

MINUTES OF THE MEETING OF THE FISH AND GAME COMMITTEE
March 3, 1981

The meeting was called to order at 12:30 p.m. by Chairman Ellison. All committee members were present except Representatives Burnett, Daily, Feda and Manuel who were excused.

SENATE BILL 103

Senator Jean Turnage presented SB 103 to this committee. The sponsor of the bill, Senator Ed Smith, was not able to present the bill.

Senator Turnage said SB 103 is an attempt to increase the penalties and discourage poaching of wildlife for the purpose of selling parts of the poached animal.

Senator Turnage said the intent of this bill is to make the act apply to those people who illegally kill an animal just to sell the parts of that animal.

Proponents

Mr. Jim Flynn, Director of the Department of Fish, Wildlife, and Parks (F, W, & P), told the committee the department supports SB 103. He said the fines currently on the books do not match the financial rewards that can be taken by poachers who sell parts of an illegally killed animal. (EXHIBIT 1)

There were no opponents present to testify on SB 103.

Representative Robbins asked if a fine as large as \$10,000 would encourage judges to let people go instead of having them pay the fine. Senator Turnage said the judges do not have to issue the fine, they could send the offenders to jail. Senator Turnage said if this committee feels the fine of \$10,000 is too high, the committee could lower that amount.

Representative Robbins asked if a judge would have to sentence an offender to one year in jail. Senator Turnage said there is flexibility in sentencing.

Representative Roush asked what this bill would do to people who gather antlers to be sold for jewelry. Mr. Flynn said anyone under the present law being cited would still be cited under this new law but the penalties would be higher. Senator Turnage referred the committee to lines 20 through 25 on page 1 of the bill.

Representative Jensen asked if a judge could exercise his own discretion in issuing a fine. Senator Turnage said no. He said if this committee wants the \$10,000 changed to read "not to exceed \$10,000" he would be agreeable to that change.

Representative Bennett asked if "trafficking" was defined somewhere else in the law. Senator Turnage said no but a definition of the word would be appropriate.

Representative Bennett asked if it wouldn't be better to strike the word "trafficking" from the bill. Senator Turnage said that would be fine since there is no definition of the word contained in the bill.

Representative Mueller asked how much poachers get from an animal. Mr. Flynn said he couldn't give an accurate answer because it depends on which market the poacher has the opportunity to penetrate. Mr. Flynn said he feels the fines proposed in the bill are a definite improvement over what the fines are now.

Representative Devlin referred to page 2, line 5 and asked if there would be any problem with changing "shall be punished" to "may be punished"? Senator Turnage said the language in the bill is standard language for criminal acts.

Chairman Ellison asked if there is any means of identification of a "cape" from a legally killed animal versus a "cape" from an illegally killed animal. Woody Wright, department attorney, F, W, & P, told the committee there are identification methods for trophy "capoes" and a hunter could also retain the hunting license.

Senator Turnage told the committee he recommended not changing "felony" (page 2, line 9) back to "misdemeanor" because it sometimes takes over a year for prosecution and if the act is a misdemeanor, the statute of limitations for prosecution would run out after one year.

Chairman Ellison asked Senator Turnage if he had any problems with changing the wording on the \$10,000 fine to read "up to \$10,000". Senator Turnage said no but he suggested putting a "floor" on the amount of the fine.

The hearing was closed on SB 103.

SENATE BILL 459

Senator Gary Lee was asked to present SB 459 to this committee

since Senator Ed Smith, sponsor of the bill, could not be present to do so.

Senator Lee told the committee this bill was brought to the Senate Fish and Game Committee by the outfitters and guides of Montana to accomplish housekeeping in the statutes applying to outfitters and guides.

Senator Lee went over the changes made in SB 459. He recommended the committee concur with SB 459.

There were 3 proponents and no opponents to testify on HB 459.

Proponents

Mr. Woody Wright delivered the testimony on SB 459 for Mr. Flynn. He passed out copies of a written statement to the committee members. (EXHIBIT 2)

Mr. Wright told the committee the outfitters and guides came in large numbers to support this bill in the Senate Fish and Game Committee.

Mr. Tag Rittel, representing the Montana Outfitters and Guides Association, told the committee SB 459 is the association's bill and they are for the bill as written.

There were no opponents present to testify on SB 459.

Representative Robbins referred to page 13, line 5 of the bill and asked why state land was not included in the wording. Senator Lee said he thinks the word "federal" should be stricken from the bill. Senator Lee feels the word "landowner" would cover lands owned by the federal and state governments and private lands.

Representative Roush asked if this bill would prohibit a resident from taking a friend who is a nonresident out hunting. Mr. Wright said the bill would not prohibit that.

Senator Lee said he had problems with some of the wording on page 13, line 22 and on page 12, lines 20 and 21. Chairman Ellison told him Russ Josephson, legal counsel for this committee, would take a look at those sections of the bill.

The hearing on SB 459 was closed.

The committee went into EXECUTIVE SESSION.

SENATE BILL 103

Representative McLane moved SB 103 BE CONCURRED IN.

Representative Robbins asked if anyone thought the amount of the fine should be changed.

Representative Bennett said he thinks the \$10,000 fine is quite reasonable.

Representative McLane agreed with Representative Bennett and said the higher the fine, the more of a detriment it would be.

Representative Bennett said he had thought the word "trafficking" should be taken out of the bill but now he is wondering if that would make a difference in Section 3 of the bill. The committee told him it would make a difference.

Representative Bennett said "trafficking" is not defined in the law. Russ Josephson told the committee there is no reason why the word "trafficking" cannot be defined.

Representative McLane's motion was voted on and PASSED unanimously.

SENATE BILL 459

Russ Josephson told the committee the wording in lines 20 and 21 of page 12 needs to be rearranged. He said the bill should be amended as follows:

Page 12, line 20.
Following: "affidavit"
Strike: "on a form provided"

Page 12, line 21.
Following: line 20
Strike: "department by"

Representative Jacobsen moved the above amendment to SB 459.

The motion was voted on and PASSED unanimously.

Russ told the committee page 13, line 5 should be amended as follows:

Page 13, line 5.
Following: "appropriate"
Strike: "federal"

Representative McLane moved the above amendment to SB 459.

The motion was voted on and PASSED unanimously.

Russ told the committee page 13, line 22 should be amended as follows:

Page 13, line 22.
Following: "made"
Insert: "in"

Representative Devlin moved the above amendment to SB 459.

The motion was voted on and PASSED unanimously.

Representative Jacobsen moved SB 459 BE CONCURRED IN AS AMENDED.

The motion was voted on and PASSED unanimously.

Chairman Ellison appointed Representative Jacobsen to carry SB 103 on the floor of the House of Representatives.

Chairman Ellison appointed Representative Robbins to carry SB 459 on the floor of the House of Representatives.

Representative Feda had left absentee votes in favor of SB 103 and SB 459.

The meeting was adjourned at 1:45 p.m.


ORVAL ELLISON, Chairman

vml

HOUSE FISH & GAME COMMITTEE

March 3, 1981

PRESENTED BY: James W. Flynn, Director
Dept. of Fish, Wildlife & Parks

SB103

Mr. Chairman, members of the committee: My name is Jim Flynn. I appear today on behalf of the Department of Fish, Wildlife, and Parks, and I speak in support of SB103.

In recent years, values of certain parts of some wildlife species have increased greatly. These values in some cases far exceed the penalties currently in our laws for the illegal taking of those parts. A result is that it may be attractive for persons to illegally take an animal for its parts.

SB103 provides a penalty that more closely approximates the loss incurred to the state's wildlife resources by poachers and traffickers in illegal animal parts. To the extent that stiff penalties can do so, it will also act as a deterrent to illegal taking.

For these reasons, I recommend a "do pass" on SB103.

HOUSE FISH & GAME COMMITTEE

March 3, 1981

PRESENTED BY: James W. Flynn, Director
Dept. of Fish, Wildlife & Parks

SB459

Mr. Chairman, members of the committee: My name is Jim Flynn. I appear today on behalf of the Montana Department of Fish, Wildlife, and Parks.

SB459 proposes a variety of changes to the current outfitters and guides law. The department agrees that many of these changes are needed, and will benefit the industry and the department.