

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

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

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

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

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

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

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

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

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

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

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

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

(7) (a) A contractual public elk hunting access agreement must define the areas that will be open to public elk hunting, the number of public elk hunting days that will be allowed on the property, and other factors that the department and the landowner consider necessary for the proper management of elk on the landowner's property. The agreement must include a process or methodology the landowner may use to select up to one-third of the public hunters required by subsection (3) and must reserve the right of the landowner to deny access to the landowner's property by a public hunter selected pursuant to subsection (7)(b) for cause, including but not limited to intoxication, violation of landowner conditions for use of the property, or previous misconduct on a landowner's property.

(b) Except for public hunters selected by the landowner pursuant to subsection (7)(a), the department shall select public hunters eligible to hunt on the landowner's property through a random drawing of holders of existing licenses or permits in that hunting district.

**87-2-513. (Effective March 1, 2022) Either-sex or antlerless elk license or permit for landowner who offers free public elk hunting — terms, conditions, and issuance.** (1) For wildlife management purposes and with approval of the commission pursuant to 87-1-301, the department may issue, at no cost to a landowner who provides free public elk hunting on the landowner's property and pursuant to this section, an either-sex or antlerless elk license, permit, or combination of the two as required in that hunting district for the landowner or the landowner's designee to hunt on the landowner's property. A designee may be an immediate family member or an authorized full-time employee of the landowner.

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

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

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

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

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

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

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

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

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

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

(7) (a) A contractual public elk hunting access agreement must define the areas that will be open to public elk hunting, the number of public elk hunting days that will be allowed on the property, and other factors that the department and the landowner consider necessary for the proper management of elk on the landowner's property. The agreement must include a process or methodology the landowner may use to select up to one-third of the public hunters required by subsection (3) and must reserve the right of the landowner to deny access to the landowner's property by a public hunter selected pursuant to subsection (7)(b) for cause, including but not limited to intoxication, violation of landowner conditions for use of the property, or previous misconduct on a landowner's property.

(b) Except for public hunters selected by the landowner pursuant to subsection (7)(a), the department shall select public hunters eligible to hunt on the landowner's property through a random drawing of holders of existing licenses or permits in that hunting district.

### **Compiler's Comments**

*2021 Amendments — Composite Section:* Chapter 94 in (1) in first sentence near beginning inserted "and with approval of the commission pursuant to 87-1-301"; and made minor changes in style. Amendment effective March 26, 2021.

Chapter 486 deleted former (2)(b) that read: "(b) may not have been issued a Class A-7 landowner license pursuant to 87-2-501(3) during the license year"; and made minor changes in style. Amendment effective March 1, 2022.

Chapter 552 in (3) near beginning substituted "three members" for "four members"; in (7)(a) near beginning of second sentence inserted "include a process or methodology the landowner may use to select up to one-third of the public hunters required by subsection (3) and must"; in (7)(b) at beginning inserted exception clause; and made minor changes in style. Amendment effective May 15, 2021.

*2019 Amendments — Composite Section:* Chapter 37 in (1) substituted current text concerning issuance of an either-sex or antlerless elk license or permit to a landowner providing free public elk hunting or to the landowner's designee for former text that read: "In addition to any elk permits offered for sale, the department may, for wildlife management purposes, issue an either-sex or antlerless elk permit at no cost to a landowner who provides free public elk hunting on the landowner's property and who otherwise meets the conditions of this section. The department may issue elk permits to the public, at regular cost and in the number authorized in subsection (3), for hunting on the property of a landowner who opens property for public elk hunting for wildlife management purposes pursuant to this section"; in (2) in introductory clause substituted "license or permit" for "permit"; in (2)(c) after "department" inserted "in accordance with subsection (7)" and after "hunting season" deleted "and that includes public hunting by permitholders using permits that are valid for the hunting district"; deleted former (2)(d) that read: "(d) may not receive cash payments under 87-1-267"; in (3) substituted current text concerning number of licenses or permits issued per number of the members of the public allowed to hunt for former text that

read: "(3) "Subject to the management provisions provided in 87-1-321 through 87-1-325, not more than 20% of permits issued pursuant to this section may be issued at no cost to a landowner, an immediate family member of a landowner, or an authorized full-time employee of a landowner. The remaining permits must be issued to the public on a first-come, first-served basis"; in (4) in introductory clause substituted "license or permit" for "permit"; in (4)(a) after "sold" inserted "or bartered"; in (5) substituted "distribution of licenses or permits under subsection (1)" for "distribution of the permits"; in (6) in two places substituted "license or permit" for "permit"; in (7) (a) substituted current text concerning the terms of a contractual public elk hunting access agreement for former text that read: "The department, through the commission, may authorize the issuance of permits under this section to a landowner who enters into a contractual public elk hunting access agreement with the department that defines the areas that will be open to public elk hunting, the number of public elk hunting days that will be allowed on the property, and other factors that the department and the landowner consider necessary for the proper management of elk on the landowner's property"; inserted (7)(b) concerning selecting public hunters through a random drawing; and made minor changes in style. Amendment effective March 7, 2019.

Chapter 63 in (2)(d) substituted reference to 87-1-265 for reference to 87-1-267. Amendment effective March 19, 2019. Amendment rendered void by Ch. 37 amendment.

*Termination Provision Repealed:* Section 1, Ch. 52, L. 2005, repealed sec. 4, Ch. 519, L. 2001, which terminated this section March 1, 2006. Effective March 24, 2005.

*2003 Amendment:* Chapter 553 in (3) at beginning inserted provision relating to 87-1-321 through 87-1-325; and made minor changes in style. Amendment effective May 5, 2003.

*Preamble:* The preamble attached to Ch. 519, L. 2001, provided:

"WHEREAS, landowner stewards provide important habitat that beneficially contributes to elk herd numbers and health; and

WHEREAS, certain landowners close their land to public hunting, preventing any harvest of big game, while other landowners allow limited hunting access and harvest, creating a problem of uneven distribution of big game; and

WHEREAS, restricted access to private property for public hunting prevents the department from managing big game population numbers and distribution."

*Effective Date:* Section 3, Ch. 519, L. 2001, provided: "[This act] is effective on passage and approval." Approved May 1, 2001.

*Termination:* Section 4, Ch. 519, L. 2001, provided: "[This act] terminates March 1, 2006."

### **Administrative Rules**

Title 12, chapter 9, subchapter 9, ARM Contractual public elk hunting access agreements.