

Amendment - 1st Reading/2nd House-blue - Requested by: Denley Loge - (H) Fish, Wildlife and Parks

- 2023

68th Legislature 2023

Drafter: Toni Henneman, 406-444-3593

SB0295.003.002

1 SENATE BILL NO. 295
2 INTRODUCED BY B. GILLESPIE, M. CUFFE, D. SALOMON, K. REGIER, J. WELBORN, J. COHENOUR, B.
3 MOLNAR, C. GLIMM, M. LANG, F. MANDEVILLE, W. MCKAMEY, M. NOLAND, D. LOGE, R. FITZGERALD,
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5 MOORE, P. FLOWERS, B. PHALEN, K. ZOLNIKOV, A. REGIER, S. KERNS, S. GALLOWAY, S. GIST, G.
6 FRAZER, R. MARSHALL, M. THANE, C. FRIEDEL, M. YAKAWICH, G. OBLANDER, N. NICOL, D. EMRICH,
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8

9 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE REGULATION OF GRIZZLY
10 BEARS ON DELISTING; ALLOWING THE FISH AND WILDLIFE COMMISSION OF THE DEPARTMENT OF
11 FISH, WILDLIFE, AND PARKS TO ADOPT RULES ON PRIOR TO THE DELISTING OF GRIZZLY BEARS TO
12 ALLOW LIVESTOCK OWNERS TO TAKE GRIZZLY BEARS ATTACKING OR KILLING LIVESTOCK AND TO
13 ESTABLISH A QUOTA; ALLOWING LIVESTOCK OWNERS TO MAKE A COMPLAINT TO THE DIRECTOR
14 OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS ABOUT GRIZZLY BEARS THREATENING
15 LIVESTOCK; PROVIDING RULEMAKING AUTHORITY; PROVIDING A DEFINITION; AND AMENDING
16 SECTIONS 87-5-301 AND 87-6-106, MCA."
17

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
19

20 **Section 1.** Section 87-5-301, MCA, is amended to read:

21 **"87-5-301. Grizzly bear -- findings -- policy.** (1) The legislature finds that:

22 (a) grizzly bears are a recovered population and thrive under responsive cooperative
23 management;

24 (b) grizzly bear conservation is best served under state management and the local, state, tribal,
25 and federal partnerships that fostered recovery; and

26 (c) successful conflict management is key to maintaining public support for conservation of the
27 grizzly bear.

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1 (2) It is the policy of the state to:

2 (a) manage the grizzly bear as a species in need of management to avoid ~~avoid~~ minimize conflicts with
3 humans and livestock; and

4 (b) on the delisting of grizzly bears from the federal Endangered Species Act, 16 U.S.C. 1531, et
5 seq., manage grizzly bear populations at levels necessary to maintain delisted status to include management of
6 mortalities from all sources, including take by livestock owners or other authorized persons under subsections
7 (3) and (4) and the loss of bears by translocation out of the populations; and

8 (c) subject to the provisions of subsections (3) and (4), use proactive management to
9 control ~~MANAGE~~ grizzly bear distribution and prevent conflicts, including NONLETHAL AND PREVENTATIVE MEASURES
10 AS WELL AS trapping and lethal measures.

11 (3) ON PRIOR TO delisting, the commission shall adopt rules to allow a livestock owner or other
12 authorized person to take a grizzly bear at any time without a permit or license from the department when a
13 grizzly bear is attacking or killing livestock. A livestock owner or other authorized person may take all nonlethal
14 steps the livestock owner or authorized person considers necessary to protect the livestock owner's property.
15 The rules adopted by the commission must:

16 (a) be consistent with the most recent state of Montana grizzly bear management plan,
17 conservation strategies, including mortality thresholds, and the adaptive management principles of the
18 commission and the department for the grizzly bear population;

19 (b) require a livestock owner or other authorized person who takes a grizzly bear pursuant to this
20 subsection (3) to promptly report the taking of the grizzly bear to the department within 12-24 hours and to
21 preserve the carcass of the grizzly bear;

22 (c) establish a quota each year for the total number of grizzly bears that may be taken pursuant to
23 subsection (3) subject to mortality thresholds; and

24 (d) allow the commission to adjust quotas for the taking of grizzly bears pursuant to subsection (3)
25 before a quota is reached if the commission determines the circumstances require adjustment of the total
26 number of grizzly bears taken.

27 (4) On delisting, when a grizzly bear is threatening livestock, the livestock owner may make a

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1 complaint to the department director. The director or the director's designee shall investigate the complaint, and
2 if it appears it is well-founded, the director or director's designee may:

3 (a) with permission from the livestock owner or other authorized person, send a department
4 employee to the property to control, trap, or remove the grizzly bear or assist the livestock owner or other
5 authorized person in removing any attractants or removing any other materials attracting grizzly bears to the
6 property; or

7 (b) subject to the quota established by the commission in subsection (3)(c), issue a permit to the
8 livestock owner or other authorized person to kill the grizzly bear. Any grizzly bear killed pursuant to a permit
9 issued by the department as provided in this subsection (4)(b) must be reported to the department within 24
10 hours.

11 ~~(3)(5)~~ (a) Except as provided in subsection ~~(3)(5)(b)~~, the department may not relocate a grizzly bear
12 listed under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., except to a release site previously
13 approved by the commission for relocation of grizzly bears.

14 (b) The department may respond to a grizzly bear listed under the federal Endangered Species
15 Act, 16 U.S.C. 1531, et seq., that is causing conflict outside of a federal recovery zone. If the bear is to be
16 relocated, the department may not relocate the bear.

17 (c) To the greatest extent possible, the department and the commission shall prioritize genetic
18 exchange between ecosystems when capturing and translocating a grizzly bear.

19 (6) As used in this section, "livestock" means cattle, swine, horses, mules, sheep, goats, llamas,
20 donkeys, and livestock guard dogs."

21

22 **Section 2.** Section 87-6-106, MCA, is amended to read:

23 **"87-6-106. Lawful taking to protect livestock or person -- findings.** ~~(1) The legislature finds that~~
24 ~~the grizzly bear population in the state is recovered and should be removed from the federal endangered~~
25 ~~species list. The legislature also finds that the expanded grizzly bear population is moving into private property~~
26 ~~and residential areas causing increased conflict with livestock owners and presenting a human safety concern.~~
27 ~~The legislature further finds that Montana citizens have a right to protect themselves and their property and~~

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1 ~~livestock from wild animals. Therefore, this chapter may not be construed to impose, by implication or~~
2 ~~otherwise, criminal liability pursuant to Montana law for the taking of wildlife protected by this title if the wildlife~~
3 ~~is attacking, killing, or threatening to kill a person or livestock.~~

4 (2)(1) A person may kill or attempt to kill a wolf or mountain lion that is in the act of attacking or killing a
5 domestic dog.

6 (3)(2) A person who, under this section, takes wildlife protected by this title shall notify the department
7 within 72 hours and shall surrender or arrange to surrender the wildlife to the department.

8 (4)(3) In accordance with the rights conferred on Montana citizens pursuant to Article II, sections 3
9 and 12, of the Montana constitution, the legislature finds the act of a grizzly bear attacking, ~~or~~ killing, ~~or~~
10 threatening to kill a person or livestock is an absolute defense against a person who takes a grizzly bear in
11 accordance with this section being charged with a crime under Montana law. Grizzly bears threatening,
12 attacking, or killing livestock may only be taken as provided in 87-5-301.

13 (4) When a grizzly bear poses a threat to a person through consistent presence or proximity to
14 people or inhabited dwellings, the person may contact the department. If, on investigation, the department finds
15 the grizzly bear is a threat, the department may control, trap, or remove the grizzly bear or issue a permit to the
16 person to kill the grizzly bear to mitigate the threat to human safety.

17 (5) As used in this section, "livestock" means cattle, swine, horses, mules, sheep, goats, llamas,
18 donkeys, and livestock guard dogs."

19 - END -