

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

SENATE BILL NO. 352
INTRODUCED BY Grosveld Anderson
Johnson

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A LIMITATION ON THE CRIMINAL LIABILITY OF A LANDOWNER OR AGENT WHO TAKES A WILD BUFFALO OR BISON, SUSPECTED OF CARRYING DISEASE, THAT IS TRESPASSING ON THE LANDOWNER'S PRIVATE PROPERTY OR THREATENING THE LANDOWNER'S LIVESTOCK UNDER CERTAIN CONDITIONS; PROHIBITING SUPPLEMENTAL FEEDING OF BIG GAME ANIMALS; REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND THE DEPARTMENT OF LIVESTOCK TO WORK TO PREVENT CONTACT BETWEEN WILD BUFFALO OR BISON AND LIVESTOCK AND TO REPORT TO THE LEGISLATURE REGARDING THAT WORK; AMENDING SECTIONS 87-1-215 AND 87-3-130, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 87-3-130, MCA, is amended to read:

"87-3-130. Taking of wildlife to protect persons or livestock -- taking of trespassing wild buffalo or bison -- notice -- supplemental feeding -- penalty. (1) ~~Nothing in this~~ This chapter may not be construed to impose, by implication or otherwise, criminal liability for the taking of wildlife protected by this chapter if ~~such~~ the wildlife is molesting, assaulting, killing, or threatening to kill any person or livestock. Any person who ~~se~~ takes any wildlife protected by this chapter shall notify the department within 72 hours.

(2) This chapter may not be construed to impose, by implication or otherwise, criminal liability on a landowner or the agent of a landowner for the taking of a wild buffalo or bison that is suspected of carrying disease and that is trespassing on the landowner's private property or otherwise threatening the landowner's livestock if:

(a) the landowner or agent notifies or makes a good faith effort to notify the department in order to allow as much time as practicable for the department to first take or remove the trespassing wild buffalo or bison; and

(b) the landowner or agent is not in violation of subsection (3).

(3) A person may not intentionally provide supplemental feed to game animals in a manner that results in an artificial concentration of game animals that may potentially contribute to the transmission of

1 disease. A person who violates this subsection is guilty of a misdemeanor and is subject to the penalty
2 provided in 87-1-102(1)."

3
4 **Section 2.** Section 87-1-215, MCA, is amended to read:

5 **"87-1-215. Wild buffalo as species in need of management -- policy -- department duties.** (1) The
6 legislature finds that the management through hunting of wild buffalo or bison is not appropriate but that
7 significant potential exists for the spread of contagious disease to persons or livestock in Montana and
8 damage to persons and property by wild buffalo or bison. Therefore, it is the purpose of this section to
9 designate wild buffalo or bison, which have not been reduced to captivity, as a species in need of
10 management and to set out specific departmental duties for management of the species.

11 (2) The department:

12 (a) is responsible for and shall develop rules to implement the management of wild buffalo or bison
13 in this state that threaten persons or property other than through the transmission of contagious disease;

14 (b) shall develop rules to manage and reduce the number of wild buffalo or bison that leave
15 Yellowstone national park.

16 (3) The department of livestock shall, within its statutory authority, regulate wild buffalo or bison
17 in this state that pose a threat to persons or livestock in Montana through the transmission of contagious
18 disease.

19 (4) The department shall work cooperatively and aggressively with the department of livestock to
20 prevent any contact between livestock and wild buffalo or bison suspected of carrying disease in this state.

21 (5) The department of fish, wildlife, and parks and the department of livestock are strongly urged
22 to enter into an agreement with the national park service for the long-term management of the Yellowstone
23 national park herd. If the national park service does not proceed in good faith in a timely manner to enter
24 a long-term management agreement that in the determination of the department of fish, wildlife, and parks
25 and the department of livestock responds adequately to the needs of Montana, the departments are
26 strongly urged to take appropriate court action. The department of fish, wildlife, and parks and the
27 department of livestock shall prepare a joint report to the ~~53rd~~ 55th legislature, including a report of
28 cooperative work conducted as required under subsection (4), regarding the present state of bison
29 management in Montana and any progress on an agreement for the long-term management of the
30 Yellowstone national park herd."

1 **NEW SECTION.** **Section 3. Coordination instruction.** If Senate Bill No. 312 is passed and approved
2 and if it includes a section that repeals 87-1-215, then [section 2 of this act], amending 87-1-215, is void.

3

4 **NEW SECTION.** **Section 4. Effective date.** [This act] is effective on passage and approval.

5

-END-

APPROVED BY COM
ON FISH & GAME

1 SENATE BILL NO. 352

2 INTRODUCED BY GROSFIELD, ANDERSON, MESAROS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A LIMITATION ON THE CRIMINAL LIABILITY OF A
5 LANDOWNER OR AGENT WHO TAKES A WILD BUFFALO OR BISON, SUSPECTED OF CARRYING
6 DISEASE, THAT IS ~~TRESPASSING~~ PRESENT ON THE LANDOWNER'S PRIVATE PROPERTY OR
7 THREATENING THE LANDOWNER'S LIVESTOCK UNDER CERTAIN CONDITIONS; PROHIBITING
8 SUPPLEMENTAL FEEDING OF BIG GAME ANIMALS; REQUIRING THE DEPARTMENT OF FISH, WILDLIFE,
9 AND PARKS AND THE DEPARTMENT OF LIVESTOCK TO WORK TO PREVENT CONTACT BETWEEN WILD
10 BUFFALO OR BISON AND LIVESTOCK AND TO REPORT TO THE LEGISLATURE REGARDING THAT WORK;
11 AMENDING SECTIONS 87-1-215 AND 87-3-130, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
12 DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **Section 1.** Section 87-3-130, MCA, is amended to read:

17 **"87-3-130. Taking of wildlife to protect persons or livestock -- taking of trespassing PUBLIC wild**
18 **buffalo or bison THAT ARE PRESENT ON PRIVATE PROPERTY -- notice -- supplemental feeding -- penalty.**

19 (1) Nothing in this This chapter may not be construed to impose, by implication or otherwise, criminal
20 liability for the taking of wildlife protected by this chapter if ~~such~~ the wildlife is molesting, assaulting, killing,
21 or threatening to kill any person or livestock. Any person who ~~se~~ takes any wildlife protected by this
22 chapter shall notify the department within 72 hours.

23 (2) This chapter may not be construed to impose, by implication or otherwise, criminal liability on
24 a landowner or the agent of a landowner for the taking of a wild buffalo or bison that is suspected of
25 carrying disease and that is ~~trespassing~~ PRESENT on the landowner's private property or otherwise
26 threatening the landowner's livestock if:

27 (a) the landowner or agent notifies or makes a good faith effort to notify the department in order
28 to allow as much time as practicable for the department to first take or remove the ~~trespassing~~ wild buffalo
29 or bison THAT IS PRESENT ON THE LANDOWNER'S PROPERTY; and

30 (b) the landowner or agent is not in violation of subsection (3).

1 (3) A person may not intentionally provide supplemental feed to game animals in a manner that
2 results in an artificial concentration of game animals that may potentially contribute to the transmission of
3 disease. A person who violates this subsection is guilty of a misdemeanor and is subject to the penalty
4 provided in 87-1-102(1)."

5
6 **Section 2.** Section 87-1-215, MCA, is amended to read:

7 **"87-1-215. Wild buffalo as species in need of management -- policy -- department duties.** (1) The
8 legislature finds that the management through hunting of wild buffalo or bison is not appropriate but that
9 significant potential exists for the spread of contagious disease to persons or livestock in Montana and
10 damage to persons and property by wild buffalo or bison. Therefore, it is the purpose of this section to
11 designate wild buffalo or bison, which have not been reduced to captivity, as a species in need of
12 management and to set out specific departmental duties for management of the species.

13 (2) The department:

14 (a) is responsible for and shall develop rules to implement the management of wild buffalo or bison
15 in this state that threaten persons or property other than through the transmission of contagious disease;

16 (b) shall develop rules to manage and reduce the number of wild buffalo or bison that leave
17 Yellowstone national park.

18 (3) The department of livestock shall, within its statutory authority, regulate wild buffalo or bison
19 in this state that pose a threat to persons or livestock in Montana through the transmission of contagious
20 disease.

21 (4) The department shall work cooperatively and aggressively with the department of livestock to
22 prevent any contact between livestock and wild buffalo or bison suspected of carrying disease in this state.

23 (5) The department of fish, wildlife, and parks and the department of livestock are strongly urged
24 to enter into an agreement with the national park service for the long-term management of the Yellowstone
25 national park herd. If the national park service does not proceed in good faith in a timely manner to enter
26 a long-term management agreement that in the determination of the department of fish, wildlife, and parks
27 and the department of livestock responds adequately to the needs of Montana, the departments are
28 strongly urged to take appropriate court action. The department of fish, wildlife, and parks and the
29 department of livestock shall prepare a joint report to the ~~53rd~~ 55th legislature, including a report of
30 cooperative work conducted as required under subsection (4), regarding the present state of bison

1 management in Montana and any progress on an agreement for the long-term management of the
2 Yellowstone national park herd."

3

4 NEW SECTION. **Section 3. Coordination instruction.** If Senate Bill No. 312 is passed and approved
5 and if it includes a section that repeals 87-1-215, then [section 2 of this act], amending 87-1-215, is void.

6

7 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

8

-END-

SENATE BILL NO. 352

INTRODUCED BY GROSFIELD, ANDERSON, MESAROS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A LIMITATION ON THE CRIMINAL LIABILITY OF A LANDOWNER OR AGENT WHO TAKES A WILD BUFFALO OR BISON, SUSPECTED OF CARRYING DISEASE, THAT IS ~~TRESPASSING~~ PRESENT ON THE LANDOWNER'S PRIVATE PROPERTY OR THREATENING THE LANDOWNER'S LIVESTOCK UNDER CERTAIN CONDITIONS; PROHIBITING SUPPLEMENTAL FEEDING OF BIG GAME ANIMALS; REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS AND THE DEPARTMENT OF LIVESTOCK TO WORK TO PREVENT CONTACT BETWEEN WILD BUFFALO OR BISON AND LIVESTOCK AND TO REPORT TO THE LEGISLATURE REGARDING THAT WORK; AMENDING SECTIONS 87-1-215 AND 87-3-130, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 87-3-130, MCA, is amended to read:

"87-3-130. Taking of wildlife to protect persons or livestock -- taking of trespassing PUBLIC wild buffalo or bison THAT ARE PRESENT ON PRIVATE PROPERTY -- notice -- supplemental feeding -- penalty.

(1) ~~Nothing in this~~ This chapter may not be construed to impose, by implication or otherwise, criminal liability for the taking of wildlife protected by this chapter if ~~such~~ the wildlife is molesting, assaulting, killing, or threatening to kill any person or livestock. Any person who ~~se~~ takes any wildlife protected by this chapter shall notify the department within 72 hours.

(2) This chapter may not be construed to impose, by implication or otherwise, criminal liability on a landowner or the agent of a landowner for the taking of a wild buffalo or bison that is suspected of carrying disease and that is ~~trespassing~~ PRESENT on the landowner's private property or otherwise threatening the landowner's livestock if:

(a) the landowner or agent notifies or makes a good faith effort to notify the department in order to allow as much time as practicable for the department to first take or remove the ~~trespassing~~ wild buffalo or bison THAT IS PRESENT ON THE LANDOWNER'S PROPERTY; and

(b) the landowner or agent is not in violation of subsection (3).

1 (3) A person may not intentionally provide supplemental feed to game animals in a manner that
2 results in an artificial concentration of game animals that may potentially contribute to the transmission of
3 disease. A person who violates this subsection is guilty of a misdemeanor and is subject to the penalty
4 provided in 87-1-102(1)."

5
6 **Section 2.** Section 87-1-215, MCA, is amended to read:

7 **"87-1-215. Wild buffalo as species in need of management -- policy -- department duties.** (1) The
8 legislature finds that the management through hunting of wild buffalo or bison is not appropriate but that
9 significant potential exists for the spread of contagious disease to persons or livestock in Montana and
10 damage to persons and property by wild buffalo or bison. Therefore, it is the purpose of this section to
11 designate wild buffalo or bison, which have not been reduced to captivity, as a species in need of
12 management and to set out specific departmental duties for management of the species.

13 (2) The department:

14 (a) is responsible for and shall develop rules to implement the management of wild buffalo or bison
15 in this state that threaten persons or property other than through the transmission of contagious disease;

16 (b) shall develop rules to manage and reduce the number of wild buffalo or bison that leave
17 Yellowstone national park.

18 (3) The department of livestock shall, within its statutory authority, regulate wild buffalo or bison
19 in this state that pose a threat to persons or livestock in Montana through the transmission of contagious
20 disease.

21 (4) The department shall work cooperatively and aggressively with the department of livestock to
22 prevent any contact between livestock and wild buffalo or bison suspected of carrying disease in this state.

23 (5) The department of fish, wildlife, and parks and the department of livestock are strongly urged
24 to enter into an ~~agreement~~ agreement with the national park service for the long-term management of the Yellowstone
25 national park herd. If the national park service does not proceed in good faith in a timely manner to enter
26 a long-term management agreement that in the determination of the department of fish, wildlife, and parks
27 and the department of livestock responds adequately to the needs of Montana, the departments are
28 strongly urged to take appropriate court action. The department of fish, wildlife, and parks and the
29 department of livestock shall prepare a joint report to the ~~53rd~~ 55th legislature, including a report of
30 cooperative work conducted as required under subsection (4), regarding the present state of bison

1 management in Montana and any progress on an agreement for the long-term management of the
2 Yellowstone national park herd."

3
4 NEW SECTION. Section 3. Coordination instruction. If Senate Bill No. 312 is passed and approved
5 and if it includes a section that repeals 87-1-215, then [section 2 of this act], amending 87-1-215, is void.

6
7 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

8 -END-



HOUSE STANDING COMMITTEE REPORT

March 15, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Fish and Game report that Senate Bill 352 (third reading copy -- blue) be concurred in as amended.

Signed: Douglas T. Wagner
Doug Wagner, Chair

Carried by: Rep. Anderson

And, that such amendments read:

1. Title, line 5.
Following: "A"
Insert: "PUBLICLY OWNED"
2. Page 1, line 17.
Strike: "PUBLIC"
Insert: "publicly owned"
3. Page 1, line 24.
Following: "taking of a"
Insert: "publicly owned"
4. Page 1, line 28.
Following: "trespassing"
Insert: "publicly owned"
5. Page 3, line 4.
Following: "instruction"
Insert: "-- contingent codification"
Following: third "."
Insert: "(1)"
6. Page 3, line 6.
Insert: "(2) (a) If Senate Bill No. 312 is passed and approved and

SB 352

Committee Vote:
Yes 16, No 2

HOUSE

if it transfers to the department of livestock primary management of publicly owned wild buffalo or bison that enter Montana on private or public land, then [section 1 of this act] is void and a new section is enacted to read:

"Taking of publicly owned wild buffalo or bison that are present on private property -- notice -- supplemental feeding -- penalty. (1) This chapter may not be construed to impose, by implication or otherwise, criminal liability on a landowner or the agent of a landowner for the taking of a publicly owned wild buffalo or bison that is suspected of carrying disease and that is present on the landowner's private property and is potentially associating with or otherwise threatening the landowner's livestock if:

(a) the landowner or agent notifies or makes a good faith effort to notify the department in order to allow as much time as practicable for the department to first take or remove the publicly owned wild buffalo or bison that is present on the landowner's property;

(b) the landowner or agent makes a good faith effort to salvage the carcass or carcasses and to retain all parts for disposal by the department; and

(c) the landowner or agent is not in violation of subsection (2).

(2) A person may not intentionally provide supplemental feed to game animals in a manner that results in artificial concentration of game animals that may potentially contribute to the transmission of disease. A person who violates this subsection is guilty of a misdemeanor and is subject to the penalty provided in 87-1-102(1)."

(b) The code commissioner is instructed to codify the new section in Title 81, chapter 2, part 1, and the provisions of Title 81, chapter 2, part 1, apply to the new section."

-END-

1 SENATE BILL NO. 352

2 INTRODUCED BY GROSFIELD, ANDERSON, MESAROS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A LIMITATION ON THE CRIMINAL LIABILITY OF A
5 LANDOWNER OR AGENT WHO TAKES A PUBLICLY OWNED WILD BUFFALO OR BISON, SUSPECTED OF
6 CARRYING DISEASE, THAT IS ~~TRESPASSING~~ PRESENT ON THE LANDOWNER'S PRIVATE PROPERTY OR
7 THREATENING THE LANDOWNER'S LIVESTOCK UNDER CERTAIN CONDITIONS; PROHIBITING
8 SUPPLEMENTAL FEEDING OF BIG GAME ANIMALS; REQUIRING THE DEPARTMENT OF FISH, WILDLIFE,
9 AND PARKS AND THE DEPARTMENT OF LIVESTOCK TO WORK TO PREVENT CONTACT BETWEEN WILD
10 BUFFALO OR BISON AND LIVESTOCK AND TO REPORT TO THE LEGISLATURE REGARDING THAT WORK;
11 AMENDING SECTIONS 87-1-215 AND 87-3-130, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
12 DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 Section 1. Section 87-3-130, MCA, is amended to read:

17 "87-3-130. Taking of wildlife to protect persons or livestock -- taking of ~~trespassing~~ PUBLIC
18 PUBLICLY OWNED wild buffalo or bison THAT ARE PRESENT ON PRIVATE PROPERTY -- notice --
19 supplemental feeding -- penalty. (1) ~~Nothing in this~~ This chapter may not be construed to impose, by
20 implication or otherwise, criminal liability for the taking of wildlife protected by this chapter if ~~each~~ the
21 wildlife is molesting, assaulting, killing, or threatening to kill any person or livestock. Any person who ~~se~~
22 takes any wildlife protected by this chapter shall notify the department within 72 hours.

23 (2) This chapter may not be construed to impose, by implication or otherwise, criminal liability on
24 a landowner or the agent of a landowner for the taking of a PUBLICLY OWNED wild buffalo or bison that
25 is suspected of carrying disease and that is ~~trespassing~~ PRESENT on the landowner's private property or
26 otherwise threatening the landowner's livestock if:

27 (a) the landowner or agent notifies or makes a good faith effort to notify the department in order
28 to allow as much time as practicable for the department to first take or remove the ~~trespassing~~ PUBLICLY
29 OWNED wild buffalo or bison THAT IS PRESENT ON THE LANDOWNER'S PROPERTY; and

30 (b) the landowner or agent is not in violation of subsection (3).

1 (3) A person may not intentionally provide supplemental feed to game animals in a manner that
2 results in an artificial concentration of game animals that may potentially contribute to the transmission of
3 disease. A person who violates this subsection is guilty of a misdemeanor and is subject to the penalty
4 provided in 87-1-102(1)."

5
6 **Section 2.** Section 87-1-215, MCA, is amended to read:

7 **"87-1-215. Wild buffalo as species in need of management -- policy -- department duties.** (1) The
8 legislature finds that the management through hunting of wild buffalo or bison is not appropriate but that
9 significant potential exists for the spread of contagious disease to persons or livestock in Montana and
10 damage to persons and property by wild buffalo or bison. Therefore, it is the purpose of this section to
11 designate wild buffalo or bison, which have not been reduced to captivity, as a species in need of
12 management and to set out specific departmental duties for management of the species.

13 (2) The department:

14 (a) is responsible for and shall develop rules to implement the management of wild buffalo or bison
15 in this state that threaten persons or property other than through the transmission of contagious disease;

16 (b) shall develop rules to manage and reduce the number of wild buffalo or bison that leave
17 Yellowstone national park.

18 (3) The department of livestock shall, within its statutory authority, regulate wild buffalo or bison
19 in this state that pose a threat to persons or livestock in Montana through the transmission of contagious
20 disease.

21 (4) The department shall work cooperatively and aggressively with the department of livestock to
22 prevent any contact between livestock and wild buffalo or bison suspected of carrying disease in this state.

23 (5) The department of fish, wildlife, and parks and the department of livestock are strongly urged
24 to enter into an agreement with the national park service for the long-term management of the Yellowstone
25 national park herd. If the national park service does not proceed in good faith in a timely manner to enter
26 a long-term management agreement that in the determination of the department of fish, wildlife, and parks
27 and the department of livestock responds adequately to the needs of Montana, the departments are
28 strongly urged to take appropriate court action. The department of fish, wildlife, and parks and the
29 department of livestock shall prepare a joint report to the ~~53rd~~ 55th legislature, including a report of
30 cooperative work conducted as required under subsection (4), regarding the present state of bison

1 management in Montana and any progress on an agreement for the long-term management of the
2 Yellowstone national park herd."

3
4 NEW SECTION. Section 3. Coordination instruction -- CONTINGENT CODIFICATION. (1) If Senate
5 Bill No. 312 is passed and approved and if it includes a section that repeals 87-1-215, then [section 2 of
6 this act], amending 87-1-215, is void.

7 (2) (A) IF SENATE BILL NO. 312 IS PASSED AND APPROVED AND IF IT TRANSFERS TO THE
8 DEPARTMENT OF LIVESTOCK PRIMARY MANAGEMENT OF PUBLICLY OWNED WILD BUFFALO OR BISON
9 THAT ENTER MONTANA ON PRIVATE OR PUBLIC LAND, THEN [SECTION 1 OF THIS ACT] IS VOID AND
10 A NEW SECTION IS ENACTED TO READ:

11 "TAKING OF PUBLICLY OWNED WILD BUFFALO OR BISON THAT ARE PRESENT ON PRIVATE
12 PROPERTY -- NOTICE -- SUPPLEMENTAL FEEDING -- PENALTY. (1) THIS CHAPTER MAY NOT BE
13 CONSTRUED TO IMPOSE, BY IMPLICATION OR OTHERWISE, CRIMINAL LIABILITY ON A LANDOWNER
14 OR THE AGENT OF A LANDOWNER FOR THE TAKING OF A PUBLICLY OWNED WILD BUFFALO OR BISON
15 THAT IS SUSPECTED OF CARRYING DISEASE AND THAT IS PRESENT ON THE LANDOWNER'S PRIVATE
16 PROPERTY AND IS POTENTIALLY ASSOCIATING WITH OR OTHERWISE THREATENING THE
17 LANDOWNER'S LIVESTOCK IF:

18 (A) THE LANDOWNER OR AGENT NOTIFIES OR MAKES A GOOD FAITH EFFORT TO NOTIFY THE
19 DEPARTMENT IN ORDER TO ALLOW AS MUCH TIME AS PRACTICABLE FOR THE DEPARTMENT TO FIRST
20 TAKE OR REMOVE THE PUBLICLY OWNED WILD BUFFALO OR BISON THAT IS PRESENT ON THE
21 LANDOWNER'S PROPERTY;

22 (B) THE LANDOWNER OR AGENT MAKES A GOOD FAITH EFFORT TO SALVAGE THE CARCASS
23 OR CARCASSES AND TO RETAIN ALL PARTS FOR DISPOSAL BY THE DEPARTMENT; AND

24 (C) THE LANDOWNER OR AGENT IS NOT IN VIOLATION OF SUBSECTION (2).

25 (2) A PERSON MAY NOT INTENTIONALLY PROVIDE SUPPLEMENTAL FEED TO GAME ANIMALS
26 IN A MANNER THAT RESULTS IN ARTIFICIAL CONCENTRATION OF GAME ANIMALS THAT MAY
27 POTENTIALLY CONTRIBUTE TO THE TRANSMISSION OF DISEASE. A PERSON WHO VIOLATES THIS
28 SUBSECTION IS GUILTY OF A MISDEMEANOR AND IS SUBJECT TO THE PENALTY PROVIDED IN
29 87-1-102(1)."

30 (B) THE CODE COMMISSIONER IS INSTRUCTED TO CODIFY THE NEW SECTION IN TITLE 81,

1 CHAPTER 2, PART 1, AND THE PROVISIONS OF TITLE 81, CHAPTER 2, PART 1, APPLY TO THE NEW
2 SECTION.

3

4 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

5

-END-

Conference Committee
on SB 352
Report No.1, April 7, 1995

Page 1 of 2

Mr. President and Mr. Speaker:

We, your Conference Committee on SB 352, met and considered:

the reference copy (salmon) of SB 352.

We recommend that SB 352 (reference copy - salmon) be amended as follows:

1. Page 3, line 7.
Strike: "(A)"

2. Page 3, line 9.
Following: "THEN"
Insert: ": (a)"
Strike: "VOID AND"

Insert: "amended to read:

"87-3-130. Taking of wildlife to protect persons or livestock. ~~(1) Nothing in this~~ This chapter may not be construed to impose, by implication or otherwise, criminal liability for the taking of wildlife protected by this chapter if ~~such~~ the wildlife is molesting, assaulting, killing, or threatening to kill any person or livestock. Any person who so takes any wildlife protected by this chapter shall notify the department within 72 hours.

(2) A person may not intentionally provide supplemental feed to game animals in a manner that results in an artificial concentration of game animals that may potentially contribute to the transmission of disease. A person who violates this subsection is guilty of a misdemeanor and is subject to the penalty provided in 87-1-102(1). This subsection does not apply to supplemental feeding activities conducted by the department for disease control purposes." (b)"

3. Page 3, lines 22 and 23.
Following: "TO" on line 22
Strike: remainder of line 22 through "CARCASSES" on line 23
Insert: "notify the department that a taking has occurred"

4. Page 3, line 29.
Following: "87-1-102(1)."
Insert: "This subsection does not apply to supplemental feeding activities conducted by the department for disease control purposes."

ADOPT

REJECT

SB 352
CCR #1
801336CC.SRF

5. Page 3, line 30.
Strike: "(B)"
Insert: "(3)"

And that this Conference Committee report be adopted.

For the Senate:

Grosfield *Leo Grosfield*
Chair

Mesaros *Ken Mesaros*

Forrester *Ray Forrester*

Amd. Coord.

SP
Sec. of Senate

For the House:

S. Anderson *Shirley W. Anderson*
Chair

Fuchs *Daniel Fuchs*

Swanson *Emily Swanson*

1 SENATE BILL NO. 352

2 INTRODUCED BY GROSFIELD, ANDERSON, MESAROS

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A LIMITATION ON THE CRIMINAL LIABILITY OF A
 5 LANDOWNER OR AGENT WHO TAKES A PUBLICLY OWNED WILD BUFFALO OR BISON, SUSPECTED OF
 6 CARRYING DISEASE, THAT IS ~~TRESPASSING~~ PRESENT ON THE LANDOWNER'S PRIVATE PROPERTY OR
 7 THREATENING THE LANDOWNER'S LIVESTOCK UNDER CERTAIN CONDITIONS; PROHIBITING
 8 SUPPLEMENTAL FEEDING OF BIG GAME ANIMALS; REQUIRING THE DEPARTMENT OF FISH, WILDLIFE,
 9 AND PARKS AND THE DEPARTMENT OF LIVESTOCK TO WORK TO PREVENT CONTACT BETWEEN WILD
 10 BUFFALO OR BISON AND LIVESTOCK AND TO REPORT TO THE LEGISLATURE REGARDING THAT WORK;
 11 AMENDING SECTIONS 87-1-215 AND 87-3-130, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
 12 DATE."
 13

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

15
16 Section 1. Section 87-3-130, MCA, is amended to read:

17 "87-3-130. Taking of wildlife to protect persons or livestock -- taking of trespassing PUBLIC
 18 PUBLICLY OWNED wild buffalo or bison THAT ARE PRESENT ON PRIVATE PROPERTY -- notice --
 19 supplemental feeding -- penalty. (1) ~~Nothing in this~~ This chapter may not be construed to impose, by
 20 implication or otherwise, criminal liability for the taking of wildlife protected by this chapter if ~~such~~ the
 21 wildlife is molesting, assaulting, killing, or threatening to kill any person or livestock. Any person who ~~se~~
 22 takes any wildlife protected by this chapter shall notify the department within 72 hours.

23 (2) This chapter may not be construed to impose, by implication or otherwise, criminal liability on
 24 a landowner or the agent of a landowner for the taking of a PUBLICLY OWNED wild buffalo or bison that
 25 is suspected of carrying disease and that is ~~trespassing~~ PRESENT on the landowner's private property or
 26 otherwise threatening the landowner's livestock if:

27 (a) the landowner or agent notifies or makes a good faith effort to notify the department in order
 28 to allow as much time as practicable for the department to first take or remove the ~~trespassing~~ PUBLICLY
 29 OWNED wild buffalo or bison THAT IS PRESENT ON THE LANDOWNER'S PROPERTY; and

30 (b) the landowner or agent is not in violation of subsection (3).

1 (3) A person may not intentionally provide supplemental feed to game animals in a manner that
2 results in an artificial concentration of game animals that may potentially contribute to the transmission of
3 disease. A person who violates this subsection is guilty of a misdemeanor and is subject to the penalty
4 provided in 87-1-102(1)."

5
6 **Section 2.** Section 87-1-215, MCA, is amended to read:

7 **"87-1-215. Wild buffalo as species in need of management -- policy -- department duties.** (1) The
8 legislature finds that the management through hunting of wild buffalo or bison is not appropriate but that
9 significant potential exists for the spread of contagious disease to persons or livestock in Montana and
10 damage to persons and property by wild buffalo or bison. Therefore, it is the purpose of this section to
11 designate wild buffalo or bison, which have not been reduced to captivity, as a species in need of
12 management and to set out specific departmental duties for management of the species.

13 (2) The department:

14 (a) is responsible for and shall develop rules to implement the management of wild buffalo or bison
15 in this state that threaten persons or property other than through the transmission of contagious disease;

16 (b) shall develop rules to manage and reduce the number of wild buffalo or bison that leave
17 Yellowstone national park.

18 (3) The department of livestock shall, within its statutory authority, regulate wild buffalo or bison
19 in this state that pose a threat to persons or livestock in Montana through the transmission of contagious
20 disease.

21 (4) The department shall work cooperatively and aggressively with the department of livestock to
22 prevent any contact between livestock and wild buffalo or bison suspected of carrying disease in this state.

23 (5) The department of fish, wildlife, and parks and the department of livestock are strongly urged
24 to enter into an agreement with the national park service for the long-term management of the Yellowstone
25 national park herd. If the national park service does not proceed in good faith in a timely manner to enter
26 a long-term management agreement that in the determination of the department of fish, wildlife, and parks
27 and the department of livestock responds adequately to the needs of Montana, the departments are
28 strongly urged to take appropriate court action. The department of fish, wildlife, and parks and the
29 department of livestock shall prepare a joint report to the ~~53rd~~ 55th legislature, including a report of
30 cooperative work conducted as required under subsection (4), regarding the present state of bison

1 management in Montana and any progress on an agreement for the long-term management of the
2 Yellowstone national park herd."

3

4 **NEW SECTION. Section 3. Coordination instruction -- CONTINGENT CODIFICATION.** (1) If Senate
5 Bill No. 312 is passed and approved and if it includes a section that repeals 87-1-215, then [section 2 of
6 this act], amending 87-1-215, is void.

7 **(2) ~~(A)~~ IF SENATE BILL NO. 312 IS PASSED AND APPROVED AND IF IT TRANSFERS TO THE**
8 **DEPARTMENT OF LIVESTOCK PRIMARY MANAGEMENT OF PUBLICLY OWNED WILD BUFFALO OR BISON**
9 **THAT ENTER MONTANA ON PRIVATE OR PUBLIC LAND, THEN:**

10 **(A) [SECTION 1 OF THIS ACT] IS VOID AND AMENDED TO READ:**

11 **"87-3-130. Taking of wildlife to protect persons or livestock. (1) ~~Nothing in this~~ This chapter may**
12 **not be construed to impose, by implication or otherwise, criminal liability for the taking of wildlife protected**
13 **by this chapter if ~~such~~ the wildlife is molesting, assaulting, killing, or threatening to kill any person or**
14 **livestock. Any person who so takes any wildlife protected by this chapter shall notify the department**
15 **within 72 hours.**

16 **(2) A person may not intentionally provide supplemental feed to game animals in a manner that**
17 **results in an artificial concentration of game animals that may potentially contribute to the transmission of**
18 **disease. A person who violates this subsection is guilty of a misdemeanor and is subject to the penalty**
19 **provided in 87-1-102(1). This subsection does not apply to supplemental feeding activities conducted by**
20 **the department for disease control purposes.**"

21 **(B) A NEW SECTION IS ENACTED TO READ:**

22 **"TAKING OF PUBLICLY OWNED WILD BUFFALO OR BISON THAT ARE PRESENT ON PRIVATE**
23 **PROPERTY -- NOTICE -- SUPPLEMENTAL FEEDING -- PENALTY. (1) THIS CHAPTER MAY NOT BE**
24 **CONSTRUED TO IMPOSE, BY IMPLICATION OR OTHERWISE, CRIMINAL LIABILITY ON A LANDOWNER**
25 **OR THE AGENT OF A LANDOWNER FOR THE TAKING OF A PUBLICLY OWNED WILD BUFFALO OR BISON**
26 **THAT IS SUSPECTED OF CARRYING DISEASE AND THAT IS PRESENT ON THE LANDOWNER'S PRIVATE**
27 **PROPERTY AND IS POTENTIALLY ASSOCIATING WITH OR OTHERWISE THREATENING THE**
28 **LANDOWNER'S LIVESTOCK IF:**

29 **(A) THE LANDOWNER OR AGENT NOTIFIES OR MAKES A GOOD FAITH EFFORT TO NOTIFY THE**
30 **DEPARTMENT IN ORDER TO ALLOW AS MUCH TIME AS PRACTICABLE FOR THE DEPARTMENT TO FIRST**

1 TAKE OR REMOVE THE PUBLICLY OWNED WILD BUFFALO OR BISON THAT IS PRESENT ON THE
2 LANDOWNER'S PROPERTY;

3 (B) THE LANDOWNER OR AGENT MAKES A GOOD FAITH EFFORT TO SALVAGE THE CARCASS
4 OR CARCASSES NOTIFY THE DEPARTMENT THAT A TAKING HAS OCCURRED AND TO RETAIN ALL
5 PARTS FOR DISPOSAL BY THE DEPARTMENT; AND

6 (C) THE LANDOWNER OR AGENT IS NOT IN VIOLATION OF SUBSECTION (2).

7 (2) A PERSON MAY NOT INTENTIONALLY PROVIDE SUPPLEMENTAL FEED TO GAME ANIMALS
8 IN A MANNER THAT RESULTS IN ARTIFICIAL CONCENTRATION OF GAME ANIMALS THAT MAY
9 POTENTIALLY CONTRIBUTE TO THE TRANSMISSION OF DISEASE. A PERSON WHO VIOLATES THIS
10 SUBSECTION IS GUILTY OF A MISDEMEANOR AND IS SUBJECT TO THE PENALTY PROVIDED IN
11 87-1-102(1). THIS SUBSECTION DOES NOT APPLY TO SUPPLEMENTAL FEEDING ACTIVITIES
12 CONDUCTED BY THE DEPARTMENT FOR DISEASE CONTROL PURPOSES."

13 ~~(B)~~(3) THE CODE COMMISSIONER IS INSTRUCTED TO CODIFY THE NEW SECTION IN TITLE 81,
14 CHAPTER 2, PART 1, AND THE PROVISIONS OF TITLE 81, CHAPTER 2, PART 1, APPLY TO THE NEW
15 SECTION.

16

17 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

18

-END-