

SENATE BILL NO. 284

INTRODUCED BY J. BRENDEN

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AUTHORIZATION OF THE BOARD OF COUNTY COMMISSIONERS BEFORE WILD BUFFALO OR WILD BISON ARE RELEASED INTO A COUNTY; REQUIRING RELEASE OF WILD BUFFALO OR WILD BISON TO MEET CERTAIN CONDITIONS; AMENDING SECTIONS 76-1-605, 81-2-120, AND 87-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Transplantation or relocation of wild buffalo or bison into county --**

**authorization.** (1) A board of county commissioners shall review any proposal made by the department of livestock or the department of fish, wildlife, and parks under 81-2-120 or 87-1-216 to authorize the transplantation or relocation of any wild buffalo or wild bison certified by the state veterinarian as brucellosis-free into that county.

(2) A board of county commissioners may not authorize a wild buffalo or wild bison to be released, transplanted, or relocated into a county unless:

- (a) the animal is certified as brucellosis-free;
- (b) the board finds the transplantation or relocation does not threaten the public health, safety, and welfare of the citizens of the county; and
- (c) the board finds the transplantation or relocation is consistent with the elements of a growth policy adopted pursuant to Title 76, chapter 1.

**Section 2.** Section 76-1-605, MCA, is amended to read:

**"76-1-605. Use of adopted growth policy.** (1) Subject to subsection (2), after adoption of a growth policy, the governing body within the area covered by the growth policy pursuant to 76-1-601 must be guided by and give consideration to the general policy and pattern of development set out in the growth policy in the:

- (a) authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities;
  - (b) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities;
- and



1 (c) adoption of zoning ordinances or resolutions.

2 (2) (a) A growth policy is not a regulatory document and does not confer any authority to regulate that  
3 is not otherwise specifically authorized by law or regulations adopted pursuant to the law.

4 (b) ~~A~~ Except for the authorization required by [section 1], a governing body may not withhold, deny, or  
5 impose conditions on any land use approval or other authority to act based solely on compliance with a growth  
6 policy adopted pursuant to this chapter."

7

8 **Section 3.** Section 81-2-120, MCA, is amended to read:

9 **"81-2-120. Management of wild buffalo or wild bison for disease control.** (1) Whenever a publicly  
10 owned wild buffalo or wild bison from a herd that is infected with a dangerous disease enters the state of Montana  
11 on public or private land and the disease may spread to persons or livestock or whenever the presence of wild  
12 buffalo or wild bison may jeopardize Montana's compliance with other state-administered or federally  
13 administered livestock disease control programs, the department may, under a plan approved by the governor,  
14 use any feasible method in taking one or more of the following actions:

15 (a) The live wild buffalo or wild bison may be captured, tested, quarantined, and vaccinated. Wild buffalo  
16 or wild bison that are certified by the state veterinarian as brucellosis-free may be:

17 (i) sold to help defray the costs that the department incurs in building, maintaining, and operating  
18 necessary facilities related to the capture, testing, quarantine, or vaccination of the wild buffalo or wild bison.  
19 Proceeds from the sale of live, brucellosis-free, vaccinated wild buffalo or wild bison must be deposited in the  
20 state special revenue fund to the credit of the department. Any revenue generated in excess of the costs referred  
21 to in this subsection (1)(a)(i) must be deposited in the state special revenue fund provided for in 87-1-513(2).

22 (ii) transferred to a qualified tribal entity that participates in the disease control program provided for in  
23 this subsection (1)(a). Acquisition of wild buffalo or wild bison by a qualified tribal entity must be done in a manner  
24 that does not jeopardize compliance with a state-administered or federally administered livestock disease control  
25 program. The department may adopt rules consistent with this section governing tribal participation in the program  
26 or enter into cooperative agreements with tribal organizations for the purposes of carrying out the disease control  
27 program.

28 ~~(a)~~(b) The live wild buffalo or wild bison may be physically removed by the safest and most expeditious  
29 means from within the state boundaries, including but not limited to hazing and aversion tactics or capture,  
30 transportation, quarantine, or delivery to a department-approved slaughterhouse.

1           ~~(b)~~(c) The live wild buffalo or wild bison may be destroyed by the use of firearms. If a firearm cannot be  
2 used for reasons of public safety or regard for public or private property, the animal may be relocated to a place  
3 that is free from public or private hazards and destroyed by firearms or by a humane means of euthanasia.

4           ~~(e)~~(d) The live wild buffalo or wild bison may be taken through limited public hunts pursuant to 87-2-730  
5 when authorized by the state veterinarian and the department.

6           ~~(d) The live wild buffalo or wild bison may be captured, tested, quarantined, and vaccinated. Wild buffalo  
7 or wild bison that are certified by the state veterinarian as brucellosis-free may be:~~

8           ~~———(i) sold to help defray the costs that the department incurs in building, maintaining, and operating  
9 necessary facilities related to the capture, testing, quarantine, or vaccination of the wild buffalo or wild bison; or~~

10           ~~———(ii) transferred to qualified tribal entities that participate in the disease control program provided for in this  
11 subsection (1)(d). Acquisition of wild buffalo or wild bison by a qualified tribal entity must be done in a manner  
12 that does not jeopardize compliance with a state-administered or federally administered livestock disease control  
13 program. The department may adopt rules consistent with this section governing tribal participation in the program  
14 or enter into cooperative agreements with tribal organizations for the purposes of carrying out the disease control  
15 program.~~

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

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

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

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

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

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

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

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

4 (5) Except for a transfer to a qualified tribal entity pursuant to subsection (1)(a)(ii), after a wild buffalo  
5 or wild bison has been certified as brucellosis-free by the state veterinarian, the department may authorize its  
6 transplantation or relocation into any Montana county pursuant to this section only if the department first receives  
7 the authorization of the board of county commissioners of the affected county or counties pursuant to [section  
8 11.]"

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10 **Section 4.** Section 87-1-216, MCA, is amended to read:

11 **"87-1-216. Wild buffalo or bison as species in need of management -- policy -- department duties.**

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

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

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

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

19 (2) The department:

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

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

25 (c) shall cooperate with the department of livestock in managing publicly owned wild buffalo or bison that  
26 enter the state on public or private land from a herd that is infected with a dangerous disease, as provided in  
27 81-2-120, under a plan approved by the governor. The department of livestock is authorized under the provisions  
28 of 81-2-120 to regulate publicly owned wild buffalo or bison in this state that pose a threat to persons or livestock  
29 in Montana through the transmission of contagious disease. The department may, after agreement and  
30 authorization by the department of livestock, authorize the public hunting of wild buffalo or bison that have been

1 exposed to or infected with a contagious disease, pursuant to 87-2-730. The department may, following  
2 consultation with the department of livestock, adopt rules to authorize the taking of bison where and when  
3 necessary to prevent the transmission of a contagious disease.

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

7 (4) The department may not:

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

10 (b) pursuant to [section 1], release, transplant, or relocate any wild buffalo or bison into any Montana  
11 county without first receiving the authorization of the board of county commissioners of the affected county or  
12 counties.

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~~, transplanted,  
21 or relocated on private or public land will be contained in designated areas. Containment measures must include  
22 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) identification of long-term, stable funding sources that would be dedicated to implementing the  
7 provisions of the management plan for each designated area.

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

13 (7) The department is liable for all costs incurred, including costs arising from protecting public safety,  
14 and any damage to private property that occurs as a result of the department's failure to meet the requirements  
15 of subsection (5).

16 (8) When adopting and implementing rules regarding the special wild buffalo or bison license issued  
17 pursuant to 87-2-730, the department shall consult and cooperate with the department of livestock regarding  
18 when and where public hunting may be allowed and the safe handling of wild buffalo or bison parts in order to  
19 minimize the potential for spreading any contagious disease to persons or to livestock."  
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21 **NEW SECTION. Section 5. Notification to tribal governments.** The secretary of state shall send a  
22 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
23 Chippewa tribe.  
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25 **NEW SECTION. Section 6. Codification instruction.** [Section 1] is intended to be codified as an  
26 integral part of Title 7, chapter 5, part 21, and the provisions of Title 7, chapter 5, part 21, apply to [section 1].  
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28 **NEW SECTION. Section 7. Severability.** If a part of [this act] is invalid, all valid parts that are severable  
29 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part  
30 remains in effect in all valid applications that are severable from the invalid applications.

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

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