

## 1 HOUSE BILL NO. 214

2 INTRODUCED BY B. HARRIS

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE MANAGEMENT OF ALL BUFFALO OR BISON  
5 AS LIVESTOCK FOR PURPOSES OF RECORDING MARKS AND BRANDS AND CONTAINMENT; REQUIRING  
6 NOTIFICATION WHEN BUFFALO OR BISON ARE MOVED TO ANOTHER COUNTY; PROVIDING ALTERNATE  
7 REGULATION OF ESTRAY BUFFALO OR BISON NOT OWNED BY A PERSON; GRANTING RULEMAKING  
8 AUTHORITY; AMENDING SECTIONS 15-1-101, 15-24-921, 81-3-201, 81-4-601, 81-4-602, 81-4-603, 87-1-102,  
9 87-1-271, 87-2-101, 87-2-701, 87-2-702, 87-2-730, 87-2-731, AND 87-2-807, MCA; AND REPEALING  
10 SECTIONS 81-2-120, 81-2-121, AND 87-1-216, MCA."  
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11

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

13

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

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

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

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

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

23 (c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the profit  
24 margin shown in national appraisal guides and manuals or the valuation schedules of the department.25 (d) (i) The term "commercial", when used to describe property, means property used or owned by a  
26 business, a trade, or a corporation as defined in 35-2-114 or used for the production of income, except property  
27 described in subsection (1)(d)(ii).

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

29 (A) agricultural lands;

30 (B) timberlands and forest lands;

1 (C) single-family residences and ancillary improvements and improvements necessary to the function  
2 of a bona fide farm, ranch, or stock operation;

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

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

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

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

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

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

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

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

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

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

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

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

27 (k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison  
28 owned by a person, as defined in 81-3-201, ostriches, rheas, emus, and domestic ungulates.

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

1 Construction and Safety Standards.

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

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

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

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

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

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

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

20 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and Title  
21 15, chapter 23, part 8;

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

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

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

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

1 experimental production and testing of models, devices, equipment, materials, and processes.

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

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

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

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

12

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

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

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

22 (3) As used in this section, "livestock" means cattle, sheep, swine, poultry, bees, goats, horses, mules,  
23 asses, llamas, alpacas, ~~domestic~~ bison owned by a person, as defined in 81-3-201, ostriches, rheas, and emus,  
24 and domestic ungulates."

25

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

27 **"81-3-201. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions  
28 apply:

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

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

3 (3) "Livestock" means a bovine animal, horse, mule, ~~or~~ ass, or any buffalo or bison, regardless of its age  
4 or sex.

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

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

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

12

13 **NEW SECTION. Section 4. Notification when bison or buffalo are moved between counties.**

14 Unless otherwise provided, a copy of any certificate or permit issued under this part for any buffalo or bison  
15 destined for another county in this state must be sent within 5 days to the state stock inspector of the receiving  
16 county.

17

18 **Section 5.** Section 81-4-601, MCA, is amended to read:

19 **"81-4-601. Estray defined.** In this part, "estrays" means a horse, mule, mare, gelding, colt, llama, alpaca,  
20 buffalo or bison, cow, ox, bull, stag, steer, heifer, calf, sheep, or lamb:

21 (1) not bearing a brand and the ownership of which cannot be determined by the stock inspector of the  
22 district in which the animal is found by inquiry among reputable resident stock owners or freeholders;

23 (2) bearing a recorded brand, the owner of which brand cannot be located at or through the post office  
24 designated on the records of the department or which owner cannot be located by the stock inspector of the  
25 district where the estray is found by inquiry among reputable resident stock owners or freeholders; or

26 (3) which bears an unrecorded brand, the owner of which unrecorded brand cannot be ascertained by  
27 the stock inspector of the district in which the animal is found by inquiry among reputable resident stock owners  
28 or freeholders."

29

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

1           **"81-4-602. Estrays -- department authorized to take possession.** The department and its appointed  
 2 stock inspectors may take possession of estrays found running at large in this state and may dispose of the  
 3 estrays, subject to the ~~following restrictions~~ provisions of this part."

4

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

6           **"81-4-603. Taking up and disposition of estrays -- advertisement.** (1) A stock inspector authorized  
 7 by the department shall take into possession an estray found in the stock inspector's district and, except as  
 8 provided in [section 8], shall either:

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

10           (b) hold the estray and care for the estray in the cheapest and most practicable manner for at least 10  
 11 days and not more than 30 days after public notice is published as provided in subsection (2). During the holding  
 12 period, the stock inspector shall advertise that the estray is being held and that unless the estray is claimed by  
 13 the owner, the stock inspector will on a date specified in the notice sell the estray at a public auction to the highest  
 14 bidder for cash.

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

21           (3) ~~The~~ Except as provided in [section 8], the proceeds from the sale must be disposed of under  
 22 81-4-605 and 81-4-606.

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

25

26           **NEW SECTION. Section 8. Estray buffalo or bison not owned by person.** (1) Except as provided  
 27 in subsection (4), the department shall capture, quarantine, and test for brucellosis any estray buffalo or bison  
 28 not owned by a person, as defined in 81-3-201. The department shall deliver an animal that is not found to be  
 29 brucellosis-free to a department-approved slaughterhouse. An animal that is certified by the state veterinarian  
 30 as brucellosis-free must be vaccinated by the department and may be:

1 (a) sold pursuant to 81-4-603; or

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

7 (2) Proceeds from the sale of brucellosis-free buffalo or bison conducted pursuant to this section must  
8 be deposited in the state special revenue fund to the credit of the department and used to defray the costs that  
9 the department incurs in building, maintaining, and operating necessary facilities related to the capture, testing,  
10 quarantine, or vaccination of the buffalo or bison.

11 (3) Any revenue generated in excess of the costs referred to in subsection (2) must be deposited in the  
12 state special revenue fund provided for in 87-1-513(2).

13 (4) The department, in consultation with the state veterinarian, may authorize the taking of estray buffalo  
14 or bison not owned by a person, as defined in 81-3-201, through limited public hunts pursuant to 87-2-730.

15

16 **Section 9.** Section 87-1-102, MCA, is amended to read:

17 **"87-1-102. Penalties -- violation of state law.** (1) (a) A person who purposely, knowingly, or negligently  
18 violates a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor,  
19 except if a felony is expressly provided by law, and shall be fined an amount of not less than \$50 or more than  
20 \$1,000, be imprisoned in the county detention center for not more than 6 months, or both unless a different  
21 punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture  
22 of bond or bail, may be subject to forfeiture of that person's license and the privilege to hunt, fish, or trap in this  
23 state or to use state lands, as defined in 77-1-101, for recreational purposes for a period set by the court.

24 (b) (i) If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use  
25 state lands, the department shall notify the person of the loss of privileges as imposed by the court. The person  
26 shall surrender all licenses, as ordered by the court, to the department within 10 days.

27 (ii) After a forfeiture period imposed pursuant to this section and upon receipt of notification from the court  
28 that the defendant has appeared and all terms of the court sentence, including making payment of any fine, costs,  
29 or restitution, have been met or the defendant is in compliance with installment payments specified by the court,  
30 the department shall reinstate the privileges unless the person is not otherwise entitled to reinstatement. After

1 the privileges are reinstated, the department may revoke the privileges if it is notified by the clerk of court that the  
2 person is in default on any installment payment.

3 (iii) A person convicted of hunting, fishing, or trapping while the person's license or privilege is forfeited  
4 shall be imprisoned in the county detention center for not less than 5 days or more than 6 months and may be  
5 fined an amount of not less than \$500 or more than \$2,000.

6 (2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep,  
7 moose, ~~wild~~ buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall be fined  
8 an amount of not less than \$500 or more than \$2,000, be imprisoned in the county detention center for not more  
9 than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any  
10 current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish,  
11 or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer  
12 forfeiture period.

13 (b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, elk, or  
14 mountain lion or any part of these animals shall be fined an amount of not less than \$300 or more than \$1,000,  
15 be imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon  
16 conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this  
17 state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture  
18 unless the court imposes a longer forfeiture period.

19 (c) A person convicted of unlawfully attempting to trap or hunt a game animal shall be fined an amount  
20 of not less than \$200 or more than \$600, be imprisoned in the county detention center for not more than 60 days,  
21 or both.

22 (d) A person convicted of purposely, knowingly, or negligently taking, killing, trapping, possessing,  
23 transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation of  
24 any provision of this title shall be fined an amount of not less than \$100 or more than \$1,000, be imprisoned in  
25 the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or  
26 forfeiture of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24  
27 months from the date of conviction or forfeiture unless the court imposes a longer forfeiture period, and any pelts  
28 possessed unlawfully must be confiscated.

29 (e) Upon conviction or forfeiture of bond or bail imposed for an act of criminal mischief, as defined in  
30 45-6-101, involving property owned or administered by the department, a person shall forfeit any current license



1 and the privilege to hunt, fish, or trap in this state for at least 24 months from the date of conviction or forfeiture.

2 (f) Upon conviction of or forfeiture of bond or bail imposed for committing an act of criminal trespass, as  
3 defined in 45-6-203, involving property owned or administered by the department or while hunting, fishing, or  
4 trapping, the privilege of a person to hunt, fish, or trap in this state may be revoked for up to 24 months from the  
5 date of conviction or forfeiture.

6 (3) If a person is convicted of illegally taking an animal described in 87-1-111 or 87-1-115 through the  
7 use of projected artificial light, nightscopes, or infrared scopes, the person is prohibited from fishing or hunting  
8 in the state for an additional 5 years following the ending date of the original prohibition period. In addition, the  
9 person, upon conviction or forfeiture of bond or bail, shall successfully complete, at the person's own expense,  
10 a department-sponsored hunter education course.

11 (4) A person convicted or who has forfeited bond or bail under this section and whose license privileges  
12 are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or  
13 permit during the period when license privileges have been forfeited. A person convicted of unlawfully purchasing,  
14 acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping license during the period when  
15 license privileges have been forfeited shall be fined an amount of not less than \$500 or more than \$2,000, be  
16 imprisoned in the county jail for not more than 60 days, or both.

17 (5) A person convicted or who has forfeited bond or bail under this section and who has been ordered  
18 to pay restitution under the provisions of 87-1-111 or 87-1-115 may not apply for any special license under Title  
19 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date  
20 of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of  
21 a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special license or enter a drawing  
22 for a special license or permit for the same species of game animal that was unlawfully taken for an additional  
23 period of 5 years following the ending date of the first 5-year period. A person convicted of unlawfully applying  
24 for any special license under Title 87, chapter 2, part 7, or unlawfully entering a drawing for a special license or  
25 permit shall be fined an amount of not less than \$500 or more than \$2,000, be imprisoned in the county detention  
26 center for not more than 60 days, or both.

27 (6) (a) A person convicted of a second offense of any of the following offenses within 10 years of the first  
28 conviction or who is convicted of two or more of the following offenses at different times within a 10-year period  
29 is subject to the penalties provided in subsection (6)(b):

30 (i) hunting during a closed season;

- 1 (ii) taking an animal or hunting while using projected artificial light;  
2 (iii) hunting without a license;  
3 (iv) unlawful taking of more than double the legal bag limit;  
4 (v) unlawful possession of more than double the legal bag limit; and  
5 (vi) waste of game by abandonment in the field.

6 (b) A person convicted of the offenses in subsection (6)(a) in the time periods specified in subsection  
7 (6)(a) shall be fined an amount of not less than \$2,000 or more than \$5,000, be imprisoned in the county jail for  
8 not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all  
9 current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this  
10 state for 60 months from the date of conviction or forfeiture unless the court imposes a longer forfeiture period.

11 (7) (a) A person convicted of a third offense of any of the following offenses within 10 years of the first  
12 conviction is subject to the penalties provided in subsection (7)(b):

- 13 (i) hunting during a closed season;  
14 (ii) taking an animal or hunting while using projected artificial light;  
15 (iii) hunting without a license; and  
16 (iv) unlawful taking of more than double the legal bag limit.

17 (b) A person convicted of the offenses in subsection (7)(a) in the time period specified in subsection  
18 (7)(a) shall be fined an amount of not less than \$5,000 or more than \$10,000, be imprisoned in the county jail for  
19 not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all  
20 current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this  
21 state for life.

22 (8) Subject to sentencing restrictions, the court shall order a person who is convicted pursuant to this  
23 section to pay the costs of imprisonment under this section.

24 (9) A mandatory forfeiture of privileges imposed pursuant to this section does not apply to juveniles.  
25 However, the court may, at its discretion, order forfeiture of a juvenile's license and privilege to hunt, fish, or trap  
26 upon conviction or forfeiture of bond or bail for a violation of this title.

27 (10) Notwithstanding the provision of subsection (1), the penalties provided by this section are in addition  
28 to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2.

29 (11) If an administrative authority suspends a license, permit, or privilege to obtain a license or permit  
30 issued under this title, the administrative authority or the department shall notify the person of the suspension and

1 the person shall surrender the license or permit to the department within 10 days.

2 (12) For the purposes of this section, the terms "knowingly", "negligently", and "purposely" have the same  
3 meanings provided in 45-2-101."

4

5 **Section 10.** Section 87-1-271, MCA, is amended to read:

6 **"87-1-271. Annual lottery of hunting licenses -- proceeds dedicated to hunting access  
7 enhancement.** (1) The commission may issue through a lottery one license each year for each of the following:

8 (a) deer;

9 (b) elk;

10 (c) shiras moose;

11 (d) mountain sheep;

12 (e) mountain goat;

13 (f) ~~wild buffalo or bison~~;

14 (g) antelope; and

15 (h) mountain lion.

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

19 (3) The commission shall establish rules regarding:

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

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

22 (c) the price of lottery tickets.

23 (4) All proceeds from a lottery conducted pursuant to this section must be used by the department for  
24 hunting access enhancement programs and law enforcement."

25

26 **Section 11.** Section 87-2-101, MCA, is amended to read:

27 **"87-2-101. Definitions.** As used in 87-1-102, chapter 3, and this chapter, unless the context clearly  
28 indicates otherwise, the following definitions apply:

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

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

3 (b) The term does not include:

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

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

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

7 (3) "Buffalo" means a buffalo or bison that has not been reduced to captivity and is not owned by a  
8 person, as defined in 81-3-201.

9 ~~(3)~~(4) "Closed season" means the time during which game birds, fish, and game and fur-bearing animals  
10 may not be lawfully taken.

11 ~~(4)~~(5) "Commission" means the state fish, wildlife, and parks commission.

12 ~~(5)~~(6) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine,  
13 northern swift fox, and beaver.

14 ~~(6)~~(7) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat,  
15 mountain lion, bear, and ~~wild~~ buffalo.

16 ~~(7)~~(8) "Game fish" means all species of the family salmonidae (chars, trout, salmon, grayling, and  
17 whitefish); all species of the genus stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all  
18 species of the genus esox (northern pike, pickerel, and muskellunge); all species of the genus micropterus (bass);  
19 all species of the genus polyodon (paddlefish); all species of the family acipenseridae (sturgeon); all species of  
20 the genus lota (burbot or ling); the species perca flavescens (yellow perch); all species of the genus pomoxis  
21 (crappie); and the species ictalurus punctatus (channel catfish).

22 ~~(8)~~(9) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person  
23 possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting,  
24 wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife  
25 may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by  
26 any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or  
27 capturing.

28 ~~(9)~~(10) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and swans;  
29 cranes, including little brown and sandhill; rails, including coots; wilson's snipes or jacksnipes; and mourning  
30 doves.

1           ~~(10)~~(11) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean,  
2 or other animal not otherwise legally classified by statute or regulation of this state.

3           ~~(11)~~(12) "Open season" means the time during which game birds, fish, and game and fur-bearing animals  
4 may be lawfully taken.

5           ~~(12)~~(13) "Person" means individuals, associations, partnerships, and corporations.

6           ~~(13)~~(14) "Predatory animals" means coyote, weasel, skunk, and civet cat.

7           ~~(14)~~(15) "Trap" means to take or participate in the taking of any wildlife protected by the laws of the state  
8 by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove  
9 wildlife from any of these devices.

10          ~~(15)~~(16) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie  
11 chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild  
12 turkey, and chukar partridge.

13          ~~(16) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."~~

14

15           **Section 12.** Section 87-2-701, MCA, is amended to read:

16           **"87-2-701. Special licenses.** (1) An applicant who is 12 years of age or older or who will turn 12 years  
17 old before or during the season for which the license is issued and is the holder of a resident wildlife conservation  
18 license or a nonresident wildlife conservation license may apply for a special license that, in the judgment of the  
19 department, is to be issued and shall pay the following fees:

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

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

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

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

24           (e) grizzly bear--resident, \$50; nonresident, \$300;

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

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

27           (2) If a holder of a valid special grizzly bear license who is 12 years of age or older kills a grizzly bear,  
28 the person shall purchase a trophy license for a fee of \$25 within 10 days after the date of the kill. The trophy  
29 license authorizes the holder to possess and transport the trophy.

30           (3) Special licenses must be issued in a manner prescribed by the department."

1

2           **Section 13.** Section 87-2-702, MCA, is amended to read:

3           **"87-2-702. Restrictions on special licenses -- availability of bear and mountain lion licenses. (1)**

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

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

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

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

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

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

22           (6) (a) Licenses for spring bear hunts must be available for purchase at department offices after April  
23 15 of any license year. However, a person who purchases a license for a spring bear hunt after April 15 of any  
24 license year may not use the license until 5 days after the license is issued.

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

28           (7) Licenses for mountain lion hunts must be available for purchase at department offices after August  
29 31 of any license year. However, a person who purchases a license for a mountain lion hunt after August 31 of  
30 any license year may not use the license until 5 days after the license is issued."

1

2 **Section 14.** Section 87-2-730, MCA, is amended to read:

3 **"87-2-730. Special wild buffalo license -- regulation.** (1) The public hunting of ~~wild buffalo or bison~~  
4 ~~that have been designated as a species in need of disease control under 81-2-120~~ is permitted only when  
5 authorized by the department of livestock under the provisions set forth in ~~81-2-120~~ [section 8].

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

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

10 (a) license drawing procedures;

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

12 (c) notification of license recipients as to when and where they may hunt, but notification may not include  
13 information regarding the actual physical location of a ~~wild buffalo or bison~~ other than the prescribed hunting  
14 district where the animal may be taken;

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

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

19 (f) tagging requirements for carcasses, skulls, and hides;

20 (g) possession limits;

21 (h) requirements for transportation and exportation; and

22 (i) requirements and criteria for authorization by the state veterinarian and the department of livestock  
23 of any public hunting."

24

25 **Section 15.** Section 87-2-731, MCA, is amended to read:

26 **"87-2-731. (Temporary) Allocation of wild buffalo licenses to tribes for traditional purposes.** (1)  
27 If the commission authorizes the issuance of 40 or more special ~~wild buffalo~~ licenses in any license year, the  
28 department shall issue special licenses to individuals of each tribe designated in subsection (4) to hunt ~~wild~~  
29 buffalo during the regular season for ~~wild buffalo~~ and as prescribed in department rules and regulations. The  
30 department shall issue two special ~~wild buffalo~~ licenses to individuals designated by the respective tribal diabetic

1 programs of each of the Montana tribes designated in subsection (4), coincident with the sale of any special ~~wild~~  
2 buffalo licenses for public hunting pursuant to 87-2-730 and in accordance with the terms and conditions of this  
3 section.

4 (2) ~~Wild buffalo~~ Buffalo taken pursuant to the special licenses issued under subsection (1) must be  
5 harvested by tribal members in accordance with the traditional ceremonies of each tribe. All parts of ~~wild~~ buffalo  
6 taken pursuant to this section may be possessed and used by each designated tribe in the manner that the tribe  
7 sees fit.

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

11 (4) The following Montana tribes may designate individuals from their tribal diabetic programs to receive  
12 department-issued special licenses, and the individuals are entitled to hunt during the season set aside by the  
13 commission for hunting ~~wild~~ buffalo:

- 14 (a) Assiniboine and Sioux tribes;
- 15 (b) Blackfeet tribe;
- 16 (c) Chippewa Cree tribe;
- 17 (d) Confederated Salish and Kootenai tribes;
- 18 (e) Crow tribe;
- 19 (f) Gros Ventre and Assiniboine tribes;
- 20 (g) Northern Cheyenne tribe; and
- 21 (h) Little Shell band of Chippewa.

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

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

30



1           **Section 16.** Section 87-2-807, MCA, is amended to read:

2           **"87-2-807. Taking migratory game birds for propagation -- avicultural permit.** (1) The department  
3 may issue avicultural permits for taking, capturing, and possessing migratory game birds, as defined in  
4 87-2-101~~(9)~~, for the purpose of propagation. Before issuing an avicultural permit, the department shall determine  
5 that the applicant has been issued the appropriate federal permit or that the applicant will receive the appropriate  
6 federal permit subject to concurrence by the department.

7           (2) An avicultural permit issued under this section must specify:

8           (a) the species of migratory game birds allowed to be taken under the permit;

9           (b) whether eggs or hatched birds, or both, may be taken;

10          (c) the number of eggs or hatched birds, or both, that may be taken;

11          (d) areas in which collection may be made;

12          (e) means by which collection may be made;

13          (f) the time period for which the permit is valid; and

14          (g) any other conditions imposed by the department under rules adopted pursuant to subsection (5).

15          (3) Hatched migratory game birds or their eggs taken under an avicultural permit issued in accordance  
16 with this section remain the property of the state and may be disposed of only with the permission of the  
17 department. Progeny of hatched migratory game birds taken under permit as provided in this section become the  
18 private property of the holder of the permit who propagates the migratory game birds, and the owner may sell or  
19 transfer the birds as private property, subject to any applicable state or federal law or regulation.

20          (4) The department may charge a fee for issuing an avicultural permit, if necessary, not to exceed the  
21 cost of issuing the permit.

22          (5) The department shall adopt rules implementing this section."  
23

24          NEW SECTION. **Section 17. Codification instruction.** (1) [Section 4] is intended to be codified as an  
25 integral part of Title 81, chapter 3, part 2, and the provisions of Title 81, chapter 3, part 2, apply to [section 4].

26          (2) [Section 8] is intended to be codified as an integral part of Title 81, chapter 4, part 6, and the  
27 provisions of Title 81, chapter 4, part 6, apply to [section 8].  
28

29          NEW SECTION. **Section 18. Repealer.** The following sections of the Montana Code Annotated are  
30 repealed:

- 1 81-2-120. Management of wild buffalo or bison for disease control.
- 2 81-2-121. Taking of publicly owned wild buffalo or bison that are present on private property -- notice --
- 3 supplemental feeding -- penalty.
- 4 87-1-216. Wild buffalo or bison as species in need of management -- policy -- department duties.
- 5 - END -