

1 HOUSE BILL NO. 347

2 INTRODUCED BY G. PARRY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE USE OF HUNTER ORANGE
5 WHILE HUNTING; PROVIDING RULEMAKING AUTHORITY TO THE FISH AND WILDLIFE COMMISSION
6 TO ADOPT RULES ABOUT HUNTER ORANGE REQUIREMENTS; AMENDING SECTIONS 87-1-301 AND
7 87-6-404, MCA; AND REPEALING SECTION 87-6-414, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 87-1-301, MCA, is amended to read:

12 **"87-1-301. Powers of commission.** (1) Except as provided in subsections (6) and (7), the
13 commission:

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

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

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

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

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

25 (f) except as provided in 23-1-111, shall review and approve the budget of the department prior to
26 its transmittal to the office of budget and program planning;

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

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

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

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

12 (k) shall review and approve the issuance of an either-sex or antlerless elk license, permit, or
13 combination thereof to a landowner or a landowner's designee pursuant to 87-2-513.

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

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

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

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

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

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

25 (iv) limit the number of licenses sold.

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

28 (i) for the biologically sound management of big game populations of elk, deer, and antelope;

1 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property;
2 and

3 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-
4 1-321 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
8 hunting 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 licenses by hunting district, portions of a hunting district, group of districts, or administrative
11 regions.

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

13 (i) harvest of lions by resident and nonresident hunters;

14 (ii) history of quota overruns;

15 (iii) composition, including age and sex, of the lion harvest;

16 (iv) historical outfitter use;

17 (v) conflicts among hunter groups;

18 (vi) availability of public and private lands; and

19 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all
20 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 and the special muzzleloader heritage hunting season established in
25 87-1-304;

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

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

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

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

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

7 (8) The commission may adopt rules regarding hunter orange, or similarly visible clothing
8 materials, to be worn by a person as a safety measure while hunting or while accompanying another person
9 who is hunting."

10
11 **Section 2.** Section 87-6-404, MCA, is amended to read:

12 **"87-6-404. Unlawful use of dog while hunting.** (1) Except as provided in subsections (3) through
13 (6), a person may not:

14 (a) chase any game animal or fur-bearing animal with a dog; or

15 (b) purposely, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a
16 hooved game animal. If the dog is not under the control of an adult at the time of the violation, the owner of the
17 dog is personally responsible. A defense that the dog was allowed to run at large by another person is not
18 allowable unless it is shown that at the time of the violation, the dog was running at large without the consent of
19 the owner and that the owner took reasonable precautions to prevent the dog from running at large.

20 (2) Except as provided in subsection (3)(g), a peace officer, game warden, or other person
21 authorized to enforce the Montana fish and game laws who witnesses a dog chasing, stalking, pursuing,
22 attacking, or killing a hooved game animal may destroy that dog on public land or on private land at the request
23 of the landowner without criminal or civil liability.

24 (3) A person may:

25 (a) take game birds during the appropriate open season with the aid of a dog;

26 (b) hunt mountain lions during the winter open season, as established by the commission, with the
27 aid of a dog or dogs;

28 (c) hunt bobcats during the trapping season, as established by the commission, with the aid of a

1 dog or dogs;

2 (d) subject to subsection (5), hunt black bears during the spring season with the aid of a dog or
3 dogs as authorized by the commission;

4 (e) train bird hunting dogs pursuant to the requirements of 87-3-602;

5 (f) conduct field trials for bird hunting dogs pursuant to the requirements of 87-3-603 or on private
6 land; and

7 (g) use trained or controlled dogs to chase or herd away game animals or fur-bearing animals to
8 protect humans, lawns, gardens, livestock, or agricultural products, including growing crops and stored hay and
9 grain. The dog may not be destroyed pursuant to subsection (2).

10 (4) A resident who possesses a Class D-3 resident hound training license may:

11 (a) pursue mountain lions and bobcats with a dog or dogs during a training season from December
12 2 of each year to April 14 of the following year; and

13 (b) pursue black bears with a dog or dogs during a training season from the end of the spring
14 season for black bear through June 15 of that year as authorized by the commission.

15 (5) A nonresident who possesses a Class D-4 hound license may pursue mountain lions or black
16 bears with a dog or dogs pursuant to 87-2-519.

17 (6) (a) A person with a valid hunting license issued pursuant to Title 87, chapter 2, may use a dog
18 to track a wounded game animal during an appropriate open season. Any person using a dog in this manner:

19 (i) shall maintain physical control of the dog at all times by means of a maximum 50-foot lead
20 attached to the dog's collar or harness;

21 ~~(ii) during the general season, whether handling or accompanying the dog, shall wear hunter~~
22 ~~orange material pursuant to 87-6-414;~~

23 ~~(iii)~~(ii) may carry any weapon allowed by law;

24 ~~(iv)~~(iii) may dispose of the wounded game animal using any weapon allowed by the valid hunting
25 license; and

26 ~~(v)~~(iv) shall tag an animal that has been reduced to possession in accordance with 87-6-411.

27 (b) Dog handlers tracking a wounded game animal with a dog are exempt from licensing
28 requirements under Title 87, chapter 2, as long as they are accompanied by the licensed hunter who wounded

1 the game animal.

2 (7) A person who is convicted of or who forfeits bond or bail after being charged with a violation of
3 this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention
4 center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail,
5 may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the
6 privilege to hunt, fish, and trap in this state or to use state lands, as defined in 77-1-101, for recreational
7 purposes for a period of time set by the court.

8 (8) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905
9 through 87-6-907."

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11 NEW SECTION. **Section 3. Repealer.** The following section of the Montana Code Annotated is
12 repealed:

13 87-6-414. Failure to wear hunter orange while big game hunting.

14 - END -