

SENATE BILL NO. 295

INTRODUCED BY B. GILLESPIE, J. COHENOUR, S. KERNS, S. GIST, G. NIKOLAKAKOS, K. ZOLNIKOV, S. VINTON, M. THANE, T. MOORE, G. FRAZER, N. NICOL, A. REGIER, S. GALLOWAY, R. MARSHALL, D. LOGE, R. FITZGERALD, M. HOPKINS, G. OBLANDER, M. YAKAWICH, J. FULLER, K. REGIER, J. SMALL, M. CUFFE, B. MOLNAR, P. FLOWERS, W. MCKAMEY, M. NOLAND, C. FRIEDEL, J. WELBORN, D. SALOMON, C. GLIMM, K. BOGNER, R. TEMPEL, M. LANG, D. EMRICH, B. PHALEN, B. BEARD, S. VANCE, F. MANDEVILLE, T. VERMEIRE, Z. WIRTH, N. DURAM

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

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

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

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

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

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

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

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

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

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

7 (c) subject to the provisions of ~~subsection~~subsections (3) and (4), use proactive management to
8 control grizzly bear distribution and prevent conflicts, including trapping and lethal measures.

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

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

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

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

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

25 (4) On delisting, when a grizzly bear is threatening livestock, the livestock owner may make a
26 complaint to the department director. The director or the director's designee shall investigate the complaint, and
27 if it appears it is well-founded, the director or director's designee may:

28 (a) with permission from the livestock owner or other authorized person, send a department

1 employee to the property to control, trap, or remove the grizzly bear or assist the livestock owner or other
 2 authorized person in removing any attractants or removing any other materials attracting grizzly bears to the
 3 property; or

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

8 ~~(3)(5)~~ (a) Except as provided in subsection ~~(3)(5)~~(b), the department may not relocate a grizzly bear
 9 listed under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., except to a release site previously
 10 approved by the commission for relocation of grizzly bears.

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

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

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

18 **"87-6-106. Lawful taking to protect livestock or person -- findings.** ~~(1) The legislature finds that~~
 19 ~~the grizzly bear population in the state is recovered and should be removed from the federal endangered~~
 20 ~~species list. The legislature also finds that the expanded grizzly bear population is moving into private property~~
 21 ~~and residential areas causing increased conflict with livestock owners and presenting a human safety concern.~~
 22 ~~The legislature further finds that Montana citizens have a right to protect themselves and their property and~~
 23 ~~livestock from wild animals. Therefore, this chapter may not be construed to impose, by implication or~~
 24 ~~otherwise, criminal liability pursuant to Montana law for the taking of wildlife protected by this title if the wildlife~~
 25 ~~is attacking, killing, or threatening to kill a person or livestock.~~

26 ~~(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
 27 domestic dog.

28 ~~(3)(2)~~ A person who, under this section, takes wildlife protected by this title shall notify the department

1 within 72 hours and shall surrender or arrange to surrender the wildlife to the department.

2 ~~(4)(3)~~ In accordance with the rights conferred on Montana citizens pursuant to Article II, sections 3
3 and 12, of the Montana constitution, the legislature finds the act of a grizzly bear attacking, ~~or killing, or~~
4 ~~threatening to kill~~ a person ~~or livestock~~ is an absolute defense against a person who takes a grizzly bear in
5 accordance with this section being charged with a crime under Montana law. Grizzly bears threatening,
6 attacking, or killing livestock may only be taken as provided in 87-5-301.

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

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

13 - END -