Legal Classifications of Bison

Legal Classification of Bison in Montana

The State of Montana's legal classification of bison changes based on whether they are found on commercial farms or in private conservation herds or whether they are found in the wild. In addition, bison classification depends upon the perceived risk of damage to public or private property or transfer of disease. As situations change, so change classifications in law and the Montana state agency with management authority. The two main classifications given to bison within the state are "domestic livestock" or "game animal," which is also considered wildlife.

Bison that are free roaming and held in the public trust are classified as a game species in Montana. "Game animal means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo" (Mont. Code Ann. §87-2-101(6)). "'Wild buffalo' means buffalo or bison that have not been reduced to captivity" (Mont. Code Ann §87-2-101(16)). FWP is charged with supervising "all the wildlife, fish, game, game and non-game birds, waterfowl, and the game and fur-bearing animals of the state . . ." (Mont. Code Ann §87-1-201). In addition, FWP "shall enforce all the laws of the state regarding the protection, preservation, management, and propagation of fish, game, fur-bearing animals, and game and non-game birds within the state" (Mont. Code Ann §87-1-201(2)).

In 1995 concern over the potential for the spread of disease from wild bison to domestic cattle led to the enactment of a statute that further classified wild bison as a species in need of management under the authority of FWP, and as a species in need of disease management under the authority of the MDOL (see Mont. Code Ann §87-1-216). The statute states specifically that "the legislature finds that significant potential exists for the spread of contagious disease to persons or livestock in Montana and for damage to persons and property by wild buffalo or bison." The statute designates "publicly owned wild buffalo or bison originating from Yellowstone National Park as a species requiring disease control" and "designated other wild buffalo or bison as a species in need of management." Currently all wild bison within Montana originate from Yellowstone National Park; therefore management authority for wild bison is shared between FWP and the MDOL.

The above statute gives FWP responsibility for the management, "including but not limited to public hunting, of wild buffalo or bison in this state that have not been exposed to or infected with a dangerous or contagious disease but may threaten persons or property" (Mont. Code Ann §87-1-216). The section further requires FWP to consult and coordinate with the MDOL in implementing these management programs "to the extent necessary to ensure that wild buffalo or bison remain disease-free" (Mont. Code Ann §87-1-216). It also gives FWP the authority to "adopt rules with regard to wild buffalo or bison that have not been exposed to or infected with a contagious disease but are in need of

management because of potential damage to persons or property" (Mont. Code Ann §87-1-216).

The act was amended in 2011 to require that FWP develop a management plan "before wild buffalo or bison may be released or transplanted onto private or public land" (MCA 87-1-216).

Bison being hazed on private property in West Yellowstone. COURTESY BFC

The management of wild bison for disease control gives the MDOL the authority to take any of the following actions "whenever a publicly owned wild buffalo or bison from a herd that is infected with a dangerous disease enters the state of Montana on public or private land and the disease may spread to persons or livestock or whenever the presence of wild buffalo or bison may jeopardize Montana's compliance with other state-administered or federally administered livestock disease control programs" (Mont. Code Ann § 81-2-120(1)). The department may physically remove the live bison by the "safest and most expeditious means from within the state boundaries, including but not limited to hazing and aversion tactics or capture, transportation, quarantine, or delivery to a department-approved slaughterhouse"; the live bison may be "destroyed by the use of firearms"; the live bison "may be taken through limited public hunts when authorized by the state veterinarian and the department"; or the live bison "may be captured, tested, quarantined, and vaccinated" (Mont. Code Ann §81-2-120 (1)(a)–(1)(d)). If the MDOL implements the capture, test, quarantine, and vaccinate method, it may certify the wild bison as brucellosis free and then sell or transfer the bison to qualified tribal entities in a "manner that does not jeopardize compliance with a state-administered or federally administered livestock disease control program" (Mont. Code Ann §81-2-120(1)(d)(ii)). "The department (Department of Livestock) may adopt rules consistent with this section governing tribal participation in the program or enter into cooperative agreements with tribal organizations for the purpose of carrying out the disease control program" (Mont. Code Ann §81-2-120(1)(d)(ii)).

Domestic livestock may include bison that have been reduced to captivity and are privately owned under the authority of the MDOL under the laws at Title 81.

Additional Montana Statutes that Pertain to Bison

Public hunting is used as a species management tool by FWP to manage the population size of game species. Public hunting is just one of the tools allowed in the management of bison as a species in need of disease control once bison enter the state from

Yellowstone National Park (Mont. Code Ann §87-2-730). While traditionally FWP has been the agency that regulates hunting, a statute was issued in 2003 creating a special wild buffalo license whereby "the public hunting of wild buffalo or bison that have been designated as a species in need of disease control is permitted only when authorized by the department of livestock" (Mont. Code Ann §87-2-730(1)). This statute required that FWP adopt rules in cooperation with the MDOL and the state veterinarian for the implementation of bison hunts. The hunt must be a "fair chase" hunt, which requires that "hunting be conducted on foot and away from public roads and that there be no designation of specific wild buffalo or bison to be hunted" (Mont. Code Ann §87-2-730(3)(d)).

In addition, a special license to hunt wild bison was temporarily authorized to be provided to each of Montana's designated tribes free of charge (Mont. Code Ann §87-2-731(1)). Members of the tribes are allowed to hunt bison in accordance with the traditional ceremonies of each tribe (Mont. Code Ann §87-2-731(2)). The statute expires on July 1, 2015.

Decorated bison hide. PHOTO CREDIT: FWP

A person convicted of illegally "taking, killing, possessing, or transporting" wild buffalo "or any part of these animals shall be fined an amount of not less than $500 or more than $2,000, be imprisoned in the county detention center for not more than six months, or both" (Mont. Code Ann §87-1-102(2)(a)). Additionally that individual "shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture unless the court imposes a longer forfeiture period" (Mont. Code Ann §87-1-102(2)(a)). The penalties increase if the individual is convicted of repeated offenses.

At the same time as the 1995 reclassification of wild bison as a species in need of management and a species in need of disease control, a statute was adopted that allows a private property owner to kill a wild bison that is "suspected of carrying disease and that is present on the landowner's private property and is potentially associating with or otherwise threatening the landowner's livestock" (Mont. Code Ann §81-2-121(1)(a)). The landowner must first notify or attempt to notify the MDOL "in order to allow as much time as reasonable for the department to first take or remove the publicly owned wild buffalo or bison that is on the landowner's property" (Mont. Code Ann §81-2-121). The landowner must also "make a good faith effort to notify the department that a taking has occurred and to retain all parts for disposal by the department" (Mont. Code Ann §81-2-121). The landowner must not "intentionally provide supplemental feed to game animals in a manner

that results in artificial concentration of game animals that may potentially contribute to the transmission of disease" (Mont. Code Ann §81-2-121). If a person is found guilty of providing supplemental feed to game animals as outlined above, they are "guilty of a misdemeanor" and are subject to additional penalties (Mont. Code Ann §81-2-121).

An act was passed in 2011 that granted MDOL the authority to establish a permit and inspection system for the transportation of domestic bison into and out of counties and into and out of the state for the purposes of tracking animal movements and collecting per capita assessments (Mont. Code Ann §81-1-101).