

HOUSE BILL NO. 311

INTRODUCED BY K. WHITE, Z. BROWN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO NONRESIDENT USE OF HOUNDS
5 TO AID IN THE PURSUIT OF MOUNTAIN LIONS; ESTABLISHING A NONRESIDENT HOUND HANDLER
6 LICENSE; PROVIDING EXCEPTIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS
7 87-1-301 AND 87-6-404, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

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11 NEW SECTION. **Section 1. Class D-4--nonresident hound handler license.** (1) Except as provided
12 in subsections (5) and (6), in order for a nonresident HOUND HANDLER to use a dog or dogs to aid in the pursuit
13 of mountain lions, the nonresident HOUND HANDLER must first purchase, for a fee of \$500, a Class D-4 nonresident
14 hound handler license. To be eligible, the nonresident must be:

15 (a) at least 18 years of age or older or turn 18 years of age before or during the season for which the
16 license is issued; and

17 (b) a holder of a nonresident wildlife conservation license and a Class D-1 nonresident mountain lion
18 license.

19 (2) Not more than 35 Class D-4 licenses may be sold in any 1 license year.

20 (3) A Class D-4 license must be used as authorized by this section and any rule adopted by the
21 department or commission.

22 (4) A holder of a Class D-4 license may only pursue mountain lions for the purpose of personally
23 harvesting a mountain lion AND MAY NOT ASSIST ANY OTHER PERSON IN THE PURSUIT OF A LION FOR HARVEST.

24 (5) A nonresident is not required to have a Class D-4 license to use a dog or dogs to aid in the pursuit
25 or harvest of mountain lions when the nonresident is hunting with an outfitter licensed pursuant to Title 37,
26 chapter 47, part 3.

27 (6) A nonresident outfitter or guide licensed pursuant to Title 37, chapter 47, part 3, is not required to
28 have a Class D-4 license.

29 (7) After recovering the costs associated with license administration, the department shall use revenue
30 collected from the sale of licenses pursuant to this section for the management, conservation, and monitoring of

1 mountain lions.

2 (8) The cost of the Class D-4 license must be adjusted annually based on any change to the consumer
3 price index from the previous year. The consumer price index to be used for calculations is the consumer price
4 index for all urban consumers (CPI-U). The adjusted cost must be rounded down to the nearest even-numbered
5 amount.

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7 **Section 2.** Section 87-1-301, MCA, is amended to read:

8 **"87-1-301. Powers of commission.** (1) Except as provided in subsections (6) and (7), the commission:

9 (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife,
10 fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment
11 of all other responsibilities of the department related to fish and wildlife as provided by law;

12 (b) shall establish the hunting, fishing, and trapping rules of the department;

13 (c) except as provided in 23-1-111 and 87-1-303(3), shall establish the rules of the department governing
14 the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

15 (d) must have the power within the department to establish wildlife refuges and bird and game preserves;

16 (e) shall approve all acquisitions or transfers by the department of interests in land or water, except as
17 provided in 23-1-111 and 87-1-209(2) and (4);

18 (f) except as provided in 23-1-111, shall review and approve the budget of the department prior to its
19 transmittal to the office of budget and program planning;

20 (g) except as provided in 23-1-111, shall review and approve construction projects that have an
21 estimated cost of more than \$1,000 but less than \$5,000;

22 (h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided
23 in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as
24 provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider
25 landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular
26 hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal
27 opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting
28 district where a restriction on elk hunting on public property is proposed.

29 (i) shall set the policies for the salvage of antelope, deer, elk, or moose pursuant to 87-3-145; and

30 (j) shall comply with, adopt policies that comply with, and ensure the department implements in each

1 region the provisions of state wildlife management plans adopted following an environmental review conducted
2 pursuant to Title 75, chapter 1, parts 1 through 3.

3 (2) The commission may adopt rules regarding the use and type of archery equipment that may be
4 employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in
5 archery equipment change.

6 (3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons,
7 conditions, programs, or other provisions that the commission considers appropriate to promote or enhance
8 hunting by Montana's youth and persons with disabilities.

9 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

10 (i) separate deer licenses from nonresident elk combination licenses;

11 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the
12 deer tag;

13 (iii) condition the use of the deer licenses; and

14 (iv) limit the number of licenses sold.

15 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and
16 appropriate to regulate the harvest by nonresident big game combination license holders:

17 (i) for the biologically sound management of big game populations of elk, deer, and antelope;

18 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

19 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321
20 through 87-1-325.

21 (5) (a) ~~The~~ Subject to the provisions of subsection (5)(b), the commission may adopt rules to:

22 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

23 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting
24 districts.

25 (b) The commission shall adopt rules for the use of and set quotas for the sale of Class D-4 nonresident
26 hound handler licenses by hunting district, portions of a hunting district, group of districts, or administrative
27 regions. However, no more than two Class D-4 licenses may be issued in any one hunting district per license
28 year.

29 ~~(b)(c)~~ The commission shall consider, but is not limited to consideration of, the following factors:

30 (i) harvest of lions by resident and nonresident hunters;

- 1 (ii) history of quota overruns;
- 2 (iii) composition, including age and sex, of the lion harvest;
- 3 (iv) historical outfitter use;
- 4 (v) conflicts among hunter groups;
- 5 (vi) availability of public and private lands; and
- 6 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.
- 7 (6) The commission may not regulate the use or possession of firearms, firearm accessories, or
- 8 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:
- 9 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the
- 10 establishment of special archery seasons;
- 11 (b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including
- 12 bows and arrows, traditional handguns, and muzzleloading rifles;
- 13 (c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);
- 14 (d) the regulation of migratory game bird hunting pursuant to 87-3-403; or
- 15 (e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).
- 16 (7) Pursuant to 23-1-111, the commission does not oversee department activities related to the
- 17 administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic
- 18 sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant
- 19 to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9."

20

21 **Section 3.** Section 87-6-404, MCA, is amended to read:

22 **"87-6-404. Unlawful use of dog while hunting.** (1) Except as provided in subsections (3) through (6)

23 (7), a person may not:

- 24 (a) chase any game animal or fur-bearing animal with a dog; or
- 25 (b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved
- 26 game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the dog is
- 27 personally responsible. A defense that the dog was allowed to run at large by another person is not allowable
- 28 unless it is shown that at the time of the violation, the dog was running at large without the consent of the owner
- 29 and that the owner took reasonable precautions to prevent the dog from running at large.

30 (2) Except as provided in subsection (3)(d), a peace officer, game warden, or other person authorized

1 to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing, attacking, or killing
2 a hooved game animal may destroy that dog on public land or on private land at the request of the landowner
3 without criminal or civil liability.

4 (3) A person may:

5 (a) take game birds during the appropriate open season with the aid of a dog;

6 (b) hunt mountain lions during the winter open season, as established by the commission, with the aid
7 of a dog or dogs;

8 (c) hunt bobcats during the trapping season, as established by the commission, with the aid of a dog or
9 dogs; and

10 (d) use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to protect
11 humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and grain.

12 The dog may not be destroyed pursuant to subsection (2).

13 (4) A resident who possesses a Class D-3 resident hound training license may pursue mountain lions
14 and bobcats with a dog or dogs during a training season from December 2 of each year to April 14 of the following
15 year.

16 (5) A nonresident who possesses a Class D-4 hound handler license may pursue mountain lions with
17 a dog or dogs pursuant to [section 1].

18 ~~(5)(6)~~ (a) A person with a valid hunting license issued pursuant to Title 87, chapter 2, may use a dog to
19 track a wounded game animal during an appropriate open season. Any person using a dog in this manner:

20 (i) shall maintain physical control of the dog at all times by means of a maximum 50-foot lead attached
21 to the dog's collar or harness;

22 (ii) during the general season, whether handling or accompanying the dog, shall wear hunter orange
23 material pursuant to 87-6-414;

24 (iii) may carry any weapon allowed by law;

25 (iv) may dispose of the wounded game animal using any weapon allowed by the valid hunting license;

26 and

27 (v) shall tag an animal that has been reduced to possession in accordance with 87-6-411.

28 (b) Dog handlers tracking a wounded game animal with a dog are exempt from licensing requirements
29 under Title 87, chapter 2, as long as they are accompanied by the licensed hunter who wounded the game
30 animal.

