

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "WILD BUFFALO", "WILD BISON", AND "WILD BUFFALO
5 OR BISON"; RESTRICTING WHERE WILD BUFFALO AND WILD BISON MAY BE TRANSPLANTED;
6 AMENDING SECTIONS 81-1-101, 81-2-120, 87-1-216, 87-2-101, AND 87-6-101, MCA; AND PROVIDING AN
7 IMMEDIATE EFFECTIVE DATE."

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

10
11 **Section 1.** Section 81-1-101, MCA, is amended to read:

12 **"81-1-101. Definitions.** Unless the context requires otherwise, in Title 81, the following definitions apply:

13 (1) (a) "Bison" means domestic bison or feral bison.

14 (b) The term does not include:

15 (i) wild buffalo or wild bison; or

16 (ii) for the purposes of chapter 9, buffalo.

17 (2) "Board" means the board of livestock provided for in 2-15-3102, except as provided in Title 81,
18 chapter 23.

19 (3) "Department" means the department of livestock provided for in Title 2, chapter 15, part 31.

20 (4) "Domestic bison" means a bison ~~owned by a person~~ that is not a wild buffalo or a wild bison.

21 (5) "Feral bison" means a domestic bison or progeny of a domestic bison that has escaped or been
22 released from captivity and is running at large and unrestrained on public or private land.

23 (6) "Wild buffalo" or "wild bison" means a bison that ~~has not been reduced to captivity and is not owned~~
24 ~~by a person~~ meets all of the following conditions:

25 (a) it has never been reduced to captivity;

26 (b) it has never been subject to the per capita fee under 15-24-921;

27 (c) it has never been owned by a person; and

28 (d) it is within 50 miles of the exterior boundary of Yellowstone national park."

29
30 **Section 2.** Section 81-2-120, MCA, is amended to read:



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

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

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

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

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

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

19 (ii) transferred to qualified tribal entities that participate in the disease control program provided for in this
20 subsection (1)(d). Acquisition of wild buffalo or wild bison by a qualified tribal entity must be done in a manner
21 that does not jeopardize compliance with a state-administered or federally administered livestock disease control
22 program. The department may adopt rules consistent with this section governing tribal participation in the program
23 or enter into cooperative agreements with tribal organizations for the purposes of carrying out the disease control
24 program.

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

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

29 (g) A wild buffalo or wild bison that is sold or transferred pursuant to this subsection (1) is defined as a
30 domestic bison at the time of sale or transfer.

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

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

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

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

11 (4) The department may adopt rules with regard to management of ~~publicly owned~~ wild buffalo or wild
12 bison that enter Montana on private or public land and that are from a herd that is infected with a contagious
13 disease that may spread to persons or livestock and may jeopardize compliance with other state-administered
14 or federally administered livestock disease control programs."
15

16 **Section 3.** Section 87-1-216, MCA, is amended to read:

17 **"87-1-216. Wild buffalo or bison as species in need of management -- definition -- policy --**
18 **department duties.** (1) The legislature finds that significant potential exists for the spread of contagious disease
19 to persons or livestock in Montana and for damage to persons and property by wild buffalo or bison. It is the
20 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 ~~(e)(b)~~ to set out specific duties for the department for management of the species.

25 (2) For the purposes of this section, the term "wild buffalo or bison" has the meaning provided in
26 87-2-101.

27 (3) The department:

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

1 (b) shall consult and coordinate with the department of livestock on implementation of the provisions of
 2 subsection ~~(2)(a)~~ (3)(a) to the extent necessary to ensure that wild buffalo or bison remain disease-free; and

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

12 ~~(3)~~(4) The department may adopt rules with regard to wild buffalo or bison that have not been exposed
 13 to or infected with a contagious disease but are in need of management because of potential damage to persons
 14 or property.

15 ~~(4)~~(5) The department may not release, transplant, or allow wild buffalo or bison on any private or public
 16 land in Montana that has not been authorized for that use by the private or public owner and that is more than
 17 50 miles away from the exterior boundary of Yellowstone national park.

18 ~~(5)~~(6) Subject to subsection ~~(4)~~ (5), the department shall develop and adopt a management plan before
 19 any wild buffalo or bison under the department's jurisdiction may be released or transplanted onto private or
 20 public 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)~~ (3)(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)~~ (3)(b) and ~~(5)(e)~~
 25 (6)(c);

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

28 (i) any fencing required;

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

1 (iii) contingency plans to expeditiously fund and construct more effective containment measures in the
2 event of an escape; and

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

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

8 (e) a reasonable maximum carrying capacity for any proposed designated area using sound
9 management principles, including but not limited to forage-based carrying capacity, and methods for not
10 exceeding that carrying capacity, including in years of drought or severe winters. The carrying capacity must be
11 based on a forage analysis conducted in accordance with standards contained in the most recent natural
12 resources conservation service field office technical guide by a range scientist who is on the staff of:

13 (i) the Montana state university-Bozeman college of agriculture;

14 (ii) the United States natural resources conservation service; or

15 (iii) a technical service provider certified by either the natural resources conservation service or the
16 society for range management.

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

19 ~~(6)~~(7) When developing a management plan in accordance with subsection ~~(5)~~ (6), the department shall
20 provide the opportunity for public comment and hold a public hearing in the affected county or counties. Prior to
21 making a decision to release or transplant wild buffalo or bison onto private or public land in Montana, the
22 department shall respond to all public comment received and publish a full record of the proceedings at any public
23 hearing.

24 ~~(7)~~(8) The department is liable for all costs incurred, including costs arising from protecting public safety,
25 and any damage to private property that occurs as a result of the department's failure to meet the requirements
26 of subsection ~~(5)~~ (6).

27 ~~(8)~~(9) When adopting and implementing rules regarding the special wild buffalo or bison license issued
28 pursuant to 87-2-730, the department shall consult and cooperate with the department of livestock regarding
29 when and where public hunting may be allowed and the safe handling of wild buffalo or bison parts in order to
30 minimize the potential for spreading any contagious disease to persons or to livestock."

1

2 **Section 4.** Section 87-2-101, MCA, is amended to read:

3 **"87-2-101. Definitions.** As used in Title 87, chapter 3, and this chapter, unless the context clearly
4 indicates otherwise, the following definitions apply:

5 (1) "Angling" or "fishing" means to take or harvest fish or the act of a person possessing any instrument,
6 article, or substance for the purpose of taking or harvesting fish in any location that a fish might inhabit.

7 (2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area
8 inhabited by wildlife for the purpose of attracting game animals or game birds.

9 (b) The term does not include:

10 (i) decoys, silhouettes, or other replicas of wildlife body forms;

11 (ii) scents used only to mask human odor; or

12 (iii) types of scents that are approved by the commission for attracting game animals or game birds.

13 (3) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine,
14 northern swift fox, and beaver.

15 (4) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,
16 mountain lion, bear, and wild buffalo.

17 (5) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and
18 whitefish); all species of the genus Sander (sandpike or sauger and walleyed pike or yellowpike perch); all
19 species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus
20 (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all
21 species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus
22 *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

23 (6) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or the act
24 of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of
25 shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the laws of this state
26 in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term
27 includes an attempt to take or harvest by any means, including but not limited to pursuing, shooting, wounding,
28 killing, chasing, luring, possessing, or capturing.

29 (7) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes,
30 including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

1 (8) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or
2 other animal not otherwise legally classified by statute or regulation of this state.

3 (9) "Open season" means the time during which game birds, game fish, game animals, and fur-bearing
4 animals may be lawfully taken.

5 (10) "Person" means an individual, association, partnership, or corporation.

6 (11) "Predatory animals" means coyote, weasel, skunk, and civet cat.

7 (12) "Trap" means to take or harvest or participate in the taking or harvesting of any wildlife protected by
8 the laws of the state by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take
9 wildlife or to remove wildlife from any of these devices.

10 (13) "Upland game birds" means sharp-tailed grouse, blue grouse, spruce (Franklin) grouse, prairie
11 chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild
12 turkey, and chukar partridge.

13 (14) ~~"Wild buffalo" means buffalo or bison that have not been reduced to captivity~~ "Wild buffalo or bison"
14 or "wild buffalo" means a bison that meets all of the following conditions:

15 (a) it has never been reduced to captivity;

16 (b) it has never been subject to the per capita fee under 15-24-921;

17 (c) it has never been owned by a person; and

18 (d) is within 50 miles of the exterior boundary of Yellowstone national park."

19

20 **Section 5.** Section 87-6-101, MCA, is amended to read:

21 **"87-6-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
22 apply:

23 (1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose,
24 antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or
25 any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be
26 regulated pursuant to Title 87, chapter 4, part 8.

27 (2) "Alternative livestock ranch" means the enclosed land area ~~upon~~ on which alternative livestock may
28 be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of
29 alternative livestock, as authorized under Title 87, chapter 4, part 4.

30 (3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area

1 inhabited by wildlife for the purpose of attracting game animals or game birds.

2 (b) The term does not include:

3 (i) decoys, silhouettes, or other replicas of wildlife body forms;

4 (ii) scents used only to mask human odor; or

5 (iii) types of scents that are approved by the commission for attracting game animals or game birds.

6 (4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing
7 animals may not be lawfully taken.

8 (5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families
9 Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks,
10 domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

11 (6) "Conviction" means a judgment or sentence entered following a guilty plea, a nolo contendere plea,
12 a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized
13 to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person's appearance in
14 court that has not been vacated.

15 (7) "Field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game
16 birds.

17 (8) "Fishing" means to take or harvest fish or the act of a person possessing any instrument, article, or
18 substance for the purpose of taking or harvesting fish in any location that a fish might inhabit.

19 (9) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business
20 of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or
21 predatory animals.

22 (b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state
23 of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident
24 fur dealers.

25 (10) "Fur farm" means enclosed land ~~upon~~ on which furbearers are kept for purposes of obtaining, rearing
26 in captivity, keeping, and selling furbearers or parts of furbearers.

27 (11) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat,
28 lynx, wolverine, northern swift fox, and beaver.

29 (b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

30 (12) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,

1 mountain lion, bear, and wild buffalo.

2 (13) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and
3 whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all
4 species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus
5 (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all
6 species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus
7 *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

8 (14) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or the
9 act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of
10 shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the laws of this state
11 in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term
12 includes an attempt to take or harvest by any means, including but not limited to pursuing, shooting, wounding,
13 killing, chasing, luring, possessing, or capturing.

14 (15) "Knowingly" has the meaning provided in 45-2-101.

15 (16) "Livestock" includes ostriches, rheas, and emus.

16 (17) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes,
17 including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

18 (18) "Negligently" has the meaning provided in 45-2-101.

19 (19) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or
20 other animal not otherwise legally classified by statute or regulation of this state.

21 (20) "Open season" means the time during which game birds, fish, and game and fur-bearing animals
22 may be lawfully taken.

23 (21) "Participating state" means any state that enacts legislation to become a member of the Interstate
24 Wildlife Violator Compact.

25 (22) "Person" means an individual, association, partnership, and corporation.

26 (23) "Possession" has the meaning provided in 45-2-101.

27 (24) "Predatory animal" means coyote, weasel, skunk, and civet cat.

28 (25) "Purposely" has the meaning provided in 45-2-101.

29 (26) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons,
30 hawks, eagles, ospreys, and owls.

1 (27) "Resident" has the meaning provided in 87-2-102.

2 (28) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the
3 evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition
4 of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of
5 Montana.

6 (29) "Sale" means a contract by which a person:

7 (a) transfers an interest in either game or fish for a price; or

8 (b) transfers, barter, or exchanges an interest either in game or fish for an article or thing of value.

9 (30) "Site of the kill" means the location where a game animal or game bird expires and the person
10 responsible for the death takes physical possession of the carcass.

11 (31) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The
12 term does not include growing plants or plants harvested for the feeding of livestock.

13 (32) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving,
14 or preparing all or part of the dead bodies of any wildlife.

15 (33) "Trap" means to take or harvest or participate in the taking or harvesting of any wildlife protected by
16 state law by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or
17 to remove wildlife from any of these devices.

18 (34) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie
19 chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild
20 turkey, and chukar partridge.

21 (35) "Wild animal" means an animal that is wild by nature as distinguished from common domestic
22 animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

23 (36) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars,
24 lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity
25 for use other than public exhibition.

26 (37) ~~"Wild buffalo" means buffalo or bison that have not been reduced to captivity~~ "Wild buffalo or bison"
27 or "wild buffalo" means a bison that meets all of the following conditions:

28 (a) it has never been reduced to captivity;

29 (b) it has never been subject to the per capita fee under 15-24-921;

30 (c) it has never been owned by a person; and

