

Attachments

ENROLLED ACT NO. 11, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2019 GENERAL SESSION

AN ACT relating to wildlife; making legislative findings regarding the need for the game and fish commission to conduct a grizzly bear hunt as specified; authorizing the game and fish commission to hold a grizzly bear hunt or facilitate a relocation as specified; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1.

(a) The legislature finds that:

(i) The grizzly bear population in the greater Yellowstone ecosystem has recovered by all measurable recovery criteria, since at least 2003, with approximately seven hundred (700) grizzly bears currently living in the ecosystem;

(ii) The recovery of the grizzly bear population in the greater Yellowstone ecosystem can be attributed to the efforts of the state of Wyoming, the Wyoming game and fish commission and the citizens of the state;

(iii) The United States secretary of the interior announced in June 2017 that the Yellowstone population of grizzly bears had been recovered and no longer needed federal protections under the Endangered Species Act and that overall management of the population could be returned to the states and tribes;

(iv) In response to the final rule that the United States secretary of the interior and the United States fish and wildlife service promulgated, the Wyoming game and fish commission scheduled a limited grizzly bear hunt for August 2018;

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(v) In September 2018, the United States District Court for the District of Montana issued an order vacating the final rule issued by the United States fish and wildlife service, which effectively restores Endangered Species Act protections to the Yellowstone population of grizzly bears;

(vi) The state of Wyoming continues to bear the costs of grizzly bear management in the state but, because of the district court order, again lacks any authority to make decisions necessary to manage the grizzly bear population in a way that protects the people of the state of Wyoming and that conserves Wyoming's wildlife;

(vii) The district court's order precluded the Wyoming game and fish commission from holding the grizzly bear hunt as scheduled;

(viii) The district court's order impedes the state of Wyoming's ability to protect the safety of its citizens, particularly in light of grizzly bear attacks on workers and other citizens and tourists of the state;

(ix) The tenth amendment to the United States constitution guarantees to the states and their people all powers not granted to the federal government elsewhere in the constitution and reserves to the state and the people of Wyoming certain powers as they were understood at the time that Wyoming was admitted to statehood in 1890. The guaranty of those powers is a matter of contract between the state and people of Wyoming and the several states comprising the United States as of the time the Act of Admission was agreed upon and adopted by Wyoming and the several states in 1889;

(x) In enacting the Endangered Species Act, the United States congress requires the United States secretary of the interior to cooperate to the maximum extent practicable

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with the states in conserving and managing any endangered or threatened species;

(xi) The district court's order hinders the state of Wyoming's ability to work with the United States secretary of the interior to cooperate in the management of the Yellowstone grizzly bear population and thus threatens the safety of Wyoming workers and other citizens and tourists of the state;

(xii) The grizzly bear hunt that the Wyoming game and fish commission had previously scheduled for August 2018 and the grizzly bear hunt authorized in section 2 of this act is necessary and intended to conserve resident wildlife and ensure that:

(A) The Yellowstone grizzly bear population residing in Wyoming continues to recover through effective population management; and

(B) The state of Wyoming can effectively protect its citizens, workers and tourists from dangerous and deadly grizzly bear encounters in the state of Wyoming.

Section 2.

(a) If the game and fish commission determines under the laws of the state of Wyoming that a grizzly bear hunt would be beneficial for managing Wyoming's wildlife and for protecting Wyoming workers and other citizens and tourists of the state, the game and fish commission may conduct a grizzly bear hunt and shall issue licenses as provided in W.S. 23-1-302(p) and in the rules of the commission, which shall provide for the dates, times and locations of the hunts.

(b) Grizzly bears are trapped and relocated in Wyoming and in some cases are euthanized for livestock depredation,

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property damage or endangerment of human life. If the game and fish commission determines under the laws of the state of Wyoming that extraterritorial relocation would be beneficial for managing Wyoming's wildlife and protecting Wyoming workers and other citizens and tourists of the state, the game and fish commission may relocate to the state of California, to states with a grizzly bear population below the threshold for Endangered Species Act protection or to other willing states with suitable habitat all grizzly bears trapped for relocation or that would otherwise be euthanized.

Section 3. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk

50 C.F.R. § 17.40 Special rules—mammals. (Westlaw, current through Feb. 14, 2019)

...

(b) Grizzly bear (*Ursus arctos horribilis*)—

(1) Prohibitions. The following prohibitions apply to the grizzly bear:

(i) Taking.

(A) Except as provided in paragraphs (b)(1)(i)(B) through (F) of this section, no person shall take any grizzly bear in the 48 conterminous states of the United States.

(B) Grizzly bears may be taken in self-defense or in defense of others, but such taking shall be reported by the individual who has taken the bear or his designee within 5 days of occurrence to the Resident Agent in Charge, Office of Law Enforcement, U.S. Fish and Wildlife Service, 2900 4th Avenue North, Suite 301, Billings, MT 59101 (406-247-7355), if occurring in Montana or Wyoming, or the Special Agent in Charge, Office of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 9, Sherwood, OR 97140 (503-521-5300), if occurring in Idaho or Washington, and to appropriate State and Tribal authorities. Grizzly bears taken in self-defense or in defense of others, including the parts of such bears, shall not be possessed, delivered, carried, transported, shipped, exported, received, or sold, except by Federal, State, or Tribal authorities.

(C) Removal of nuisance bears. A grizzly bear constituting a demonstrable but non immediate threat to human safety or committing significant depredations to lawfully present livestock, crops, or beehives may be taken, but only if:

(1) It has not been reasonably possible to eliminate such threat or depredation by live-capturing and releasing unharmed in a remote area the grizzly bear involved; and

(2) The taking is done in a humane manner by authorized Federal, State, or Tribal authorities, and in accordance with current interagency guidelines covering the taking of such nuisance bears; and

(3) The taking is reported within 5 days of occurrence to the appropriate U.S. Fish and Wildlife Service law enforcement office, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(D) Federal, State, or Tribal scientific or research activities. Federal, State, or Tribal authorities may take grizzly bears for scientific or research purposes, but only if such taking does not result in death or permanent injury to the bears involved. Such taking must be reported within 5 days of occurrence to the appropriate U.S. Fish and Wildlife Service law enforcement office, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(E) [Reserved]

(F) National Parks. The regulations of the National Park Service shall govern all taking of grizzly bears in National Parks.

(ii) Unlawfully taken grizzly bears.

(A) Except as provided in paragraphs (b)(1)(ii)(B) and (iv) of this section, no person shall possess, deliver, carry, transport, ship, export, receive, or sell any unlawfully taken grizzly bear. Any unlawful taking of a grizzly bear shall be reported within 5 days of occurrence to the appropriate U.S. Fish and Wildlife Service law enforcement office, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(B) Authorized Federal, State, or Tribal employees, when acting in the course of their official duties, may, for scientific or research purposes, possess, deliver, carry, transport, ship, export, or receive unlawfully taken grizzly bears.

(iii) Import or export. Except as provided in paragraphs (b)(1)(iii) (A) and (B) and (iv) of this section, no person shall import any grizzly bear into the United States.

(A) Federal, State, or Tribal scientific or research activities. Federal, State, or Tribal authorities may import grizzly bears into the United States for scientific or research purposes.

(B) Public zoological institution. Public zoological institutions (see 50 CFR 10.12) may import grizzly bears into the United States.

(iv) Commercial transactions.

(A) Except as provided in paragraph (b)(1)(iv)(B) of this section, no person shall, in the course of commercial activity, deliver, receive, carry, transport, or ship in interstate or foreign commerce any grizzly bear.

(B) A public zoological institution (see 50 CFR 10.12) dealing with other public zoological institutions may sell grizzly bears or offer them for sale in interstate or foreign commerce, and may, in the course of commercial activity, deliver, receive, carry, transport, or ship grizzly bears in interstate or foreign commerce.

(v) Other violations. No person shall attempt to commit, cause to be committed, or solicit another to commit any act prohibited by paragraph (b)(1) of this section.

(2) Definitions. As used in paragraph (b) of this section:

Grizzly bear means any member of the species *Ursus arctos horribilis* of the 48 conterminous States of the United States, including any part, offspring, dead body, part of a dead body, or product of such species.

Grizzly bear accompanied by young means any grizzly bear having offspring, including one or more cubs, yearlings, or 2-year-olds, in its immediate vicinity.

Identified means permanently marked or documented so as to be identifiable by law enforcement officials at a subsequent date.

State, Federal or Tribal authority means an employee of State, Federal, or Indian Tribal government who, as part of his/her official duties, normally handles grizzly bears.

Young grizzly bear means a cub, yearling, or 2-year-old grizzly bear.

