

1 SENATE BILL NO. 143

2 INTRODUCED BY J. ELLSWORTH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO CLASS B-10 AND
5 CLASS B-11 ELK AND DEER COMBINATION LICENSES; RESERVING A PERCENTAGE FOR
6 NONRESIDENTS HUNTING WITH AN OUTFITTER; ESTABLISHING APPLICATION REQUIREMENTS AND
7 FEES; DIRECTING REVENUE TO FUND PUBLIC ACCESS LAND AGREEMENTS; RECODIFYING LAWS
8 RELATED TO PUBLIC ACCESS LAND AGREEMENTS AND RESIDENT-SPONSORED CLASS B-11
9 LICENSES; CLARIFYING THE TOTAL NUMBER OF CLASS B-11 LICENSES AVAILABLE; REMOVING USE
10 OF THE CONSUMER PRICE INDEX FOR LICENSE FEE CALCULATIONS; PROVIDING RULEMAKING
11 AUTHORITY; AMENDING SECTIONS 87-1-295, 87-2-115, 87-2-505, 87-2-510, AND 87-2-511, MCA;
12 REPEALING SECTIONS 87-1-296 AND 87-1-297, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **NEW SECTION. Section 1. Limited outfitted Class B-10 and Class B-11 licenses.** (1) To

17 purchase a limited Class B-10 or Class B-11 license reserved pursuant to 87-2-511 for persons hunting with an
18 outfitter licensed pursuant to Title 37, chapter 47, part 3, a person shall apply between January 1 and March 30
19 and submit a \$100 application fee, in addition to any other necessary fees, and a written affirmation indicating
20 the name and license number of the outfitter with whom the applicant intends to hunt.

21 (2) The department shall issue licenses pursuant to this section on a first-come, first-served basis.

22 Any licenses that remain unsold after March 30 must be issued in the general drawing conducted pursuant to
23 87-2-115(5).

24 (3) If the department receives more applications pursuant to this section than the number of reserved
25 licenses available, the remaining applicants must be entered in the general drawing conducted pursuant to 87-
26 2-115(5).

27 (4) Application fees collected pursuant to subsection (1) must be deposited in the limited outfitted
28 Class B-10 and Class B-11 license account established in [section 2].

1

2 **NEW SECTION. Section 2. Limited outfitted Class B-10 and Class B-11 license account.** (1)

3 There is a limited outfitted Class B-10 and Class B-11 license account administered by the department in the
4 state special revenue fund.

5 (2) Application fees collected pursuant to 87-1-295 and [section 1] must be deposited in the account
6 and used to establish public access land agreements pursuant to 87-1-295.

7 (3) The department may expend up to 10% of funds deposited in the account to pay costs incurred by
8 the department for administering 87-1-295 and providing support to the private land/public wildlife advisory
9 committee, including but not limited to contracting with a state agency for negotiating public access land
10 agreements.

11 (4) At the end of each fiscal year, unreserved funds in the account, including interest and earnings,
12 must be transferred to the general license account established in 87-1-601(1).

13

14 **NEW SECTION. Section 3. Resident-sponsored Class B-11 licenses.** (1) To purchase a Class B-
15 11 license reserved pursuant to 87-2-511 for persons hunting with a resident sponsor on land owned by that
16 sponsor, an applicant shall submit a written affirmation indicating the name of the resident sponsor with whom
17 the applicant intends to hunt and a certificate signed by the resident sponsor affirming the resident sponsor will:

18 (a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;

19 (b) submit to the department, in a manner prescribed by the department, complete records of who
20 hunted with the resident sponsor, where they hunted, and what game was taken; and

21 (c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for
22 providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47,
23 and this title.

24 (2) The certificate signed by the resident sponsor pursuant to subsection (1) must also affirm that the
25 sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.

26 (3) (a) If enough reserved licenses are available, the department shall issue a license to one
27 applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses
28 remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the

1 second applicant sponsored by each resident landowner. The department shall conduct a drawing for any
2 remaining resident-sponsored licenses.

3 (b) If enough reserved licenses are not available to allow each resident landowner who owns 640
4 contiguous acres to sponsor one applicant, the department shall conduct a drawing for the resident-sponsored
5 licenses. However, a resident sponsor of a Class B-11 license may submit no more than 15 certificates of
6 sponsorship in any license year.

7 (4) A nonresident who obtains a resident-sponsored license pursuant to this section may only hunt on
8 the deeded lands of the sponsoring landowner.

9

10 **Section 4.** Section 87-1-295, MCA, is amended to read:

11 **"87-1-295. Public access land agreement -- terms -- application fee.** (1) A public access land
12 agreement may be granted only to a landowner who is providing access across the landowner's land to public
13 land that is leased by the landowner or to public land for which there is no leaseholder. An agreement may not
14 include land for which the landowner is also compensated pursuant to 76-17-102 or 87-1-294.

15 (2) The department shall negotiate the terms of a proposed public access land agreement with the
16 landowner. Negotiable terms include:

- 17 (a) the amount of compensation, not to exceed \$15,000 annually, and the duration of the agreement;
18 (b) improvements to the land provided by the department that may facilitate public access;
19 (c) the location of the access and the transportation mode by which the public may use the access;
20 (d) time periods when the access may and may not be used; and
21 (e) penalties for trespassing on private land not covered by the agreement.

22 (3) The private land/public wildlife advisory committee appointed pursuant to 87-1-269 shall review
23 proposed public access land agreements and make recommendations to the department. The department shall
24 consider the recommendations when issuing agreements.

25 (4) The department may revoke a public access land agreement for a violation of the terms of the
26 agreement.

27 (5) The restriction on liability of a landowner, agent, or tenant that is provided under 70-16-302(1)
28 applies to a landowner who holds a public access land agreement.

1 (6) ~~(a)~~—A landowner who proposes a public access land agreement to the department shall pay a \$5
2 application fee, which-

3 ~~(b)~~—All application fees must be deposited in the department's general limited outfitted Class B-10 and
4 Class B-11 license account established in [section 2].

5 (7) The department may adopt rules to implement the provisions of this section."
6

7 **Section 5.** Section 87-2-115, MCA, is amended to read:

8 **"87-2-115. Nonresident elk and deer license preference point system.** (1) The department shall
9 establish a preference point system to distribute Class B-10 nonresident big game combination licenses and
10 Class B-11 nonresident deer combination licenses.

11 (2) Nonresidents applying to purchase a Class B-10 or Class B-11 license may purchase a
12 preference point, upon payment of a nonrefundable \$50 fee, that gives an applicant who has more preference
13 points priority to receive a Class B-10 or Class B-11 license over an applicant who has purchased fewer
14 preference points.

15 (3) An applicant may:

16 (a) purchase only one preference point per license year; and

17 (b) purchase a preference point without applying for a Class B-10 or Class B-11 license. An applicant
18 not applying for a Class B-10 or Class B-11 license may purchase a preference point only between July 1 and
19 ~~September 30~~ December 31 of that license year. The department shall delete an applicant's accumulated
20 preference points if the applicant does not apply for a Class B-10 or Class B-11 license for ~~3~~ 2 consecutive
21 years.

22 (4) Except as provided in subsection (3)(b), the department may not delete an applicant's
23 accumulated preference points unless the applicant obtains the license applied for, in which case the
24 department shall delete the applicant's accumulated preference points.

25 (5) ~~The~~ Except as provided in [sections 1 and 2], the department shall:

26 (a) issue 75% of the Class B-10 and Class B-11 licenses made available for purchase pursuant to 87-
27 2-505 and 87-2-510 by drawings in which the licenses are awarded to applicants in the order of which
28 applicants have purchased the greatest number of preference points. If the number of licenses to be issued

1 under this subsection exceeds the number of applicants who have purchased preference points, the remaining
 2 licenses must be added to the licenses issued pursuant to subsection ~~(6)~~ (5)(b).

3 ~~(6)(b)~~ The department shall issue 25% of the Class B-10 and Class B-11 licenses made available for
 4 purchase pursuant to 87-2-505 and 87-2-510 by drawings in which the licenses are awarded to applicants who
 5 have not purchased any preference points. If the number of licenses to be issued under this subsection
 6 exceeds the number of applicants who have not purchased preference points, the remaining licenses must be
 7 added to the licenses issued pursuant to subsection (5)(a).

8 ~~(7)(6)~~ Up to five applicants may apply as a party under this section. The department shall use an
 9 average of the number of preference points accumulated by those applicants to determine their priority in
 10 receiving licenses issued pursuant to subsection (5)(a). The department shall use any fraction that results from
 11 the calculation of an average when determining that priority."
 12

13 **Section 6.** Section 87-2-505, MCA, is amended to read:

14 **"87-2-505. Class B-10--nonresident big game combination license.** (1) Except as otherwise
 15 provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or
 16 older or who will turn 12 years old before or during the season for which the license is issued may, upon
 17 payment of the fee of \$981 and subject to the limitations prescribed by law and department regulation, apply to
 18 the fish, wildlife, and parks office, Helena, Montana, to purchase a B-10 nonresident big game combination
 19 license that entitles a holder who is 12 years of age or older to all the privileges of Class B, Class B-1, and
 20 Class B-7 licenses and an elk tag.

21 (2) Not more than 17,000 Class B-10 licenses may be sold in any 1 license year.

22 (3) Of the fee paid for the purchase of a Class B-10 nonresident big game combination license
 23 pursuant to subsection (1), 28.5% must be deposited in the account established in 87-1-290.

24 ~~(4) The cost of the Class B-10 nonresident big game combination license must be adjusted annually~~
 25 ~~based on any change to the consumer price index from the previous year. The consumer price index to be used~~
 26 ~~for calculations is the consumer price index for all urban consumers (CPI-U). The adjusted cost must be~~
 27 ~~rounded down to the nearest even-numbered amount."~~

28

1 **Section 7.** Section 87-2-510, MCA, is amended to read:

2 "**87-2-510. Class B-11--nonresident deer combination license.** (1) (a) Except as otherwise
3 provided in this chapter, a person who is not a resident, as defined in 87-2-102, but who is 12 years of age or
4 older or who will turn 12 years old before or during the season for which the license is issued may, upon
5 payment of a fee of \$577 and subject to the limitations prescribed by law and department regulation, apply to
6 the fish, wildlife, and parks office, Helena, Montana, to purchase a Class B-11 nonresident deer combination
7 license that entitles a holder who is 12 years of age or older to all the privileges of the Class B, Class B-1, and
8 Class B-7 licenses.

9 (b) Of the fee paid for the purchase of a Class B-11 nonresident deer combination license pursuant to
10 subsection (1)(a), 28.5% must be deposited in the account established in 87-1-290.

11 ~~(c) The cost of the Class B-11 nonresident deer combination license must be adjusted annually based
12 on any change to the consumer price index from the previous year. The consumer price index to be used for
13 calculations is the consumer price index for all urban consumers (CPI-U). The adjusted cost must be rounded
14 down to the nearest even-numbered amount.~~

15 (2) Not more than ~~4,600~~ 6,600 ~~unreserved~~ Class B-11 licenses may be sold in any 1 license year."

16

17 **Section 8.** Section 87-2-511, MCA, is amended to read:

18 "**87-2-511. Sale and use of Class B-10 and Class B-11 licenses.** (1) ~~The~~Except as provided in
19 [section 1], the department shall offer the Class B-10 and Class B-11 licenses for sale on April 1, with 60% of
20 each of the Class B-10 and Class B-11 licenses reserved for applicants hunting with a licensed outfitter
21 pursuant to [section 1] and 2,000 of the authorized Class B-11 licenses reserved for applicants indicating their
22 intent to hunt hunting with a resident sponsor on land owned by that sponsor, as provided in subsections (2)
23 and (3) pursuant to [section 3].

24 ~~(2) Each application for a resident-sponsored license under subsection (1) must contain a written
25 affirmation by the applicant that the applicant intends to hunt with a resident sponsor and must indicate the
26 name of the resident sponsor with whom the applicant intends to hunt. In addition, the application must be
27 accompanied by a certificate that is signed by a resident sponsor and that affirms that the resident sponsor will:~~

28 ~~(a) direct the applicant's hunting and advise the applicant of game and trespass laws of the state;~~

1 ~~(b) submit to the department, in a manner prescribed by the department, complete records of who~~
2 ~~hunted with the resident sponsor, where they hunted, and what game was taken; and~~

3 ~~(c) accept no monetary consideration for enabling the nonresident applicant to obtain a license or for~~
4 ~~providing any services or assistance to the nonresident applicant, except as provided in Title 37, chapter 47,~~
5 ~~and this title.~~

6 ~~(3) The certificate signed by the resident sponsor pursuant to subsection (2) must also affirm that the~~
7 ~~sponsor is a landowner and that the applicant under the certificate will hunt only on land owned by the sponsor.~~
8 ~~If there is a sufficient number of licenses set forth in subsection (1), the department shall issue a license to one~~
9 ~~applicant sponsored by each resident landowner who owns 640 or more contiguous acres. If enough licenses~~
10 ~~remain for a second applicant for each resident landowner sponsor, the department shall issue a license to the~~
11 ~~second applicant sponsored by each resident landowner. The department shall conduct a drawing for any~~
12 ~~remaining resident-sponsored licenses. If there is not a sufficient number of licenses set forth in subsection (1)~~
13 ~~to allow each resident landowner who owns 640 contiguous acres to sponsor one applicant, the department~~
14 ~~shall conduct a drawing for the resident-sponsored licenses. However, a resident sponsor of a Class B-11~~
15 ~~license may submit no more than 15 certificates of sponsorship in any license year.~~

16 ~~(4) A nonresident who hunts under the authority of a resident landowner-sponsored license shall~~
17 ~~conduct all deer hunting on the deeded lands of the sponsoring landowner.~~

18 ~~(5)(2) All Class B-10 and Class B-11 licenses that are not reserved under subsection (1) must be~~
19 ~~issued by a drawing among all applicants for the respective unreserved licenses pursuant to 87-2-115(5).~~

20 ~~(6)(3) (a) An applicant who applies for a Class B-10 license and an applicable special elk permit but~~
21 ~~who is not successful in a drawing for the special elk permit may choose to retain only the Class B-7 portion of~~
22 ~~the Class B-10 license. The department shall sell the Class B-7 portion as a Class B-11 license for the fee set~~
23 ~~in 87-2-510. The provisions of this subsection (6) (3)(a) do not affect the limits established in 87-2-510(2). The~~
24 ~~remaining elk tag portion of the Class B-10 license must be sold by the department as an elk-only combination~~
25 ~~license for a fee of \$831.~~

26 ~~(b) Subject to the statutory quota provided in 87-2-505, if the department determines all available elk-~~
27 ~~only combination licenses have sold by December 1 in any license year, the cost of the elk-only combination~~
28 ~~license must be adjusted for the subsequent license year based on any change to the consumer price index~~

1 from the previous year. The consumer price index to be used for calculations is the consumer price index for all
 2 urban consumers (CPI-U). The adjusted cost must be rounded down to the nearest even-numbered amount
 3 and applies to subsequent license years unless the conditions of this subsection are met.

4 ~~(e)~~(b) The department may retain 10% of the Class B-10 license fee if an applicant chooses to buy
 5 only a portion of the Class B-10 license pursuant to subsection ~~(6)~~(3)(a) after the Class B-10 license has been
 6 issued to the applicant.

7 ~~(d)~~(c) The revenue collected pursuant to this subsection ~~(6)~~(3) must be deposited in the state special
 8 revenue account to the credit of the department and may not be allocated pursuant to other statutory
 9 requirements generally applicable to Class B-10 or Class B-11 licenses."

10

11 NEW SECTION. Section 9. Repealer. The following sections of the Montana Code Annotated are
 12 repealed:

13 87-1-296. Funding agreement limits -- administrative costs.

14 87-1-297. Rulemaking authority.

15

16 NEW SECTION. Section 10. Codification instruction. (1) [Sections 1 and 3] are intended to be
 17 codified as an integral part of Title 87, chapter 2, part 5, and the provisions of Title 87, chapter 2, part 5, apply
 18 to [sections 1 and 3].

19 (2) [Section 2] is intended to be codified as an integral part of Title 87, chapter 1, part 6, and the
 20 provisions of Title 87, chapter 1, part 6, apply to [section 2].

21

22 NEW SECTION. Section 11. Effective date. [This act] is effective January 1, 2022.

23

- END -