

## HOUSE BILL NO. 673

INTRODUCED BY PETERSON, BRUEGGEMAN, DEVLIN, HURWITZ, LAKE, MALCOLM, A. OLSON, RICE,  
STEINBEISSER, WITT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE FISH, WILDLIFE, AND PARKS COMMISSION SHALL REVIEW AND APPROVE OR DISAPPROVE, PRIOR TO FILING, ANY OBJECTION PROPOSED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO ANY EXISTING WATER RIGHT OR ANY PERMIT OR CHANGE AUTHORIZATION; REQUIRING THE ~~COMMISSION~~ DEPARTMENT TO HOLD A PUBLIC MEETING IN THE WATER BASIN AFFECTED BY THE PROPOSED OBJECTION PRIOR TO REVIEW AND APPROVAL OR DISAPPROVAL OF THE OBJECTION; AND AMENDING SECTION 87-1-301, MCA."

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

**Section 1.** 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-;

(h) shall review and approve or disapprove, prior to filing, any objection proposed by the department:

(i) under Title 85, chapter 2, part 2, to any existing water right, as defined in 85-2-102, being adjudicated by the Montana water court; or

(ii) to any permit or change authorization under Title 85, chapter 2, ~~part 3~~ PARTS 3 AND 4.

(2) Prior to review of any objections proposed by the department under subsection (1)(h), the ~~commission~~ DEPARTMENT shall hold a public meeting within the water basin affected by the proposed objections and receive public comment. THE COMMISSION SHALL CONSIDER THE PUBLIC COMMENT prior to approving or disapproving the filing of the department's objection.

~~(2)~~(3) 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)~~(4) 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)~~(5) (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)~~ (5)(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)~~(6) 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)~~ (6)(b), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission.

~~(6)~~(7) (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.

(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;

(h) shall review and approve or disapprove, prior to filing, any objection proposed by the department:

(i) under Title 85, chapter 2, part 2, to any existing water right, as defined in 85-2-102, being adjudicated by the Montana water court; or

(ii) to any permit or change authorization under Title 85, chapter 2, ~~part 3~~ PARTS 3 AND 4.

(2) Prior to review of any objections proposed by the department under subsection (1)(h), the ~~commission~~ DEPARTMENT shall hold a public meeting within the water basin affected by the proposed objections and receive public comment. THE COMMISSION SHALL CONSIDER THE PUBLIC COMMENT prior to approving or disapproving the filing of the department's objection.

~~(2)~~(3) 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)~~(4) 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.

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- (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)~~ (5)(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)~~(6) 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)~~ (6)(b), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission."

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