

MINUTES
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

March 20, 1979

The twenty-second meeting of the Fish and Game Committee was called to order by Chairman Smith at 12:45 P.M., in Room 402 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senators Galt and Anderson, who were absent.

CONSIDERATION OF HOUSE BILL 420, A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE STATUTES RELATED TO HUNTING AND TRAPPING LICENSES TO MODIFY CERTAIN DEFINITIONS, MAKE PERMISSIVE THE INFORMATION INCLUDED ON BIG GAME LICENSES, MAKE CONSISTENT WORDING OF AUTHORITY UNDER A LICENSE, DELETE CERTAIN LICENSES, PROVIDE INDIVIDUAL GAME SPECIES LICENSES FOR NONRESIDENTS, MAKE RESTRICTIONS NOW APPLICABLE TO NONRESIDENT GAME ANIMAL LICENSES APPLICABLE TO ALL HUNTING LICENSES, PERMIT THE DEPARTMENT TO DETERMINE GAME ANIMAL SEASONS FOR WHICH THE BOW AND ARROW LICENSE IS APPLICABLE, INCREASE FEES FOR CERTAIN NONRESIDENT HUNTING LICENSES, DECREASE THE FEE FOR RESIDENT B-TAG DEER LICENSE, AND MAKE SUCH OTHER MODIFICATIONS TO THE STATUTES NECESSARY TO CARRY OUT THIS REVISION."

Chairman Smith presented the Committee with copies of a position statement relating to the statutory responsibilities of the Department of Fish and Game, signed by Chairman Joseph J. Klabunde, Fish and Game Director Robert F. Wambach, and Senate Fish and Game Committee Chairman Ed Smith. (Attachment #1)

Chairman Smith felt this would eliminate a lot of problems in regard to game farm operators. Chairman Smith made a motion that this statement be made a part of the Committee's official minutes. The motion carried by a voice vote.

Senator Van Valkenburg made a motion that the Committee reconsider its action on HB 420. The motion carried unanimously, with Senators Anderson and Galt absent.

Senator Van Valkenburg felt the bill does not need Senator Manley's amendments. (Attachment #2, #1 and #5)

He indicated these amendments would jeopardize the passage of this bill to the House and would cause consternation on the House Floor. Senator Van Valkenburg made a motion that the Committee strike amendments #1 and #5, as shown on the proposed amendments. (Attachment #2)

Senator Goodover felt if the Committee did this, there would be no point in passing the bill, since it would return it to present law. Debbie Schmidt, Researcher for the Legislative Council, pointed out that the proposed legislation would change the license fees for nonresident hunters. She said at the present time the nonresident must buy the nonrefundable deer licenses. It was pointed out that the Department of Fish and Game has suffered losses of license revenue from eastern Montana because of this license. Debbie explained that, under the new system, it would cost \$100 rather than \$250 for people from out of state who want to hunt only deer. (Attachment #3 - fee scheduling)

The motion to delete amendments #1 and #5 carried, with Senator Manley opposing withdrawal of his amendments.

DISPOSITION OF HB 420: Senator Van Valkenburg made a motion that HB 420 BE CONCURRED IN, AS AMENDED. The motion carried 4-1, following a roll call vote, with Senator Manley voting "no," and Senators Galt and Anderson being absent. It was agreed that Senator Van Valkenburg will carry the bill on the Senate Floor.

CONSIDERATION OF PROPOSED SENATE JOINT RESOLUTION,
TO BE SPONSORED BY THE SENATE FISH AND GAME COMMITTEE,
"A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES URGING THE ASSIGNMENT OF AN INTERIM LEGISLATIVE COMMITTEE TO STUDY THE FUNDING FOR AND OPERATION OF THE MONTANA DEPARTMENT OF FISH, WILDLIFE, AND PARKS."

Senator Manley made a motion that the Committee sponsor this proposed resolution. A voice vote indicated all were in favor, with the exception of Senator Goodover, and the motion carried.

Mr. Woody Wright, attorney for the Department of Fish and Game, went through the resolution. He explained that it originated because of a request from the Montana Department of Fish and Game for a fishing license fee increase. (Attachment #4 - Proposed Resolution) When asked what the cost of administering the resolution would be for two years, Mr. Wright said in the neighborhood of \$40,000.00.

Chairman Smith felt the interim committee members for this study should be chosen before the session ends.

Then, they could meet with the Senate and possibly the House Fish and Game Committees to discuss the intent of the resolution.

Senator Goodover stated that, if the Fish and Game Department could come up with \$40,000.00 to fund the interim committee, they must have a surplus amount of money available.

Mr. Wright commented there is no surplus, but the Department feels the committee study is important enough to cut back on something else if it must.

Senator Manley felt it should be included in the resolution that it would also conduct a study of the adequacy for funding sportsman-landowner relationships. After discussion, Senator Manley withdrew his suggestion, since the Advisory Council is presently taking care of this matter.

INTRODUCTION OF SENATE JOINT RESOLUTION:

Senator Manley made a motion that the Committee introduce the resolution, as proposed. The motion passed unanimously after a voice vote.

ADJOURNMENT: Senator Stimatz made a motion to adjourn. The motion carried, and Chairman Smith adjourned the meeting at 1:25 P.M.



SENATOR ED B. SMITH, CHAIRMAN

Date 3-20-79

ROLL CALL

FISH AND GAME COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SMITH, Ed, Chairman	✓		
GALT, Jack E., Vice Chairman		✓	
ANDERSON, Mike		✓	
GOODOVER, Pat M.	✓		
MANLEY, John E.	✓		
STIMATZ, Lawrence G.	✓		
VAN VALKENBURG, Fred	✓		

Each Day Attach to Minutes.

Attachment # 1

DEPARTMENT OF FISH AND GAME

It is the position of the Montana Department of Fish and Game that in fulfillment of its statutory responsibilities relating to game farms it will carryout the provisions of applicable statutes to the best of its abilities and will seek to neither unreasonably expand or diminish those responsibilities. Those statutory responsibilities include the issuance of a game farm permit to responsible applicants who desire to engage in the business or occupation of propagating, owning, and controlling game animals (except buffalo) and game birds (except migratory game birds), who own or lease the premises on which the game farm is to be conducted, who use approved fencing materials, and who continue to operate the game farm according to applicable law.

For those game farms which have received a permit the department through its fish and game wardens will conduct inspections at such reasonable times as are necessary to fulfill statutory requirements. Further the Department will continue to require annual reports on or before January 31 of each year. These reports shall show the number and species of game animals on hand the preceding January 1 and the number and kinds of animals bought or sold during the preceding year. All as set forth and provided in Part 4, Chapter 4, Title 87 MCA.

It is further the position of the Department that it will abide by the decision of the court in Dee boyce vs Fish and Game Commission in fulfillment of its statutory responsibilities regarding the regulation of game farms, and reaffirms its adherence to the Montana Fish and Game Commission policy which requires that all litigation instituted by the Department must have prior approval by the Commission.

In the administration of the statutes applicable to game farm operations the department will not unreasonably deny a qualified applicant a permit, nor will it grant a permit to an applicant who does not meet the applicable requirements.

Montana Fish & Game Commission

Montana Department of Fish & Game

Joseph J. Klabunde
Joseph J. Klabunde, Chairman

Robert F. Wambach
Robert F. Wambach, Director

March 17, 1979

March 17, 1979

Senate Fish and Game Committee

Ed Smith
Senator Ed Smith, Chairman

46th Legislative Session

STANDING COMMITTEE REPORT

Attachment # 2

March 19 79
Journal

MR. President

We, your committee on Fish & Game

having had under consideration House Bill No. 420

Proposed Amendments

Respectfully report as follows: That House Bill No. 420

third reading bill, be amended as follows:

1. Title, line 9.

Following: "LICENSES,"

Insert: "PROVIDE THAT LICENSING AND OTHER RESTRICTIONS ON HARVESTING DO NOT APPLY TO CERTAIN GAME ANIMALS,"

2. Title, line 19.

Strike: "87-2-111,"

3. Page 3, lines 22 and 23.

Following: "cat;"

Insert: "(11) predatory animals -- coyote, weasel, skunk, and civet cat;"

Renumber: subsequent subsections

4. Page 5, lines 8 through 11.

Strike: section 3 in its entirety

Renumber: subsequent sections

XXXXXX

(Continued)

5. Page 16, line 25.

Following: line 24.

Insert: "Section 20. THERE IS A NEW MCA SECTION THAT READS:

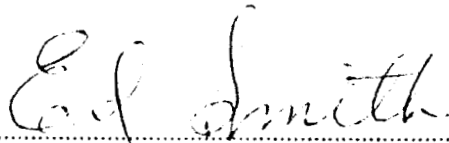
Restrictions on harvesting game farm animals. A person holding a game farm or fur farm permit under this part may harvest or dispose of game animals for which he holds title without regard to laws or rules of the department or commission pertaining to licenses, bag limits, or seasons.

Section 21. THERE IS A NEW MCA SECTION THAT READS:

Codification. Section 20 is intended to be codified as an integral part of Title 87, chapter 4, part 4, and the provisions contained in Title 87, chapter 4, part 4, apply to section 20."

Renumber: subsequent sections

And, as so amended,



Ed B. Smith,

Chairman.

HB-420

PROPOSED REVISION OF CHAPTER 2 - TITLE 87 MCA

Mr. Chairman, committee members, my name is Gene Allen, Administrator of the Wildlife Division of the Montana Department of Fish and Game. I will be speaking on behalf of this Department in favor of HB-420.

Title 87, MCA (formerly Title 26, RCM 1947) contains laws and authorities dealing with Fish and Game; Chapter 2 primarily deals with hunting and trapping licenses. Over the years this chapter has been frequently amended and altered, resulting in inconsistencies, contradictions and confusing language. It is the intent of this bill to correct these problems.

The primary objective in the revision of Chapter 2 is to simplify the present licensing system, providing the flexibility to manage Montana's deer herds under whatever conditions or situations may exist or arise, especially those concerning complaints from landowners about deer damage. An ambiguity which now exists involves the nonresident Class B-5 and B-7 deer licenses. These two licenses duplicate each other, and only one or the other is necessary. The B-5 has a \$1.00 Conservation License prerequisite, while the B-7 has a \$50 (Class B-2) license prerequisite.

At this point it is pertinent to briefly review the history of these two nonresident deer licenses. In 1955 the B-5 nonresident deer-only license was initiated to aid deer management in southeastern Montana where ranchers were experiencing depredations to standing alfalfa crops and haystacks. To enlist enough hunters to assist with deer reductions, it was necessary to solicit help from nonresidents - at that time there simply were not enough interested residents to do the job. The initial cost of this B-5 license was \$20 and required no prerequisite. In 1967 the cost was raised to \$35. In 1969 a Conservation License became a prerequisite for all resident and nonresident hunting licenses. In 1975, legislation established nonresident Class B-7 (Deer A Tag) and Class B-8 (Deer B Tag) licenses at \$50 each and also increased the cost of the B-5 to \$50. The last B-5's were sold in 1975 for \$35 and the only year B-7's were sold was in 1976. No B-8's have ever been issued.

Under current law the Class B-7 (nonresident Deer A-Tag) is obtainable two ways: 1) included in the B-10 nonresident big game combination license (which costs \$225 and also includes the Conservation License, an elk tag, black bear tag, and authorizes fishing and upland game bird hunting); or 2) if authorized by the Department, by purchase of a B-7 license for \$50 provided he has a B-2 license (nonresident combination bird/fish license) which costs \$50 and is a prerequisite for the B-7. The B-8 license (nonresident Deer B-Tag) also costs \$50 and, when authorized, can be purchased by holders of either B-2 or B-10 prerequisite licenses. In any case, the fees for either the B-2 (\$50) or B-10 (\$225) are nonrefundable.

No nonresident deer licenses, B-5, B-7 or B-8, have been issued the past two years, primarily because of restrictive language in the law (87-506-MCA; formerly 26-201.1). This section states that "... no number limit shall be placed on B-7, B-8 and B-10 licenses by area except in major hunter concentration areas" This stipulation was applied to the B-5 license and simply

did not allow the Department to utilize nonresident deer-only hunters where and when they might be needed, especially in southeastern Montana for deer damage situations.

In order to make the best and most efficient use of nonresident deer-only hunters, the revision of Chapter 2 proposes to:

- a) eliminate the nonresident Class B-5 deer-only license;
- b) eliminate the Class B-2 nonresident bird/fish combination license and thereby eliminate it as a nonrefundable prerequisite for the nonresident Class B-7 (\$100) and B-8 (\$50) deer-only licenses. The B-7 (Deer A-Tag) would continue to be a part of the B-10 license and nonresident season fish (Class B for \$20) and bird (Class B-1 for \$30) licenses would still be available; and
- c) change the prerequisite for the B-7 and/or B-8 licenses from the non-refundable \$50 B-2 to the \$1.00 nonresident conservation license (the nonresident Class B-10 \$225 license would also be a valid prerequisite for the B-8).

The several license revisions discussed thus far all need to be changed and/or implemented at the same time. One without the others will create more problems rather than simplify the ones that exist now.

Other significant proposed revisions to Chapter 2 which would assist in the solution of deer (or other species) depredation problems are:

- a) provide that the Fish and Game Commission can, each year, establish the number of any license or permit (including resident and nonresident deer) needed to make available to accomplish specific management objectives (it should be noted that the intent of this provision would also allow no licenses of any given type or class to be available if conditions warrant), and that these licenses or permits: can be designated for specific hunting districts or specific areas within hunting districts, can be designated as to time period for which the license or permit is valid, can be designated for the species (i.e., whitetail, mule deer, or both) to be taken, and can be designated as to sex and age of the species to be taken; and
- b) reduce the price of the resident Deer B Tag from \$12 to \$5 making it more useful as a problem solving management tool.

If all of the suggested revisions to Chapter 2 are accepted, the following changes would also be implemented:

1. The coyote is classified as a "wild animal predatory in nature" under statute and is under the management authority of the Montana Board of Livestock. Reference to the coyote in this section is unnecessary.
2. Remove the B-10 nonresident combination license as a prerequisite for certain special licenses, making the \$1.00 Conservation License the only prerequisite necessary for all nonresident licenses, including fish, bird, deer A, deer B, lion, moose, goat, sheep, antelope, grizzly, black bear and bison (note: The Conservation License is a part of the \$225 combination license).

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EXPLANATION FOR CHANGES TO CHAPTER 2

Section 1.

- (7) Birds removed from this section either are not migratory game birds or are protected under other statutes.
- (8) (Old) - removed because covered in next number - nongame wildlife.
- (12) The coyote is classified as a "wild animal predatory in nature" in statute 46-1903 with management authority by the Board of Livestock. This reference in Chapter 2 is unnecessary.
- (13) Local or common names removed to clean up the language.

Section 2.

Trapping added to reflect the law as stated in MCA, 87-2-601, (Section 14 of this bill).

Section 5.

Simplify and make consistent the language.

Section 6.

Language deleted because the Department is authorized to sell licenses in other statutes.

Language changed because only dead game birds may be possessed under this license, and to standardize language.

Section 7.

- (1) Same as second comment Section 6, above.
- (2) Simplify and make consistent the language.

Section 8.

Simplify and make consistent the language.

B-tag reduced from \$12 to \$5. The B-tag is a "management" license designed to help solve special problems in areas of abundant deer and few hunters. Since we are essentially asking hunters to help us solve the problem, it seems reasonable that the license cost less than the A-tag (\$7).

Section 9.

Changes the prerequisite license for nonresident deer tags from a nonrefundable \$50 - B-2 Combination License to a \$1.00 Conservation License.

Section 10.

The B-2 license (\$50 Combination) has been eliminated. This section removes reference to that license and simplifies the language for the B-10 license. No change in B-10 license.

"Not more than 17,000 B-10 licenses" has been moved to this section from Section 11.

Section 11.

- (1) Gives the Department greater flexibility and authority for issuance of all licenses, and for the restrictions by species, sex, age, hunting region and time period that can be assigned to each license.

Gives the Department greater flexibility in solving management problems by removing language restricting current flexibility to areas of "hunter concentration."

17,000 B-10 licenses moved to previous Section 10.

- (2) Relocation of section designed to limit nonresidents to 10 percent of licenses issued in any designated area. Permits are added to reflect administrative practice.

Section 12.

B-2 (\$50) license was the prerequisite for mountain lion which made total cost \$75. This section increased fee to \$100 with a \$1.00 Conservation License prerequisite. This fee is intermediate among other Western states.

Section 13.

Simplify and make consistent the language.

Section 14.

Simplify and make consistent the language.

Add wolverine and lynx to the list of fur bearers which can be hunted.

Section 15.

Restrict landowners to those owning land in Montana.

Add bobcat, lynx and wolverine as fur bearers which may be hunted.

Section 16.

- (1) Makes the resident or nonresident \$1.00 Conservation License the only prerequisite necessary for the special big game licenses.

Increases nonresident fees of all special licenses to allow for the \$50 prerequisite that was necessary before. Total fees with these increases will actually be less than before for moose, sheep and grizzly, and will be higher for goat.

Changes nonresident antelope from a Class B-6 to a special license.

Old No. 3 - removed because included in Section 11 - No. 2, above.

Old No. 4 - removed because covered in other statutes.

New No. 3 - gives Department greater flexibility in distributing licenses.

Section 17.

- (1) Removed because covered in other statutes.
- (2) Change license to permit because it is a special permit, not license.
- (3) Want to leave the provision open for the taking of more than one deer and one antelope per hunter in the case of depredation and other special problems.

Section 18.

- (1) Same as Section 17 - No. 2, above.

Section 19.

Simplifies language and makes the proper license a valid prerequisite for an archery license and valid for any species for which a special archery season is authorized.

Section 20.

Deletes B-2 and adds B-4 licenses.

Repealed

Section 87-2-108

Removes requirement to place certain information on back of license.

Section 87-2-502

Deletes B-5 nonresident deer license which is no longer necessary with the deletion of the B-2 license.

Section 87-2-503

Changes nonresident antelope license from a class license to a special license.

Section 87-2-707

Repeals nonresident spring bear license.

Section 87-2-712

Repeals the B-2 as a nonresident license.

LICENSE STRUCTURE AND COST

	Current	Proposed
Conservation (Res. and NR)	1.00	1.00 ⁴
NR Combination bird-fish (B-2)	50.00 ¹	eliminate
NR deer B-5	50.00 ²	eliminate
NR deer A, B-7	50.00 ³	100.00
NR deer B, B-8	50.00 ³	50.00
NR bird	30.00 ²	30.00
NR fish	20.00 ²	20.00
NR black bear, spring	35.00 ²	eliminate
NR black bear, season	50.00 ³	100.00
NR grizzly	125.00 ³	150.00
NR mountain lion	25.00 ³	100.00
NR antelope	50.00 ³	100.00
NR goat	75.00 ³	150.00
NR moose	125.00 ³	150.00
NR sheep	125.00 ³	150.00
NR big game combination - B-10 (deer A, elk, birds, fish, black bear)	225.00 ¹	225.00
Resident deer B tag	12.00	5.00

¹Non-refundable, serves as prerequisite for many other licenses; includes conservation license.

²Requires \$1.00 conservation license as prerequisite.

³Requires \$50.00 B-2 or \$225.00 B-10 license as prerequisite.

⁴The \$1.00 non-resident conservation license would be the only prerequisite for all other licenses.

1 the subject of considerable debate among legislators,
2 agriculturalists, and sportsmen; and

3 WHEREAS, the ~~47~~⁶th Legislature as well as recent past
4 legislatures ^{has} have seen the introduction of a number of
5 bills and resolutions relating to the above issues, none
6 of which has adequately addressed the problems involved;
7 and

8 WHEREAS, there is insufficient revenue for the
9 Department to meet all its statutory responsibilities; and

10 WHEREAS, resolution of these problems is necessary to
11 assure a strong and effective program for management of
12 Montana's fish and wildlife in order to prevent further
13 encroachment by federal interests.

14

15 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE
16 OF REPRESENTATIVES OF THE STATE OF MONTANA:

17 That an appropriate legislative committee, consisting
18 of equal representation of both houses and both parties,
19 be appointed and assigned to study the funding for and
20 operation of the Department of Fish, Wildlife, and Parks.

21 BE IT FURTHER RESOLVED, that the committee shall study:

22 (1) hunting, fishing, and trapping license fees and
23 their adequacy to meet the department's management and statu-
24 tory responsibilities;

25 (2) fees and other funding sources for parks, recreation

1 areas, state monuments, historic sites, and other re-
2 creational sites;

3 (3) funding sources and responsibility for land
4 acquisitions;

5 (4) potential revenue sources for management and
6 statutory responsibility for nongame wildlife;

7 (5) the requirements and eligibility for participation
8 in federal and private grant and other funding programs;

9 (6) the relationship between resident and nonresident
10 fee structures;

11 (7) the compensation of license agents;

12 (8) the use of interest derived from all moneys ear-
13 marked for use by the Department;

14 (9) the revenue derived from a specific fee source as
15 it relates to the program or other activities funded by that
16 source;

17 (10) the adequacy of earmarked funding sources to meet
18 the department's responsibilities with regard to snowmobiles
19 and motorboats;

20 (11) the use of moneys derived from fines, forfeitures,
21 and sale of confiscated game;

22 (12) the long-range capital development of buildings
23 and facilities; and

24 (13) other related funding problems.

25 BE IT FURTHER RESOLVED, that the committee shall hold

1 at least one meeting in each of the Department's seven
2 administrative regions.

3 BE IT FURTHER RESOLVED, that the study shall be
4 funded from the earmarked revenue account for the Depart-
5 ment of Fish and Game.

6 BE IT FURTHER RESOLVED, that the committee shall
7 report its findings, recommendations, and any remedial
8 legislation to the regular session of the 47th Legislature.

9

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-END-

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STANDING COMMITTEE REPORT

March 20, 19 79

PRESIDENT

MR.

FISH AND GAME

We, your committee on

HOUSE

Bill No. **420**

having had under consideration

Hirsch (Van Valkenburg)

HOUSE

Bill No. **42**

Respectfully report as follows: That

third reading bill, be amended as follows:

1. Title, line 19.

Strike: "87-2-111,"

2. Page 3, lines 22 and 23.

Following: "cat,"

Insert: "(11) predatory animals -- coyote, weasel, skunk, and civet cat;"

Renumber: subsequent subsections

3. Page 5, lines 8 through 11.

Strike: section 3 in its entirety

Renumber: subsequent sections

And, as so amended, BE CONCURRED IN

~~XXXXXX~~
~~DE PAGEX~~

SENATE COMMITTEE FISH AND GAME

Date 3-20-79 4:00pm Bill No. H-20 Time 12:55

NAME	YES	NO
SMITH, Ed, Chairman	✓	
GALT, Jack E., Vice Chairman		
ANDERSON, Mike		
GOODOVER, Pat M.	✓	
MANLEY, John E.		✓
STIMATZ, Lawrence G.	✓	
VAN VALKENBURG, Fred	✓	

Sherri R. Smith
Secretary

ED B. SMITH
Chairman

Motion: Motion: AND, AS SO AMENDED, BE CONCURRED IN.

Motion by Senator Van Valkenburg. Carried 4-1.

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