

HOUSE BILL NO. 495

INTRODUCED BY G. MEYERS

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO POST A BOND FOR EACH WILD BUFFALO OR WILD BISON TRANSFERRED TO A TRIBAL ENTITY OR TO LAND IN PUBLIC OR PRIVATE OWNERSHIP; AMENDING SECTIONS 81-2-120 AND 87-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

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

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

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

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

- (i) sold to help defray the costs that the department incurs in building, maintaining, and operating necessary facilities related to the capture, testing, quarantine, or vaccination of the wild buffalo or wild bison; or
- (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 wild bison by a qualified tribal entity must be done in a manner
2 that 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 (e) For each wild buffalo or wild bison sold or transferred under subsection (1)(d), the department of fish,
7 wildlife, and parks shall post a \$5,000 bond to insure the payment of damages caused by a wild buffalo or wild
8 bison that enters private or public property where the presence of the animal is not authorized by the private or
9 public owner.

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

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

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

18 (3) In disposing of the carcass, the department:

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

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

24 (4) The department may adopt rules with regard to management of publicly owned wild buffalo or wild
25 bison that enter Montana on private or public land and that are from a herd that is infected with a contagious
26 disease that may spread to persons or livestock and may jeopardize compliance with other state-administered
27 or federally administered livestock disease control programs."

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

30 **"87-1-216. Wild buffalo or bison as species in need of management -- policy -- department duties.**

1 (1) The legislature finds that significant potential exists for the spread of contagious disease to persons or
2 livestock in Montana and for damage to persons and property by wild buffalo or bison. It is the purpose of this
3 section:

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

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

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

8 (2) The department:

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

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

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

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

26 (4) The department may not release, transplant, or allow wild buffalo or bison on any private or public
27 land in Montana that has not been authorized for that use by the private or public owner.

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

- 1 (a) measures to comply with any applicable animal health protocol required under Title 81, under
2 subsection (2)(b), or by the state veterinarian;
- 3 (b) any animal identification and tracking protocol required by the department of livestock to identify the
4 origin and track the movement of wild buffalo or bison for the purposes of subsections (2)(b) and (5)(c);
- 5 (c) animal containment measures that ensure that any animal transplanted or released on private or
6 public land will be contained in designated areas. Containment measures must include but are not limited to:
- 7 (i) any fencing required;
- 8 (ii) contingency plans to expeditiously relocate wild buffalo or bison that enter private or public property
9 where the presence of the animals is not authorized by the private or public owner;
- 10 (iii) contingency plans to expeditiously fund and construct more effective containment measures in the
11 event of an escape; and
- 12 (iv) contingency plans to eliminate or decrease the size of designated areas, including the expeditious
13 relocation of wild buffalo or bison if the department is unable to effectively manage or contain the wild buffalo or
14 bison.
- 15 (d) a reasonable means of protecting public safety and emergency measures to be implemented if public
16 safety may be threatened;
- 17 (e) a reasonable maximum carrying capacity for any proposed designated area using sound
18 management principles, including but not limited to forage-based carrying capacity, and methods for not
19 exceeding that carrying capacity; and
- 20 (f) identification of long-term, stable funding sources that would be dedicated to implementing the
21 provisions of the management plan for each designated area.
- 22 (6) When developing a management plan in accordance with subsection (5), the department shall
23 provide the opportunity for public comment and hold a public hearing in the affected county or counties. Prior to
24 making a decision to release or transplant wild buffalo or bison onto private or public land in Montana, the
25 department shall respond to all public comment received and publish a full record of the proceedings at any public
26 hearing.
- 27 (7) The department is liable for all costs incurred, including costs arising from protecting public safety,
28 and any damage to private property that occurs as a result of the department's failure to meet the requirements
29 of subsection (5). For each wild buffalo or bison released, transplanted, or allowed under this section, the
30 department shall post a \$5,000 bond to insure the payment of damages caused by a wild buffalo or wild bison

1 that enters private or public property where the presence of the animal is not authorized by the private or public
2 owner.

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

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

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