

HOUSE BILL NO. 752  
INTRODUCED BY R. RIPLEY

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE CHRONIC WASTING DISEASE MITIGATION PROGRAM TO PROTECT WILD GAME ANIMALS; AUTHORIZING ALTERNATIVE LIVESTOCK RANCH BUSINESSES TO PARTICIPATE IN THE PROGRAM; PROVIDING COMPENSATION TO ALTERNATIVE LIVESTOCK RANCH BUSINESSES FOR VOLUNTARILY PARTICIPATING IN THE PROGRAM; AUTHORIZING FEE SHOOTING OF ALTERNATIVE LIVESTOCK AT PARTICIPATING ALTERNATIVE LIVESTOCK RANCHES AS A PART OF THE PROGRAM; REQUIRING FORFEITURE OF THE LICENSE OF A PARTICIPATING ALTERNATIVE LIVESTOCK RANCH BY DECEMBER 31, 2007; PROVIDING A TAX EXEMPTION FOR COMPENSATION RECEIVED BY A PARTICIPATING ALTERNATIVE LIVESTOCK OWNER; APPROPRIATING FUNDS TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FOR CHRONIC WASTING DISEASE SURVEILLANCE IN THE WILD GAME POPULATION SURROUNDING ALTERNATIVE LIVESTOCK RANCHES; AMENDING SECTION 87-4-414, MCA; REPEALING SECTION 87-4-433, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, sports enthusiasts, wildlife advocates, and state agencies supported legislation in 1995 to phase out the alternative livestock industry in Montana by compensating the alternative livestock producers, using funds from the Department of Fish, Wildlife, and Parks general licensing account; and

WHEREAS, sports groups and wildlife advocates of Montana believe that the alternative livestock industry poses a constant and serious threat to Montana's free-ranging wild game populations because of disease management concerns, genetic pollution, loss of habitat, and animal escapes; and

WHEREAS, chronic wasting disease (CWD) has been detected and eradicated on one alternative livestock ranch in Montana; and

WHEREAS, CWD is presently undetectable in live animals, there is no approved test for live animals, and CWD is not known to be curable; and

WHEREAS, any risk of infecting wild, free-ranging public game populations with CWD is unacceptable, given the experiences of other states where CWD has been found in wild game populations; and

WHEREAS, the only scientific means to conclusively protect Montana's wild game animals from alternative livestock herds is to depopulate those privately owned animals; and

WHEREAS, to protect Montana's wild game populations from any threat of CWD by offering a mitigation

program to phase out alternative livestock ranching in Montana over a period of 5 years and eliminate the disease, hybridization, and other threats posed by Montana's alternative livestock industry is in the state's best interest.

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

**NEW SECTION. Section 1. Chronic wasting disease mitigation program.** (1) An alternative livestock ranch licensee who voluntarily forfeits an alternative livestock ranch business under the chronic wasting disease mitigation program provided for in this section is entitled to receive compensation as provided in [section 2].

(2) The alternative livestock ranch licensee who voluntarily forfeits an alternative livestock ranch business must receive compensation for:

- (a) the alternative livestock;
- (b) the alternative livestock ranch facilities; and
- (c) the forfeiture of the alternative livestock ranch license.

(3) If an alternative livestock ranch licensee chooses to enter into the mitigation program, the licensee shall notify the department in writing no later than July 1, 2003.

(4) Compensation under [section 2] is dependent upon compliance with the following terms and conditions of forfeiture:

- (a) All alternative livestock must be removed from the alternative livestock ranch by December 31, 2007.
- (b) Female alternative livestock may not be allowed to breed after the 2003 birthing season.
- (c) The animal inventory used for purposes of calculating the animal compensation package under [section 2] is the July 15, 2003, report filed as provided in 87-4-417.

(d) The licensee shall agree to release the state of Montana from all claims associated with the enforcement of the provisions of initiative measure no. 143.

(e) a licensee who has not elected to enter into the mitigation program by July 1, 2003, is prohibited from transferring alternative livestock to any license facility that has elected to enter the mitigation program.

(f) A licensee who has chosen to enter the mitigation program may not increase the licensee's alternative livestock inventory through importing alternative livestock from out of state.

(g) All required body parts of harvested, slaughtered, or deceased alternative livestock must be submitted to the department of livestock for disease testing.

(h) Forfeiture of the alternative livestock ranch license is required by the earlier of December 31, 2007,

or the date that all alternative livestock are removed from the alternative livestock ranch.

(5) An alternative livestock ranch licensee who has entered into the mitigation program and who was authorized to charge a fee or other remuneration for the shooting harvest of alternative livestock prior to November 7, 2000, is permitted to charge a fee or other remuneration for the shooting harvest of alternative livestock until December 31, 2007.

(6) An alternative livestock ranch licensee who fails to comply with this section after electing to take part in the mitigation program is subject to the penalties provided in 87-4-427.

**NEW SECTION. Section 2. Compensation for participation in mitigation program.** (1) An alternative livestock ranch licensee shall submit a claim after January 15 of each year until February 1, 2008, in order to be compensated for the removal of alternative livestock from the licensee's inventory during the prior calendar year. The licensee shall use the January 1 report required pursuant to 87-4-417 to document that a particular animal was removed from that licensee's animal inventory.

(2) Subject to subsection (3), compensation for alternative livestock is as follows:

(a) Female alternative livestock are valued at \$1,700 each and must to be paid for as provided in subsection (4).

(b) Male alternative livestock are valued at \$2,500 each and must be paid for as provided in subsection (4).

(3) (a) If an animal tests positive for any disease regulated by the department of livestock that requires quarantine and depopulation as provided in Title 81, chapter 2, the compensation provided for in subsection (2) does not apply and the animal is subject to the indemnification laws provided in 81-2-201 through 81-2-210.

(b) If an animal tests negative for any disease regulated by the department of livestock, the alternative livestock owner is entitled to the compensation provided for in subsection (2).

(4) The alternative livestock owner must be paid as follows:

(a) One-half of the amount provided for in subsection (2) is due when the alternative livestock ranch licensee chooses to enter the mitigation program.

(b) Upon notification from the alternative livestock ranch licensee that an alternative livestock animal has been sold, slaughtered, or harvested and upon verification from the department of livestock that all testing and transfer requirements have been met, the department shall pay the remaining one-half of the amount provided for in subsection (2) to the alternative livestock ranch licensee.

(5) Compensation for fencing and facilities under the mitigation program must be valued and paid for as

follows:

(a) All fencing must be compensated at the \$3.50 a foot value established by the department as the average in project cost determinations completed for the purpose of determining Montana Environmental Policy Act compliance costs to be assessed against an applicant for a license after January 1, 1998.

(b) The total fencing claim must be certified by a department of livestock designated agent.

(c) Additional handling and quarantine facilities must be reimbursed at cost, based on the documentation of expenses incurred in purchasing and constructing the facilities.

(6) The alternative livestock ranch licensee shall submit a claim in writing for reimbursement under subsection (5) before December 31, 2003. Compensation for fencing and facilities must be paid in four equal annual installments beginning July 1, 2004. Fencing and facilities that are not documented may not be compensated.

(7) (a) Compensation for license termination under the mitigation program must be paid to participating licensees. The value of the alternative livestock ranch license is dependent upon whether the licensee was authorized to harvest alternative livestock for a fee or other remuneration or whether the licensee was licensed as a breeding operation. If an alternative livestock license provided for both options, the owner shall determine which type of operation will be entered into the mitigation program. The compensable value of a breeding license is as follows:

(i) a license for 1 to 20 animals is valued at \$20,000;

(ii) a license for 21 to 60 animals is valued at \$40,000; and

(iii) a license for 61 or more animals is valued at \$60,000.

(b) The value of a fee harvesting business is five times the gross revenue of a licensee, using an average of the licensee's highest 2 calendar years of gross revenue while in production.

(c) The amount due under this subsection (7) is subject to review and approval by the commission. Once the commission approves the amount due, the total value must be paid in equal annual installments over a 5-year period beginning upon forfeiture of the alternative livestock ranch license or, at the latest, beginning July 1, 2008 and ending July 1, 2012.

(8) All compensation awards must be approved by a majority vote of the commission.

**NEW SECTION. Section 3. Tax exemption.** The compensation paid pursuant to [section 2] is exempt from taxation under this chapter.

**Section 4.** Section 87-4-414, MCA, is amended to read:

**"87-4-414. Alternative livestock as private property -- source -- marking -- fee shooting prohibited.**

(1) All alternative livestock lawfully possessed on a licensed alternative livestock ranch are private property for which the licensee is responsible as provided by law.

(2) The licensee may acquire, breed, grow, keep, pursue, handle, harvest, use, sell, or dispose of the alternative livestock and their progeny in any quantity and at any time of year as long as the licensee complies with the requirements of this part, ~~except that~~ Except as provided in [section 2], the licensee may not allow the shooting of game animals or alternative livestock, as defined in 87-2-101 or 87-4-406, or of any exotic big game species for a fee or other remuneration on an alternative livestock facility.

(3) A licensee shall mark alternative livestock in a manner approved by the department of livestock, as required under subsection (4), and that indicates ownership and provides individual identification of animals for inspection, transportation, reporting, and taxation purposes.

(4) The department of livestock is responsible for the control, tracking, and distribution of identification tags used for the marking of alternative livestock. The department of livestock shall require that all imported alternative livestock are marked within 30 days of importation and that all other alternative livestock are marked prior to January 1 of each year. Each alternative livestock must be marked with identification that:

- (a) is unique to the animal;
- (b) is nontransferable;
- (c) has an emblem owned and registered by the department of livestock that is embossed on each identification tag; and
- (d) allows for the identification of alternative livestock from a distance.

(5) Upon the request of a licensee, the department of livestock may grant a temporary waiver as to the time for identification and to the manner of identification if necessary to address a special circumstance.

(6) Alternative livestock must be lawfully acquired by the licensee. Alternative livestock may be kept only on a licensed alternative livestock ranch. A licensee who keeps alternative livestock owned by, leased to, or leased from another person shall comply with all of the requirements of this part as if the animal belonged to the licensee. Records and reports submitted by the licensee pursuant to 87-4-417 must identify any alternative livestock kept by the licensee during the reporting period and the name and address of the owner or lessee.

~~(7) Except as otherwise provided in this part, laws applicable to game animals do not apply to alternative livestock raised on a licensed alternative livestock ranch."~~

**NEW SECTION. Section 5. Appropriation.** The amount of \$200,000 is appropriated to the department of fish, wildlife, and parks from the department's general license account. The appropriation must be used for surveillance of the wild deer and elk population for chronic wasting disease in the areas surrounding alternative livestock ranches.

**NEW SECTION. Section 6. Repealer.** Section 87-4-433, MCA, is repealed.

**NEW SECTION. Section 7. Codification instruction.** (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 87, chapter 4, part 4, and the provisions of Title 87, chapter 4, part 4, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 3].

(3) [Section 3] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions of Title 15, chapter 31, apply to [section 3].

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

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