

1 SENATE BILL NO. 111

2 INTRODUCED BY B. MOLNAR, B. BROWN, L. BREWSTER, D. KARY

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO CONDITIONAL HUNTING
 5 PERMITS FOR DISABLED PERSONS; CREATING A PERMIT TO HUNT WITH A CROSSBOW;
 6 ESTABLISHING CERTIFICATION, FEE, EDUCATION, HUNTER SURVEY, AND REPORTING PROVISIONS;
 7 ELIMINATING THE REQUIREMENT THAT PERMIT TO HUNT FROM A VEHICLE HOLDERS HAVE
 8 COMPANIONS; REVISING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-3-203, 87-1-301, 87-2-
 9 105, 87-2-803, AND 87-2-817, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A
 10 TERMINATION DATE."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
 14 NEW SECTION. **Section 1. Permit to hunt with a crossbow -- reporting.** (1) The department may
 15 issue a permit to hunt with a crossbow, on a form prescribed by the department, if the person applying for the
 16 permit meets the requirements of subsection (2). A person issued a permit to hunt with a crossbow may do so
 17 during any season in which archery is allowed subject to the provisions of subsection (3) and with the purchase
 18 of the necessary licenses and permits.

19 (2) (a) A person qualifies for a permit to hunt with a crossbow, on payment of a fee of \$10, if the
 20 person is certified by a licensed physician, as defined in 87-2-803, ~~or a licensed physician assistant, as defined~~
 21 ~~in 37-20-401~~, to have a permanent condition that severely limits the person's ability to draw and hold a long
 22 bow, a recurve bow, or a compound bow of sufficient draw weight to hunt a game animal, and the person:

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

24 (ii) completed a ~~bowhunter~~ CROSSBOW education course pursuant to 87-2-105 at least 1 year prior to
 25 applying for a permit to hunt with a crossbow.

26 (b) Certification under this subsection (2) must be on a form prescribed by the department AND SIGNED
 27 BY THE PHYSICIAN.

28 (c) The department or a person who disagrees with a certification of eligibility for a permit to hunt with

1 a crossbow submitted pursuant to this subsection (2) may request a review by the board of medical examiners
2 pursuant to 37-3-203.

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

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

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

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

16

17 **Section 2.** Section 37-3-203, MCA, is amended to read:

18 **"37-3-203. Powers and duties -- rulemaking authority.** (1) The board may:

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

24 (b) hold hearings and take evidence in matters relating to the exercise and performance of the powers
25 and duties vested in the board;

26 (c) aid the county attorneys of this state in the enforcement of parts 1 through 4 and 8 of this chapter
27 as well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers
28 licensed by the board. The board also may assist the county attorneys of this state in the prosecution of

1 persons, firms, associations, or corporations charged with violations of the provisions listed in this subsection
2 (1)(c).

3 (d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle
4 as provided in 87-2-803(11) and certifications of conditions of eligibility for a permit to hunt with a crossbow as
5 provided in [section 1]; and

6 (e) fund additional staff, hired by the department, to administer the provisions of this chapter, by
7 increasing license fees as necessary.

8 (2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees
9 who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by
10 habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by
11 mental illness or chronic physical illness.

12 (b) The board shall ensure that a licensee who is required or volunteers to participate in the medical
13 assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to
14 enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a
15 qualified treatment program outside the state unless the board finds that there is no qualified treatment program
16 in this state.

17 (3) (a) The board shall report annually on the number and types of complaints it has received
18 involving physician practices in providing written certification, as defined in 50-46-302, for the use of marijuana
19 for a debilitating medical condition provided for in Title 50, chapter 46. The report must contain:

20 (i) the number of complaints received by the board pursuant to 37-1-308;

21 (ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-
22 307;

23 (iii) the general nature of the complaints;

24 (iv) the number of investigations conducted into physician practices in providing written certification;

25 and

26 (v) the number of physicians disciplined by the board for their practices in providing written
27 certification for the use of marijuana for a debilitating medical condition.

28 (b) Except as provided in subsection (3)(c), the report may not contain individual identifying

1 information regarding the physicians about whom the board received complaints.

2 (c) For each physician against whom the board takes disciplinary action related to the physician's
3 practices in providing written certification for the use of marijuana for a debilitating medical condition, the report
4 must include:

5 (i) the name of the physician;

6 (ii) the general results of the investigation of the physician's practices; and

7 (iii) the disciplinary action taken against the physician.

8 (d) The board shall provide the report to the children, families, health, and human services interim
9 committee by August 1 of each year and shall make a copy of the report available on the board's website.

10 (4) The board may enter into agreements with other states for the purposes of mutual recognition of
11 licensing standards and licensing of physicians and emergency care providers from other states under the
12 terms of a mutual recognition agreement."
13

14 **Section 3.** Section 87-1-301, MCA, is amended to read:

15 **"87-1-301. Powers of commission.** (1) Except as provided in subsections (6) and (7), the
16 commission:

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

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

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

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

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

28 (f) except as provided in 23-1-111, shall review and approve the budget of the department prior to its

1 transmittal to the office of budget and program planning;

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

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

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

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

15 (2) ~~The~~ Except as provided in [section 1], the commission may adopt rules regarding the use and type
16 of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable
17 standards as technical innovations in archery equipment change.

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

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

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

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

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

26 (iv) limit the number of licenses sold.

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

- 1 (i) for the biologically sound management of big game populations of elk, deer, and antelope;
2 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and
3 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-
4 321 through 87-1-325.

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

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

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

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

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

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

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

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

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

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

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

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

6

7 **SECTION 4. SECTION 87-2-105, MCA, IS AMENDED TO READ:**

8 **"87-2-105. Safety instruction required.** (1) Except for a youth who qualifies for a license pursuant to
9 87-2-805(4) or a person who has been issued an apprentice hunting certificate pursuant to 87-2-810, a hunting
10 license may not be issued to a person born after January 1, 1985, unless the person authorized to issue the
11 license determines proof of completion of:

12 (a) a Montana hunter safety and education course established in subsection (4) or (6);

13 (b) a hunter safety course in any other state or province; or

14 (c) a Montana hunter safety and education course that qualifies the person for a provisional certificate
15 as provided in 87-2-126.

16 (2) A hunting license may not be issued to a member of the regular armed forces of the United States
17 or to a member of the armed forces of a foreign government attached to the armed forces of the United States
18 who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to
19 a member's spouse or dependent, as defined in 15-30-2115, who resides in the member's household, unless
20 the person authorized to issue the license determines proof of completion of a hunter safety course approved
21 by the department or a hunter safety course in any state or province.

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

28 (4) The department shall provide for a hunter safety and education course that includes instruction in

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

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

12 (6) The department may develop an adult hunter safety and education course.

13 (7) A permit to hunt with a crossbow may not be issued pursuant to [section 1] unless the department
 14 receives an archery license issued for 1 of the past 3 years or determines proof of completion of a crossbow
 15 education course from a crossbow education program approved by the department. Neither the department nor
 16 a license agent is required to provide records of past archery license purchases. As part of the department's
 17 licensing procedures, the department shall notify the public regarding crossbow education requirements.

18 ~~(7)~~ (8) The department may adopt rules regarding how a person authorized to issue a license
 19 determines proof of completion of a required course."
 20

21 **Section 5.** Section 87-2-803, MCA, is amended to read:

22 **"87-2-803. Licenses for persons with disabilities -- definitions.** (1) Persons with disabilities who
 23 are residents of Montana not residing in an institution and are certified as disabled as prescribed by
 24 departmental rule may purchase the following for one-half the cost:

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

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

5 (3) A person who is certified as disabled pursuant to subsection (4) and who was issued a permit to
6 hunt from a vehicle for license year 2014 or a subsequent license year is automatically entitled to a permit to
7 hunt from a vehicle for subsequent license years if the criteria for obtaining a permit do not change.

8 (4) A person may be certified as disabled by the department and issued a permit to hunt from a
9 vehicle, on a form prescribed by the department, if the person meets the requirements of subsection (9).

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

12 (i) the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-101, except a
13 state or federal highway;

14 (ii) within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-
15 way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public
16 highway, where hunting is permitted; or

17 (iii) an off-highway vehicle or snowmobile, as defined in 61-1-101, in any area where hunting is
18 permitted and that is open to motorized use, unless otherwise prohibited by law, as long as the off-highway
19 vehicle or snowmobile is marked as described in subsection (5)(d) of this section.

20 (b) This subsection (5) does not allow a permitholder to shoot across the roadway of any public
21 highway or to hunt on private property without permission of the landowner.

22 (c) ~~A permitholder must have a companion to assist in immediately dressing any killed game animal.~~
23 ~~The companion may also assist the permitholder by hunting a game animal that has been wounded by the~~
24 ~~permitholder when the permitholder is unable to pursue and kill the wounded game animal.~~

25 (d) Any vehicle from which a permitholder is hunting must be conspicuously marked with an orange-
26 colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle, or as
27 prescribed by the department.

28 (6) (a) A resident of Montana who is certified by the department as experiencing blindness, as

1 defined in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of
2 \$10. The license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by
3 department rule. A wildlife conservation license is not a prerequisite to licensure under this subsection (6)(a).

4 (b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301,
5 may be issued regular resident deer and elk licenses, in the manner provided in subsection (1) of this section,
6 and must be accompanied by a companion, as provided in subsection (5)(c) of this section.

7 (7) The department shall adopt rules to establish the qualifications that a person must meet to be a
8 companion and may adopt rules to establish when a companion can be a designated shooter for a disabled
9 person.

10 (8) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers
11 to a person experiencing a condition medically determined to be permanent and substantial and resulting in
12 significant impairment of the person's functional ability.

13 (9) (a) A person qualifies for a permit to hunt from a vehicle if the person is certified by a licensed
14 physician, a licensed chiropractor, a licensed physician assistant, or an advanced practice registered nurse to
15 be nonambulatory, to have substantially impaired mobility, or to have a documented genetic condition that limits
16 the person's ability to walk or carry significant weight for long distances.

17 (b) For the purposes of this subsection (9), the following definitions apply:

18 (i) "Advanced practice registered nurse" means a registered professional nurse who has completed
19 educational requirements related to the nurse's specific practice role, as specified by the board of nursing
20 pursuant to 37-8-202, in addition to completing basic nursing education.

21 (ii) "Chiropractor" means a person who has a valid license to practice chiropractic in this state pursuant
22 to Title 37, chapter 12, part 3.

23 (iii) "Documented genetic condition" means a diagnosis derived from genetic testing and confirmed by
24 a licensed physician.

25 (iv) "Nonambulatory" means permanently, physically reliant on a wheelchair or a similar compensatory
26 appliance or device for mobility.

27 (v) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy
28 and who has a valid license to practice medicine or osteopathic medicine in this state.

1 (vi) "Physician assistant" has the meaning provided in 37-20-401.

2 (vii) "Substantially impaired mobility" means virtual inability to move on foot due to permanent physical
3 reliance on crutches, canes, prosthetic appliances, or similar compensatory appliances or devices.

4 (10) Certification under subsection (9) must be on a form provided by the department.

5 (11) The department or a person who disagrees with a determination of disability or eligibility for a
6 permit to hunt from a vehicle may request a review by the board of medical examiners pursuant to 37-3-203."

7

8 **Section 6.** Section 87-2-817, MCA, is amended to read:

9 **"87-2-817. Licenses for service members.** (1) A veteran or a disabled member of the armed forces
10 who meets the qualifications in 87-2-803(9) or [section 1] as a result of a combat-connected injury may apply at
11 a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A
12 tag, a Class B-8 deer B tag, and a special antelope license made available under 87-2-506(3) for one-half of
13 the license fee. Licenses issued to veterans or disabled members of the armed forces under this part do not
14 count against the number of special antelope licenses reserved for people with permanent disabilities, as
15 provided in 87-2-706.

16 (2) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as
17 provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a
18 contingency operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months
19 outside of the state, upon request and upon presentation of the documentation described in subsection (2)(c),
20 must be issued a free resident wildlife conservation license and a Class A resident fishing license or a Class
21 AAA resident combination sports license, which may not include a Class A-6 black bear tag, upon payment of
22 the resident base hunting license fee in 87-2-116 and the purchase of the resident aquatic invasive species
23 prevention pass pursuant to 87-2-130, in the license year that the member returns from military service or in the
24 year following the member's return, based on the member's election, and in any of the 4 years after the
25 member's election.

26 (b) If a Montana resident who meets the service qualifications of subsection (2)(a) is subsequently
27 required to serve another 2 months or more outside of the state under the same service qualifications, the
28 entitlement to free licenses provided pursuant to subsection (2)(a) resets and the member may start a new 5-

1 year entitlement period beginning in the license year that the member returns from the subsequent military
 2 service or in the year following the member's return, based on the member's election. There is no limit on the
 3 number of times the entitlement period may be reset if the Montana resident repeatedly meets the service
 4 qualifications of subsection (2)(a).

5 (c) To be eligible for the free licenses provided for in subsection (2)(a) or (2)(b), an applicant shall, in
 6 addition to the written application and proof of residency required in 87-2-202(1), provide to any regional
 7 department office or to the department headquarters in Helena, by mail or in person, the member's DD form
 8 214 verifying the member's release or discharge from active duty. The applicant is responsible for providing
 9 documentation showing that the applicant participated in a contingency operation as provided in 10 U.S.C.
 10 101(a)(13).

11 (d) The department's general license account must be reimbursed by a quarterly transfer of funds
 12 from the general fund to the general license account for costs associated with the free licenses granted
 13 pursuant to this subsection (2) during the preceding calendar quarter. Reimbursement costs must be
 14 designated as license revenue.

15 (3) A member of the armed forces who forfeited a license or permit issued through a drawing as a
 16 result of deployment outside of the continental United States in support of a contingency operation as provided
 17 in 10 U.S.C. 101(a)(13) is guaranteed the same license or permit, without additional fee, upon application in the
 18 year of the member's return from deployment or in the first year that the license or permit is made available
 19 after the member's return."

20
 21 **NEW SECTION. Section 7. Codification instruction.** [Section 1] is intended to be codified as an
 22 integral part of Title 87, chapter 2, part 8, and the provisions of Title 87, chapter 2, part 8, apply to [section 1].

23
 24 **NEW SECTION. Section 8. Effective date.** [This act] is effective on passage and approval.

25
 26 **NEW SECTION. Section 9. Termination.** [This act] terminates February 29, 2024.

27 - END -