

SENATE BILL 439

Introduced by B. Brown, et al.

2/19	Introduced
2/19	First Reading
2/19	Referred to Fish & Game
2/21	Hearing
2/21	Tabled in Committee
2/23	Fiscal Note Requested
2/23	Fiscal Note Printed
2/23	Fiscal Note Received

1 Senate BILL NO. 439  
2 INTRODUCED BY Grosfeld E. Ellman

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING GUIDELINES  
5 APPLICABLE TO ANY WILD BUFFALO OR BISON MANAGEMENT PLAN  
6 IMPLEMENTED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS;  
7 REVISING THE PENALTY AND RESTITUTION PROVISIONS APPLICABLE  
8 TO WILD BISON AND BUFFALO; AMENDING SECTIONS 87-1-102 AND  
9 87-1-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. **Section 1.** Implementation of wild buffalo  
13 management policy. As part of any policy applied to the  
14 management of wild buffalo or bison that enter Montana, the  
15 department may:

- 16 (1) not allow the permanent or seasonal establishment
- 17 of wild buffalo or bison in Montana;
- 18 (2) grant kill permits to private landowners or other
- 19 persons as the result of a threat of disease or damage to
- 20 persons or property;
- 21 (3) contract with federally recognized Indian tribes
- 22 for the establishment of disease-free wild buffalo or bison
- 23 within the exterior boundaries of an Indian reservation; and
- 24 (4) in cooperation with the department of livestock,
- 25 charge the national park service for any costs incurred by

1 either department as the result of management of the  
2 Yellowstone national park herd in Montana, including costs  
3 for damages to persons or property or the spread of disease  
4 to Montana persons or livestock.

5 **Section 2.** Section 87-1-102, MCA, is amended to read:

6 **"87-1-102. Penalties.** (1) A person violating any  
7 provision of this title, any other state law pertaining to  
8 fish and game, or the orders or rules of the commission or  
9 department is, unless a different punishment is expressly  
10 provided by law for the violation, guilty of a misdemeanor  
11 and shall be fined not less than \$50 or more than \$500,  
12 imprisoned in the county jail for not more than 6 months, or  
13 both. In addition, the person shall be subject to forfeiture  
14 of his license and privilege to hunt, fish, or trap within  
15 this state for a period of not less than 24 months from the  
16 date of conviction.

17 (2) (a) A person convicted of unlawfully taking,  
18 killing, possessing, transporting, or wasting of a bighorn  
19 sheep, moose, ~~wild-bison~~, caribou, mountain goat, or grizzly  
20 bear or any part of these animals shall be fined not less  
21 than \$500 or more than \$1,000, imprisoned in the county jail  
22 for not more than 6 months, or both. In addition, that  
23 person shall forfeit any current hunting, fishing, or  
24 trapping license issued by this state and the privilege to  
25 hunt, fish, or trap in this state for not less than 30

1 months from the date of conviction.

2 (b) A person convicted of unlawfully taking, killing,  
3 possessing, or transporting a deer, antelope, elk, mountain  
4 lion, or black bear or any part of these animals or wasting  
5 a deer, antelope, or elk shall be fined not less than \$300  
6 or more than \$1,000, imprisoned in the county jail for not  
7 more than 6 months, or both. In addition, that person shall  
8 forfeit any current hunting, fishing, or trapping license  
9 issued by this state and the privilege to hunt, fish, or  
10 trap in this state for not less than 24 months from the date  
11 of conviction.

12 (c) A person convicted of unlawfully attempting to  
13 trap, take, shoot, or kill a game animal shall be fined not  
14 less than \$200 or more than \$600, imprisoned in the county  
15 jail for not more than 60 days, or both.

16 (d) A person convicted of unlawfully taking, killing,  
17 possessing, transporting, shipping, labeling, packaging, or  
18 wasting or unlawfully attempting to take, kill, or possess  
19 any game bird, wild turkey, or fish or any part of any such  
20 bird or fish or of failure to tag a game animal or game bird  
21 as prescribed by law shall be fined not less than \$50 or  
22 more than \$200 or imprisoned in the county jail for not more  
23 than 30 days, or both.

24 (e) A person convicted of purposely or knowingly  
25 taking, killing, possessing, transporting, shipping,

1 labeling, or packaging a fur-bearing animal or pelt of a  
2 fur-bearing animal in violation of any provision of this  
3 title shall be fined not less than \$50 or more than \$1,000  
4 or imprisoned in the county jail for not more than 6 months,  
5 or both. In addition, that person shall forfeit any current  
6 license and the privilege to hunt, fish, or trap for not  
7 less than 24 months from the date of conviction and any  
8 pelts possessed unlawfully must be confiscated.

9 (f) A person convicted of hunting, fishing, or trapping  
10 while his license is forfeited or his privilege denied shall  
11 be imprisoned in the county jail for not less than 5 days or  
12 more than 6 months. In addition, that person may be fined  
13 not less than \$500 or more than \$1,000.

14 (3) A person convicted or who has forfeited bond or  
15 bail under subsection (2) and who has been ordered to pay  
16 restitution under the provisions of 87-1-111 may not apply  
17 for any special license under Title 87, chapter 2, part 7,  
18 or enter any drawing for a special license or permit for a  
19 period of 5 years following the date of conviction or  
20 restoration of license privileges, whichever is later.

21 (4) Notwithstanding the provision of subsection (1),  
22 the penalties provided by this section shall be in addition  
23 to any penalties provided in Title 37, chapter 47, and Title  
24 87, chapter 4, part 2."

25 **Section 3.** Section 87-1-111, MCA, is amended to read:

1       **\*87-1-111. (Temporary) Restitution for illegal killing**  
 2 **or possession of certain wildlife.** (1) In addition to other  
 3 penalties provided by law, a person convicted or forfeiting  
 4 bond or bail upon a charge of the illegal killing or  
 5 possession of a wild bird, mammal, or fish listed in this  
 6 section shall reimburse the state for each such bird,  
 7 mammal, or fish according to the following schedule:

8       (a) bighorn sheep, mountain goat, caribou, ~~buffalo,~~  
 9 grizzly bear, moose, and endangered species, \$1,000;

10       (b) elk, mountain lion, black bear, lynx, and  
 11 wolverine, \$500;

12       (c) deer, antelope, fisher, raptor, swan, bobcat,  
 13 pallid and white sturgeon, and paddlefish, \$300;

14       (d) grayling and furbearers not listed in subsection  
 15 (1)(a), (1)(b), or (1)(c), \$100;

16       (e) game bird (except swan), \$25;

17       (f) game fish, \$10.

18       (2) When a court enters an order declaring bond or bail  
 19 to be forfeited, the court may also order that some or all  
 20 of the forfeited bond or bail be paid as restitution to the  
 21 state according to the schedule in subsection (1). A hearing  
 22 to determine the amount of restitution, as required under  
 23 46-9-504, is not required for an order of restitution under  
 24 this section. (Terminates June 30, 1993--sec. 5, Ch. 409, L.  
 25 1989.)

1       **87-1-111. (Effective July 1, 1993) Restitution for**  
 2 **illegal killing or possession of certain wildlife.** (1) In  
 3 addition to other penalties provided by law, a person  
 4 convicted or forfeiting bond or bail upon a charge of the  
 5 illegal killing or possession of a wild bird, mammal, or  
 6 fish listed in this section shall reimburse the state for  
 7 each such bird, mammal, or fish according to the following  
 8 schedule:

9       (a) bighorn sheep, mountain goat, caribou, ~~buffalo,~~  
 10 grizzly bear, moose, and endangered species, \$1,000;

11       (b) elk, mountain lion, black bear, lynx, and  
 12 wolverine, \$500;

13       (c) deer, antelope, fisher, raptor, swan, bobcat, and  
 14 pallid and white sturgeon, \$300;

15       (d) paddlefish, grayling, and furbearers not listed in  
 16 subsection (1)(a), (1)(b), or (1)(c), \$100;

17       (e) game bird (except swan), \$25;

18       (f) game fish, \$10.

19       (2) When a court enters an order declaring bond or bail  
 20 to be forfeited, the court may also order that some or all  
 21 of the forfeited bond or bail be paid as restitution to the  
 22 state according to the schedule in subsection (1). A hearing  
 23 to determine the amount of restitution, as required under  
 24 46-9-504, is not required for an order of restitution under  
 25 this section."

1        NEW SECTION.    **Section 4.**    Codification instruction.    (1)  
2    [Section 1] is intended to be codified as an integral part  
3    of Title 87, chapter 5, and the provisions of Title 87,  
4    chapter 5, apply to [section 1].

5        (2) [Section 1] is intended to be codified as an  
6    integral part of Title 87, chapter 2, part 7, and the  
7    provisions of Title 87, chapter 2, part 7, apply to [section  
8    1].

9        NEW SECTION.    **Section 5.**    Coordination instruction.    (1)  
10    If House Bill No. 390 is passed and approved, then [section  
11    4(2) of this act] is void.

12        (2) If House Bill No. 390 is not passed and approved,  
13    then [sections 2 and 3 of this act], amending 87-1-102 and  
14    87-1-111, and [section 4(1) of this act] are void.

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

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0439, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing guidelines applicable to any wild buffalo or bison management plan implemented by the Department of Fish, Wildlife and Parks and revising the penalty and restitution provisions applicable to wild buffalo and bison.

ASSUMPTIONS:

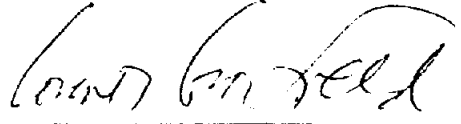
1. It is not known if contracting with Indian tribes would result in any additional costs to the department.
2. Since 1986, FWP expenditures for controlling the bison exceeded revenue by \$110,000. The interim management plan developed this winter calls for auctioning calves and some meat from adult bison to generate additional revenue.
3. Under the provisions of SB0439, FWP would bill Yellowstone National Park for future costs of controlling the bison. However, SB0439 does not require the federal government to reimburse the state, and the amount to be recovered, if any, is unknown.

FISCAL IMPACT:

Unable to determine.

 2-22-91

ROD SUNDSTED, BUDGET DIRECTOR                      DATE  
Office of Budget and Program Planning

 Feb 23 1991

LORENTS GROSFIELD, PRIMARY SPONSOR                      DATE

Fiscal Note for SB0439, as introduced

**SB 439**