

**Recommended Edits to Licensing Rules  
within the Department of Fish, Wildlife and Parks' Rulemaking Authority**

**New rules**

NEW RULE II CONVERSION OF LICENSE TYPE (1) A resident who has purchased a bear, deer, elk, bird, or fishing license may request a refund by returning the license to the Helena or regional office at the time of application for a class AAA combination license.

(2) A resident who purchases a two-day fishing license may request a refund by returning the license to the Helena or regional office at the time of application for a season fishing license.

(3) A nonresident who has purchased a season bird, season fishing or deer license may request a refund by returning the license to the Helena office at the time of application for a nonresident combination license.

AUTH: 87-1-201, MCA

IMP: 87-1-201, MCA

REASON: The language of New Rule II was originally found in ARM 12.3.402. The conversion of license type was best suited in a separate rule.

NEW RULE III DONATED LICENSES (1) In accordance with 87-2-815, the nonprofit organization must provide a copy of the articles of incorporation to the department as verification of eligibility.

(2) Donated licenses must be received by the department prior to the beginning of the hunting season in which they are applicable.

(3) Applications must be submitted on a form supplied by the department.

(4) Applications will be processed on a first come first served basis

AUTH: 87-2-815, MCA

IMP: 87-2-815, MCA

REASON: NEW RULE III was made to be consistent with the long standing and current practice.

NEW RULE IV FORMS OF IDENTIFICATION (1) A valid state, federal, or tribal government issued picture identification may be used to verify residency when purchasing a resident license.

AUTH: 87-2-106, MCA

IMP: 87-2-106, MCA

REASON: NEW RULE IV was made to be consistent with the long standing and current practice.

**Amendments to current rules:** (new matter underlined and deleted matter interlined)

12.3.123 COMBINATION LICENSE ALTERNATE LIST (1) Interested nonresident hunters may sign up to be placed on a randomized list for a B-10 or B-11 license. ~~The department may initially issue more nonresident combination licenses than are set by quota. Quotas will be met by reduction of initial sales through the refund process. In addition, upon completion of the initial sale of nonresident combination licenses, the department will randomly draw names of unsuccessful general big game combination license applicants for an alternates' list and names for alternates' lists for the general and landowner sponsored nonresident deer combination licenses.~~

~~(2) These unsuccessful applicants~~ Interested nonresident hunters may be contacted and given the opportunity to purchase a license in the event refunds are issued to successful applicants which leave quotas unmet.

~~(2) In the event the alternate list is exhausted and refunded licenses remain to be issued, a secondary alternate list shall be prepared. Names shall be placed on the secondary alternate list on a first come, first served basis. Individuals must request in writing to have their names placed on the list.~~

AUTH: 87-1-201, MCA  
IMP, 87-2-511, MCA

REASON: The amendments to ARM 12.3.123 were made to be consistent with the long standing and current practice.

12.3.205 REVIEW OF APPOINTMENTS (1) A license agent's appointment shall may be reviewed annually. In considering review, the department will evaluate the following:

(a) compliance of the agent to the procedures of the department and requirements of law for license fee remittance and ~~handling of the licenses assigned to him;~~

(b) complaints about the license agent that have remained ~~unexplained or unsatisfactorily explained~~ unresolved;

(c) the public convenience to the public of continuation of a license agency at the ~~location of this applicant's business; and~~

~~(d) whether or not it was necessary to go against the bond of the agent; and~~

~~(e) (d) the overall performance of this agent.~~

~~(2) When a license agent sells less than 500 licenses or when the total license sales is less than \$1,000 during a license year in an area where there are other license agents, then the appointment may not be renewed.~~

~~(3) Upon determination by the director that performance of an agent is unsatisfactory, revocation of an agent's certificate shall be initiated.~~

~~(4) An agent whose certificate is revoked, or whose bond was used may not be considered as a license agent for 3 years from date of revocation. Then the director must be satisfied the ex-license agent has removed the cause of revocation.~~

AUTH: 87-1-201, 87-2-901, MCA  
IMP: 87-2-901, 87-2-904, MCA

REASON: The amendments to ARM 12.3.205 were made for clarification and to be consistent with the long standing and current practice.

12.3.209 REGULATIONS FOR ISSUANCE OF FISH AND GAME LICENSES

(1) License agents are required to ~~fill in all blank information spaces on licenses issued~~ complete application information with factual information supplied by the applicants.

(2) It is prohibited for any license agent to date a license with any date other than the actual date the license is issued, except for the following:

(a) ~~nonresident 2-day fishing B-4 or B-5~~ licenses which may be postdated for the dates the applicant wishes to fish; and

(b) ~~nonresident 3-day shooting preserve bird stamps B-12~~ license which may be postdated for the dates the applicant wishes to hunt.

~~(3) No license shall be predated.~~

(4) (3) Any applicant who fails to supply any information required on the licenses or fails to show proof of identity shall be refused the license applied for.

AUTH: ~~2-15-112~~, 87-1-201, MCA  
IMP: 87-2-106, MCA

REASON: The amendments to ARM 12.3.209 were made to reference the license classes as established in statute.

12.3.210 DISCOUNT SALE OF HUNTING AND FISHING LICENSES

PROHIBITED (1) ~~Licenses must be sold at the rate established by Montana law. No license agent shall sell or give away any license authorized or directed by the fish and wildlife laws of the state of Montana for less than the fee prescribed by such laws. No such agent shall advertise that any such license will be sold at any such lesser fee nor shall such agent at any time use the sale of such licenses as a trade stimulator, loss leader, or as any advertising program or device to promote or increase his sales of merchandise or equipment; except that this regulation shall not prohibit such agent from advertising that such licenses can be obtained, upon payment of the prescribed fee, at his usual place of business or designated location.~~

~~(2) The director may revoke the license agency of any license agent violating this rule.~~

AUTH: 87-1-201, MCA  
IMP: 87-2-901, 87-2-904, MCA

REASON: This rule is no longer necessary as license agents use a point of sale device for license sales supplied by the Department and do not have the ability to alter license prices.

12.3.220 LICENSE AGENT APPLICATIONS ~~(1) A person interested in being appointed as a license agent shall file at the nearest regional office on an application form provided by the department.~~

~~(2) (1) The application must be signed on a current form and provide sufficient information for the department to determine the eligibility for an appointment as set forth in (3) (2) of this rule and for the department, for security, to perform sufficient background checks to insure that applicants and appointees conform to the law and rules.~~

~~(3) (2) Before making an appointment, the department shall consider the following:~~

~~(a) the financial responsibility and security of the applicant and the applicant's business or activity; and~~

~~(i) the applicant shall have satisfactory credit ratings and must meet the bonding or security requirements of ARM 12.3.208;~~

~~(ii) an applicant shall have conducted business for at least one year at the location for which the license agent appointment is requested, unless a waiver is approved by the department;~~

~~(b) unless a waiver is approved by the department, the type of business or accessibility of the applicant's place of business to the public, including but not limited to:~~

~~(i) location of the business;~~

~~(ii) sporting goods stores;~~

~~(iii) hours the business is open to the public; and~~

~~(c) (iii) the availability of existing license agents to serve the public, convenience and the volume of the expected sales;~~

~~(d) applicant's willingness to reimburse the department for the cost of the required electronic device and willingness to provide a dedicated telephone line to be attached to the device; and~~

~~(e) first in time, first in consideration.~~

~~(4) This rule will be implemented when the automated license system is operational as authorized by the director.~~

AUTH: 87-1-201, 87-2-901, 87-2-902, MCA

IMP: 87-2-901, MCA

REASON: The amendments to ARM 12.3.220 were made for clarification and to be consistent with the long standing and current practice.

12.3.225 LICENSE AGENT ELECTRONIC FUNDS TRANSFER (1) As a condition of appointment, an agent shall agree to participate in the department's electronic funds transfer system.

(2) A license agent shall, before being appointed selling licenses, authorize the debiting and crediting (sweep) of an account in the license agent's name for the purpose of electronic funds transfer to or from the state's collection account, as provided in this rule.

(3) The license agent shall execute all forms required by the department, the department's bank, or the license agent's bank or the initiating bank.

(4) The department ~~may~~ will determine the schedule for ~~debiting or crediting~~ (sweeping) the license agent account. The department may allow deviation from the schedule in special circumstances.

(5) The license agent shall bring any error or dispute to the attention of the department before the sweep.

(6) In the event a license agent does not have sufficient funds to cover the sweep, a second attempt will be done at the next scheduled sweep. A license agent must pay the amount of any nonsufficient fund (NSF) sweep within 48 hours after notification by certified check, cashier's check, or money order. If a NSF is not covered, the license agent shall immediately surrender licensing material and is subject to revocation proceedings.

(7) If it fails again, the license agent will not be permitted to sell licenses until the issue is resolved and the agent must pay the outstanding amount of all outstanding failed sweeps within 48 hours after notification by certified check, cashier's check, or money order. If outstanding balances are not paid in full within 48 hours, the license agent shall immediately surrender department issued equipment and materials, is subject to revocation, and may be sent to a collection agency for unpaid balances owed.

~~(7)~~ (8) Two or more failed sweeps that result in nonsufficient funds within a single license year are cause for revocation or suspension.

~~(8)~~ This rule will be implemented when the automated license system is operational as authorized by the director.

AUTH: 87-1-201, 87-2-901, MCA

IMP: 87-2-901, MCA

REASON: The amendments to ARM 12.3.225 were made for clarification and to be consistent with the long standing and current practice.

12.3.230 LICENSE AGENT DUTIES (1) Each license agent shall maintain a license agent manual, materials, displays, and electronic devices department issued equipment, regulations, and materials in accordance with instructions from the department.

(2) Each license agent shall sell licenses via the department approved electronic device ~~or back enter data if the department provided generic form is used due to system failure.~~

(3) Each license agent shall electronically transfer to the department's bank account the department's portion of license sale proceeds as provided for in ARM 12.3.2205.

~~(4)~~ This rule will be implemented when the automated license system is operational as authorized by the director.

AUTH: 87-1-201, 87-2-901, MCA

IMP: 87-2-901, MCA

REASON: The amendments to ARM 12.3.230 were made for clarification and to be consistent with the long standing and current practice.

12.3.235 REVOCATION OR SUSPENSION OF LICENSE AGENT (1) The department may suspend or revoke an appointment for any of the following reasons:

- (a) a change of business location;
- (b) an insufficient sales volume;
- (c) a delinquency in remitting money owed to the department;
- (d) a violation of any rule adopted by the department or commission;
- (e) the refusal to acquire or display any materials required by the department; or
- (f) the appointee is ineligible for appointment ~~under ARM 12.3.201A and the facts giving rise to such ineligibility occurred or were discovered subsequent to the appointment.~~

(2) After notice in writing, the department shall revoke the license agency appointment for the following reasons:

- (a) knowingly providing false or misleading information to the department or any other agency conducting an investigation on behalf of the department;
- (b) the owner or principal manager of a license agent being convicted of a felony or two hunting or fishing offenses;
- (c) endangering the security of the automated license system; or
- (d) upon suspension, failing to rectify the problems which led to the suspension.

(3) Upon notice of revocation, the license agent shall give a final accounting to the department and surrender all department materials, including any department owned electronic devices. The license agent is liable for all money still owed the department.

~~(4) This rule will be implemented when the automated license system is operational as authorized by the director.~~

AUTH: 87-1-201, 87-2-901, MCA

IMP: 87-2-901, MCA

REASON: The amendments to ARM 12.3.235 were made for clarification and to be consistent with the long standing and current practice.

12.3.403 REPLACEMENT LICENSES (1) A person hunter may replace a department-issued hunting license or permit that is lost, stolen, or destroyed at a department office or any department license provider.

(2) The person hunter must appear personally at a department regional or area office or at headquarters in Helena, Montana during normal operating hours to replace a lost, stolen, or destroyed license a second or subsequent time for the same species.

(3) The fee for each replacement license or permit issued under this rule is \$5.

(4) Licenses and permits seized pursuant to a law enforcement action are not considered to be lost, stolen, or destroyed and will not be replaced.

(5) Replacement licenses for animals deemed unfit for human consumption will be issued pursuant to ARM 12.3.404.

AUTH: 87-2-104, MCA  
IMP, 87-2-104, MCA

REASON: The amendments to ARM 12.3.403 were made for clarification and to be consistent with the long standing and current practice. HB 353 (2021) authorized the department to issue a replacement license for animals that are unfit for human consumption. The department is proposing amendments to ARM 12.3.404 to address those replacement licenses.

12.3.404 ANIMALS UNFIT FOR HUMAN CONSUMPTION (1) The department will issue a replacement license when an animal is deemed unfit for human consumption due to disease or prior injury.

(2) A majority of an animal must be unfit for human consumption in order for a replacement license to be issued.

(3) The determination of whether an animal is unfit for human consumption is at the discretion of a department biologist or warden.

(4) The animal must be surrendered as directed by department personnel.

(5) Replacement licenses will be issued at a department regional office, area office, or at the headquarters in Helena, Montana during normal operating hours. Other license agents are unable to issue replacement licenses.

(6) If the animal was harvested using a combination license, the replacement license will be issued for only the portion of the license used to harvest the animal deemed unfit for human consumption.

(7) The hunter must designate whether they choose to be issued the replacement license for the current year or the next license year when requesting a replacement license.

(8) A replacement license will not be issued if the lack of fitness for human consumption is due to the hunter's improper handling or care of the animal.

~~(1) In some instances, a hunter will shoot and tag a big game animal which is unfit for human consumption. Hunters who have shot such an animal may obtain a free replacement license. The replacement license replaces the license for the applicable license year only. No replacement license will be issued for use beyond the original license year or during any subsequent license year. In order to obtain a replacement license, a hunter may turn in the animal to a department biologist or warden for a determination that the animal is unfit for human consumption. The biologist or warden may make the determination or may refer the hunter to a licensed meat inspector or licensed veterinarian. If the hunter is referred to a meat inspector or veterinarian, a written statement from the meat inspector or veterinarian must be presented to the department for replacement. A hunter may go directly to, or may seek a second opinion from, a licensed meat inspector or a licensed veterinarian which would be honored by the department. No replacement license will be issued if the lack of fitness for human consumption is due to the hunter's improper handling or care of the animal. The animal must have all horns, antlers, bones, hide, hoofs, and teeth. This section does not apply to black bears, grizzly bears, buffalo, or mountain lions.~~

AUTH: 87-1-301, MCA

IMP: 87-1-301, MCA

REASON: HB 353 (2021) authorized the department to issue a replacement license for animals that are unfit for human consumption. The department is proposing amendments to ARM 12.3.404 to address those replacement licenses.

12.3.411 HUNTERS AGAINST HUNGER (1) The department will annually distribute all funds accumulated in the hunters against hunger account to a federally tax exempt nonprofit organized under 26 U.S.C. 501(c)(3) with a mission to distribute food and provide charitable services to those in need on a statewide basis.

(2) The organization must:

(a) coordinate with other nonprofit organizations within the state to process game animals donated and distribute the processed meat to those in need;

~~(b) not charge more than seven percent overhead for grant processing;~~

~~(c)~~ (b) provide a list of meat processors responsible for processing donated game animals; and

~~(d)~~ (c) retain all carcass tags from donated game animals until meat from the animal is distributed.

(3) ~~Big g~~Game animals donated for processing must be legally harvested or confiscated by law enforcement. Game animals killed by a vehicle are not permitted to be processed and distributed under this program.

(4) All processed meat through the hunters against hunger program will be offered at no charge to those in need.

(5) The contract will provide annual reporting requirements and any other conditions necessary. Noncompliance with the contract will result in loss or delay of funds.

AUTH: 87-1-293, MCA

IMP: 87-1-293, 87-1-628, MCA

REASON: The amendments to ARM 12.3.411 were made for clarification and to be consistent with the long standing and current practice.

**Repeal:**

12.3.106 DISABLED PERSONS

AUTH: 87-2-803, MCA

IMP, 87-2-803, MCA

REASON: The definition of disable persons and permit to hunt from a vehicle is outlined 87-2-803, MCA.

12.3.175 PHASE-IN PROCESS



AUTH: 87-2-113, MCA  
IMP: 87-2-113, MCA

REASON: ARM 12.3.175 refers to phasing in collection of bonus points in 2001 and 2003.

12.3.180 CALCULATION METHOD – VARIABLE PRICED OUTFITTER  
SPONSORED LICENSES B-10 AND B-11

AUTH: 87-1-268, MCA  
IMP: 87-1-268, MCA

REASON: ARM 12.3.180 references to 87-1-268, MCA which was repealed November 2, 2010.

12.3.201 PURPOSE OF APPOINTMENT

AUTH: 87-1-201, 87-2-901, MCA  
IMP: 87-2-901, MCA

REASON: Administrative rules that state purpose are no longer necessary.

12.3.201A DEFINITIONS

AUTH: 87-1-201, 87-2-901, MCA  
IMP: 87-2-901, 87-2-904, MCA

REASON: Definitions in 12.3.201A were consolidated in ARM 12.3.110.

12.3.215 PLACES OF SALE

AUTH: 87-1-201, 87-2-901, MCA  
IMP: 87-2-901, MCA

REASON: Applicable requirement in ARM 12.3.215 were included in ARM 12.3.220.

12.3.405 REVOKED HUNTING LICENSES

AUTH: 87-1-102, MCA  
IMP: 87-1-102, MCA

REASON: 87-2-102, MCA was repealed in 2011.

12.3.406 COPYING LICENSE RECORDS

AUTH: 2-6-109, MCA

IMP: 2-6-109, MCA

REASON: Public information request will be managed under the department's information request policy.