

ROLL CALL VOTE

SENATE COMMITTEE -- FISH AND GAME

DATE: Jan. 22 BILL NO. SB 53 SB 62 TIME: 1:00 p.m.

NAME:	EXCUSED	YES	NO
Senator Ed Smith, Chairman		X	
SENATOR WM. YELLOWTAIL		X	
Senator John Anderson		X	
Senator Judy Jacobson		X	
Senator Elmer Severson		X	
Senator Greg Jergeson		X	
Senator Al Bishop		X	
Senator Esther Bengtson	X		

Mary Florence Root
Secretary

Senator Ed Smith
Chairman

MOTION: _____

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

January 22, 1987

The second meeting of the Senate Fish and Game Committee was called to order at 1:10 P.M. on January 22, 1987 by Chairman Ed Smith in Room 402 of the Capitol Building.

ROLL CALL: All members were present, with the exception of Senator Esther Bengtson, who was excused.

CONSIDERATION OF SENATE BILL 62: Senator Delwyn Gage, Senate District 5, explained the bill will allow a disabled person carrying a permit as required by law and who is permanently physically handicapped in a way that prevents that individual from using a bow and arrow, to use a crossbow during a special archery season. Gage explained that handicapped are allowed to hunt with a crossbow during the regular rifle season, but acknowledged that it is difficult for the handicapped hunter to get close enough to the animals after hunting season has began. The law does not include the handicapped hunter confined to a wheel chair, but has use of both arms.

PROPOSERS: Senator Smith asked for Proponents to SB 62. There were no proponents.

OPPOSERS:

James Flynn, Director of the Fish, Wildlife and Parks Department stands in opposition to SB 62. Flynn provided written testimony to the committee. (Exhibit 1)

Buddy Lundstrum, President of the Montana Bowhunters' Association, Malta, Montana, opposes SB 62. Lundstrum presented written testimony. (Exhibit 2)

Scott Ross, representing the Montana Bowhunters' Association, stands in opposition to SB 62. (Exhibit 3) Ross stated that the association's belief is that there is a great difference between a standard bow and a crossbow. Ross acknowledged that advertisements found in the Federal Firearms License News gives examples of crossbows that have draw weights of six hundred pounds. Another example given was a crossbow equipped with a laser sight. Ross stated concern due to the language of the bill defining who would be considered handicapped and who would make that determination. The Montana Bowhunters' Association specifically excludes the crossbow and believes that a broad definition concerning disabling conditions will encourage abuse of the statutes.

Dick Robertson, Hamilton, Montana, custom bow maker, gave alternatives to hunting with a crossbow. Robertson opposes SB 62. Alternative hunting examples were given by describing what equipment had been custom - made for clients. The first

equipment custom-made for three clients. Biff Williams, Spokane, Washington, uses a leather attached to the string to insert the arrow into the nook and pulls the ball weight while pushing away with the bow. Tim Childers, Ovando, MT, is handicapped due to the loss of both legs, but hunts road closures or hunts on a stand while using a recurve bow. John Rook, Ohio, is blind, but hunts with the use of a spotter, and uses an adapted box sight located on the opposite side of the bow to draw the bow back. Rook lines up the sights with a spotter directly behind and with signals on his shoulder, directs the arrow to the left or to the right. The Montana Bowhunters' Association is not opposed to the handicapped person being included in the special season, but they are opposed to the use of the crossbow by any hunter. The MBA is willing to work with the handicapped archer.

Ken Cahoon, Helena, Montana, a member of Montana Bowhunters' Association, Lewis and Clark Archers, National Rifle Association, expressed opposition to SB 62. Cahoon stated the the crossbow is an inappropriate weapon. Cahoon further stated a handicapped relative's opinion to the proposed legislation was also negative. The reason being is that the crossbow is a weapon that kills by hemorrhaging rather than shock. The recovery of the animal after it is struck by the arrow is difficult.

Bernard J. Widhalm, Valier, Montana, an area representative for the Montana Bowhunters' Association, stated that he has contacted members of the association and has received the opinion that all the members are against Senate Bill 62.

Roger Dundas, Dundas Outfitting, stated opposition to SB 62 because crossbow hunting equipment may enhance illegal poaching activities.

QUESTIONS FROM THE COMMITTEE:

Senator Yellowtail asked Senator Gage for an estimate of the number of people that would be interested or would qualify for the exception. Senator Gage replied that he did not have a figure.

In consideration of fact, the Fish and Game Committee had considered various options to make handicap classification in the past, Senator Jacobson asked what option is being used at present. Director Flynn answered that doctor certifications, veterans' certifications, and SRS certifications are being used. Legislation passed last session gave the department rulemaking authority to recognize the handicapped and the department is using SRS certification, Workers' Compensation, SRS disabilities, and social security disabilities to recognize the handicapped. In addition, the department is using doctor certifications.

FISH AND GAME COMMITTEE

January 22, 1987

Page 3

Senator Gage closed the hearing on SB 62 by acknowledging that the non-handicapped hunter is not always successful during the hunt. The same is true of the handicapped hunter. Gage stated that the handicapped should not be denied the opportunity to share the same thrill of hunting due to being handicapped, Gage stated that the special hunting season would not be ruined in any way because of the numbers of handicapped hunters being able to hunt at that time.

Senator Smith closed the hearing of Senate Bill 62.

CONSIDERATION OF SENATE BILL 53:

Senator William Yellowtail, vice-chairman, took over the hearing due to sponsorship of Senate Bill 53 by Senator Smith. Senator Esther Bengtson was excused.

Senator Ed Smith, Senate District, sponsor of the bill, stated the bill was drafted at the request of the Fish, Wildlife and Parks Department. The proposed legislation would eliminate private property rights in wild fur-bearing animals and would repeal sections 70-2-112 and 70-2-113, MCA. Senator Smith addressed private property taxing of game animals included as part of the tax base in the 1981 legislation. Fur bearing animals had been omitted from said legislation.

PROPOSERS

James Flynn, Director of the Fish, Wildlife and Parks Department, stands in favor of SB 53. (Exhibit 4)

Danna Field, Montana Audobon Legislative Foundation, favors SB 53 because the law would be clarified concerning taking wild animals for commercial farming purposes. (Exhibit 5)

OPPOSERS

Doug McCloskey, fur farmer and trapper, Wisdom, Montana, stated that current law regulate how animals are trapped, seasons, and the number of animals taken. McCloskey would like the law to stay the same as it reads now so animals taken by traps could be used for foundation stock. The prices for foundation stock of bobcats can range as high as \$3,000. A pelted animal's top price is \$300. As a private business owner, McCloskey stated it is economically more beneficial to keep the animals as breeding stock due to the unavailability of foundation stock.

Cory Richwine, Montana Fur Breeders' Association, president, stated fur farmers prefer to take animals out of the wild, within the set quotas. Foundation stock is not readily available, and gave an overview of the fur farming business and out-of-state business prospects. Veterinarians from New Jersey have studied toxoplasmosis in Montana captivity.

QUESTIONS FROM THE COMMITTEE:

Senator Severson asked what is the current regulation concerning taking fur bearing animals. Senator Smith answered that the animals can be taken for the pelt during special seasons. Dick Johnson, Deputy Director, Fish, Wildlife and Parks, confirmed the season and the quotas.

Senator Jergerson whether or not there is other language in the statutes that have application to getting foundation stock from the wild. Senator Smith said the only time the fur bearing animal can be taken is in season. The reason for the original bill was acquisition of stock from a private source to conduct game farm operations. The bill was passed in 1983.

Senator Yellowtail accepted questions from the audience.

Mr. Richwine explained that the Mountain Lion is a big game animal, it is not classified as a fur bearer. Bobcats, Canadian Lynx, Pine Martin and Beaver are fur bearers. The Pine Martin, also known as Canadian American Sable has become very popular, but breeding stock is scarce. Racoons and fox are predator animals.

Mr. McCloskey stated that the taking of fur bearers is accomplished with traps and snares in a manner that is not destructive to the animal. The Fish, Wildlife and Parks Department maintains that trapping of fur bearers should be combined with the game law bill. McCloskey disagrees. It is not necessary to kill an animal in order to trap the animal, and this issue should not be overlooked.

Senator Smith closed the hearing by addressing the fact that the bobcats can be obtained from breeders. Smith concluded that if the fur bearer industry wants legislation to address taking the young from the wild for propagation, the industry should work together with the legislators to write the legislation. The purpose of this bill is to make the law consistent with the bill and to prevent abuses in the taking of the fur bearer.

Senator Yellowtail returned the gavel to Senator Smith. Senator Jergeson questioned the feasibility of have every committee member present in order to vote on executive action. Senator Smith made a motion that the absent member be allowed to vote when they know the voted will be recorded. The members agreed unanimously.

Fish and Game Committee
January 22, 1987
Page 5

EXECUTIVE ACTION Action was not taken on Senate Bill No. 81 because the Statement of Intent had not been discussed by all committee members.

ADJOURNMENT: There being no further business before the Fish and Game Committee, Senator Smith adjourned the meeting at 2:18 P. M.

Ed Smith

SENATOR ED SMITH, Chairman

SENATE FISH AND GAME COMMITTEE

BILL SB53 SB62

VISITORS' REGISTER

DATE JAN 22, 1987

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
Scott Ross	Box 151, Fort Peck, MT 59423 Montana Bowhunters Assn.	62		✓
Van Yaman	3902 Upper Hwy. Helena Montana Archery Assoc.	62		✓
Buddy Lundstrom	Box 1119 Maida MT 59453 MONTANA BOWHUNTERS	62		✓
Bernard W. Wilhelms	Box 985 Helena, MT 59485 Montana Bowhunters Assn.	62		✓
Dick Robertson	Box 1432 Hamilton Montana Bowhunters Assn.	62		✓
Leib Johnson	MT Fish & Wildlife Dept.	62		
John Mill	Box 935 STAR RT. CLARK MT 59034 Lewis & Clark Archery	62		✓
Doug McCluskey	M&F Fur Farm	53		✓
Stewart Fraser	Fraser Fur Farm	53		✓
Cory S. Rishwain	Montana Fur Breeders	53		✓
William A. Pletycki	Montana Fur Breeders	62		✓
Kenneth L. Lakom	L & C Archers 853 E. Green P.O. Box 411 Helena, MT 59604	62		✓
Dana Field	Audobon Legis - Fund P.O. Box 424 Helena 59604	53	✓	
Scott Stiefelmeier	Lundstrom			
W. R. Johnson	"			
P. J. Potts	"			
Esther Stenberg	MWF	BOTH	✓	
Jim Stiprecht	Montana Archery Assoc.	62		✓
Arnold J. Jones	Self	62		✓
P. Dennis Smith	Self	62		✓
R. Douglas	Douglas Outfitters	"		✓
Timmy Dunder	Dunder Outfitters			✓
Bob [unclear]				
Steve [unclear]				

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

SENATE FISH AND GAME

EXHIBIT NO. 1

DATE 1-22-87

BILL NO. SB 62

SB 62
January 22, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

The Department of Fish, Wildlife & Parks is opposed to SB 62 for two primary reasons. First, the establishment of the archery season takes into account that elk at that time of year are more vulnerable than during the regular season. As a result, the bow and arrow is the only weapon available for use by sportsmen during that season. Proposals have been before the legislature in the past regarding the use of cross bows during the archery season, and we have consistently opposed the use of that weapon during the archery season since it goes against the basic premise upon which the archery season is based.

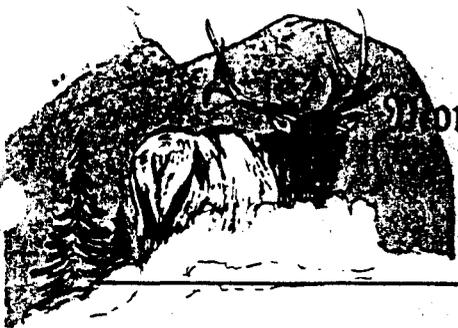
Second, the bill further complicates a complicated issue. The authority for disabled persons to use motor vehicles was a much discussed and difficult bill to write during the last session. The amendment to that section of law which is proposed by SB 62 would make the issue even more complicated.

At this time a person permanently physically handicapped and nonambulatory or whose mobility is substantially impaired can shoot a firearm from the shoulder, berm or borrow pit right-of-way of a public highway and from a motor or self-propelled vehicle. The amendment offered in SB 62 would indicate that a person who is physically handicapped in the same manner, but who is also prevented from using a bow and arrow could use a cross bow to hunt during the archery season.

The intent of this section of law is to make allowances for those individuals who are nonambulatory or whose mobility is substantially impaired. This bill would expand that to individuals who come under the vague definition of physically handicapped in a way that prevents them from using a bow and arrow. We feel it is extremely difficult for us, as an agency, to determine when a person is prevented from using a bow and arrow. The proposed legislation does not contemplate any direction for making such a determination, and we are not comfortable with being required to make such determinations.

We would point out to the committee that the cross bow is now allowed during the regular hunting season and that is the appropriate time for such a weapon to be used.

The department has supported legislation allowing handicapped individuals to shoot from motor vehicles as well as legislation allowing them to shoot from shoulders, berms or the rights-of-way of public highways; however, we feel that the exception provided in this bill is not appropriate. We would urge that this legislation do not pass.

EXHIBIT NO. 2DATE 1-22-87BILL NO. SB 62

Montana Bowhunters Association

Buddy Lundstrom, President

Box 1119

Malta, Montana 59538

Telephone: Shop (406) 654-1041 — 7:00 to 8:00 a.m.

Home (406) 654-2167 — After 8:00 p.m.

SENATE COMMITTEE ON FISH AND GAME

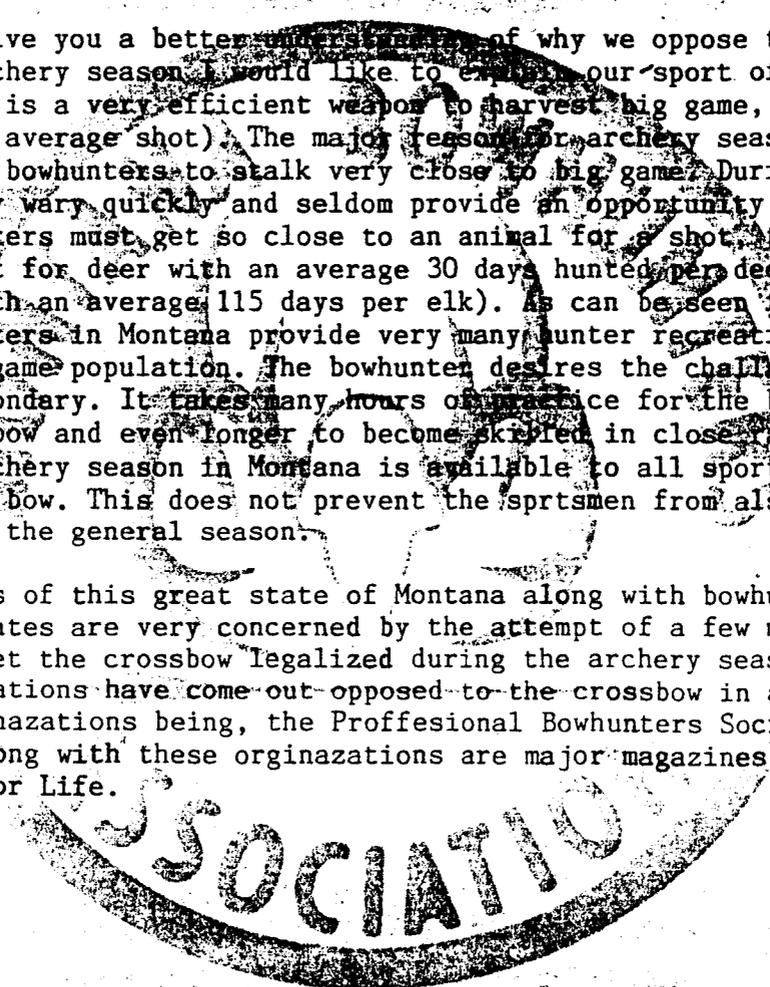
MONTANA BOWHUNTERS OFFICAL OPINION ON SENATE BILL NUMBER 62

We the Montana Bowhunters Association would like to go on the record as opposing Senate bill number 62 which would allow the use of a crossbow by the handicaped during the archery season.

First of all I would like to give you a breif history of our orginzation. We were formed in the early 1970s by a group of concerned bowhunters. We take input from through out the state on any problems connected with bowhunting. We are comprised of Four officers and Twenty-one area represenatives. Our area represenatives are located through out the state so as to represent all the bowhunters from all the different regions in the state.

In order to give you a better understanding of why we oppose the use of a crossbow in the archery season I would like to explain our sport of bowhunting. A conventional bow is a very efficient weapon to harvest big game, but has a short range (25-35 yards average shot). The major reason for archery season is to provide an opportunity for bowhunters to stalk very close to big game. During rifle season animals become very wary quickly and seldom provide an opportunity for a close shot. Because the bowhunters must get so close to an animal for a shot, the harvest success is low (10-12% harvest for deer with an average 30 days hunted per deer and 6-8% harvest for elk with an average 115 days per elk). As can be seen from these figures, the 20,000+ bowhunters in Montana provide very many hunter recreation days with little impact on the big game population. The bowhunter desires the challenge of the hunt with the kill being secondary. It takes many hours of practice for the bowhunter to become proficient with a bow and even longer to become skilled in close range hunting techniques. The archery season in Montana is available to all sportsmen who want to take the challenge of a bow. This does not prevent the sprtsmen from also using a rifle or crossbow during the general season.

The bowhunters of this great state of Montana along with bowhunters from all over the United States are very concerned by the attempt of a few major crossbow manufacturers to get the crossbow legalized during the archery season. Many large bowhunting orginzations have come out opposed to the crossbow in archery seasons. Some of these orginzations being, the Proffesional Bowhunters Society, The Pope and Young Club, along with these orginzations are major magazines like, Bowhunter magazine and Outdoor Life.





Montana Bowhunters Association

Buddy Lundstrom, *President*

Box 1119

Malta, Montana 59538

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Our concerns with the crossbow in the archery season are that with its introduction will come increasing numbers of bowhunters along with high rates of success. With high rates of success will come shorter archery seasons.

Your thoughts on this might be that if the crossbow is limited to the handicapped during archery season that it will have no impact on our success rates. In other states where the crossbow was legalized during archery season the Fish and Game departments estimated that there would only be 30 to 40 people who would take advantage of this, but after the bill was passed they are seeing as many as 800 people applying for this special permit. We here horror stories of people receiving doctors statements of being handicapped for such minor things as shortness of breath. Frankly we are very concerned about the possibility of corruption with a bill such as this.

The sport of bowhunting was never meant to be easy. The reason that many of us hunt with a bow is because we love the challenge. To a bowhunter there is nothing quite like the thrill of stalking within shooting range of a game animal, or the panic of knowing that that animal can here your heart trying to beat out of your chest. The thrill of bowhunting comes from stalking to within shooting range of an animal and then hoping for an opportunity to get that shot that you have practice a thousand times over, if the shot isn't there, well there is always tomorrow.

We feel that a crossbow would take away all that bowhunting is about. With a crossbow you are capable of shooting accurate up to 100 yards and after technology gets done with it it wouldn't surprise me to see ranges of 200 yards.

As an alternative to this bill we would offer to work with any handicapped person that wants to hunt with a bow. There are several people in Montana who are handicapped and currently use a conventional bow. The Montana Bowhunters Association would be willing to put together an informational packet for handicapped bowhunters as to where they could purchase bows that have been altered to allow their use and also include a special session in our Bowhunter Education Program for the use of conventional bows by the handicapped. We by no means wish to restrict the handicapped from our archery season, on the contrary would enjoy the opportunity to help teach them how to use and hunt with a conventional bow. If some of these people are not interested in the challenge of hunting with a conventional bow it is currently legal for them to use a crossbow during the general season.

Thank you for this opportunity to address your committee today!!

Sincerely yours,

Buddy Lundstrom

Buddy Lundstrom
President M.B.A.

SENATE FISH AND GAME

EXHIBIT NO. 2-20912

DATE 1-22-87

BILL NO. SB 62

SENATE FISH AND GAME

EXHIBIT NO. 3
DATE 1-22-87
BILL NO. SB 62



1/22/87

TESTIMONY OF SCOTT ROSS (Glasgow, MT)

In opposition to SB62 on behalf of the Montana Bowhunters Association

The Montana Bowhunters Association is concerned that SB62 somehow suggests that the crossbow and bow and arrow might be defined as similar equipment. They admittedly do share some similarity, but in function and operation are very dissimilar. There has been much written on the differences between the bow and crossbow. A glance at ads will quickly demonstrate that the field of crossbow manufacture is evolving into high technology. Even our concepts of what a crossbow is are becoming outdated.

To fully demonstrate our opposition to SB62, we must consider that bowhunters may be divided into two categories:

1. Those individuals who want to take advantage of the additional days of hunting that are available during the bowhunting season and who are willing (perhaps somewhat reluctantly) to accept the limitations placed on them by using a bow and arrow.
2. Those individuals for whom the challenge of limitations is their personal reason for participating in the sport of bowhunting. The hours of practice they spend readying themselves physically and mentally for the upcoming bowhunting season are equally important as the hunting itself.

Senate Bill 62 may provide adequate opportunities for the disabled hunter who belongs in the first category. Unfortunately, the disabled person using a crossbow will likely not be able to experience the very personal sport enjoyed by the true bowhunting enthusiast (category 2). One cannot simply substitute a crossbow for a bow and arrow and call it the same. It is possible, however, to modify standard bowhunting equipment in a number of ways that will make it possible for a disabled person to still enjoy the sport of true bowhunting.

The Montana Bowhunters Association has specific concerns about the language of SB62. The new language refers to "a disabled person...who is permanently physically handicapped in a way that prevents the person from using a bow and arrow...". How narrowly (or broadly) will the range of circumstances contributing to the satisfaction of that condition be determined? The Montana

(2)

Bowhunters Association is aware of a number of individuals who hunt with bow and arrow in spite of disabilities which would immediately appear to preclude the use of such equipment. This includes at least one individual who has lost an entire arm.

Who will make the determination as to whether a disabled individual fits into this special category? In order to be entitled to hunt from a vehicle, a disabled person must "establish to the satisfaction of the department that he is permanently physically handicapped and nonambulatory...". The new language of SB62 does not specify that a hunter wishing to use a crossbow must establish that he or she meets the requirements of subsection (5) to the satisfaction of anyone (other than the fact that the criteria for receiving a permit as required in subsection (3) must be met).

The MBA believes that a too-broad definition of disabling conditions under subsection (5) will encourage abuse of this statute.

The Montana Bowhunters Association would like to share the bowhunting season with disabled hunters, but we believe there are better alternatives to facilitate this than SB62.

SENATE FISH AND GAME
EXHIBIT NO. 3-page 2
DATE 1-22-87
BILL NO. SB 62

SENATE FISH AND GAME

EXHIBIT NO. 4

DATE 1-22-87

BILL NO. SB 53

SB 53
January 22, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

At the request of the 1981 legislature, the Governor created a committee to review the game farm issues and statutes. Upon recommendation of that committee, the 1983 legislature repealed the existing game and fur farm statutes, 87-4-401 through 87-4-405, and enacted individual laws for game farms, fur farms and game bird farms.

The original law allowed the capture of fur farm foundation stock from the wild. This provision was intentionally omitted in 1983 at the recommendation of the select committee. The committee found that fur farm stock is available from private sources and that allowing the capture of wild foundation stock is inconsistent with the game farm and game bird farm statutes.

While this change has generally been well accepted and understood, at least one county attorney has determined that the wording of Sections 70-2-112 and 70-2-113, defining furbearers as personal property, are sufficiently conflicting to cloud the legislative intent on this subject.

Sections 70-2-112 and 70-2-113 were enacted in 1933, and were not a part of the 1981 interim committee deliberations.

To ensure that the most recent legislative action prevails, SB 53 repeals Sections 70-2-112 and 70-2-113, MCA. Our original draft of the bill had attempted to further clarify the subject by specifically prohibiting the use of captured furbearers in fur farms. This language was inadvertently left off the original draft.

As a result, we would request that the committee amend the bill as proposed on the attached sheet of this testimony.

With these amendments the issue should be quite clear and we would urge your passage of SB 53.

AMENDMENT TO SB 53
INTRODUCED (WHITE) COPY

Requested by Department of Fish, Wildlife and Parks

Page 1

Following: Line 11

Insert: "NEW SECTION. Section 2. Unlawful Capture. No person may capture, take, or otherwise acquire any furbearer from the wild for use on a fur farm.

NEW SECTION. Section 3. Extension of authority. Any existing authority of the department of fish, wildlife and parks to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 4. Codification instruction. Section 2 is intended to be codified as an integral part of title 87, chapter 4, part 10."

Montana
Audubon Legislative Fund

SENATE FISH AND GAME

EXHIBIT NO. 4

DATE 1-22-1987

BILL NO. SB 53

January 22, 1987

Mr. Chairman and Members of the Committee,

My name is Dana Field and I'm here today representing the Montana Audubon Legislative Fund. The Audubon Fund is composed of members of the National Audubon Society, which includes 2500 members in nine chapters located throughout the state.

The Audubon Fund would like to go on record in support of Senate Bill 53, for the following reasons:

It seems to us that repealing these two sections makes the law regarding the taking of wild animals for the purposes of commercial farming much more clear and consistent. Conversely, retaining these sections would prolong the confusion over property rights in wild animals. It is conceivable that not passing this bill might encourage extension of property rights in birds or game animals, a public resource which should not be exploited for such narrow private gain.

Thankyou.

SENATE BILL NO. 53

1
 2 INTRODUCED BY SAITH
 3 BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS
 4 MAKING IT UNLAWFUL TO CAPTURE
A FURBEARER FROM THE WILD;
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING PRIVATE
 6 PROPERTY RIGHTS IN WILD FUR-BEARING ANIMALS AND REPEALING
 7 SECTIONS 70-2-112 AND 70-2-113, MCA." person may capture, take, or otherwise acquire any
 8 furbearer from the wild for use on a fur farm."
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1 Repealer. Sections 70-2-112 and 70-2-113,
 11 MCA, are repealed.

Section 3. Extension of authority.
 Any existing authority of the department of fish, wildlife, and parks to make rules on the subject of the provisions of this act is extended to the provisions of this act.

Section 4. Codification
 instruction. Section 1 is intended to be codified as an integral part of Title 87, chapter 4, part 10 and the provisions of Title 87, chapter 4, part 10 apply to section 1. (fur farms)

87-4-1001. Definition. For purposes of this part, the following definitions apply:

- (1) "Furbearer" means a marten or sable, otter, muskrat, fisher, bobcat, lynx, wolverine, or beaver. The term does not include fox or mink.
- (2) "Fur farm" means the enclosed land area upon which furbearers may be kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers as authorized under this part.

87-4-1008. Furbearers as private property. All furbearers lawfully owned or possessed by a person are the private property of the licensee, and the licensee may sell or transfer such furbearers as private property.

SENATE FISH AND GAME

EXHIBIT NO. 4-A
 DATE 1-22-87
 BILL NO. SB 53

Dana Field

in law



70-2-111

PROPERTY

EXHIBIT NO. 4A page 5 22DATE 1-22-87BILL NO. SB 53

70-2-103 through 70-2-110 reserved.

70-2-111. Wild animals. Animals wild by nature are the subjects of ownership, while living, only when on the land of the person claiming them or when tamed or taken or held in the possession or disabled and immediately pursued.

History: En. Sec. 1072, Civ. C. 1895; re-en. Sec. 4423, Rev. C. 1907; re-en. Sec. 6665, R.C.M. 1921; Cal. Civ. C. Sec. 656; Field Civ. C. Sec. 161; re-en. Sec. 6665, R.C.M. 1935; R.C.M. 1947, 67-203.

Cross-References

Prohibition of possession of wild animals,
50-23-102.

Fish and wildlife — fishing, hunting, and trapping licenses, Title 87, ch. 2.

Fish and wildlife — restrictions and regulations, Title 87, ch. 3.

70-2-112. Property rights in fur-bearing animals. Fur-bearing animals, which of their nature, in the absence of efforts for their domestication, are known as wild, whenever the same shall have been brought into or born in restraint or captivity, whether in or upon reserves, preserves, parks, ranches, or other premises of lands or waters possessed or operated in whole or part for the preservation, culture, breeding, or growing of such animals in a state of whole or partial domestication and wherein or whereon routine attention is given to such preservation, culture, breeding, or growing of such animals, are and shall be, together with their offspring and increase, the subjects of ownership, lien, and all kinds of absolute and other property rights (the same as purely domestic animals) in whatever situation, location, or condition such animals may thereafter come or be and regardless of their remaining in or escaping from such restraint or captivity. However, such escaped animals must bear a registered brand or tattoo, pursuant to 70-2-113, to be subject to private ownership.

History: En. Sec. 1, Ch. 97, L. 1933; re-en. Sec. 6665.1, R.C.M. 1935; R.C.M. 1947, 67-204.

Cross-References

Prohibition of possession of wild animals,
50-23-102.

70-2-113. Fur-bearing animals — recording of brands — fees. (1) An owner or prospective owner of animals described in 70-2-112 is entitled by written subscribed statement to adopt distinctive brands or tattoo marks, not including arabic numerals and not already in known use by others, for any of the animals and to have the distinctive brands and tattoo marks recorded in his name with the department of livestock on paying a recording fee equal to that charged for recording marks or brands used on domestic animals and livestock set by 81-3-107 for each brand and for each tattoo mark. The statements shall be recorded in a suitable book to be kept for that purpose by the department of livestock. The presence of the recorded brand or recorded tattoo marks on an animal is prima facie evidence of the ownership of the animal in the person, association, or corporation in whose name the brand or tattoo mark is recorded, subject always to the right to make a transfer of title, right, or interest in or lien on the animal.

(2) A person desiring to transfer a brand or mark properly recorded by him under this section may do so provided he meets the requirements and pays the fees imposed by Title 81, chapter 3, part 1. Brands or marks

NAME: Doug McChoskey DATE: 1-22-87

ADDRESS: Box 71 wisdom MT 59761

PHONE: 689-3274

REPRESENTING WHOM? MY Fur Farm

APPEARING ON WHICH PROPOSAL: SB 53

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: all we want in the choice of whether
to kill or keep Furbearers for our Fur Farm
we do not wish to take any more animals
than the Quota and Regulations Allow for
Just the Animals that our region has stock -
Breeding stock is not Ready Available in the
Industry, for quite a few of the Furbearers
~~the animals cost~~ we also pay taxes on the
Breeder and on any ^{that} sold @

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Carey E. Rickwine

DATE: Jan 22/87

ADDRESS: 1348 Terrace Lake Road Ronan, Mt. 59860

PHONE: (406) 676-3177

REPRESENTING WHOM? Montana Fur Breeders

APPEARING ON WHICH PROPOSAL: SB 53

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: I am representing a organization who raises
Fur Bearers for a living. It is in there reasoning
that they would like to take furbearers a live rather
than have them pelted. This bill would not allow
them to become personal property and there fore ^{we} ~~they~~ could
not have jurisdiction over the way the animal is used
to its fullest potential. It would be nice to have
the option to take it alive and propogate from the
animal instead of killing it. We would like to have a legal
option to the taking of furbearers alive rather than
dead. Beaver stock is not readily available as the fish
and game says, the price is not to high it is just
that there is no numbers to purchase from licensed
Fur Farms.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Ken Cahoon DATE: 1 - 22

ADDRESS: 8583 Green Meadow Dr

PHONE: 458-5050

REPRESENTING WHOM? Lt C Archibald

APPEARING ON WHICH PROPOSAL: B1 62

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENTS: Opposed because handicapped
have difficulty recovering year

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Roger Dundas DATE: 4/22/87

ADDRESS: Box 1077 Toston MT

PHONE: 406 266 5777

REPRESENTING WHOM? Dundas Outfitting

APPEARING ON WHICH PROPOSAL: SB 62

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: Hunting with crossbows
is now illegal in Montana. Because
of the use of crossbows in poaching
and because the regulation of
such a proposed season would be
very difficult if not impossible to
enforce by MT Fish & Game Officers.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Bernard Wickham DATE: 1-22-87

ADDRESS: Box 985 Valier, MT 59456

PHONE: 279-3494

REPRESENTING WHOM? Montana Bowhunters Assoc.

APPEARING ON WHICH PROPOSAL: SB 62

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: Surveys taken in my area (North Central Montana) show bowhunters in the area in appreciation to Crossbow in the bow season. For the same reasons as stated previously by the witnesses.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Dick Koptev DATE: 1-22-87

ADDRESS: Box 1472 Hamilton

PHONE: 363-2526

REPRESENTING WHOM? Montana Bankers Assoc.

APPEARING ON WHICH PROPOSAL: SPG2

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: I oppose SPG2 due to the
fact it will have no alternatives
to cross ins

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.