

HOUSE BILL NO. 552

INTRODUCED BY B. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO TRAPPING SETBACKS; REVISING CERTAIN SETBACKS FOR TRAPPING ON PUBLIC LANDS; AMENDING SECTION 87-1-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Trapping setbacks.** (1) Except as provided in subsection (2), the following setbacks are required for trapping on public lands:

(a) for furbearers, predators, and nongame wildlife, ground sets, including snares, must be set back 50 feet from the edge of roads and hiking trails that are designated by administrative signs or numbers; and

(b) for wolves, ground sets must be set back 150 feet from the edge of nongated roads and hiking trails that are designated by administrative signs or numbers.

(2) Trapping setbacks may not be applied to roads that are closed year-round to highway vehicles, including but not limited to kelly-humped roads that are inaccessible to highway vehicles but are lawfully accessible by snowmobile.

(3) For wolf trapping on public lands, setbacks may not be applied to roads that are gated during the wolf trapping season but are still open to public use.

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

"87-1-301. Powers of commission. (1) ~~Except~~ Subject to [section 1] and except as provided in subsections (6) and (7) of this section, the commission:

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

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

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

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

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

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

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

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

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

16 (j) shall comply with, adopt policies that comply with, and ensure the department implements in each
17 region the provisions of state wildlife management plans adopted following an environmental review conducted
18 pursuant to Title 75, chapter 1, parts 1 through 3.

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

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

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

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

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

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

30 (iv) limit the number of licenses sold.

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

- (i) for the biologically sound management of big game populations of elk, deer, and antelope;
- (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and
- (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321 through 87-1-325.

(5) (a) The commission may adopt rules to:

- (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and
- (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts.

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

- (i) harvest of lions by resident and nonresident hunters;
- (ii) history of quota overruns;
- (iii) composition, including age and sex, of the lion harvest;
- (iv) historical outfitter use;
- (v) conflicts among hunter groups;
- (vi) availability of public and private lands; and
- (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(6) The commission may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(7) Pursuant to 23-1-111, the commission does not oversee department activities related to the administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant

1 to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9."

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3 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an
4 integral part of Title 87, chapter 3, part 1, and the provisions of Title 87, chapter 3, part 1, apply to [section 1].

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6 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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