

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 CERTAIN 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; PROVIDING AN APPROPRIATION; AND AMENDING SECTION 87-1-216, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

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

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

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

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

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

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

23 (i) any fencing required;

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

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

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

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

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

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

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

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

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

19 (B) SUBSECTION (7)(A) DOES NOT APPLY TO WILD BUFFALO OR BISON ENTERING MIGRATING INTO THE STATE OF
20 MONTANA FROM YELLOWSTONE NATIONAL PARK OR BISON THAT ARE OWNED BY TRIBAL ENTITIES.

21 (8) When adopting and implementing rules regarding the special wild buffalo or bison license issued
22 pursuant to 87-2-730, the department shall consult and cooperate with the department of livestock regarding
23 when and where public hunting may be allowed and the safe handling of wild buffalo or bison parts in order to
24 minimize the potential for spreading any contagious disease to persons or to livestock."
25

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

29 **"87-1-216. Wild buffalo or bison as species in need of management -- policy -- department duties.**

30 (1) The legislature finds that significant potential exists for the spread of contagious disease to persons or

1 livestock in Montana and for damage to persons and property by wild buffalo or bison. It is the purpose of this
2 section:

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

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

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

7 (2) The department:

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

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

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

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

25 (4) The department may not:

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

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

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

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

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

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

11 (i) any fencing required;

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

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

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

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

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

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

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

28 (6) When developing a management plan in accordance with subsection (5), the department shall
29 provide the opportunity for public comment and hold a public hearing in the affected county or counties. Prior to
30 making a decision to release, ~~or transplant,~~ or relocate wild buffalo or bison onto private or public land in

1 Montana, the department shall respond to all public comment received and publish a full record of the
2 proceedings at any public hearing.

3 (7) ~~(A) The EXCEPT AS PROVIDED IN SUBSECTION (7)(B), THE~~ department is liable for all costs incurred;
4 ~~including costs arising from protecting public safety;~~ and any damage caused to private property by wild buffalo
5 or bison, including damage that occurs as a result of the department's failure to meet the requirements of
6 subsection (5). This may include costs arising from protecting public safety.

7 (B) SUBSECTION (7)(A) DOES NOT APPLY TO WILD BUFFALO OR BISON ENTERING MIGRATING INTO THE STATE OF
8 MONTANA FROM YELLOWSTONE NATIONAL PARK OR BISON THAT ARE OWNED BY TRIBAL ENTITIES.

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

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14 NEW SECTION. SECTION 3. APPROPRIATION. IN EACH YEAR OF THE BIENNIUM BEGINNING JULY 1, 2013,
15 THERE IS APPROPRIATED TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS \$20,000 FROM THE STATE GENERAL FUND
16 FOR THE PAYMENT OF COSTS INCURRED AND DAMAGE CAUSED TO PRIVATE PROPERTY BY WILD BUFFALO OR BISON
17 PURSUANT TO 87-1-216(7).

18
19 NEW SECTION. SECTION 4. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 2013.

20 - END -