

1 SENATE BILL NO. 328

2 INTRODUCED BY S. AUGARE

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING VETERANS, MILITARY SERVICE MEMBERS, AND
5 MEMBERS OF LAW ENFORCEMENT AGENCIES FROM HUNTER SAFETY EDUCATION REQUIREMENTS;
6 GRANTING RULEMAKING AUTHORITY; AMENDING SECTIONS 87-2-102, 87-2-105, AND 87-2-126, MCA;
7 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8

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

10

11 **Section 1.** Section 87-2-102, MCA, is amended to read:

12 **"87-2-102. Resident defined.** In determining whether a person is a resident for the purpose of issuing
13 resident hunting, fishing, and trapping licenses, the following provisions apply:

14 (1) (a) A member of the regular armed forces of the United States, a member's dependent, as defined
15 in 15-30-2115, who resides in the member's Montana household, or a member of the armed forces of a foreign
16 government attached to the regular armed forces of the United States is considered a resident for the purposes
17 of this chapter if:

18 (i) the member was a resident of Montana under the provisions of subsection (4) at the time the member
19 entered the armed forces and continues to meet the residency criteria of subsections (4)(b) through (4)(e); or

20 (ii) the member is currently stationed in and assigned to active duty in Montana; and has resided in
21 Montana for at least 30 days; ~~and presents official assignment orders and proof of completion of a hunter safety~~
22 ~~course approved by the department, as provided in 87-2-105, or a certificate verifying the successful completion~~
23 ~~of a hunter safety course in any state or province.~~ The 30-day residence requirement is waived in time of war.

24 Reassignment to another state, United States territory, or country terminates Montana residency for purposes
25 of this section, except that a reassigned member continues to qualify as a resident if the member's spouse and
26 dependents continue to physically reside in Montana and the member continues to meet the residency criteria
27 of subsections (4)(b) through (4)(e). The designation of Montana by a member of the regular armed forces as a
28 "home of record" or "home of residence" in that member's armed forces records does not determine the member's
29 residency for purposes of this section.

30 (b) A member of the regular armed forces of the United States who is otherwise considered a Montana

1 resident pursuant to subsection (1)(a)(i) does not forfeit that status as a resident because the member, by virtue
2 of that membership, also possesses, has applied for, or has received resident hunting, fishing, or trapping
3 privileges in another state or country.

4 (2) A person who has physically resided in Montana as the person's principal or primary home or place
5 of abode for 180 consecutive days and who meets the criteria of subsection (4) immediately before making
6 application for any license is eligible to receive resident hunting, fishing, and trapping licenses. As used in this
7 section, a vacant lot or a premises used solely for business purposes is not considered a principal or primary
8 home or place of abode.

9 (3) A person who obtains residency under subsection (2) may continue to be a resident for purposes of
10 this section by physically residing in Montana as the person's principal or primary home or place of abode for not
11 less than 120 days a year and by meeting the criteria of subsection (4) prior to making application for any resident
12 hunting, fishing, or trapping license.

13 (4) In addition to the requirements of subsection (2) or (3), a person shall meet the following criteria to
14 be considered a resident for purposes of this section:

15 (a) the person's principal or primary home or place of abode is in Montana;

16 (b) the person files Montana state income tax returns as a resident if required to file;

17 (c) the person licenses and titles in Montana as required by law any vehicles that the person owns and
18 operates in Montana;

19 (d) except as provided in subsection (1)(b), the person does not possess or apply for any resident
20 hunting, fishing, or trapping licenses from another state or country or exercise resident hunting, fishing, or
21 trapping privileges in another state or country; and

22 (e) if the person registers to vote, the person registers only in Montana.

23 (5) A student who is enrolled full-time in a postsecondary educational institution out of state and who
24 would qualify for Montana resident tuition or who otherwise meets the residence requirements of subsection (2)
25 or (3) is considered a resident for purposes of this section.

26 (6) An enrollee of a job corps camp located within the state of Montana is, after a period of 30 days within
27 Montana, considered a resident for the purpose of making application for a fishing license as long as the person
28 remains an enrollee in a Montana camp.

29 (7) A person who does not reside in Montana but who meets all of the following requirements is a
30 resident for purposes of obtaining hunting and fishing licenses:

1 (a) The person's principal employment is within this state and the income from this employment is the
2 principal source of the applicant's family income.

3 (b) The person is required to pay and has paid Montana income tax in a timely manner and proper
4 amount.

5 (c) The person has been employed within this state on a full-time basis for at least 12 consecutive
6 months immediately preceding each application.

7 (d) The person's state of residency has laws substantially similar to this subsection (7).

8 (8) An unmarried minor is considered a resident for the purposes of this section if the minor's parents,
9 legal guardian, or parent with joint custody, sole custody, or visitation rights is a resident for purposes of this
10 section. The minor is considered a resident for purposes of this section regardless of whether the minor resides
11 primarily in the state or otherwise qualifies as a resident. The resident parent or guardian of the minor may be
12 required to show proof of the parental, guardianship, or custodial relationship to the minor.

13 (9) A person is not considered a resident for the purposes of this section if the person:

14 (a) claims residence in any other state or country for any purpose; or

15 (b) is an absentee property owner paying property tax on property in Montana.

16 (10) A license agent is not considered a representative of the state for the purpose of determining a
17 license applicant's residence status."

18

19 **Section 2.** Section 87-2-105, MCA, is amended to read:

20 **"87-2-105. Safety instruction required.** (1) Except for a youth who qualifies for a license pursuant to
21 87-2-805(4) and as provided in subsection (2) of this section, a hunting license may not be issued to a person
22 who is born after January 1, 1985, unless the person authorized to issue the license determines proof of
23 completion of:

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

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

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

28 ~~———(2) A hunting license may not be issued to a member of the regular armed forces of the United States~~
29 ~~or to a member of the armed forces of a foreign government attached to the armed forces of the United States~~
30 ~~who is assigned to active duty in Montana and who is otherwise considered a resident under 87-2-102(1) or to~~

1 a member's dependents, as defined in 15-30-2115, who reside in the member's Montana household, unless the
2 person authorized to issue the license determines proof of completion of a hunter safety course approved by the
3 department or a hunter safety course in any state or province.

4 (2) Except for a person who is required by a court to complete a remedial hunter education program
5 pursuant to 87-6-915, completion of a hunter safety and education course is not required for the following persons
6 to obtain a hunting license:

7 (a) a member of a law enforcement agency;

8 (b) a member of the regular armed forces of the United States or a member of the armed forces of a
9 foreign government attached to the regular armed forces of the United States;

10 (c) a member of a reserve military force; or

11 (d) a veteran of the regular armed forces or reserve military forces.

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

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

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

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

1 (7) The department may adopt rules regarding how a person authorized to issue a license determines
2 proof of completion of a required course or proof of exemption from a required course pursuant to subsection (2)."

3

4 **Section 3.** Section 87-2-126, MCA, is amended to read:

5 **"87-2-126. Provisional hunter safety and education certificate for person with developmental**

6 **disability -- conditions of licensure -- definition.** (1) A person with a diagnosed developmental disability who

7 satisfactorily completes the classroom portion and field course of the firearms safety course but who is unable

8 to pass the written or an alternate-format exam portion of the course because of a developmental disability may

9 be issued a provisional hunter safety and education certificate. The certificate is valid only when used according

10 to this section.

11 (2) A person with a developmental disability may obtain a hunting license with a provisional hunter safety

12 and education certificate.

13 (3) Each person who uses a provisional hunter safety and education certificate must be in the company

14 of and assisted by the person's parent or guardian or by an adult designated by the person or by the person's

15 parent or guardian when hunting and shall conduct all hunting within the terms and conditions of the license

16 issued. A person who is accompanying and assisting a person with a disability:

17 (a) must have successfully completed a hunter safety and education course pursuant to ~~87-2-105(1)~~

18 87-2-105;

19 (b) must have as the sole priority the direct supervision of the person with a disability at all times;

20 (c) may only be actively engaged in hunting a game animal that may be taken with the license of the

21 person with a disability; and

22 (d) must be able to immediately intervene and control the firearm of the person with a disability at any

23 time.

24 (4) (a) This section does not entitle a person to possess a firearm if the person is otherwise prohibited

25 from possessing a firearm under state or federal law or a court order.

26 (b) A person may not knowingly authorize or permit a person with a developmental disability who is

27 incapable of safely possessing a firearm to possess a firearm for hunting in this state.

28 (5) As used in this section, "developmental disability" means a developmental disability as defined in

29 53-20-102."

30

