

MINUTES

FISH AND GAME COMMITTEE

MONTANA STATE SENATE

January 27, 1979

The sixth meeting of the Fish and Game Committee was called to order by Chairman Smith at 1:30 P.M., in Room 402 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 134: A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT THE SALE OF RESIDENT AND NONRESIDENT DEER AND ELK HUNTING LICENSES AFTER THE OPENING DAY OF THE GENERAL SEASON FOR WHICH THE LICENSE IS ISSUED."

Chairman Smith introduced Senator Elmer Severson, Chief Sponsor of the bill, who reviewed it with the Committee. He explained that the purpose of the bill was to stop the annihilation of small elk and deer herds. He said the bill was requested by members of the Ravalli County Fish and Wildlife Association. Senator Severson mentioned that when the snow get very deep, the animals come down to the lowlands and some people kill 4 or 5 animals and then go to town with their families to buy tags for all of them.

He went on to say that the intent of the bill was not to limit the sale of licenses. He reviewed the fiscal note accompanying the bill with the Committee, saying it was not a good fiscal note.

Senator Severson offered the following proposed amendments to the bill:

1. To extend the deadline to the 15th day of the season.
2. In the case of military personnel or youngsters who become 12 years of age during the hunting season, authorize a game warden to grant permission for them to purchase a license.

Senator Severson introduced Dr. Jim Olson, of Hamilton, President of the Ravalli County Fish and Wildlife Association. He spoke in favor of the bill. (Attachment #2)

He said it had gone before the State Wildlife Federation and passed with their support. He had a copy of a resolution, which evolved from the Montana Wildlife Federation annual convention in 1978, supporting the bill. (Attachment #3) Dr. Olson also represents the Western District Montana Wildlife Federation. His feeling was that this bill would cut down on illegal kills. He said he felt the organizations he represented would not be offended by the amendments proposed by Senator Severson. Dr. Olson suggested the following amendments:

1. If a nonresident comes into the state and becomes eligible during the season, we should make allowances for him.
2. Licenses could be issued before the opening date and then made invalid for 3-5 days after the purchase date.

Senator Severson introduced his brother, Gene Severson. He said he had conducted a survey of about 19 hunters and that everyone had expressed a desire to have the bill passed. He brought out that his people would like to see the illegal killing of animals stopped, and that they urged the Committee to give favorable consideration to the bill.

There being no further proponents, Chairman Smith called for opponents to present testimony.

Mr. Erv Kent, Administrator of the Law Enforcement Division of the Montana Fish and Game Department, spoke in opposition to the bill. (Attachment #4)

Mr. Bill Cottington, of Helena, testified that even with this bill, people will continue to take chances on being arrested. He said the 3-5 day limitation is not necessarily a bad idea.

There being no further opponents to the bill, Chairman Smith asked for questions from the Committee.

Senator Van Valkenburg mentioned Senator Severson's suggested amendment to say that the sales cannot take place 15 days following the opening season date. He asked the Fish and Game Department to break down the fiscal note to explain the number of licenses being sold after the opening date.

Mr. Larry Putnam, Administrator of the Centralized Services Division of the Fish and Game Department, said it is a fact that there will be some revenue loss if this

bill passes. He said when the Department went through a license fee change, there was a loss of revenue and he felt this would be a similar situation.

Senator Van Valkenburg asked if the Fish and Game Department didn't think most people would have their licenses within the 15 day period.

Mr. Putnam said the Department could arrive at more accurate figures if the Committee wanted them. Dr. Wambach said the poaching problem is true of residents, but the non-residents are the ones who purchase licenses sometimes after they arrive in Montana.

Senator Manley said the nonresident would probably not come into the state, shoot an elk and then get a tag for it, so therefore why not amend him out of the bill and make it applicable only to residents.

Senator Severson said he didn't care whether the non-resident were in the bill or not. His feeling was that the first part of the season was not that critical, but the Fish and Game Department should be asked how many licenses were sold the last three days of hunting season.

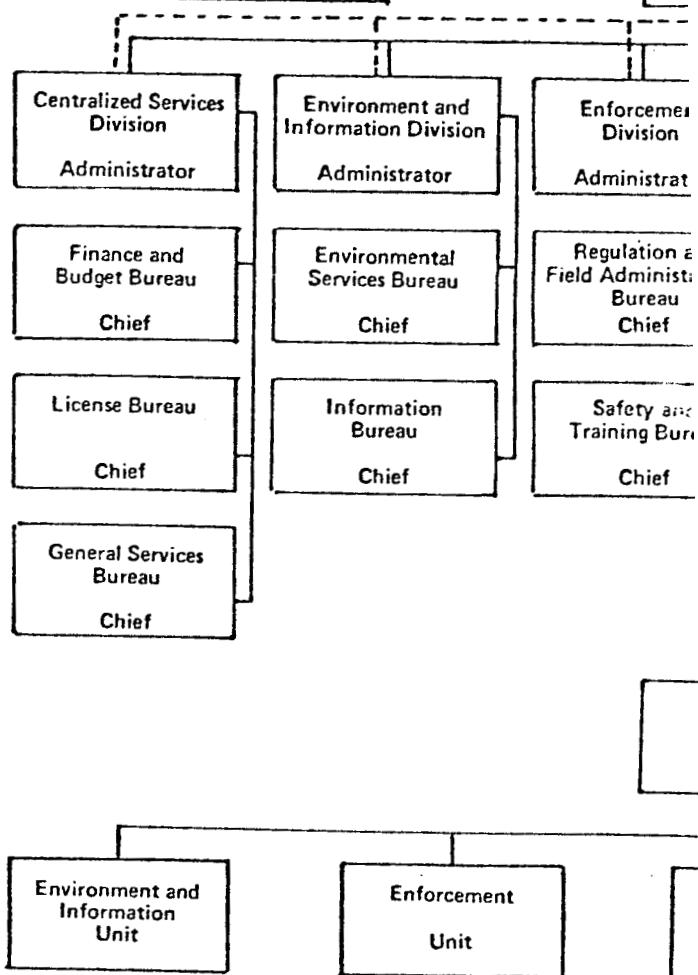
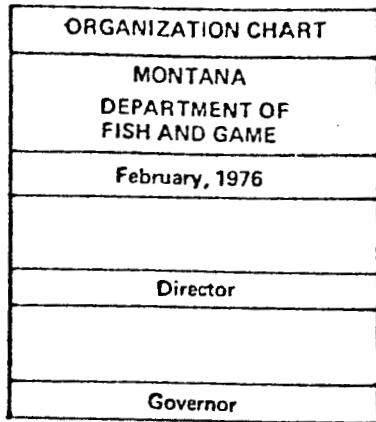
Senator Manley said that wouldn't involve nonresidents. Senator Goodover asked if these abuses occur on private land or on federal and state lands.

Senator Severson replied that for the most part it happens on private land because it is the private land that is usually lower and, consequently, the animals are driven there when there is heavy snow.

Senator Goodover wondered if hunters were required to ask permission to hunt on private land. Senator Severson said they don't always have to get permission. Senator Goodover asked if there were reports of this problem occurring elsewhere in Montana. Senator Severson replied yes, and Senator Manley said it happened in many places other than Ravalli County.

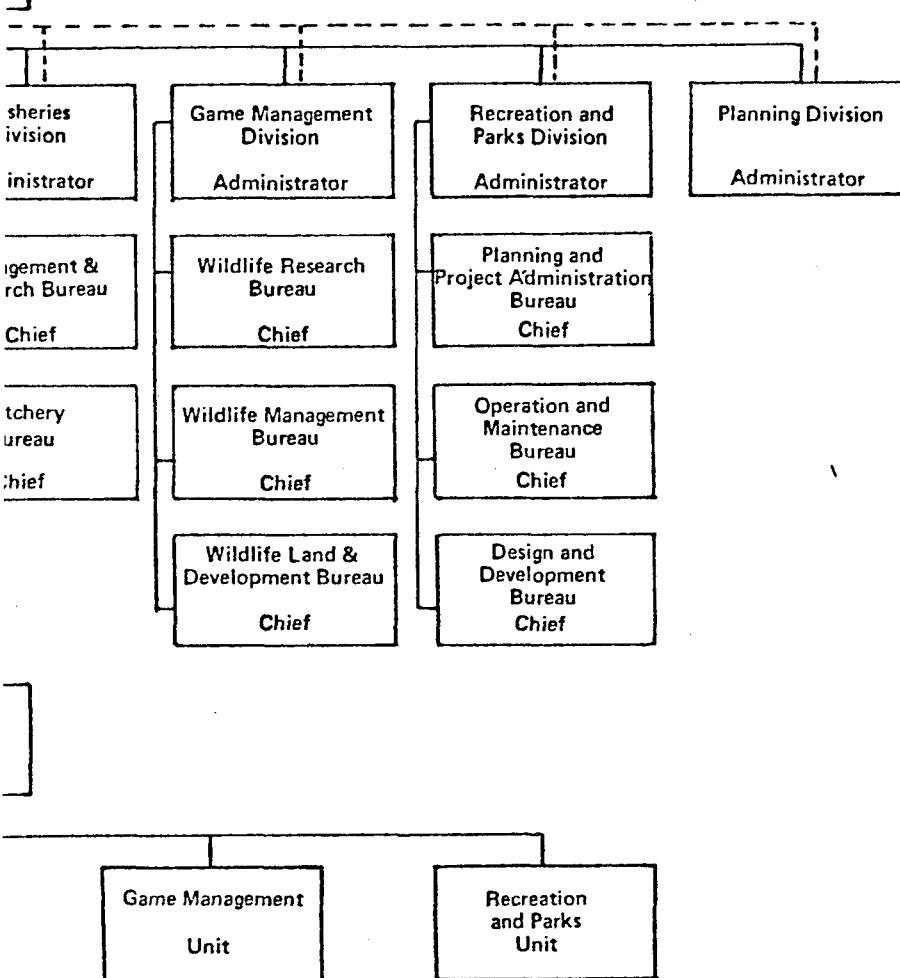
Chairman Smith pointed out that it is a state law that you must have permission to hunt big game on private lands.

Senator Stimatz said he would like to know how this bill will solve the problem.





\*No rule making authority under the  
Montana Administrative Procedures Act.



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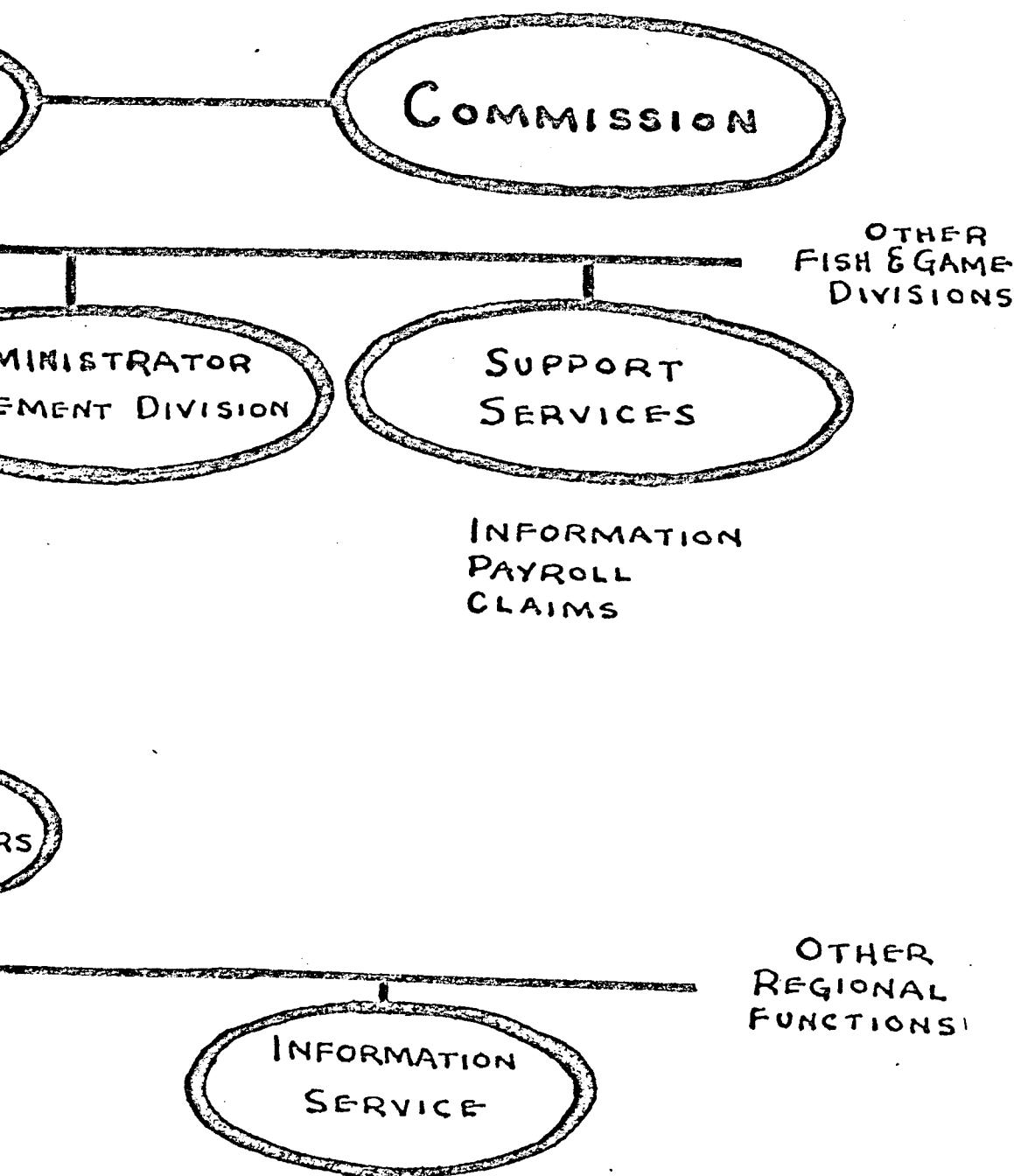
PARKS MANAGER

CARETAKING  
MANAGEMENT  
MAINTAINANCE

WARDEN CAPTAIN

FIELD WARDEN

Al Jenkins



Senator Severson said he has talked to several game wardens, whom he chose not to name, and they agree with the philosophy of this bill and feel it would help them in enforcing the law.

Senator Galt asked Dr. Wambach if a person could buy a license after a special season opened, or would he have to have one prior to that. Dr. Wambach said the licenses could be purchased the same day. (This reply refers only to the damage hunts that are conducted after the regular season.)

Senator Goodover asked how many reports of violations the Fish and Game Department has had this year. Mr. Kent said the Fish and Game Department doesn't have those figures at the present time, but they should be available within 10 days. He said the figures were up from last year.

Senator Galt asked what has happened with the new program of the Department whereby hunters anonymously report violators of Fish and Game Department laws. Mr. Kent said he felt the program has been successful. He said by the end of December they had received approximately 500 calls and there were 10 to 11 prosecutions resulting from those calls. He said the Department even received a number of calls from landowners who took advantage of the program, commonly called "Operation Game Thief" by the Department.

Chairman Smith asked if there were further questions. There were none, and he closed the hearing on SB 134.

CONSIDERATION OF HB 8, A BILL FOR AN ACT ENTITLED:  
AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING  
TO FISH AND GAME."

Chairman Smith said Representative Bob Marks, Chief Sponsor of the bill, was unable to attend the meeting.

Mr. Larry Weinberg, Staff Attorney for the Legislative Council, explained the bill in detail.

Senator Goodover questioned changing the word "act" to "title" on page 1, line 16. He felt this might make it much too encompassing. He mentioned that just this morning in the Business and Industry Committee, a terrible disagreement ensued over this word change.

Mr. Weinberg referred to page 3, line 11, and said this portion of the bill is attempting to make the employee grievance committee more consistent with what the legislature intended. He said chapter 3 is the requirements section. He briefly went through the Code Commissioner Bill Summary accompanying the bill. (Attachment #5)

Chairman Smith asked if there were any other proponents of the bill; there were none. He then asked if there were any opponents.

Mr. Robert Van Der Vere, representing himself, asked if section 2 applied to private fish ponds. Mr. Kent said he feel the supervision does extend to private ponds. It would apply to prohibiting the planting of carp or other undesirable species. Mr. Kent brought out the fact that there is presently a law to supervise private fish ponds. Mr. Van Der Vere asked if there would be a conflict, should the House bill dealing with this pass. Mr. Kent asked Mr. Van Der Vere if his private pond were licensed by the Fish and Game Department right now. He replied it was not. Mr. Kent explained that if it were licensed he could take out fish at any time, as the owner, without regard to seasons, licenses, etc.

Senator Manley asked if mallard ducks and privately-owned deer, etc. would come under this law. Mr. Kent said ducks are controlled by the federal government. He continued, saying that any animals that come into Montana must have the approval of the Fish and Game Department, including a health certificate, before they are brought in.

Senator Manley asked if the Committee could amend the bill to exclude privately-owned lands and waters. Chairman Smith replied it could not, since that would have to be done in the form of a new bill and introduced as such.

Chairman Smith then called for questions. He said he wondered about page 1, line 16, where the word "title" is inserted in place of the word "act." He asked if the word "title" referred to all the changes referred to in the title.

Senator Goodover said if we have lived with this law for two years, he did not see the purpose in changing it now.

Mr. Weinberg said the whole purpose of the recodification bill is to clarify the intent of the bill. He said attorneys are the ones who would benefit from ambiguity in the law, and that every item in the bill is there to clarify the law.

Chairman Smith questioned lines 6 and 7, page 3, changing the word "act" to "chapter 2." He felt this would be a broad change. Mr. Weinberg said that change will include some licenses that are not previously covered. This change, he said, would definitely expand the scope of this bill.

Chairman Smith felt that, if the bill passes, it will give the Department the power to change the Conservation Licenses and make it mandatory to buy them for two years at a time.

Mr. Weinberg said the Department will still not be able to promulgate a rule that is inconsistent with the intent of the legislature. At the same time, he said, if the legislature does not give the Department the authority to print licenses and decide on format, they could not take care of their responsibility. He said he felt the Committee should study that chapter very carefully, because it does make a change in the law. He said chapter 2 relates to licenses, and the "title" refers to the whole thing.

Debbie Schmidt, Researcher for the Legislative Council, said the form for licensing was done not from a rule, but from an order.

ANNOUNCEMENTS: Chairman Smith announced that SB 227 and Hb 97 would be heard by the Committee on Thursday, February 1. HB 29, HB 37 and SB 259 will be heard on Saturday, February 3. He said the new scheduling for Committee meetings will be 12:30 P.M., rather than 1:30 P.M.

ADJOURNMENT: Senator Manley made a motion for adjournment. Chairman Smith adjourned the meeting at 2:40 P.M.

  
\_\_\_\_\_  
SENATOR ED SMITH, CHAIRMAN

*AB* 134  
BILL AB 134

SENATE

Fish & Game COMMITTEE

BILL

## VISITORS' REGISTER

DATE 1-24

Please note bill no.

Date 1-27-24

ROLL CALL  
FISH AND GAME COMMITTEE  
46th LEGISLATIVE SESSION - 1979

Each Day Attach to Minutes.

## STATE OF MONTANA

REQUEST NO. 28-79

## FISCAL NOTE

Form BD-15

Attachment #1

In compliance with a written request received January 17, 1979, there is hereby submitted a Fiscal Note for SB 134 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 134 is an act to prohibit the sale of resident and nonresident deer and elk hunting licenses after the opening day of the general season for which the license is issued.

## ASSUMPTIONS:

1. Annual resident deer and elk license sales are \$1,375,076.
2. Annual nonresident deer and elk license sales are \$3,717,900 (nonresident big game license).
3. 27.4% of resident deer and elk license sales occur after the opening of hunting season.
4. 11.7% of nonresident deer and elk license sales occur after the opening of hunting season.

## FISCAL IMPACT:

	FY80	FY81
Resident deer and elk license receipts		
Under proposed legislation	\$ 998,305	\$ 998,305
Under current law	<u>1,375,076</u>	<u>1,375,076</u>
Decrease under proposed law	<u>376,771</u>	<u>376,771</u>
Non-resident big game license receipts		
Under proposed legislation	3,284,325	3,284,325
Under current law	<u>3,717,900</u>	<u>3,717,900</u>
Decrease under proposed law	<u>433,575</u>	<u>433,575</u>
Total revenue decrease due to proposed legislation	\$ <u>810,346</u>	\$ <u>810,346</u>

The revenue decrease is to the Fish and Game Earmarked Revenue Account 02131.

*Richard L. Davis*  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: 1/2/79

Attachment #2

NAME: James W. Oliver, P.M. DATE: 17 Jan 78

ADDRESS: P.O. Box 72, Hammon's Grant

PHONE: 363-2421 office 363-1421 home

REPRESENTING WHOM? Myself, Powell County Fish, Game & Parks, Inc.,  
Western District Montana Wildlife Federation & the Montana Wildlife Federation.

APPEARING ON WHICH PROPOSAL: S.B. - 134

DO YOU: SUPPORT? X AMEND? X OPPOSE?       

COMMENTS: I support this bill because we  
feel it will cut down on illegal kills of  
ELK & BISON. It will not stop it but I  
feel that it will help control it.

For additional comments see sheet  
Bull. Fund & Bank of the associations sheet from  
the next door wildlife Federation may also  
comment in on the back of this sheet.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

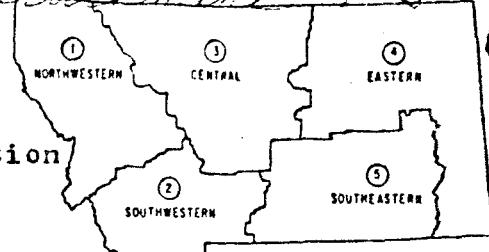
Testimony 56-127  
EDUC

## EDUCATION – CONSERVATION

J W Olson DDS  
Hamister

# Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION



## RESOLUTIONS MWF 1978 Annual Convention

78-1 Be it resolved that the Montana Wildlife Federation maintain membership in and support the Pacific Northwest Conservation Council.

78-2 Be it resolved that the Montana Wildlife Federation actively work for the institution of a Montana State Duck Stamp, with the proceeds from the sale of such a stamp being earmarked for land acquisition, habitat development and other programs of benefit to Montana waterfowl.

78-3 In as much as the state of Montana has different habitat and big game harvest problems.

THEREFORE, be it resolved that the Montana Wildlife Federation, through its affiliate clubs and Board of Directors, investigate, obtain comments on, and determine the feasibility of instituting earlier big game seasons in part or all of Montana. This decision should be arrived at by consulting with Fish and Game officials, stockgrowers, landowner groups and other interested parties.

78-4 Be it resolved that no big game licenses shall be sold after the opening of the general big game seasons.

78-5 With the current emphasis on improvement of landowner-recreationist relations we urge the MWF directors and executive-director to assist affiliates in establishing an aggressive program of cooperation between the Montana Fish and Game Dept., landowners and their representative groups and sportsmen and their groups ; and we reaffirm resolution # 76 3-7.

78-6 Many people, particularly landowners, feel additional law enforcement personnel in the field during periods of high public use might help alleviate some of their problems. We feel that all Montana Fish and Game Department field personnel should be trained and authorized to perform warden duties.

78-7 The "slob" recreationist remains one of the biggest roadblocks to a reasonable solution to our landowner-recreationist conflicts. Sportsmen and their representative club must take the lead in educating themselves to eliminate this problem. The Montana Wildlife Fed. should provide leadership to this end through a strong membership and ~~and~~ active programs of assistance to affiliates.

Attachment  
STATE OF MONTANA #4

DEPARTMENT OF

FISH AND GAME

My name is Erwin J. Kent, Administrator of the Law Enforcement Division of the Department of Fish & Game speaking as an opponent of Senate Bill 134.

This bill, as written, would prevent the following people from hunting:

1. Persons turning 12 years of age after the opening day of the hunting season.
2. A resident serviceman home on leave after the opening day of the hunting season.
3. People gaining residency after the opening day of hunting season.
4. It would also prohibit people from participating in late season damage hunts. In eastern Montana, this could result in not having enough people to participate in damage hunts to harvest surplus deer.

During the first year or two, it is the department's opinion that revenue will decrease significantly if this legislation is enacted.

Thank you for the opportunity to comment. I'll be happy to answer any questions you may have.

NAME: Erwin J Kent DATE: 1/27/79

ADDRESS: 123 Wadsworth Helena MT.

PHONE: 449-2453

REPRESENTING WHOM? MONT. DEPT. OF FISH & GAME

APPEARING ON WHICH PROPOSAL: SB 134

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE?  X

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

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CHAIRMAN

FRANK HAZELHORN  
VICE CHAIRMAN

CLIFF HEALYLOCK

PAUL GOODOVER

DIANA S. DOWLING  
EXECUTIVE DIRECTOR  
CODE COMMISSIONER

ELEANOR FCK  
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ROBERTA MOODY  
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ROBERT PERSON  
DIRECTOR, RESEARCH

# Montana Legislative Council

State Capitol

Helena, 59601

(406) 449-3064

LC 0021

1979 Legislature  
Code Commissioner Bill - Summary

House Bill No. 8

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO FISH AND GAME; AMENDING SECTIONS 87-1-105, 87-1-201, 87-1-205, 87-1-403, 87-1-703, 87-2-101, 87-2-902, 87-2-904, AND 87-3-128, MCA.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 87-1-105. "[act]" is changed to "title" to clarify the reference. The "act" referred to is Chapter 193, Laws of 1921, which is considerably narrower than the entire title. "Title" appears to be the better reference.

Section 2. 87-1-201. In subsection (7), "this [act]" is changed to "chapter 2" to provide a simple but reasonably accurate reference. "Act" referred to Chapter 267, Laws of 1955, and the intent would seem to be to include all materials dealing with licenses in the reference.

Sections 3 and 4. 87-1-205 and 87-1-403. Section 87-1-205 is extensively rewritten to mesh the employee grievance procedure with that of other state agencies. The deleted materials in subsections (2) and (3) are contained in the general laws relating to employee grievances. Section 87-1-403 is amended to mesh with the employee grievance procedure.

Section 5. 87-1-703. "Of" is changed to "or" to correct what appears to be a typographical error.

Section 6. 87-2-101. The introductory phrase is rewritten for uniformity and "[act]" is changed to "this chapter and chapter 3" to clarify the reference. In subsection (11), reference to "singular or plural" and "male or female" is deleted as redundant.