

HOUSE BILL NO. 71
INTRODUCED BY G. MACLAREN
BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE SUCCESSFUL COMPLETION OF A TRAPPER SAFETY AND EDUCATION COURSE AS A PREREQUISITE TO THE ISSUANCE OF A TRAPPING LICENSE TO A MONTANA RESIDENT 12 YEARS OF AGE OR OLDER; PROVIDING EXCEPTIONS; AMENDING SECTIONS 87-2-102 AND 87-2-105, 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 15-30-113, 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 or, if applicable, a trapper safety course approved by the department, as provided in 87-2-105, or a certificate verifying the successful completion of a hunter safety course or, if applicable, a trapper 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 of subsections (4)(b) through (4)(e). The designation of Montana by a member of the regular armed forces as a "home of record" or "home of residence" in that member's armed forces records does not determine the member's residency for purposes of this section.

(b) A member of the regular armed forces of the United States who is otherwise considered a Montana

resident pursuant to subsection (1)(a)(i) does not forfeit that status as a resident because the member, by virtue of that membership, also possesses, has applied for, or has received resident hunting, fishing, or trapping privileges in another state or country.

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

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

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

- (a) the person's principal or primary home or place of abode is in Montana;
- (b) the person files Montana state income tax returns as a resident if required to file;
- (c) the person licenses and titles in Montana as required by law any vehicles that the person owns and operates in Montana;
- (d) except as provided in subsection (1)(b), the person does not possess or apply for any resident hunting, fishing, or trapping licenses from another state or country or exercise resident hunting, fishing, or trapping privileges in another state or country; and
- (e) if the person registers to vote, the person registers only in Montana.

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

(6) An enrollee of a job corps camp located within the state of Montana is, after a period of 30 days within Montana, considered a resident for the purpose of making application for a fishing license as long as the person remains an enrollee in a Montana camp.

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

- (a) The person's principal employment is within this state and the income from this employment is the

principal source of the applicant's family income.

(b) The person is required to pay and has paid Montana income tax in a timely manner and proper amount.

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

(d) The person's state of residency has laws substantially similar to this subsection (7).

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

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

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

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

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

Section 2. Section 87-2-105, MCA, is amended to read:

"87-2-105. Safety instruction required. (1) Except for a youth who qualifies for a license pursuant to 87-2-805(4), a hunting license may not be issued to a person who is born after January 1, 1985, unless the person authorized to issue the license determines proof of completion of:

(a) a Montana hunter safety and education course established in subsection ~~(4)~~ (5) or ~~(6)~~ (8); or

(b) a hunter safety course in any other state or province.

(2) A hunting license may not be issued to a member of the regular armed forces of the United States or to a member of the armed forces of a foreign government attached to the armed forces of the United States who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to a member's dependents, as defined in 15-30-113, who reside in the member's Montana household, unless the person authorized to issue the license determines proof of completion of a hunter safety course approved by the department or a hunter safety course in any state or province.

(3) A bow and arrow license may not be issued to a resident or nonresident unless the person authorized to issue the license receives an archery license issued for a prior hunting season or determines proof of

completion of a bowhunter education course from the national bowhunter education foundation or any other bowhunter education program approved by the department. Neither the department nor the license agent is required to provide records of past archery license purchases. As part of the department's bow and arrow licensing procedures, the department shall notify the public regarding bowhunter education requirements.

(4) (a) A Class C trapper's license, as provided for in 87-2-601, may not be issued unless the person authorized to issue the license:

(i) receives a Class C trapper's license issued for a prior trapping season;

(ii) determines proof of completion of a trapper safety and education course approved by the department;

or

(iii) validates the Class C license so that the holder may hunt only bobcat, wolverine, and Canadian lynx as authorized under 87-2-601.

(b) Neither the department nor the license agent is required to provide records of past trapping license purchases.

(c) As part of the department's trapping licensing procedures, the department shall notify the public regarding trapper safety and education requirements.

~~(4)~~(5) The department shall provide for a hunter safety and education course that includes instruction in the safe handling of firearms and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of hunter safety and education. The department may designate as an instructor any person it finds to be competent to give instructions in hunter safety and education, including the handling of firearms. A person appointed shall give the course of instruction and shall issue a certificate of completion from Montana's hunter safety and education course to a person successfully completing the course.

~~(5)~~(6) The department shall provide for a course of instruction from the national bowhunter education foundation or any other bowhunter education program approved by the department and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of safety in the handling of bow hunting tackle. The department may designate as an instructor any person it finds to be competent to give bowhunter education instruction. A person appointed shall give the course of instruction and shall issue a certificate of completion to any person successfully completing the course.

(7) The department shall provide for a course of trapper safety and education from any state or national education program approved by the department and for that purpose may cooperate with a nonprofit state trapping association having as one of its objectives the promotion of safe and responsible trapping. The department may designate as an instructor any person it finds to be competent to give trapper safety and

education instruction. A person appointed shall give the course of instruction and shall issue a certificate of completion to any person successfully completing the course.

~~(6)~~(8) The department may develop an adult hunter safety and education course.

~~(7)~~(9) The department may adopt rules regarding how a person authorized to issue a license determines proof of completion of a required course."

NEW SECTION. **Section 3. Effective date.** [This act] is effective March 1, 2008.

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