

MINUTES OF MEETING
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

March 10, 1981

Senator Smith called the meeting to order at 1:05 p.m. in Room 402 of the Capitol.

ROLL CALL: All members of the committee were present except Senator Severson who arrived at 1:45 p.m.

CONSIDERATION OF HOUSE BILL 738, "An act to clarify that it is lawful to take wildlife to protect persons or livestock."

Chairman Smith recognized Representative John Ryan, chief sponsor of House Bill 738. This bill would remove the criminal liability for the taking of wildlife which molests, kills, or threatens to kill a person or livestock. The bill allows a person taking wildlife for any of these reasons to notify the Department of Fish, Wildlife and Parks within 72 hours of the act. Under the proposed law, the taking of grizzly bear would not be allowed because the grizzly is protected under federal law.

PROPOSERS OF HOUSE BILL 738. Representative Ryan submitted a letter from Teddy Thompson, a rancher in Sweet Grass County, who favors HB 738. (Attachment #1)

Representative Ryan also submitted, in favor of this legislation, an excerpt from the House Fish and Game Committee meeting minutes dated February 19, 1981. (Attachment #2)

OPPOSERS OF HOUSE BILL 738. Mr. Gene Allen, Administrator of the Wildlife Division of the Department of Fish, Wildlife and Parks, spoke on behalf of Jim Flynn, department director, in opposition to the bill. The department questions the need for the proposed legislation since current law (87-1-225) provides for the taking of wild animals which damage property or crops, and 87-5-109 provides for the killing of endangered species in emergencies involving immediate threat to human life. His testimony is marked Attachment #3.

Questions were asked of Representative Ryan and Mr. Allen.

Senator Galt said that under present law the department, after being notified of a disturbance or incident, can take corrective measures or give permission to landowners to dispose of wildlife. Under the proposed legislation, he said individuals would be able to address the problem immediately and then notify the department within 72 hours of the incident what action was taken.

Chairman Smith recognized Representative Ryan who gave his closing remarks.

CONSIDERATION OF HOUSE BILL 731, "An act to require the Department of Fish, Wildlife and Parks to limit the number of new outfitter and guide licenses issued for fishing purposes by establishing and regulating a two-year moratorium beginning on April 1, 1981.

Chairman Smith called on Representative Fred "Fritz" Daily, sponsor of House Bill 731, to open the hearing. He explained that the bill would require the department to limit the number of new outfitter and guide licenses for fishing purposes, and also establishes a two-year moratorium beginning April 1, 1981, and ending March 31, 1983, which applies only to the Madison and Big Hole Rivers. The moratorium is now in effect on the Madison River and seems to be working well and the outfitters and guides from that area are pleased with the concept. The reason for the bill, he explained, is that under federal statutes it is illegal for a state agency to impose a moratorium unless statutory authority is granted by the state legislature. He said if the proposed legislation is not enacted, the chairman of the Fish and Game Commission will have to lift the moratorium. The moratorium is necessary because studies have shown that the rivers are over-fished and steps should be taken to protect the resource.

PROPONENTS OF HOUSE BILL 731. Mr. Art Whitney, Administrator of the Fisheries Division of the Department of Fish, Wildlife and Parks, spoke on behalf of Jim Flynn, department director, in favor of the bill. He presented for the committee's consideration an amendment to the bill. The amendment and his testimony are marked Attachment #4.

Senator Eck read a letter into the record from a constituent, David L. Kumlien, who favors HB 738. He is a licensed outfitter, a member of the State Boat Study Committee, and operates the Wild Wings Orvis Shop in Bozeman. (Attachment #5)

Mr. Jack Wemple, member of the Montana Outfitters Council and President of the Montana Outfitters and Guides Association, spoke in favor of the bill. His statement is attached and marked Attachment #6.

Mr. Tag Rittel, representing the Montana Outfitters and Guides Association, said they had worked with the department on the proposed amendment and feel that it will be acceptable with all parties. His testimony is marked Attachment #7.

Mr. Thomas M. Travis, member of the State Boat Study Committee, spoke in favor of the bill with the proposed amendment; however, he emphasized he opposed the bill as amended in the House. (Attachment #8)

Chairman Smith recognized Senator Daily, chief sponsor of the bill, who said he would support the proposed amendment.

In the discussion following the presentation, it was brought out that every float trip operator would not have to be licensed as an outfitter--only those who hire out their equipment and services and accompany floaters. This is brought out in Subsection (c), lines 9 through 11.

Senator Daily gave his closing remarks.

FURTHER CONSIDERATION AND DISCUSSION OF HOUSE BILL 731. Senator Lee suggested that Subsection (c), lines 9 through 11, might be amended to affect only floaters in Fish and Game Administrative Region 3.

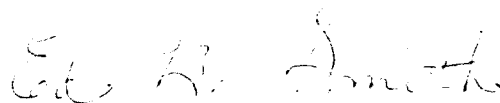
The option of deleting the reference to floating in Subsection (c) was discussed.

Senator Smith asked Ms. Merrill to review House Bill 731, that portion dealing with licensing floaters and how this topic can be appropriately handled in the title and the bill--should it be deleted or amended to reflect only the floaters in the moratorium region.

FURTHER CONSIDERATION AND DISCUSSION OF HOUSE BILL 738. In Section 2, the codification instruction was originally proposed to be made a part of Title 87, Chapter 5, Nongame and Endangered Species. The House amended the bill to read Chapter 3, under General Provisions. The amendment was passed in the House Committee on the logic that grizzly bears should not be included in the intent of the bill since they are protected under federal regulations, and state law could not apply to that species.

The option was considered to delete lines 20 through 22 of HB 738.

Senator Smith asked Ms. Merrill, legislative researcher, to review HB 738 and explore ways to amend the bill to clarify the intent. He also asked her to consider the term "take" which is used in the title of the bill.



Senator Ed B. Smith, Chairman

Teddy Thompson

Box 283 976

Phone (406) 932-2551

Big Timber, Montana 59011

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Mr Chairman and members of the House Fish and Game Committee:

My name is Teddy Thompson and I reside on a ranch in Sweet Grass County.

I have come to Helena to give my support to H. B. 738.

We have had sheep in the mountains in South Central Montana, Just north of the Yellowstone National Park since the early twenties. I personally spent from 1933 to 1946 tending camp for different herders. We made alot of contributions of lamb and mutton to hungry animals. In those days we were able to take the stock killing animals without a fear of being arrested. The only animals that were taken were the one who followed our sheep from camp to camp. The most simple way to get rid of stock killing animals is to do it when they are in the act. As you all know from the past accounts of killings and maulings, the officials will come running in after the damage has been done and they usually shoot several animals in hopes they are going to get the right one. This is not good business for the people and the animals involved.

In the early seventys when the Park Service, Montana Fish and Game Department and the Forest Service decided to haul out problem grizzley bears to the high Absaroka sheep ranges there was no consideration given to the herders, who were in the area with their flocks. This action by the Government agencies caused a grizzley bear to be shot in the middle of a band of sheep. The people in charge of the sheep were arrested. A group of stockman went together and hired a lawyer to defend the herders. The case was heard in Park County in front of a Justice of the Peace jury. The herders were found not guilty due to the fact they were up there to protect their sheep.

In closing I would urge all members of the Fish and Game Committee to vote for H. B. 738.

Thank you

Teddy Thompson

Minutes of the Meeting of the Fish and Game Committee Page 3
February 19, 1981

HOUSE BILL 738

Representative Ryan, sponsor of HB 738, said this bill is an act to clarify that it is lawful to take wildlife to protect persons or livestock. He said there has been problems with bears killing sheep. Representative Ryan said there will have to be an amendment in this bill. The bill will have to be amended to read chapter 3 instead of chapter 5 on lines 18 and 19.

Proponents

Keith Cable, a rancher, told the committee a story of the problems he has been faced with concerning bears killing his sheep.

Mr. Cable said he was in favor of HB 738 and said the livestock people will not take advantage of the proposed law. He said the F, W, & P people cannot protect livestock because the F, W, & P people are not around when the bears cause the problems.

Joe Helle spoke in support of HB 738. He said when there is a problem with livestock killings, there is an immediate need for action and the situation has to be taken care of then. He feels the farmers and ranchers should have the ability to take care of those problems.

John Baucus, a rancher, told the committee his ranch has lost over \$6,000 in livestock because of bears killing his sheep. He said he has to protect his livelihood.

Teddy Thompson gave written testimony in support of HB 738.
(EXHIBIT 5)

Opponents

Mr. Jim Flynn read a prepared statement in opposition to HB 738.
(EXHIBIT 6)

Mr. Flynn said the F, W, & P feels they do have a process whereby persons who have to kill an animal that threatens their livestock can do so. He said there is game management of bears in Montana. There is a season every year which calls for the taking of 25 bears. If a bear is killed as a result of threat to livestock, that bear is counted as one of the 25 limit.

The hearing on HB 738 was closed.

HOUSE BILL 766

Representative Ellison, sponsor of HB 766, told the committee that

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

March 10, 1981

HB738

Mr. Chairman, members of the committee, my name is Jim Flynn. I appear today on behalf of the Department of Fish, Wildlife, & Parks, and I speak in opposition to HB738.

We question the need for such legislation. To the extent the bill is designed to permit the killing of wildlife that is threatening people or livestock, it is our opinion that current law now permits that practice. Sec. 87-1-225, MCA, provides for taking wild animals which damage property or crops. This is a process whereby the department is notified of the potential or actual damage. After investigation, the department may decide to remove the offending animal(s) from the scene by herding, trapping, scare tactics, etc. As a last resort, the department may destroy the offending animal(s) or authorize a private individual to do so. State law currently authorizes the killing of any animal that is threatening human life. In addition, Sec. 87-5-109, MCA, provides for the killing of state listed endangered species in emergencies involving immediate threat to human life. Federal statutes also permit taking of endangered or threatened species when a person has a good faith belief that he was acting to protect himself or another individual from bodily harm. It should be pointed out, however, that animals classified by the federal government as endangered or threatened species are under federal jurisdiction even when absent from similar state classifications. Passing a state law that would allow the killing of such an animal that was threatening domestic livestock would not replace the more stringent federal regulations for threatened or endangered species, including the bald eagle and grizzly bear. Killing of these species would still only be permitted when human life was threatened.

It has been brought to our attention that there is a concern with the lack of communication between federal, state, and in some instances, tribal agencies over who is to be contacted and what a rancher threatened with or suffering damage from grizzly bear can do. Steps are presently being taken to correct this problem (two meetings have been scheduled for April 7 and April 14).

For grizzly bear in the Ronan-Post Creek area, the Fish & Game Commission and the Confederated Salish & Kootenai Tribes have an agreement on procedure. This procedure was established after the mixup in communications over grizzly bear at the Cable Ranch in Post Creek.

The department's administrative rules on grizzly provide for transplant, removal, and destruction of individual bears when the situation warrants those actions.

For black bear, there are no overriding federal regulations and the earlier cited state laws are followed.

Thus, I recommend a do not concur on HB738.

March 10, 1981

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

Before the Senate Fish, Wildlife & Parks Committee

HB731

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, and I speak in favor of HB731.

The upper Madison River has had a boat fisherman/bank fisherman conflict for several years. A boat passing through an area (whether or not people are fishing from it) disrupts the fishing in that area for a short time. Occasional boats are tolerable to bank and wading anglers, but steady boat traffic severely degrades the quality of their fishing and disturbs their peace of mind.

In 1978, the Fish & Game Commission set up a Madison River boat regulation study committee to advise them on possible solutions to this problem. This committee, which was composed of sportsmen, guides and outfitters, and state and federal fisheries workers, held 7 meetings and conducted 2 public hearings in the Ennis area and gave their final report to the commission in November, 1979. One of the committee's recommendations was that the commission impose a 1-year moratorium on new commercial guides and outfitters on the upper Madison River. In other words, they asked that the commission not allow the commercial use on the upper Madison to expand beyond what it was in 1979. At its March, 1980 meeting, the commission set up this moratorium to last for one year.

Representatives of outfitters, fishermen, and other interested parties were present at that meeting. At that time it also expanded the Madison committee to a statewide boat regulation study committee with the expectation that the moratorium on the Madison would very likely make boating use increase faster on other waters. The new committee has met 6 times and held 3 public hearings -- one each in Livingston, Ennis, and Butte. Public comment at the hearings was generally to keep the Madison moratorium in effect for the coming year and also to impose a similar moratorium on the Big Hole River. While the committee's final recommendations have not yet been made, they will almost certainly include some geographical limitations on numbers of commercial guides and outfitters in heavy use areas.

A very recent legal interpretation (late January, 1981) indicates that such limitations on commercial activities, including the present Madison moratorium, are in potential violation of a federal statute unless the authorization to impose such limitations is specifically granted to an agency or board by state law. If it is proven that the federal statute is violated, then personal liability may result for the Fish & Game Commission and the department director. That is the reason we requested the bill.

Currently, the Fish & Game Commission may regulate certain types of boating activities. However, it cannot regulate general boating traffic by the public. The department and commission

HB731

can regulate commercially guided fishing trips but not commercially guided floating trips for other purposes such as scenic touring or white-water rafting. The state's rivers are used commercially for fishing, floating, and white-water floating. Regulations to reduce crowding on the rivers must be applicable to all commercial uses if they are to be effective.

As originally proposed, this bill allowed the commission to limit the number of fishing and floating guides and outfitters for the protection of the fishing resource, or for the protection of public health, safety, or welfare. However, upon noting the concern of the hunting outfitters, the House committee modified, and the full House accepted, the original bill to the wording you have before you.

Upon review, the present wording will provide unexpected difficulties in administration of the moratorium. Of the three moratoriums it sets up, only one (the Madison) has been tried and proven popular. The other two (on the Big Hole and in Administrative Region 3) we believe need considerably more exposure to and input from the public before they are enacted. They also need the option (which the Madison has had this past year) of being able to be rescinded if unforeseen problems arise. The present wording of HB731 provides for neither of these options. It merely sets up the three moratoriums for two years with no possibility of change until the next legislative session. Also the present language would not allow an outfitter in an area under the moratorium to replace a guide who quit.

To address these difficulties, the department suggests the attached amendment. This would allow the commission to set up one or more of the three moratoriums if they are deemed necessary and to rescind or change them if difficulties arise. It also would allow outfitters to replace guides who leave their employment. We believe the suggested amendment should meet the needs of the fishing outfitters in Region 3 and the Madison - Big Hole area, and recognize the concerns of the hunting outfitters. We believe the suggested amendment will hold the 1980 level of commercial use on the Madison River, or parts of it, permit the department and commission to include the Big Hole and Administrative Region 3 if necessary, allow for sale and transfer of outfitter business during the 2 years the provision is effective, and recognize the problem of transient professional guides.

Our proposed amendment does not give the department the authority to impose a moratorium on any other water or area in the state as was authorized by the original bill. That original language also would be acceptable to our department and if the committee should desire to return to the bill's original form we would support that change also. Our proposed amendment represents an attempt to satisfy some of the critics of the original bill and still allow us to address our immediate problems on the Madison, the Big Hole, and in Administrative Region 3.

Although it addresses only the commercial aspect of increased boating use on rivers, we believe it is a necessary and logical step at this time. Eventually, some agency is going to receive the authority to regulate general public boating use as well as commercial,

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HB 731

but we doubt the need for this authority at this time. We feel that the commercial uses must be fully regulated before the majority of river users will accept regulation of the private sector.

We recommend HB 731 be amended and then concurred in.

If passed with the suggested amendments, HB 731 would allow the department and commission to continue in its attempt to solve boat problems in heavy use areas. Without the amendment, three moratoriums go on-board immediately and no problems with them can be addressed for two years.

Amendment to HB731

1. Page 4, lines 3 through 10.

Following: "welfare"

Strike: "(6)" in its entirety

Insert: a new "(6)" that reads:

"(6) WHEN THE COMMISSION DETERMINES IT NECESSARY TO PROTECT THE FISHING RESOURCE, PUBLIC HEALTH, PUBLIC SAFETY, OR PUBLIC WELFARE, ESTABLISH AND REGULATE A MORATORIUM IN THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS ADMINISTRATIVE REGION 3 AND ON THE UPPER MADISON RIVER AND BIG HOLE RIVER ON THE ISSUANCE OF OUTFITTER LICENSES FOR THE PURPOSE OF FLOAT FISHING AS DEFINED IN SECTION 87-4-101(4)(c), EXCEPT THOSE FLOAT FISHING OUTFITTERS LICENSED IN 1980 MAY RECEIVE RENEWAL LICENSES, IF QUALIFIED. THE TOTAL NUMBER OF PROFESSIONAL GUIDE LICENSES ENDORSED BY FLOAT FISHING OUTFITTERS UNDER A MORATORIUM SHALL NOT BE LESS THAN THE TOTAL NUMBER ISSUED IN 1980. A MORATORIUM MAY COMMENCE APRIL 1, 1981, AND MAY TERMINATE BEFORE APRIL 1, 1983."

Chairman Smith, Vice Chairman Galt, and members of the Senate Fish and Game Committee,

Due to business obligations in Bozeman, I am unable to be present as I had hoped at today's meeting of the Senate Fish and Game Committee to hear HB 731. I have asked that Mr. Tom Travis read this brief letter for me and present it to the Committee to be included in the Record.

I own and operate THE WILD WINGS ORVIS SHOP in Bozeman. My Shop includes a Wildlife Art Gallery and a fly fishing tackle store. I am also a licensed Outfitter, and an important part of my business is a Fly Fishing Guide Service which I operate with the assistance of three licensed Guides. In the course of this business, we float fish on the Madison, Yellowstone, Jefferson, Gallatin, and the Missouri Rivers near Bozeman.

I am also a member of the State Boat Study Committee to which I was appointed by the Director of the Fish and Game Department. Along with other Outfitters, members from various state and federal agencies, and members of the general public, I have been working for over a year to come up with some suggestions for solutions to boat use problems occurring on rivers throughout the state but particularly in southwestern Montana. At the last meeting of the Boat Study Committee, I was informed along with the other Committee members by the Fish and Game Department Attorney that present and proposed controls on commercial boat use might be, in fact, illegal and that the Fish and Game Commissioners would be personally liable as a result of any lawsuits arising from the implementation of such controls which might be found to be a violation of federal antitrust laws. The Attorney also told the Committee that he was recommending to the Commission to drop the present Madison Moratorium and not to take any action on the Boat Study Committee proposals. The entire Boat Study Committee was shocked at this news. Over a year's work, numerous meetings and public hearings, and a good deal of unreimbursed time and travel seemed to have gone for nothing.

However, it was pointed out that a change in the wording of the Outfitter Law would allow the Fish and Game Department and the Commission to continue the present controls and be able

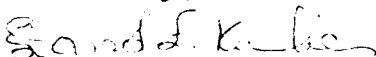
to respond to future problems and act on recommendations from the Boat Study Committee without fear of antitrust litigation. The Boat Study Committee immediately set to the task of trying to formulate a bill which would allow for the necessary changes in the wording of the Outfitter Law. The wording for a potential bill was agreed upon, a bill drafted, and the entire Boat Study Committee including all four of the Outfitter members agreed upon and supported the bill.

In conclusion, HB 731 was and still is a fair and effective bill. It places the authority to deal with boat use problems in the proper place, with the State of Montana Fish and Game Department. I see regulation in the area of boat use, both commercial and private, as inevitable, and I wholeheartedly endorse the concept of State control to potential federal interference. Furthermore, I do not support an amendment which would attempt to limit the Fish and Game Department's authority to specific regions and rivers because as an Outfitter and member of the Boat Study Committee, I feel strongly that the Fish and Game Department and the Commission must have the ability to respond to other problem areas on other rivers as they arise all over the State.

Please recommend a do pass on HB 731.

Thank you.

Sincerely,



David L. Kumlien
2720 West Main St.
Bozeman, Montana 59715

NAME: JACK WAMPLA DATE: MARCH 10, 1981

ADDRESS: RT 1, Box 100A-39 Victor, MT. 59875

PHONE: 406/642-3262

REPRESENTING WHOM? Montana Outfitters Council (Region II) Montana Outfitters & Guides Ass. (President)

APPEARING ON WHICH PROPOSAL: HB 731

DO YOU: SUPPORT? AMEND? ✓ OPPOSE?

COMMENTS: This latest amendment has come about through the
cooperative efforts of The Montana Outfitters Council, The Legislative Comm
Montana Outfitters and Guides Association, and the local staff
of The Dept. of Fish, Wildlife & Parks.

With the situation as it is in Region 3, specifically
the upper Madison River, we are in concurrence that
this amendment will allow the time needed to
further study the issue at hand and derive a
a viable solution to it.

I would propose to this committee that you
adopt this latest proposed amendment to HB 731

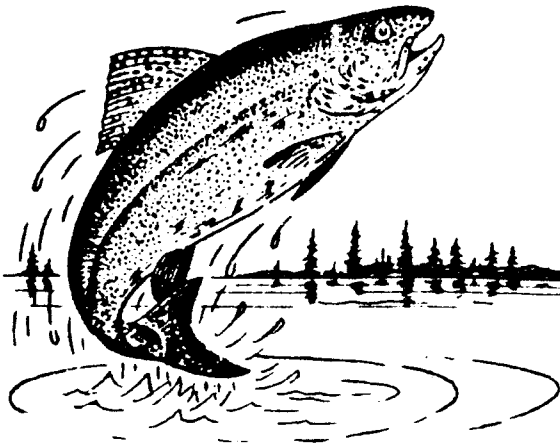
Thank you.

Jack Wampla

NAME: PAUL RITTEL DATE: MAR-10-1971ADDRESS: BLACK TRAIL ROAD, WOLF CREEK, MTPHONE: 235-4330REPRESENTING WHOM? MOUNTAIN OUTFITTERS & GUIDES ASSOCAPPEARING ON WHICH PROPOSAL: H.B. 731DO YOU: SUPPORT? AMEND? OPPOSE? COMMENTS: M.O.G.A. HAS WORKED WITH THE FISH ANDGAME DEPT. TO COME UP WITH AMENDMENT TOTHIS BILL WE FEEL WILL BE WORKABLE TOALL PARTIES. WE FEEL REGION 3 HAS APROBLEM AND IT IS BEING WORKED OUT.HOWEVER OTHER RIVERS IN THE STATE HAVEHAD NO STUDIES MADE ON THEM ANDNEED MORE TIME TO MAKE STUDIES SOWE CAN COME UP WITH A WORKABLELAW FOR ALL PARTIES CONSIDERED.

YELLOWSTONE CUSTOM FLIES & TACKLE SERVICE

THOMAS M. TRAVIS
P. O. Box 1320
Livingston, Montana 59047
Phone 406 - 222 - 0783



YELLOWSTONE GUIDE SERVICE

LICENSED HUNTING AND FISHING GUIDE

March 10, 1981

Honorable Chairman and Members of the Senate Fish & Game Committee

I am here to testify in opposition to HB 731 in its amended form. My name is Thomas M. Travis. My home residence and place of business is located in Livingston, Montana. I am actively engaged as a floating outfitter on a number of the rivers in Fish & Game Region 3 (Yellowstone, Madison, Big Hole, Jefferson, Gallatin and Missouri). I am also presently serving as a member of the State's Boat Regulation Study Committee, and I am currently Vice-Chairman of the Montana Outfitters and Guides Association Float/Boat Committee.

I strongly feel that HB 731 in its amended form does not do the job for which it was intended. In fact, with the poor wording, it would indeed create more problems, in the issuance of guides licenses in the 1981, 1982 season.

I, do, in fact support the need for regulating the Floating Outfitter Industry. In the past, many outfitters and outfitter groups have strongly opposed any form of regulation. This may be a nice principle, but this is a poor reality. Since 1978 when the Upper Madison River became realized as a potential problem area of overcrowding for boating with the outfitter and private floater versus the bank fishermen, the Montana Department of Fish, Wildlife and Parks have diligently worked with various committees for a solution to this problem. During the 1980 season, a moratorium was established on the Upper Madison River. The moratorium allowed only those outfitters showing prior use to continue to guide and use this river. Now I find that the action of the Fish & Game Commission, taken on behalf of the floating outfitter, was indeed taken at a great personal risk to themselves. Due to the wording of our present laws, the Commissioners could have become personally liable under the Federal AntiTrust laws.

On January 31, 1981, the Boat Regulations Study Committee drafted the original version of HB 731, which was introduced by Representative Daily (Butte). The original version of HB 731 is not an attempt by the Department of Fish, Wildlife and Parks to gain total control of the entire outfitting industry. But is, in fact, an attempt to bring the problem areas under control in regards to the floating outfitter and the **FLOATING OUTFITTER ONLY!** as defined in 87-4-101-4-C which states "for consideration, furnishes a boat or other floating craft and accompanies any person for the purpose of catching fish or floating". HB 731 in its original context was also not an attempt by the Department of Fish, Wildlife and Parks to get themselves "off the hook", but, was in fact a solution of the State Boat Regulations Study Committee to see that the Department and the Fish & Game Commissioners could continue to work towards a solution to these problems. The problem that was started on the Upper Madison River

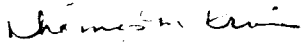
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now involves the Big Hole and the Beaverhead Rivers and will continue to engulf other rivers as our population expands and interest in floating sports grows.

As a floating outfitter, I wish to do my part to preserve Montana's water and fishing resources and insure public safety for all persons using Montana's rivers. Therefore, I congratulate the Department of Fish, Wildlife and Parks and the Fish & Game Commissioners in their attempts to work with the floating outfitters towards a fair and equitable solution for all concerned.

Respectfully Yours,



Thomas M. Travis

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LICENSED HUNTING AND FISHING GUIDE

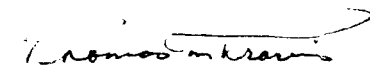
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Honorable Chairman and Members of the Senate Fish & Game Committee

Rather than see HB 731 killed and no action taken during this session, I respectfully submit the following amendment which would give protection to Fish & Game Administrative Region 3 which contains many of the problem rivers.

(see attachment)

Respectfully yours,



Thomas M. Travis

1. Page 4, lines 3 through 10.

Following: "welfare"

Strike: "(6)" in its entirety

Insert: a new "(6)" that reads:

"(6) WHEN THE COMMISSION DETERMINES IT NECESSARY TO PROTECT THE FISHING RESOURCE, PUBLIC HEALTH, PUBLIC SAFETY, OR PUBLIC WELFARE, ESTABLISH AND REGULATE A MORATORIUM IN THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS ADMINISTRATIVE REGION 3 AND ON THE UPPER MADISON RIVER AND BIG HOLE RIVER ON THE ISSUANCE OF OUTFITTER LICENSES FOR THE PURPOSE OF FLOAT FISHING AS DEFINED IN SECTION 87-4-101(4)(c), EXCEPT THOSE FLOAT FISHING OUTFITTERS LICENSED IN 1980 MAY RECEIVE RENEWAL LICENSES, IF QUALIFIED. THE TOTAL NUMBER OF PROFESSIONAL GUIDE LICENSES ENDORSED BY FLOAT FISHING OUTFITTERS UNDER A MORATORIUM SHALL NOT BE LESS THAN THE TOTAL NUMBER ISSUED IN 1980. A MORATORIUM MAY COMMENCE APRIL 1, 1981, AND MAY TERMINATE BEFORE APRIL 1, 1983."

SENATE FISH AND GAME COMMITTEE

MARCH 10, 1981

HOUSE BILL 738 (Ryan)

This bill would remove the criminal liability for the taking of wildlife if such wildlife is molesting, assaulting, killing, or threatening to kill a person or livestock. A person who takes wildlife for these reasons must notify the department within 72 hours.

Presently, under 87-3-127, livestock owners (or department employees) may use dogs in pursuit of stock-killing bears, mountain lions, or bobcats. Other means for taking such animals may be used, except the use of a dead fall trap (a heavy weight arranged to fall on the animal).

Under this proposed law, the taking of grizzly bear would not be allowed because such bears are protected under federal law.

HOUSE BILL 731 (Daily)

This bill calls for the Department of Fish, Wildlife and Parks to establish and regulate a 2-year moratorium in the department's Region 3 (Bozeman) on issuance of new outfitter and guides licenses for the purpose of fishing. The moratorium would be from April 1, 1981, to March 31, 1983, and includes the Madison River and Big Hole River. This bill attempts to control the overuse of this area for the purpose of fishing. The House Fish and Game Committee amended the bill to address this specific problem; the original amendments gave the department power to limit the number of licenses issued if issuance would be detrimental to the fishing resources of a region or watershed.

The amendment to 87-4-101 (Section 1) would have the effect of requiring every "float trip" operator to be licensed as an outfitter regardless of his intent to help persons to catch fish. The title of this bill does not reflect this substantive amendment but needs to do so or be in violation of Article V, Section 11 (3) of the Montana Constitution governing content of titles of legislation. The need for this amendment might be questioned as the rest of the bill would stand without it.