

SENATE BILL NO. 341

INTRODUCED BY J. FIELDER

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING CRITERIA FOR THE TRANSPLANTATION OR AUGMENTATION OF CERTAIN WILDLIFE SPECIES; PROVIDING FOR A PUBLIC SCOPING PROCESS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 87-5-702, 87-5-703, 87-5-704, 87-5-713, AND 87-5-716, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Criteria for transplantation and augmentation of wildlife species -- public scoping process -- legislative intent -- definitions. (1) It is the legislature's intent that the requirements of this section ensure that wildlife transplantation and augmentation projects:

(a) are implemented in areas where transplantation or augmentation is likely to be successful for the species, with an emphasis on avoiding conflicts in existing land management practices and competition between the transplanted or augmented wildlife and other species that may be detrimental to the success of the project;

(b) incorporate sound science, public and local government involvement and cooperation, and adequate planning;

(c) are conducted in a manner that respects and preserves private property rights and human health, safety, and welfare; and

(d) are implemented only after it is determined that transplantation or augmentation of a wildlife species will not jeopardize existing grazing allotments and after proper protections are made to ensure that the department assumes financial responsibility for efforts to keep transplanted or augmented species of wildlife separated from domestic livestock if necessary to prevent significant conflict.

(2) Land on which the department is proposing to transplant a wildlife species must:

(a) contain sufficient winter and other seasonal range capacity to support the anticipated population size; and

(b) be publicly owned or managed lands, privately owned lands for which written consent has been granted by the land owner, or a combination of publicly owned and privately owned.

(3) The department may not transplant or augment a species of wildlife:



1 (a) unless adequate mitigation measures are in place to prevent the spread of disease or other threats
2 that would cause significant harm to the transplanted or augmented species, other wildlife species, pets, livestock,
3 or human health, safety, and welfare;

4 (b) if transplantation or augmentation would significantly and negatively impact multiple uses of public
5 land in the transplantation or augmentation area, including grazing; or

6 (c) without preparing and adhering to a comprehensive management plan that:

7 (i) clearly identifies the proposed transplantation or augmentation area and the maximum number of
8 transplanted or augmented wildlife species proposed in the resulting population;

9 (ii) provides for the expeditious removal of the transplanted or augmented species of wildlife or prompt
10 mitigation remedies if the species cause damage to private property or to agriculture or livestock operations or
11 jeopardize public health and safety, including causing a traffic hazard;

12 (iii) identifies a long-term, stable funding source to be used for future management actions related to the
13 transplantation or augmentation effort.

14 (4) When proposing the transplantation or augmentation of wildlife, the department shall prepare an
15 environmental review pursuant to Title 75, chapter 1, part 2, including a public scoping process. As part of the
16 public scoping process, the department shall:

17 (a) consult and coordinate with county commissioners in the affected counties to ensure that local
18 government and local citizens in or near the affected areas are given adequate opportunities to become informed
19 of the proposed project and to meaningfully participate in the public scoping process and to ensure that local
20 considerations are properly reflected in related decisions;

21 (b) hold general informational meetings in each county in which the transplantation or augmentation
22 would occur;

23 (c) give advance written notification by certified mail to all parties owning private lands or leasing public
24 lands within the proposed transplantation or augmentation area. The notice:

25 (i) must summarize the proposed transplantation or augmentation project;

26 (ii) must provide a map of the proposed transplantation area and provide information about opportunities
27 for submitting public comment;

28 (iii) must identify adverse impacts that could result from the project;

29 (iv) must list all related public meetings scheduled in the affected county or counties;

30 (v) may not be more than 2 pages plus the map; and

1 (vi) must be delivered to all relevant parties at least 30 days prior to commencement of the public scoping
2 process.

3 (5) In addition to the requirements of Title 75, chapter 1, part 2, and subsection (4), any environmental
4 review prepared for the proposed transplantation or augmentation of a wildlife species must include:

5 (a) any available disease surveillance and demographic modeling data for the wildlife species from which
6 the population would be transplanted or augmented; and

7 (b) analysis of the impacts of the comprehensive management plan prepared pursuant to subsection
8 (3)(c).

9 (6) Before transplantation or augmentation of a species is approved, the department shall:

10 (a) obtain written permission from landowners whose property is specifically identified or utilized by the
11 proposed transplantation or augmentation project; and

12 (b) consult and coordinate with the other state or local agencies, including the department of
13 transportation, the department of agriculture, the department of livestock, and the department of natural resources
14 and conservation, if the transplantation or augmentation will adversely impact traffic safety, agriculture or livestock
15 operations, or other existing land management practices. The agencies shall reconcile any significant
16 inconsistencies in plans, policies, or actions prior to proceeding.

17 (7) As used in this section, the following definitions apply:

18 (a) "Transplantation or augmentation area" means all lands expected to be used by the resulting wildlife
19 species population depicted by an outer boundary of identified geographic features.

20 (b) (i) "Wildlife" means any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other wild
21 animal or the egg, sperm, embryo, or offspring of the wild animal.

22 (ii) The term does not include domestic animals.

23

24 **Section 2.** Section 87-5-702, MCA, is amended to read:

25 **"87-5-702. Definitions.** For purposes of this part, the following definitions apply:

26 (1) "Augmentation" means the release of or attempt to release, intentional or otherwise, wildlife from one
27 part of the state to add to a population of the same species of wildlife in another part of the state.

28 ~~(4)~~(2) "Controlled exotic wildlife" means species placed on the controlled exotic wildlife list under
29 87-5-707 that may be imported, possessed, or sold only pursuant to commission and department rules and an
30 authorization permit provided for in 87-5-705(2).

1 ~~(2)~~(3) "Domestic animal" means an animal that, through long association with humans, has been bred
 2 to a degree that has resulted in genetic changes affecting color, temperament, conformation, or other attributes
 3 of the species to an extent that makes the animal unique and distinguishable from wild individuals of the species
 4 and that is readily controllable if accidentally released into the wild. The term includes livestock, as defined in
 5 81-2-702, dogs, cats, rodents, Eurasian ferrets, and poultry.

6 ~~(3)~~(4) "Exotic wildlife" means a wildlife species that is not native to Montana.

7 ~~(4)~~(5) "Feral" means the appearance of an animal and any offspring that have escaped captivity and
 8 become wild.

9 ~~(5)~~(6) "Importation" means the act of receiving, bringing or having brought, or shipping into the state for
 10 a person's temporary or permanent residence or domicile any wildlife from a location outside the state.

11 ~~(6)~~(7) "Introduction" means the release from captivity or attempt to release from captivity, intentional or
 12 otherwise, wildlife from outside the state into the wild within the state.

13 ~~(7)~~(8) "Native wildlife" means a species or subspecies of wildlife that historically occurred in Montana
 14 and that has not been introduced by humans or has not migrated into Montana as a result of human activity.

15 ~~(8)~~(9) "Noncontrolled exotic wildlife" means animal species traditionally sold or kept as pets and includes
 16 animals listed in 87-5-706 or animals that are added to the list in 87-5-706 by commission rule.

17 ~~(9)~~(10) "Possession" means to own or have control over an animal for personal use or resale.

18 ~~(10)~~(11) "Prohibited exotic wildlife" means animal species placed on the list provided in 87-5-704(3)(a)
 19 that may not be imported, possessed, or sold.

20 ~~(11)~~(12) "Transplantation" means the release of or attempt to release, intentional or otherwise, wildlife
 21 from one place within the state into another part of the state.

22 ~~(12)~~(13) (a) "Wildlife" means any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, or other
 23 wild animal or the egg, sperm, embryo, or offspring of the wild animal.

24 (b) The term does not include domestic animals."
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26 **Section 3.** Section 87-5-703, MCA, is amended to read:

27 **"87-5-703. Applicability to other provisions for importation or introduction of wildlife.** Sections
 28 87-5-701 through 87-5-704, 87-5-711, 87-5-713 through 87-5-716, ~~and~~ 87-5-721, and [section 1] do not apply
 29 to the provisions on importation or introduction of wildlife contained in the following laws:

30 (1) Title 80;

- 1 (2) 87-3-208 and 87-6-219(1)(a);
2 (3) 87-3-221 through 87-3-224 or 87-3-210, 87-3-225 through 87-3-227, and 87-6-219(1)(b);
3 (4) 87-4-422;
4 (5) 87-5-112;
5 (6) 87-5-205;
6 (7) 87-5-302; or
7 (8) Title 81, chapter 2."
8

9 **Section 4.** Section 87-5-704, MCA, is amended to read:

10 **"87-5-704. Rulemaking.** (1) The commission may adopt rules to implement 87-5-701, 87-5-702, and
11 87-5-711 through 87-5-715. In implementing 87-5-713, the commission may adopt rules approving species of
12 wildlife that may be introduced by the department. In implementing 87-5-715, the commission may adopt rules
13 to authorize the control or extermination by the department of introduced wildlife species.

14 (2) The department may adopt rules to implement 87-5-713 and 87-5-715. In implementing 87-5-713 and
15 87-5-715, the department may not adopt rules in the subject areas reserved to the commission in subsection (1).

16 (3) (a) The commission may adopt rules to implement 87-5-705 through 87-5-709 and 87-5-712
17 regarding the importation, possession, and sale of exotic wildlife, including adoption of a list of controlled exotic
18 wildlife and a list of prohibited exotic wildlife. The commission may by rule add to the list of noncontrolled exotic
19 wildlife provided in 87-5-706. The department of livestock may not issue import permits for exotic wildlife on a list
20 of controlled exotic wildlife or prohibited exotic wildlife without authorization from the department.

21 (b) The commission may adopt rules regarding the operation of the classification review committee
22 established in 87-5-708.

23 (4) The department may adopt rules regarding issuance of the authorization permit provided for in
24 87-5-705(2), including the establishment of a reasonable fee for the permit.

25 (5) The department may adopt rules to implement the provisions of [section 1] regarding wildlife
26 transplantation and augmentation."
27

28 **Section 5.** Section 87-5-713, MCA, is amended to read:

29 **"87-5-713. Control of wildlife species permitted to be transplanted or introduced.** Any wildlife
30 species listed in 87-5-714 or approved by the commission for introduction or transplantation may be introduced

1 or transplanted only subject to a plan developed by the department or pursuant to [section 1] to ~~assure~~ ensure
2 that the population can be controlled if any unforeseen harm should occur."

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4 **Section 6.** Section 87-5-716, MCA, is amended to read:
5 **"87-5-716. Consultation with departments of agriculture, public health and human services, and**
6 **livestock.** ~~The~~ Subject to [section 1], the commission and the department shall consult with the departments of
7 agriculture, public health and human services, and livestock in all matters relating to the control of wildlife species
8 and exotic wildlife that may have a harmful effect on agricultural production or livestock operations in the state
9 or that may pose a risk to human health or safety."

10
11 NEW SECTION. **Section 7. Codification instruction.** [Section 1] is intended to be codified as an
12 integral part of Title 87, chapter 5, part 7, and the provisions of Title 87, chapter 5, part 7, apply to [section 1].

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

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