock-a-Draw Draw lock Is the Solution.

History of the Permit To Modify Archery Equipment (PTMAE)

Historical Basis for Archery Equipment Regulations in Montana

In the late 1990s, the MBA became increasingly concerned about the encroachment of technology in bowhunting and its impacts upon the future of our archery-only season. We approached the Montana Department of Fish, Wildlife & Parks (FWP) in the summer of 1999 and worked collaboratively to introduce a proposal that would strictly define legal archery hunting equipment in terms of bow types, designs, accessory attachments, and arrows. These regulations, which were based upon the nationally recognized standards of the Pope & Young Club, were approved by the Montana Fish, Wildlife, and Parks Commission in February 2000.

Evolution of the Permit To Modify Archery Equipment

In March 2001, the MBA recognized that Montana's equipment regulations did not provide accommodations for the physically challenged who wished to bowhunt in Montana. It was evident that some modifications of the archery regulations were needed in order to provide bowhunting opportunity for the disabled. We began researching various methods to improve opportunity. This research included contacting other state and national bowhunting organizations as well sending a representative to a national conference on adaptive equipment for disabled bowhunters.

In collaboration with FWP, we formed a constituent's group, including representatives from Access Montana Outdoors, the statewide group advocating for disabled sportsmen. During a series of collaborative meetings we introduced the concept of using adaptive devices with conventional compound bows in lieu of the crossbow. In August 2001, we submitted a proposal to the FWP Commission to create opportunity by allowing those who are unable to draw and hold a legal hunting bow due to a permanent upper body disability, to use certain modified archery equipment such as a draw-lock device during the archery only season. The permit established criteria for certification of the disabled applicant and guidelines for permit use (see Appendix document "Permit To Modify Archery Equipment" and "Crossing the Barriers").

The Permit To Modify Archery Equipment (PTMAE) allows qualified disabled individuals to use certain modified archery equipment such as a draw-lock device and other adaptive devices in conjunction with lawful archery equipment during the archery only season. The PTMAE provides strict criteria for certification based on performance in order to prevent abuse and ensure enforcement, while at the same time preserving the fundamental nature of bowhunting and Montana's archery equipment regulations.

The FWP Commission formally adopted the PTMAE into the regulations in February 2002. In order to enhance public awareness of the opportunities available to bowhunters with disabilities and to demonstrate the newly legalized archery equipment for the disabled, the MBA conducted a number of workshops in partnership with FWP throughout Montana in August 2002. The disabled individuals who participated in this program were overwhelmingly enthusiastic about the new hunting opportunities afforded them.

The PTMAE and similar regulations in other states have weathered numerous legal challenges since 2002, questioning their compliance with the Americans with Disabilities Act (ADA). In each of those cases, state wildlife departments and the Department of the Interior ruled that the PTMAE meets the definition of “reasonable accommodation” under the ADA (refer to the Appendix for supporting documentation, “Orthman PTMAE correspondence 2007.pdf,” “DepartmentoftheInteriorCrossbowRuling.pdf,” and the “DOI-Cuffaro Response.pdf”). Validation of the PTMAE’s legality by the Department of the Interior recognizes each state’s right to establish tailored hunting opportunities and equipment regulations in order to meet the needs of all hunters and wildlife management goals.

In addition to enduring these challenges, the PTMAE passed muster during multiple legislative sessions. Bills were introduced in 1984 and 1995 (pre-PTMAE), and again in 2003, 2009, and 2013, seeking to allow crossbows into archery only seasons. Each of these bills was defeated. In part, the PTMAE was developed to protect the fundamental nature of our bowhunting seasons against the never-ending onslaught of technology-driven “improvements” to archery equipment. The support from legislators in defeating these challenges to the PTMAE demonstrates that they recognize the unique character of Montana’s archery only seasons and acknowledges the PTMAE adequately accommodates the needs of disabled bowhunters.

Appendix

Orthman PTMAE correspondence 2007.pdf

Am 4/5



**Montana Fish,
Wildlife & Parks**

MEMO

DATE: April 5, 2007

TO: Governor Brian Schweitzer

FROM: FWP Director Jeff Hagener

A handwritten signature in black ink, appearing to read "Jeff Hagener".

RE: Constituent Correspondence (no #)
Owen and Heidi
o.orthman@comcast.net

This is in response to the March 28, 2007 e-mail to you from Owen and Heidi regarding crossbows and disabilities. Fish, Wildlife & Parks (FWP) appreciates the opportunity to respond.

Owen and Heidi raise a concern that has been raised and addressed in the past by FWP and the FWP Commission. Residents and nonresidents certified as substantially disabled as defined by FWP rules may apply for a permit to modify archery equipment (PTMAE). That permit allows a person with a disability to use archery tackle that supports the bow and draws, holds and releases the string to accommodate the individual disability. The permit does not entitle the holder to use a crossbow. The permit only allows modification of legal archery tackle and must be used with a valid bow and arrow license and appropriate hunting license.

When developing the PTMAE, FWP met with an advisory group consisting of the Montana Bowhunters Association, disabled archers and hunters from Montana. Included in the discussion was the use of crossbows during our archery only seasons. The group recommended not including crossbows, but rather the permit to modify archery equipment. Since that time, FWP has heard from the United States Department of the Interior and their office for civil rights. They concur that the State is not in violation of the Americans with Disabilities Act.

The modified permit seems to have addressed the issue satisfactorily, at least for most individuals, as FWP has not had any correspondence prior to Owen and Heidi's in the last couple of years.

FWP has had no contact with legislators who have expressed any interest in addressing the issue. Representative Pommichowski did introduce HB 497 and HB 770, which dealt with certifications for obtaining a permit to hunt from a vehicle. FWP would be happy to visit with Owen and Heidi if they had other questions.

(FWP Ref: DO158-07)



United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, D.C. 20240

IN REPLY REFER TO:
OCR/FAP 401-04-02

Chad Waligura
1204 Laurel Lane
El Campo, Texas 77437

Dear Mr. Waligura:

On October 7, 2003, you filed a complaint wherein you alleged that the Montana Department of Fish, Wildlife and Parks (hereinafter, "MDFWP") discriminated against you on the basis of Disability when it denied your request to use a crossbow during archery season. Specifically, you Requested an accommodation to use a crossbow due to your alleged disability, quadriplegia. We Accepted as fact that you are a person with a disability. Since the MDFWP receives Federal financial assistance from the Department of Interior (hereinafter, "Department"), we reviewed your Complaint under section 504 of the Rehabilitation of 1973, (hereinafter, "Act") and Title II of the Americans with Disabilities Act (hereinafter, "ADA").¹ The sole issue is whether the MDFWP violated the Act or the ADA when it denied your request for an accommodation to use a crossbow.

Based on the relevant information provided, we have determined that the MDFWP did not discriminate under the Act or ADA when it denied your request to use a crossbow. Since the MDFWP did not violate these statutes, there are no compliance issues that require enforcement. Accordingly, the Department is dismissing your complaint. The Department's analysis is provided below.

Analysis

In Montana, the State's fish and game regulations provide that crossbows may be used during The general rifle season and in most weapons restricted areas during the general rifle season. However, the use of crossbows is prohibited during the archery seasons.² This restriction

¹ The Act prohibits discrimination on the basis of disability in programs or activities receiving Federal financial Assistance. The ADA prohibits discrimination on the basis of disability in programs or activities conducted by Public entities whether or not they receive Federal financial assistance. As a recipient of Federal financial Assistance and as public entity, the MDFWP's operations are covered by both statutes.

² "Methods and Means of Hunting," 2005 *Montana Hunting Regulations, Deer-Elk-Antelope*.

Applies equally to members of the public. In Montana, any person including people with disabilities may hunt with a crossbow during the general rifle season and in most weapons restricted areas. But during the State's archery season and in "ArchEquip Only" areas, it is illegal to hunt with a crossbow.

Hunting with a crossbow in the State is not prohibited entirely; the weapon's use is merely restricted. During the general hunting season and in most restricted areas any person, with an appropriate permit, may hunt with a crossbow. Additionally, in Montana, qualified disabled persons are eligible to secure a special permit from the MDFWP that allows them to use modified archery tackle. Since it is illegal to use the crossbow in the State's archery season, you are not authorized to use a crossbow as requested in your complaint.

In the instant case, there is no evidence that Montana's restrictions on the use of the crossbow during archery discriminated against persons on the basis of disability, particularly since such use is prohibited by regulations and applies equally to members of the public. Furthermore, there is no evidence that Montana's restrictions on the use of the crossbow deny qualified disabled persons an effective opportunity to participate in Montana's hunting program. In Montana, it is illegal to hunt with crossbows in certain restricted areas and during archery season. Neither the Act nor the ADA requires the State of Montana to eliminate restrictions on the use of the crossbow as special accommodation for people with disabilities.

The Department recognizes that States have taken different positions on providing the crossbow as an accommodation for bowhunters with disabilities. However, the Department cannot mandate that a recipient or State agency provide a crossbow as an accommodation where the crossbow is prohibited. Accordingly, since there are no compliance issues that require the Department's review, we consider your complaint to be closed. The Department will take no further action to process your request for an accommodation to use a crossbow in Montana's hunting program. If you disagree with the Department's decision, you may file a Civil action in the appropriate U.S. District Court having jurisdiction over this matter. If you have any questions or desire any additional information regarding the nondiscrimination Requirements of section 504 and Title II of the ADA, please do not hesitate to contact Melvin C. Fowler, Civil Rights Staff Assistant, of this Office at (202) 208-3455.

Sincerely,

s/s

Sharon D. Eller
Director
Office for Civil Rights

cc: Director MDFWP
Chief, Division of Federal Assistance, FWS



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

RECEIVED
SEP 02 2004
FISH WILDLIFE & PARKS
DIRECTOR'S OFFICE

IN REPLY REFER TO:
EO: FAP 401-04-72

Mr. Peter L. Cuffaro
102 Hunters Ridge Road
Wheeling, West Virginia 26003

SEP 02 2004

Dear Mr. Cuffaro:

You filed a complaint dated October 24, 2003, wherein you alleged that the Montana Fish, Wildlife and Parks Department (hereinafter, "MFWPD") discriminated against you on the basis of disability when it denied your request to use a crossbow during archery season. Specifically, you requested an accommodation to use a crossbow due to your alleged disability. We accept as fact that you are a person with a physical disability. Since the MFWPD receives Federal financial assistance from the Department of the Interior (hereinafter, "Department"), we reviewed your complaint under section 504 of the Rehabilitation Act of 1973, as amended, (hereinafter, "Act") and Title II of the Americans with Disabilities Act (hereinafter, "ADA").¹ The sole issue is whether the MFWPD violated the Act or the ADA when it denied your request for an accommodation to use a crossbow.

Based on the relevant information provided, we have determined that the MFWPD did not discriminate under the Act or ADA when it denied your request to use a crossbow. Since the MFWPD did not violate these statutes, there are no compliance issues that require enforcement. Accordingly, the Department is dismissing your complaint. The Department's analysis is provided below.

Analysis

In Montana, the State's fish and game regulations provide that crossbows may be used during the general hunting season and in most weapons restricted areas during the general season. The use of crossbows is prohibited during the archery season.² This restriction applies equally to members of the public. In Montana, any person including people with disabilities may hunt with a crossbow during the general hunting season and in most weapons restricted areas. However, during the State's archery season, it is illegal to hunt with a crossbow.

¹ The Act prohibits discrimination on the basis of disability in programs or activities receiving Federal financial assistance. The ADA prohibits discrimination on the basis of disability in programs or activities conducted by public entities whether or not they receive Federal financial assistance. As a recipient of Federal financial assistance and as a public entity, the MFWPD's operations are covered by both statutes.

² "Methods and Means of Hunting," 2004 Montana Hunting Regulations, Deer-Elk-Antelope: 15.

Hunting with a crossbow in the State is not prohibited entirely; the weapon's use is merely restricted. During the general hunting season and in most weapons restricted areas any person, with an appropriate permit, may hunt with a crossbow. Additionally, in Montana, qualified disabled persons are eligible to secure a special permit from the MFWPD that allows them to use modified archery tackle. Since it is illegal to use the crossbow in the State's archery season, you are not authorized to use a crossbow as requested in your complaint.

In the instant case, there is no evidence that Montana's restrictions on the use of the crossbow during archery discriminate against persons on the basis of disability, particularly since such use is prohibited by regulation and applies equally to members of the public. Furthermore, there is no evidence that Montana's restrictions on the use of the crossbow deny qualified disabled persons an effective opportunity to participate in Montana's hunting program. In Montana, it is illegal to hunt with crossbows in certain restricted areas and during archery season. Neither the Act nor the ADA requires the State of Montana to eliminate restrictions on the use of the crossbow as a special accommodation for people with disabilities.

The Department recognizes that States have taken different positions on providing the crossbow as an accommodation for bowhunters with disabilities. However, the Department cannot mandate that a recipient or State agency provide a crossbow as an accommodation where the crossbow is prohibited. Accordingly, since there are no compliance issues that require the Department's review, we consider your complaint to be closed. The Department will take no further action to process your request for an accommodation to use a crossbow in Montana's hunting program.

If you disagree with the Department's decision, you may file a civil action in the appropriate U. S. District Court having jurisdiction over this matter. If you have any questions or desire any additional information regarding the nondiscrimination requirements of section 504 and Title II of the ADA, please do not hesitate to contact Melvin C. Fowler, Civil Rights Staff Assistant, of this Office at (202) 208-3455.

Sincerely,



Sharon D. Eller
Director
Office for Civil Rights

cc: Director MFWPD
Acting Chief, Division of Federal Assistance, FWS
FWS Civil Rights Coordinator



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

RECEIVED

SEP 02 2004
FISH, WILDLIFE & PARKS
DIRECTOR'S OFFICE

IN REPLY REFER TO:
EO: FAP 401-04-71

Mr. Peter L. Cuffaro
102 Hunters Ridge Road
Wheeling, West Virginia 26003

SEP 02 2004

Dear Mr. Cuffaro:

You filed a complaint dated October 23, 2003, wherein you alleged that the Alaska Department of Fish and Game (hereinafter, "ADFG") discriminated against you on the basis of disability when it denied your request to use a crossbow during archery season in areas of the State where only bow hunting is allowed. Specifically, you requested an accommodation to use a crossbow due to your alleged disability. We accept as fact that you are a person with a physical disability. Since the ADFG receives Federal financial assistance from the Department of the Interior (hereinafter, "Department"), we reviewed your complaint under section 504 of the Rehabilitation Act of 1973, as amended, (hereinafter, "Act") and Title II of the Americans with Disabilities Act (hereinafter, "ADA").¹ The sole issue is whether the ADFG violated the Act or the ADA when it denied your request for an accommodation to use a crossbow.

Based on the relevant information provided, we have determined that the ADFG did not discriminate under the Act or ADA when it denied your request to use a crossbow. Since the ADFG did not violate these statutes, there are no compliance issues that require enforcement. Accordingly, the Department is dismissing your complaint. The Department's analysis is provided below.

Analysis

A review of Alaska's hunting regulations shows that crossbows may not be used for hunting in a "restricted weapons hunt."² Additionally, it is illegal to hunt with a crossbow "for all game in archery only areas." No individual can hunt any game in a hunt or area specifically restricted to "bow and arrow use only."³ However, in areas where no restrictions are placed on weapons in a hunt, with an appropriate hunting permit you are free to hunt with a crossbow.

¹ The Act prohibits discrimination on the basis of disability in programs or activities receiving Federal financial assistance. The ADA prohibits discrimination on the basis of disability in programs or activities conducted by public entities whether or not they receive Federal financial assistance. As a recipient of Federal financial assistance and as a public entity, the ADFG's operations are covered by both statutes.

² "General Hunting Restrictions," *Alaska Hunting Regulations, No. 45, July 1, 2004-June 30, 2005*: 15.

³ "Archery/Bow and Arrow," *Alaska Hunting Regulations*: 32.

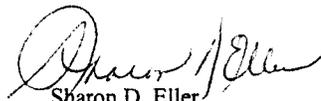
These restrictions apply equally to members of the public. In Alaska, any person, including people with disabilities, may hunt with a crossbow under certain circumstances. Hunting with a crossbow in the State is not prohibited entirely; use of the weapon is merely restricted. Since it is illegal to use the crossbow in Alaska in a "restricted weapons hunt" and during archery season, you are not authorized to use a crossbow as requested in your complaint.

In the instant case, there is no evidence that Alaska's restrictions on the use of the crossbow discriminate against persons on the basis of disability, particularly since such use is prohibited by regulation and applies equally to members of the public. Furthermore, there is no evidence that Alaska's restrictions on the use of the crossbow deny qualified disabled persons an effective opportunity to participate in Alaska's hunting program. In Alaska, crossbows are illegal in areas restricted to hunting with bows only. However, with an appropriate hunting license, crossbows can be used where guns and bows are legal weapons. Neither the Act nor the ADA requires the State of Alaska to eliminate restrictions on the use of the crossbow as a special accommodation for people with disabilities.

The Department recognizes that States have taken different positions on providing the crossbow as an accommodation for bowhunters with disabilities. However, the Department cannot mandate that a recipient or State agency provide a crossbow as an accommodation where the crossbow is prohibited. Accordingly, since there are no compliance issues that require the Department's review, we consider your complaint to be closed. The Department will take no further action to process your request for an accommodation to use a crossbow in Alaska's hunting program.

If you disagree with the Department's decision, you may file a civil action in the appropriate U. S. District Court having jurisdiction over this matter. If you have any questions or desire any additional information regarding the nondiscrimination requirements of section 504 and Title II of the ADA, please do not hesitate to contact Melvin C. Fowler, Civil Rights Staff Assistant, of this Office at (202) 208-3455.

Sincerely,

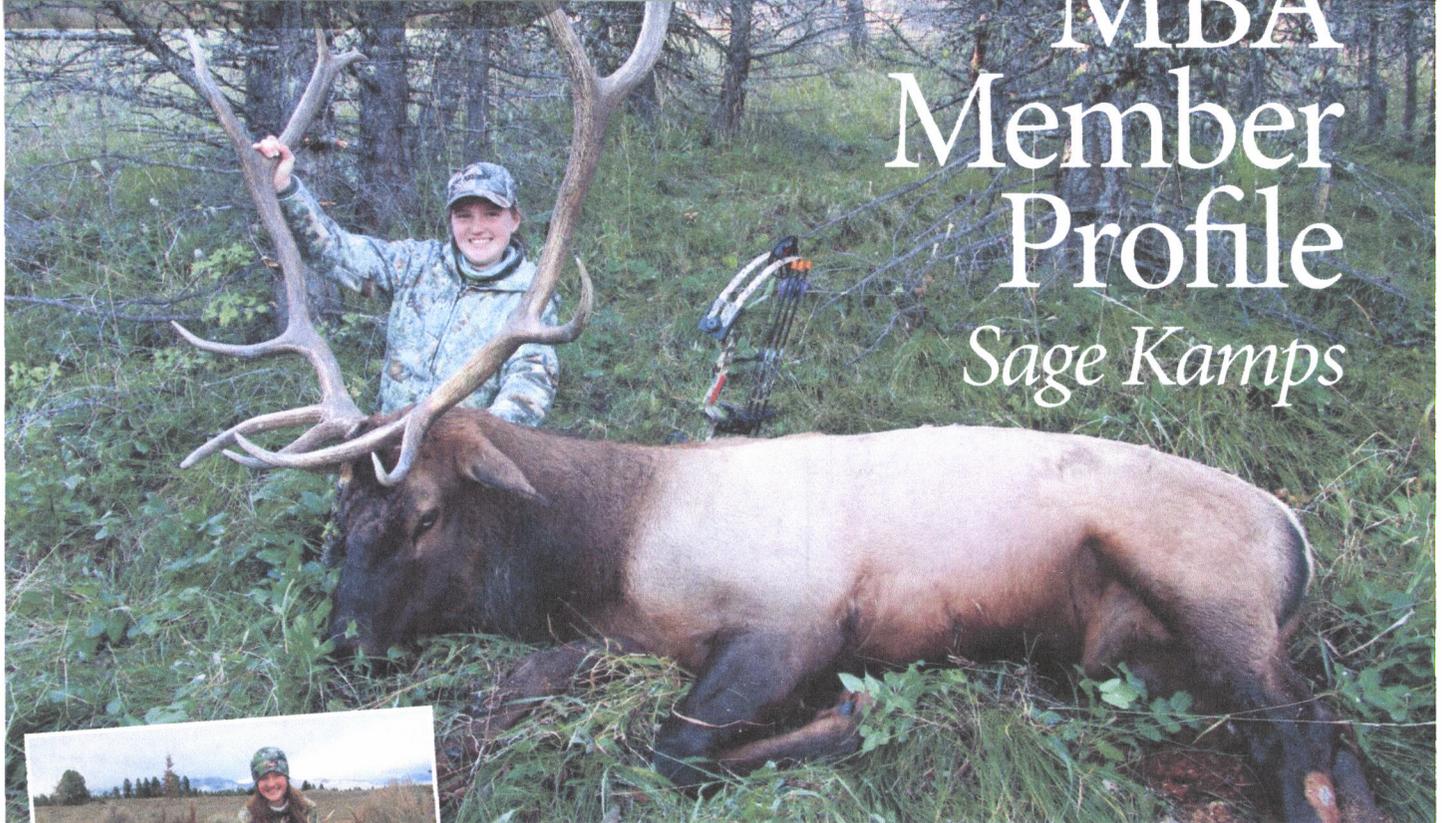


Sharon D. Eller
Director
Office for Civil Rights

cc: Commissioner, ADFG
Acting Chief, Division of Federal Assistance, FWS
FWS Civil Rights Coordinator

MBA MEMBER PROFILE

MBA Member Profile *Sage Kamps*



Sage is a 7th grader at Lincoln Public School, where she holds a 4.0 GPA and participates in volleyball, basketball and track. She also plays the saxophone in the school band and pep band. When not at school, she enjoys grooming and riding her grey mule named Pearl. She likes crafting, swimming, and taking pictures too. Coming from a bowhunting and archery family, Sage has grown up with the sport and has been shooting a bow for about six years. If you ask Sage who she is most like, she says her Dad. From the looks of it, there shouldn't be any doubt.

How long have you been bowhunting?

About 2 months

What do you enjoy most about bowhunting?

Harvesting the animal and being excited and super happy.

If one of your friends asked you about the MBA and what it does what would you tell them?

The MBA is an association that helps keep bowhunting seasons as long as possible. Also so we don't get over-shadowed by rifle hunters.

Why do you think the MBA is important?

If there were no MBA, we probably wouldn't have a very long or no bowhunting only season. Without the MBA I most likely wouldn't have gotten my elk.

As a young person who bowhunts what do you think is important for your age group to know about the future of bowhunting?

I think it's important to know that the future of bowhunting is in our hands and we have to try to keep the seasons open for as long as possible. We have to make sure that bowhunters of our generation and others in the future get a fair chance.

It's extremely rare for an 11 year old to harvest a Pope and Young size 6 point elk in their very first archery season, but that's just what MBA member Sage Kamps has done exactly one month before her 12th birthday. Then with more tags in her pocket, she focused her time outside of school on deer and harvested her first whitetail doe and first muley buck. And if you ask her, she's not done yet. What a way to start off a lifetime of bowhunting.

Her smiles say it all!

January 14, 2015

Dear Members of the MT Fish and Game Committee,

RE: HB 176 Allowing Crossbows in Archery Season

I am writing this letter to encourage you all to Oppose HB 176 brought forth by Representative Mandeville. There are other options out there that folks can utilize such as the Draw-Loc that will still allow them to legally hunt during the archery only season. All it takes is the "Permit to Modify Archery Equipment". If the person truly can not draw a normal hunting bow then there should not be a reason they can't get the permit.

I will start by giving you a little example and background about myself and my first hand experience.

Since the age of 10 when I first started shooting a bow it consumed a majority of my child hood and early adult years. Then on July 12, 2010 at the age of 33 that came to a sudden halt and I wasn't sure if I would ever get to do the one thing I loved more than anything again.

I was in an Industrial accident that left me with 2nd and 3rd degree burns on 67% of my body. My ear, arms, hands, belly, back and both legs were burned to some extent with the majority being my upper body. My arms were burned circumferential from my arm pits to my wrists. My upper torso was circumferential from my pecks to my waist band. My left arm was burned to the bone on the back of my left elbow and required them to do a muscle flap to reconnect the muscle to the bone so I would be able to bend my arm.



I spent 69 days at Harborview Medical in Seattle being treated. During my initial stay I went thru 11 skin graft surgeries. Upon my release on September 18, 2010 other issues had come to light due to the trauma of my injury. I had what they call Heterotrophic Ossification in both of my elbows. What this meant is I could not bend my elbows. This happens when an overload of calcium from the body gets between your joints and turns

the soft tissue into hard tissue. I left the hospital with a mere 20 degrees range of motion in my elbows, normal is 140 degrees?

After extensive Physical therapy 3 to 4 times a week and 4 more surgeries including 2 to remove the calcified bone in my elbows I was able to shoot a bow again, just shy of 2 years after my accident. In April 2012 the doctor allowed me to go ahead and attempt to shoot my bow again. Due to the massive muscle loss and the muscle flap on the back of my left elbow I did not have the strength to pull a normal bow.

After some research and personally talking with the maker of the Draw-Loc I decided to purchase one. 608 days after last shooting my bow finally the day came that I often thought never would. That summer I obtained a Permit to Modify Archery Equipment from the FWP to allow me to legally hunt during archery season. After that 1st season of hunting with the Draw-Loc I made the choice to do what ever it took to be able to shoot a normal bow with no Draw-Loc by the 2013 Archery Season. I went to my dealer and ordered a set of 40-50# limbs for my bow. When I first got the limbs installed it was all I could do to pull 40#'s.

At that time I was able to go see an Orthotics Dr. and had a special brace built that would lock my left arm in place and give it the extra support needed so that I could draw my bow normally and shoot it. I made myself a promise that by Archery Season of 2013 I would be shooting at or as close to 50#'s as I could. With extra therapy sessions to build the muscle flap up in my left arm and determination by August of 2013 I was shooting 47#'s with out a brace. That year I was able to harvest an Antelope Buck and a Whitetail Buck with my bow. Now almost 3 years later with the same determination I am back to shooting a 60# bow, I still obtain a Permit to Modify Archery Equipment Permit but do not need it.



I am telling you this so that hopefully it is clear that there are other options out there for folks. I am not trying to or wanting to rob folks of a right to hunt but instead inform you and them that there are other options out there.

The crossbow is not the only option nor is it needed to allow folks to bow hunt if they "TRULY" want to. Youth, Women, Seniors and Disabled do not need it. Some may claim they do because they can't draw enough weight to harvest an animal. Well I just

gave you my experience with a 47# bow to humanely harvest two animals. I also have 2 nephews and a sister in law that archery hunt and they all shoot less than 50#'s and they have taken Antelope, Deer, Elk and Black Bear successfully.

There are Seniors, Women and Youth all over the US and the World that hunt with low poundage bows and are successful taking even the largest game like Alaskan Moose and Grizzly Bear. Just take a look at some of them on Outdoor Television Shows. One of the best examples I can give you is a young boy by the name of Lincoln Tapp who hosts his own TV show named YoungWild. At the age of 10 he set out on a dream to harvest the Super Slam of North American big game with a bow. For those that may not know what that is it entails 30 different animals including the largest North American Mammals. It is compromised of 5 different Sheep Species, 5 Caribou Species, 5 Deer Species, 4 Bear Species, 3 Moose Species, 3 Elk Species, Mountain Lion, Mountain Goat Bison, Muskox and Antelope. At the age of 12 Lincoln has already harvested 11 of the 30 animals all with a Bow and Arrow and is the youngest person on record to harvest a Stone Sheep with a bow, per his website youngwild.tv.

Folks as you can see by my own personal experience and some of the examples I gave you the Crossbow is not a weapon that is needed to allow folks to archery hunt if they TRULY want to. It is more so a weapon that is not a traditional bow as defined by the Pope & Young Club or by the Montana Fish Wildlife and Parks Regulations. It would create more over pressured hunting areas to a sport that has already experienced exponential growth and over crowding on its own in the last 20 years.

Being able to successfully harvest an animal with a bow has nothing to do with how much weight you are able to pull but more of being comfortable with your weapon and waiting for the right shot opportunity. Saying a woman, youth or anyone needs a high poundage bow to archery hunt is like saying they need a 338 to rifle hunt. It just is not true as any of us that have bow hunted or rifle hunted know. Heck just 5 weeks after being released from the hospital in 2010 I was able to harvest a mature 5 pt whitetail buck with a 17 HMR rifle. Was it the perfect or ideal rifle, no absolutely not but it was what I was comfortable with 5 weeks removed from the Hospital and I waited for the right shot.

I encourage all of you to VOTE NO on HB 176

Jeremy Garness

Great Falls, MT