

	Date: No: SB 383 JENSEN SUB MOTION	Date: No:	Date: No:	Date: No:	Date: No:	Date: No:
DAILY	NO					
DEVLIN	NO					
ELLISON	NO					
HANSON	NO					
HART	YES					
JENSEN	YES					
MANUEL	XXX					
MUELLER	YES					
NISBET	YES					
PHILLIPS	NO					
REAM	YES					
RYAN	NO					
SAUNDERS	YES					
SWIFT	NO					
VELEBER	YES					
SPAETH	YES					
NILSON	XXX					

8-7 DNP

## HOUSE FISH AND GAME COMMITTEE

March 15, 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.

Chairman Nilson opened the meeting to a hearing on Senate Bills: 387, 383, and 448.

### SENATE BILL 387

SENATOR JOHN MOHAR, District 11, Troy, opened by stating this is known as the Whitefish Bill. Senator Mohar passed out copies of the Administrative Rules of Montana to be amended. (see exhibit 1) The Kootenai River, and many other streams and rivers in western Montana, have an over population of Whitefish. The Whitefish compete for the same habitat and food source as the trout. The bill has the support of the Fish and Game Biologists in the Libby area. On the first page of the rules I have passed out, current law only allows for commercial fishing of nongame fish. The Whitefish is a game species of fish, so it does not apply under that part of the law. We need to amend that part to allow fishing of game Whitefish. Under section 12.7.102, it should be noted that the current rules on any water of the state, except for the Fort Peck Reservoir, commercial fishing will be limited to one operator, unless the department determines that additional harvest would be beneficial. On the second page, subsection C, the class X license may be granted for a period of 12 months. This would allow no fee to be charged while they are setting up the program. They will then go to a class B license, which will be \$250. per year.

### PROPOSERS

JIM FLYNN, Department of Fish, Wildlife, and Parks, submitted written copies of his testimony to committee members. (see exhibit 2)

ROBERT VAN DER VERE, Helena, stated his support for the bill.

There were no opponents to Senate Bill 387.

Senator Mohar closed by saying on the bottom of page 3 and 4, you can see basically what the bill does.

There were no questions from committee members.

Chairman Nilson closed the hearing on Senate Bill 387, at 12:35 p.m.

HOUSE FISH AND GAME COMMITTEE MINUTES  
March 15, 1983, page 2

SENATE BILL 448

Chairman Nilson explained that this bill came up just prior to transmittal in the Senate. It was known that there were a number of amendments that needed to be made, addressing technical problems with the bill. We have printed the amended version of the bill on a gray copy. (see exhibit 3)

SENATOR LEO LANE, District 40, Three Forks, submitted a written copy of his opening statement. (see exhibit 4)

PROPOSERS

SENATOR THOMAS TOWE, District 34, Billings, said I introduced this bill in the last session of the legislature. The bill was held barring the appointment of a committee. This was done. This committee met, and all of the concerns of each party involved were taken care of. The bill is divided into three parts. There is a difference between a game animal and a game farm animal. A game farm animal is subject to private ownership, and can be hunted on an individual's game farm without having to comply with the normal fish and game license. When they take an animal, it is tagged so they can prove they purchased these animals at a game farm. The sportsmen are guaranteed that there is no intermingling of game farm animals with regular game animals which are not privately owned. On the top of page 9, it states that no person can capture, take, or otherwise acquire any game animal in this state for use on a game farm. On the top of page 11 of the gray bill, starts the second part of the bill which is the game birds. It defines what a game bird is and what a game bird farm license is. On the top of page 18, a fur farm is defined. A fur farm is an area enclosed, in which a fur bearer is kept in captivity.

JIM FLYNN, Department of Fish, Wildlife, and Parks, submitted written copies of his testimony to committee members. (see exhibit 5) Mr. Flynn also represented the Department of Agriculture, and submitted a written statement from the department in favor of Senate Bill 448. (see exhibit 6)

SENATOR ED SMITH, District 1, Dagmar, said the reason for the amendments is that we got the bill so close to the deadline that there was no way we could go in and eliminate all of the problems by putting those amendments in the bill. We passed it through the Senate so we could work through the problems in conjunction with the House. Between the Department of Livestock, Department of Fish and Game, Department of Agriculture, the game farm operators, and others involved, I think they have come up with a very good compromise. After two years of work on this problem, I would hope that this bill is passed.

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EMILY STONINGTON, Montana Wildlife Federation, voiced the support of her organization for Senate Bill 448.

WARD SWANSER, Game Farm Task Force, said the bill as amended reflects the intent of the game farm task force. Consideration should be given only to the gray version.

JIM GLOSSER, Department of Livestock, said in representing my organization, I would encourage the committee to render a DO PASS on Senate Bill 448.

DAVID MAJORS, Stevensville, said I am a game bird farm owner. I urge the passage of the gray version of Senate Bill 448.

FRED FREY, Missoula, said I raise game birds and serve on the task force that put this proposal before you. I think we have worked out the controversies.

There were no opponents to Senate Bill 448.

Senator Land closed by stating I would appreciate it if you passed this bill.

There were no questions from committee members.

Chairman Nilson closed the hearing on Senate Bill 448, at 12:55 p.m.

Chairman Nilson turned the chair over to Vice Chairman, Gary Spaeth.

EXECUTIVE SESSION

Rep. Mueller moved Senate Bill 387, BE CONCURRED IN, the motion carried unanimously, with 13 yes votes. Representatives Ellison, Manuel, Swift, and Nilson were excused to attend another hearing.

Acting Chairman Spaeth resumed the hearing on Senate Bill 383.

SENATE BILL 383

SENATOR MARK ETCHART, District 2, Glasgow, opened by stating this is an act to allow a person 62 years of age or older, who has a specific disability that does not interfere with the sport of hunting, but does interfere with the ability to discharge a firearm, to receive certification for a game license that would allow other game hunters to kill the game authorized by the license. The reason for the bill occurred in an instance where a senior citizen who had been an outdoorsman and had hunted all of his life, had cataracts on his eyes. His friend shot a deer for him.

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March 15, 1983, page 4

They were charged with the violation, and paid the fine. This bill deals with two types of disabilities, cataracts of the eyes, and rheumatism. It sets up a process whereby a hunter can receive a certificate. He must receive a provisional license from a warden, and he must state his disability. It allows a hunter with a disability to continue his hunting.

OPPONENTS

RON MARCOUX, Department of Fish, Wildlife, and Parks, submitted written testimony on behalf of Jim Flynn, director of the department. (see exhibit 7)

Senator Etchart closed by saying the department gave the same presentation to the Senate Fish and Game Committee, and the committee came out with only one decenting vote. When the hunter signs a certificate of disability, it places the responsibility upon him. The Fish and Game Department was created by this legislature. These hunters hunted long before there was a Fish and Game Department. I see no reason why the legislature is not within its bounds to pass legislation such as this.

Questions from committee. Rep. Hart said I think you could conceivably have everybody over the age of 62 that wear glasses saying they could not hunt their own deer. Senator Etchart replied poor vision and cataracts would be two different categories.

Rep. Jensen said I understand the individual will have to go to the warden or to the department to buy the license, and in their presence sign a statement accepting responsibility. What if there is a disagreement at this point. Who would make the determination. Senator Etchart responded I don't think it would be up to the warden. The burden would fall on the certified signor who said they had this disability. If they were charged with a violation by the Fish and Game Department, the burden of proof would be on them for this disability.

Vice Chairman Spaeth closed the hearing on Senate Bill 383, at 1:15 p.m.

The committee resumed EXECUTIVE SESSION.

SENATE BILL 383

Rep. Ryan moved Senate Bill 383, BE CONCURRED IN.

Rep. Jensen made a substitute motion, Senate Bill 383, NOT BE CONCURRED IN.

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March 15, 1983, page 5

Rep. Jensen stated we all have to realize the disability of age. I cannot agree with the notion of selling a license to someone because of their age and a disability of blindness, and allowing someone else to shoot their animal for them.

Rep. Hart said why do you have to be 62? There are a lot of people who have cataracts who are younger than this.

Rep. Hanson stated there are people who have been disabled by a car wreck, who had hunted up until that time.

Rep. Jensen's motion passed 8 to 7, with Representatives Daily, Devlin, Ellison, Hanson, Phillips, Ryan, and Saunders voting no. Representatives Nilson and Swift were not present to vote.

SENATE BILL 448

Discussion was held on Senate Bill 448, and it was decided that the committee would pass on the bill until a later date.

SENATE BILL 126

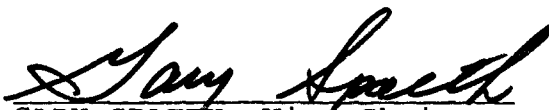
Rep. Ellison passed out amendments from the outfitters concerning Senate Bill 126. (see exhibit 8)

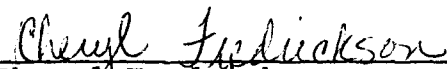
Vice Chairman Spaeth appointed a sub-committee to work on Senate Bill 126, to bring back possible amendments to the bill. The committee consisted of Rep. Ellison, Chairman, Rep. Jensen, Rep. Mueller, and Rep. Hanson.

Senator Ed Smith left a letter from Mr. Glen C. Childers, which was passed out for the information of the committee. (see exhibit 9)

Vice Chairman Spaeth adjourned the meeting at 1:45 p.m.

  
LES NILSON, Chairman

  
GARY SPAETH, Vice Chairman

  
Cheryl Fredrickson, secretary

HOUSE Fish and Game COMMITTEE

DATE March 15

[illegible]

FORM CS-33

HOUSE *Fish and Game* COMMITTEE

DATE *March 15*

DATE *March 15*

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

FORM CS-33



HOUSE Fish and Game COMMITTEE

DATE March 15

DATE March 15

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## FISHERIES

12.7.103

## Sub-Chapter 1

## Commercial Fishing Permit

12.7.101 APPLICATION (1) Any person desiring to harvest nongame fish from any body of water in the state for sale or commercial distribution must make written application to the director for a commercial fishing permit upon a form furnished by the department.

(2) The form must be signed by the applicant including mailing address and residence of applicant and stating specifically the waters and species of nongame fish desired for harvest and equipment owned or controlled by applicant.

(3) If an application is approved, applicant must then give a bond to the department in favor of the state of Montana in the sum of \$1,000 with corporate surety, conditioned on the faithful carrying out of the provisions of the application and permit. The department will then issue a license describing approved waters, species, seasons, and fishing methods. (History: Secs. 87-1-201, 87-1-301 MCA; IMP, Secs. 87-3-204, 87-4-602 MCA; NEW, 1978 MAR p. 994, Eff. 7/15/78.)

12.7.102 COMMERCIAL FISHING LIMITATIONS (1) On any water of the state, except Fort Peck reservoir, commercial fishing will be limited to one operator unless the department determines that additional harvest would be beneficial. Also special regulations regarding gear, limits, seasons, closures, etc., may be imposed on any water. Existing fishermen will receive first priority for retaining present permits. If additional waters are approved for commercial fishing or existing fishermen terminate their operation, the following criteria will be used to select permits for each water:

(a) ability of applicant to provide desired level of harvest;

(b) number of years of commercial fishing under Montana contract or permit;

(c) adequacy of equipment and facilities and investment in land and facilities in Montana for commercial fishing;

(d) previous fishing experience;

(e) state of residence.

(History: Secs. 87-1-201, 87-1-301 MCA; IMP, Secs. 87-3-204, 87-4-602 MCA; NEW, 1978 MAR p. 994, Eff. 7/15/78.)

12.7.103 CLASSES OF PERMITS AND FEES (1) Permit fees for a commercial fishing permit and species that may be taken are as follows:

12.7.104

## FISH, WILDLIFE, AND PARKS

(a) Class A--\$500 per year which authorizes the taking of all nongame species designated by the department for commercial purposes;

(b) Class B--\$200 per year which authorizes the taking of all nongame species designated by the department except smallmouth buffalo and largemouth buffalo for commercial purposes;

→ (c) Class X--may be granted for not more than 12 months with no fee required, which authorizes the taking of specific nongame species for commercial purposes on an experimental basis.

(2) The Class X permit must be replaced by a Class A or Class B permit after 12 months' operation unless a renewal is specifically authorized in writing by the commission.

(3) Class X permits may be issued to those persons who desire to determine the feasibility of a commercial fishing operation in waters and for nongame species for which there has been no history of commercial fishing. Criteria for issuance of a Class X permit are:

(a) the method of harvest is new and untried; or

(b) the operation will be carried out in waters which are difficult to run a commercial operation; or

(c) the nongame species that is to be taken is not usually handled in the commercial trade.

(History: Secs. 87-1-201, 87-1-301 MCA; IMP, Secs. 87-3-204, 87-4-602 MCA; NEW, 1978 MAR p. 994, Eff. 7/15/78; AMD, 1979 MAR p. 1487, Eff. 11/30/79.)

12.7.104 RECORDS (1) The permittee shall keep written records of all his operations and transactions relating to the taking, sale of, or other disposal of fish. The permittee shall make reports on commercial fishing activities to the director on forms provided by the department. These reports shall be submitted within 30 days following the end of each month. (History: Secs. 87-1-201, 87-1-301 MCA; IMP, Secs. 87-3-204, 87-4-602 MCA; NEW, 1978 MAR p. 994, Eff. 7/15/78.)

12.7.105 DISPOSAL OF FISH (1) All species of fish except those taken as provided in 12.7.103 shall be returned alive and unharmed to the waters from which they came. All dead game fish shall be cut and sunk. (History: Secs. 87-1-201, 87-1-301 MCA; IMP, Secs. 87-3-204, 87-4-602 MCA; NEW, 1978 MAR p. 994, Eff. 7/15/78.)

SB 387

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

March 15, 1983

Most of western Montana's streams contain far greater numbers of whitefish than they do of trout. Fishing pressure on these streams is much heavier for trout than it is for whitefish.

For over 30 years the Department has periodically liberalized fishing regulations for whitefish and restricted them for trout in an attempt to get anglers to apply more equal fishing pressure on the two groups of fish. Today most of our better trout streams have an extended whitefish season on all days of the week for the entire winter and spring and the limit is 100 fish. In addition, any licensed angler can now obtain authorization to sell his 100 per day limit of whitefish. Unfortunately, none of these liberalized limits have brought fishing pressure on whitefish to the levels it has reached on trout and consequently whitefish still vastly outnumber trout in all of our better streams.

About 50 years ago whitefish could be taken commercially and reportedly a number of small operations developed around smoking whitefish and selling them to local outlets. These operations did not redevelop when commercial whitefishing was again allowed by the 46th Legislature. Apparently health rules today on food processed for sale require a far greater investment in sanitary facilities than most operations can afford. A processing plant equipped to meet today's health standards requires a larger and more continuous supply of whitefish than can be provided by a few people taking whitefish by hook and line at the rate of up to 100 per day.

Following the solution of the gas supersaturation problem below Libby Dam, the Kootenai River has developed one of the heaviest whitefish populations of any river in Montana. It is so dense that we are contemplating artificial means to reduce it to improve conditions for trout.

A businessman in Libby reports he has developed a market for whitefish that will justify the required expense for processing equipment if he can obtain a large dependable supply of whitefish. We recommend the Montana Fish and Game Commission be authorized to regulate the commercial netting of whitefish in the Kootenai River so that this business can be allowed to try to develop. If it succeeds, it has the possibility of using a resource that is now vastly underutilized, improving conditions for trout in the Kootenai River, and benefitting the local economy in northwest Montana.

## 1 SENATE BILL NO. 448

2 INTRODUCED BY LANE, TOWE, E. SMITH, BOYLAN,

3 CHRISTIAENS, FULLER, GALT, MAZUREK

4 BY REQUEST OF THE DEPARTMENTS OF

5 AGRICULTURE AND FISH, WILDLIFE, AND PARKS

6  
7 A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE GAME ANIMAL  
8 FARMS, GAME BIRD FARMS, AND FUR FARMS; REPEALING SECTIONS  
9 87-4-401 THROUGH 87-4-405, MCA."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Definitions. As used in [sections 1 through  
13 18], the following definitions apply:

14 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF FISH,  
15 WILDLIFE, AND PARKS.

16 ~~(2)~~(2) "Game animals" means game animals as defined in  
17 87-2-101 that are not the lawful property of any private  
18 person.

19 ~~(2)~~(3) "Game farm" means the enclosed land area upon  
20 which game farm animals may be kept for purposes of  
21 obtaining, rearing in captivity, keeping, and selling game  
22 animals or parts of game animals, as authorized under  
23 [sections 1 through 18].

24 ~~(3)~~(4) "Game farm animal" means a privately owned  
25 caribou, bear, mountain lion, white-tailed deer, mule deer,

1 elk, moose, antelope, mountain sheep, or mountain goat  
2 indigenous to the state of Montana or any other  
3 cloven-hoofed ungulate as classified by the department.

4 ~~(4)(5)~~ "Game farm shooting license" means the license  
5 required under [~~sections 1 through 21~~ SECTION 16] for a game  
6 farm licensee OPERATOR to hunt the game farm animals  
7 indigenous to the state of Montana on his game farm.

8 ~~(5)(6)~~ "Person" means an individual, firm,  
9 corporation, association, or partnership.

10 Section 2. License required. No person may operate a  
11 game farm in this state without first obtaining a game farm  
12 license from the department.

13 Section 3. Department jurisdiction -- applicability  
14 of livestock laws and rules. (1) The department has primary  
15 jurisdiction over game farms.

16 (2) A game farm licensee must also comply with all  
17 applicable laws and rules administered by the department of  
18 livestock.

19 Section 4. Application for license -- limitations on  
20 issuance. (1) Any person desiring to obtain a game farm  
21 license shall make written application to the department.  
22 The application shall specify:

23 (a) the applicant's name;

24 (b) the applicant's address;

25 (c) the exact legal description of the land upon which

1 the game farm is to be located, together with the nature of  
2 the applicant's title thereto, whether in fee, under lease,  
3 by contract for deed, or otherwise;

4 (d) the species of game animals proposed to be kept or  
5 reared on the game farm;

6 (e) the type of fencing contemplated;

7 (f) the source from which the applicant intends to  
8 acquire the game animals;

9 (g) if the applicant is not a Montana resident, the  
10 name and address of a Montana resident designated by the  
11 applicant as his local agent;

12 (h) if the applicant is a corporation, the full names  
13 and addresses of all stockholders owning more than 10% of  
14 the stock in the corporation; and

15 (i) information demonstrating that the applicant is  
16 responsible.

17 (2) A game farm license may ~~may~~ **SHALL** be issued only to a  
18 responsible applicant who owns or leases the premises on  
19 which the operations are to be conducted and who has  
20 properly fenced the land upon which the game farm is to be  
21 located. The fencing must be designed and constructed to  
22 prevent the escape of the species of game farm animals kept  
23 on the land and to prevent the entry of the same species of  
24 game animals.

25 (3) Within 60 days of receiving the application, the

1 department shall notify the applicant of its decision to  
2 approve or deny the application. If required fencing has not  
3 been completed, the department ~~may~~ **SHALL** approve the  
4 application ~~only~~ subject to completion of the fencing. If  
5 the application is denied, the department shall specify the  
6 reasons for denial.

7 Section 5. Removal of game animals. (1) If game  
8 animals are present on the land which is to be covered by a  
9 game farm license, the license ~~may~~ **SHALL** be issued but must  
10 be conditioned upon the applicant complying with this  
11 section.

12 (2) Before the fence surrounding any such land may be  
13 closed, all game animals must to the extent possible be  
14 driven therefrom by the applicant, at the applicant's  
15 expense and under the direction of a representative of the  
16 department.

17 (3) If at the time the license is issued all game  
18 animals cannot be removed from the licensed land, the  
19 applicant and a representative of the department shall  
20 decide the approximate number of **REMAINING** game farm animals  
21 of each indigenous species ~~that the applicant will raise~~  
22 thereon. This number is the "base number".

23 (4) The department may remove the base number of game  
24 animals from the game farm by trapping them within 120 days  
25 from the date the number was determined.



1           (5) If the department decides not to remove the game  
2 animals or if some game animals were not successfully  
3 removed by trapping, the public must be granted access to  
4 harvest those game animals during a special hunt set for  
5 that purpose during the next regularly scheduled hunting  
6 season. All administrative costs incurred by the department  
7 in arranging the special hunt or providing for hunting on  
8 the applicant's land during the regular season must be  
9 reimbursed by the applicant.

10           (6) After compliance with this section, any animals  
11 from the base number that remain and their progeny belong to  
12 the licensee, and the licensee may deal with them as  
13 provided for in [sections 1 through 18].

14           Section 6. License and renewal fees -- deposit of  
15 fees. (1) The department shall charge an initial game farm  
16 license fee of \$100 and for each year thereafter shall  
17 charge an annual renewal fee of \$25.

18           (2) The fees must be deposited in the earmarked  
19 revenue fund for the use of the department for purposes of  
20 [sections 1 through 18].

21           Section 7. Term of license -- nontransferability.  
22 (1) A game farm license expires on January 31 of the year  
23 succeeding the year of issuance. Application for renewal  
24 must be made before a license expires. The department shall  
25 renew the license upon payment of the renewal fee if the

1     licensee has not violated any provisions of--~~[sections--1~~  
2     through--18]--or--conditions under which the license was  
3     granted.

4             (2) A game farm license is nontransferable.

5             Section 8. Inspection. (1) Upon receipt of an  
6     application for a game farm license, the department shall  
7     inspect the land proposed to be covered by the license.

8             (2) After issuance of a game farm license, the  
9     department may inspect the game farm or the licensee's game  
10    farm books on a scheduled basis or on such other reasonable  
11    basis as--it--considers AS\_MAY\_BE\_DETERMINED necessary.

12            Section 9. Game farm animals as private property. (1)  
13    All game farm animals lawfully raised on a licensed game  
14    farm are the private property of the licensee.

15            (2) The licensee may acquire, breed, grow, keep,  
16    pursue, capture, kill, use, sell, or dispose of the game  
17    farm animals and their progeny in any quantity, at any time  
18    of year, and in any manner, as long as he complies with the  
19    requirements of [sections 1 through 18].

20            (3) Before allowing hunting of any game FARM animals  
21    on a game farm, the game farm licensee must obtain a game  
22    farm shooting license from the department.

23            (4) The laws applicable to game animals do not apply  
24    to game farm animals raised on a licensed game farm.

25            Section 10. Transportation and sale of game farm

1 animals. ~~{1}--No-person-may-sell,--dispose-of,--or--transport-a~~  
2 ~~living-game-farm-animal--except-as-provided-in-this--section.~~

3 {2}(1) Whenever the licensee of a licensed game farm  
4 sells or disposes of one or more game farm animals, he  
5 shall, at the same time, deliver to the recipient or attach  
6 to OTHERWISE CAUSE TO ACCOMPANY each such game farm animal  
7 an invoice or bill of sale signed by the licensee or his  
8 agent stating the number of the game farm license, the date  
9 of disposition, the species, the number disposed of, and the  
10 name and address of the transferee. This invoice or bill of  
11 sale authorizes transportation of the game farm animal or  
12 animals being sold, transferred, or disposed of.

13 {3}(2) Within ~~24--hours--of~~ A REASONABLE TIME AFTER  
14 disposition, the licensee or his agent shall mail postpaid a  
15 duplicate of the invoice or bill of sale to the department  
16 of livestock and the department.

17 Section 11. Sale of game parts, meats, and byproducts.  
18 ~~{1}--No--person--may--sell,--dispose--of,--or--transport-the~~  
19 ~~carcass, parts, or byproducts of a game farm animal--except~~  
20 ~~as-provided-in-this-section.~~

21 {2}(1) A game farm licensee may sell or otherwise  
22 dispose of the carcass, parts, or byproducts of a properly  
23 identified game farm animal taken from a game farm, ONLY  
24 upon preparing an invoice or bill of sale and attaching a  
25 copy of it to the carcass or container and keeping a copy

1 for his records. Upon the attaching of the invoice or bill  
2 of sale to the carcass, parts, or byproducts of the game  
3 farm animal, the same may be transported within the state to  
4 the transferee named on the invoice or bill of sale.

5 ~~(3)~~(2) The licensee may sell game farm animals for  
6 meat upon compliance with all applicable health laws.

7 Section 12. Records and reporting. (1) Each game farm  
8 licensee shall keep and maintain for 3 years accurate  
9 written records of all purchases, transfers, and sales of  
10 game farm animals showing:

11 (a) the number of each species of game farm animal  
12 purchased by the game farm licensee and from whom purchased;

13 (b) the number of each species of game farm animal  
14 transferred or sold, the date of transfer or sale, and the  
15 name and address of the person to whom the transfer or sale  
16 was made; and

17 (c) identification ~~by-number~~ of each game farm animal  
18 purchased, transferred, or sold.

19 (2) On or before January 31 of each year, the game  
20 farm licensee shall file a report with the director, showing  
21 the number and species of game FARM animals on hand as of  
22 January 1 and the number and species of game FARM animals  
23 bought or sold during the past year.

24 Section 13. Unlawful capture. No person may capture,  
25 take, or otherwise acquire any game animal in this state for

1 use on a game farm EXCEPT AS PROVIDED IN SECTION 5.

2 Section 14. Escape from game farm -- effect. If a  
3 game FARM animal escapes from a game farm, the game farm  
4 licensee shall immediately notify the department of its  
5 escape and shall make every reasonable effort to recapture  
6 it. If the escaped animal cannot be recaptured within a  
7 reasonable time, it becomes the property of the state.

8 Section 15. Taxation. All game farm animals raised on  
9 a game farm ~~must~~ MAY be assessed as personal property of the  
10 owner.

11 Section 16. Game farm shooting license. (1) Before a  
12 game farm licensee may hunt any ~~indigenous~~ game FARM animals  
13 INDIGENOUS TO THE STATE of Montana on his game farm, he must  
14 first obtain a game farm shooting license.

15 (2) The department shall issue to a game farm licensee  
16 a game farm shooting license on an annual basis for the  
17 number of animals that he wishes to hunt.

18 (3) The department shall issue individual tags to the  
19 game farm licensee at a charge of \$15 a tag. The tags must  
20 contain such information as the department requires. A tag  
21 must be attached to each animal immediately after it is  
22 killed and must accompany the animal until it is taken to  
23 its final destination.

24 Section 17. Rulemaking. (1) The department may adopt  
25 and enforce ONLY SUCH rules AS ARE necessary to implement

1 the provisions of [sections 1 through 18].

2 (2) The rules ~~must~~ MAY address but are not limited to  
3 classifying of cloven-hoofed ungulates, fencing  
4 requirements, reporting requirements, transportation and  
5 importation, identification, sale of animal parts, the care  
6 and maintenance of game farm animals, and game farm shooting  
7 licenses.

8 Section 18. Revocation of license. (1) A game farm  
9 license may be revoked for failure to operate the game farm  
10 according to the provisions of [sections 1 through 18] or  
11 rules adopted under [sections 1 through 18].

12 (2) Upon discovery of a violation, the department  
13 shall give notice of the violation to the licensee, with a  
14 statement of a specific time in which the violation must be  
15 corrected.

16 (3) Upon failure of the licensee to correct the  
17 violation, the department may institute revocation  
18 proceedings. If the department institutes revocation  
19 proceedings, it shall provide reasonable notice and  
20 opportunity for a hearing to the licensee. After hearing and  
21 upon proof of violation, the department may revoke the game  
22 farm license.

23 Section 19. Current licenses valid. ~~(1)~~ A game farm  
24 having a valid license on October 1, 1983, may SHALL receive  
25 a game farm license ~~in-the-manner-provided-by--[sections--1~~

1 through--10]--for-renewal-of-game-farm-licenses, except that  
2 no-renewal-fee-may-be-charged-until--1--year--after--initial  
3 licensure-under-this-section.

4 (2) A GAME BIRD FARM HAVING A VALID LICENSE ON OCTOBER  
5 1, 1983, SHALL RECEIVE A GAME BIRD FARM LICENSE.

6 (3) A FUR FARM HAVING A VALID LICENSE ON OCTOBER 1,  
7 1983, SHALL RECEIVE A FUR FARM LICENSE.

8 Section 20. Game birds defined. For purposes of  
9 [sections 20 through 35], "game THE FOLLOWING DEFINITIONS  
10 APPLY:

11 (1) "GAME birds" means all birds defined as game birds  
12 in 87-2-101, except that the only pheasants included are  
13 ring-necked pheasants, and quail are not included.

14 (2) "GAME BIRD FARM" MEANS AN ENCLOSED AREA UPON WHICH  
15 GAME BIRDS MAY BE KEPT FOR PURPOSES OF OBTAINING, REARING IN  
16 CAPTIVITY, KEEPING, AND SELLING GAME BIRDS OR PARTS OF GAME  
17 BIRDS AS AUTHORIZED UNDER [SECTIONS 20 THROUGH 35].

18 Section 21. Exemption. [Sections 20 through 35] do not  
19 apply to a person who owns, controls, or propagates game  
20 birds for purposes other than sale or conveyance of game  
21 birds or parts thereof and who notifies the department and  
22 receives its written authorization and exemption.

23 Section 22. Game bird farm license required. Except as  
24 provided in [section 21], no person may own, control, or  
25 propagate game birds unless he holds a current game bird

1 farm license from the department.

2 Section 23. Application for game bird farm license --  
3 limitation on issuance. (1) A person desiring to obtain a  
4 game bird farm license shall make a written application to  
5 the department. The application must specify:

6 (a) the name of the applicant;

7 (b) his address;

8 (c) the species of game bird and any plans to  
9 propagate them;

10 (d) the legal description of the lands to be included;

11 (e) the type of fence or enclosure that the applicant  
12 contemplates erecting;

13 (f) the source of game birds; and

14 (g) for a nonresident owner, the name and address of a  
15 local resident agent.

16 (2) (a) A game bird farm license may SHALL be issued  
17 only to a responsible applicant who owns or leases the  
18 premises on which the operations are to be conducted and who  
19 has properly fenced or otherwise enclosed the place where  
20 such game bird farm is to be located.

21 (b) Any game bird farm owned by a nonresident must  
22 have a resident agent who is responsible for the daily  
23 operation of the farm and who is authorized by the  
24 nonresident owner to receive service of process.

25 (3) Within 30 days of receiving the application, the



1 department shall notify the applicant of its decision to  
2 approve or deny the application. If IHE required fencing or  
3 enclosure has not been completed, the department may ~~may~~ **SHALL**  
4 approve the application ~~only~~ subject to the fencing or  
5 enclosure being completed. If the application is denied, the  
6 department shall specify the reasons for denial.

7 Section 24. License and renewal fee -- deposit of  
8 fees. (1) Game bird farm license and annual renewal fees  
9 must be set by department rule ~~in amounts not to exceed \$100~~  
10 ~~for initial licensing and \$25 for annual renewal.~~

11 (2) The fees must be deposited in the earmarked  
12 revenue fund for the use of the department for purposes of  
13 [sections 20 through 35].

14 Section 25. Term of permit -- conditions --  
15 changes in operation. (1) A game bird farm license is valid  
16 only for the license year for which it is issued. The  
17 licensee shall apply for renewal annually, and the  
18 department shall renew the license if the licensee has not  
19 violated any provision of ~~[sections 20 through 35]~~ **rules**  
20 ~~adopted under [sections 20 through 35] or any condition of~~  
21 ~~the license~~ **UNDER WHICH THE LICENSE WAS GRANTED.**

22 (2) The licensee shall notify the department of any  
23 proposed changes in the species managed or in the size or  
24 location of the enclosure prior to the institution of such  
25 change.

1           Section 26. License nontransferable. A game bird farm  
2 license is nontransferable.

3           Section 27. Inspection. Upon receipt of an  
4 application, the department shall inspect the game bird farm  
5 facilities and shall thereafter inspect the facilities at  
6 ~~least--biennially--The department may inspect any game bird~~  
7 ~~farm or~~ AND the records required to be kept by such farm at  
8 ~~any reasonable time~~ ON A SCHEDULED BASIS OR ON SUCH OTHER  
9 REASONABLE BASIS AS MAY BE DETERMINED NECESSARY.

10          Section 28. Game farm birds as private property. All  
11 birds lawfully raised in a licensed game bird farm are the  
12 private property of the licensee, and the licensee may sell  
13 or transfer such birds as private property.

14          Section 29. Transportation of birds. Any birds  
15 purchased for use on a game bird farm or any birds raised on  
16 a game bird farm may be transported only in compliance with  
17 Title 81, chapter 2, part 7, and applicable administrative  
18 rules.

19          Section 30. Sale of meat. A licensee may sell game  
20 ~~EARM~~ birds or parts thereof only in compliance with all  
21 health laws applicable to the sale of game meat.

22          Section 31. Records and reporting. (1) Each licensee  
23 shall keep accurate records of the number and species of  
24 birds purchased, transferred, or sold and the name of each  
25 person to whom or from whom such birds were purchased,

1 transferred, or sold.

2 (2) On or before January 31 of each year, each  
3 licensee shall file a report with the director, showing the  
4 number and species of birds on hand on January 1 and the  
5 number and kinds of birds purchased, transferred, or sold  
6 during the past year. All records described in this section  
7 must be kept for not less than 3 years.

8 Section 32. Rulemaking. The department may adopt and  
9 enforce ONLY SUCH rules AS ARE necessary to implement the  
10 provisions of [sections 20 through 35]. The rules must MAY  
11 address but are not limited to fencing requirements,  
12 reporting requirements, the care and maintenance of birds  
13 held by game bird farm operators, and licensing requirements  
14 for applicants.

15 Section 33. Release of birds. Game bird farm licensees  
16 may release birds into the wild only with the prior approval  
17 of the director.

18 Section 34. Field trials -- permits. (1) As used in  
19 this section, "field trial" means an examination to  
20 determine the ability of dogs to point, flush, or retrieve  
21 game birds.

22 (2) No person may conduct a field trial unless he has  
23 received a permit under this section. Applicants for a  
24 permit to conduct a field trial must make application to the  
25 director upon a form furnished by the department for that

1 purpose. The application must be signed and sworn to by the  
2 applicant, stating the applicant's name and address, the  
3 name and address of any national affiliate, the place for  
4 the field trial clearly defined, the date or dates of the  
5 proposed field trial, whether live birds are to be used, and  
6 any other information required by the director to determine  
7 the advisability of granting permission for the proposed  
8 field trial. The application must state that if a permit is  
9 granted, the applicant will carefully flush all wild game  
10 birds from fields used for the field trial each day before  
11 the field trial begins and will not permit dogs to run free  
12 in fields that have not been carefully flushed. The  
13 application must be presented to the director not less than  
14 20 days prior to the date proposed for the field trial.

15 (3) The director may refuse any application that he  
16 determines is not in the best interests of the protection,  
17 preservation, propagation, and conservation of game birds in  
18 this state. Any denial by the director of such application  
19 must state the reasons therefor and must be mailed to the  
20 applicant within 10 days of receipt of the application.

21 (4) No applicant receiving a permit to conduct a field  
22 trial may violate or authorize violation of any of the terms  
23 of the permit.

24 (5) All live game birds used in a field trial must be  
25 tagged before being planted or released and may be planted

1 or released only in the presence of a representative of the  
2 department. If an untagged bird is shot during any field  
3 trial, the person to whom the permit was issued must  
4 immediately replace it with a live bird.

5 (6) (a) Dogs may be trained in open fields at any time  
6 without permission of the director only if:

7 (i) no live game birds are killed or captured during  
8 training; and

9 (ii) the training is more than 1 mile from any bird  
10 nesting or management area or game preserve.

11 (b) A person may train dogs with a method that will  
12 kill birds acquired from a game bird farm only after  
13 receiving a written permit from the department and only in  
14 compliance with the terms of the permit.

15 Section 35. Revocation of license. (1) A game bird  
16 farm license may be revoked for failure to operate the game  
17 bird farm according to provisions of [sections 20 through  
18 35] or rules adopted under [sections 20 through 35].

19 (2) Upon discovery of a violation, the department  
20 shall give notice of such violation to the licensee, with a  
21 statement of a specific time by which the violation must be  
22 corrected.

23 (3) Upon failure of the licensee to correct the  
24 violation, the department may institute revocation  
25 proceedings. If the department institutes revocation

1 proceedings, it shall provide reasonable notice and  
 2 opportunity for a hearing to the licensee. After hearing,  
 3 upon proof of violation, the department may revoke the game  
 4 bird farm license.

5 Section 36. Definition. For purposes of [sections 36  
 6 through 48], ~~"furbearer"~~ THE FOLLOWING DEFINITIONS APPLY:

7 (1) "FURBEARER" means a marten or sable, otter,  
 8 muskrat, fisher, bobcat, lynx, wolverine, or beaver. The  
 9 term does not include fox or mink.

10 (2) "FUR FARM" MEANS THE ENCLOSED LAND AREA UPON WHICH  
 11 FURBEARERS MAY BE KEPT FOR PURPOSES OF OBTAINING, REARING IN  
 12 CAPITIVITY, KEEPING, AND SELLING FURBEARERS OR PARTS OF  
 13 FURBEARERS AS AUTHORIZED UNDER [SECTIONS 36 THROUGH 48].

14 Section 37. Fur farm license required --  
 15 applicability. (1) Except as provided in subsection (2), no  
 16 person may own, control, or propagate furbearers unless he  
 17 holds a current fur farm license from the department.

18 (2) [Sections 36 through 48] do not apply to the  
 19 ownership, control, or propagation of furbearers if the  
 20 ownership, control, or propagation is not for the sale or  
 21 conveyance of furbearers or parts thereof.

22 Section 38. Application for permit. (1) Any person  
 23 desiring to obtain a fur farm license shall make a written  
 24 application to the department. The application must specify:

25 (a) the name of the applicant;

Ex. 3

1 (b) his address;

2 (c) species of furbearers and any plan to propagate  
3 them;

4 (d) the legal description of the lands to be included;

5 (e) the type of fence that the applicant contemplates  
6 erecting;

7 (f) the source of furbearers.

8 (2) (a) A fur farm license ~~may~~ **SHALL** be issued only to  
9 a responsible applicant who owns or leases the premises on  
10 which the operations are to be conducted and who has  
11 properly fenced the place where such fur farm is to be  
12 located.

13 (b) Any fur farm owned by a nonresident must have a  
14 resident agent who is responsible for the daily operation of  
15 the fur farm and who is authorized by the nonresident owner  
16 to receive service of process.

17 (3) Within 30 days of receiving the application, the  
18 department shall notify the applicant of its decision to  
19 approve or deny the application. If required fencing has not  
20 been completed, the department ~~may~~ **SHALL** approve the  
21 application ~~only~~ subject to the fencing being completed. If  
22 the application is denied, the department shall specify the  
23 reasons for denial.

24 Section 39. License and renewal fee -- deposit. (1)  
25 Fur farm license and annual renewal fees must be set by

1 department rule in-amounts-not-to-exceed--\$100--for--initial  
2 licensing-and-\$25-for-annual-renewal.

3 (2) The fees must be deposited in the earmarked  
4 revenue fund for the use of the department for purposes of  
5 [sections 36 through 48].

6 Section 40. Term of permit -- conditions -- changes  
7 in operation. (1) A fur farm license is valid only for the  
8 license year in which it is issued. The licensee shall apply  
9 for renewal annually, and the department shall renew the  
10 license if the licensee has not violated any provision of  
11 [~~sections 36 through 48~~]-rules-adopted-under--[~~sections 36~~  
12 ~~through 48~~]-or-any-condition-of-the-license UNDER WHICH IT  
13 WAS GRANTED.

14 (2) The licensee shall notify the department of any  
15 proposed changes in the species managed or in the size or  
16 location of the enclosure prior to the institution of such  
17 change.

18 Section 41. License nontransferable. A fur farm  
19 license is nontransferable.

20 Section 42. Inspection. Upon receipt of an application  
21 for a license, the department shall inspect each fur farm  
22 and thereafter shall inspect each fur farm biennially--The  
23 department-may-inspect-any--fur--farm--or AND the records  
24 required to be kept by such fur farm at-any-reasonable-time  
25 ON A SCHEDULED BASIS OR ON SUCH OTHER REASONABLE BASIS AS



1 MAY BE DETERMINED NECESSARY.

2 Section 43. Furbearers as private property. All  
3 furbearers lawfully raised on a licensed fur farm are the  
4 private property of the licensee, and the licensee may sell  
5 or transfer such furbearers as private property.

6 Section 44. Transportation of furbearers. Any  
7 furbearers purchased for use on a fur farm or any furbearers  
8 raised on a fur farm may be transported only in compliance  
9 with Title 81, chapter 2, part 7, and applicable  
10 administrative rules.

11 Section 45. Sale of furs. A fur farm owner who desires  
12 to sell furs shall comply with all the requirements of Title  
13 87, chapter 4, part 3.

14 Section 46. Records and reporting. (1) Each licensee  
15 shall keep accurate records of the number and species of  
16 furbearers purchased, transferred, or sold and the name of  
17 each person to whom or from whom such furbearers were  
18 purchased, transferred, or sold.

19 (2) On or before January 31 of each year, each  
20 licensee shall file a report with the director, showing the  
21 number and species of furbearers on hand on January 1 and  
22 the number and species of furbearers purchased, transferred,  
23 or sold during the past year. All records described in this  
24 section must be kept for not less than 3 years.

25 Section 47. Rulemaking. The department may adopt and

1 enforce ~~ONLY SUCH~~ rules ~~AS ARE~~ necessary to implement  
2 [sections 36 through 48]. The rules ~~must~~ ~~MAY~~ address but are  
3 not limited to fencing requirements, reporting requirements,  
4 the care and maintenance of the furbearers held by fur farm  
5 operators, and licensing requirements for applicants.

6 Section 48. Revocation of license. (1) A fur farm  
7 license may be revoked for failure to operate the fur farm  
8 according to the provisions of [sections 36 through 48] or  
9 rules adopted under [sections 36 through 48].

10 (2) Upon discovery of a violation, the department  
11 shall give notice of such violation to the licensee, with a  
12 statement of a specific time by which the violation must be  
13 corrected.

14 (3) Upon failure of the licensee to correct the  
15 violation, the department may institute revocation  
16 proceedings. If the department institutes revocation  
17 proceedings, it shall provide reasonable notice and  
18 opportunity for a hearing to the licensee. After hearing,  
19 upon proof of violation, the department may revoke the fur  
20 farm license.

21 THERE IS A NEW MCA SECTION THAT READS:

22 Section 49. Fee limitation for multiple licenses. If a  
23 person is issued more than one license under [sections 1  
24 through 48], the total assessment for initial fees or for  
25 renewal fees for all licenses issued to such person may not

1 exceed the amount of the largest individual license fee.

2 THERE IS A NEW MCA SECTION THAT READS:

3 Section 50. Waiver of initial fee. No initial license  
4 fee may be assessed against any person who held a game farm,  
5 game bird farm, or fur farm permit on October 1, 1983,  
6 unless there is a break in licensing of more than 1 year.

7 Section 51. Repealer. Sections 87-4-401 through  
8 87-4-405, MCA, are repealed.

9 Section 52. Codification instruction. Sections 1  
10 through 18 and 20 through 40 ~~42~~ are intended to be codified  
11 as an integral part of Title 87, and the provisions of Title  
12 87 apply to sections 1 through 18 and 20 through 40 ~~42~~.

-End-

Senate Bill 448

Game Farm Bill

The game farm issue has created controversy and polarized opinion since the early 1970's. This culminated in court proceedings between the Department of Fish and Game and Big Horn Game Ranch in 1977.

With the concurrence of the Legislature, on March 25, 1982, Governor Schwinden appointed a 13-member Game Farm Task Force to develop definitive legislation clarifying regulation of game farm operators and assigning agency jurisdiction.

The Game Farm Task Force, equally blanced between sportsmen, big game farm operators, ranchers, bird farm owners, state fish and wildlife and livestock officials, developed workable legislation. They generally agree on necessary requirements for game farms as presented in the gray copy of S. B. 448 and concur that the Department of Fish, Wildlife, and Parks is the appropriate agency to administer the laws relating to these operations.

S. B. 448 outlines the right of private ownership of game animals, allowing the sale of game parts, meat and by-products, procedures for establishing and monitoring game farms, and the hunting of private game animals.

I met with the task force yesterday as they completed development of the gray copy of S. B. 448 and recommend you endorse the proposed legislation on game farms. This should resolve an issue that has kept ranchers, sportsmen, state officials and game farm operators at odds for far too long. I know that there are several task force members here today that have attended several meetings, traveling long distances, at their own expense, working to develop fair and just legislation. I certainly hope they have an opportunity to speak today.

SB 448

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

March 15, 1983

My name is Jim Flynn, Director of the Department of Fish, Wildlife and Parks. I appear before you today in support of Senate Bill 448.

This bill is the culmination of many hours of hard work by the Game Farm Task Force. This bill remedies many of the problem situations that the Department, as well as the public, has encountered in the creation, maintenance, and enforcement of the various types of game farms in the state.

One of the problems the Department has experienced in the past is making sure that no publicly-owned animals are within the game farm area when the game farm animals are placed within the fenced area. This bill specifically provides for a procedure, satisfactory to the Department, enabling us to spend less time concerned with whether some publicly-owned game animals are being mixed with privately-owned game animals.

In addition, the bill provides for an acceptable record keeping system to assure that the public interest is maintained and protected.

All in all, this bill alleviates many concerns of many diverse groups which have existed for some time. The mere fact that it is before the Committee with the general support it has is meaningful in itself.

We recommend its passage to you.

Testimony Submitted by

Keith Kelly

Exhibit 6

Director, Department of Agriculture  
Chairman, Governors Game Farm Task Force

on Senate Bill 448 - Game Farm Bill

before the

House Committee on Fish and Game

March 15, 1983

I am Keith Kelly, Director of the Department of Agriculture, with offices in Helena, and Chairman of the Governor's Game Farm Task Force. I respectfully request your acceptance of my written testimony as I am unable to personally appear before the Committee today due to a previous commitment.

The game farm legislation is a result of controversy and polarized opinion that has developed since the early 1970's. This controversy culminated in court proceedings between the Department of Fish and Game and Big Horn Game Ranch in 1977.

Governor Schwinden, with the concurrence of the Legislature, appointed a 13-member Game Farm Task Force to develop legislation clarifying regulation of game farm operators and assigning agency jurisdiction.

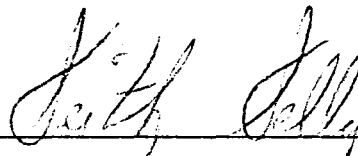
The Game Farm Task Force was equally balanced between sportsmen, big game farm operators, ranchers, bird farm owners, state fish and wildlife and livestock officials. They generally agree on necessary requirements for game farms as presented in the gray copy of S. B. 448 and concur that the Department of Fish, Wildlife, and Parks is the appropriate agency to administer the laws relating to these operations.

S. B. 448 outlines the right of private ownership of game animals, allowing the sale of game parts, meat and by-products, procedures for

establishing and monitoring game farms, and the hunting of private game animals.

The Task Force held its final meeting yesterday and completed development of the gray copy of S. B. 448. I recommend you endorse the proposed legislation on game farms. This should resolve an issue that has kept ranchers, sportsmen, state officials and game farm operators at odds.

/s/

A handwritten signature in dark ink, appearing to read "Keith Kelly", written over a horizontal line.

Keith Kelly, Director  
Department of Agriculture, and  
Chairman,  
Governor's Game Farm Task Force

SB 383

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

March 15, 1983

Mr. Chairman, my name is Jim Flynn, and I appear before you in opposition to Senate Bill 383.

As written, the bill would allow a person 65 years of age or older, who is disabled with cataracts on the eyes or rheumatism of the hands or arms, to receive a license certificate. This certificate would permit a second person to shoot upland game birds, deer, elk, or bear, for the disabled person. Such specialized legislation presents us with concerns we would share with the Committee.

First is the question of whether special license and certificate provisions should be instituted for disabled persons. Second is the question of whether the Legislature wants to introduce the legal proposition of allowing one hunter to shoot game animals for another person.

The Department opposes the notion of providing for special licenses and certificates based upon age and disability. Followed to its logical conclusion, there is no reason to distinguish between disability of a person age 65 or over, or the disability of a person who is less than 65 years of age.

Many people have different types and degrees of disabilities which somehow hinder their hunting ability. If we are to begin allowing special considerations for these disabilities in the field, the list could become endless.

Because of the Pandora's Box that will be opened through the passage of this legislation, the Department would respectfully urge this Committee to reject the philosophy of providing special hunting opportunities for individuals with disabilities.

The second point is, perhaps, more important than the first. It is whether the Legislature is willing to endorse the notion of allowing one person to shoot another person's game animal. The Department's position on this issue was perhaps best summarized by the Montana Supreme Court in 1968 in the decision of Visser v. Fish & Game Commission, wherein the Court stated, "In Montana, big game hunting is a sport. The licensed sportsman-hunter must kill his own animal; he cannot have it done for him."

When the Department issues a hunting license, it is issuing, among other things, a recreational opportunity. The recreational opportunity which is afforded an individual who is over 65 years of age and disabled is not enhanced through the use of a special certificate, any more than if that same individual simply accompanied another person on a hunt. The Department would therefore encourage this Committee to reject the philosophy of allowing one person to shoot game animals for another individual.



A further concern that the bill presents is in the enforcement area. The bill provides that the applicant for a certificate must sign a statement setting forth his or her specific disability. No medical certificate is required. Thus, from an enforcement viewpoint, the Department is placed in the awkward position of having to prove that the individual does not suffer from the alleged disability.

Additionally, the bill also provides that the disability must be severe enough to prevent the discharge of a firearm in a safe manner. Thus, the Department has the burden of proving that the disability is not severe enough to interfere with the ability to discharge a firearm. It is questionable that even a doctor could make the determination that the Department is expected to make.

And finally, the bill would become effective in the midst of a license year rather than March 1, 1984, which would be the beginning of the next license year.

For these reasons, we would request that Senate Bill 383 not be enacted into law.

## Senate Bill 126

"An act allowing a person who owns or leases property to provide outfitting services for consideration on that property without a license, amending 87-4-101, MCA."

An act allowing a person who owns a minimum of 320 acres to provide outfitting services for antelope, deer and upland game birds with a special class outfitter license.

Amending Title 87, Chapter 4, Section 101(3)(e) for consideration aids or assists any person on his deeded lands to hunt antelope, deer and upland game birds and provides services, accommodations and equipment.

Amending Title 87, Chapter 4, Section 122(12) A bona fide landowner of more than 320 acres of agriculture land who meets all other qualifications shall be granted a landowner outfitter license for providing outfitting services for antelope, deer and upland bird hunting.

#### Landowner outfitter license examination

To provide consumer protection and to provide the regulating agency the knowledge the applicant has the ability to perform the services contemplated with safety to the health and welfare of persons employing such services.

Fish & game law

Outfitter law and rules relating to outfitting

Federal law - Lacey Act

First aid

Preparation of trophies

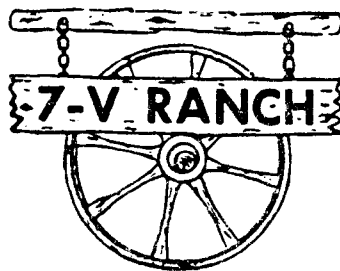
Care of game

Hunter safety

Hunting regulations

Exhibit 9

CHILDERS AND SON



BRUSETT, MONTANA

59318

(406) 557-6182

Feb. 8, 1983

Senator Ed Smith  
Capitol Station  
Helena, MT 59601

Dear Ed:

I'm writing to you in reference to some legislation I support and some I do not. As I've been and out of the hospital for about two months I doubt if I make it up there to testify on some of this legislation and I'm confident you will act wisely on it.

S.B. (126). Regardless of the stand the Outfitters are taking I fully support the legislation as I feel stopping a man or licensing him to operate of private holdings is invading his privacy. An example of empire building by the FWLPs

S.B. (132). I support that bill other than the contract provision. That again is invading my privacy as it no ones business what I charge my clients and I should be business man enuf to have a good contract with my client without the beaurocrats writing it.

H.B. (377) I do oppose as it is legislation putting the department in control of all wildlife in Montana, from the butterfly to the grizzly bear. Legislation similar to this is in effect in Arizona and there it is illegal to kill a rattle snake unless it has bitten you. More empire building.

The next bill I wish to bring to your attention, I don't think, has come up out of the basement but I'm sure it's coming. I'm sure you recall the interim committee set by the governor to study game farms.

I have seen a rough draft of the bill and strongly disagree with it. Game Farms are an industry not recreation. Why should the FWLP have jurisdiction? They should be under the Livestock Commission. The department does not need \$1000.00 for a game farm permit and \$25.00 yearly renewal. I wouldn't be too opposed to giving that to the Livestock Commission.

My big objection is having to give the FWLP \$15.00 for a permit to sell an animal. I don't have to buy a \$15.00 from the department of agriculture to sell a load of wheat nor to the Livestock Commission to sell a cow. Why in the hell should I have to give the FWLP \$15.00 for a permit to sell an elk when they don't charge the resident hunter that amount to hunt the states elk. That bill should be killed in committee.

Thanks for your attention, Ed, and I know you'll act of these bills wisely. I'm sorry I may not be there to help out. I'm fed up the game departments empire building.

Respectfully,

MEMBER Glen C. Childers

Montana Outfitters and Guides Association

WITNESS STATEMENT

Name LIM GLOSSER Committee On FISH & GAME  
Address HELENA, MT. Date 3/15/83.  
Representing DEPT OF LIVESTOCK Support X  
Bill No. SB 448 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. SUPPORT SB 448 AS AMENDED IN SB 448/GRAY

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Ward Swanser Committee On \_\_\_\_\_  
Address Billings, Montana Date 3-15-83  
Representing Game Farm Task Force Support \_\_\_\_\_  
Bill No. S. B. 448 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *The bill as amended reflects the intent of  
the game farm task force.*
- 2.
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

# STANDING COMMITTEE REPORT

March 15, 1923

MR. **SPEAKER:**

We, your committee on **FISH AND GAME**

having had under consideration **SENATE** Bill No. **387**

**third** reading copy ( **blue** )  
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE CATCHING  
WHITEFISH FROM THE KOOTENAI RIVER BY NETS AND TRAPS FOR  
PURPOSES OF SALE; AMENDING SECTIONS 87-3-204 AND 87-4-601,  
MCA."

Respectfully report as follows: That **SENATE** Bill No. **387**

**BE CONCURRED IN**  
**UNANIMOUSLY**

# STANDING COMMITTEE REPORT

March 15, 1983

MR. **SPEAKER:**

We, your committee on **FISH AND GAME**

having had under consideration **SENATE** Bill No. **383**

third reading copy ( blue )  
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A PERSON 62 YEARS OF AGE OR OLDER WHO HAS A SPECIFIC DISABILITY THAT DOES NOT INTERFERE WITH THE SPORT OF HUNTING BUT DOES INTERFERE WITH THE ABILITY TO DISCHARGE A FIREARM TO RECEIVE CERTIFICATION FOR A GAME LICENSE THAT WILL ALLOW ANOTHER LICENSED HUNTER TO KILL THE GAME AUTHORIZED BY THE LICENSE."

Respectfully report as follows: That **SENATE** Bill No. **383**

NOT BE CONCURRED IN  
DO PASS