

House BILL NO. 247

INTRODUCED BY

Harry
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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A REMEDIAL CONSERVATION EDUCATION PROGRAM FOR CERTAIN NONVIOLENT FISH AND WILDLIFE, OUTDOOR RECREATION, AND NATURAL RESOURCES OFFENDERS; ALLOWING A SENTENCING COURT TO ORDER REMEDIAL CONSERVATION EDUCATION TREATMENT AND PUBLIC COMMUNITY SERVICE IN ADDITION TO OTHER FINES AND PENALTIES UPON CONVICTION OF AN OFFENSE RESULTING IN INJURY TO A PERSON OR PROPERTY THAT OCCURS DURING HUNTING, AND A SECOND OR SUBSEQUENT FISH AND WILDLIFE VIOLATION, AN OUTFITTING AND GUIDING VIOLATION, AN AQUATIC ECOSYSTEM VIOLATION, A WASTE AND LITTER CONTROL VIOLATION, OR A STATE LANDS RECREATIONAL USE VIOLATION; REQUIRING THAT PROGRAM COSTS BE PAID BY THE OFFENDER; REQUIRING CERTIFICATION OF CONSERVATION EDUCATION SCHOOLS BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; ALLOWING THE DEPARTMENT TO ESTABLISH CERTIFICATION AND CURRICULUM REQUIREMENTS BY ADMINISTRATIVE RULE."

WHEREAS, it is a worthy objective to rehabilitate nonviolent hunting, fishing, outdoor recreation, and natural resources offenders, through education, by returning offenders to the field with an increased awareness of the underlying causes of their violations and a positive attitude and healthy respect for the resources; and

WHEREAS, public community service is an excellent possible remedy for courts to apply to fish and wildlife and certain natural resources violations, in addition to customary monetary penalties; and

WHEREAS, educational emphasis on hunter safety, landowner/hunter relations, and responsible hunting, fishing, and outdoor recreation practices provides a basis for offenders to regain the positive attitude and respect necessary to prevent subsequent violations.

STATEMENT OF INTENT

(1) A statement of intent is required for this bill because [section 5] grants authority to the department of fish, wildlife, and parks to adopt rules to implement the remedial conservation education program. It is intended that the department address by rule any curriculum requirements that are considered

1 by the department to be necessary to provide a comprehensive educational program, including, at a
2 minimum:

3 (a) discussion on the history of and rationale for state and federal wildlife laws with regard to public
4 and personal safety, protection of public resources, respect for land and property, and equal sporting
5 opportunities;

6 (b) discussion of natural resource management; related problems, issues, and concerns; and new
7 technologies and techniques in resource management;

8 (c) discussion on wilderness, wildlands, parks, and natural resource ethics, with emphasis on
9 conservation education and ethics;

10 (d) discussion on human resource impacts from vehicle travel, backcountry travel, camping, fires,
11 water use, sanitation problems, and effects on wildlife;

12 (e) a suitable forum for offenders to express their feelings and problems as related to hunting,
13 fishing, outdoor recreation, and behavior in order to understand the underlying causes of their violations
14 and the possible consequences to themselves and others;

15 (f) correction of deficiencies in knowledge, attitude, and behavior that led to the violation;

16 (g) discussion on responsible hunting practices, which may include pictorial reviews of safe and
17 unsafe hunting practices, scenarios of "shoot" and "no shoot" situations that hunters may face in the field,
18 safe firearm and bow handling, zones of fire, silhouette and skyline shooting, and primary safety rules;

19 (h) discussion of landowner-hunter relations, field etiquette, landowner conflict, resource visitor or
20 user conflict, resource carrying capacity, and the destruction and overuse of resources;

21 (i) examination of circumstances that can lead to violations or accidents;

22 (j) discussion on the public conception or misconception of hunting and hunters;

23 (k) a final written examination including both written questions and an analysis of hunting situations;

24 and

25 (l) a program participant's pledge to apply the materials presented and to abide by all rules and
26 regulations in the future.

27 (2) It is further intended that the rules address a system of periodic curriculum review to ensure the
28 effectiveness of the program on an ongoing basis.

29 (3) It is further intended that the rules establish a system of evaluating the credentials of and
30 approving state-licensed proprietary schools that have an emphasis on conservation education, pursuant

1 to [section 4]; to ensure that the remedial education program is presented by qualified instructors; and to
2 ensure the objectives of the program are met.

3

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

5

6 NEW SECTION. **Section 1. Remedial conservation education program -- purpose.** In order to
7 provide remedial training to persons involved in certain nonviolent fish and wildlife violations, hunting
8 accidents, and outdoor recreation and natural resources violations, the department shall administer an
9 educational program of rehabilitation intended to return a violator to the field with a more ethical and
10 responsible attitude and a heightened consciousness of proper hunting, fishing, and outdoor recreational
11 practices. It is intended that remedial educational training and public community service work be available
12 as additional conditions of sentence to other fines and penalties for those violations.

13

14 NEW SECTION. **Section 2. Remedial conservation education program -- conditions -- public**
15 **community service.** (1) A warden or law enforcement officer who issues a warrant for a violation denoted
16 in subsection (2) may indicate on the warrant that enrollment in the remedial conservation education
17 program is considered appropriate for the offender.

18 (2) A person who is convicted of any offense involving injury to person or property that occurs
19 during hunting or any second or subsequent violation of this title; a second or subsequent violation of Title
20 37, chapter 47; a second or subsequent violation of Title 75, chapter 7 or 10; or a second or subsequent
21 violation of Title 77, chapter 1, part 8, may, in addition to any other punishment imposed, be sentenced
22 to complete a remedial conservation education program offered by a state licensed proprietary school with
23 an emphasis on conservation education that is approved by the department pursuant to [section 4]. The
24 person sentenced shall complete the program within 90 days of sentence or pay the program tuition as a
25 good faith indication of the person's intent to complete the program. Failure to complete the program within
26 1 year after payment of the program tuition results in forfeiture of the tuition, in addition to the other
27 conditions in [section 3(2)].

28 (3) The sentencing judge may also include in the sentencing order a condition that a person
29 convicted under subsection (2) shall perform a designated number of hours of public community service.
30 Whenever possible, the public service should be of a nature that reminds the person of the effects of the

1 crime and that mitigates those effects to the extent possible.

2 (4) In addition to any other statutory penalties, the sentencing court may require payment of a bond
3 to ensure an offender's participation in the remedial conservation education program. Failure of the offender
4 to participate in the program or to complete the program successfully results in forfeiture of the bond. The
5 court may suspend a portion of any fine imposed pursuant to subsection (2), contingent upon completion
6 of the program.

7

8 **NEW SECTION. Section 3. Certification of curriculum for remedial conservation education program**

9 -- notification to court of participation and completion -- program costs payable by offender. (1) The
10 department shall certify the basic curriculum to be presented to persons who are required to attend the
11 remedial conservation education program. At a minimum, the program must provide adequate information
12 and assistance to help offenders not to incur further violations and accidents. The program may be offered
13 through a correspondence course. The department may certify any similar program offered in another state
14 that is available to nonresident offenders.

15 (2) Program instructors shall notify the sentencing court of the participant's attendance or
16 nonattendance in the program and of the participant's successful or unsuccessful completion of the
17 program. A participant who fails to attend and complete the program successfully may be:

18 (a) held in contempt of court;

19 (b) ordered to take the program again;

20 (c) required to forfeit any bond applied to the offense pursuant to [section 2(4)]; and

21 (d) ordered to perform a designated number of hours of public community service.

22 (3) A participant shall pay the costs directly attributable to participation in the program.

23

24 **NEW SECTION. Section 4. Authorization of remedial conservation education school -- curriculum**

25 **review.** (1) The department shall, after reviewing a proposal by any state-licensed proprietary school that
26 has an emphasis on conservation education and that is interested in presenting the remedial conservation
27 education program, authorize the school as being certified to present the program if the proposal meets the
28 curriculum requirements and other requirements that the department establishes by rule pursuant to [section
29 5].

30 (2) The department shall periodically review all program curricula for content and appropriateness

1 and make curriculum changes as necessary to ensure the effectiveness of the program.

2

3 NEW SECTION. **Section 5. Department to adopt rules.** The department shall adopt rules to
4 implement the provisions of [sections 1 through 5].

5

6 NEW SECTION. **Section 6. Codification instruction.** [Sections 1 through 5] are intended to be
7 codified as an integral part of Title 87, chapter 1, part 1, and the provisions of Title 87, chapter 1, part 1,
8 apply to [sections 1 through 5].

9

10 NEW SECTION. **Section 7. Saving clause.** [This act] does not affect rights and duties that
11 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
12 act].

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STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0247, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a remedial conservation education program for certain nonviolent fish and wildlife, outdoor recreation, and natural resources offenders; allowing a sentencing court to order remedial conservation education treatment and public community service in addition to other fines and penalties upon conviction of an offense resulting in injury to a person or property that occurs during hunting season; and requiring that program costs be paid by the offender.

ASSUMPTIONS:

1. The Department of Fish, Wildlife and Parks (FWP) will be responsible for administering the program as of October 1, 1997.
2. FWP will be responsible for the development of curriculum guidelines and overseeing implementation of the program with existing staff and budgets.
3. The number of participants may range from 100 to 1,000 individuals annually.
4. FWP will certify state-licensed proprietary schools to implement the program. Violators will be responsible for paying fees related to participating in remedial schools. State-certified proprietary schools will be responsible for curriculum development, collecting fees and tracking expenditures and making records available to the state for evaluation.
5. There will be no fiscal impact to the Department of Commerce, Board of Outfitters, as a result of passage of this legislation. The costs will be borne by the licensee who may be required to complete a remedial conservation education program if so ordered by the Board of Outfitters.
6. There will be no fiscal impact to the Department of Justice as a result of passage of this legislation.

FISCAL IMPACT:

None

 1-18-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


HAL HARPER, PRIMARY SPONSOR DATE

Fiscal Note for HB0247, as introduced

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