

HOUSE BILL 498

Introduced by Ellis, et al.

2/05	Introduced
2/05	Referred to Fish & Game
2/05	First Reading
2/05	Fiscal Note Requested
2/10	Fiscal Note Received
2/11	Hearing
2/11	Fiscal Note Printed
2/18	Tabled in Committee

1 House BILL NO. 498 Burns
 2 INTRODUCED BY Sen. Burns House Storck Law
 3 Bond Anderson Bellevue Goff Swenson
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
 5 ESTABLISHMENT AND OPERATION OF PRIVATE WILDLIFE ENHANCEMENT
 6 AND MANAGEMENT AREAS; PROVIDING FOR PERMITTING AND REVIEW OF
 7 PRIVATE WILDLIFE ENHANCEMENT AND MANAGEMENT AREAS BY THE
 8 FISH, WILDLIFE, AND PARKS COMMISSION AND THE DEPARTMENT OF
 9 FISH, WILDLIFE, AND PARKS; PROVIDING FOR THE ISSUANCE OF
 10 HUNTING LICENSES IN THOSE AREAS; PROVIDING FOR REVOCATION OF
 11 AREA PERMITS AND LICENSES UNDER CERTAIN CONDITIONS;
 12 PROVIDING PENALTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE
 13 DATE AND A TERMINATION DATE."

14 STATEMENT OF INTENT

15
 16 A statement of intent is required for this bill because
 17 [section 10] grants rulemaking authority to the fish,
 18 wildlife, and parks commission in order for the commission
 19 to administer the provisions of [sections 1 through 10]. It
 20 is intended that the rules address, at a minimum:

- 21 (1) all aspects of any plan submitted for a private
 22 wildlife enhancement and management area;
 23 (2) the form of application for a private wildlife
 24 enhancement and management area permit;
 25 (3) terms and conditions of a private wildlife

1 enhancement and management area permit;

2 (4) the process of providing certificates entitling a
 3 private wildlife enhancement and management area user to
 4 obtain the appropriate hunting license;

5 (5) an evaluation of what big game licenses may be
 6 appropriately issued for use in a particular private
 7 wildlife enhancement and management area, including species,
 8 sex, seasons, and bag limits, after considering the proper
 9 management of wildlife resources indigenous to the area;

10 (6) recordkeeping required of a permittee; and

11 (7) any other issue the commission considers
 12 appropriate to properly administer private wildlife
 13 enhancement and management areas in accordance with
 14 applicable game management standards.

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 NEW SECTION. Section 1. Short title. [Sections 1
 18 through 10] may be cited as the "Private Wildlife
 19 Enhancement and Management Area Act".

20 NEW SECTION. Section 2. Policy. It is the policy of
 21 the state of Montana to actively encourage the propagation,
 22 conservation, and use of wildlife resources on private
 23 lands.

24 NEW SECTION. Section 3. Definitions. As used in
 25 [sections 1 through 10], the following definitions apply:

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

3 (2) "Permittee" means a person who has completed an
4 application as provided for in [section 4] and received
5 approval for a private wildlife enhancement and management
6 area. The term includes:

7 (a) an individual or corporate landowner;

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

10 (c) more than one landowner; and

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

12 (3) "Private wildlife enhancement and management area"
13 means an area of private land for which a permit is issued
14 under [section 5] that is established to actively encourage
15 the propagation, conservation, and wise use of game
16 populations on the land. A private wildlife enhancement and
17 management area may include public land that is encompassed
18 by the area if permission for inclusion has been granted by
19 the public agency that manages the public land.

20 NEW SECTION. Section 4. Private wildlife enhancement
21 and management area plan and permit -- application process
22 -- fee. (1) An applicant for a permit to operate a private
23 wildlife enhancement and management area shall submit to the
24 department a completed application, on a form provided by
25 the department, that includes a plan.

1 (2) The private wildlife enhancement and management
2 area plan must be developed by the landowner, a regional
3 department biologist, and a member of the hunting public
4 chosen by a local sporting group and approved by the
5 landowner and the department biologist.

6 (3) The private wildlife enhancement and management
7 area plan must include at least the following information:

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

10 (b) an estimate of affected wildlife and habitat,
11 including an indication of animal density and range
12 condition, based on such accepted field procedures as sex
13 and age ratios;

14 (c) a statement of management objectives, including the
15 number and type of big game and game bird certificates to be
16 requested for the area; and

17 (d) a detailed description of proposed recommendations
18 for activities intended to achieve the management
19 objectives.

20 (4) A fee of \$300 must be submitted with the
21 application for a permit.

22 (5) (a) The department shall evaluate an application
23 and shall within 120 days or within an extended period as
24 may be agreed between the department and the applicant:

25 (i) approve the application;

(ii) modify the plan with landowner approval; or
 (iii) disapprove the application and return it to the applicant.

(b) An applicant whose application has been denied by the department may appeal the decision to the commission. The commission, after notice to the applicant and opportunity for hearing, shall affirm or reverse the department's decision within 30 days from the date of appeal. The applicant may appeal an adverse decision of the commission under the provisions of Title 2, chapter 4, part 7.

NEW SECTION. Section 5. Private wildlife enhancement and management area permit -- duration. (1) Upon approval of an application and a private wildlife enhancement and management area plan as provided in [section 4], the department, with approval of the commission, shall issue a private wildlife enhancement and management area permit for the operation of the private wildlife enhancement and management area pursuant to any rules of the commission and the terms and conditions of the plan.

(2) The permit is valid until July 1, 1999, subject to annual review by the department as provided in [section 6].

NEW SECTION. Section 6. Annual review. (1) The department shall annually review each private wildlife enhancement and management area plan to determine whether

the permittee has fulfilled the obligations detailed in the plan.

(2) The annual review must evaluate the following:

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

(i) habitat improvement;

(ii) wildlife production and population levels; and

(iii) hunter use and harvest of wildlife, with an accurate accounting of all hunting certificates; and

(b) recommended changes in the wildlife enhancement and management plan.

(3) A permittee who disagrees with the recommended changes is entitled to the hearing and appeal process outlined in [section 4(5)(b)].

NEW SECTION. Section 7. Certificate and hunting license procedures for area. (1) The department shall provide a permittee with the appropriate number of certificates as approved for that area by the private wildlife enhancement and management area plan. The permittee may transfer the certificate to any person, who may then obtain the appropriate resident or nonresident hunting license through the department. Hunting licenses issued by the department for each certificate issued by a permittee must specify species, sex, and class of license as established in Title 87, chapter 2, part 5. At least 25% of

1 the licenses issued under this subsection must be granted to
2 resident hunters.

3 (2) A person who applies for and is granted a hunting
4 license for any big game species for use in a private
5 wildlife enhancement and management area may not be granted
6 a license for the same species for use outside the private
7 wildlife enhancement and management area during the season
8 for which the private wildlife enhancement and management
9 area license is valid.

10 (3) Persons within the boundaries of a private wildlife
11 enhancement and management area are subject to all terms and
12 conditions of the private wildlife enhancement and
13 management area permit. Each person who hunts in a private
14 wildlife enhancement and management area must have in the
15 person's immediate possession a hunting license issued by
16 the department for the appropriate private wildlife
17 enhancement and management area. The license must allow
18 hunting for the period specified or until revoked by the
19 permittee or the department.

20 (4) A person may take or possess only those species and
21 the number of each species specified by the license and the
22 private wildlife enhancement and management area plan. A
23 person who kills an animal under a hunting license issued
24 for a private wildlife enhancement and management area shall
25 tag the carcass immediately after the kill, as required by

1 87-2-509. Prior to transporting the carcass from the private
2 wildlife enhancement and management area, the person shall:

3 (a) report the kill to the permittee, who shall
4 immediately validate the tag in the manner prescribed by the
5 department; and

6 (b) keep the tag attached to the carcass in accordance
7 with 87-2-509.

8 NEW SECTION. Section 8. Operation of private wildlife
9 enhancement and management area. (1) A permittee shall post
10 a private wildlife enhancement and management area in the
11 manner provided in 45-6-201, as appropriate.

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

17 (3) A permittee shall maintain accurate records of all
18 certificates provided under [section 7] and make the records
19 available to the department upon request.

20 NEW SECTION. Section 9. Revocation of permits and
21 licenses -- penalties. (1) The commission, after notice to a
22 permittee and opportunity for hearing, may revoke a private
23 wildlife enhancement and management area permit upon a
24 finding by the department that the terms of the permit have
25 not been met or upon conviction of the permittee for a

1 violation of the provisions of Title 87 or the rules of the
2 commission. The permittee may within 30 days appeal a
3 revocation decision to the district court.

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

9 (3) A permittee or hunter who uses the certification
10 process outlined in [section 7] to grant or obtain a hunting
11 license in violation of any provision of this title is
12 guilty of a misdemeanor punishable as provided in 87-1-102.

13 NEW SECTION. Section 10. Rulemaking authority. (1) The
14 commission may adopt and enforce rules necessary to
15 implement the provisions of [sections 1 through 10].

16 (2) The rules may address but are not limited to:

17 (a) the content of a private wildlife enhancement and
18 management area plan;

19 (b) application procedures;

20 (c) terms and conditions of a private wildlife
21 enhancement and management area permit;

22 (d) issuance of hunting certificates to permittees; and

23 (e) recordkeeping requirements.

24 NEW SECTION. Section 11. Codification instruction.
25 [Sections 1 through 10] are intended to be codified as an

1 integral part of Title 87, and the provisions of Title 87
2 apply to [sections 1 through 10].

3 NEW SECTION. Section 12. Effective date. [This act] is
4 effective on passage and approval.

5 NEW SECTION. Section 13. Termination. [This act]
6 terminates July 1, 1999.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0498, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act providing for the establishment and operation of private wildlife enhancement and management areas; providing for permitting and review of private wildlife enhancement and management areas by the Fish, Wildlife and Parks Commission and the Department of Fish, Wildlife and Parks; providing for the issuance of hunting licenses in those area; providing for revocation of area permits and licenses under certain conditions; providing penalties; and providing effective date and a termination date.

ASSUMPTIONS:

1. The Department of Fish, Wildlife and Parks (FWP) will accomplish rule making to implement the program.
2. FWP will receive 25 applications per year and will approve 20 per year. The five applicants denied will appeal through the process.
3. The annual review will result in the appeal by five permittees. The legal section will spend 5 days preparing and partaking in each appeal.
4. FWP will expend 20 days for inspection and review of each new area and six days monitoring and reviewing for each private wildlife management area thereafter. Operation costs will be \$400 per area.
5. The licenses issued to nonresidents will be within the current quota limits as established by the legislature. Elk licenses issued to nonresidents will be the class B-10 big game combination licenses and for the deer it will be the class B-11 deer combination license.
6. Issuing licenses to a sportsperson with a certificate provided by the owner of the wildlife enhancement and management will be a manual process involving several verification and validation checks. These costs will be absorbed by FWP.
7. The owners of the wildlife enhancement and management areas will be able to sell all of their nonresident certificates. Thus FWP will continue to receive revenue from the sale of 23,000 nonresident combination licenses.


FISCAL IMPACT:**Expenditures:**

	<u>FY94</u>	<u>FY95</u>
FTE	3.08	2.94
Personal Services	97,865	90,189
Operating Expenses	<u>14,800</u>	<u>18,000</u>
Total	112,665	108,189

Funding:

State Special Revenue	112,665	108,189
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TECHNICAL NOTES: HB0498 is not clear on whether nonresident elk and deer combination licenses are a part of the statutory quotas or in addition to the quotas set for these licenses.

 2-9-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

2-11-93
ALVIN ELLIS, PRIMARY SPONSOR DATE

Fiscal Note for HB0498, as introduced**HB 498**