

| | Date: No: HB 34 AMEND 1&2 | Date: No: HB 34 AMEND 3 | Date: No: HB 34 | Date: No: | Date: No: | Date: No: |
|----------|---------------------------------|-------------------------------|--------------------|--------------|--------------|--------------|
| DAILY | NO | YES | YES | | | |
| DEVLIN | YES | NO | YES | | | |
| ELLISON | YES | NO | YES | | | |
| HANSON | YES | NO | YES | | | |
| HART | NO | YES | YES | | | |
| JENSEN | NO | YES | YES | | | |
| MANUEL | YES | NO | YES | | | |
| MUELLER | YES | NO | YES | | | |
| NISBET | NO | YES | YES | | | |
| PHILLIPS | NO | YES | YES | | | |
| REAM | NO | YES | YES | | | |
| RYAN | XXX | XXX | XXX | | | |
| SAUNDERS | NO | NO | YES | | | |
| SWIFT | YES | NO | YES | | | |
| VELEBER | NO | YES | YES | | | |
| SPAETH | YES | YES | YES | | | |
| NILSON | YES | YES | YES | | | |

8-8 9-7 DO NOT PASS

HOUSE FISH AND GAME COMMITTEE

January 13, 1983

The meeting was called to order by Chairman Les Nilson in room 420 of the Capitol Building at 12:30 p.m., with all members present except Representative Ryan, who was excused.

Chairman Nilson opened the meeting to a hearing on House Bill 94.

HOUSE BILL 94

REPRESENTATIVE ORVAL ELLISON, McLeod, District 73, said this bill allows the Department of Fish, Wildlife, and Parks to establish a raptor breeding program for the State of Montana.

RALPH ROGERS, Montana Raptor Propagators, said basically what we are asking the committee to do is to establish legislation giving the Fish, Wildlife, and Parks Department the ability to regulate the raptor breeding in this state. We would like permission to raise in captivity, birds such as these. We are a small group of falconers and sportsmen. We can't raise birds in captivity simply because there is no provision in the law to allow it. We are talking about 250 birds throughout the entire 50 states. Our goal would be to produce enough falcons to allow the 40 falconers in this state to produce these birds. We will not be raising the birds that are already common in this state. We are talking about a specific number of very rare birds which are of greater use to us in this sport. In essence, we are talking about giving the Department of Fish, Wildlife, and Parks the ability to issue permits to regulate issues like state bird raising.

STEVE ALLER, McLeod, Montana Raptor Propagators, said we cannot get these kinds of birds through the wild. We would like to be given the opportunity to raise our own for the use in the sport of falconry.

W. MAC ROBERTS, Montana Falconers Association, pointed out the ability of the Montana Falconers Association to work with the Department of Fish, Wildlife, and Parks.

JIM FLYNN, Department of Fish, Wildlife, and Parks, submitted a written copy of his testimony. (see exhibit 1)

REPRESENTATIVE BOB REAM, District 93, Missoula, said that as a former falconer, I would support the bill with the amendments Mr. Flynn suggested. It is a beautiful sport which is more than a thousand years old. We are aiding propagation and we can perhaps reduce the trapping or taking of falcons.

In closing, Representative Ellison said I concur with the amendments Mr. Flynn suggested. We are talking about a small

MINUTES OF THE MEETING OF THE HOUSE FISH, WILDLIFE, AND PARKS
COMMITTEE January 13, 1983, page 2

number of birds. This bill will allow these people to propagate from the rare species of raptors that are now quite difficult to get a hold of.

Questions were asked by committee members. Rep. Mueller asked if the birds in question are native to Montana. Mr. Roberts answered that these birds were at one time native to the State of Montana. There is some question as to whether or not the bird exists in Montana at this time.

Rep. Daily asked what is hunted with these birds? Mr. Roberts answered we hunt game birds during season. It is a most inefficient way to hunt. The favored prey is the pigeon. They (the falcon) feed on whatever is most available where they live.

Rep. Daily asked Mr. Rogers if the peregrine falcon could kill a pheasant. The reply was yes, on a good day. The type of game that is hunted is short tail grouse.

Rep. Swift asked if the peregrine falcon could ever be harmful to sheep, chickens, etc. Mr. Rogers answered I have published research on peregrine falcons. Under no circumstances could one bother a sheep. Under the rarest of circumstances would one bother a chicken. They are able to fly fast with a minimum of air resistance. They are hesitant to do battle on the ground. The peregrines will very rarely go to the ground.

Rep. Ellison asked Mr. Roberts what the natural habitat of the peregrine falcon is, and how many game birds the average falconer might get in an average season. Mr. Roberts reply was peregrines will nest on cliffs. They will leave the area for the winter months to go where food is. Colorado has an average of 14 to 15 game birds per season, which is very few. Mr. Rogers also explained that radio transmitters are used on the birds to keep track of where they are so not many of the birds are lost.

Rep. Spaeth asked if the main purpose of the bill is for the raising of the birds within the sport of falconry, or for propagation. Steve Aller answered the birds will be raised for our own use. Whatever we raise, we will want to use within our sport.

Mr. Roberts explained that the species of native birds (hawks) which are able to kill a chicken weigh around 52 oz., which is 10 oz. more than the falcon.

Chairman Nilson closed the hearing on House Bill 94 at 12:05 p.m.

MINUTES OF THE MEETING OF THE HOUSE FISH, WILDLIFE AND PARKS
COMMITTEE January 13, 1983, page 3

EXECUTIVE SESSION:

HOUSE BILL NO. 34

Rep. Jensen moved, DO PASS, amendments 1 and 2. (amendments attached)

Discussion by the committee. Rep. Jensen asked what effect including fish has in this bill. Rep. Ellison replied the bill was originally supposed to include fish. We are addressing, by including fish, anything that is regulated by the Fish and Game Department.

Chairman Nilson clarified that the second amendment is regulating those species you need a license to hunt, fish, or take. The first amendment refers to the title.

Dave Cogley, staff attorney, clarified that the purpose of the amendment is for those animals that the department does not have control of.

Rep. Ream stated that hunting and fishing are quite different activities; is there any other place this question is covered in the code? Rep. Nilson stated there are other statutes dealing with trespassing. This amendment deals with those activities that the Fish and Game Department and their wardens should be able to prosecute other than to Title 87.

Rep. Ellison explained that Governor Judge appointed a Council of Land Owners and Sportsmen to try to lessen the friction between the two groups. This is one of the last requirements they made, that bills like this should be on the books.

Rep. Daily stated we are including a whole other class of people when we talk about fishing and hunting bills. I don't think it is fair to include fishing.

Rep. Jensen said we need to amend to narrow the scope. This amendment has a broader implication. I think we should hear from people who are impacted by it. Fishermen should have a chance to testify.

Rep. Ream stated that line 4 to the title does not include fishermen, nor does line 10 or 11. I am in favor of the bill but I think including fishing complicates it. We may need to have a separate bill drafted for fishing.

The motion failed 8-8.

Rep. Devlin moved to amend the amendments to eliminate fishing. The motion passed unanimously.

MINUTES OF THE MEETING OF THE HOUSE FISH, WILDLIFE, AND PARKS
COMMITTEE January 13, 1983, page 4

Rep. Devlin moved amendment 3, DO NOT PASS. (see exhibit 2)

Discussion by committee members. Rep. Daily said that if you are going to punish people for trespassing, the land should be properly posted.

Rep. Hanson said you would cause a problem for the property owner because it is difficult to judge what is conspicuously posted.

Rep. Spaeth stated the problem is what is going to happen if we try to bring action on a person who is trespassing. You are not going to get very many convictions if the land is not posted. To prosecute, there needs to be some kind of posting in the area to show that the land owner has made some effort to notify. Without posting, there is no enforcement.

Rep. Saunders said we are trying to improve hunter and sportsmen relations here too. If persons are required to post thousands of acres of land, conspicuously, it is going to be expensive. The hunters and sportsmen should take the time to find out who's land they are hunting on. It is their responsibility.


Rep. Jensen moved a substitute motion, amendment 3, DO PASS. The motion passed 9 to 7.

Rep. Devlin made a substitute motion, House Bill 34, DO NOT PASS. The motion carried unanimously.

Chairman Nilson adjourned the meeting at 1:30 p.m.



LES NILSON, Chairman



Cheryl Fredrickson, secretary

ADDITIONAL INFORMATION ATTACHED

VISITOR'S REGISTER

HOUSE Fish & Game

COMMITTEE

BILL #94

DATE 1/13

SPONSOR Ellison

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Testimony presented by Jim Flynn, Department of Fish, Wildlife & Parks

In its present form, this bill would allow the department to authorize holders of falconry licenses to take and hold raptors for captive breeding projects. While the department supports this bill in principle, we have concerns about the way this is currently written and ask the committee to consider a number of amendments.

First, as the bill is currently written it may conflict with federal falconry regulations. Federal falconry regulations currently limit the number of raptors that a falconer may hold to three. Montana's falconry law is written with that limitation intact. Because this bill would tie the captive breeding permit to a falconry license, it would permit a falconer to have more than three birds. The federal government does permit certain captive breeding projects that contemplate the holding of more than three raptors. These captive breeding projects, however, are not tied to the falconry license. Thus, the department suggests that the language allowing captive breeding projects be placed in its own section and not be tied to the falconry license in any way. This would permit somebody who was not necessarily a falconer to still apply for a captive breeding project. Such an amendment would erase any conflict with federal laws and regulations.

Second, currently, under 87-5-206(4) MCA, it is illegal to sell raptors in Montana. That section appears in the falconry license section. The department wants it to be clear that raptors held under captive breeding projects are also precluded from sale in this state.

Third, the department would like to have the authorization to set standards for the issuance of captive breeding permits in order to assure that those who are so permitted are qualified to breed and care for the raptors in their custody.

Finally, the department believes it important that we be in a position to approve or disapprove, prior to any capture attempt, the capture of any native raptor in Montana for captive breeding projects.

With these amendments, the department believes that this bill is a commendable one and should be passed.

A copy of our suggested amendments is attached.

Department of Fish, Wildlife and Parks' proposed amendments to HB 94

Page 1, line 14 delete the word "propagation".

Page 2, line 11 delete the prefix "sub" from the word "subsection" and delete the phrase "of this section".

Page 2, line 24 through page 3, line 2 delete all of subsection 3.

Page 3, line 3 delete "(4)" and reinstate "(3)".

Page 3, line 7 delete "(5)" and reinstate "(4)".

Add the following:

Section 3. New section. The department may issue permits for the taking and holding of raptors for captive breeding projects under such conditions as the department may specify in the permit.

Section 4. (1) The department may adopt specific rules for the keeping of records and for the trapping, taking, possession, propagation, and release of raptors taken and held for captive breeding projects.

(2) The fee for a captive breeding permit is \$20.00 a year.

(3) Captive breeding permits are not transferable and may be revoked for violation of any conditions of the permit or regulations of the department at any time by the department.

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With these amendments, the department believes that this bill is a commendable one and should be passed.

A copy of our suggested amendments is attached.

Amend introduced bill as follows:

1. Title, line 5
Following: "HUNTING"
Strike: "ANY KIND OF WILDLIFE"
Insert: "OR TAKING WILD ANIMALS, ~~FISH~~, OR BIRDS"
2. Page 1, line 13
Following: "hunting"
Strike: "big game animals or other wildlife"
Insert: "or taking any wild animal, ~~fish~~ or bird, the hunting or taking of which is otherwise regulated by this title,"
3. Page 1, line 14
Following: "property"
Insert: "that has been conspicuously posted as private property"

Submitted as. testimony in favor of HB-74

October 27, 1982

Ralph Rogers
Box 63
Winifred, Montana 59489

Orville Ellison
Melrose, Montana 59052

Mr. Ellison,

Steve Aller has requested that I address several questions and problems concerning the proposed captive breeding law in this state. Since some of these questions aren't related I will simply address them one at a time.

1. Why do we need this law?

Under current Montana law there are only two types of permits under which hawks may be kept: 1. falconry permit and 2. scientific collecting permit. The falconry permit is the only permit available to non-academic persons. The federal falconry law allows a maximum of 3 raptors. We can not change this limit. Assuming a breeder must have a pair of raptors to begin with, this only allows him to raise one young per year. We need a law separate from the falconry law allowing more than three raptors to be kept.

2. How many raptors are we talking about and what will they be used for?

We are talking about raising a very few of the rarest types of falcons. It takes a tremendous investment of time and energy to build and successfully operate a breeding facility. It is a fair assumption that breeders will not go to this trouble to raise falcons which are already common in the wild. The total number of falcons raised in the 50 states this year was less than 250 or about 5 per state. Of this 250, more than 200 were raised by Cornell University. Private breeders (like the ones we would have in Montana) only produced about 50 birds this year.

Our goal, which would take many years to achieve, would be to produce about 20-25 young per year...enough to supply the 40 odd falconers in this state with hunting hawks. We are not going to raise large numbers of common hawks...it just wouldn't be a sensible investment of time.

3. How are other states currently handling these activities?

The federal government is in the midst of promulgating captive breeding regulations. They have been more than four years at this time...and may be more than four more. These activities are being handled in other states in two different ways; 1. Scientific collecting permit and 2. captive breeding permit issued in accordance with state law or regulation. At this time the most common method is the scientific collecting permit. Wyoming, Washington, S. Dakota, Texas and many others use this type of permit while waiting for federal captive breedings regs. Montana is extremely stringent with these collecting permits, issuing them only to professors, etc... The normal course of action is for a potential breeder to apply to the federal government for a "Special Purpose Permit". He is then inspected by a federal game warden and the "Special Purpose Permit" is denied or issued. The states then issue a captive breeding or scientific permit. Montana will not issue scientific permits and has no legal authorization to issue captive breeding permits. When the federal captive breeding regulations are finally promulgated then all states will have to comply.

4. Is this simple enabling legislation giving the Fish and Game Commission authorization to issue permits and regulation enough? Should we have a more detailed law?

There are two reasons we feel that this simple enabling law followed by complicated Commission regulations is preferable to a complicated law. The Fish and Game Commission is probably the more appropriate body to discuss whether a 12 ft. chamber is adequate for imprints, or at what age the young should be banded, or any of a myriad of other technical problems. A more important reason is the fact that at some time in the future these federal regulations will be out and Montana will have to comply. It would be much easier to change commission regulation at any of six annual meetings than it would be to come back to a legislature which meets only every two years.

5. Other information:

In 1981 the Montana Fish and Game Dept. completed an evaluation of this state's falconry program. One of the major recommendations was that this state's falconers and the Dept. itself try to change the law so that captive propagation of raptors would be legal.

During the August 1982 meeting the Montana Fish and Game Commission directed the Department's legal staff to work with this state's falconers and the Fish and Game Sub-committee to insure that any proposed law was properly written and titled and numbered.

In a nutshell, we are a small group of avid sportsmen who hunt with falcons. We would like that state's permission to breed falcons in captivity so that more of us would be able to use some of the more desirable species of hawks.

We greatly appreciate your help...if there are other questions we may answer or things we can do to aid you, do not hesitate to call on us.

Thank you.

A handwritten signature in dark ink, appearing to be "J. Z. R.", followed by a horizontal line.

WITNESS STATEMENT

NAME Harold Williams BILL No. H. B. 94

ADDRESS 31 South Wilkes DATE 1/13

WHOM DO YOU REPRESENT Montgomery Prison Association

SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME Jeff Waldum BILL No. HB-94
ADDRESS Box 13 Browning, MT. DATE 1-13-83
WHOM DO YOU REPRESENT Raptor Propagation Bill
SUPPORT yes OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME CECIL CAMPBELL BILL No. 94
ADDRESS 212 E 90th Manhattan N.Y. DATE 1-13-83
WHOM DO YOU REPRESENT Manhattan Region Propagators
SUPPORT / OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME JAMES GOSSELL BILL No. 94
ADDRESS 9285 FRONTIER BLVD. BELLEVILLE DATE JAN 13, 83
WHOM DO YOU REPRESENT MONTANA RIFLE PROPAGATORS
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME STEVE AUER BILL No. AB 94
ADDRESS M^cLeach, Mt. DATE 1/13/83
WHOM DO YOU REPRESENT Raptor propagation
SUPPORT yes. OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

STANDING COMMITTEE REPORT

January 13

19 83

MR. SPEAKER:

We, your committee on FISH AND GAME

having had under consideration HOUSE Bill No. 34

first reading over (white)

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A HUNTER TO
OBTAIN PERMISSION BEFORE HUNTING ANY KIND OF WILDLIFE ON
PRIVATE PROPERTY; AMENDING SECTION 87-3-304, MCA."

Respectfully report as follows: That HOUSE Bill No. 34
be amended as follows:

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Following: "HUNTING"
Strike: "ANY KIND OF WILDLIFE"
Insert: "OR TAKING WILD ANIMALS OR BIRDS"
2. Page 1, line 13.
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Strike: "big game animals or other wildlife"
Insert: "or taking any wild animal or bird, the hunting
or taking of which is otherwise regulated by this
title,"
3. Page 1, line 14..
Following: "property"
Insert: "that has been conspicuously posted as private
property"

AND AS AMENDED

DO NOT PASS

Les Nilson

LES NILSON,

Chairman.