

1 HOUSE BILL NO. 507

2 INTRODUCED BY B. HARRIS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MANAGEMENT OF WILD BUFFALO AND
5 WILD BISON; APPLYING LIVESTOCK LAWS TO CERTAIN WILD BUFFALO AND WILD BISON; RESTRICTING
6 WHERE WILD BUFFALO AND WILD BISON MAY BE RELEASED OR TRANSPLANTED; GRANTING
7 RULEMAKING AUTHORITY; AMENDING SECTIONS 15-1-101, 15-24-921, 81-1-101, 81-2-120, 81-3-201,
8 81-4-602, 81-4-603, 81-5-101, 81-5-104, 87-1-216, 87-1-271, 87-1-304, 87-2-101, 87-2-701, 87-2-702, 87-2-730,
9 87-2-731, 87-6-101, AND 87-6-906, MCA; AND REPEALING SECTION 81-2-121, MCA."

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

12
13 **Section 1.** Section 15-1-101, MCA, is amended to read:

14 **"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this
15 section are used in connection with taxation, they are defined in the following manner:

16 (a) The term "agricultural" refers to:

17 (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, biological control
18 insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or
19 produced for commercial purposes; and

20 (ii) the raising of domestic animals and wildlife in domestication or a captive environment.

21 (b) The term "assessed value" means the value of property as defined in 15-8-111.

22 (c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit
23 margin shown in national appraisal guides and manuals or the valuation schedules of the department.

24 (d) (i) The term "commercial", when used to describe property, means property used or owned by a
25 business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except property
26 described in subsection (1)(d)(ii).

27 (ii) The following types of property are not commercial:

28 (A) agricultural lands;

29 (B) timberlands and forest lands;

30 (C) single-family residences and ancillary improvements and improvements necessary to the function

1 of a bona fide farm, ranch, or stock operation;

2 (D) mobile homes and manufactured homes used exclusively as a residence except when held by a
3 distributor or dealer as stock in trade; and

4 (E) all property described in 15-6-135.

5 (e) The term "comparable property" means property that:

6 (i) has similar use, function, and utility;

7 (ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and

8 (iii) has the potential of a similar highest and best use.

9 (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

10 (g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue
11 provided for in 2-15-1301.

12 (ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.

13 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The
14 terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas
15 found in any coal formation.

16 (i) The term "improvements" includes all buildings, structures, fences, and improvements situated upon,
17 erected upon, or affixed to land. When the department determines that the permanency of location of a mobile
18 home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or
19 housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or
20 housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot
21 feasibly be relocated and only when the wheels are removed.

22 (j) The term "leasehold improvements" means improvements to mobile homes and mobile homes located
23 on land owned by another person. This property is assessed under the appropriate classification, and the taxes
24 are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold improvements
25 are a lien only on the leasehold improvements.

26 (k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison
27 as defined in 81-1-101, ostriches, rheas, emus, and domestic ungulates.

28 (l) (i) The term "manufactured home" means a residential dwelling built in a factory in accordance with
29 the United States department of housing and urban development code and the federal Manufactured Home
30 Construction and Safety Standards.

1 (ii) A manufactured home does not include a mobile home, as defined in subsection (1)(m), or a mobile
2 home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went
3 into effect on June 15, 1976.

4 (m) The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer
5 coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an
6 independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet
7 in length used as a principal residence.

8 (n) The term "personal property" includes everything that is the subject of ownership but that is not
9 included within the meaning of the terms "real estate" and "improvements" and "intangible personal property" as
10 that term is defined in 15-6-218.

11 (o) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in
12 domestication to produce food or feathers.

13 (p) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and
14 things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize
15 the taxation of the stocks of a company or corporation when the property of the company or corporation
16 represented by the stocks is within the state and has been taxed.

17 (q) The term "real estate" includes:

18 (i) the possession of, claim to, ownership of, or right to the possession of land;

19 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title
20 15, chapter 23, part 8;

21 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United States;
22 and

23 (iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

24 (r) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking, and
25 winter sports, including but not limited to skiing, skating, and snowmobiling.

26 (s) "Research and development firm" means an entity incorporated under the laws of this state or a
27 foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical
28 analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific
29 and technical nature into practical application for experimental and demonstration purposes, including the
30 experimental production and testing of models, devices, equipment, materials, and processes.

1 (t) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that is listed
 2 by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent
 3 foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

4 (u) The term "taxable value" means the percentage of market or assessed value as provided for in Title
 5 15, chapter 6, part 1.

6 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,
 7 incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or
 8 organized body authorized by law to establish tax levies for the purpose of raising public revenue.

9 (3) The term "state board" or "board" when used without other qualification means the state tax appeal
 10 board."

11

12 **Section 2.** Section 15-24-921, MCA, is amended to read:

13 **"15-24-921. Per capita fee to pay expenses of enforcing livestock laws.** (1) In addition to
 14 appropriations made for those purposes, a per capita fee is authorized and directed to be imposed by the
 15 department on all poultry and bees, all swine 3 months of age or older, and all other livestock 9 months of age
 16 or older in each county of this state for the purpose of aiding in the payment of the salaries and all expenses
 17 connected with the enforcement of the livestock laws of the state and for the payment of bounties on wild animals
 18 as provided in 81-7-104.

19 (2) The per capita fee is due on November 30 of each year. The penalty and interest provisions
 20 contained in 15-1-216 apply to late payments of the fee.

21 (3) As used in this section, "livestock" means cattle, sheep, swine, poultry, bees, goats, horses, mules,
 22 asses, llamas, alpacas, ~~domestic bison~~ as defined in 81-1-101, ostriches, rheas, and emus, and domestic
 23 ungulates."

24

25 **Section 3.** Section 81-1-101, MCA, is amended to read:

26 **"81-1-101. Definitions.** Unless the context requires otherwise, in Title 81, the following definitions apply:

27 (1) (a) "Bison" means:

28 (i) domestic bison; or

29 (ii) feral bison; or

30 (iii) except as provided in subsection (1)(b), wild buffalo or wild bison outside of Yellowstone national

1 park.

2 (b) The term does not include wild buffalo or wild bison on tribal land or in an area contiguous with the
 3 boundaries of Yellowstone national park that has been designated by the department and the department of fish,
 4 wildlife, and parks pursuant to 87-1-216(4) as year-round habitat for wild buffalo or wild bison.

5 ~~(b)(c)~~ The For the purposes of chapter 9, the term does not include:

6 ~~—— (i) wild buffalo or wild bison; or~~

7 ~~—— (ii) for the purposes of chapter 9, buffalo.~~

8 (2) "Board" means the board of livestock provided for in 2-15-3102, except as provided in Title 81,
 9 chapter 23.

10 (3) "Department" means the department of livestock provided for in Title 2, chapter 15, part 31.

11 (4) "Domestic bison" means a bison owned by a person.

12 (5) "Feral bison" means a domestic bison or progeny of a domestic bison that has escaped or been
 13 released from captivity and is running at large and unrestrained on public or private land.

14 (6) "Wild buffalo" or "wild bison" means a bison that has not been reduced to captivity and is not owned
 15 by a person."

16

17 **Section 4.** Section 81-2-120, MCA, is amended to read:

18 **"81-2-120. Management of wild buffalo or wild bison for disease control.** (1) Whenever a publicly
 19 owned wild buffalo or wild bison from a herd that is infected with a dangerous disease enters the state of Montana
 20 on public or private land and the disease may spread to persons or livestock or whenever the presence of wild
 21 buffalo or wild bison may jeopardize Montana's compliance with other state-administered or federally
 22 administered livestock disease control programs on land that is not contiguous with the boundaries of Yellowstone
 23 national park and has not been designated as year-round habitat for the wild buffalo or wild bison by the
 24 department and the department of fish, wildlife, and parks pursuant to 87-1-216(4), the department may, under
 25 a plan approved by the governor, use any feasible method in taking one or more of the following actions:

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

29 (b) The live wild buffalo or wild bison may be destroyed by the use of firearms. If a firearm cannot be
 30 used for reasons of public safety or regard for public or private property, the animal may be relocated to a place

1 that is free from public or private hazards and destroyed by firearms or by a humane means of euthanasia.

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

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

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

8 (ii) transferred to qualified tribal entities that participate in the disease control program provided for in this
9 subsection (1)(d). Acquisition of wild buffalo or wild bison by a qualified tribal entity must be done in a manner
10 that does not jeopardize compliance with a state-administered or federally administered livestock disease control
11 program. The department may adopt rules consistent with this section governing tribal participation in the program
12 or enter into cooperative agreements with tribal organizations for the purposes of carrying out the disease control
13 program. In the rules and cooperative agreements, the department may include fencing construction requirements
14 for containment of the wild buffalo or wild bison.

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

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

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

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

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

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

29 (4) The department may adopt rules with regard to management of ~~publicly owned~~ wild buffalo or wild
30 bison that enter Montana on private or public land and that are from a herd that is infected with a contagious

1 disease that may spread to persons or livestock and may jeopardize compliance with other state-administered
2 or federally administered livestock disease control programs."

3

4 **Section 5.** Section 81-3-201, MCA, is amended to read:

5 **"81-3-201. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
6 apply:

7 (1) "Deputy state stock inspector" means a person designated by the department as a deputy state stock
8 inspector who does not receive a salary or compensation from the department.

9 (2) "Feedlot" means a confined livestock feeding operation where the owner or operator of the feedlot
10 feeds livestock belonging to others for a fee.

11 (3) "Livestock" means a bovine animal, domestic bison, horse, mule, or ass, regardless of its age or sex.

12 (4) "Person" means an individual, partnership, corporation, association, firm, or entity not enumerated
13 that is capable of owning or controlling livestock.

14 (5) "Specially qualified deputy stock inspector" means a deputy state stock inspector who has been
15 certified by the department, under rules adopted pursuant to 81-3-202, as qualified to conduct an inspection for
16 a permanent transportation permit for a saddle, work, or show horse.

17 (6) "State stock inspector" means an employee of the department of livestock designated by the
18 department as a state stock inspector."

19

20 **Section 6.** Section 81-4-602, MCA, is amended to read:

21 **"81-4-602. Estrays -- department authorized to take possession.** The department and its appointed
22 stock inspectors may take possession of estrays found running at large in this state and may dispose of the
23 estrays, subject to the ~~following restrictions~~ provisions of this part."

24

25 **Section 7.** Section 81-4-603, MCA, is amended to read:

26 **"81-4-603. Taking up and disposition of estrays -- advertisement.** (1) A stock inspector authorized
27 by the department shall take into possession an estray found in the stock inspector's district and, except as
28 provided in 81-2-120(1)(a), (1)(b), or (1)(d), shall either:

29 (a) ship or arrange for the shipment of the estray to a licensed livestock market for sale; or

30 (b) hold the estray and care for the estray in the cheapest and most practicable manner for at least 10

1 days and not more than 30 days after public notice is published as provided in subsection (2). During the holding
2 period, the stock inspector shall advertise that the estray is being held and that unless the estray is claimed by
3 the owner, the stock inspector will on a date specified in the notice sell the estray at a public auction to the highest
4 bidder for cash.

5 (2) The notice must be published in the newspaper doing the county printing of the county in which the
6 estray is found and on the department's website and in each livestock market brand office and county sheriff's
7 office in the state. This notice must be published in the newspaper at least one time and must contain a statement
8 of the date of the sale, the place where the sale is to be held, and a general description of the estray, including
9 the sex and the approximate age, together with an illustration of the brand and the position of the brand on the
10 estray and a description of the place or locality where the estray was found or taken.

11 (3) Except as provided in 81-2-120, the proceeds from the sale must be disposed of under 81-4-605 and
12 81-4-606.

13 (4) The owner of the estray may appear and claim it at any time before the sale or shipment, as provided
14 in this part, upon payment to the department of the cost of caring for the estray as determined by the department."
15

16 **Section 8.** Section 81-5-101, MCA, is amended to read:

17 **"81-5-101. Moving livestock from customary range forbidden.** (1) A person who willfully moves or
18 causes to be moved any cattle, horses, mules, swine, llamas, alpacas, ~~domestic~~ bison, or sheep from their
19 owner's customary range without the permission of the owner shall upon conviction be punished by imprisonment
20 in the county jail not exceeding 6 months or by a fine not exceeding \$500, or both.

21 (2) A person who negligently moves or causes to be moved any cattle, horses, mules, swine, llamas,
22 alpacas, ~~domestic~~ bison, or sheep from their owner's customary range without the permission of the owner shall
23 upon conviction be punished by:

24 (a) a term of imprisonment in the county jail not to exceed 6 months;

25 (b) a fine not exceeding:

26 (i) \$25 for a first offense;

27 (ii) \$250 for a second offense; and

28 (iii) \$500 for a third or subsequent offense; or

29 (c) both imprisonment and the appropriate fine.

30 (3) Prior to the imposition of the penalty provided for in subsection (1) or (2), the owner of the livestock

1 shall file a complaint with the department. The department shall conduct an investigation to determine the
2 circumstances under which the livestock were moved."

3

4 **Section 9.** Section 81-5-104, MCA, is amended to read:

5 **"81-5-104. Stolen livestock -- seizure and forfeiture of vehicle and certain other property used in**
6 **theft or transportation.** (1) The use of a vehicle, money, equipment, or personalty for the theft or transportation
7 of a stolen mule, horse, mare, colt, foal, filly, sheep, lamb, cow, calf, heifer, steer, bull, llama, alpaca, ~~domestic~~
8 bison, hogs, poultry, ostrich, rhea, emu, or the products of stolen livestock is unlawful. Any vehicle, money,
9 equipment, or personalty used for the theft or unlawful transportation or upon probable cause believed to be
10 devoted wholly or in part to the theft or unlawful transportation must be seized and held.

11 (2) Within 45 days after the seizure, a peace officer or officer of the agency that seizes the property shall
12 file a petition to institute forfeiture proceedings with the clerk of the district court of the county in which the seizure
13 occurs. The clerk shall issue a summons at the request of the petitioning party, who shall serve the summons
14 upon all owners or claimants of the property by one of the following methods:

15 (a) upon an owner or claimant whose address is known, by personal service of a copy of the petition and
16 summons as provided in the Montana Rules of Civil Procedure;

17 (b) upon an owner or claimant whose address is unknown but who is believed to have an interest in the
18 property, by publication of the summons in one issue of a newspaper of general circulation in the county where
19 the seizure occurred or, if there is no newspaper of general county circulation, by publication in one issue of a
20 newspaper of general circulation in an adjoining county and by mailing a copy of the petition and summons to
21 the most recent address of the owner or claimant, if any, shown in the records of the division of motor vehicles.

22 (3) A vehicle is not subject to forfeiture under this section if:

23 (a) it is a stolen vehicle at the time it is used for unlawful transportation; or

24 (b) the vehicle owner is not in collusion with the party or parties guilty of the theft."

25

26 **Section 10.** Section 87-1-216, MCA, is amended to read:

27 **"87-1-216. Wild buffalo or wild bison as species in need of management -- policy -- department**
28 **duties.** (1) The legislature finds that significant potential exists for the spread of contagious disease to persons
29 or livestock in Montana and for damage to persons and property by wild buffalo or wild bison. It is the purpose
30 of this section:

- 1 (a) to designate ~~publicly-owned~~ wild buffalo or wild bison originating from Yellowstone national park as
2 a species requiring disease control;
- 3 (b) to designate other wild buffalo or wild bison as a species in need of management; and
4 (c) to set out specific duties for the department for management of the species.
- 5 (2) The department:
- 6 (a) is responsible for the management, including but not limited to public hunting, of wild buffalo or wild
7 bison in this state that have not been exposed to or infected with a dangerous or contagious disease but may
8 threaten persons or property;
- 9 (b) shall consult and coordinate with the department of livestock on implementation of the provisions of
10 subsection (2)(a) to the extent necessary to ensure that wild buffalo or wild bison remain disease-free; and
11 (c) shall cooperate with the department of livestock in managing ~~publicly-owned~~ wild buffalo or wild bison
12 that enter the state on public or private land from a herd that is infected with a dangerous disease, as provided
13 in 81-2-120, under a plan approved by the governor. The department of livestock is authorized under the
14 provisions of 81-2-120 to regulate ~~publicly-owned~~ wild buffalo or wild bison in this state that pose a threat to
15 persons or livestock in Montana through the transmission of contagious disease. The department may, after
16 agreement and authorization by the department of livestock, authorize the public hunting of wild buffalo or wild
17 bison that have been exposed to or infected with a contagious disease, pursuant to 87-2-730. The department
18 may, following consultation with the department of livestock, adopt rules to authorize the taking of wild buffalo or
19 wild bison where and when necessary to prevent the transmission of a contagious disease.
- 20 (3) The department may adopt rules with regard to wild buffalo or wild bison that have not been exposed
21 to or infected with a contagious disease but are in need of management because of potential damage to persons
22 or property.
- 23 (4) ~~The~~ Except as provided in subsection (9) and subject to subsection (5), the department may not
24 release, transplant, or allow wild buffalo or wild bison on any private or public land in Montana ~~that has not been~~
25 ~~authorized for that use by the private or public owner~~ that is not in an area contiguous with the boundaries of
26 Yellowstone national park designated by the department and the department of livestock as year-round habitat
27 for wild buffalo or wild bison. A designation of year-round habitat by the departments may not be for longer than
28 for a 4-year period and may not extend past the topographical boundaries of Gardiner basin and Hebgen Lake
29 basin.
- 30 (5) Subject to ~~subsection~~ subsections (4) and (9), the department shall develop and adopt a

1 management plan before any wild buffalo or wild bison under the department's jurisdiction may be released, or
 2 transplanted, or allowed onto private or public land in Montana. A plan must include but is not limited to:

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

5 (b) any animal identification and tracking protocol required under Title 81 and by the department of
 6 livestock to identify the origin and track the movement of wild buffalo or wild bison for the purposes of subsections
 7 (2)(b) and (5)(c);

8 (c) animal containment measures that ensure that any animal transplanted or released on private or
 9 public land will be contained in designated areas. Containment measures must include but are not limited to:

10 (i) any fencing required by the department of livestock;

11 (ii) contingency plans to expeditiously relocate wild buffalo or wild bison that enter private or public
 12 property where the presence of the animals is not authorized by the private or public owner; The department of
 13 livestock shall take into possession any animal that is not expeditiously relocated and dispose of it in accordance
 14 with 81-4-603.

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

17 (iv) contingency plans to eliminate or decrease the size of designated areas, including the expeditious
 18 relocation of wild buffalo or wild bison if the department is unable to effectively manage or contain the wild buffalo
 19 or wild bison;

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

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

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

27 (6) When developing a management plan in accordance with subsection (5), the department shall
 28 provide the opportunity for public comment and hold a public hearing in the affected county or counties. Prior to
 29 making a decision to release, or transplant, or allow wild buffalo or wild bison ~~on~~ on private or public land in
 30 Montana pursuant to subsection (4) or (9), the department shall respond to all public comment received and

1 publish a full record of the proceedings at any public hearing.

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

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

9 (9) Subject to the provisions of subsection (5), the department may release or transplant wild buffalo or
10 wild bison on public or private land that is not contiguous with the boundaries of Yellowstone national park and
11 has not been designated as year-round habitat for the animals pursuant to subsection (4) if the department
12 manages the animals as bison, as defined in 81-1-101, under the provisions of Title 81."

13

14 **Section 11.** Section 87-1-271, MCA, is amended to read:

15 **"87-1-271. Annual lottery of hunting licenses -- proceeds dedicated to hunting access**
16 **enhancement.** (1) The commission may issue through a lottery one license each year for each of the following:

17 (a) deer;

18 (b) elk;

19 (c) shiras moose;

20 (d) mountain sheep;

21 (e) mountain goat;

22 (f) wild buffalo or wild bison;

23 (g) antelope; and

24 (h) mountain lion.

25 (2) The restriction in 87-2-702(4) that a person who receives a moose, mountain goat, or mountain sheep
26 special license is not eligible to receive another license for that species for the next 7 years does not apply to a
27 person who receives a license through a lottery conducted pursuant to this section.

28 (3) The commission shall establish rules regarding:

29 (a) the conduct of the lottery authorized in this section;

30 (b) the use of licenses issued through the lottery; and

1 (c) the price of lottery tickets.

2 (4) Except as provided in 87-2-903, all proceeds from a lottery conducted pursuant to this section must
3 be used by the department for hunting access enhancement programs and law enforcement."
4

5 **Section 12.** Section 87-1-304, MCA, is amended to read:

6 **"87-1-304. Fixing of seasons and bag and possession limits.** (1) Subject to the provisions of
7 87-5-302, the commission may:

8 (a) fix seasons, bag limits, possession limits, and season limits;

9 (b) open or close or shorten or lengthen seasons on any species of game, bird, fish, or fur-bearing
10 animal as defined by 87-2-101;

11 (c) declare areas open to the hunting of deer, antelope, elk, moose, sheep, goat, mountain lion, bear,
12 wild buffalo or wild bison, and wolf by persons holding an archery stamp and the required license, permit, or tag
13 and designate times when only bows and arrows may be used to hunt deer, antelope, elk, moose, sheep, goat,
14 mountain lion, bear, wild buffalo or wild bison, and wolf in those areas;

15 (d) subject to the provisions of 87-1-301(7), restrict areas and species to hunting with only specified
16 hunting arms, including bow and arrow, for the reasons of safety or of providing diverse hunting opportunities and
17 experiences; and

18 (e) declare areas open to special license holders only and issue special licenses in a limited number
19 when the commission determines, after proper investigation, that a special season is necessary to ensure the
20 maintenance of an adequate supply of game birds, fish, or animals or fur-bearing animals. The commission may
21 declare a special season and issue special licenses when game birds, animals, or fur-bearing animals are
22 causing damage to private property or when a written complaint of damage has been filed with the commission
23 by the owner of that property. In determining to whom special licenses must be issued, the commission may,
24 when more applications are received than the number of animals to be killed, award permits to those chosen
25 under a drawing system. The procedures used for awarding the permits from the drawing system must be
26 determined by the commission.

27 (2) The commission may adopt rules governing the use of livestock and vehicles by archers during
28 special archery seasons.

29 (3) Subject to the provisions of 87-5-302, the commission may divide the state into fish and game
30 districts and create fish, game, or fur-bearing animal districts throughout the state. The commission may declare

1 a closed season for hunting, fishing, or trapping in any of those districts and later may open those districts to
2 hunting, fishing, or trapping.

3 (4) The commission may declare a closed season on any species of game, fish, game birds, or
4 fur-bearing animals threatened with undue depletion from any cause. The commission may close any area or
5 district of any stream, public lake, or public water or portions thereof to hunting, trapping, or fishing for limited
6 periods of time when necessary to protect a recently stocked area, district, water, spawning waters, spawn-taking
7 waters, or spawn-taking stations or to prevent the undue depletion of fish, game, fur-bearing animals, game birds,
8 and nongame birds. The commission may open the area or district upon consent of a majority of the property
9 owners affected.

10 (5) The commission may authorize the director to open or close any special season upon 12 hours'
11 notice to the public.

12 (6) The commission may declare certain fishing waters closed to fishing except by persons under 15
13 years of age. The purpose of this subsection is to provide suitable fishing waters for the exclusive use and
14 enjoyment of juveniles under 15 years of age, at times and in areas the commission in its discretion considers
15 advisable and consistent with its policies relating to fishing."

16

17 **Section 13.** Section 87-2-101, MCA, is amended to read:

18 **"87-2-101. Definitions.** As used in Title 87, chapter 3, and this chapter, unless the context clearly
19 indicates otherwise, the following definitions apply:

20 (1) "Angling" or "fishing" means to take or the act of a person possessing any instrument, article, or
21 substance for the purpose of taking fish in any location that a fish might inhabit.

22 (2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area
23 inhabited by wildlife for the purpose of attracting game animals or game birds.

24 (b) The term does not include:

25 (i) decoys, silhouettes, or other replicas of wildlife body forms;

26 (ii) scents used only to mask human odor; or

27 (iii) types of scents that are approved by the commission for attracting game animals or game birds.

28 (3) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine,
29 northern swift fox, and beaver.

30 (4) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,

1 mountain lion, bear, and wild buffalo or wild bison.

2 (5) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and
3 whitefish); all species of the genus Sander (sandpike or sauger and walleyed pike or yellowpike perch); all
4 species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus
5 (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all
6 species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus
7 *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

8 (6) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person
9 possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting,
10 wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife
11 may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by
12 any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or
13 capturing.

14 (7) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes,
15 including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

16 (8) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or
17 other animal not otherwise legally classified by statute or regulation of this state.

18 (9) "Open season" means the time during which game birds, game fish, game animals, and fur-bearing
19 animals may be lawfully taken.

20 (10) "Person" means an individual, association, partnership, or corporation.

21 (11) "Predatory animals" means coyote, weasel, skunk, and civet cat.

22 (12) "Trap" means to take or participate in the taking of any wildlife protected by the laws of the state by
23 setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove
24 wildlife from any of these devices.

25 (13) "Upland game birds" means sharp-tailed grouse, blue grouse, spruce (Franklin) grouse, prairie
26 chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild
27 turkey, and chukar partridge.

28 (14) "Wild buffalo" or "wild bison" means a buffalo or bison that ~~have~~ has not been reduced to captivity
29 and is not owned by a person."

30

1 **Section 14.** Section 87-2-701, MCA, is amended to read:

2 **"87-2-701. Special licenses.** (1) An applicant who is 12 years of age or older or who will turn 12 years
3 old before or during the season for which the license is issued and is the holder of a resident wildlife conservation
4 license or a nonresident wildlife conservation license may apply for a special license that, in the judgment of the
5 department, is to be issued and shall pay the following fees:

6 (a) moose--resident, \$125; nonresident, \$750;

7 (b) mountain goat--resident, \$125; nonresident, \$750;

8 (c) mountain sheep--resident, \$125; nonresident, \$750;

9 (d) antelope--resident, \$14; nonresident, \$200;

10 (e) grizzly bear--resident, \$150; nonresident, \$1,000;

11 (f) black bear--nonresident, \$350;

12 (g) wild buffalo or wild bison--resident, \$125; nonresident, \$750.

13 (2) If a holder of a valid special grizzly bear license who is 12 years of age or older kills a grizzly bear,
14 the person shall purchase a trophy license for a fee of \$50 within 10 days after the date of the kill. The trophy
15 license authorizes the holder to possess and transport the trophy.

16 (3) Except as provided in 87-5-302 for special grizzly bear licenses, special licenses must be issued in
17 a manner prescribed by the department."
18

19 **Section 15.** Section 87-2-702, MCA, is amended to read:

20 **"87-2-702. Restrictions on special licenses -- availability of bear and mountain lion licenses.** (1)

21 A person who has killed or taken any game animal, except a deer, an elk, or an antelope, during the current
22 license year is not permitted to receive a special license under this chapter to hunt or kill a second game animal
23 of the same species.

24 (2) The commission may require applicants for special permits authorized by this chapter to obtain a valid
25 big game license for that species for the current year prior to applying for a special permit.

26 (3) A person may take only one grizzly bear in Montana with a license authorized by 87-2-701.

27 (4) (a) Except as provided in 87-1-271(2), a person who receives a moose, mountain goat, or limited
28 mountain sheep license, as authorized by 87-2-701, with the exception of an antlerless moose or an adult ewe
29 game management license issued under 87-2-104, is not eligible to receive another special license for that
30 species for the next 7 years. For the purposes of this subsection (4)(a), "limited mountain sheep license" means

1 a license that is valid for an area in which the number of licenses issued is restricted.

2 (b) Except as provided in 87-1-271(2), a person who takes a mountain sheep using an unlimited
3 mountain sheep license, with the exception of a mountain sheep taken pursuant to an adult ewe license, as
4 authorized by 87-2-701, is not eligible to receive another special license for that species for the next 7 years. For
5 the purposes of this subsection (4)(b), "unlimited mountain sheep license" means a license that is valid for an
6 area in which the number of licenses issued is not restricted.

7 (5) An application for a wild buffalo or wild bison license must be made on the same form and is subject
8 to the same license application deadline as the special license for moose, mountain goat, and mountain sheep.

9 (6) (a) Licenses for spring bear hunts must be available for purchase at department offices after April
10 15 of any license year. However, a person who purchases a license for a spring bear hunt after April 15 of any
11 license year may not use the license until 5 days after the license is issued.

12 (b) Licenses for fall bear hunts must be available for purchase at department offices after August 31 of
13 any license year. However, a person who purchases a license for a fall bear hunt after August 31 of any license
14 year may not use the license until 5 days after the license is issued.

15 (7) Licenses for mountain lion hunts must be available for purchase at department offices after August
16 31 of any license year. However, a person who purchases a license for a mountain lion hunt after August 31 of
17 any license year may not use the license until 5 days after the license is issued."

18

19 **Section 16.** Section 87-2-730, MCA, is amended to read:

20 **"87-2-730. Special wild buffalo or wild bison license -- regulation.** (1) The public hunting of wild
21 buffalo or wild bison that have been designated as a species in need of disease control under 81-2-120 is
22 permitted only when authorized by the department of livestock under the provisions set forth in 81-2-120.

23 (2) The department may issue special licenses to hunt wild buffalo or wild bison designated as a species
24 in need of disease control when authorized by the department of livestock.

25 (3) The department shall adopt rules in cooperation with the department of livestock. The rules must
26 provide for:

27 (a) license drawing procedures;

28 (b) drawing and application fees consistent with 87-2-113;

29 (c) notification of license recipients as to when and where they may hunt, but notification may not include
30 information regarding the actual physical location of a wild buffalo or wild bison other than the prescribed hunting

1 district where the animal may be taken;

2 (d) fair chase hunting of wild buffalo or wild bison, including requirements that hunting be conducted on
3 foot and away from public roads and that there be no designation of specific wild buffalo or wild bison to be
4 hunted;

5 (e) means of taking and handling of carcasses in the field, which must include provisions for public safety
6 because of the potential for the spread of infectious disease;

7 (f) the use of bows and arrows and other hunting arms;

8 (g) tagging requirements for carcasses, skulls, and hides;

9 (h) possession limits;

10 (i) requirements for transportation and exportation; and

11 (j) requirements and criteria for authorization by the state veterinarian and the department of livestock
12 of any public hunting."

13

14 **Section 17.** Section 87-2-731, MCA, is amended to read:

15 **"87-2-731. (Temporary) Allocation of wild buffalo or wild bison licenses to tribes for traditional**

16 **purposes.** (1) If the commission authorizes the issuance of 40 or more special wild buffalo or wild bison licenses
17 in any license year, the department shall issue special licenses to individuals of each tribe designated in
18 subsection (4) to hunt wild buffalo or wild bison during the regular season for wild buffalo or wild bison and as
19 prescribed in department rules and regulations. The department shall issue two special wild buffalo or wild bison
20 licenses to individuals designated by the respective tribal diabetic programs of each of the Montana tribes
21 designated in subsection (4), coincident with the sale of any special wild buffalo or wild bison licenses for public
22 hunting pursuant to 87-2-730 and in accordance with the terms and conditions of this section.

23 (2) Wild buffalo or wild bison taken pursuant to the special licenses issued under subsection (1) must
24 be harvested by tribal members in accordance with the traditional ceremonies of each tribe. All parts of wild
25 buffalo or wild bison taken pursuant to this section may be possessed and used by each designated tribe in the
26 manner that the tribe sees fit.

27 (3) Special wild buffalo or wild bison licenses granted for tribal use pursuant to this section must be
28 issued free of charge. The tribes must be informed of and abide by any rules adopted pursuant to 87-2-730(3)(c)
29 through (3)(i), except that fair chase hunting by tribal members may include hunting conducted on horseback.

30 (4) The following Montana tribes may designate individuals from their tribal diabetic programs to receive

1 department-issued special licenses, and the individuals are entitled to hunt during the season set aside by the
2 commission for hunting wild buffalo or wild bison:

- 3 (a) Assiniboine and Sioux tribes;
- 4 (b) Blackfeet tribe;
- 5 (c) Chippewa Cree tribe;
- 6 (d) Confederated Salish and Kootenai tribes;
- 7 (e) Crow tribe;
- 8 (f) Gros Ventre and Assiniboine tribes;
- 9 (g) Northern Cheyenne tribe; and
- 10 (h) Little Shell band of Chippewa.

11 (5) Special wild buffalo or wild bison licenses granted under this section must be offered to the
12 designated tribes as the first wild buffalo or wild bison licenses available for hunting each year and may be
13 granted to tribal designees in any order. When each of the two individuals designated by each tribe has been
14 offered a license in any license year, any additional available licenses may be issued in the manner provided by
15 the rules adopted by the commission pursuant to 87-2-730.

16 (6) Use of the special wild buffalo or wild bison licenses granted under this section to individuals
17 designated by the Montana tribes must coincide with the use of any other special wild buffalo or wild bison license
18 purchased for public hunting pursuant to 87-2-730. (Terminates July 1, 2015--sec. 5, Ch. 378, L. 2005.)"

19

20 **Section 18.** Section 87-6-101, MCA, is amended to read:

21 **"87-6-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
22 apply:

23 (1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose,
24 antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or
25 any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be
26 regulated pursuant to Title 87, chapter 4, part 8.

27 (2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be
28 kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative
29 livestock, as authorized under Title 87, chapter 4, part 4.

30 (3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area

1 inhabited by wildlife for the purpose of attracting game animals or game birds.

2 (b) The term does not include:

3 (i) decoys, silhouettes, or other replicas of wildlife body forms;

4 (ii) scents used only to mask human odor; or

5 (iii) types of scents that are approved by the commission for attracting game animals or game birds.

6 (4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing
7 animals may not be lawfully taken.

8 (5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families
9 Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks,
10 domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

11 (6) "Conviction" means a judgment or sentence entered following a guilty plea, a nolo contendere plea,
12 a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized
13 to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person's appearance in
14 court that has not been vacated.

15 (7) "Field trial" means an examination to determine the ability of dogs to point, flush, or retrieve game
16 birds.

17 (8) "Fishing" means to take fish or the act of a person possessing any instrument, article, or substance
18 for the purpose of taking fish in any location that a fish might inhabit.

19 (9) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business
20 of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or
21 predatory animals.

22 (b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state
23 of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident
24 fur dealers.

25 (10) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing
26 in captivity, keeping, and selling furbearers or parts of furbearers.

27 (11) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat,
28 lynx, wolverine, northern swift fox, and beaver.

29 (b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

30 (12) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,

1 mountain lion, bear, and wild buffalo or wild bison.

2 (13) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and
3 whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all
4 species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus
5 (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all
6 species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus
7 *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

8 (14) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person
9 possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting,
10 wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife
11 may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by
12 any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or
13 capturing.

14 (15) "Knowingly" has the meaning provided in 45-2-101.

15 (16) "Livestock" includes ostriches, rheas, and emus.

16 (17) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes,
17 including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

18 (18) "Negligently" has the meaning provided in 45-2-101.

19 (19) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or
20 other animal not otherwise legally classified by statute or regulation of this state.

21 (20) "Open season" means the time during which game birds, fish, and game and fur-bearing animals
22 may be lawfully taken.

23 (21) "Participating state" means any state that enacts legislation to become a member of the Interstate
24 Wildlife Violator Compact.

25 (22) "Person" means an individual, association, partnership, and corporation.

26 (23) "Possession" has the meaning provided in 45-2-101.

27 (24) "Predatory animal" means coyote, weasel, skunk, and civet cat.

28 (25) "Purposely" has the meaning provided in 45-2-101.

29 (26) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons,
30 hawks, eagles, ospreys, and owls.

1 (27) "Resident" has the meaning provided in 87-2-102.

2 (28) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the
3 evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition
4 of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of
5 Montana.

6 (29) "Sale" means a contract by which a person:

7 (a) transfers an interest in either game or fish for a price; or

8 (b) transfers, barter, or exchanges an interest either in game or fish for an article or thing of value.

9 (30) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The
10 term does not include growing plants or plants harvested for the feeding of livestock.

11 (31) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving,
12 or preparing all or part of the dead bodies of any wildlife.

13 (32) "Trap" means to take or participate in the taking of any wildlife protected by state law by setting or
14 placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from
15 any of these devices.

16 (33) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie
17 chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild
18 turkey, and chukar partridge.

19 (34) "Wild animal" means an animal that is wild by nature as distinguished from common domestic
20 animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

21 (35) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars,
22 lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity
23 for use other than public exhibition.

24 (36) "Wild buffalo" or "wild bison" means a buffalo or bison that ~~have~~ has not been reduced to captivity
25 and is not owned by a person.

26 (37) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility
27 participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting
28 wild animals for public viewing."
29

30 **Section 19.** Section 87-6-906, MCA, is amended to read:

