

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By VICE-CHAIRMAN AL BISHOP in the absence of
CHAIRMAN KEN MESAROS, on March 7, 1995, at 3:00 p.m.

ROLL CALL

Members Present:

Sen. Al Bishop, Vice Chairman (R)
Sen. Bruce D. Crippen (R)
Sen. William S. Crismore (R)
Sen. John R. Hertel (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Judy H. Jacobson (D)
Sen. Terry Klampe (D)
Sen. Bob Pipinich (D)

Members Excused: Chairman Ken Mesaros

Members Absent: None

Staff Present: Andrea Merrill, Legislative Council
Serena Andrew, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 384, HB 375, HB 464
Executive Action: None

{Tape: 1; Side: A}

HEARING ON HB 384

Opening Statement by Sponsor:

REPRESENTATIVE BOB REAM, HD 69, MISSOULA, said he carried this bill at the request of the Department of Fish, Wildlife & Parks (DFWP). It resulted from a programmatic environmental impact statement (EIS) on black bear management.

REPRESENTATIVE REAM pointed out that the bill dealt specifically with black bears. Other changes on page 1 strike language no

longer effective. On page 3, Section 3 removed black bears from the combination sportsman's license and reduced the price of that license from \$64 to \$54, but left the option open for paying \$64 to include black bear. The reason for the change was that most people buying the sportsman's license were not interested in hunting black bears.

On page 5 it clarified that the meat of grizzly or black bears was part of the harvest and could not be wasted by leaving it in the field.

Proponents' Testimony:

PAT GRAHAM, Director, DFWP, told the committee the bill was strongly supported by his department (**EXHIBIT #1**).

BILL ALLEN, Audubon Legislative Fund, supported the bill because it would allow DFWP to identify bear hunters and furnish educational material to them on black and grizzly bears (**EXHIBIT #2**).

Opponents' Testimony:

None

Questions From Committee Members and Responses:

SENATOR MIKE SPRAGUE, SD #6, BILLINGS, asked why the effective date would be a year in the future. **Mr. Graham** said it coincides with the license year.

VICE CHAIRMAN AL BISHOP, SD #9, BILLINGS, commented that bear meat would have to be hauled out to be tested for trichinosis. He asked if there were any way to test the meat at the kill site. **Mr. Graham** said there is no problem with trichinosis if meat is properly cooked, but it is permissible to dispose of a carcass if it tests positive for trichinosis.

SENATOR TERRY KLAMPE, SD #31, FLORENCE, asked why mountain lions were mentioned on line 29, page 4. **Mr. Graham** responded that a similar EIS process is being carried out for mountain lion and people are being asked if they use mountain lion meat.

Closing by Sponsor:

REPRESENTATIVE REAM stated that he liked the option under the combination license because it would hopefully reduce opportunistic shooting of black bears and illegal trading in wildlife. The image of hunting would also be enhanced if people use bear meat.

HEARING ON HB 375Opening Statement by Sponsor:

REPRESENTATIVE HAL HARPER, HD #52, HELENA, told the committee the two bills he was carrying were requested by the department to counteract serious threats to Montana's fishery resource: whirling disease, other fish diseases and illegal introductions of fish species.

Whirling disease came from Europe and spread to 19 states. Little is known about the disease except that it has two hosts in its life cycle. No one knows exactly how these hosts are transmitted. Since discovery of the disease in the Madison, it has also been found in the Ruby, as well as in a brook trout in Idaho. Montana is deeply concerned about the spread of whirling disease.

HB 375 deals with illegal transportation of live fish away from the body of water where they were caught. Montana is one of only a few states not having this law. In many cases, such as Lake Mary Ronan, illegal introductions are devastating. Under current law, unless a person is actually caught dumping fish into a body of water he can't be convicted.

REPRESENTATIVE HARPER said he thought everyone was aware the Upper Madison has been closed because of whirling disease, but could be reopened at the close of the rainbow spawning season.

Swan Lake is the last spawning site for bull trout. If whirling disease were introduced that fishery could be destroyed. Lake trout have been introduced into Yellowstone Lake, to the detriment of the native cutthroat population.

Walleyes Unlimited has offered a reward for conviction of illegal fish introductions. They were concerned because the bill covered the entire state; it has since been amended to exclude the eastern fishing district because of the vast traveling distances in eastern Montana.

REPRESENTATIVE HARPER said he thought the Governor and DFWP had made it clear they will do everything they can to prevent the spread of whirling disease.

Proponents' Testimony:

PAT GRAHAM supported the bill because the department's main concern was transfer of disease through transportation of live fish (**EXHIBIT #3**).

ART WHITNEY, American Fisheries Society, Helena, supported the bill because of the inherent danger in transporting live fish (**EXHIBIT #4**).

RILEY JOHNSON, Montana Chapter, Walleyes Unlimited, said **REPRESENTATIVE HARPER**, DFWP and Walleyes Unlimited compromised on this bill to include the fillet rules, cleaning stations at Lake Francis, Tiber Dam and Cooney Reservoir, and the exclusion of the eastern Montana fishing district.

Walleyes Unlimited would support anything that would stop whirling disease, but want to be sure that every car leaving a fishing area dragging a live-well type boat will not be stopped and inspected.

BILL HOLDORF, Skyline Sportsmen, supported the bill and amendments. People come to Montana to fish for trout, mostly around the Yellowstone. Business will be lost if whirling disease is not contained. Unfortunately, Canyon Ferry has received walleyes and smallmouth bass.

ROBIN CUNNINGHAM, Fishing Outfitters Association, also supported the bill - it affects his personal income. Rehabilitation costs are difficult; his organization would rather see prevention. He did not like to see Montana's natural resources degraded. He felt the amendments were good.

GEORGE OCHENSKI, Trout Unlimited, said it was "an ounce of prevention" bill and certainly made good sense (**EXHIBIT #5**).

Opponents' Testimony:

FRED EASY, Helena Chapter, Walleyes Unlimited, said he was not happy with the bill because it discriminates against people who do not use live wells illegally (**EXHIBIT #6**).

Questions From Committee Members and Responses:

SENATOR SPRAGUE asked why people take home live fish. **Fred Easy** responded that he fishes evenings and sometimes late into the night. He takes his fish home for cleaning. Trophy fish are also in better condition if taken home in a live well.

SENATOR SPRAGUE asked why the special provision for Eastern Montana. **Mr. Ochenski** said it was a legislative compromise. Trout Unlimited would have gone along with a statewide regulation. They did the best they could to get the bill moving.

SENATOR KLAMPE remembered other introductions like mysis shrimp, and suggested banning the introduction of other species as well as fish. **REPRESENTATIVE HARPER** said the fish problem was imminent and people don't usually take buckets of bugs from one river to another. Boats taken from one river to another could cause a problem. It was a good point, however.

SENATOR CRIPPEN was troubled by the amendment and asked why it was necessary.

MR. JOHNSON said it had always been his organization's contention that if walleye are treated like trout the mucus on the skin will permeate the meat. The new fillet rule requires the skin be left on the meat.

SENATOR CRIPPEN commented that he had purchased walleye in North Dakota and Minnesota where the skin was left on. These fish were obtained from commercial fishermen but they were not processed on the boat so there was a period of time between catching and processing. There was no problem with the meat.

MR. JOHNSON replied that commercially processed walleye and fresh walleye are completely different.

SENATOR CRIPPEN mentioned to Mr. Graham that the Province of Alberta has a law requiring a small portion of the skin be attached to a fillet, and asked if this had been considered in the Montana fillet rule. Mr. Graham said that issue was brought up in the discussion and a one-square-inch patch of skin was suggested.

SENATOR CRIPPEN asked if exceptions to the bill could be made for tournaments.

LARRY PETERMAN, Administrator, Fisheries Division, DFWP, said the commission adopts tournament fishing rules after taking public comment. Some are designated catch and release.

Transporting live fish is a clear intent to carry them to another body of water and not a cleaning station.

{Tape: 1; Side: B}

MR. JOHNSON said Walleyes Unlimited is concerned about people who go out for two or three days and then want to take fish home. He didn't think tournaments were a problem.

The patch rule would help greatly. His organization feels this bill is the best compromise and it was because of the compromise that the bill was supported.

SENATOR WILLIAM CRISMORE, SD #41, LIBBY, asked if it were possible to keep fish alive for three days as long as the boat stays on the lake. Mr. Graham responded that it was.

SENATOR KLAMPE asked how many members were in Walleyes Unlimited. Mr. Johnson replied 1800 in Montana.

SENATOR KLAMPE asked Mr. Ochenski what he had left out of his testimony. Mr. Ochenski told him he had taken home the walleye fillets that were displayed at the House hearing on this bill and fed them to his family. They liked them.

SENATOR BISHOP said he had heard about the Yellowstone Lake fishery that might be destroyed by the introduction of lake trout, and asked how many were likely to have been involved. Mr. Whitney said one person, two fish.

Closing by Sponsor:

REPRESENTATIVE HARPER commented that this bill was different from the one introduced in the last session - it was a compromise. The problem is mostly in the western part of the state.

HEARING ON HB 464

Opening Statement by Sponsor:

REPRESENTATIVE HARPER told the committee HB 464 addresses disease as well as illegal introductions. It deals with fish ponds because almost all have mud bottoms. They are alive with the type of worms that harbor whirling disease. This bill attempts to balance detection of disease with a landowner's right to protect his property. Every effort has been made to make this bill more user friendly. The Governor has expressed his concern about whirling disease.

Pond owners need reassurance their ponds are disease free. The bill provides that they can ask the department to come in and test their fish for disease. Without being asked, the department can enter private property only after every reasonable effort has been made to notify the landowner. If the department finds disease, it will consult with the landowner and determine what can be done.

Lines 19-22 attempt to offer something to the landowner by stating that any landowner who has granted permission to enter is not to be deemed responsible for the presence of disease.

The bill says DFWP may replace fish without charge. It should be understood, however, that some ponds are stocked with special species and it may not be possible to replace them with fish of equal value. REPRESENTATIVE HARPER said he hadn't checked the amendments with the department, but thought the word "may" could be changed to "shall."

Proponents' Testimony:

ART WHITNEY supported the bill, stating that private fish ponds are a potential source of disease and need better regulation (EXHIBIT #7).

PAT GRAHAM also supported the bill because there is a need for change to meet current conditions - DFWP has received approximately 400 new pond applications in the last two years (EXHIBIT #8).

ROBIN CUNNINGHAM agreed with **Mr. Graham's** testimony in support of the bill and thought all pond owners would welcome the opportunity to have their ponds checked.

GEORGE OCHENSKI supported the bill because it is necessary to be able to go onto private ponds to check for disease. He also supported the amendments that say the department must contact the landowner.

JIM RICHARD, Montana Wildlife Federation, supported the bill and said the amendments should minimize the possibility of conflicts.

ALLEN HARRISON said he has a small trout hatchery near Missoula and checks his ponds several times a year for disease. He supported the bill but would like to remove the requirement for fish pond license numbers on the annual report. Many of the people he deals with no longer have their permits handy and can't find their numbers. The numbers won't help stop the spread of disease.

BILL ALLEN, Audubon Legislative Fund, supported the bill.

BILL HOLDORF said Skyline Sportsmen also support the bill.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

SENATOR CRIPPEN commented that some cities require construction of drainage ponds for snowmelt and those ponds are connected with a body of water. He asked if they would be inspected as well. **Mr. Graham** said he didn't think that was the intent of the bill.

SENATOR CRIPPEN said golf courses also have small ponds. He asked if they would be included as they usually have fish and drain into another body of water. **Mr. Graham** responded that he didn't think golf course ponds were specifically named, but they could be included.

SENATOR SPRAGUE asked how an owner was compensated for value when his fish were found to be infected, and wondered if it would cause DFWP a financial problem. **Mr. Graham** commented that current law says if the department has surplus eggs, they "may" be used as replacements for a commercial hatchery. In a private pond situation there wouldn't be the same number of fish. He would not object to replacing diseased fish with clean fish if they were available in the system, but would object to being required to buy them. The department would attempt to replace fish-for-fish. If the bill is changed to "shall," some provision should be made to be sure the disease is not continued.

REPRESENTATIVE HARPER said the problem of exotic species was raised on the House floor by a person who raises a rare form of cutthroat trout. He had asked what he would get in return. REPRESENTATIVE HARPER suggested "fish of equal value," but didn't know how the value would be determined. The easiest way would be to say "replace with whatever is available in the department."

Closing by Sponsor:

REPRESENTATIVE HARPER said the bill as originally introduced carried a two-year moratorium on fish pond licenses because of the large number of recent requests. That moratorium was deleted. The gentleman's request for no more paperwork was logical as long as the department knew who was raising fish. He didn't know how to solve the "may/shall" problem. If "may replace with fish available in the system" is adopted, at least the landowner would get something.

He hoped these bills would help maintain Montana's quality fishery.

INFORMATION: EXECUTIVE ACTION HB 62

ACTING CHAIRMAN BISHOP announced that SENATOR SPRAGUE VOTED AYE AND SENATOR PIPINICH VOTED NO ON THE MOTION TO CONCUR WITH HB 62, AND THE MOTION CARRIED.

INFORMATION: EXECUTIVE ACTION HB 312

ACTING CHAIRMAN BISHOP announced that SENATOR SPRAGUE VOTED NO AND SENATOR PIPINICH VOTED NO ON THE MOTION TO CONCUR WITH HB 312, AND THE MOTION FAILED.

SENATOR MILLER MOVED TO REVERSE THE VOTE AND HB 312 WAS TABLED.

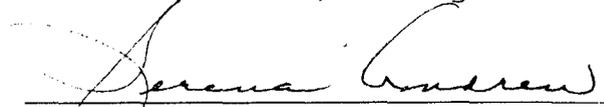
ADJOURNMENT

Adjournment: The meeting adjourned at 5:00 p.m.

{This meeting is recorded on both sides of one 60-minute tape.}



AL BISHOP, Acting Chairman



SERENA ANDREW, Secretary

AB/sa

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 8, 1995

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration HB 62 (third reading copy -- blue), respectfully report that HB '62 be concurred in.

Signed:



Senator Ken Mesaros, Chair



Amd. Coord.
Sec. of Senate

SEN. MESAROS
Senator Carrying Bill

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EMERST NO. 1
DATE 3/07/95
BILL NO. 21B 384

THB384.SP

House Bill No. 384
March 7, 1995
Testimony presented by Pat Graham
Montana Fish, Wildlife & Parks
before the Senate Fish and Game Committee

In many states, black bear hunting has come under increased scrutiny. Limiting bear hunting was done in two states through the public ballot initiative process in the past two years. In Montana, we wanted to provide a sound fundamental basis for our black bear management. This was done by preparing a programmatic EIS. As a result, Montana's black bear management program was revised in 1994 by the Montana Fish, Wildlife & Parks Commission. The Department received input on the draft EIS from 115 individuals or groups. This legislation is proposed by the Department to implement three of the elements of the revised program that require legislative action:

Sections One and Two of this bill simply clean up current law.

Section Three proposes to limit possession of black bear licenses to individuals who are interested in hunting black bear by creating an additional resident combination sports license which does not include a black bear license. This change was made to the nonresident combination license in 1992.

Currently all resident "sportsman license" holders receive a black bear license, although a substantial number of them do not go bear hunting. In 1993, a total of 17,629 resident sportsman licenses were sold. Only 2,624 of these license holders hunted in the spring black bear season, and only 2,564 hunted in the fall. Providing an optional license at a lower cost without the black bear license will allow those who do not wish to hunt black bear the convenience of a sportsman's license without being forced to buy a bear license. It will also result in improved accuracy of black bear harvest information. The change also addresses another concern. Currently some people who possess a sportsman's license may decide to fill the tag only if the opportunity presents itself. Without adequate preparation, mistaken identity of grizzly bears or sows with cubs is more likely to occur. The bear license was removed from the nonresident combination licenses in 1992. Unfortunately, doing so for residents is expected to result in a \$140,000 reduction in general license revenue to the Department at a time when expenditures on bear management are increasing. However, we believe the benefits of this proposal to the management program and Montana hunters outweighs the revenue loss to the Department.

Section Four amends the waste of fish and game statute. It is intended to discourage the waste of useable black bear meat; discourage the killing of black bears solely for the purpose of

obtaining trophy body parts; and minimize illegal trafficking in bear body parts by requiring the meat to be utilized, unless found to be infected with trichinosis.

A change requiring mandatory use of meat was supported by a majority of the public for several reasons: the need to improve public perception of bear hunting, discourage opportunistic harvest and opposition to the waste of game meat.

Use of black bear meat is currently practiced by 74 percent of resident and 57 percent of nonresident black bear hunters. Mandatory use of bear meat would not be required if the meat was found to be infected with *Trichinella*. The Department will continue to provide a testing service for hunters to test bear meat for trichinella to reduce the risk of exposure to trichinosis from improperly prepared bear meat.

The change will also discourage the abandonment, disposal of, or handling of bear hides, heads or other body parts in a manner that renders them unusable as required by FWP Commission regulation for determining sex, age, or reproductive status.

Montana Audubon Legislative Fund
P.O. Box 595 • Helena, MT 59624 • 443-3949

Testimony on HB 384
Senate Fish & Game Committee
March 7, 1995

Mr. Chairman and Members of the Committee,

My name is Bill Allen and I am here today on behalf of the Montana Audubon Legislative Fund and I urge your support for House Bill 384.

Currently, combination licenses in Montana include black bears. This bill would not automatically include black bears in future licenses unless the applicant specifies that they want to hunt black bears.

We support this bill because it allows the Department of Fish, Wildlife, and Parks to identify who the black bear hunters are. This is important because the Department can then focus its "bear hunter" education efforts on these hunters.

Our hope is that these educated hunters will be better able to differentiate black bears from grizzly bears which are presently classified as threatened on the Endangered Species list.

We also support this bill because it would require that bear meat be utilized. Audubon's concern has to do with the taking of particular bear parts which are valuable on the black market (Asian markets) while leaving the rest of the carcass.

Thank You

House Bill No. 375
March 6, 1995
Testimony presented by Pat Graham
Montana Fish, Wildlife & Parks
before the Senate Fish and Game Committee

The illegal movement of live fish from one water body to another can pose a serious threat to the well being of Montana's fishery resources and the state's recreational fishing opportunities. This problem is widespread and growing throughout parts of the state. The impacts are often irreversible and can affect the productivity of the state's water and their recreational use. The concern is heightened with the recent discovery of whirling disease in Montana. The problem is more acute now that anglers have become increasingly mobile and they have acquired equipment capable of easily transporting live fish longer distances.

New fish species introduced into a water often multiply quickly with serious negative impacts on existing fish populations due to predation and/or competition. Introduced species seldom provide good fisheries and in most cases permanently damage existing fisheries with loss of fishing opportunity for future generations. Native species may disappear or be reduced in number.

An immediate concern with the transport of live fish is the potential for transfer of disease. The introduction of a new disease to a body of water can have dramatic results as we have seen with whirling disease in the Madison River. In that case, the rainbow population declined by more than 90 percent. Imagine the consequences of spreading that disease to other waters.

It is imperative to slow or halt the spread of this disease. Prohibiting the transport of live fish is one necessary step of several required to accomplish this.

Five years ago we documented the existence of 160 illegal introductions of fish in waters in Montana. Since then we have documented nearly 50 more illegal introductions.

Montana Fish, Wildlife & Parks (FWP) has spent thousands of dollars in attempting to rehabilitate fisheries. In some instances, introduced species can be chemically treated and removed, but this is often quite costly and results are mixed. It is difficult to achieve complete eradication and the nuisance species often continue to be illegally introduced.

In northwest Montana, Lion Lake was rehabilitated for \$12,000 and Rogers Lake was rehabilitated for \$25,000. Fishing in Lion Lake has gone from near nothing to dozens of anglers per day. But it costs money that could have been spent on improving, not reclaiming, fisheries. Clark Reservoir and South Fork Reservoir in eastern Montana were rehabilitated at a cost of over \$4,000 and fishing is good again. But at \$13 per angler, it takes the equivalent of revenues from 150 fishing licenses to treat a prairie pond. Lake Mary Ronan would require the equivalent of more than 23,000 fishing licenses.

FWP and federal fish managers created many fishing opportunities but also made some mistakes with fish introductions in the past. FWP, prior to introducing a new species to a body of water, now undertakes a rigorous environmental analysis. Even then, there is some level of risk with any new introduction. It is little wonder that illegal introductions by people who think they have a better idea often end up doing far more harm than good.

This legislation is necessary to improve the effectiveness of existing laws that are intended to prevent illegal fish introductions. Under existing statutes, it is illegal to release live fish into a body of water, but the person must be caught in the act. Past experience has shown it is virtually impossible to enforce such a law and if one could obtain a conviction, the illegal introduction would have already occurred and the damage would have been done. Under the proposed legislation, our enforcement would be strengthened and the intentional introduction more effectively detected and controlled. This legislation is similar to that already in existence in Utah, Idaho, Alaska, Wyoming, Oregon and British Columbia.

A bill similar to this, was introduced in the 1993 legislature. At that time, a major concern expressed by anglers was FWP Commission rules prohibited filleting fish before transport to a permanent residence. The Commission has since modified that rule. The regulations now allow anglers to fillet fish in the field and thus eliminate the need to transport live fish to their residence.

This legislation will not affect those persons with valid permits to transport or possess live fish, such as private pond operators, commercial fish hatcheries, persons issued scientific collectors permits, or persons holding valid import permits.

As initially introduced, this bill was intended to apply to all waters, statewide. During hearings before the House Fish and Game Committee, we became aware of concerns by primarily warmwater anglers in eastern Montana, who feel passage of this bill would restrict their fishing activities. To address the concerns of these anglers, the bill has been modified to apply only to the Western and Central Fishing Districts of Montana. In addition, we agreed to consider constructing fish cleaning stations at Lake Francis, Cooney and Tiber, and to review issues raised by Walleyes Unlimited with regard to the current fish fillet regulations during the biennial fishing regulation setting process which is in progress.

FWP will continue aggressive educational programs to point out the serious consequences of illegal introductions, whether deliberate or unintentional. We have been joined in this effort by groups like Walleyes Unlimited, Trout Unlimited and BASS.

We urge your support of this bill.

EXHIBIT 3
DATE 3-7-95
? | HB 375

Examples of statewide illegal introductions of fish in Montana waters over the past five years

Rogers Lake in northwestern Montana was once populated with Arctic grayling. It was a source of excellent fishing and a source of grayling eggs for the fish stocking program. Illegal introduction of perch resulted in the complete loss of the grayling fishery in just four years. After the lake became populated with stunted 4" perch, it was treated with chemicals and restocked with grayling.

Northern pike were first illegally planted in western Montana in 1953 and have since spread to 61 waters in every drainage west of the divide. Although some waters have produced good northern pike fishing, the introduced fish have also been implicated in the loss of bass, trout and yellow perch when placed in the wrong waters.

Walleye, which are regarded as the premier sport fish by many anglers, have been illegally released into Canyon Ferry, the Bitterroot River, Salmon Lake in the Clearwater River drainage, Noxon Reservoir and the Flathead River. The future of sport fishing in these waters could be greatly impacted, depending on whether or not walleye are able to establish reproducing populations.

Lake trout were discovered this past summer in Yellowstone Lake, the last stronghold for the Yellowstone cutthroat trout. Superintendent of Yellowstone Park, Bob Barbee stated "The presence of this fish in Yellowstone Lake may not seem significant to some people, but we appear to be on the verge of an ecological disaster. The potential consequences of this thoughtless act are enormous." If lake trout were to be introduced to Swan Lake in northwest Montana, it would threaten one of the last bull trout fisheries in Montana and move that species closer to listing.

HB 375

Testimony on behalf of the
Montana Chapter of the American Fisheries Society
before the
Senate Fish and Game Committee

March 7, 1995

Mr. Chairman and members of the committee, my name is Art Whitney and I am here on behalf of the Montana Chapter of the American Fisheries Society. The American Fisheries Society is an international organization of fisheries and aquatic professionals that promote the wise use and management of fisheries and aquatic habitat. AFS is the oldest professional conservation society in North America and the Montana Chapter has about 160 active members.

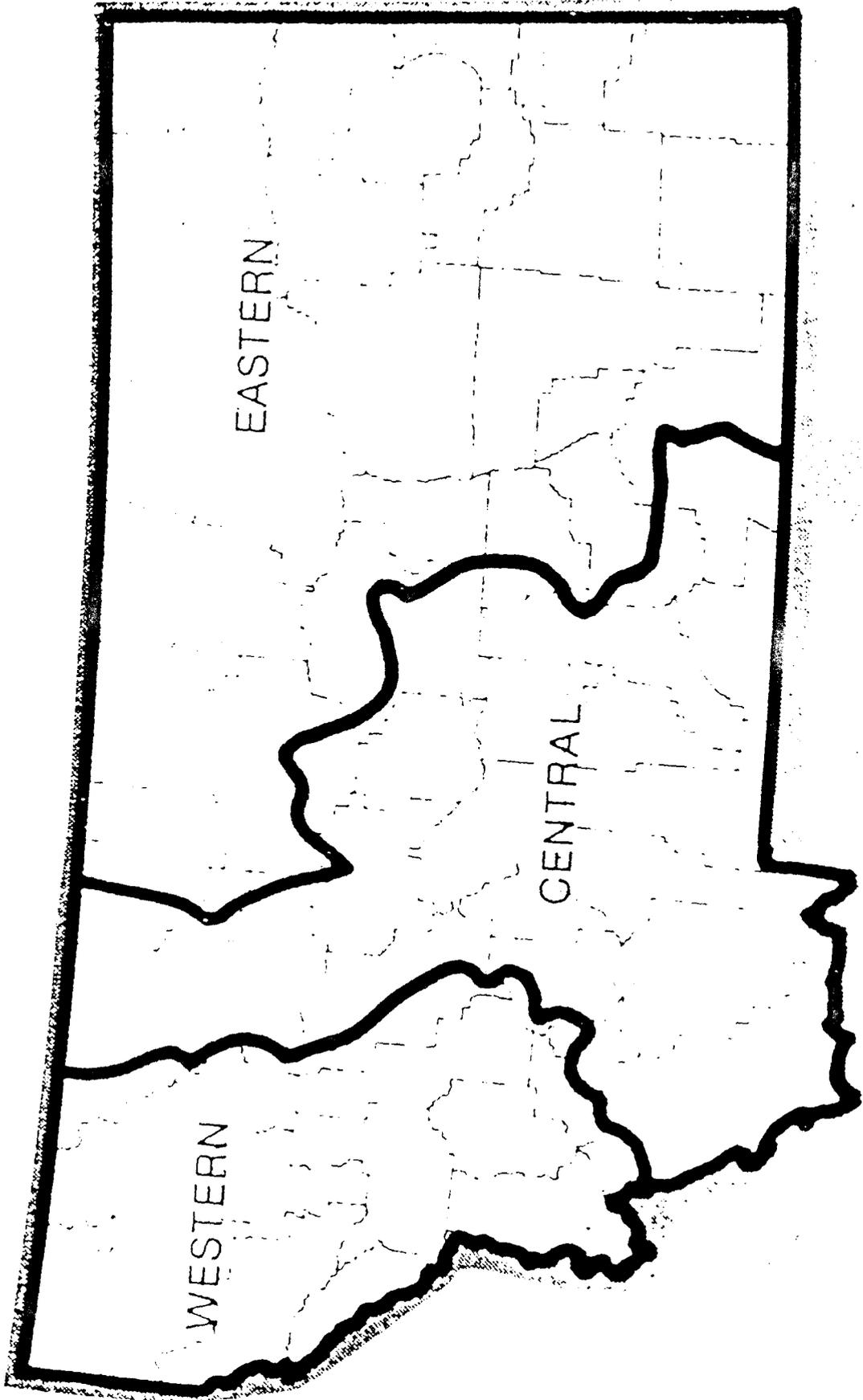
This bill amends present law by prohibiting the possession and transportation of certain live fish away from the body of water in which the fish were taken. This legislation provides an additional tool in the fight against what is known as "bucket biology". Bucket biology, or the illegal introduction of fish, has now been documented in over 160 bodies of water in Montana.

Illegal fish introductions can cause ecological disasters that can result in increased license fees and lost fishing opportunities. One only has to look at the carp to understand what damaging impacts exotic fish introductions can have on aquatic ecosystems. Another concern is the potential damaging effects of diseases that can be introduced to state waters through the illegal transport of live fish. House Bill 375 will make it more difficult for misguided persons to undertake the illegal practice of bucket biology and will improve Montana's ability to adequately enforce against this harmful practice.

As amended by the House, HB 375 excludes the Eastern Fishing District (as defined in 1994-95 fishing regulations) from the provisions of the bill. The Eastern District comprises one half of the area of the state (see attached map). Although we would prefer the entire state be included to protect the fisheries resource, this amended bill goes a long way toward protecting the waters of the western half of the state from illegal fish introductions.

The Montana Chapter supports the amended HB 375 and requests this committee to also support the bill in its present form.

Thank you.



WESTERN

CENTRAL

EASTERN



Montana Council

P.O. Box 7186 Missoula, MT 59807

SENATE FISH AND GAME

EXHIBIT NO. 5

DATE 3/07/95

BILL NO. SB 375

(406) 543-0054

WHY PASSING HB 375, WHICH PROHIBITS THE TRANSFER OF LIVE GAME FISH, MAKES GOOD BUSINESS SENSE FOR MONTANA

PREVENTING ILLEGAL FISH STOCKINGS IS FAR MORE COST-EFFECTIVE THAN DEALING WITH THEIR HARMFUL IMPACTS AFTER THE FACT. BANNING THE TRANSPORT OF LIVE GAME FISH IS A VALUABLE PREVENTION TOOL FOR PROTECTING FISHERIES.

* Anglers, many who chase wild trout, contribute an estimated \$250 million annually to Montana's economy.

* Illegal fish introductions, which can't occur without the transport of live fish, are hurting Montana businesses. For example:

- Whirling disease, recently discovered in the wild trout population of the Madison River, seriously threatens that fishery, which is estimated to be worth \$33 million annually to Montana's economy. DFWP strongly suspects the disease was introduced through illegal stocking.

- An illegal introduction of walleyes into Canyon Ferry Lake could ruin the lake's popular rainbow trout fishery, as well as the Missouri River's nationally acclaimed wild-trout populations, which are critical to tourism economies in Helena, Craig and Wolf Creek.

- Last year's discovery of exotic lake trout in Yellowstone Lake, the result of an illegal stocking, could devastate the lake's native Yellowstone cutthroat trout fishery. This cutthroat fishery attracts hundreds of thousands of anglers a year. Because the lake is the nation's last stronghold for native Yellowstone cutthroats, it is an important element of Montana's plans for ensuring these disappearing fish don't end up on the endangered species list.

- Illegally stocked walleyes, bass and pike have been found in Canyon Ferry, the lower Clark Fork River and the Bitterroot River, threatening trout fisheries valued in the millions.

* Though it is illegal for anglers to transplant fish in Montana, it is not illegal to transport them. Therefore, wardens can stop illegal stocking only when they actually see someone dumping fish in a lake or stream. By outlawing the transport of live fish, wardens and concerned anglers can help prevent costly illegal introductions. HB 375 will encourage wardens and responsible anglers to watch marinas and popular fishing areas for people who take live fish from the water, transport them in a vehicle, and then stock them somewhere else. Citizens can report observations of live fish transfers using the TIP-MONT program.

* Anglers do not need to transport live fish. The time-honored tradition of cleaning fish in the field and putting them on ice for the trip home serves anglers well.

HB 375 will not harm private property rights or cost the state money. In fact, it will save Montana money by protecting economically important fisheries. Support HB 375!

March 7, 1995

TESTIMONY ON HB 375

For the record I am Fred Easy and I live at 1735 Jerome Place, Helena MT. I am presenting testimony on behalf of the President and the Helena Chapter of Walleyes Unlimited. We are convinced that passage of HB 375 would be a grave error.

Thousands of Montana fishermen and women have live wells in their boats and do not use them illegally. This bill will unnecessarily penalize boat owners and fishermen for the sins of the few, unethical persons who have illegally transplanted fish. As responsible sportsmen and women we have tried to do the right thing and we condemn "bucket biology." I don't transplant fish and neither do tens of thousands of people like me.

Certainly illegal transplants are a problem. On the other hand I'm also sure that thousands of times live fish have been transported to homes in buckets for cleaning and processing by responsible sportsmen and women like me.

The rationale of this bill is that there is a presumption of guilt everytime one of our members pull their boat out of the lake with live fish in it. They are presumed guilty of an intent to transplant fish. The fact is we take fish home in live wells to clean them due to bad weather conditions,, late night conditions, swarms of biting bugs, and the absence of fish cleaning facilities at the lake! Furthermore, cleaning and processing fish at home allows them to be more properly preserved for consumption.

HB 375 will make many of our responsible sportsmen and women criminals. It is not necessary for the legislature to penalize us for the irresponsible actions of an unethical few. We don't need the government to ban all transportation of live fish simply because there is a fear that someone will violate the law prohibiting the transplanting of fish.

The height of unfairness is to criticize me or thousands of sportsmen and women like me because a few bad apples break fish and game laws. This bill is bad law. The Senate had the good sense to kill this bill in our last legislature. I don't want the government declaring something else illegal! I urge you to vote "No" on this bill.

HB 464

Testimony on behalf of the
Montana Chapter of the American Fisheries Society
before the
Senate Fish and Game Committee

March 7, 1995

Mr. Chairman and members of the committee, my name is Art Whitney and I am here on behalf of the Montana Chapter of the American Fisheries Society. The American Fisheries Society is an international organization of fisheries and aquatic professionals that promotes the wise use and management of fisheries and aquatic habitat. AFS is the oldest professional conservation society in the North America and the Montana Chapter has about 160 active members.

The Montana Chapter has several concerns regarding the permitting of private fish ponds in Montana. Private fish ponds are potential sources for movement of disease and non-native fish into the waters of the state. The number of persons applying for private fish pond permits is rapidly increasing. We need to better regulate these private ponds to reduce the likelihood of non-native exotic fish competing with and hybridizing with native fish species as well as to reduce the potential for transmission of disease to wild and native fish communities.

In our testimony to the House committee in favor of this bill we outlined five steps we believed should be taken to achieve this goal:

1. All private ponds must have a valid license before fish can be stocked. An application fee should be required to cover the costs incurred by Montana Fish, Wildlife and Parks to process the application;
2. Private fish pond licenses must be limited to a time period of five to ten years, after which the license would have to be renewed. A license renewal fee should be assessed, but would be less than the initial application fee;
3. FWP should retain the right to restrict ponds to appropriate species of fish and should have the right to deny a license, based on the location of the pond, to protect native aquatic communities. FWP should work with private commercial fish hatcheries within the state to ensure that native species appropriate for each major drainage are available for private use. No pond licenses should be issued in any watershed where native species are at risk unless the appropriate native species is commercially available.
4. All fish pond licenses should contain a provision allowing FWP to inspect and sample ponds to test for disease and to ensure that they contain only the species permitted. Prior notification of pond owners should be required prior to these inspections.
5. Commercial fish hatcheries that supply fish to private ponds must bear the burden of ensuring that the fish they distribute go only into permitted ponds. Commercial hatcheries should be required to sell fish only to persons showing proof of a valid pond permit from FWP and to keep accurate accounts of the transaction, including numbers of fish sold and their destination.

Because of the rapid increase in the number of private fish pond licenses being applied for, it is urgent that more controls be placed upon the permitting of these ponds to halt the improper introduction of non-native species and the potential spread of disease.

Although all the provisions we have outlined have not been included in HB 464, one important provision has, that being the ability to inspect fish ponds for illegal or diseased fish. This is an important step forward.

The Montana Chapter urges your support of HB 464 as amended by the House.

Thank you.

EXHIBIT NO. 8
DATE 3/07/95
BILL NO. HB 464

THB464.SP

House Bill No. 464
March 7, 1995
Testimony presented by Pat Graham
Montana Fish, Wildlife & Parks
before the Senate Fish and Game Committee

Montana law prohibits stocking fish into any water of the state unless permitted by my Department. One commonly issued permit is for private fish ponds. A primary purpose of this law has been to prevent private parties from capturing and using public waters for personal use and to protect public fisheries against the introduction of exotic fish and/or diseases.

At the time this law was enacted there were relatively few private ponds and even fewer sources for fish. While the law initially met its purpose, there is a need for changes to meet current conditions. The demand for and construction of private ponds has increased significantly during the past decade. This increase has followed the proliferation of subdivisions and ranchettes across much of Montana. During the past two years alone FWP has processed approximately 400 new pond permit applications. This is compared to between 25 to 40 annually in previous years.

While the law has served to prevent private parties from capturing public waterways, there remains the possibility of private ponds eventually containing undesirable fish species or diseased fish. The vast majority of pond owners willingly work with FWP to assure their ponds are properly permitted and stocked. Occasionally persons have developed and stocked their ponds without knowledge of the law or in disregard for the law. We believe these cases are relatively few, but it is important for the Department to have the authority to correct such problems where they exist.

The recent discovery of whirling disease in Montana underscores the importance of maintaining a high standard for public and private hatchery production and the waters stocked with fish. We are in the process of testing all private hatcheries in Montana for whirling disease. Should whirling disease appear in other areas or in private hatcheries, now or in the future, it is imperative to have the ability to inspect bodies of water on private land that we suspect may be stocked with diseased fish. These fish may well have been imported into the state. Although no hatchery in Montana is known to have whirling disease, it does occur in hatcheries in Colorado, Idaho and Utah. The need for inspection is not done to be punitive, but rather to identify, contain and control the spread of disease and protect Montana's fishery resources.

HB 464 gives the Department the ability to inspect private fish ponds when there is a concern with disease or an undesirable species and act to remove the threat. We are more than willing to

work with pond owners to minimize disruption and costs to them. I believe it is in the best interest of the state to replenish ponds found to have diseased fish once the disease has been cleared up. We believe this is necessary to maintain the health of our lakes and rivers and urge your support of HB 464.

DATE 3/07/95

SENATE COMMITTEE ON Fish & Game

BILLS BEING HEARD TODAY: _____

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
<i>Art Whitmer</i>	<i>Mo Chapter Am. Fishers Soc</i>	<i>HB-375 HB-474</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Pat Graham</i>	<i>FWP</i>	<i>384, 375, 464</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>ROBIN CUNNINGHAM</i>	<i>FISHING OUTFITTERS ASS'N. OF MONTANA</i>	<i>HB 375 464</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>BILL HOLDORF</i>	<i>SKYLINE SPORTSMEN</i>	<i>375-364 384</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Alan Harriman</i>	<i>Private Trout Industry</i>	<i>364</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Bill Allen</i>	<i>MT. Audubon</i>	<i>364 375 384</i>	<input type="checkbox"/>	<input type="checkbox"/>
<i>GEORGE OCHENSKI</i>	<i>TROUT UNLIMITED</i>	<i>375 464</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Jim Richard</i>	<i>MT Wheelib Fed</i>	<i>375 464</i>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Tony Schooner</i>	<i>Skyline & Arcade Sport</i>	<i># 375 464</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

VISITOR REGISTER

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