

HOUSE BILL NO. 132

INTRODUCED BY K. HOLMLUND, J. KASSMIER, R. FITZGERALD, F. GARNER

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DEFINITION OF "WILD BUFFALO" OR "WILD BISON"; CLARIFYING THAT THE PER CAPITA FEE DOES NOT APPLY TO CERTAIN DOMESTIC BISON; AMENDING SECTIONS 15-24-921, 81-1-101, 87-2-101, AND 87-6-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**SECTION 1.** SECTION 15-24-921, MCA, IS AMENDED TO READ:

**"15-24-921. Per capita fee to pay expenses of enforcing livestock laws.** (1) (a) A per capita fee is authorized and directed to be imposed by the department on all poultry and honey bees, all swine 3 months of age or older, and all other livestock 9 months of age or older in each county of this state. The fee is in addition to appropriations and is to help pay the salaries and all expenses connected with the enforcement of the livestock laws of the state and bounties on wild animals as provided in 81-7-104.

(b) A per capita fee may not be imposed on bison owned by a tribal member and located on fee land or tribal land within the boundaries of a reservation.

(2) The per capita fee is due on May 31 of each year. The penalty and interest provisions contained in 15-1-216 apply to late payments of the fee.

(3) ~~As~~ Except as provided in subsection (1)(b), as used in this section, "livestock" means cattle, sheep, swine, poultry, honey bees, goats, horses, mules, asses, llamas, alpacas, domestic bison, ostriches, rheas, emus, and domestic ungulates.

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

**"81-1-101. 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,  
2 chapter 23.

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

4 (4) "Domestic bison" means a bison ~~owned by a person~~ THAT IS NOT A WILD BUFFALO OR WILD BISON.

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

7 (6) "Wild buffalo" or "wild bison" means a bison that ~~has not been reduced to captivity, has never been~~  
8 subject to the per capita fee under 15-24-921, and is not owned by a person MEETS ALL FOLLOWING CONDITIONS:

9 (A) IT HAS NEVER NOT BEEN REDUCED TO CAPTIVITY;

10 (B) IT HAS NEVER BEEN SUBJECT TO THE PER CAPITA FEE UNDER 15-24-921; AND

11 (C) IT HAS NEVER BEEN OWNED BY A PERSON."

12

13 **Section 3.** Section 87-2-101, MCA, is amended to read:

14 **"87-2-101. Definitions.** As used in Title 87, chapter 3, and this chapter, unless the context clearly  
15 indicates otherwise, the following definitions apply:

16 (1) "Angling" or "fishing" means to take or harvest fish or the act of a person possessing any instrument,  
17 article, or substance for the purpose of taking or harvesting fish in any location that a fish might inhabit.

18 (2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area  
19 inhabited by wildlife for the purpose of attracting game animals or game birds.

20 (b) The term does not include:

21 (i) decoys, silhouettes, or other replicas of wildlife body forms;

22 (ii) scents used only to mask human odor; or

23 (iii) types of scents that are approved by the commission for attracting game animals or game birds.

24 (3) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine,  
25 northern swift fox, and beaver.

26 (4) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,  
27 mountain lion, bear, and wild buffalo.

28 (5) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and  
29 whitefish); all species of the genus Sander (sandpike or sauger and walleyed pike or yellowpike perch); all  
30 species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus

1 (bass); all species of the genus *Polyodon* (paddlefish); all species of the family *Acipenseridae* (sturgeon); all  
 2 species of the genus *Lota* (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus  
 3 *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

4 (6) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or the act  
 5 of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of  
 6 shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the laws of this state  
 7 in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term  
 8 includes an attempt to take or harvest by any means, including but not limited to pursuing, shooting, wounding,  
 9 killing, chasing, luring, possessing, or capturing.

10 (7) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes,  
 11 including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

12 (8) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or  
 13 other animal not otherwise legally classified by statute or regulation of this state.

14 (9) "Open season" means the time during which game birds, game fish, game animals, and fur-bearing  
 15 animals may be lawfully taken.

16 (10) "Person" means an individual, association, partnership, or corporation.

17 (11) "Predatory animals" means coyote, weasel, skunk, and civet cat.

18 (12) "Trap" means to take or harvest or participate in the taking or harvesting of any wildlife protected by  
 19 the laws of the state by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take  
 20 wildlife or to remove wildlife from any of these devices.

21 (13) "Upland game birds" means sharp-tailed grouse, blue grouse, spruce (Franklin) grouse, prairie  
 22 chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild  
 23 turkey, and chukar partridge.

24 (14) ~~"Wild buffalo" means buffalo or bison that have not been reduced to captivity.~~ "Wild buffalo or bison"  
 25 or "wild buffalo" means a bison that has not been reduced to captivity, has never been subject to the per capita  
 26 fee under 15-24-921, and is not owned by a person. MEETS ALL OF THE FOLLOWING CONDITIONS:

27 (A) IT HAS NEVER NOT BEEN REDUCED TO CAPTIVITY;

28 (B) IT HAS NEVER BEEN SUBJECT TO THE PER CAPITA FEE UNDER 15-24-921; AND

29 (C) IT HAS NEVER BEEN OWNED BY A PERSON."

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1           **Section 4.** Section 87-6-101, MCA, is amended to read:

2           **"87-6-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions  
3 apply:

4           (1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose,  
5 antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or  
6 any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be  
7 regulated pursuant to Title 87, chapter 4, part 8.

8           (2) "Alternative livestock ranch" means the enclosed land area ~~upon~~ on which alternative livestock may  
9 be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of  
10 alternative livestock, as authorized under Title 87, chapter 4, part 4.

11           (3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area  
12 inhabited by wildlife for the purpose of attracting game animals or game birds.

13           (b) The term does not include:

14           (i) decoys, silhouettes, or other replicas of wildlife body forms;

15           (ii) scents used only to mask human odor; or

16           (iii) types of scents that are approved by the commission for attracting game animals or game birds.

17           (4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing  
18 animals may not be lawfully taken.

19           (5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families  
20 Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks,  
21 domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

22           (6) "Conviction" means a judgment or sentence entered following a guilty plea, a nolo contendere plea,  
23 a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized  
24 to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person's appearance in  
25 court that has not been vacated.

26           (7) "Field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game  
27 birds.

28           (8) "Fishing" means to take or harvest fish or the act of a person possessing any instrument, article, or  
29 substance for the purpose of taking or harvesting fish in any location that a fish might inhabit.

30           (9) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business

1 of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or  
2 predatory animals.

3 (b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state  
4 of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident  
5 fur dealers.

6 (10) "Fur farm" means enclosed land ~~upon~~ on which furbearers are kept for purposes of obtaining, rearing  
7 in captivity, keeping, and selling furbearers or parts of furbearers.

8 (11) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat,  
9 lynx, wolverine, northern swift fox, and beaver.

10 (b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

11 (12) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,  
12 mountain lion, bear, and wild buffalo.

13 (13) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and  
14 whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all  
15 species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus  
16 (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all  
17 species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus  
18 *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

19 (14) "Hunt" means to pursue, shoot, wound, take, harvest, kill, chase, lure, possess, or capture or the  
20 act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of  
21 shooting, wounding, taking, harvesting, killing, possessing, or capturing wildlife protected by the laws of this state  
22 in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term  
23 includes an attempt to take or harvest by any means, including but not limited to pursuing, shooting, wounding,  
24 killing, chasing, luring, possessing, or capturing.

25 (15) "Knowingly" has the meaning provided in 45-2-101.

26 (16) "Livestock" includes ostriches, rheas, and emus.

27 (17) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes,  
28 including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

29 (18) "Negligently" has the meaning provided in 45-2-101.

30 (19) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or

1 other animal not otherwise legally classified by statute or regulation of this state.

2 (20) "Open season" means the time during which game birds, fish, and game and fur-bearing animals  
3 may be lawfully taken.

4 (21) "Participating state" means any state that enacts legislation to become a member of the Interstate  
5 Wildlife Violator Compact.

6 (22) "Person" means an individual, association, partnership, and corporation.

7 (23) "Possession" has the meaning provided in 45-2-101.

8 (24) "Predatory animal" means coyote, weasel, skunk, and civet cat.

9 (25) "Purposely" has the meaning provided in 45-2-101.

10 (26) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons,  
11 hawks, eagles, ospreys, and owls.

12 (27) "Resident" has the meaning provided in 87-2-102.

13 (28) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the  
14 evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition  
15 of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of  
16 Montana.

17 (29) "Sale" means a contract by which a person:

18 (a) transfers an interest in either game or fish for a price; or

19 (b) transfers, barter, or exchanges an interest either in game or fish for an article or thing of value.

20 (30) "Site of the kill" means the location where a game animal or game bird expires and the person  
21 responsible for the death takes physical possession of the carcass.

22 (31) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The  
23 term does not include growing plants or plants harvested for the feeding of livestock.

24 (32) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving,  
25 or preparing all or part of the dead bodies of any wildlife.

26 (33) "Trap" means to take or harvest or participate in the taking or harvesting of any wildlife protected by  
27 state law by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or  
28 to remove wildlife from any of these devices.

29 (34) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie  
30 chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild

1 turkey, and chukar partridge.

2 (35) "Wild animal" means an animal that is wild by nature as distinguished from common domestic  
3 animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

4 (36) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars,  
5 lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity  
6 for use other than public exhibition.

7 (37) ~~"Wild buffalo" means buffalo or bison that have not been reduced to captivity~~ "Wild buffalo or bison"  
8 ~~or "wild buffalo" means a bison that has not been reduced to captivity, has never been subject to the per capita~~  
9 ~~fee under 15-24-921, and is not owned by a person~~ MEETS ALL OF THE FOLLOWING CONDITIONS:

10 (A) ~~IT HAS NEVER NOT BEEN REDUCED TO CAPTIVITY;~~

11 (B) ~~IT HAS NEVER BEEN SUBJECT TO THE PER CAPITA FEE UNDER 15-24-921; AND~~

12 (C) ~~IT HAS NEVER BEEN OWNED BY A PERSON.~~

13 (38) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility  
14 participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting  
15 wild animals for public viewing."  
16

17 NEW SECTION. **Section 5. Notification to tribal governments.** The secretary of state shall send a  
18 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
19 Chippewa tribe.

20  
21 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

22 - END -