

1 HOUSE BILL NO. 42

2 INTRODUCED BY J. HINKLE

3 BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING QUALIFIED FISH, WILDLIFE, AND PARKS
6 DEPARTMENT EMPLOYEES TO CARRY FIREARMS TO PERFORM THEIR ASSIGNED DUTIES;
7 AMENDING SECTION 87-1-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10

11 **Section 1.** Section 87-1-201, MCA, is amended to read:

12 **"87-1-201. Powers and duties.** (1) Except as provided in subsection (12), the department shall
13 supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing
14 animals of the state and may implement voluntary programs that encourage hunting access on private lands
15 and that promote harmonious relations between landowners and the hunting public. The department possesses
16 all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state
17 for the enforcement of the fish and game laws and the rules adopted by the department.

18 (2) Except as provided in subsection (12), the department shall enforce all the laws of the state
19 regarding the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and
20 game and nongame birds within the state.

21 (3) The department has the exclusive power to spend for the protection, preservation,
22 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds all state funds
23 collected or acquired for that purpose, whether arising from state appropriation, licenses, fines, gifts, or
24 otherwise. Money collected or received from the sale of hunting and fishing licenses or permits, from the sale of
25 seized game or hides, from fines or damages collected for violations of the fish and game laws, or from
26 appropriations or received by the department from any other sources is under the control of the department and
27 is available for appropriation to the department.

28 (4) The department may discharge any appointee or employee of the department for cause at any

1 time.

2 (5) The department may dispose of all property owned by the state used for the protection,
3 preservation, management, and propagation of fish, game, fur-bearing animals, and game and nongame birds
4 that is of no further value or use to the state and shall turn over the proceeds from the sale to the state
5 treasurer to be credited to the fish and game account in the state special revenue fund.

6 (6) The department may not issue permits to carry firearms within this state to anyone except
7 regularly appointed ~~officers or wardens~~ and other qualified employees identified, trained, and certified by the
8 department where necessary to perform assigned duties.

9 (7) Except as provided in subsection (12), the department is authorized to make, promulgate, and
10 enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its
11 judgment will accomplish the purpose of chapter 2.

12 (8) The department is authorized to promulgate rules relative to tagging, possession, or
13 transportation of bear within or outside of the state.

14 (9) (a) The department shall implement programs that:

15 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for
16 listing under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

17 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing
18 under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists
19 in the maintenance or recovery of those species;

20 (iii) manage elk, deer, and antelope populations based on habitat estimates determined as
21 provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates
22 as provided in 87-1-323. In implementing an elk management plan, the department shall, as necessary to
23 achieve harvest and population objectives, request that land management agencies open public lands and
24 public roads to public access during the big game hunting season.

25 (iv) in accordance with the forest management plan required by 87-1-622, address fire mitigation,
26 pine beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50
27 contiguous acres in any state park, fishing access site, or wildlife management area under the department's
28 jurisdiction.

1 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential
2 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or
3 recovery of those species with the social and economic impacts of species maintenance or recovery.

4 (c) Any management plan developed by the department pursuant to this subsection (9) is subject
5 to the requirements of Title 75, chapter 1, part 1.

6 (d) This subsection (9) does not affect the ownership or possession, as authorized under law, of a
7 privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

8 (10) The department shall publish an annual game count, estimating to the department's best ability
9 the numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative
10 regions of the state. In preparing the publication, the department may incorporate field observations, hunter
11 reporting statistics, or any other suitable method of determining game numbers. The publication must include
12 an explanation of the basis used in determining the game count.

13 (11) The department shall report current sage grouse population numbers, including the number of
14 leks, to the Montana sage grouse oversight team, established in 2-15-243, and the environmental quality
15 council in accordance with 5-11-210 on an annual basis. The report must include seasonal and historic
16 population data available from the department or any other source.

17 (12) The department may not regulate the use or possession of firearms, firearm accessories, or
18 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

19 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the
20 establishment of special archery seasons and the special muzzleloader heritage hunting season established in
21 87-1-304;

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

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

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

26 (e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h)."
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28 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

