

HOUSE BILL NO. 485
INTRODUCED BY B. RYAN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE USE OF APPROVED MUZZLELOADER FIREARMS FOR HUNTING CERTAIN GAME ANIMALS; CREATING A CLASS A-9 SPECIAL MUZZLELOADER LICENSE AND SETTING THE FEE FOR THE LICENSE; PROVIDING THAT THE FISH, WILDLIFE, AND PARKS COMMISSION MAY DECLARE AREAS OPEN TO HUNTING BY MUZZLELOADER LICENSE HOLDERS AND DESIGNATE TIMES, AREAS, AND SPECIES WHEN ONLY MUZZLELOADERS MAY BE USED IN THOSE AREAS; REQUIRING THE COMMISSION TO ADOPT RULES REGARDING APPROVED AND PROHIBITED MUZZLELOADER EQUIPMENT; AMENDING SECTIONS 87-1-301 AND 87-1-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Class A-9--special muzzleloader license.** A holder of a valid hunting license for which a special muzzleloader season is set by the department may receive, upon payment of an additional fee of \$8, a Class A-9 license that authorizes the holder to hunt with muzzleloader the game animals authorized by the licenses held and to possess the carcass of the game animals during seasons and in areas designated by the department.

NEW SECTION. **Section 2. Restrictions on use of muzzleloaders.** A person may not, while hunting, use muzzleloader equipment that has been prohibited by commission rule.

Section 3. Section 87-1-301, MCA, is amended to read:

"87-1-301. (Temporary) Powers of commission. (1) The commission:

(a) shall set the policies for the protection, preservation, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water;

(f) shall review and approve the budget of the department prior to its transmittal to the budget office; and

(g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000.

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

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

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

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

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

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

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders for the biologically sound management of big game populations of deer and elk and to control the impacts of those deer and elk populations on uses of private property.

(5) The commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

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

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

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

(i) limit the number of nonresident mountain lion hunters in designated hunting districts in the administrative region designated by the department as region 1; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts in the administrative region designated by the department as region 1, which may include limiting the number of nonresident hound handler permits.

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

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

(7) (a) The commission shall adopt rules regarding the use and type of muzzleloader equipment that may be employed for hunting purposes. Rules must include but are not limited to:

(i) restrictions on muzzleloading rifle barrel length, barrel bore diameter and projectile caliber, sight design, and charge of black powder or its equivalent appropriate for hunting game animals;

(ii) restrictions on muzzleloading specialty single-shot handgun barrel length, barrel bore diameter, sight design, and projectile weight appropriate for hunting game animals;

(iii) prohibited muzzleloader equipment; and

(iv) any other rules the commission considers appropriate to ensure public safety and game management involving the use of muzzleloaders.

(b) As used in 87-1-304, [sections 1 and 2], and this subsection (7), "muzzleloader" means a firearm that:

(i) is loaded from the muzzle;

(ii) uses black powder or a manufacturer-recommended black powder substitute;

(iii) employs a wheellock, matchlock, flintlock, or percussion ignition using original style percussion caps that fit on the nipple and are exposed to the elements; and

(iv) employs open sights, peep sights, or other approved open sight design. (Terminates April 30, 2004--sec. 3, Ch. 575, L. 2001.)

87-1-301. (Effective May 1, 2004) Powers of commission. (1) The commission:

(a) shall set the policies for the protection, preservation, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department as provided by law;

- (b) shall establish the hunting, fishing, and trapping rules of the department;
- (c) shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;
- (d) must have the power within the department to establish wildlife refuges and bird and game preserves;
- (e) shall approve all acquisitions or transfers by the department of interests in land or water;
- (f) shall review and approve the budget of the department prior to its transmittal to the budget office; and
- (g) shall review and approve construction projects whose estimated cost is more than \$1,000 but less than \$5,000.

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

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

- (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:
- (i) separate deer licenses from nonresident elk combination licenses;
 - (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;
 - (iii) condition the use of the deer licenses; and
 - (iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders for the biologically sound management of big game populations of deer and elk and to control the impacts of those deer and elk populations on uses of private property.

(5) The commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

- (a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and
- (b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission.

(6) (a) The commission shall adopt rules regarding the use and type of muzzleloader equipment that may be employed for hunting purposes. Rules must include but are not limited to:

(i) restrictions on muzzleloading rifle barrel length, barrel bore diameter and projectile caliber, sight design, and charge of black powder or its equivalent appropriate for hunting game animals;

(ii) restrictions on muzzleloading specialty single-shot handgun barrel length, barrel bore diameter, sight design, and projectile weight appropriate for hunting game animals;

(iii) prohibited muzzleloader equipment; and

(iv) any other rules the commission considers appropriate to ensure public safety and game management involving the use of muzzleloaders.

(b) As used in 87-1-304, [sections 1 and 2], and this subsection (6), "muzzleloader" means a firearm that:

(i) is loaded from the muzzle;

(ii) uses black powder or a manufacturer-recommended black powder substitute;

(iii) employs a wheellock, matchlock, flintlock, or percussion ignition using original style percussion caps that fit on the nipple and are exposed to the elements; and

(iv) employs open sights, peep sights, or other approved open sight design."

Section 4. Section 87-1-304, MCA, is amended to read:

"87-1-304. Fixing of seasons and bag and possession limits. (1) (a) The commission may:

(i) fix seasons, bag limits, possession limits, and season limits;

(ii) open or close or shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing animal as defined by 87-2-101; and

(iii) declare areas open to the hunting of deer, antelope, elk, moose, sheep, and goat by bow and arrow or muzzleloader permitholders and designate times when only bows and arrows or muzzleloaders may be used to hunt deer, antelope, elk, moose, sheep, and goat in those areas.

(b) The commission may restrict areas and species to hunting with only specified hunting arms, including bow and arrow or muzzleloader, for the reasons of safety or of providing diverse hunting opportunities and experiences.

(c) The commission may declare areas open to special license holders only and issue special licenses in a limited number when the commission determines, after proper investigation, that a special season is necessary to ensure the maintenance of an adequate supply of game birds, fish, or animals or fur-bearing animals. The commission may declare a special season and issue special licenses when game birds, animals,

or fur-bearing animals are causing damage to private property or when a written complaint of damage has been filed with the commission by the owner of that property. In determining to whom special licenses must be issued, the commission may, when more applications are received than the number of animals to be killed, award permits to those chosen under a drawing system. The procedures used for awarding the permits from the drawing system must be determined by the commission.

(2) The commission may adopt rules governing the use of livestock and vehicles by archers during special archery seasons.

(3) The commission may divide the state into fish and game districts and create fish, game, or fur-bearing animal districts throughout the state. The commission may declare a closed season for hunting, fishing, or trapping in any of those districts and later may open those districts to hunting, fishing, or trapping.

(4) The commission may declare a closed season on any species of game, fish, game birds, or fur-bearing animals threatened with undue depletion from any cause. The commission may close any area or district of any stream, public lake, or public water or portions thereof to hunting, trapping, or fishing for limited periods of time when necessary to protect a recently stocked area, district, water, spawning waters, spawn-taking waters, or spawn-taking stations or to prevent the undue depletion of fish, game, fur-bearing animals, game birds, and nongame birds. The commission may open the area or district upon consent of a majority of the property owners affected.

(5) The commission may authorize the director to open or close any special season upon 12 hours' notice to the public.

(6) The commission may declare certain fishing waters closed to fishing except by persons under 15 years of age. The purpose of this subsection is to provide suitable fishing waters for the exclusive use and enjoyment of juveniles under 15 years of age, at times and in areas the commission in its discretion considers advisable and consistent with its policies relating to fishing."

NEW SECTION. Section 5. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 87, chapter 2, part 7, and the provisions of Title 87, chapter 2, part 7, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 87, chapter 3, part 1, and the provisions of Title 87, chapter 3, part 1, apply to [section 2].

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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