

SENATE BILL NO. 533

INTRODUCED BY S. NOVAK

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO RECREATIONAL TRAIL AND ROAD ACCESS; ESTABLISHING A NONAMBULATORY MOTORIZED RECREATION PASS; ESTABLISHING VIOLATIONS AND PENALTIES; REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO FACILITATE USE OF THE NONAMBULATORY MOTORIZED RECREATION PASS; REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO CATEGORIZE ALL PUBLIC TRAILS IN THE STATE; ESTABLISHING THE NONAMBULATORY MOTORIZED RECREATION PASS ACCOUNT; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING DEFINITIONS."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 7] may be cited as the "Nonambulatory Recreation Access Act".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 7], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Class I trail" means a public trail that can be accessed and completed by a person using a motorized wheelchair.

(2) "Class II trail" means a public trail that can be accessed and partially completed by a person using a motorized wheelchair.

(3) "Class III trail" means a public trail that cannot be accessed or completed by a person using a motorized wheelchair.

(4) "Department" means the department of fish, wildlife, and parks established in 2-15-104.

(5) "Motorized equipment" means any motorized equipment registered in the state pursuant to 61-3-321 that is authorized to be used on public lands by the land management agency with jurisdiction over those lands.

(6) "Nonambulatory" means an individual who is permanently physically or mentally unable to walk or traverse a normal path safely without the physical assistance of another person or the use of a wheelchair.

(7) "Recreation pass" means the nonambulatory motorized recreation pass established in [section 3].

(8) "Public trail" means a trail on state land designated, maintained, mapped, and marked by a state land management agency on the most current official map of the agency.

(9) (a) "Recreational trail or road" means a public trail or public road on state land that is primarily used for recreation and designated, maintained, mapped, and marked by a state land management agency on the most current official map of the agency.

(b) The term does not include county, city, or state roads, including highways, or federal roads primarily used for travel.

(10) "Trailhead" means the area beginning at the sign marking the origin of a public trail or segment of trail that is designated, maintained, mapped, and marked by at least one visible sign posted by the responsible state land management agency and identified on the most current official map of the agency. The term includes any adjacent improved, graveled, or paved vehicle parking lot.

NEW SECTION. Section 3. Nonambulatory motorized recreation pass -- fees -- rulemaking. (1)

Except for summer motorized recreation trails and trails or roads where motorized equipment use is prohibited or restricted by the department pursuant to [section 5], motorized equipment registered in the state pursuant to 61-3-321 may be used on a recreational trail or road managed by the department with a nonambulatory motorized recreation pass affixed in a conspicuous place to the motorized equipment.

(2) The cost of a nonambulatory motorized recreation pass is \$5. The recreation pass is valid indefinitely.

(3) The recreation pass is not transferable.

(4) Application for the issuance of the recreation pass must be made at locations and on forms prescribed by the department. The form must include:

(a) the applicant's name, phone number, and permanent street address;

(b) a physical description of the motorized equipment;

1 (c) proof of the motorized equipment's registration in the state; and

2 (d) written certification from a physician licensed under Title 37 that the applicant is
3 nonambulatory.

4 (5) The applicant's name and permanent street address, as required in subsection (4)(a), and any
5 other personal identification information, including the applicant's phone number, may not be made public but
6 may be used by other state agencies or the Montana university system for the sole purpose of gathering
7 information for user studies that include usage criteria, trends, and growth.

8 (6) Fees collected under this section must be deposited in the nonambulatory motorized recreation
9 pass account established in [section 7].

10 (7) The department shall adopt rules to implement this section.
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12 **NEW SECTION. Section 4. Penalties.** The following penalties apply to a violation of [sections 1
13 through 7]:

14 (1) Failure to affix the recreation pass as required by [section 3] is a misdemeanor punishable by a
15 fine of \$60.

16 (2) Making false statements in obtaining the recreation pass is a misdemeanor punishable by a
17 fine of not less than \$50 or more than \$1,000 or imprisonment in the county detention center for not more than
18 6 months, or both. In addition, upon conviction or forfeiture of bond or bail, the person may be subject to
19 forfeiture of any current hunting, fishing, or trapping license issued by this state and forfeiture of the privilege to
20 hunt, fish, or trap in the state or to use state lands, as defined in 77-1-101, for recreational purposes for a
21 period of time to be set by the court.

22 (3) Failure to obtain a recreation pass prior to the use of motorized equipment on a recreational
23 trail or road as provided in [section 3] is a misdemeanor punishable by a fine of \$250.
24

25 **NEW SECTION. Section 5. Nonambulatory motorized recreation pass implementation**
26 **requirements -- rulemaking.** (1) To facilitate and implement the use of the nonambulatory motorized
27 recreation pass established in [section 3] the department shall:

28 (a) reopen recreational trails and roads that previously allowed the use of motorized equipment in

- 1 the state to the use of motorized equipment by a person with a recreation pass;
- 2 (b) open recreational trails and roads to the use of motorized equipment by a person with a
- 3 recreation pass;
- 4 (c) maintain recreational trails and roads in the state for the use of motorized equipment by a
- 5 person with a recreation pass and;
- 6 (d) provide notice at trailheads and online indicating any restrictions or prohibitions on the use of
- 7 motorized equipment on a trail by a person with a recreation pass.
- 8 (2) The department may restrict or prohibit the use of motorized equipment by a person with a
- 9 recreation pass on recreational trails and roads for human, ecological, or environmental health and safety
- 10 reasons.
- 11 (3) The department shall adopt rules to implement this section.
- 12

13 **NEW SECTION. Section 6. Public trail access categorization -- requirements -- rulemaking.** (1)

14 The department shall classify all public trails as a class I, class II, or class III trail as defined in [section 2].

- 15 (2) The classification of a public trail must be posted at the trailhead and made available online.

- 16 (3) The department shall adopt rules to implement this section.
- 17

18 **NEW SECTION. Section 7. Nonambulatory motorized recreation pass account.** (1) There is a

19 nonambulatory motorized recreation account in the state special revenue fund established in 17-2-102.

- 20 (2) The following must be deposited in the account:

21 (a) pursuant to [section 3], revenue collected from the sale of nonambulatory motorized recreation

22 passes; and

23 (b) fines collected pursuant to [section 4], which must be transmitted to the department of revenue

24 for deposit of two-thirds of each fine in the state general fund and one-third of each fine in this account.

- 25 (3) Funds deposited in the account must be used by the department pursuant to [sections 1
- 26 through 7].
- 27

28 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 7] are intended to be

1 codified as a new part in Title 23, chapter 2, and the provisions of Title 23, chapter 2, apply to [sections 1
2 through 7].

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