

HOUSE BILL NO. 344
INTRODUCED BY S. GALLUS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT ROADS ACCESSING STATE LANDS BE OPEN DURING HUNTING SEASON FOR LIMITED GAME ANIMAL RETRIEVAL PURPOSES, WITH SOME EXCEPTIONS; ALLOWING THE BOARD OF LAND COMMISSIONERS TO ADOPT RULES RESTRICTING THE HOURS THAT ROADS MAY BE CLOSED FOR GAME RETRIEVAL PURPOSES; AMENDING SECTION 77-1-804, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 77-1-804, MCA, is amended to read:

"77-1-804. Rules for recreational use of state lands -- penalty. (1) The board shall adopt rules authorizing and governing the recreational use of state lands allowed under 77-1-203. The board shall use local offices of the department to administer this program whenever practical.

(2) Rules adopted under this section must address the circumstances under which the board may close legally accessible state lands to recreational use. Action by the board may be taken upon its own initiative or upon petition by an individual, organization, corporation, or governmental agency. Closures may be of an emergency, seasonal, temporary, or permanent nature. State lands may be closed by the board only after public notice and opportunity for public hearing in the area of the proposed closure, except when the department is acting under rules adopted by the board for an emergency closure. Closed lands must be posted by the lessee at customary access points, with signs provided or authorized by the department.

(3) Closure rules adopted pursuant to subsection (2) may categorically close state lands whose use or status is incompatible with recreational use. Categorical or blanket closures may be imposed on state lands ~~due~~ to because of:

- (a) cabin site and homesite leases and licenses;
- (b) the seasonal presence of growing crops; and
- (c) active military, commercial, or mineral leases.

(4) The board shall adopt rules that provide an opportunity for any individual, organization, or governmental agency to petition the board for purposes of excluding a specified portion of state land from a categorical closure that has been imposed under subsection (3).

(5) Under rules adopted by the board, state lands may be closed on a case-by-case basis for certain reasons, including but not limited to:

(a) damage attributable to recreational use that diminishes the income-generating potential of the state lands;

(b) damage to surface improvements of the lessee;

(c) the presence of threatened, endangered, or sensitive species or plant communities;

(d) the presence of unique or special natural or cultural features;

(e) wildlife protection;

(f) noxious weed control; or

(g) the presence of buildings, structures, and facilities.

(6) (a) Rules adopted under this section may impose restrictions upon general recreational activities, including the discharge of weapons, camping, open fires, vehicle use, and any use that will interfere with the presence of livestock. The board may also by rule restrict access on state lands in accordance with a block management program administered by the department of fish, wildlife, and parks.

(b) Motorized vehicle use by recreationists on state lands is restricted to federal, state, and dedicated county roads and to those roads designated by the department to be open to motorized vehicle use.

(c) When state land is open to public hunting, any federal, state, dedicated county, or department-designated road accessing the state land is considered open to limited motorized vehicle use to allow the retrieval of lawfully taken game animals from the state land. The board may by rule restrict the hours that the roads are closed for game retrieval purposes. This subsection (6)(c) does not apply to:

(i) state lands to which road access has been restricted in accordance with a block management program or other contract; or

(ii) roads that have been closed pursuant to rule of the board.

(7) The board shall adopt rules providing for the issuance of a recreational special use license. Commercial or concentrated recreational use, as defined in 77-1-101, is prohibited on state lands unless it occurs under the provisions of a recreational special use license. The board may also adopt rules requiring a recreational special use license for recreational use that is not commercial, concentrated, or within the definition of general recreational use.

(8) For a violation of rules adopted by the board pursuant to this section, the department may assess a civil penalty of up to \$1,000 for each day of violation. The board shall adopt rules providing for notice and opportunity for hearing in accordance with Title 2, chapter 4, part 6. Civil penalties collected under this subsection

must be deposited as provided in 87-1-601(7)."

NEW SECTION. **Section 2. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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