

SENATE BILL NO. 298

INTRODUCED BY B. MOLNAR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO HUNTING BY DISABLED PERSONS; PROVIDING REQUIREMENTS FOR CROSSBOWS; REVISING RULEMAKING AUTHORITY; ALLOWING A DISABLED HUNTER TO HUNT WITHOUT A COMPANION OR WITH A COMPANION NOT LICENSED TO HUNT; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING ADDITIONAL LICENSE PREFERENCE POINTS AND BONUS POINTS TO CERTAIN DISABLED VETERANS; AMENDING SECTIONS 37-3-203, 87-1-301, 87-2-105, 87-2-115, 87-2-117, 87-2-803, AND 87-2-817, MCA; AND PROVIDING A TERMINATION DATE."

WHEREAS, Montana sold 58,326 archery permits in 2021; and  
WHEREAS, 48 states allow crossbow use during archery seasons; and  
WHEREAS, no states have reported problems with the use of crossbows; and  
WHEREAS, no cases of fraud related to the use of a crossbow have been reported in intermountain states; and  
WHEREAS, the compound technology used in vertical bows is the same used in crossbows; and  
WHEREAS, the rights of Montana's disabled population are protected by the Americans With Disabilities Act and the Rehabilitation Act; and  
WHEREAS, an accommodation for a disability that cannot be used is not an accommodation; and  
WHEREAS, Article IX, section 7, of the Montana Constitution preserves for the individual the right to harvest wild game animals.

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

NEW SECTION. **Section 1. Permit to hunt with crossbow -- reporting.** (1) Except as provided in [section 2], the department shall issue a permit to hunt with a crossbow during an archery-only season if the person applying for the permit meets the requirements of subsection (2), complies with the provisions of

1 subsection (3), and purchases the necessary licenses and permits.

2 (2) (a) A person qualifies for a permit to hunt with a crossbow as an accommodation, on payment  
3 of a fee of \$10, if the person is certified by a physician, ~~as defined in 87-2-803~~, to have a permanent ~~condition~~  
4 disability that severely limits the person's ability to draw and hold a long bow, a recurve bow, or a compound  
5 bow of sufficient draw weight to hunt a game animal, and the person:

6 (i) purchased a Class A-2 special bow and arrow license in the past 3 years; or

7 (ii) completed a crossbow education course pursuant to 87-2-105 prior to applying for a permit to  
8 hunt with a crossbow.

9 (b) Certification under this subsection (2) must be on a form prescribed by the department and  
10 signed by the physician.

11 (c) The department or a person who disagrees with a certification of eligibility for a permit to hunt  
12 with a crossbow submitted pursuant to this subsection (2) may request a review by the board of medical  
13 examiners pursuant to 37-3-203.

14 (3) A person issued a permit to hunt with a crossbow may use a scope only if the scope is not  
15 battery-assisted and has a magnification of no more than four times. While hunting, a crossbow may not be  
16 equipped with a mechanical arrow or bolt drop compensation device, including but not limited to jack plates.

17 (4) A person issued a permit to hunt with a crossbow is automatically entitled to a permit to hunt  
18 with a crossbow for subsequent license years if the criteria for obtaining a permit do not change.

19 (5) A person issued a permit to hunt with a crossbow shall complete hunter surveys issued by the  
20 department. At a minimum, the department shall survey each person regarding the season or seasons in which  
21 the person used the permit and the person's success rate, including the number of shots the person attempted,  
22 the estimated range of the shots, and whether the person harvested, wounded, or lost an animal.

23 (6) The department shall report, in accordance with 5-11-210, to the environmental quality council  
24 established in 5-16-101, on the number of persons issued a permit to hunt with a crossbow in the previous  
25 license year, the certified conditions that qualified the persons to obtain a permit, and the results of the hunter  
26 surveys received pursuant to subsection (5).

27 (7) As used in this section, the following definitions apply:

28 (a) "Disability" means a physical condition arising from a birth defect, accident, illness, or a military

combat-related activity, that precludes the individual from drawing, holding, or firing vertical archery equipment during the legal pursuit of game or nongame animals in Montana.

(b) "Accommodation" means a privilege granted by the state that is useful to a petitioning physically disabled individual to help accomplish common tasks or endeavors enjoyed by able-bodied individuals.

**NEW SECTION. Section 2. Denial of crossbow permit -- requirements -- appeal.** (1) The department may deny a permit application pursuant to [section 1] if the department documents that:

- (a) use of a crossbow by the applicant will biologically damage wildlife populations;
  - (b) administering the permit is an excessive cost to the department; or
  - (c) the permit will adversely affect the archery season.
- (2) A denial pursuant to subsection (1) may be appealed to the commission.
- (3) (a) A commission denial may be appealed to district court in the county where the applicant resides.
- (b) The prevailing party is entitled to costs enumerated in 25-10-201 and reasonable attorney fees as determined by the court.
- (c) If the commission denial is reversed but the applicant missed the archery season during which the permit was applied for, the department shall issue a permit of the applicant's choice for the next available season without reducing the number of permits available.

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

**"37-3-203. Powers and duties -- rulemaking authority.** (1) The board may:

- (a) adopt rules necessary or proper to carry out the requirements in Title 37, chapter 3, parts 1 through 4, and of chapters covering podiatry, acupuncture, physician assistants, nutritionists, and emergency care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and 50-6-203, respectively. Rules adopted for emergency care providers with an endorsement to provide community-integrated health care must address the scope of practice, competency requirements, and educational requirements.
- (b) hold hearings and take evidence in matters relating to the exercise and performance of the

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education course approved by the department or a hunter safety course in any state or province.

(3) A bow and arrow license may not be issued to a resident or nonresident unless the person authorized to issue the license receives an archery license issued for a prior hunting season or determines proof of completion of a bowhunter education course from the national bowhunter education foundation or any other bowhunter education program approved by the department. Neither the department nor the license agent is required to provide records of past archery license purchases. As part of the department's bow and arrow licensing procedures, the department shall notify the public regarding bowhunter education requirements.

(4) The department shall provide for a hunter safety and education course that includes instruction in the safe handling of firearms and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of hunter safety and education. The department may designate as an instructor any person it finds to be competent to give instructions in hunter safety and education, including the handling of firearms. A person appointed shall give the course of instruction and shall issue a certificate of completion from Montana's hunter safety and education course to a person successfully completing the course.

(5) The department shall provide for a course of instruction from the national bowhunter education foundation or any other bowhunter education program approved by the department and for that purpose may cooperate with any reputable organization having as one of its objectives the promotion of safety in the handling of bow hunting tackle. The department may designate as an instructor any person it finds to be competent to give bowhunter education instruction. A person appointed shall give the course of instruction and shall issue a certificate of completion to a person successfully completing the course.

(6) The department may develop an adult hunter safety and education course and develop or adopt a crossbow safety course.

(7) As part of the department's licensing procedures, the department shall notify the public regarding crossbow education requirements.

~~(7)~~(8) The department may adopt rules regarding how a person authorized to issue a license determines proof of completion of a required course."

**Section 6.** Section 87-2-115, MCA, is amended to read:

**"87-2-115. Nonresident elk and deer license preference point system.** (1) The department shall

1 establish a preference point system to distribute Class B-10 nonresident big game combination licenses and  
2 Class B-11 nonresident deer combination licenses.

3 (2) Nonresidents applying to purchase a Class B-10 or Class B-11 license may purchase a  
4 preference point, upon payment of a nonrefundable \$100 fee, that gives an applicant who has more preference  
5 points priority to receive a Class B-10 or Class B-11 license over an applicant who has purchased fewer  
6 preference points.

7 (3) An applicant may:

8 (a) purchase only one preference point per license year except a nonresident hunting with an  
9 outfitter licensed pursuant to Title 37, chapter 47, part 3, and providing the documentation required in  
10 subsection (8), may purchase two preference points per license year. No applicant may accumulate more than  
11 three preference points total.

12 (b) purchase a preference point without applying for a Class B-10 or Class B-11 license. An  
13 applicant not applying for a Class B-10 or Class B-11 license may purchase a preference point only between  
14 July 1 and December 31 of that license year.

15 (4) (a) The department shall delete an applicant's accumulated preference points if the applicant:

16 (i) obtains a Class B-10 or Class B-11 license; or

17 (ii) does not apply for a Class B-10 or Class B-11 license in consecutive years.

18 (b) If an applicant is unsuccessful in drawing a Class B-10 or Class B-11 license, the department  
19 shall allow the applicant to keep and apply preference points to subsequent drawings if done in consecutive  
20 years.

21 (5) The department shall issue 75% of the Class B-10 and Class B-11 licenses made available for  
22 purchase pursuant to 87-2-505 and 87-2-510 by drawings in which the licenses are awarded to applicants in  
23 the order of which applicants have purchased the greatest number of preference points. If the number of  
24 licenses to be issued under this subsection exceeds the number of applicants who have purchased preference  
25 points, the remaining licenses must be added to the licenses issued pursuant to subsection (6).

26 (6) The department shall issue 25% of the Class B-10 and Class B-11 licenses made available for  
27 purchase pursuant to 87-2-505 and 87-2-510 by drawings in which the licenses are awarded to applicants who  
28 have not purchased any preference points. If the number of licenses to be issued under this subsection

exceeds the number of applicants who have not purchased preference points, the remaining licenses must be added to the licenses issued pursuant to subsection (5).

(7) Up to five applicants may apply as a party under this section. The department shall use an average of the number of preference points accumulated by those applicants to determine their priority in receiving licenses issued pursuant to subsection (5). The department shall calculate the average rounded to the third decimal place.

(8) A nonresident purchasing a second preference point pursuant to subsection (3)(a) shall provide written affirmation at the time of application indicating the name and license number of the outfitter with whom the person intends to hunt. If the nonresident obtains the license applied for with the preference points purchased pursuant to subsection (3)(a), the nonresident may only use the license when accompanied by an outfitter or the outfitter's designee licensed to provide guiding services.

(9) (a) Fees collected from a nonresident purchasing a second preference point pursuant to subsection (3)(a) must be allocated as follows:

(i) 25% to public access land agreements established pursuant to 87-1-295;

(ii) 25% to hunting access programs established pursuant to 87-1-265;

(iii) 25% to the future fisheries program established in 87-1-272 with a priority given to funding projects that provide public access through private property; and

(iv) 25% to the purchase of permanent easements through private property to access otherwise inaccessible lands. An easement funded by this subsection (9)(a)(iv) may be granted only across private land to public land that is leased by the landowner, public land for which there is no leaseholder, or public land for which the landowner has consent of the leaseholder.

(b) The department may expend up to 10% of the revenue allocated pursuant to subsection (9)(a) to pay administrative costs incurred by the department for the purposes outlined in subsection (9)(a), including but not limited to contracting and transaction costs incurred by the department or entities partnering with the department, and for providing support to the private land/public wildlife advisory committee for its review of public access land agreements pursuant to 87-1-295.

(c) At the end of each fiscal year, funds allocated pursuant to subsection (9)(a) that remain unobligated are available to the department for any purpose pursuant to 87-1-201(3).

(10) Military veterans disabled in combat and holding a crossbow permit pursuant to [section 1] who purchase a preference point must be awarded 10 additional preference points."

**Section 7.** Section 87-2-117, MCA, is amended to read:

**"87-2-117. License bonus point system.** (1) The commission shall establish a bonus point system that gives an applicant who has purchased more bonus points more chances to receive a license, tag, or permit over an applicant who has purchased fewer bonus points.

(2) A person may purchase only one bonus point per species per license year and may:

(a) purchase a bonus point when applying for a license, tag, or permit by paying the fee established in 87-2-113(2) per species; or

(b) if the person is otherwise eligible to apply for a license, tag, or permit, purchase a bonus point without applying for the license, tag, or permit by paying the fee established in subsection (5). An applicant not applying for a license, tag, or permit may purchase a bonus point only between July 1 and September 30 in the current license year.

(3) The department may only apply any accumulated bonus points to a person's chance to obtain a license, tag, or permit if the person purchases a bonus point when applying for the license, tag, or permit.

(4) Bonus points may only be applied to first choice drawings.

(5) (a) A resident who does not apply for a license, tag, or permit may purchase a bonus point for \$15 for each species for which a bonus point is made available by the commission.

(b) A nonresident who does not apply for a license, tag, or permit may purchase a bonus point for \$25 for each species for which a bonus point is made available by the commission, except that the fee is \$75 for moose, mountain goat, mountain sheep, and wild buffalo or bison.

(6) The department may not delete a person's accumulated bonus points unless the person obtains the license, tag, or permit associated with the bonus points, in which case the department shall delete the person's accumulated bonus points.

(7) (a) Except as provided in subsection (7)(b), the department shall square the number of points purchased by a person per species when conducting drawings for licenses, tags, and permits.

(b) For persons applying for licenses, tags, or permits as a party, the department shall calculate

the average number of bonus points accumulated by the individuals listed on the party application, rounded to the nearest whole number, and square the average. Each individual retains their own bonus points unless the party obtains the licenses, tags, or permits associated with the bonus points, in which case the department shall delete each person's accumulated bonus points.

(8) Military veterans disabled in combat and holding a crossbow permit pursuant to [section 1] who purchase a bonus point must be awarded 10 additional bonus points."

**Section 8.** Section 87-2-803, MCA, is amended to read:

**"87-2-803. Licenses for persons with disabilities -- definitions.** (1) Persons with disabilities who are residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule may purchase the following for one-half the cost:

- (a) a Class A fishing license;
- (b) a Class A-1 upland game bird license;
- (c) a Class A-3 deer A tag;
- (d) a Class A-5 elk tag.

(2) A person who has purchased a wildlife conservation license and a resident fishing license, game bird license, deer tag, or elk tag for a particular license year and who is subsequently certified as disabled is entitled to a refund for one-half of the cost of the fishing license, game bird license, deer tag, or elk tag previously purchased for that license year.

(3) A person who is certified as disabled pursuant to subsection (4) and who was issued a permit to hunt from a vehicle for license year 2014 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 do not change.

(4) 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 meets the requirements of subsection (9).

(5) (a) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection (5) as a permitholder, may hunt by shooting a firearm from:

(i) 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;