

HOUSE BILL NO. 770

INTRODUCED BY POMNICHOWSKI, COHENOUR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS RELATING TO CERTIFICATION OF A PERSON AS DISABLED FOR PURPOSES OF HUNTING FROM A VEHICLE; PROVIDING THAT THE BOARD OF MEDICAL EXAMINERS RATHER THAN A VOLUNTARY BOARD REVIEW DISABILITY CERTIFICATION DISAGREEMENTS; PROVIDING THAT WHEN A PERSON OR THE DEPARTMENT DISAGREES WITH A DETERMINATION OF ELIGIBILITY, A REQUEST MAY BE MADE FOR A REVIEW BY THE BOARD OF MEDICAL EXAMINERS; AMENDING SECTIONS 37-3-203 AND 87-2-803, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties. The board may:

(1) adopt rules necessary or proper to carry out parts 1 through 3 of this chapter. The rules must be fair, impartial, and nondiscriminatory.

(2) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(3) aid the county attorneys of this state in the enforcement of parts 1 through 3 of this chapter and the prosecution of persons, firms, associations, or corporations charged with violations of parts 1 through 3 of this chapter;

(4) establish a program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental or chronic physical illness; ~~and~~

(5) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle as provided in 87-2-803(11); and

~~(5)(6)~~ fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary."

Section 2. 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 person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection as a permitholder, may hunt by shooting a firearm from 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 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. This subsection 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. 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. 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), and must be accompanied by a companion, as provided in subsection (4).

(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~~ The department or a person who disagrees with a determination of disability or eligibility for a permit to hunt from a vehicle may request a review by a voluntary board of review pursuant to subsection (3) the board of medical examiners pursuant to 37-3-203.

(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)."

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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