



AN ACT CLARIFYING THE REGULATION OF BISON; GRANTING RULEMAKING AUTHORITY TO ESTABLISH A PERMIT AND INSPECTION SYSTEM FOR THE TRANSPORTATION OF BISON; PROVIDING DEFINITIONS; AMENDING SECTIONS 81-1-101, 81-2-120, 81-2-121, 81-3-201, 81-4-603, 81-5-101, 85-1-104, AND 87-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Permit and inspection system for transportation of bison. (1) Except as otherwise provided by law, the department shall adopt rules imposing a permit and inspection system for the transportation of bison into and out of counties and into and out of the state for the purposes of tracking movement of animals and collecting per capita assessments.

(2) A person who purposely or knowingly transports bison in violation of rules adopted pursuant to this section is guilty of a misdemeanor and shall be fined not more than \$1,000 or be imprisoned in the county jail for not more than 6 months, or both.

Section 2. Section 81-1-101, MCA, is amended to read:

"81-1-101. (Temporary) Definitions. Unless the context requires otherwise, in Title 81, the following definitions apply:

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

(b) The term does not include:

(i) wild buffalo or wild bison; or

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

~~(1)~~(2) "Board" means the board of livestock provided for in 2-15-3102, except as provided in Title 81, chapter 23.

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

(4) "Domestic bison" means a bison owned by a person.

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

(6) "Wild buffalo" or "wild bison" means a bison that has not been reduced to captivity and is not owned by a person. (Terminates June 30, 2011--sec. 20, Ch. 361, L. 2009.)

81-1-101. (Effective July 1, 2011) Definitions. Unless the context requires otherwise, in Title 81, the following definitions apply:

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

(b) The term does not include:

(i) wild buffalo or wild bison; or

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

~~(1)~~(2) "Board" means the board of livestock provided for in 2-15-3102.

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

(4) "Domestic bison" means a bison owned by a person.

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

(6) "Wild buffalo" or "wild bison" means a bison that has not been reduced to captivity and is not owned by a person."

Section 3. 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 subsection (1)(d). Acquisition of wild buffalo or wild bison by a qualified tribal entity must be done in a manner that does not jeopardize compliance with a state-administered or federally administered livestock disease control program. The department may adopt rules consistent with this section governing tribal participation in the program or enter into cooperative agreements with tribal organizations for the purposes of carrying out the disease control program.

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

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

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

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

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

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

(4) The department may adopt rules with regard to management of publicly owned wild buffalo or wild

bison that enter Montana on private or public land and that are from a herd that is infected with a contagious disease that may spread to persons or livestock and may jeopardize compliance with other state-administered or federally administered livestock disease control programs."

Section 4. Section 81-2-121, MCA, is amended to read:

"81-2-121. Taking of publicly owned wild buffalo or wild bison that are present on private property -- notice -- supplemental feeding -- penalty. (1) This chapter may not be construed to impose, by implication or otherwise, criminal liability on a landowner or the agent of a landowner for the taking of a publicly owned wild buffalo or wild bison that is suspected of carrying disease and that is present on the landowner's private property and is potentially associating with or otherwise threatening the landowner's livestock if:

(a) the landowner or agent notifies or makes a good faith effort to notify the department in order to allow as much time as practicable for the department to first take or remove the publicly owned wild buffalo or wild bison that is present on the landowner's property;

(b) the landowner or agent makes a good faith effort to notify the department that a taking has occurred and to retain all parts for disposal by the department; and

(c) the landowner or agent is not in violation of subsection (2).

(2) A person may not intentionally provide supplemental feed to game animals in a manner that results in artificial concentration of game animals that may potentially contribute to the transmission of disease. A person who violates this subsection is guilty of a misdemeanor and is subject to the penalty provided in 87-1-102(1). This subsection does not apply to supplemental feeding activities conducted by the department for disease control purposes."

Section 5. Section 81-3-201, MCA, is amended to read:

"81-3-201. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Deputy state stock inspector" means a person designated by the department as a deputy state stock inspector who does not receive a salary or compensation from the department.

(2) "Feedlot" means a confined livestock feeding operation where the owner or operator of the feedlot feeds livestock belonging to others for a fee.

(3) "Livestock" means a bovine animal, domestic bison, horse, mule, or ass, regardless of its age or sex.

(4) "Person" means an individual, partnership, corporation, association, firm, or entity not enumerated that is capable of owning or controlling livestock.

(5) "Specially qualified deputy stock inspector" means a deputy state stock inspector who has been certified by the department, under rules adopted pursuant to 81-3-202, as qualified to conduct an inspection for a permanent transportation permit for a saddle, work, or show horse.

(6) "State stock inspector" means an employee of the department of livestock designated by the department as a state stock inspector."

Section 6. Section 81-4-603, MCA, is amended to read:

"81-4-603. Taking up and disposition of estrays -- advertisement. (1) A stock inspector authorized by the department shall take into possession an estray found in the stock inspector's district and, except as provided in 81-2-120, shall either:

(a) ship or arrange for the shipment of the estray to a licensed livestock market for sale; or

(b) hold the estray and care for the estray in the cheapest and most practicable manner for at least 10 days and not more than 30 days after public notice is published as provided in subsection (2). During the holding period, the stock inspector shall advertise that the estray is being held and that unless the estray is claimed by the owner, the stock inspector will on a date specified in the notice sell the estray at a public auction to the highest bidder for cash.

(2) The notice must be published in the newspaper doing the county printing of the county in which the estray is found and on the department's website and in each livestock market brand office and county sheriff's office in the state. This notice must be published in the newspaper at least one time and must contain a statement of the date of the sale, the place where the sale is to be held, and a general description of the estray, including the sex and the approximate age, together with an illustration of the brand and the position of the brand on the estray and a description of the place or locality where the estray was found or taken.

(3) ~~The Except as provided in 81-2-120, the~~ proceeds from the sale must be disposed of under 81-4-605 and 81-4-606.

(4) The owner of the estray may appear and claim it at any time before the sale or shipment, as provided in this part, upon payment to the department of the cost of caring for the estray as determined by the department."

Section 7. Section 81-5-101, MCA, is amended to read:

"81-5-101. Moving livestock from customary range forbidden. (1) A person who willfully moves or causes to be moved any cattle, horses, mules, swine, llamas, alpacas, domestic bison, or sheep from their owner's customary range without the permission of the owner shall upon conviction be punished by imprisonment in the county jail not exceeding 6 months or by a fine not exceeding \$500, or both.

(2) A person who negligently moves or causes to be moved any cattle, horses, mules, swine, llamas, alpacas, domestic bison, or sheep from their owner's customary range without the permission of the owner shall upon conviction be punished by:

(a) a term of imprisonment in the county jail not to exceed 6 months;

(b) a fine not exceeding:

(i) \$25 for a first offense;

(ii) \$250 for a second offense; and

(iii) \$500 for a third or subsequent offense; or

(c) both imprisonment and the appropriate fine.

(3) Prior to the imposition of the penalty provided for in subsection (1) or (2), the owner of the livestock shall file a complaint with the department. The department shall conduct an investigation to determine the circumstances under which the livestock were moved."

Section 8. Section 81-5-104, MCA, is amended to read:

"81-5-104. Stolen livestock -- seizure and forfeiture of vehicle and certain other property used in theft or transportation. (1) The use of a vehicle, money, equipment, or personalty for the theft or transportation of a stolen mule, horse, mare, colt, foal, filly, sheep, lamb, cow, calf, heifer, steer, bull, llama, alpaca, domestic bison, hogs, poultry, ostrich, rhea, emu, or the products of stolen livestock is unlawful. Any vehicle, money, equipment, or personalty used for the theft or unlawful transportation or upon probable cause believed to be devoted wholly or in part to the theft or unlawful transportation must be seized and held.

(2) Within 45 days after the seizure, a peace officer or officer of the agency that seizes the property shall file a petition to institute forfeiture proceedings with the clerk of the district court of the county in which the seizure occurs. The clerk shall issue a summons at the request of the petitioning party, who shall serve the summons

upon all owners or claimants of the property by one of the following methods:

(a) upon an owner or claimant whose address is known, by personal service of a copy of the petition and summons as provided in the Montana Rules of Civil Procedure;

(b) upon an owner or claimant whose address is unknown but who is believed to have an interest in the property, by publication of the summons in one issue of a newspaper of general circulation in the county where the seizure occurred or, if there is no newspaper of general county circulation, by publication in one issue of a newspaper of general circulation in an adjoining county and by mailing a copy of the petition and summons to the most recent address of the owner or claimant, if any, shown in the records of the division of motor vehicles.

(3) A vehicle is not subject to forfeiture under this section if:

(a) it is a stolen vehicle at the time it is used for unlawful transportation; or

(b) the vehicle owner is not in collusion with the party or parties guilty of the theft."

Section 9. Section 87-1-216, MCA, is amended to read:

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

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

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

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

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

(2) The department:

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

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

(c) shall cooperate with the department of livestock in managing publicly owned wild buffalo or bison that enter the state on public or private land from a herd that is infected with a dangerous disease, as provided in

81-2-120, under a plan approved by the governor. The department of livestock is authorized under the provisions of 81-2-120 to regulate publicly owned wild buffalo or bison in this state that pose a threat to persons or livestock in Montana through the transmission of contagious disease. The department may, after agreement and authorization by the department of livestock, authorize the public hunting of wild buffalo or bison that have been exposed to or infected with a contagious disease, pursuant to 87-2-730. The department may, following consultation with the department of livestock, adopt rules to authorize the taking of bison where and when necessary to prevent the transmission of a contagious disease.

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

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

Section 10. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

Section 11. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 81, chapter 5, part 1, and the provisions of Title 81, chapter 5, part 1, apply to [section 1].

Section 12. Name change -- directions to code commissioner. The code commissioner is directed to change the phrase "wild buffalo or bison" to "wild buffalo or wild bison" wherever the phrase appears in legislation enacted by the 2011 legislature if the legislation amends Title 81 or creates new sections that are codified in Title 81.

Section 13. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 0207, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2011.

Speaker of the House

Signed this _____ day
of _____, 2011.

SENATE BILL NO. 207

INTRODUCED BY F. MOORE, WARBURTON, ARTHUN, DE. BARRETT, BROWN, AND STEINBEISSER

AN ACT CLARIFYING THE REGULATION OF BISON; GRANTING RULEMAKING AUTHORITY TO ESTABLISH A PERMIT AND INSPECTION SYSTEM FOR THE TRANSPORTATION OF BISON; PROVIDING DEFINITIONS; AMENDING SECTIONS 81-1-101, 81-2-120, 81-2-121, 81-3-201, 81-4-603, 81-5-101, 85-1-104, AND 87-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.