

MINUTES
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

February 7, 1977

The eleventh 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 PROPOSED AMENDMENTS TO SB 151, an act to revise fish and game statutes relating to hunting and fishing licenses by clarification of existing statutes, simplification of the license structure, inclusion and modification of certain definitions, and establishment of administrative fees, without modifying existing licenses or fees. (Attachment #1 - The proposed amendments).

Chairman Dunkle went through Item #9, and asked for discussion on it. Senator Galt asked how much money this would take from the general fund. Mr. Wes Woodgerd of the Montana Fish and Game Department said approximately 1.2 million dollars are used in the parks program. Senator Manley asked if all general fund monies are used for maintenance of parks, and Mr. Woodgerd replied that all monies were used for this purpose and also for general public recreation areas.

When asked where the monies come from, Mr. Woodgerd replied the monies come from license fees, plus Bureau of Outdoor Recreation matching monies. He also stated that license monies are used for fishing access sites.

Senator Manley asked if the monies used to purchase land come out of the general fund. Senator Dunkle stated lands are purchased with Bureau of Outdoor Recreation and Pittman-Robertson matching monies, not general fund monies.

Senator Dunkle asked Mr. Woodgerd to answer the question, "Is there general fund money used in the operation of fishing access sites?"

Mr. Woodgerd replied, "No."

Senator Manley then said he would withdraw his opposition to the amendment.

ACTION ON ITEM #9 OF THE PROPOSED AMENDMENTS: Senator Lowe made a motion to adopt Item #9. The motion was seconded by Senator Warden and passed unanimously.

Chairman Dunkle opened discussion on Item #8. He explained it simply reinserts the drawing, which was inadvertently left out.

ACTION ON ITEM #8 OF THE PROPOSED AMENDMENTS: Senator Warden made a motion to adopt this amendment. The motion was seconded by Senator Lowe and carried unanimously.

Senator Dunkle opened discussion on Items #6 and #7.

ACTION ON ITEMS #6 and #7 OF THE PROPOSED AMENDMENTS: Senator Lowe made a motion to adopt these two amendments. The motion was seconded by Senator Smith and carried unanimously.

ACTION ON ITEMS #4 and #5 OF THE PROPOSED AMENDMENTS: Senator Galt made a motion to adopt these two amendments. The motion was seconded by Senator Manley and carried unanimously.

Senator Dunkle discussed Item #2, which has to do with military personnel, and asked for discussion on this item.

ACTION ON ITEM #2 OF THE PROPOSED AMENDMENTS: Senator Manley made a motion to adopt the amendment. The motion was seconded by Senator Bergren and carried unanimously.

Senator Dunkle opened the discussion on Item #1; he said Senator Lowe wanted this clarified.

Mr. Ralph Holman, Legislative Chairman of the Montana Outfitters and Guides Association, said he wanted to make the distinction between what is privately owned and what is owned by the state.

Mr. Larry Weinberg, Staff Attorney with the Legislative Council spoke, saying if this change is made, the Fish and Game Department could not control wild animals. Conceivably everything, even a grizzly bear, could be non-regulated by the Fish and Game Department.

Mr. Ward Swanser of Billings, representing game farm interests, testified. He said the Fish and Game Department wants people to pay to harvest their own animals. He suggested

that we define game animals. He said there is no authority according to the Attorney General for the Fish and Game Department to regulate animals on game farms. He stated the amendment on page 5, line 21, should say, "any state-owned or controlled animal, not the subject of private ownership." Mr. Holman agreed, saying this would make it clearer than what he had offered. He concurred with Mr. Swanser's proposed amendment.

Mr. Orville Lewis, Chief, Law Enforcement Division of the Montana Fish and Game Department, spoke. Following are his remarks:

"Historically, the legislature has provided protection for both the public and private ownership of wildlife. These protections exist throughout the fish and game codes such as in the game farm law, shooting preserve law, zoo and menagerie law, and others related to the same type of control. These changes in definition that are proposed in the amendment are a change in philosophy of the legislature and would, in effect, repeal the past guidelines that have been established. This is a major change in thinking, and I would be hopeful that the legislature would consider this as a separate matter. SB 151 was prepared and sponsored by request of the Department to deal with the problems contained in Chapter 2, Licensing Laws of Fish and Game. I would be hopeful that since both subjects are of importance to the Department, but unrelated, the game definition can be treated as the subject of separate legislation."

Mr. Woody Wright, Staff Attorney for the Montana Fish and Game Department, spoke, saying that if the rules are changed on what constitutes a game animal, everything will change. He said it would cause difficulties with the shooting preserve statute. He also mentioned the problem of disease control. He said he differed with Mr. Swanser's opinion, and that the animals to which he referred are fur-bearers. He said what Mr. Swanser was talking about may well be outside the subject matter of this particular bill. Mr. Wright said the bill was not designed to change the approach to ownership of wild animals. (Attachment #2).

Mr. Swanser said the issue is whether the Fish and Game Department has the right to regulate the sale of privately owned animals. He submitted that the amendment is proper and that the Fish and Game Department should comply with the Attorney General's opinion, in regard to proposed amendment #1.

Chairman Dunkle announced that the committee will not make a final decision on this amendment until its next meeting. He said Senator Warden had requested that it not be acted upon, since she had to leave the meeting early.

Senator Dunkle asked for questions.

Senator Lensink said Senator Manley's concern was about the public acquiring lands through the Fish and Game Department, and that this is a very complex issue. He did not feel it should be approached by amendment, and that he would want to be more thoroughly informed on the subject before making a decision on it.

Senator Lowe felt that the way it was presented to the committee was not entirely honest. He said the definition of a game animal was excellent, and that the basic concept is whether the animal is on state, federal, or privately-owned land.

Senator Manley said he agreed wholeheartedly with Senator Lowe. He felt we are telling the Fish and Game Department that we own the land and we have something to say about it. He stated this amendment would slow down the infringements of Fish and Game Department personnel on private land, and that at the present time, it tells the Fish and Game Department that if someone owns land and has animals on it, they have something to say about those animals.

Senator Bergren wanted it a matter of record that he agrees with this amendment.

ANNOUNCEMENTS: Senator Dunkle announced that we will discuss this further at the next hearing.

ADJOURNMENT: Chairman Dunkle adjourned the meeting at 9:25 A.M.


SENATOR FRANK DUNKLE, CHAIRMAN