

HOUSE BILL NO. 759

INTRODUCED BY J. PETERSON

BY REQUEST OF THE HOUSE AGRICULTURE STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE CHRONIC WASTING DISEASE SURVEILLANCE AND PREVENTION PROGRAM TO PROTECT GAME ANIMALS; AUTHORIZING ALTERNATIVE LIVESTOCK RANCHES TO PARTICIPATE IN THE CHRONIC WASTING DISEASE SURVEILLANCE AND PREVENTION PROGRAM; PROVIDING COMPENSATION TO ALTERNATIVE LIVESTOCK RANCHES FOR VOLUNTARILY PARTICIPATING IN THE PROGRAM; AUTHORIZING FEE SHOOTING OF ALTERNATIVE LIVESTOCK AT FACILITIES LICENSED FOR FEE SHOOTING PRIOR TO NOVEMBER 7, 2000, AS PART OF THE SURVEILLANCE AND PREVENTION PROGRAM; REQUIRING FORFEITURE OF THE LICENSE OF A PARTICIPATING ALTERNATIVE LIVESTOCK RANCH BY DECEMBER 31, 2007; ELIMINATING THE OUTDATED STATUTE REQUIRING A PROGRAMMATIC ENVIRONMENTAL REVIEW; PROVIDING AN APPROPRIATION; PROVIDING FOR THE EXPENDITURE OF NONSTATE MONEY; AMENDING SECTIONS 87-4-407 AND 87-4-414, MCA; REPEALING SECTION 87-4-433, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, Montana State University-Bozeman has received a grant from the United States Department of the Interior, Fish and Wildlife Service for chronic wasting disease (CWD) research; and

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

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

WHEREAS, Montana needs to take all necessary precautions to ensure that the economic benefits derived from hunting game animals in Montana are not jeopardized by game animals becoming infected with CWD; and

WHEREAS, CWD has been detected and eradicated on one alternative livestock ranch in Montana; and

WHEREAS, the only scientific means to conclusively protect Montana's game animal populations from the spread of CWD from an alternative livestock herd is to depopulate the privately owned animals; and

WHEREAS, sports groups, 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 the alternative livestock industry poses a present and serious threat to Montana's free-ranging game animal populations due to disease management concerns, genetic hybridization, loss of habitat, and animal escapes; and

WHEREAS, to protect Montana's game animal populations by including the alternative livestock ranches in the CWD surveillance and prevention program is in the state's best interests.

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

NEW SECTION. Section 1. Chronic wasting disease surveillance and prevention program. (1) The department shall implement a chronic wasting disease surveillance and prevention program in order to protect Montana's game animal populations from the threats posed by chronic wasting disease.

(2) The surveillance and prevention program must consist of the following four components:

(a) coordinating department efforts with the chronic wasting disease research being conducted by the veterinary molecular biology department at Montana state university-Bozeman;

(b) coordinating department efforts with other states, provinces, federal agencies, public and private research institutions, and the department of livestock;

(c) conducting statewide chronic wasting disease surveillance testing of game animals; and

(d) allowing alternative livestock ranches in Montana to depopulate or relocate their animals to provide additional test subjects for the research being conducted by Montana state university-Bozeman.

NEW SECTION. Section 2. Montana state university-Bozeman -- testing and research. (1) The veterinary molecular biology department at Montana state university-Bozeman shall cooperate and coordinate with the department and the department of livestock with regard to all chronic wasting disease testing and research.

(2) The veterinary molecular biology department is encouraged to focus its research on the transmission and pathogenesis of chronic wasting disease in order to:

(a) assist in the development of a live animal test and vaccine for chronic wasting disease; and

(b) study the susceptibility of livestock to chronic wasting disease by natural and unnatural routes of exposure.

(3) The veterinary molecular biology department is requested to prepare an annual report for public dissemination, identifying the progress being made on the research efforts.

(4) The department shall issue Montana state university-Bozeman an alternative livestock ranch license for research purposes only. This license is subject to all provisions of Title 87, chapter 4, part 4, and any additional requirements as determined by the department or the department of livestock.

NEW SECTION. Section 3. Agency coordination. (1) The department, in the name of the state and with the approval of the governor, may enter into cooperative agreements with other states, provinces, and federal agencies to prevent Montana's game animals from becoming infected with chronic wasting disease. Sharing research results and coordination among international entities, federal agencies, state agencies, and public and private institutions is important in the management of a disease that does not respect jurisdictional boundaries. This coordinated effort seeks to preserve, protect, and manage game animals, all of which contribute immeasurably to the aesthetic, recreational, and economic aspects of each state's or province's natural resources.

(2) The department shall develop protocols to provide timely, complete, and accurate information about all facets of chronic wasting disease to the public in Montana. The department shall report annually to the governor and the legislature concerning chronic wasting disease in Montana and the results of the testing required by subsection (3).

(3) The department and the department of livestock shall cooperate to ensure that all deceased alternative livestock animals have been submitted to a laboratory approved by the department of livestock for testing prior to the alternative livestock licensee receiving any compensation from the state.

NEW SECTION. Section 4. Game animal surveillance. (1) The preferred game animal surveillance mechanism for chronic wasting disease is the use of samples collected from hunter-harvested animals. The department shall identify geographic areas that provide the greatest threats to Montana's game animal populations and target those areas for voluntary participation by hunters.

(2) Removal of game animals displaying clinical signs of chronic wasting disease will contribute to statewide targeted surveillance and provide necropsy and research material. Department personnel throughout the state shall kill and submit to necropsy, where possible, all game animals exhibiting clinical signs of chronic wasting disease.

(3) Costs associated with collecting samples and the actual testing of game animals must be paid by the

department.

NEW SECTION. Section 5. Participation by alternative livestock ranches. (1) An alternative livestock ranch licensee may elect to participate in the chronic wasting disease surveillance and prevention program. The licensee shall notify the department in writing no later than July 1, 2003, if the licensee elects to participate in the surveillance and prevention program.

(2) A licensee who participates in the surveillance and prevention program is entitled to receive compensation as provided in [section 6].

(3) Participation in the surveillance and prevention program is dependent upon compliance with the following terms and conditions:

(a) all alternative livestock must be removed from the licensee's alternative livestock ranch by December 31, 2007;

(b) none of the licensee's female alternative livestock may be allowed to breed after July 1, 2003;

(c) the animal inventory used for purposes of calculating the compensation under [section 6] 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 that does not enter into the surveillance and prevention program by July 1, 2003, is prohibited from transferring alternative livestock to any licensed alternative livestock ranch that has elected to enter the program;

(f) a licensee that has chosen to enter the surveillance and prevention program may not increase or decrease the licensee's alternative livestock inventory through importing or exporting alternative livestock from out of state;

(g) a licensee shall ensure that all required body parts of harvested, slaughtered, or deceased alternative livestock are submitted as directed by the department of livestock for disease testing and for research, upon request, by Montana state university-Bozeman and the department of livestock, veterinary diagnostic laboratory;

(h) except as provided in subsection (3)(i), the alternative livestock ranch license must be forfeited by the earlier of December 31, 2007, or the date that all alternative livestock are removed from the alternative livestock ranch; and

(i) if a licensee is required to remove alternative livestock from the alternative livestock ranch as a condition of the license, the licensee shall forfeit the license by December 31, 2007.

(4) An alternative livestock ranch licensee who has entered into the surveillance and prevention program and 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.

(5) An alternative livestock ranch licensee who fails to comply with this section after electing to take part in the surveillance and prevention program is subject to the penalties provided in 87-4-427 and shall reimburse the state for any compensation that has been received pursuant to [section 6].

NEW SECTION. Section 6. Compensation for participation in program. (1) (a) Alternative livestock ranch licensees that elect to participate in the chronic wasting disease surveillance and prevention program must receive an initial payment to be calculated as one-half of the following:

(i) all fencing must be compensated at \$3.50 a foot;

(ii) the total fencing claim must be certified by a department-designated agent; and

(iii) additional handling and quarantine facilities required by the department or the department of livestock in licensing the alternative livestock ranch must be reimbursed at cost, based on the documentation of expenses incurred in purchasing and constructing the facilities.

(b) The remaining one-half of the amount calculated pursuant to subsection (1)(a) is payable in two equal payments in the third and fourth years of participation in the program.

(2) (a) An alternative livestock ranch licensee participating in the surveillance and prevention program shall submit a claim in writing for reimbursement under subsection (1) before December 31, 2003. Facilities and fencing that are not documented or certified may not be compensated.

(b) If there are no alternative livestock on an alternative livestock ranch, other than an alternative livestock ranch that is required to remove alternative livestock from the alternative livestock ranch as a condition of licensure, the licensee shall forfeit the license upon submittal and acceptance of a claim pursuant to subsection (2)(a).

(3) (a) Compensation for alternative livestock must be as follows:

(i) female alternative livestock are valued at \$4,000 each and must be paid for as provided in subsection (5); and

(ii) male alternative livestock are valued at \$6,000 each and must be paid for as provided in subsection (5).

(b) An alternative livestock licensee may not receive compensation for an animal unless the department

of livestock has verified that tissue from the animal has been submitted for testing or upon verification from Montana state university-Bozeman that an animal was received from a licensee to be used for research purposes.

(4) (a) Except as provided in subsection (4)(b), if an animal tests positive for chronic wasting disease, the provisions of Title 81, chapter 2, apply.

(b) Indemnification provided for in Title 81, chapter 2, part 2, does not apply to animals that are part of the surveillance and prevention program. The licensee shall receive compensation as provided in [section 6] for each animal whether the animal tests positive or negative for chronic wasting disease.

(5) An alternative livestock ranch licensee who participates in the surveillance and prevention program must be paid in annual installments for the valuation established in subsection (3). The total payments in a year may not exceed an amount equal to 20% of the total value of the alternative livestock listed on the July 15, 2003, report filed as provided in 87-4-417. If an alternative livestock ranch licensee disposes of more animals than would provide for an annual 20% payment, then the amount owed to the licensee may be carried forward to succeeding years. Any payments carried forward must be made in the final year of the program. The annual payments are due on or before the following dates:

- (a) February 1, 2004;
- (b) February 1, 2005;
- (c) February 1, 2006;
- (d) February 1, 2007; and
- (e) February 1, 2008.

(6) The department and the department of livestock shall cooperate to identify which animals from a licensee have been tested pursuant to the surveillance and prevention program. Subject to the provisions of [sections 1 through 8], all compensation must be reviewed by the commission.

NEW SECTION. Section 7. Ownership of fencing and facilities. (1) When a licensee forfeits an alternative livestock ranch license as a requirement of the chronic wasting disease surveillance and prevention program, any fencing or facilities that were paid for pursuant to [section 6] become the property of the state.

(2) The state shall offer any fencing or facilities that are acquired from licensees that have forfeited their licenses to Montana state university-Bozeman for use in establishing an alternative livestock ranch for research purposes. If Montana state university-Bozeman does not accept the fencing or facilities within 6 months of the date that they are offered, the department may sell the fencing or facilities, use the fencing or facilities for department purposes, or choose to leave the fencing or facilities with the former alternative livestock ranch

licensee. Funds received from the sale of fencing or facilities must be deposited in the state special revenue account provided for in [section 8].

(3) If an alternative livestock ranch is under quarantine due to an animal testing positive for chronic wasting disease, the fencing and facilities must remain in place until released by the department of livestock.

(4) The department has 2 years from the date of the license forfeiture to remove the fencing and facilities from the licensee's property. If the fencing and facilities are not removed within that time period, ownership of the fencing and facilities reverts to the former licensee.

(5) For the purposes of this section, "facilities" means all property, except fencing, that is purchased by the state pursuant to [section 6(1) and (2)] and that is not a fixture.

NEW SECTION. Section 8. State special revenue account. There is a chronic wasting disease surveillance and prevention program account in the state special revenue fund. Payments under [section 6] must be made from the account.

Section 9. Section 87-4-407, MCA, is amended to read:

"87-4-407. License required -- moratorium -- penalty -- seizure of illegally possessed animals -- exception. (1) ~~A~~ Except as provided in [section 2], a person may not operate an alternative livestock ranch in this state without having first obtained an alternative livestock ranch license from the department prior to November 7, 2000. A person may not apply for or be granted a license after that date.

(2) A person who operates an alternative livestock ranch without a license or possesses, transports, buys, or sells animals whose importation into the state is restricted pursuant to 87-4-424 is guilty of a misdemeanor and is subject to the penalties provided in 87-4-427(4).

(3) Any animal held in violation of subsection (2) or otherwise illegally possessed may be immediately seized by the department and is subject to disposal by the department. Costs of seizure may be charged to the person in possession of the animal."

Section 10. 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) (a) 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~~.

(b) Except as provided in [section 5], 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 11. Fund transfer. The amount of \$10.9 million for the biennium ending June 30, 2005, is transferred from the department of fish, wildlife, and parks general license account to the chronic wasting disease surveillance and prevention program account established in [section 8]. The office of budget and program planning, in consultation with the department, shall determine the timing of the transfer.

NEW SECTION. Section 12. Appropriation. There is appropriated from the department of fish, wildlife, and parks general license account \$700,000 for the biennium ending June 30, 2005, to Montana state university-Bozeman for the veterinary molecular biology department's chronic wasting disease program.

NEW SECTION. Section 13. Expenditure of nonstate money first. (1) For the purposes of [sections 11 and 12], the department shall apply expenditures against available nonstate money before using state appropriations or transferred state funds.

(2) The approving authority, as defined in 17-7-102, shall authorize the decrease of the state appropriation or a fund transfer by the amount of money received from federal sources, grants, gifts, or other funds in excess of the appropriation or fund transfer contained in [sections 11 and 12] unless the decrease is contrary to federal law, federal rule, or a contract or unless the approving authority certifies that the services to be funded by the additional money are significantly different from those for which the agency received the state appropriation or fund transfer. The approving authority shall decrease the state appropriation or fund transfer provided for in [sections 11 and 12] by the amount of money received from nonfederal sources in excess of the appropriation or fund transfer unless the decrease is contrary to state law, state rule, or a contract or unless the approving authority certifies that the services to be funded by the additional money are significantly different from those for which the agency received the state appropriation or fund transfer. If the state appropriation or fund transfer of an agency is decreased pursuant to this section, the appropriation or transfer for the fund in which the money is received is increased in the amount of the state account decrease.

NEW SECTION. Section 14. Repealer. Section 87-4-433, MCA, is repealed.

NEW SECTION. Section 15. Codification instruction. [Sections 1 through 8 and 13] are intended to be codified as an integral part of Title 87, chapter 5, and the provisions of Title 87, chapter 5, apply to [sections 1 through 8 and 13].

NEW SECTION. Section 16. Nonseverability. It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

NEW SECTION. Section 17. Effective date. [This act] is effective on passage and approval.

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