

## SENATE BILL NO. 212

INTRODUCED BY R. RIPLEY, WARBURTON, ARTHUN, DE. BARRETT, BROWN, MOORE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO MANAGE WILD BUFFALO OR BISON; ~~ELIMINATING RULEMAKING AUTHORITY;~~ REQUIRING A MANAGEMENT PLAN BEFORE WILD BUFFALO OR BISON MAY BE RELEASED OR TRANSPLANTED ONTO PRIVATE OR PUBLIC LAND; AMENDING SECTION 87-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

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

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

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

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

(2) The department:

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

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

(c) shall cooperate with the department of livestock in managing publicly owned wild buffalo or bison that enter the state on public or private land from a herd that is infected with a dangerous disease, as provided in 81-2-120, under a plan approved by the governor. The department of livestock is authorized under the provisions of 81-2-120 to regulate publicly owned wild buffalo or bison in this state that pose a threat to persons or livestock

1 in Montana through the transmission of contagious disease. The department may, after agreement and  
 2 authorization by the department of livestock, authorize the public hunting of wild buffalo or bison that have been  
 3 exposed to or infected with a contagious disease, pursuant to 87-2-730.

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 person or~~  
 6 ~~property.~~

7 (3) THE DEPARTMENT MAY ADOPT RULES WITH REGARD TO WILD BUFFALO OR BISON THAT HAVE NOT BEEN  
 8 EXPOSED TO OR INFECTED WITH A CONTAGIOUS DISEASE BUT ARE IN NEED OF MANAGEMENT BECAUSE OF POTENTIAL  
 9 DAMAGE TO PERSON OR PROPERTY.

10 (4) THE DEPARTMENT MAY NOT RELEASE, TRANSPLANT, OR ALLOW WILD BUFFALO OR BISON ON ANY PRIVATE  
 11 OR PUBLIC LAND IN MONTANA THAT HAS NOT BEEN AUTHORIZED FOR THAT USE BY THE PRIVATE OR PUBLIC OWNER.

12 ~~(3)(4)(5) Subject to subsection (6), the~~ THE SUBJECT TO SUBSECTION (4), THE department shall develop  
 13 and adopt a management plan before any wild buffalo or bison under the department's jurisdiction may be  
 14 released or transplanted onto private or public land in Montana. A plan must include but is not limited to:

15 (a) measures to comply with any applicable animal health protocol required under Title 81, under  
 16 subsection (2)(b), or by the state veterinarian;

17 (b) any animal identification and tracking protocol required by the department of livestock to identify the  
 18 origin and track the movement of wild buffalo or bison for the purposes of subsections (2)(b) and ~~(3)(c); and (4)(b)~~  
 19 (5)(D);

20 (C) MEASURES TO MAINTAIN EXISTING MULTIPLE USES OF STATE AND FEDERAL LAND, INCLUDING LIVESTOCK  
 21 GRAZING, THAT COMPLY WITH EXISTING STATE OR FEDERAL LAND MANAGEMENT PLANS;

22 ~~(e)(D)~~ animal containment measures that ensure that any animal transplanted or released on private or  
 23 public land will be contained in designated areas. Containment measures must include but are not limited to:

24 (i) any fencing required to prevent entry to private or public property where the presence of wild buffalo  
 25 or bison is not authorized BY THE PRIVATE OR PUBLIC OWNER; and

26 (ii) contingency plans to expeditiously ~~remove or relocate~~ wild buffalo or bison that enter private or public  
 27 property where the presence of the animals is not authorized BY THE PRIVATE OR PUBLIC OWNER;

28 (III) CONTINGENCY PLANS TO EXPEDITIOUSLY FUND AND CONSTRUCT MORE EFFECTIVE CONTAINMENT MEASURES  
 29 IN THE EVENT OF AN ESCAPE; AND

30 (IV) CONTINGENCY PLANS TO ELIMINATE OR DECREASE THE SIZE OF A RELOCATION SITE DESIGNATED AREAS,

1 INCLUDING THE EXPEDITIOUS REMOVAL OR RELOCATION OF WILD BUFFALO OR BISON IF THE DEPARTMENT IS UNABLE TO  
 2 EFFECTIVELY MANAGE OR CONTAIN THE WILD BUFFALO OR BISON.

3 (E) A REASONABLE MEANS OF PROTECTING PUBLIC SAFETY AND EMERGENCY MEASURES TO BE IMPLEMENTED  
 4 IF PUBLIC SAFETY MAY BE THREATENED;

5 (F) A REASONABLE MAXIMUM CARRYING CAPACITY FOR ANY PROPOSED RELOCATION DESIGNATED AREA USING  
 6 SOUND MANAGEMENT PRINCIPLES, INCLUDING BUT NOT LIMITED TO FORAGE-BASED CARRYING CAPACITY, AND METHODS  
 7 FOR NOT EXCEEDING THAT CARRYING CAPACITY; AND

8 (G) IDENTIFICATION OF LONG-TERM, STABLE FUNDING SOURCES THAT WOULD BE DEDICATED TO IMPLEMENTING  
 9 THE PROVISIONS OF THE MANAGEMENT PLAN FOR EACH RELOCATION SITE DESIGNATED AREA.

10 ~~(4)(5)(6)~~ When developing a management plan in accordance with subsection ~~(3) (4) (5)~~, the department  
 11 shall provide the opportunity for public comment and hold a public hearing in the affected county or counties. ~~The~~  
 12 PRIOR TO MAKING A DECISION TO RELEASE OR TRANSPLANT WILD BUFFALO OR BISON ONTO PRIVATE OR PUBLIC LAND IN  
 13 MONTANA, THE department shall respond to all public comment received and publish a full record of the  
 14 proceedings at any public hearing.

15 ~~(5)(6)(7)~~ The department is liable for all costs incurred, INCLUDING COSTS ARISING FROM PROTECTING PUBLIC  
 16 SAFETY, and any damage to private property that occurs as a result of the department's failure to meet the  
 17 requirements of subsection ~~(3) (4) (5)~~.

18 ~~(6) The department may not release or transplant wild buffalo or bison on state or federal land in~~  
 19 Montana if the relocation or transplantation would negatively affect any existing multiple use of the land, including  
 20 livestock grazing.

21 ~~(4)(7)(8)~~ When adopting and implementing rules regarding the special wild buffalo or bison license  
 22 issued pursuant to 87-2-730, the department shall consult and cooperate with the department of livestock  
 23 regarding when and where public hunting may be allowed and the safe handling of wild buffalo or bison parts in  
 24 order to minimize the potential for spreading any contagious disease to persons or to livestock."

25  
 26 NEW SECTION. Section 2. Severability. If a part of [this act] is invalid, all valid parts that are severable  
 27 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part  
 28 remains in effect in all valid applications that are severable from the invalid applications.

29  
 30 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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