

HOUSE BILL NO. 762

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO PUBLISH A BIENNIAL RIVER-USE REPORT; ALLOWING FUNDS IN THE STATE PARK ACCOUNT TO BE USED FOR THE RIVER-USE REPORT; AMENDING SECTION-SECTIONS 23-1-105 AND 87-1-201, MCA; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

SECTION 1. SECTION 23-1-105, MCA, IS AMENDED TO READ:

"23-1-105. Fees and charges -- use of motor vehicle registration fee. (1) (a) The department may levy and collect reasonable fees or other charges for the use of privileges and conveniences that may be provided and to grant concessions that it considers advisable, except as provided in subsections (2) and (6).

(b) There must be deposited into a state special revenue fund in the state treasury to the credit of the department:

(i) all money derived from the activities of the department, except as provided in subsection (5);

and

(ii) money from marijuana taxes deposited under 16-12-111.

(2) Overnight camping fees established by the department under subsection (1) must be discounted 50% for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and is:

(a) 62 years of age or older;

(b) certified as disabled in accordance with rules adopted by the department; or

(c) a veteran of the armed forces. While camping at a discounted rate, the veteran shall carry proof

1 of the person's veteran status, such as a DD form 214, U.S. department of veterans affairs identification card,
2 or a driver's license indicating the person's veteran status.

3 (3) For a violation of any fee collection rule involving a vehicle, the registered owner of the vehicle
4 at the time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is
5 discovered by an authorized officer. A defense that the vehicle was driven into the fee area by another person
6 is not allowable unless it is shown that at that time, the vehicle was being used without the consent of the
7 registered owner.

8 (4) Money received from the collection of fees and charges is subject to the deposit requirements
9 of 17-6-105(6) unless the department has submitted and received approval for a modified deposit schedule
10 pursuant to 17-6-105(8).

11 (5) There is a fund of the enterprise fund type, as defined in 17-2-102(2)(a), for the purpose of
12 managing state park visitor services revenue. The fund is to be used by the department to serve the recreating
13 public by providing for the obtaining of inventory through purchase, production, or donation and for the sale of
14 educational, commemorative, and interpretive merchandise and other related goods and services at
15 department sites and facilities ~~and the river-use report established in 87-1-201(15)~~. The fund consists of money
16 from the sale of educational, commemorative, and interpretive merchandise and other related goods and
17 services and from donations. Gross revenue from the sale of educational, commemorative, and interpretive
18 merchandise and other related goods and services must be deposited in the fund. All interest and earnings on
19 money deposited in the fund must be credited to the fund for use as provided in this subsection.

20 (6) In recognition of the fact that individuals support state parks through the payment of certain
21 motor vehicle registration fees, persons who pay the fee provided for in 61-3-321(19)(a) may not be required to
22 pay a day-use fee for access to state parks. Other fees for the use of state parks and fishing access sites, such
23 as overnight camping fees, are still chargeable and may be collected by the department.

24 (7) Any increase in the motor vehicle registration fee collected pursuant to 61-3-321(19)(a) on or
25 after January 1, 2012, that is dedicated to state parks must be used by the department for maintenance and
26 operation of state parks ~~and the river-use report established in 87-1-201(15)~~."

27

28 **Section 2.** Section 87-1-201, MCA, is amended to read:

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

7 (2) Except as provided in subsection (13), the department shall enforce all the laws of the state
8 regarding the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and
9 game and nongame birds within the state.

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

17 (4) The department may discharge any appointee or employee of the department for cause at any
18 time.

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

23 (6) (a) The department may not issue firearms within this state to anyone except:

24 (i) wardens; and

25 (ii) other qualified employees identified, trained, and certified by the department where necessary
26 to perform assigned duties pursuant to subsection (7).

27 (b) Wardens, as authorized officers under 87-1-502, are the only department employees with the
28 authority to enforce provisions of state law or administrative rule.

1 (7) (a) Department employees may be issued a firearm as allowed in subsection (6)(a)(ii) only after
2 submitting a form of final approval as determined and approved by the department.

3 (b) Department-issued firearms may be carried by an employee other than a warden only when the
4 employee is engaged in work that requires the carrying of a firearm, as determined by the department.

5 (c) When a department-issued firearm is no longer necessary to perform an employee's required
6 duties, the employee shall return the issued firearm to secure storage in the regional office to which the
7 employee is attached.

8 (8) Except as provided in subsection (13), the department is authorized to make, promulgate, and
9 enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its
10 judgment will accomplish the purpose of chapter 2.

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

13 (10) (a) The department shall implement programs that:

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

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

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

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

28 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential

1 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or
2 recovery of those species with the social and economic impacts of species maintenance or recovery.

3 (c) Any management plan developed by the department pursuant to this subsection (10) is subject
4 to the requirements of Title 75, chapter 1, part 1.

5 (d) This subsection (10) does not affect the ownership or possession, as authorized under law, of
6 a privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

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

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

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

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

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

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

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

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

26 (14) The department shall publish an annual public report that shows the number of licenses sold to
27 nonresidents in the previous license year for each species in which the purchase of a license or permit is
28 required. The report must also show how many licenses were issued through opportunities or programs for

1 nonresidents, such as those for the following:

2 (a) youths;

3 (b) college students;

4 (c) nonresidents who were former residents;

5 (d) nonresident licenses purchased by utilizing an outfitter preference point;

6 (e) sponsorships by a landowner, family member, or current Montana resident; or

7 (f) any other license opportunity or program for nonresidents."

8 (15) (a) The department shall publish a biennial public report, no later than October 1 of even-
9 numbered years, that shows the number and purpose of all watercraft between May 15 and September 15 for
10 the following river stretches:

11 (i) the Blackfoot River from the Harry Morgan fishing access site to its confluence with the Clark
12 Fork River;

13 (ii) the Clark Fork River system from Warm Springs to Plains;

14 (iii) the North Fork of the Flathead River to its confluence with the Flathead River;

15 (iv) the Middle Fork of the Flathead River to its confluence with the Flathead River;

16 (v) the South Fork of the Flathead River from below the Hungry Horse dam to its confluence with
17 the Flathead River;

18 (vi) the Flathead River above Flathead Lake from Blankenship bridge to Sportsman's bridge;

19 (vii) the East Fork of the Bitterroot River from Sula to its confluence with the Bitterroot River;

20 (viii) the West Fork of the Bitterroot River from Painted Rocks dam to its confluence with the

21 Bitterroot River;

22 (ix) the Bitterroot River to its confluence with the Clark Fork River;

23 (x) the Missouri River from the Holter dam to Cascade;

24 (xi) the Dearborn River from highway 200 to its confluence with the Missouri River;

25 (xii) the Jefferson River from Hell's Canyon to Three Forks, including a report for the month of
26 October;

27 (xiii) the Gallatin River from the Yellowstone national park boundary to its confluence with the

28 Missouri River;

