

MINUTES

FISH AND GAME COMMITTEE

MONTANA STATE SENATE

January 17, 1977

The fourth meeting of the Fish and Game Committee was called to order by Chairman Frank Dunkle at 8:00 A.M., in Room 405 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SB 52: An act to prohibit the carrying or use of air rifles by minors under the age of 14 years except when accompanied by a parent or guardian or supervised by a firearms safety instructor.

Senator Lloyd Lockrem, chief sponsor of the bill, spoke, saying that the concept of the bill was presented by an eye surgeon who had removed the eye of a 15-year-old due to damage from an air rifle.

Mr. Jack Williams, representing the Chiefs of Police Association of Helena, spoke in support of the bill. He mentioned that vandalism from air rifles is increasing every year.

Senator Warden spoke of the use of air rifles to abuse animals.

Senator Lowe made a motion that on line 13 of the bill, after "air rifles," "air pistols" should be added. The motion was seconded by Senator Lensink.

Senator Lensink made a motion that SB 52 pass in accordance with the proposed amendment. A roll call vote was taken; Senators Warden, Galt, Manley and Bergren voted against the motion. At 8:20 A.M., the bill was voted DO NOT PASS.

A discussion was held concerning the proposed legislation of the Fish and Game Department. (Attachment #1)

Mr. James Posewitz of the Fish and Game Department discussed the proposed legislation to amend the Water Use Act. After polling the committee members, it was decided that none wished to sponsor this bill either as individuals or as a committee. Chairman Dunkle stated that the bill would be returned to the Fish and Game Department. (Item #1)

Mr. Orville Lewis of the Fish and Game Department, discussed Item #2 of the proposed legislation. This is a


proposal to require taxidermists to keep records of wildlife for a period of five years. It would also amend the current law by requiring taxidermists to keep records of all wildlife in their possession (rather than just game animals), and give the courts discretion in revocation of licenses upon conviction, replacing the present mandatory revocation. After polling the committee members, Chairman Dunkle announced that no one cared to sponsor the bill either as individuals or as a committee.

Mr. Woodgerd of the Fish and Game Department discussed Item #3, a proposal to facilitate placement of wildlife on the Montana endangered species and "species in need of management" lists. This proposal would amend the Nongame and Endangered Species Conservation Act by making the requirement for legislative approval part of the department's rule-making procedure, rather than requiring separate legislative approval before adding or deleting from the endangered species or "species in need of management" lists. After polling the committee, it was decided that Item #3 would be a committee bill. Senator Smith went on record as being against this piece of legislation.

Item #4, a proposal to clarify requirements for private and commercial fish pond licenses by amending Section 26-306, was discussed by Mr. Art Whitney of the Fish and Game Department. After polling the committee, it was decided that this proposed legislation would not be sponsored individually or as a committee.

ANNOUNCEMENTS: Chairman Dunkle said the remaining proposed legislation would be taken up on Wednesday, January 19.

ADJOURNMENT: Chairman Dunkle adjourned the meeting at 9:30 A.M.


FRANK DUNKLE, CHAIRMAN

ROLL CALL

FISH AND GAME COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 1-12-77

NAME	PRESENT	ABSENT	EXCUSED
DUNKLE, Frank, Chairman	✓		
WARDEN, Margaret, V. C.	✓		
GALT, Jack	✓		
LENSINK, Everett	✓		
LOWE, Bill	✓		
MANLEY, John	✓		
SMITH, Richard			
BERGREN, Russell	✓		

Each day attach to minutes.

PROPOSED DEPARTMENT OF FISH AND GAME LEGISLATION

(1) A proposal to amend the Water Use Act to allow for appropriation of water rights for wildlife or recreational uses. As the Water Use Act now specifies, neither an appropriation of water for fish, wildlife, or recreational use nor a change of water right to these uses may be granted unless the water is diverted, impounded, or withdrawn. This proposed legislation will remove the requirement to divert, impound, or withdraw water before appropriating a water right or changing an existing water right for fish, wildlife, or recreation by the Department of Fish and Game.

(2) A proposal to require taxidermists to keep records of wildlife for a period of five years. This proposal will also amend the current law by requiring taxidermists to keep records of all wildlife in their possession (rather than just game animals) and also gives the courts discretion in revocation of license upon conviction replacing the present mandatory revocation.

(3) A proposal to facilitate placement of wildlife on the Montana endangered species and "species in need of management" lists. This proposal will amend the Nongame and Endangered Species Conservation Act by making the requirement for legislative approval part of the department's rule-making procedure rather than requiring separate legislative approval before adding or deleting from the endangered species or "species in need of management" lists.

(4) A proposal to clarify requirements for private and commercial fish pond licenses by amending Section 26-306 in the following manner:

- (a) Makes it mandatory that any person who desires to stock fish in an artificial lake or pond must apply for a private pond license.
- (b) Prohibits the use of chemicals or explosives in taking fish from a private lake or pond.
- (c) Provides a new definition for artificial lake or pond to provide for private pond licensing only on artificial ponds and only where the creation and/or operation of such ponds will not reduce the potential capacity of natural water to provide public fishing.
- (d) Provides that a pond license shall be valid only for five years from the date of issue.
- (e) Provides a new Section 26-306.1 that creates a commercial fish pond license. This license has an initial fee of \$50 and a renewal fee of \$5 annually. These fees are to pay for the administrative costs involved in administering the licensing function. This proposal sets forth in detail, by law, provisions that in the past have been handled by administrative direction, which at times has been unclear.

(5) A proposed amendment to prohibit the use of vehicles, including helicopters, to harass wildlife. This proposal will add "helicopters" to that section of the existing law which prohibits the use of aircraft, power boats, sailboats, and other boats and floating devices for the purpose of concentrating, pursuing, driving, rallying, or stirring up game, game birds, migratory game, or fur-bearing animals.

The amendment will add a new subsection which reads as follows: "It is unlawful for a person to use a self-propelled vehicle to intentionally concentrate, drive, rally, stir up, or harass wildlife except predators of this state, providing that this subsection does not apply to landowners and their authorized agents engaged in the immediate protection of that landowner's property."

(6) A proposed amendment which clarifies the existing fish and game statutes relating to hunting and fishing licenses. This amendment will simplify the license structure, modify certain definitions, and establish an administrative fee. It will not modify existing licenses and fees.

(7) A proposal to revise the statutes relating to permits for breeding and propagating game birds and animals by amending Section 26-1201 in the following ways:

- (a) Provides for a \$25 fee for a game farm permit.
- (b) Establishing the fencing requirement to prevent the mixing of confined animals with the wild or public animals.
- (c) Provides that game farm permits expire in five years.
- (d) Defines a game farm permit as restricted to nonsport activities and not a substitute for a shooting preserve permit.
- (e) Requiring that each game animal within a game farm be adequately numbered, tagged, branded or tattooed.
- (f) Requiring that reports be submitted to the director on or before January 31 of each year.

A fee proposal is to bear the cost of the administration of this license. The marking, tagging, branding proposal is to give enforcement control over the products of a licensed game farm. The proposal distinguishes game farm permits from shooting preserves.

(8) A proposed amendment to authorize the department to use part of the fishing license fees earmarked for purchase of fishing access for development, operation, and maintenance of "...fishing accesses, stream, river and lake frontages and the land deemed necessary to provide recreational use thereof." This proposal will amend the existing law to read as follows: "The amount of funds used for operation, development, and maintenance may not exceed 15 percent of the monies set aside each year under this section."

1-17-77

BILL NO. 52

[illegible]

SENATE COMMITTEE FISH AND GAME

Date 1-17- ~~1-18~~ Bill No. 52 Time 8:20

NAME	YES	NO
DUNKLE, Frank, Chairman	✓	
WARDEN, Margaret, Vice Chairman		✓
GALT, Jack		✓
LENSINK, Everett	✓	
LOWE, Bill	✓	
MANLEY, John		✓
SMITH, Richard		
BERGREN, Russell		✓

Sharon (Risken) Smith
Secretary

FRANK DUNKLE
Chairman

Motion: _____

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

January 17, 19 77

MR. **PRESIDENT**

We, your committee on **FISH AND GAME**

having had under consideration **SENATE**, Bill No. **52**

Respectfully report as follows: That **SENATE**, Bill No. **52**

DO NOT PASS

~~XXXXXX~~