

HOUSE BILL NO. 476
INTRODUCED BY K. VAN DYK

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A STATUTORY WAITING PERIOD DURING WHICH PERSONS WHO RECEIVE CERTAIN ELK PERMITS MAY NOT RECEIVE ANOTHER ELK PERMIT OF THE SAME KIND; PROVIDING EXCEPTIONS FOR A LICENSE ISSUED PURSUANT TO THE ANNUAL LOTTERY AND FOR ELK PERMITS ISSUED FOR ARCHERY ONLY; AMENDING SECTIONS 87-1-271, 87-2-513, 87-2-702, 87-2-704, AND 87-2-705, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Section 87-1-271, MCA, is amended to read:

"87-1-271. Annual lottery of hunting licenses -- proceeds dedicated to hunting access enhancement. (1) The commission may issue through a lottery one license each year for each of the following:

- (a) deer;
- (b) elk;
- (c) shiras moose;
- (d) mountain sheep; and
- (e) mountain goat.

(2) The restriction in 87-2-702(4) that a person who receives a moose, mountain goat, elk, or mountain sheep special license is not eligible to receive another license for that species for the next 7 years does not apply to a person who receives a license through a lottery conducted pursuant to this section.

(3) The commission shall establish rules regarding:

- (a) the conduct of the lottery authorized in this section;
- (b) the use of licenses issued through the lottery; and
- (c) the price of lottery tickets.

(4) All proceeds from a lottery conducted pursuant to this section must be used by the department for hunting access enhancement programs and law enforcement."

Section 2. Section 87-2-513, MCA, is amended to read:

"87-2-513. Either-sex or antlerless elk permit for landowner who offers free public elk hunting --

terms, conditions, and issuance of permit. (1) In addition to any elk permits offered for sale, the department may, for wildlife management purposes, issue an either-sex or antlerless elk permit at no cost to a landowner who provides free public elk hunting on the landowner's property and who otherwise meets the conditions of this section. The department may issue elk permits to the public, at regular cost and in the number authorized in subsection (3), for hunting on the property of a landowner who opens property for public elk hunting for wildlife management purposes pursuant to this section.

(2) To be eligible for a permit pursuant to this section, a landowner:

(a) must own occupied elk habitat that is large enough, in the department's determination, to accommodate successful public hunting;

(b) may not have been issued a Class A-7 landowner license pursuant to 87-2-501(3) during the license year;

(c) must have entered into a contractual public elk hunting access agreement with the department that allows public access for free public elk hunting on the landowner's property throughout the regular hunting season and that includes public hunting by permit holders using permits that are valid for the hunting district;

(d) may not receive cash payments under 87-1-267; and

(e) may not charge a fee or authorize a person to charge a fee for hunting access on the landowner's property.

(3) Subject to the management provisions provided in 87-1-321 through 87-1-325, not more than 20% of permits issued pursuant to this section may be issued at no cost to a landowner, an immediate family member of a landowner, or an authorized full-time employee of a landowner. The remaining permits must be issued to the public on a first-come, first-served basis.

(4) A permit issued pursuant to this section:

(a) is nontransferable and may not be sold; ~~and~~

(b) may ~~only~~ be used only for hunting conducted on property that is opened to public access pursuant to this section; ~~and~~

(c) is subject to the provisions of 87-2-702(4)(c).

(5) The department may prioritize distribution of the permits according to the areas the department determines are most in need of management.

(6) If the department determines that a landowner or landowner's designee has not abided by the restrictions and conditions of a permit issued pursuant to this section, that landowner or landowner's designee is not eligible to receive another permit pursuant to this section during any subsequent license year.

(7) The department, through the commission, may authorize the issuance of permits under this section to a landowner who enters into a contractual public elk hunting access agreement with the department that defines the areas that will be open to public elk hunting, the number of public elk hunting days that will be allowed on the property, and other factors that the department and the landowner consider necessary for the proper management of elk on the landowner's property."

Section 3. Section 87-2-702, MCA, is amended to read:

"87-2-702. Restrictions on special licenses. (1) A person who has killed or taken any game animal, except a deer, an elk, or an antelope, during the current license year is not permitted to receive a special license under this chapter to hunt or kill a second game animal of the same species.

(2) The commission may require applicants for special permits authorized by this chapter to obtain a valid big game license for that species for the current year prior to applying for a special permit.

(3) A person may take only one grizzly bear in Montana with a license authorized by 87-2-701.

(4) (a) Except as provided in 87-1-271(2), a person who receives a moose, mountain goat, or limited mountain sheep license, with the exception of an adult ewe license, as authorized by 87-2-701, is not eligible to receive another special license for that species for the next 7 years. For the purposes of this subsection (4)(a), "limited mountain sheep license" means a license that is valid for an area in which the number of licenses issued is restricted.

(b) Except as provided in 87-1-271(2), a person who takes a mountain sheep using an unlimited mountain sheep license, with the exception of a mountain sheep taken pursuant to an adult ewe license, as authorized by 87-2-701, is not eligible to receive another special license for that species for the next 7 years. For the purposes of this subsection (4)(b), "unlimited mountain sheep license" means a license that is valid for an area in which the number of licenses issued is not restricted.

(c) (i) Except as provided in 87-1-271(2) and subsection (4)(c)(ii) of this section, a person who receives a special elk permit issued pursuant to 87-2-704(1)(b) or (3) or 87-2-705(2) or (3) or a landowner, an immediate family member of a landowner, an authorized full-time employee of a landowner, or a member of the public who receives an either-sex elk permit issued pursuant to 87-2-513 is not eligible to receive another special elk permit or either-sex elk permit, as applicable, for the next 7 years.

(ii) The 7-year ineligibility provision in subsection (4)(c)(i) does not apply to a person who designates on an elk permit application that all hunting pursuant to the permit will be conducted with bow and arrow only. In order to monitor applicants' eligibility, the department shall provide a method for marking elk permit applications

to allow an applicant to make the archery-only designation and shall appropriately mark all permits issued."

Section 4. Section 87-2-704, MCA, is amended to read:

"87-2-704. Regulation of special elk permits. (1) The department may:

(a) provide for the refund of resident elk tag license fees to persons applying for special elk permits in hunting districts where there is no general elk hunting and set time limits and describe area restrictions; and

(b) designate special elk permit areas where priority will be given to applicants who have not held special elk permits for a period of 7 years ~~to be determined by the department.~~

(2) The department shall provide that a person who is issued a special elk permit to hunt antlerless elk during the regular hunting season is:

(a) limited to the hunting and taking of only an antlerless elk in the hunting district or portion of a hunting district where the permit is valid; and

(b) entitled to the general elk hunting privileges for a holder of a Class A-5 license in all other hunting districts.

(3) ~~The commission may establish a waiting period during which a person who has received a special elk permit that is valid for an antlered bull may not receive another special elk permit that is valid for an antlered bull is 7 years. The commission may specify which special elk permits are subject to the waiting period, by hunting district or portion of a hunting district.~~

(4) The fee for a special elk permit is \$4.

(5) The department may adopt rules necessary to implement this section."

Section 5. Section 87-2-705, MCA, is amended to read:

"87-2-705. Drawing for special elk permits. (1) ~~In the event~~ If the number of valid applications for special elk permits for a hunting district exceeds the quota set by the department for the district, these permits ~~shall~~ must be awarded by a drawing. The department shall provide for those persons making valid application for special elk permits a method of selecting first, second, and third choice hunting districts for any drawing held pursuant to this section.

(2) Subject to the limitation of 87-2-702(4)(c) and subsection (4) of this section, a person who owns or is contracting to purchase 640 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where elk permits are awarded under this section ~~shall~~ must be issued, upon application, a permit to hunt elk in the hunting district under the terms and conditions of the permit.

(3) An applicant who receives a permit under subsection (2) may designate that the permit be issued to an immediate family member or a person employed by the landowner, unless the provisions of 87-2-702(4)(c) apply to the designee. A corporation owning qualifying land under subsection (2) may designate one of its shareholders to receive the permit, unless the provisions of 87-2-702(4)(c) apply to the designee.

(4) Fifteen percent of the special elk permits available each year under this section in a hunting district must be available to landowners under subsection (2).

(5) The department may promulgate the rules necessary to implement this section."

NEW SECTION. **Section 6. Effective date.** [This act] is effective March 1, 2008.

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