



**BUFFALO**  
FIELD CAMPAIGN

March 20, 2019

## BUFFALO FIELD CAMPAIGN COMMENTS ON HB 132 – DO NOT PASS

Legal definitions matter.

HB 132 does a heck of a lot more than the sponsor indicated in committee testimony: “This bill really does nothing except that it tightens up, a little bit, the definition,” of a wild buffalo.

We don’t buy the proposed justification that it clarifies the definition of a wild buffalo or bison. HB 132’s chief proponent is the Association of Counties, an entity that is on record in opposition to restoring buffalo as a wildlife species in Montana.

What is troublesome are the terms “has not been reduced to captivity” and “has never been owned by a person.”

What if the state or a tribe working with the state, wanted to reintroduce captive buffalo from a wild herd – as a wild population? The Fort Peck buffalo originating from the Yellowstone herds come to mind. As do the buffalo reintroduced under the linnii initiative on the Blackfeet reservation from Elk Island National Park.

Would those buffalo meet the definition “has not been reduced to captivity”? Would they then fall under Title 81 livestock authority? Would Fish, Wildlife & Parks be disenfranchised because they have no authority under Title 87 to work with the tribe?

HB 132 introduces a lot of ambiguity into a legal definition addressed by the Montana Supreme Court in *Citizens for Balanced Use*: a wild buffalo or bison is not owned by a person and has not been reduced to captivity.

A century ago, buffalo once owned by a person were reintroduced onto the Northern range and held in captivity on the Lamar Ranch in Yellowstone, a practice that ended in the 1950s. Yet, the Central interior range buffalo in Yellowstone is the only herd in the United States that has lived in a wild state since prehistoric times.

Would the two buffalo herds meet all three criteria of the new definition? Under the new definition, are they wild buffalo?

*“Protecting the Last Wild Bison”*

By requiring all three conditions to be met, wild buffalo – a species of conservation concern – would no longer be recognized as wild, and the wildlife species would be officially extinct in Montana.

Legal definitions matter. Please vote against HB 132.

Respectfully,



Habitat coordinator  
Buffalo Field Campaign  
PO Box 957  
West Yellowstone MT 59758  
Phone: (406) 531-9284  
Email: [z@wildrockies.org](mailto:z@wildrockies.org)

## Sources

“Bison occupied the region encompassing the park from shortly after recession of the last glaciers 10,000 to 12,000 years ago, until they were nearly extirpated by market and subsistence hunting, and poaching by 1900.” C. Cormack Gates et al., *The Ecology of Bison Movements and Distribution in and beyond Yellowstone National Park, A Critical Review with Implications for Winter Use and Transboundary Population Management*, at vi. (Faculty of Environmental Design, University of Calgary, Calgary, Alberta, April 2005).

“Two genetically distinct and clearly defined subpopulations were identified based on both genotypic diversity and allelic distributions.” Natalie D. Halbert et al., *Genetic Population Substructure in Bison at Yellowstone National Park*, *Journal of Heredity*: 1–11 (Advance Access published Feb. 8, 2012).

*Citizens for Balanced Use v. Montana*, 2013 MT 166 (June 19, 2013) (emphasis added).

¶15 Under the express terms of § 87-1-216, MCA, it applies only when “wild buffalo or bison” are relocated to “public or private land in Montana.” A “wild buffalo or bison” is defined as a bison “that has not been reduced to captivity and is not owned by a person.” Sections 81-1-101(6) and 87-2-101(1), MCA. *The brucellosis quarantine bison involved in this case have been reduced to captivity for a number of years and therefore arguably are not “wild buffalo or bison” as defined in Montana law, rendering § 87-1-216, MCA, inapplicable to this case. The parties did not raise or brief this issue and it was not addressed by the District Court.* Because the District Court based its ruling on an interpretation of the statute’s “public or private land” language and because the parties focused upon that language in their arguments, we will consider it

on appeal. *State v. Andersen-Conway*, 2007 MT 281, ¶ 14, 339 Mont. 439, 171 P.3d 678 (this Court generally does not resolve a case on grounds not raised or supported by the parties); *Pinnow v. Mont. State Fund*, 2007 MT 332, ¶ 15, 340 Mont. 217, 172 P.3d 1273 (same).

S.M. Adams & A.R. Dood, *Background Information on Issues of Concern for Montana: Plains Bison Ecology, Management, and Conservation*, (Montana Fish, Wildlife & Parks, Bozeman, MT, June 2011).

As of 2010, bison are listed by the Montana Natural Heritage Program (MNHP) and FWP as a “species of concern” (MNHP, 2010; FWP, 2010a). Species of concern “are native Montana animals that are considered to be ‘at risk’ due to declining population trends, threats to their habitat, and/or restricted distribution” (MNHP, 2010). FWP and MNHP have given bison an S2 state ranking and a G4 global ranking (MNHP, 2010; FWP, 2010a). An S2 status means the species is “at risk because of very limited and/or potentially declining population numbers, range, and/or habitat, making it vulnerable to global extinction or extirpation in the state” (FWP and MNHP; 2010b). The G4 global ranking means that the species is “apparently secure, though it may be quite rare in parts of its range, and/or suspected to be declining” (FWP and MNHP, 2010b). The Montana Comprehensive Fish and Wildlife Conservation Strategy lists bison as Tier 1, which are species in “greatest conservation need. Montana Fish, Wildlife & Parks has a clear obligation to use its resources to implement conservation actions that provide direct benefit to these species, communities, and focus areas” (FWP, 2005, pp.32).