

SENATE BILL NO. 256

INTRODUCED BY F. MOORE, ARTHUN, DEBBY BARRETT, BOULANGER, BRENDEN, T. BROWN, FLYNN, HARRIS, REDFIELD, RIPLEY, ROSENDALE, SALOMON, TAYLOR, THOMAS, VINCENT, WALKER

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS LIABLE FOR DAMAGE TO PRIVATE PROPERTY BY WILD BUFFALO AND BISON; REQUIRING AN ESTIMATION OF PRIVATE PROPERTY DAMAGE AND COSTS FOR WHICH THE DEPARTMENT WOULD BE LIABLE IF A WILD BUFFALO OR BISON PROPOSED FOR RELEASE OR TRANSPLANTATION ESCAPES; AND AMENDING SECTION 87-1-216, MCA."

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

Section 1. 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

1 81-2-120, under a plan approved by the governor. The department of livestock is authorized under the provisions
2 of 81-2-120 to regulate publicly owned wild buffalo or bison in this state that pose a threat to persons or livestock
3 in Montana through the transmission of contagious disease. The department may, after agreement and
4 authorization by the department of livestock, authorize the public hunting of wild buffalo or bison that have been
5 exposed to or infected with a contagious disease, pursuant to 87-2-730. The department may, following
6 consultation with the department of livestock, adopt rules to authorize the taking of bison where and when
7 necessary to prevent the transmission of a contagious disease.

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

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

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

16 (a) measures to comply with any applicable animal health protocol required under Title 81, under
17 subsection (2)(b), or by the state veterinarian;

18 (b) any animal identification and tracking protocol required by the department of livestock to identify the
19 origin and track the movement of wild buffalo or bison for the purposes of subsections (2)(b) and (5)(c);

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

22 (i) any fencing required;

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

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

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

30 (d) a reasonable means of protecting public safety and emergency measures to be implemented if public

1 safety may be threatened;

2 (e) a reasonable maximum carrying capacity for any proposed designated area using sound
3 management principles, including but not limited to forage-based carrying capacity, and methods for not
4 exceeding that carrying capacity; ~~and~~

5 (f) an estimation of private property damages and costs for which the department would be liable
6 pursuant to subsection (7) if any released or transplanted wild buffalo or bison escape; and

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

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

14 (7) The department is liable for all costs incurred, ~~including costs arising from protecting public safety,~~
15 and any damage caused to private property by wild buffalo or wild bison, including damage that occurs as a result
16 of the department's failure to meet the requirements of subsection (5). This may include costs arising from
17 protecting public safety.

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

22
23 COORDINATION SECTION. SECTION 2. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 396 AND
24 [THIS ACT] ARE PASSED AND APPROVED AND BOTH CONTAIN SECTIONS AMENDING 87-1-216, THEN THE SECTIONS
25 AMENDING 87-1-216 ARE VOID AND 87-1-216 MUST BE AMENDED AS FOLLOWS:

26 **"87-1-216. Wild buffalo or bison as species in need of management -- policy -- department duties.**

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

30 (a) to designate publicly owned wild buffalo or bison originating from Yellowstone national park as a

1 species requiring disease control;

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

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

4 (2) The department:

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

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

10 (c) shall cooperate with the department of livestock in managing publicly owned wild buffalo or bison that
11 enter the state on public or private land from a herd that is infected with a dangerous disease, as provided in
12 81-2-120, under a plan approved by the governor. The department of livestock is authorized under the provisions
13 of 81-2-120 to regulate publicly owned wild buffalo or bison in this state that pose a threat to persons or livestock
14 in Montana through the transmission of contagious disease. The department may, after agreement and
15 authorization by the department of livestock, authorize the public hunting of wild buffalo or bison that have been
16 exposed to or infected with a contagious disease, pursuant to 87-2-730. The department may, following
17 consultation with the department of livestock, adopt rules to authorize the taking of bison where and when
18 necessary to prevent the transmission of a contagious disease.

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

22 (4) The department may not:

23 (a) release, transplant, relocate, or allow wild buffalo or bison on any private or public land in Montana
24 that has not been authorized for that use by the private or public owner; or

25 (b) pursuant to [section 1], release, transplant, or relocate any wild buffalo or bison into any Montana
26 county without first receiving the approval of the board of county commissioners of the affected county or
27 counties.

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, or relocated onto
30 private or public 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~~, transplanted,
6 or relocated on private or public land will be contained in designated areas. Containment measures must include
7 but are not limited to:

8 (i) any fencing required;

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

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

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

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

18 (e) a reasonable maximum carrying capacity for any proposed designated area using sound
19 management principles, including but not limited to forage-based carrying capacity, and methods for not
20 exceeding that carrying capacity; and

21 (f) an estimation of private property damages and costs for which the department would be liable pursuant
22 to subsection (7) if any released, transplanted, or relocated wild buffalo or bison escape; and

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

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

30 (7) The department is liable for all costs incurred, ~~including costs arising from protecting public safety,~~

1 and any damage caused to private property by wild buffalo or bison, including damage that occurs as a result of
2 the department's failure to meet the requirements of subsection (5). This may include costs arising from protecting
3 public safety.

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

8 - END -