

1 SENATE BILL NO. 148

2 INTRODUCED BY A. WITTICH

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF LIVESTOCK TO NOTIFY AND
5 OBTAIN PERMISSION FROM LANDOWNERS IN ADVANCE OF ANY BISON CONTROL ACTIVITIES
6 PLANNED OR SCHEDULED TO BE UNDERTAKEN ON THE LANDOWNER'S PROPERTY EXCEPT UNDER
7 CERTAIN CIRCUMSTANCES; AND AMENDING SECTIONS 81-2-120, 87-2-730, AND 87-2-731, MCA."

8

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

10

11 **Section 1.** Section 81-2-120, MCA, is amended to read:

12 **"81-2-120. Management of wild buffalo or bison for disease control.** (1) Whenever a publicly owned
13 wild buffalo or bison from a herd that is infected with a dangerous disease enters the state of Montana on public
14 or private land and the disease may spread to persons or livestock or whenever the presence of wild buffalo or
15 bison may jeopardize Montana's compliance with other state-administered or federally administered livestock
16 disease control programs, the department may, under a plan approved by the governor, use any feasible method
17 in taking one or more of the following actions:

18 (a) The live wild buffalo or bison may be physically removed by the safest and most expeditious means
19 from within the state boundaries, including but not limited to hazing and aversion tactics or capture, transportation,
20 quarantine, or delivery to a department-approved slaughterhouse.

21 (b) The live wild buffalo or bison may be destroyed by the use of firearms. If a firearm cannot be used
22 for reasons of public safety or regard for public or private property, the animal may be relocated to a place that
23 is free from public or private hazards and destroyed by firearms or by a humane means of euthanasia.

24 (c) The live wild buffalo or bison may be taken through limited public hunts pursuant to 87-2-730 when
25 authorized by the state veterinarian and the department.

26 (d) The live wild buffalo or bison may be captured, tested, quarantined, and vaccinated. Wild buffalo or
27 bison that are certified by the state veterinarian as brucellosis-free may be:

28 (i) sold to help defray the costs that the department incurs in building, maintaining, and operating
29 necessary facilities related to the capture, testing, quarantine, or vaccination of the wild buffalo or bison; or

30 (ii) transferred to qualified tribal entities that participate in the disease control program provided for in this

1 subsection (1)(d). Acquisition of wild buffalo or bison by a qualified tribal entity must be done in a manner that
 2 does not jeopardize compliance with a state-administered or federally administered livestock disease control
 3 program. The department may adopt rules consistent with this section governing tribal participation in the program
 4 or enter into cooperative agreements with tribal organizations for the purposes of carrying out the disease control
 5 program.

6 (2) (a) Except as provided in subsection (2)(c), the department shall:

7 (i) notify the landowner on whose land the department intends to conduct bison control activities of the
 8 date, time, and nature of the activities to be taken; and

9 (ii) obtain the permission of the landowner to enter the land.

10 (b) Except as provided in subsection (2)(c), the department shall notify the landowner at least 24 hours
 11 before the bison control activities are to occur.

12 (c) The department is not required to notify or obtain the landowner's permission to enter the property
 13 prior to conducting bison control activities if the department, the department of public health and human services,
 14 and the department of fish, wildlife, and parks all find that entry onto the landowner's property without notice or
 15 permission is necessary to protect the public health and safety.

16 ~~(e)~~(3) Proceeds from the sale of live, brucellosis-free, vaccinated wild buffalo or bison must be deposited
 17 in the state special revenue fund to the credit of the department.

18 ~~(f)~~(4) Any revenue generated in excess of the costs referred to in subsection (1)(d)(i) must be deposited
 19 in the state special revenue fund provided for in 87-1-513(2).

20 ~~(2)~~(5) Whenever the department is responsible for the death of a wild buffalo or bison, either purposefully
 21 or unintentionally, the carcass of the animal must be disposed of by the most economical means, including but
 22 not limited to burying, incineration, rendering, or field dressing for donation or delivery to a department-approved
 23 slaughterhouse or slaughter destination.

24 ~~(3)~~(6) In disposing of the carcass, the department:

25 (a) as first priority, may donate a wild buffalo or bison carcass to a charity or to an Indian tribal
 26 organization; or

27 (b) may sell a wild buffalo or bison carcass to help defray expenses of the department. If the carcass is
 28 sold in this manner, the department shall deposit any revenue derived from the sale of the wild buffalo or bison
 29 carcass to the state special revenue fund to the credit of the department.

30 ~~(4)~~(7) The department may adopt rules with regard to management of publicly owned wild buffalo or

1 bison that enter Montana on private or public land and that are from a herd that is infected with a contagious
2 disease that may spread to persons or livestock and may jeopardize compliance with other state-administered
3 or federally administered livestock disease control programs."
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5 **Section 2.** Section 87-2-730, MCA, is amended to read:

6 **"87-2-730. Special wild buffalo license -- regulation.** (1) The public hunting of wild buffalo or bison
7 that have been designated as a species in need of disease control under 81-2-120 is permitted only when
8 authorized by the department of livestock under the provisions set forth in 81-2-120.

9 (2) The department may issue special licenses to hunt wild buffalo or bison designated as a species in
10 need of disease control when authorized by the department of livestock.

11 (3) The department shall adopt rules in cooperation with the department of livestock. The rules must
12 provide for:

13 (a) license drawing procedures;

14 (b) drawing and application fees consistent with 87-2-113;

15 (c) notification of license recipients as to when and where they may hunt, but notification may not include
16 information regarding the actual physical location of a wild buffalo or bison other than the prescribed hunting
17 district where the animal may be taken;

18 (d) fair chase hunting of wild buffalo or bison, including requirements that hunting be conducted on foot
19 and away from public roads and that there be no designation of specific wild buffalo or bison to be hunted;

20 (e) means of taking and handling of carcasses in the field, which must include provisions for public safety
21 because of the potential for the spread of infectious disease;

22 (f) tagging requirements for carcasses, skulls, and hides;

23 (g) possession limits;

24 (h) requirements for transportation and exportation; ~~and~~

25 (i) requirements and criteria for authorization by the state veterinarian and the department of livestock
26 of any public hunting; and

27 (j) if the hunt is conducted under an action pursuant to 81-2-120 and is likely to occur on private property
28 or on public land that abuts private property that may be affected by the hunt, notification to each applicable
29 private property owner that the hunt is authorized in the hunting district in which the private property lies."
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1 **Section 3.** Section 87-2-731, MCA, is amended to read:

2 **"87-2-731. (Temporary) Allocation of wild buffalo licenses to tribes for traditional purposes. (1)**

3 If the commission authorizes the issuance of 40 or more special wild buffalo licenses in any license year, the
4 department shall issue special licenses to individuals of each tribe designated in subsection (4) to hunt wild
5 buffalo during the regular season for wild buffalo and as prescribed in department rules and regulations. The
6 department shall issue two special wild buffalo licenses to individuals designated by the respective tribal diabetic
7 programs of each of the Montana tribes designated in subsection (4), coincident with the sale of any special wild
8 buffalo licenses for public hunting pursuant to 87-2-730 and in accordance with the terms and conditions of this
9 section.

10 (2) Wild buffalo taken pursuant to the special licenses issued under subsection (1) must be harvested
11 by tribal members in accordance with the traditional ceremonies of each tribe. All parts of wild buffalo taken
12 pursuant to this section may be possessed and used by each designated tribe in the manner that the tribe sees
13 fit.

14 (3) Special wild buffalo licenses granted for tribal use pursuant to this section must be issued free of
15 charge. The tribes must be informed of and abide by any rules adopted pursuant to 87-2-730(3)(c) through ~~(3)(h)~~
16 (3)(i), except that fair chase hunting by tribal members may include hunting conducted on horseback.

17 (4) The following Montana tribes may designate individuals from their tribal diabetic programs to receive
18 department-issued special licenses, and the individuals are entitled to hunt during the season set aside by the
19 commission for hunting wild buffalo:

- 20 (a) Assiniboine and Sioux tribes;
21 (b) Blackfeet tribe;
22 (c) Chippewa Cree tribe;
23 (d) Confederated Salish and Kootenai tribes;
24 (e) Crow tribe;
25 (f) Gros Ventre and Assiniboine tribes;
26 (g) Northern Cheyenne tribe; and
27 (h) Little Shell band of Chippewa.

28 (5) Special wild buffalo licenses granted under this section must be offered to the designated tribes as
29 the first wild buffalo licenses available for hunting each year and may be granted to tribal designees in any order.
30 When each of the two individuals designated by each tribe has been offered a license in any license year, any

1 additional available licenses may be issued in the manner provided by the rules adopted by the commission
2 pursuant to 87-2-730.

3 (6) Use of the special wild buffalo licenses granted under this section to individuals designated by the
4 Montana tribes must coincide with the use of any other special wild buffalo license purchased for public hunting
5 pursuant to 87-2-730. (Terminates July 1, 2015--sec. 5, Ch. 378, L. 2005.)"

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