

## 1 HOUSE BILL NO. 119

2 INTRODUCED BY D. LOGE

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE FISH AND WILDLIFE COMMISSION TO  
5 APPROVE THE ISSUANCE OF EITHER-SEX OR ANTLERLESS ELK LICENSES AND PERMITS FOR  
6 CERTAIN LANDOWNERS AND THEIR DESIGNEES; AMENDING SECTIONS 87-1-301 AND 87-2-513, MCA;  
7 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8

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

10

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

12 **"87-1-301. Powers of commission.** (1) Except as provided in subsections (6) and (7), the  
13 commission:

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

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

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

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

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

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

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

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

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

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

12 (k) shall review and approve the issuance of an either-sex or antlerless elk license, permit, or  
13 combination thereof to a landowner or a landowner's designee pursuant to 87-2-513.

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

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

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

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

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

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

25 (iv) limit the number of licenses sold.

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

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

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

2 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-

3 321 through 87-1-325.

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

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

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

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

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

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

14 (ii) history of quota overruns;

15 (iii) composition, including age and sex, of the lion harvest;

16 (iv) historical outfitter use;

17 (v) conflicts among hunter groups;

18 (vi) availability of public and private lands; and

19 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

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

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

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

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

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

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

1 (7) Pursuant to 23-1-111, the commission does not oversee department activities related to the  
2 administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic  
3 sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant  
4 to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9."

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

7 **"87-2-513. Either-sex or antlerless elk license or permit for landowner who offers free public**  
8 **elk hunting -- terms, conditions, and issuance.** (1) For wildlife management purposes, and with approval of  
9 the commission pursuant to 87-1-301, the department may issue, at no cost to a landowner who provides free  
10 public elk hunting on the landowner's property and pursuant to this section, an either-sex or antlerless elk  
11 license, permit, or combination thereof as required in that hunting district for the landowner or the landowner's  
12 designee to hunt on the landowner's property. A designee may be an immediate family member or an  
13 authorized full-time employee of the landowner.

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

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

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

19 (c) must have entered into a contractual public elk hunting access agreement with the department in  
20 accordance with subsection (7) that allows public access for free public elk hunting on the landowner's property  
21 throughout the regular hunting season; and

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

24 (3) For every four members of the public allowed to hunt under the contractual public elk hunting  
25 access agreement, the department may issue one license, permit, or combination thereof pursuant to  
26 subsection (1). The department may limit the total number of licenses and permits issued under this section.

27 (4) A license or permit issued pursuant to this section:

28 (a) is nontransferable and may not be sold or bartered; and

1 (b) may only be used for hunting conducted on property that is opened to public access pursuant to  
2 this section.

3 (5) The department may prioritize distribution of licenses or permits under subsection (1) according to  
4 the areas the department determines are most in need of management.

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

9 (7) (a) A contractual public elk hunting access agreement must define the areas that will be open to  
10 public elk hunting, the number of public elk hunting days that will be allowed on the property, and other factors  
11 that the department and the landowner consider necessary for the proper management of elk on the  
12 landowner's property. The agreement must reserve the right of the landowner to deny access to the  
13 landowner's property by a public hunter selected pursuant to subsection (7)(b) for cause, including but not  
14 limited to intoxication, violation of landowner conditions for use of the property, or previous misconduct on a  
15 landowner's property.

16 (b) The department shall select public hunters eligible to hunt on the landowner's property through a  
17 random drawing of holders of existing licenses or permits in that hunting district."  
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19 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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