

HOUSE BILL NO. 396

INTRODUCED BY M. LANG

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING APPROVAL OF THE BOARD OF COUNTY COMMISSIONERS BEFORE THE DEPARTMENTS OF LIVESTOCK OR FISH, WILDLIFE, AND PARKS MAY AUTHORIZE ANY RELEASE, TRANSPLANTATION, OR RELOCATION OF WILD BUFFALO OR BISON CERTIFIED AS BRUCELLOSIS-FREE INTO A MONTANA COUNTY; AMENDING SECTIONS 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 wild buffalo or wild bison may not be released, transplanted, or relocated by the department into a county unless the animal is certified as brucellosis-free and the board authorizes the activity.

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

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

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

(i) sold to help defray the costs that the department incurs in building, maintaining, and operating necessary facilities related to the capture, testing, quarantine, or vaccination of the wild buffalo or wild bison. Proceeds from the sale of live, brucellosis-free, vaccinated wild buffalo or wild bison must be deposited in the

1 state special revenue fund to the credit of the department. Any revenue generated in excess of the costs referred
2 to in this subsection (1)(a)(i) must be deposited in the state special revenue fund provided for in 87-1-513(2).

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The department may adopt rules with regard to management of publicly owned wild buffalo or wild bison that enter Montana on private or public land and that are from a herd that is infected with a contagious disease that may spread to persons or livestock and may jeopardize compliance with other state-administered or federally administered livestock disease control programs.

(5) Except as provided in subsection (1)(a)(ii), after a wild buffalo or wild bison has been certified as brucellosis-free by the state veterinarian, the department may authorize its transplantation or relocation into any Montana county pursuant to this section only if the department first receives the approval of the board of county commissioners of the affected county or counties pursuant to [section 1]."

Section 3. 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

1 in this state that have not been exposed to or infected with a dangerous or contagious disease but may threaten
2 persons or property;

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

5 (c) shall cooperate with the department of livestock in managing publicly owned wild buffalo or bison that
6 enter the state on public or private land from a herd that is infected with a dangerous disease, as provided in
7 81-2-120, under a plan approved by the governor. The department of livestock is authorized under the provisions
8 of 81-2-120 to regulate publicly owned wild buffalo or bison in this state that pose a threat to persons or livestock
9 in Montana through the transmission of contagious disease. The department may, after agreement and
10 authorization by the department of livestock, authorize the public hunting of wild buffalo or bison that have been
11 exposed to or infected with a contagious disease, pursuant to 87-2-730. The department may, following
12 consultation with the department of livestock, adopt rules to authorize the taking of bison where and when
13 necessary to prevent the transmission of a contagious disease.

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

17 (4) The department may not:

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

20 (b) pursuant to [section 1], release, transplant, or relocate any wild buffalo or bison into any Montana
21 county without first receiving the approval of the board of county commissioners of the affected county or
22 counties.

23 (5) Subject to subsection (4), the department shall develop and adopt a management plan before any
24 wild buffalo or bison under the department's jurisdiction may be released, ~~or transplanted,~~ or relocated onto
25 private or public land in Montana. A plan must include but is not limited to:

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

28 (b) any animal identification and tracking protocol required by the department of livestock to identify the
29 origin and track the movement of wild buffalo or bison for the purposes of subsections (2)(b) and (5)(c);

30 (c) animal containment measures that ensure that any animal ~~transplanted or released,~~ transplanted,

1 or relocated on private or public land will be contained in designated areas. Containment measures must include
2 but are not limited to:

3 (i) any fencing required;

4 (ii) contingency plans to expeditiously relocate wild buffalo or bison that enter private or public property
5 where the presence of the animals is not authorized by the private or public owner;

6 (iii) contingency plans to expeditiously fund and construct more effective containment measures in the
7 event of an escape; and

8 (iv) contingency plans to eliminate or decrease the size of designated areas, including the expeditious
9 relocation of wild buffalo or bison if the department is unable to effectively manage or contain the wild buffalo or
10 bison.

11 (d) a reasonable means of protecting public safety and emergency measures to be implemented if public
12 safety may be threatened;

13 (e) a reasonable maximum carrying capacity for any proposed designated area using sound
14 management principles, including but not limited to forage-based carrying capacity, and methods for not
15 exceeding that carrying capacity; and

16 (f) identification of long-term, stable funding sources that would be dedicated to implementing the
17 provisions of the management plan for each designated area.

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

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

26 (8) When adopting and implementing rules regarding the special wild buffalo or bison license issued
27 pursuant to 87-2-730, the department shall consult and cooperate with the department of livestock regarding
28 when and where public hunting may be allowed and the safe handling of wild buffalo or bison parts in order to
29 minimize the potential for spreading any contagious disease to persons or to livestock."
30

NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 5, part 21, and the provisions of Title 7, chapter 5, part 21, apply to [section 1].

NEW SECTION. Section 5. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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

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