

## HOUSE BILL NO. 193

INTRODUCED BY B. NOONEY, ANKNEY, AUGARE, BECK, BLASDEL, BOGGIO, CORDIER, DUTTON, EBINGER, ERICKSON, FRENCH, HANDS, HILBERT, HOLLENBAUGH, INGRAHAM, JORE, KERNS, KOTTEL, LANGE, MCCHESENEY, O'HARA, PARKER, PHILLIPS, POMNICHOWSKI, REINHART, SANDS, THOMAS, VAN DYK, VINCENT, WILMER, WITTE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A PERSON WHO IS CERTIFIED AS DISABLED AND CARRIES A PERMIT TO HUNT FROM A VEHICLE THAT IS ISSUED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO HUNT FROM A LICENSED AN OFF-HIGHWAY VEHICLE OR SNOWMOBILE IN AREAS WHERE HUNTING AND MOTORIZED USE ARE PERMITTED, AS LONG AS THE OFF-HIGHWAY VEHICLE OR SNOWMOBILE IS PROPERLY MARKED; AMENDING SECTIONS 87-2-803 AND 87-3-125, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

**Section 1.** Section 87-2-803, MCA, is amended to read:

**"87-2-803. Persons with disabilities -- service members -- definitions.** (1) Persons with disabilities are entitled to fish and to hunt game birds, not including turkeys, with only a conservation license if they are residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule. A person who has purchased a conservation license and a resident fishing license or game bird license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the fishing license or game bird license previously purchased for that license year. A person who is certified as disabled pursuant to subsection (3) and who was issued a permit to hunt from a vehicle for license year 2000 or a subsequent license year is automatically entitled to a permit to hunt from a vehicle for subsequent license years if the criteria for obtaining a permit does not change.

(2) A resident of Montana who is certified as disabled by the department and who is not residing in an institution may purchase a Class A-3 deer A tag for \$6.50 and a Class A-5 elk tag for \$8. A person who has purchased a conservation license and a resident deer license or resident elk license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the deer license or elk license previously purchased and reissuance of the license for that license year at the rate established in this subsection.

(3) A person may be certified as disabled by the department and issued a permit to hunt from a vehicle,

on a form prescribed by the department, if the person establishes one or more of the disabilities pursuant to subsection (9). The department shall adopt rules to establish a voluntary board or boards of review to resolve any disputes over whether a person meets the criteria established in subsection (9). Each board must have at least one Montana-licensed physician as a member.

(4) (a) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection (4) as a permitholder, may hunt by shooting a firearm from:

(i) the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-101, except a state or federal highway, ~~or may hunt by shooting a firearm from;~~

(ii) within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public highway, where hunting is permitted; or

(iii) a licensed AN off-highway vehicle OR SNOWMOBILE, as defined in 61-1-101, in any area where hunting is permitted and that is open to motorized use, unless otherwise prohibited by law, as long as the off-highway vehicle OR SNOWMOBILE is marked as described in subsection (4)(d) of this section.

(b) This subsection (4) does not allow a permitholder to shoot across the roadway of any public highway or to hunt on private property without permission of the landowner.

(c) A permitholder must have a companion to assist in immediately dressing any killed game animal. The companion may also assist the permitholder by hunting a game animal that has been wounded by the permitholder when the permitholder is unable to pursue and kill the wounded game animal.

(d) Any vehicle from which a permitholder is hunting must be conspicuously marked with an orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle, or as prescribed by the department.

(5) A veteran who meets the qualifications in subsection (9) as a result of a combat-connected injury may apply at a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A tag, a Class B-8 deer B tag, and a special antelope license at one-half the license fee. Fifty licenses of each license type must be made available annually. Licenses issued to veterans under this part do not count against the number of special antelope licenses reserved for people with permanent disabilities, as provided in 87-2-706.

(6) (a) A resident of Montana who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by department

rule. An applicant for a license under this subsection need not obtain a wildlife conservation license as a prerequisite to licensure.

(b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued regular resident deer and elk licenses, in the manner provided in subsection (2) of this section, and must be accompanied by a companion, as provided in subsection (4)(c) of this section.

(7) The department shall adopt rules to establish the qualifications that a person must meet to be a companion and may adopt rules to establish when a companion can be a designated shooter for a disabled person.

(8) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers to a person experiencing a condition medically determined to be permanent and substantial and resulting in significant impairment of the person's functional ability.

(9) A person is entitled to a permit to hunt from a vehicle if the person:

(a) is certified by a licensed physician to be dependent on an oxygen device or dependent on a wheelchair, crutch, or cane for mobility;

(b) is an amputee above the wrist or ankle; or

(c) is certified by a licensed physician to be unable to walk, unassisted, 600 yards over rough and broken ground while carrying 15 pounds within 1 hour and to be unable to handle and maneuver up to 25 pounds.

(10) Certification by a licensed physician under subsection (9) must be on a form provided by the department.

(11) A person who disagrees with a determination of eligibility for a permit to hunt from a vehicle may request a review by a voluntary board of review pursuant to subsection (3).

(12) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a contingency operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 6 months outside of the state, upon request and upon presentation of the documentation described in subsection (12)(b), must be issued a free resident wildlife conservation license or a Class AAA resident combination sports license, which may not include a bear license, for \$29, plus the resident hunting access enhancement fee provided for in 87-2-202(3)(c), in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in the license year after the member's election. A member who participated in a contingency operation between September 11, 2001, and February 28, 2006, that required the member to serve at least 6 months outside of the state may make an election in 2006 or 2007 and be entitled to a free

resident wildlife conservation license or a \$25 Class AAA resident combination sports license in the year of election and the license year after the member's election.

(b) To be eligible for the free resident wildlife conservation license or reduced-rate Class AAA resident combination sports license provided for in subsection (12)(a), an applicant shall, in addition to the written application and proof of residency required in 87-2-202(1), provide to any regional department office or to the department headquarters in Helena, by mail or in person, the member's DD form 214 verifying the member's release or discharge from active duty. The applicant is responsible for providing documentation showing that the applicant participated in a contingency operation as provided in 10 U.S.C. 101(a)(13)."

**Section 2.** Section 87-3-125, MCA, is amended to read:

**"87-3-125. Restrictions on use of motor vehicles while hunting.** (1) ~~No~~ Except as provided in 87-2-803(4)(a)(iii), a person, while hunting game animals or game birds, may not use a motor-driven vehicle other than on an established road or trail unless ~~he~~ the person has reduced a big game animal to possession and cannot easily retrieve the big game animal. In that case a motor-driven vehicle may be used to retrieve the big game animal, except in areas where more restrictive regulations apply or where the landowner has not granted ~~such~~ permission. After the retrieval, the motor-driven vehicle is to be returned to an established road or trail by the shortest possible route. For purposes of safety and allowing normal travel, a motor-driven vehicle may be parked on the roadside or directly adjacent to a road or trail.

(2) ~~No~~ A person, while hunting game animals or game birds, may not drive or attempt to drive, run or attempt to run, molest or attempt to molest, flush or attempt to flush, or harass or attempt to harass ~~any~~ a game animal or game bird with the use or aid of any motor-driven vehicle.

(3) ~~No~~ A person, while hunting game animals or game birds, may not drive through any retired cropland, brush area, slough area, timber area, open prairie, or unharvested or harvested cropland, except upon an established road or trail, unless written permission has been given by the landowner and is in possession of the hunter.

(4) ~~It is unlawful for a~~ A person to may not use a self-propelled vehicle to intentionally concentrate, drive, rally, stir up, or harass wildlife, except predators of this state, ~~providing that this.~~ This subsection does not apply to landowners and their authorized agents engaged in the immediate protection of that landowner's property.

(5) The restrictions in subsections (1) through (3) on motor-driven vehicle use off an established road or trail apply only to hunting on state or private land, not to hunting on federal land unless the federal agency specifically requests or approves state enforcement."

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

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