

HOUSE FISH AND GAME COMMITTEE

February 13, 1979

The meeting was called to order by Chairman Staigmilller at 11:30 a.m. with all members present.

HOUSE BILL NO. 648

REPRESENTATIVE JOHN SCULLY, Chief Sponsor, introduced the bill. This bill will clarify the responsibilities of the Fish and Game Commission and the Department of Fish and Game in regard to parks and recreation. He explained that this bill was not a follow up of HB 145, which changed the Department of Fish and Game's name. It will just state that the management of state parks and other outdoor recreational resources will be included in the duties of the commission. He proposed some amendments to the bill and stated without the amendments he would not recommend passage. The amendments proposed were as follows:

1. Page 2, line 17 through line 19.

Following: "livestock."

Strike: "At least one other member shall be knowledgeable and primarily interested in state parks and outdoor recreation."

2. Page 2, line 14.

Following: "fish,"

Strike: "game,"

Following: "wildlife,"

Insert: "and"

3. Page 2, line 18.

Following: "fish, and"

Strike: "game,"

4. Page 3, line 6.

Following: "driving,"

Strike: "snowmobiling,"

5. Page 5, lines 1 through 4.

Strike: subsection (9) in its entirety

With these amendments Representative Scully closed.

PROPOSERS:

HUGH ZACKHEIM, Montana Wildlife Federation, stated that the federation generally supports the intent of this legislation to show the broader scope and duties of the department as they now actually exist. Also, they recommended the proposed amendments. (testimony attached)

KEN HOOVESTOL, Montana Snowmobile Association, stated that they would concur with the proposed amendments. "We don't feel there should be restrictions put on the Governor for his appointments. These appointments should be made solely for the wise management of the fish, wildlife, state parks, and other recreational resources."

FLETCHER NEWBY, Montana Department of Fish and Game, rose in support of the bill and offered to answer any questions the committee may have.

The hearing on House Bill No. 648 was closed.

HOUSE BILL NO. 478

REPRESENTATIVE WES TEAGUE, Chief Sponsor, introduced the bill. He stated that this bill dealt with underwater fishing. The scuba divers in the state of Montana would like the opportunity to fish for game fish while submerged. He concluded, submitting some amendments to the bill. These amendments were simple clerical ones. (amendments attached)

PROPOSERS:

KAY SCHWARTZ, Montana State Dive Council, stated that they were only asking for equal fishing privileges, as the angler has. "We will have to abide by the rules of Fish and Game and honor the same seasons and limits as the angler does."

PAUL ELSENPETER, High Country Divers, stated that he had made about 40 fresh water dives. He explained that the scuba diver only has a limited amount of time underwater, 20 to 30 minutes. If a person was diving without a tank he would only have 2 to 3 minutes underwater time. The spear will travel for 5 to 10 feet when shot. "We think that the divers are actually at a disadvantage and the fish at an advantage, but we would like to have the opportunity to try spearing these fish."

KEN STEVENS, Aquanaut Dive Club, stated that he would like the opportunity to fish just for the fun and challenge of spearing fish. He then showed the committee a spear gun and explained how it operated and how difficult it was to actually hit a fish with it.

RONALD J. ZEILER, Montana Dive Council and Divers of Montana, stated that he had been a Y.M.C.A. diving instructor for the past six years. He explained that the California Department of Fish and Game conducted a study which showed that even the most inefficient methods of rod and reel fishing kill far more fish than do submerged sportsmen. (attached testimony)

MARTY BUCHOLZ, Bozeman Club, rose in support of the bill.

OPPOSERS:

ROBERT VANDERVEER, Sportsmen, stated that there was nothing to keep the angler from catching the diver. He had a pond and allowed divers in it but stopped them for the fear of catching one with a hook.

JOHN WILSON, Montana Council of Trout Unlimited, stated that he did not feel we should allow divers in our blue ribbon trout streams with a spear. The anglers spend many hours trying to catch these trout and I am sure that it would make them very angry if a diver should dive down and spear these trout. He felt that the angler would try to catch the diver and there would be groups of fishermen plotting against these divers to get them out of their blue ribbon trout streams. For these reasons we recommend a do not pass.

GEORGE HOLTON, Montana Department of Fish and Game, stated that this bill would require them to open all waters that are open to angling open to underwater spear fishing. To them this would cause a problem because they would have to monitor all water in an attempt to detect damage to game fish populations. The department already has the authority to allow underwater spearing of designated species in designated waters. (attached testimony)

DUANE NEAL, Montana Outfitters and Guides, stood in opposition to the bill. He stated that they support the stand of the Fish and Game Department against this bill.

RALPH M. HOLMAN, Montana Outfitters Council, stood in opposition. This bill will allow unfair advantages to the fish. Locklaven or German Brown trout are very easily approached. "I feel this bill will take away the spirit of luring the fish to hook."

REPRESENTATIVE TEAGUE closed by stating that he thought the leadership of the Department kind of liked this idea. Most of the surrounding states have this type of fishing. For example; Wyoming, Idaho, and Alaska does. He concluded by stating that he would not be opposed to keeping them off of the rivers and allowing them to fish only in the lakes, but we should give them a chance.

Questions were asked by the committee and the following amendments were proposed by Representative Curtiss:

Page 4.

Following: line 5

Insert: "Subsection 8. The department shall prescribe safety precautions which will both safeguard underwater anglers and warn other anglers that there are underwater anglers in the vicinity."

The hearing on HB 478 was closed.

HOUSE BILL NO. 420

REPRESENTATIVE LES HIRSCH, Chief Sponsor, introduced the bill and passed around an explanation for the changes in the bill. He explained that he would like the committee to look this explanation over thoroughly before suggesting any further amendments to the bill. "We hope that this bill will help the Fish and Game with better management, by changing the fees." He then turned the floor over to Gene Allen, of the Fish and Game

for full explanation. (explanation submitted is attached)

PROPOSERS:

GENE ALLEN, Administrator of the Wildlife Division of the Department of Fish and Game, stated that it is the intent of this bill to correct problems that have occurred from frequent amendments to the laws concerning hunting and trapping licenses, resulting in inconsistencies, contradictions and confusing language. He then went into a detailed explanation of the changes that this bill will make. (testimony attached)

DON MERRITT, Montana Outfitters and Guides Association, rose in support, recommending the non-resident hunter fees be increased as follows: Grizzly bear \$200, Antelope \$100, and Deer A tag \$100.

GLEN C. CHILDER, Landowner, rose in support with the following amendments: Omit the bison hunting licenses; striking the material on page 9 line 16 through 24; and urge the committee to consider a limited number of deer tags to be issued at large at the discretion of the department in those areas of the state where there is not elk hunting available. In conclusion he stated that he would like the non-resident deer or antelope permits to be at least \$100 instead of \$50. (testimony attached)

HUGH ZACKHEIM, Montana Wildlife Federation, stated that they generally support the intent of this legislation to clarify the MCA codes regarding licenses and fees. Attached are proposed amendments to the bill. "Without these amendments we would recommend a Do Not Pass."

ERWIN J. KENT, Department of Fish and Game, rose in support of the bill and will be available for questions.

RALPH HOLMAN, Montana Outfitters Council, rose in support of the bill with the following amendments: Non-resident license fees; Deer only \$125, Antelope only \$125. In the event all licenses including elk are placed on a smorgasbord basis, attached you will find their recommendations.

DUANE NEAL, Montana Outfitters and Guides Association, rose as a proponent, with amendments to the bill. (testimony attached)

Questions were asked by the committee and the hearing on HB 420 was closed.

Chairman Staigmilller appointed the following members to a subcommittee to consider the proposed amendments to HB 420: Representative Hirsch, Chairman, Representative Johnson, and Representative Thoft.

EXECUTIVE SESSION:

HOUSE BILL NO. 478

Representative Conroy moved, DO PASS.

Representative Ellis moved, TO AMEND, as follows:

Page 2, line 13.
Strike: "such"
Insert: "nongame"

The motion was carried unanimously.

Representative Daily moved, TO PASS THE BILL FOR THE DAY. The motion failed.

Representative Keedy moved, TO VOTE ON THE PREVIOUS QUESTION. The motion failed 8 to 8. Opposed: Conroy, Curtiss, Daily, Ellis, Robbins, Schultz, Staigmilller, Thoft

Representative Conroy moved, TO AMEND, as proposed by Representative Teague. The motion was carried unanimously. (amendments attached)

Representative Conroy moved, DO PASS AS AMENDED. The motion failed 9 to 8. Favored: Conroy, Curtiss, Ellis, Jensen, Johnson, Marks, Metcalf, Schultz

HOUSE BILL NO. 648

Representative Metcalf moved, TO AMEND, as follows:

1. Page 1, lines 17 through 19.
Following: "livestock"
Strike: the remainder of lines 17 through "recreation." on line 19.

2. Page 2, line 14.
Following: "fish,"
Strike: "game,"
Following: "wildlife,"
Insert: "and"

3. Page 2, line 18.
Following: "fish,"
Strike: "game,"

4. Page 5, lines 1 through 4.
Strike: subsection (9) in its entirety

The motion was carried unanimously.

Representative Keedy moved, TO AMEND, as follows:

Page 3, line 6.
Following: "driving,"
Strike: "snowmobiling,"

The motion was carried.

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Representative Johnston moved, DO PASS AS AMENDED. The motion was carried with Representatives Curtiss and Daily opposed.

HOUSE BILL NO. 261

Representative Marks moved, TO AMEND, as follows:

1. Title, line 6.
Following: "THAN"
Strike: "160"
Insert: "640"
2. Page 3, line 5.
Following: "than"
Strike: "160"
Insert: "640"

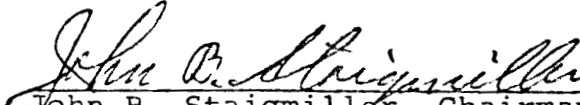
The motion was carried unanimously.

Representative Johnston moved, DO PASS AS AMENDED. The motion was carried 9 to 8. Opposed: Daily, Ellis, Hirsch, Johnson, Keedy, Manuel, Metcalf, Robbins

COMMITTEE BILL

Representative Marks moved the committee draft a bill to read exactly like House Bill No. 38, as it left the committee. The motion failed for lack of 3/4 vote. Opposed: Daily, Johnson, Keedy, Metcalf, Robbins, Staigmiller

The meeting was adjourned at 2:00 p.m.


John B. Staigmiller, Chairman

Judy J. Mook, Secretary