

HB 379 INTRODUCED BY ASAY, ET AL.  
CREATING PRIVATE LANDS WILDLIFE MANAGEMENT ACT

1/21 INTRODUCED  
1/21 REFERRED TO FISH & GAME  
1/21 FISCAL NOTE REQUESTED  
1/28 FISCAL NOTE RECEIVED  
2/05 HEARING  
2/19 COMMITTEE REPORT--BILL PASSED AS AMENDED  
2/21 2ND READING NOT PASSED 62 35

HOUSE BILL NO. 397  
 INTRODUCED BY *Clay Kopp, Jr., Cobb, Bengtson, Kopp*  
*Will Hoffman, Hall & Smith, Williams*

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND OPERATION OF PRIVATE WILDLIFE MANAGEMENT AREAS; TO PROVIDE FOR LICENSING AND REVIEW OF SUCH AREAS BY THE FISH AND GAME COMMISSION AND THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Short title. [This act] may be cited as the "Private Wildlife Management Area Act".

Section 2. Policy. It is the policy of the state of Montana to actively encourage the propagation, conservation, and utilization of wildlife resources on private lands.

Section 3. Definitions. As used in [this act], the following definitions apply:

- (1) "Landowner" means a person who owns, leases, or has a possessory interest in land.
- (2) "Licensee" means a person or persons who have completed an application as provided for in [section 4] and received approval for a private wildlife management area.

The term includes:

- (a) an individual or corporate landowner;

(b) the designee of an individual or corporate landowner;

(c) more than one landowner;

(d) the designee of more than one landowner.

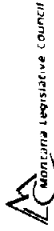
(3) "Private wildlife management area" means an area of private land for which a landowner or landowners or a designee has completed an application as provided in [section 4] and received approval for a private wildlife management plan that actively encourages the propagation, conservation, and wise use of the fish and wildlife populations on the land. A private wildlife management area may include public land that is contiguous to or encompassed by the area if permission for inclusion has been granted by the public agency that manages the public land.

Section 4. Private wildlife management area plan -- application process -- fee. (1) An applicant for a license to operate a private wildlife management area shall submit to the department a completed application form, which must include a plan.

(2) The private wildlife management area plan must include at least the following information:

(a) a legal description of the land to be included in the private wildlife management area;

(b) an estimate of affected wildlife and habitat, including an indication of animal density and range



1 condition, based on such accepted field procedures as sex  
2 and age ratios;

3 (c) a statement of management objectives, including  
4 the number and type of big game, game fish, and game bird  
5 permits to be requested for the area;

6 (d) a detailed description of proposed recommendations  
7 for activities intended to achieve the management  
8 objectives.

9 (3) A nonrefundable fee of \$300 must be submitted with  
10 an application for a license.

11 (4) (a) The department shall evaluate an application  
12 and shall within 90 days or such extension of time as may be  
13 agreed between the department and the applicant:

- 14 (i) approve the application; or
- 15 (ii) disapprove it and return it to the applicant.

16 (b) An applicant whose application has been denied by  
17 the department may appeal the decision to the commission.  
18 The commission, after notice to the applicant and  
19 opportunity for hearing, shall affirm or reverse the  
20 department's decision within 30 days from the date of  
21 appeal. The applicant may appeal an adverse decision of the  
22 commission to the district court.

23 (5) If a licensee for a private wildlife management  
24 area consists of more than one landowner, the landowners may  
25 designate one individual to represent them in transactions

1 with the department and the commission. The designee is  
2 responsible for wildlife-related activities in the area.

3 Section 5. License -- duration -- renewal fee. (1)  
4 Upon approval of an application and a private wildlife  
5 management area plan as provided in [section 4], the  
6 department, with approval of the commission, shall issue a  
7 private wildlife management area license for the operator  
8 of the private wildlife management area pursuant to any  
9 rules of the commission and the terms and conditions of the  
10 license.

11 (2) The license is valid for a 3-year period, subject  
12 to annual review by the department as provided in [sectic  
13 6].

14 (3) A \$300 renewal fee must be submitted with the  
15 license renewal application at the beginning of each  
16 subsequent 3-year period.

17 Section 6. Annual review. (1) The department shall  
18 annually review the private wildlife management area pla  
19 submitted for each approved private wildlife management are  
20 to determine that the licensee has fulfilled the obligation  
21 detailed in the plan.

22 (2) The annual review must evaluate the following:

23 (a) management activities carried out during th  
24 preceding year and their results, including:

- 25 (i) habitat improvement;

1 (ii) wildlife production and population levels; and  
 2 (iii) hunter use and harvest of wildlife, with an  
 3 accurate accounting of all hunting permits; and

4 (b) recommended changes in the management plan.  
 5 Section 7. Permit and tag procedures for area. (1) The  
 6 department shall provide the licensee with the appropriate  
 7 number of hunting permit applications as approved for that  
 8 area by the private wildlife management area plan. The  
 9 licensee shall require an applicant to complete the  
 10 application and obtain the appropriate resident or  
 11 nonresident license.

12 (2) Each person hunting in a private wildlife  
 13 management area must have in his immediate possession a  
 14 Montana hunting license and the appropriate permit or  
 15 permits issued by the licensee. A permit must allow hunting  
 16 for the period specified or until revoked by the licensee or  
 17 the department. A permittee may take or possess only those  
 18 species and the number of each species specified by the  
 19 appropriate hunting permit as approved in the private  
 20 wildlife management area plan. Permittees, while within the  
 21 boundaries of the private wildlife management area, are  
 22 subject to all terms and conditions of the private wildlife  
 23 management area license.

24 (3) A person who kills an animal under a permit issued  
 25 by the licensee must, immediately after the kill, tag the

1 carcass as required by 87-2-509. Prior to transporting the  
 2 carcass from the private wildlife management area, the  
 3 person shall:

- 4 (a) surrender the permit to the licensee, who must
- 5 immediately validate the tag in the manner prescribed by the
- 6 department; and
- 7 (b) keep the tag attached to the carcass of the animal
- 8 in accordance with 87-2-509.

9 Section 8. Operation of a private wildlife management  
 10 area. (1) The licensee of a private wildlife management area  
 11 shall post the area in the manner provided in 45-6-201.

12 (2) The commission in exercise of its authority under  
 13 87-1-305 may not permit hunting or fishing within a private  
 14 wildlife management area except in accordance with the  
 15 private wildlife management plan submitted and approved for  
 16 the area.

17 (3) The licensee shall maintain accurate records of  
 18 all hunting permits issued and make the records available to  
 19 the department upon request.

20 Section 9. Revocation of licenses and permits. (1) The  
 21 commission, after notice to a licensee and opportunity for  
 22 hearing, may revoke the license of the licensee upon a  
 23 finding by the department that the terms of the license have  
 24 not been met or upon conviction for a violation of the  
 25 provisions of Title 87 or the rules of the commission. The

1 licensee may within 30 days appeal the decision to revoke to  
2 the district court.

3 (2) The licensee or an agent of the department may  
4 revoke a hunting permit issued for a private wildlife  
5 management area for a violation of Title 87 or of the terms  
6 and conditions of the private wildlife management area  
7 license.

8 Section 10. Rulemaking. (1) The commission may adopt  
9 and enforce such rules as are necessary to implement the  
10 provisions of [this act].

11 (2) Such rules may address but are not limited to  
12 content of a private wildlife management area plan,  
13 application procedures, terms and conditions of an area  
14 license, issuance of hunting permits to licensees, and  
15 licensee recordkeeping.

16 Section 11. Codification instruction. This act is  
17 intended to be codified as an integral part of Title 87, and  
18 the provisions of Title 87 apply to this act.

19 Section 12. Effective date. This act is effective on  
20 passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB379, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill would provide for the establishment and operation of private wildlife management areas; to provide for licensing and review of such areas by the Fish and Game Commission and the Department of Fish, Wildlife and Parks.

ASSUMPTIONS:

1. If 2% of the 23,000 Montana landowners (1982 Agriculture census) became a licensee, the following assumptions would be taken into consideration.
2. All landowners who wish to obtain a license will do so in the first year of availability.
3. Individuals who lease land for hunting rights are not included in the estimates.
4. Increased enforcement patrols will be required to monitor each wildlife management plan.
5. The current level of nonresidents will continue as authorized in MCA 87-2-505 and 87-2-506.
6. It is estimated that 1 of the 460 plans would be appealed to district court if denied.
7. It is assumed that all of the wildlife and enforcement expenditures incurred in the first year will reoccur in all years in order to comply with Section 6 of the proposed bill.

FISCAL IMPACT:

	FY88			FY89		
<u>Expenditures:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Personal Services	\$ 0	\$ 929,496	\$ 929,496	\$ 0	\$ 929,496	\$ 929,496
Operating Expenses	0	619,664	619,664	0	619,664	619,664
TOTAL	\$ 0	\$ 1,549,160	\$ 1,549,160	\$ 0	\$ 1,549,160	\$ 1,549,160

Revenues:

Registration Fee*	\$ 0	\$ 138,000	\$ 138,000	\$ 0	\$ 138,000	\$ 138,000
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\*A \$300 registration fee is required and a \$300 renewal fee would be required at the beginning of each subsequent 2 year period.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

1. MCA 87-1-301 gives the commission the power to set the policies relating to wildlife management. This bill transfers much of this responsibility to the Department as outlined in Section 4 of the bill.
2. The present emphasis of the Department is to manage wildlife for the general public. This bill would broaden the scope to managing wildlife for private landowners.

*David L. Hunter* DATE 2/4/87

DAVID L. HUNTER, BUDGET DIRECTOR  
Office of Budget and Program Planning

TOM ASAY, PRIMARY SPONSOR

Fiscal Note for HB379, as introduced.

**HB 379**

APPROVED BY COMM.  
ON FISH AND GAME

STATEMENT OF INTENT

HOUSE BILL 379

House Fish and Game Committee

1  
2  
3  
4  
5 A statement of intent is required for this bill because  
6 it allows the fish and game commission in section 10 to  
7 adopt rules that are necessary to implement the act. It is  
8 the intent of the legislature that the commission adopt  
9 rules that address, but are not limited to, contents of a  
10 private wildlife management area plan, application  
11 procedures, terms and conditions of an area license,  
12 issuance of hunting permits to licensees, and licensee  
13 recordkeeping.

1 HOUSE BILL NO. 379

2 INTRODUCED BY ASAY, RAPP-SVRCEK, COBB, BENGTSON,

3 KOLSTAD, HOPMAN, GALT, E. SMITH, ABRAMS, BOYLAN,

4 IVERSON, GRADY

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE  
7 ESTABLISHMENT AND OPERATION OF PRIVATE WILDLIFE MANAGEMENT  
8 AREAS; TO PROVIDE FOR LICENSING AND REVIEW OF SUCH AREAS BY  
9 THE FISH AND GAME COMMISSION AND THE DEPARTMENT OF FISH,  
10 WILDLIFE, AND PARKS; AND PROVIDING AN IMMEDIATE EFFECTIVE  
11 DATE AND A TERMINATION DATE."

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

14 Section 1. Short title. [This act] may be cited as the  
15 "Private Wildlife Management Area Act".

16 Section 2. Policy. It is the policy of the state of  
17 Montana to actively encourage the propagation, conservation,  
18 and utilization of wildlife resources on private lands.

19 Section 3. Definitions. As used in [this act], the  
20 following definitions apply:

21 (1) "Landowner" means a person who owns, leases, or  
22 has a possessory interest in land.

23 (2) "Licensee" means a person or persons who have  
24 completed an application as provided for in [section 4] and  
25 received approval for a private wildlife management area.

1 The term includes:

2 (a) an individual or corporate landowner;

3 (b) the designee of an individual or corporate  
4 landowner;

5 (c) more than one landowner;

6 (d) the designee of more than one landowner.

7 (3) "Private wildlife management area" means an area  
8 of private land for which a landowner or landowners or a  
9 designee has completed an application as provided in  
10 [section 4] and received approval for a private wildlife  
11 management plan that actively encourages the propagation,  
12 conservation, and wise use of the fish--and wildlife  
13 populations on the land. A private wildlife management area  
14 may include public land that is contiguous to or encompassed  
15 by the area if permission for inclusion has been granted by  
16 the public agency that manages the public land.

17 Section 4. Private wildlife management area plan --  
18 application process -- fee. (1) An applicant for a license  
19 to operate a private wildlife management area shall submit  
20 to the department a completed application form, which must  
21 include a plan.

22 (2) The private wildlife management area plan must  
23 include at least the following information:

24 (a) a legal description of the land to be included in  
25 the private wildlife management area;





1 (b) an estimate of affected wildlife and habitat,  
 2 including an indication of animal density and range  
 3 condition, based on such accepted field procedures as sex  
 4 and age ratios;

5 (c) a statement of management objectives, including  
 6 the number and type of big game, game-fish, ANIMALS and game  
 7 bird-permits-to-be-requested-for-the-area; BIRDS THAT MAY BE  
 8 HARVESTED ON THE PRIVATE WILDLIFE MANAGEMENT AREA AND FOR  
 9 WHICH HUNTING LICENSES MUST BE GUARANTEED BY THE DEPARTMENT.

10 THE NUMBER OF LICENSES AUTHORIZED TO BE ISSUED PURSUANT TO  
 11 THE PLAN MUST BE DETERMINED BY THE MANAGEMENT OBJECTIVES  
 12 STATED IN THE PLAN AND IS NOT SUBJECT TO OTHER GENERAL  
 13 LIMITATIONS IMPOSED BY QUOTAS ESTABLISHED BY LAW OR RULES.

14 (d) a detailed description of proposed recommendations  
 15 for activities intended to achieve the management  
 16 objectives; AND

17 (E) PROVISIONS FOR REASONABLE PUBLIC ACCESS TO PUBLIC  
 18 LAND WITHIN THE PRIVATE WILDLIFE MANAGEMENT AREA.

19 (3) A nonrefundable fee of \$300 must be submitted with  
 20 an application for a license.

21 (4) (a) The department shall evaluate an application  
 22 and shall within 90 days or such extension of time as may be  
 23 agreed between the department and the applicant:

- 24 (i) approve the application; or
- 25 (ii) disapprove it and return it to the applicant.

1 (B) IN EVALUATING THE APPLICATION, THE DEPARTMENT  
 2 SHALL REVIEW THE ACCOMPANYING PROPOSED WILDLIFE MANAGEMENT  
 3 AREA PLAN FOR COMPLIANCE WITH THIS SECTION. IT SHALL APPROVE  
 4 THE PLAN IF IT DETERMINES THE PLAN COMPLIES WITH THIS  
 5 SECTION AND PROVIDES FOR THE PROTECTION, PRESERVATION, AND  
 6 PROPAGATION OF WILDLIFE SPECIES IN ACCORDANCE WITH THE  
 7 COMMISSION'S RESPONSIBILITIES UNDER 87-1-301(i) AND UNDER  
 8 APPLICABLE RULES AND POLICIES ADOPTED BY THE COMMISSION.

9 (b)(C) An applicant whose application has been denied  
 10 by the department may appeal the decision to the commission.  
 11 The commission, after notice to the applicant and  
 12 opportunity for hearing, shall affirm or reverse the  
 13 department's decision within 30 days from the date of  
 14 appeal. The applicant may appeal an adverse decision of the  
 15 commission to the district court.

16 (5) If a licensee for a private wildlife management  
 17 area consists of more than one landowner, the landowners may  
 18 designate one individual to represent them in transactions  
 19 with the department and the commission. The designee is  
 20 responsible for wildlife-related activities in the area.

21 Section 5. License -- duration -- renewal fee. (1)  
 22 Upon approval of an application and a private wildlife  
 23 management area plan as provided in [section 4], the  
 24 department, with approval of the commission, shall issue a  
 25 private wildlife management area license for the operation

1 of the private wildlife management area pursuant to any  
2 rules of the commission and the terms and conditions of the  
3 license.

4 (2) The license is valid for a 3-year period, subject  
5 to annual review by the department as provided in [section  
6 6].

7 (3) A \$300 renewal fee must be submitted with the  
8 license renewal application at the beginning of each  
9 subsequent 3-year period.

10 Section 6. Annual review. (1) The department shall  
11 annually review the private wildlife management area plan  
12 submitted for each approved private wildlife management area  
13 to determine that the licensee has fulfilled the obligations  
14 detailed in the plan.

15 (2) The annual review must evaluate the following:

16 (a) management activities carried out during the  
17 preceding year and their results, including:

- 18 (i) habitat improvement;
- 19 (ii) wildlife production and population levels; and
- 20 (iii) hunter use and harvest of wildlife, with an
- 21 accurate accounting of all hunting permits; and
- 22 (b) recommended changes in the management plan.

23 Section 7. Permit-and-tag-procedures AREA USE PERMIT  
24 -- HUNTING LICENSE REQUIREMENTS for area. (1) The  
25 department shall provide the licensee with the appropriate

1 number of hunting-permit-applications AREA USE PERMITS as  
2 approved for that area by the private wildlife management  
3 area plan. ~~The licensee shall require an applicant to~~  
4 ~~complete the application and obtain the appropriate resident~~  
5 ~~or nonresident license. A PERSON OBTAINING FROM A LICENSEE A~~  
6 ~~PERMIT TO HUNT ON THE PRIVATE WILDLIFE MANAGEMENT AREA MUST~~  
7 ~~BE ISSUED, UPON APPLICATION TO THE DEPARTMENT OR ITS LICENSE~~  
8 ~~AGENT, THE HUNTING LICENSE INDICATED ON THE PERMIT.~~

9 (2) Each person hunting in a private wildlife  
10 management area must have in his immediate possession a  
11 Montana hunting license and the appropriate permit or  
12 permits issued by the licensee. A permit must allow hunting  
13 for the period specified or until revoked by the licensee or  
14 the department. A permittee may take or possess only those  
15 species and the number of each species specified by the  
16 appropriate hunting permit as approved in the private  
17 wildlife management area plan. Permittees, while within the  
18 boundaries of the private wildlife management area, are  
19 subject to all terms and conditions of the private wildlife  
20 management area license.

21 (3) A person who kills an animal under a permit issued  
22 by the licensee must, immediately after the kill, tag the  
23 carcass as required by 87-2-509. Prior to transporting the  
24 carcass from the private wildlife management area, the  
25 person shall:

1 (a) surrender the permit to the licensee, who must  
2 immediately validate the tag in the manner prescribed by the  
3 department; and

4 (b) keep the tag attached to the carcass of the animal  
5 in accordance with 87-2-509.

6 Section 8. Operation of a private wildlife management  
7 area. (1) The licensee of a private wildlife management area  
8 shall post the area in the manner provided in 45-6-201.

9 (2) The commission in exercise of its authority under  
10 87-1-305 may not permit hunting or fishing within a private  
11 wildlife management area except in accordance with the  
12 private wildlife management plan submitted and approved for  
13 the area.

14 (3) The licensee shall maintain accurate records of  
15 all hunting permits issued and make the records available to  
16 the department upon request.

17 Section 9. Revocation of licenses and permits. (1) The  
18 commission, after notice to a licensee and opportunity for  
19 hearing, may revoke the license of the licensee upon a  
20 finding by the department that the terms of the license have  
21 not been met or upon conviction for a violation of the  
22 provisions of Title 87 or the rules of the commission. The  
23 licensee may within 30 days appeal the decision to revoke to  
24 the district court.

25 (2) The licensee or an agent of the department may

1 revoke a hunting permit issued for a private wildlife  
2 management area for a violation of Title 87 or of the terms  
3 and conditions of the private wildlife management area  
4 license.

5 Section 10. Rulemaking. (1) The commission may adopt  
6 and enforce such rules as are necessary to implement the  
7 provisions of [this act].

8 (2) Such rules may address but are not limited to  
9 content of a private wildlife management area plan,  
10 application procedures, terms and conditions of an area  
11 license, issuance of hunting permits to licensees, and  
12 licensee recordkeeping.

13 SECTION 11. LIMITATION ON NUMBER OF AREAS THAT MAY BE  
14 APPROVED. NO MORE THAN THREE PRIVATE WILDLIFE MANAGEMENT  
15 AREAS MAY BE APPROVED IN ANY FISH AND GAME DISTRICT  
16 DESIGNATED IN 2-15-3402(2).

17 Section 12. Codification instruction. This act is  
18 intended to be codified as an integral part of Title 87, and  
19 the provisions of Title 87 apply to this act.

20 Section 13. Effective date -- TERMINATION. This act is  
21 effective on passage and approval AND TERMINATES JULY 1,  
22 1993.

-End-