

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE DEPARTMENT OF FISH, WILDLIFE, AND
5 PARKS FROM EXPENDING ANY FUNDS ON THE RELOCATION OR TRANSPLANTATION OF WILD
6 BUFFALO OR BISON ON THE SPOTTED DOG WILDLIFE MANAGEMENT AREA; AMENDING SECTIONS
7 87-1-201 AND 87-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 87-1-201, MCA, is amended to read:

12 **"87-1-201. Powers and duties.** (1) Except as provided in subsection (11), the department shall
13 supervise all the wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals
14 of the state and may implement voluntary programs that encourage hunting access on private lands and that
15 promote harmonious relations between landowners and the hunting public. The department possesses all powers
16 necessary to fulfill the duties prescribed by law and to bring actions in the proper courts of this state for the
17 enforcement of the fish and game laws and the rules adopted by the department.

18 (2) Except as provided in subsection (11), the department shall enforce all the laws of the state regarding
19 the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and
20 nongame birds within the state.

21 (3) ~~The~~ Except as provided in 87-1-216(4)(b), the department has the exclusive power to spend for the
22 protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and
23 nongame birds all state funds collected or acquired for that purpose, whether arising from state appropriation,
24 licenses, fines, gifts, or otherwise. Money collected or received from the sale of hunting and fishing licenses or
25 permits, from the sale of seized game or hides, from fines or damages collected for violations of the fish and
26 game laws, or from appropriations or received by the department from any other sources is under the control of
27 the department and is available for appropriation to the department.

28 (4) The department may discharge any appointee or employee of the department for cause at any time.

29 (5) The department may dispose of all property owned by the state used for the protection, preservation,
30 management, and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no



1 further value or use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited
2 to the fish and game account in the state special revenue fund.

3 (6) The department may not issue permits to carry firearms within this state to anyone except regularly
4 appointed officers or wardens.

5 (7) Except as provided in subsection (11), the department is authorized to make, promulgate, and
6 enforce reasonable rules and regulations not inconsistent with the provisions of Title 87, chapter 2, that in its
7 judgment will accomplish the purpose of chapter 2.

8 (8) The department is authorized to promulgate rules relative to tagging, possession, or transportation
9 of bear within or outside of the state.

10 (9) (a) The department shall implement programs that:

11 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under
12 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.;

13 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under
14 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the
15 maintenance or recovery of those species;

16 (iii) manage elk, deer, and antelope populations based on habitat estimates determined as provided in
17 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided
18 in 87-1-323. In implementing an elk management plan, the department shall, as necessary to achieve harvest
19 and population objectives, request that land management agencies open public lands and public roads to public
20 access during the big game hunting season.

21 (iv) in accordance with the forest management plan required by 87-1-622, address fire mitigation, pine
22 beetle infestation, and wildlife habitat enhancement giving priority to forested lands in excess of 50 contiguous
23 acres in any state park, fishing access site, or wildlife management area under the department's jurisdiction.

24 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential
25 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or recovery
26 of those species with the social and economic impacts of species maintenance or recovery.

27 (c) Any management plan developed by the department pursuant to this subsection (9) is subject to the
28 requirements of Title 75, chapter 1, part 1.

29 (d) This subsection (9) does not affect the ownership or possession, as authorized under law, of a
30 privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

1 (10) The department shall publish an annual game count, estimating to the department's best ability the
 2 numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative
 3 regions of the state. In preparing the publication, the department may incorporate field observations, hunter
 4 reporting statistics, or any other suitable method of determining game numbers. The publication must include an
 5 explanation of the basis used in determining the game count.

6 (11) The department may not regulate the use or possession of firearms, firearm accessories, or
 7 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

8 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the
 9 establishment of special archery seasons;

10 (b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including
 11 bows and arrows, traditional handguns, and muzzleloading rifles;

12 (c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

13 (d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

14 (e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h)."

15

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

17 **"87-1-216. Wild buffalo or bison as species in need of management -- policy -- department duties**

18 **-- limitations on expenditures.** (1) The legislature finds that significant potential exists for the spread of
 19 contagious disease to persons or livestock in Montana and for damage to persons and property by wild buffalo
 20 or bison. It is the purpose of this section:

21 (a) to designate publicly owned wild buffalo or bison originating from Yellowstone national park as a
 22 species requiring disease control;

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

24 (c) to set out specific duties for the department for management of the species.

25 (2) The department:

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

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

1 (c) shall cooperate with the department of livestock in managing publicly owned wild buffalo or bison that
2 enter the state on public or private land from a herd that is infected with a dangerous disease, as provided in
3 81-2-120, under a plan approved by the governor. The department of livestock is authorized under the provisions
4 of 81-2-120 to regulate publicly owned wild buffalo or bison in this state that pose a threat to persons or livestock
5 in Montana through the transmission of contagious disease. The department may, after agreement and
6 authorization by the department of livestock, authorize the public hunting of wild buffalo or bison that have been
7 exposed to or infected with a contagious disease, pursuant to 87-2-730. The department may, following
8 consultation with the department of livestock, adopt rules to authorize the taking of bison where and when
9 necessary to prevent the transmission of a contagious disease.

10 (3) The department may adopt rules with regard to wild buffalo or bison that have not been exposed to
11 or infected with a contagious disease but are in need of management because of potential damage to persons
12 or property.

13 (4) ~~(a) The~~ Subject to subsection (4)(b), the department may not release, transplant, or allow wild buffalo
14 or bison on any private or public land in Montana that has not been authorized for that use by the private or public
15 owner.

16 (b) The department may not expend any funds to release or transplant wild buffalo or bison on the
17 Spotted Dog wildlife management area.

18 (5) Subject to subsection (4), the department shall develop and adopt a management plan before any
19 wild buffalo or bison under the department's jurisdiction may be released or transplanted onto private or public
20 land in Montana. A plan must include but is not limited to:

21 (a) measures to comply with any applicable animal health protocol required under Title 81, under
22 subsection (2)(b), or by the state veterinarian;

23 (b) any animal identification and tracking protocol required by the department of livestock to identify the
24 origin and track the movement of wild buffalo or bison for the purposes of subsections (2)(b) and (5)(c);

25 (c) animal containment measures that ensure that any animal transplanted or released on private or
26 public land will be contained in designated areas. Containment measures must include but are not limited to:

27 (i) any fencing required;

28 (ii) contingency plans to expeditiously relocate wild buffalo or bison that enter private or public property
29 where the presence of the animals is not authorized by the private or public owner;

30 (iii) contingency plans to expeditiously fund and construct more effective containment measures in the

1 event of an escape; and

2 (iv) contingency plans to eliminate or decrease the size of designated areas, including the expeditious
3 relocation of wild buffalo or bison if the department is unable to effectively manage or contain the wild buffalo or
4 bison.

5 (d) a reasonable means of protecting public safety and emergency measures to be implemented if public
6 safety may be threatened;

7 (e) a reasonable maximum carrying capacity for any proposed designated area using sound
8 management principles, including but not limited to forage-based carrying capacity, and methods for not
9 exceeding that carrying capacity; and

10 (f) identification of long-term, stable funding sources that would be dedicated to implementing the
11 provisions of the management plan for each designated area.

12 (6) When developing a management plan in accordance with subsection (5), the department shall
13 provide the opportunity for public comment and hold a public hearing in the affected county or counties. Prior to
14 making a decision to release or transplant wild buffalo or bison onto private or public land in Montana, the
15 department shall respond to all public comment received and publish a full record of the proceedings at any public
16 hearing.

17 (7) The department is liable for all costs incurred, including costs arising from protecting public safety,
18 and any damage to private property that occurs as a result of the department's failure to meet the requirements
19 of subsection (5).

20 (8) When adopting and implementing rules regarding the special wild buffalo or bison license issued
21 pursuant to 87-2-730, the department shall consult and cooperate with the department of livestock regarding
22 when and where public hunting may be allowed and the safe handling of wild buffalo or bison parts in order to
23 minimize the potential for spreading any contagious disease to persons or to livestock."

24

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

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