

HOUSE BILL NO. 482

INTRODUCED BY M. PHILLIPS

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A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING CONSERVATION AND MANAGEMENT RESPONSIBILITIES OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FOR WILD BUFFALO OR BISON IN MONTANA; GRANTING RULEMAKING AUTHORITY; AMENDING SECTIONS 81-2-121, 87-1-216, 87-2-730, AND 87-5-711, MCA; REPEALING SECTION 81-2-120, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 81-2-121, MCA, is amended to read:

"81-2-121. Taking of publicly owned wild buffalo or bison that are present on private property -- notice -- supplemental feeding -- penalty. (1) This chapter may not be construed to impose, by implication or otherwise, criminal liability on a landowner or the agent of a landowner for the taking of a publicly owned wild buffalo or bison that is suspected of carrying disease and that is present on the landowner's private property and is potentially associating with or otherwise threatening the landowner's livestock if:

(a) the landowner or agent notifies or makes a good faith effort to notify the department in order to allow as much time as practicable for the department to first take or remove the publicly owned wild buffalo or bison that is present on the landowner's property;

(b) the landowner or agent makes a good faith effort to notify the department that a taking has occurred and to retain all parts for disposal by the department; and

(c) the landowner or agent is not in violation of subsection (2).

(2) A person may not intentionally provide supplemental feed to ~~game animals~~ wild buffalo or bison in a manner that results in the attraction or artificial concentration of ~~game animals~~ wild buffalo or bison that may potentially contribute to the transmission of disease. A person who violates this subsection is guilty of a misdemeanor and is subject to the penalty provided in 87-1-102(1). This subsection does not apply to supplemental feeding activities conducted by the department for disease control purposes."

Section 2. Section 87-1-216, MCA, is amended to read:



1 **"87-1-216. Wild buffalo or bison as ~~species in need of~~ conservation and management --policy**
 2 **-- department duties.** (1) The legislature finds that ~~significant potential exists for the spread of contagious~~
 3 ~~disease to persons or livestock in Montana and for damage to persons and property by wild buffalo or bison~~ are
 4 culturally important, valued native wildlife in need of conservation and management in the state of Montana. It
 5 is the purpose of this section:

6 ~~—— (a) to designate publicly owned wild buffalo or bison originating from Yellowstone national park as a~~
 7 ~~species requiring disease control;~~

8 ~~—— (b) to designate other wild buffalo or bison as a species in need of management; and~~

9 ~~—— (c) to set out specific duties for the department for management of the species.~~

10 (2) The department:

11 (a) is responsible for the conservation and management, including but not limited to public hunting, of
 12 ~~wild buffalo or bison in this state that have not been exposed to or infected with a dangerous or contagious~~
 13 ~~disease but may threaten persons or property;~~

14 ~~—— (b) shall consult and coordinate with the department of livestock on implementation of the provisions of~~
 15 ~~subsection (2)(a) to the extent necessary to ensure that wild buffalo or bison remain disease-free; and~~

16 ~~—— (c) shall cooperate with the department of livestock in managing publicly owned wild buffalo or bison that~~
 17 ~~enter the state on public or private land from a herd that is infected with a dangerous disease, as provided in~~
 18 ~~81-2-120, under a plan approved by the governor. The department of livestock is authorized under the provisions~~
 19 ~~of 81-2-120 to regulate publicly owned wild buffalo or bison in this state that pose a threat to persons or livestock~~
 20 ~~in Montana through the transmission of contagious disease. The department may, after agreement and~~
 21 ~~authorization by the department of livestock, authorize the public hunting of wild buffalo or bison that have been~~
 22 ~~exposed to or infected with a contagious disease, pursuant to 87-2-730.~~

23 (b) is responsible for the conservation and management of wild buffalo or bison that may threaten
 24 persons or property and shall cooperate with the department of livestock to protect private property, as provided
 25 in 81-2-121; and

26 ~~(3)(c) The department may adopt rules with regard to wild buffalo or bison that have not been exposed~~
 27 ~~to or infected with a contagious disease but are in need of management because of potential damage to person~~
 28 ~~or property.~~

29 ~~(4) When adopting and implementing rules regarding the special wild buffalo or bison license issued~~
 30 ~~pursuant to 87-2-730, the department shall consult and cooperate with the department of livestock regarding~~

1 ~~when and where public hunting may be allowed and the safe handling of wild buffalo or bison parts in order to~~
 2 ~~minimize the potential for spreading any contagious disease to persons or to livestock.~~

3 (3) In recognition of the cultural heritage and treaty rights of sovereign tribal nations, the department shall
 4 cooperate with tribal governments to pursue opportunities for the conservation and management of wild buffalo
 5 or bison.

6 (4) Before the department releases or transplants any wild buffalo or bison under the department's
 7 jurisdiction onto public or private land in Montana under 87-5-711, the department shall develop and adopt a
 8 conservation and management plan for those wild buffalo or bison. When developing a plan, the department shall:

9 (a) include provisions for control of wild buffalo or bison in consultation with the departments of
 10 agriculture, public health and human services, and livestock pursuant to 87-5-716;

11 (b) provide the opportunity for public comment and hold public hearings in the affected county or
 12 counties; and

13 (c) respond to all public comments received and publish full records of proceedings from any public
 14 hearings.

15 (5) Whenever the department is responsible for the death of a wild buffalo or bison, either purposely or
 16 unintentionally, the carcass of the animal must be disposed of by the most economical means, including but not
 17 limited to burying, incineration, rendering, or field dressing for donation or delivery to a slaughterhouse or
 18 slaughter destination approved by the department of livestock. In disposing of the carcass, the department:

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

21 (b) may sell a wild buffalo or bison carcass to help defray expenses of the department. If the carcass is
 22 sold, the department shall deposit any revenue derived from the sale of the wild buffalo or bison carcass in the
 23 state special revenue fund to the credit of the department."

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25 **Section 3.** Section 87-2-730, MCA, is amended to read:

26 **"87-2-730. Special wild buffalo license -- regulation.** (1) ~~The public hunting of wild buffalo or bison~~
 27 ~~that have been designated as a species in need of disease control under 81-2-120~~ is permitted only when
 28 authorized by the department of livestock ~~under the provisions set forth in 81-2-120~~ and pursuant to rules
 29 developed under subsection (3).

30 (2) The department may issue special licenses to hunt wild buffalo or bison ~~designated as a species in~~

1 ~~need of disease control when authorized by the department of livestock.~~

2 (3) The department shall adopt rules in cooperation with the department of livestock for fair chase public
3 hunting of wild buffalo or bison. The rules must provide for:

4 (a) license drawing procedures;

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

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

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

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

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

14 (g) possession limits; and

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

16 (i) ~~requirements and criteria for authorization by the state veterinarian and the department of livestock~~
17 ~~of any public hunting."~~

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19 **Section 4.** Section 87-5-711, MCA, is amended to read:

20 **"87-5-711. Control of importation for introduction and transplantation or introduction of wildlife.**

21 (1) Except as otherwise provided, the importation for introduction or the transplantation or introduction of any
22 wildlife is prohibited unless the commission determines, based upon scientific investigation and after public
23 hearing, ~~that a species of wildlife poses no threat of harm to native wildlife and plants or to agricultural production~~
24 ~~and~~ that the transplantation or introduction of a species has significant public benefits and public support and
25 minimizes conflicts with agricultural production.

26 (2) With regard to the transplantation or introduction of a fish species not previously legally transplanted
27 to a specific water body within the state or not previously legally introduced to the state, the requirement for
28 scientific investigation in subsection (1) may be satisfied only by completion of an environmental review
29 conforming to the provisions of Title 75, chapter 1, part 2."
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