

48TH LEGISLATIVE SESSION  
MINUTES OF  
NATURAL RESOURCES COMMITTEE  
MONTANA STATE SENATE

March 16, 1983

A regularly scheduled meeting of the Senate Natural Resources Committee was called to order at 12:30 p.m. on Wednesday, March 16, 1983 by Senator Harold L. Dover, Chairman, in Room 405, State Capitol, Helena, MT.

ROLL CALL: Roll was called, with a majority of Senators being present, Senator Tveit excused.

HOUSE BILL 228: Chairman Dover opened hearing and called on Rep. Joe Quilici, Dist. 84. Rep. Quilici said this bill had come out of a subcommittee in Business and Industry of the House, and it is to get economic development started in the state. This came about because it was realized that after filing of an application for permits and doing a great deal of work, some agency would change the environmental rules in the middle of the project. It is not saying there can't be a change, but that there is to be consistency and no changing in the middle of the steam. He stated he believed the language at the bottom should be reinserted, possible another word.

PROPOSERS: Janelle Fallan, Montana Chamber of Commerce said they support the bill, industry has complained about changes in environmental regulations. They have a lot of planning and engineering going into projects and the bill should be made stronger.

Don Reed, Montana Environmental Information Center stated they support the bill as amended. Many of the changes which have affected business have come from the federal level. They would support the bill as is, they are not sure there would be a compelling need or overwhelming need provision needed in it.

Mark Ledbetter, Northern Plains Resource Council stated they support the bill as amended, that it is to our advantage to have consistent regulations. The issue has drawn attention because the environmental regulations are still fairly new. There have been federal laws which have had an effect on the laws that are in place in Montana, and putting language back in that was stronger may cause complications.

OPPOSERS: There were no opposers.

Minutes  
Senate Natural Resources Comm.  
March 16, 1983

-2-

(HB 228, cont.)

Senator Halligan stated there has been discussion of this problem in the hard rock mining subcommittee as well. He thought this bill has merits, but it focuses on one problem and perhaps all areas should be addressed.

Senator Eck inquired why the language was struck on other governmental regulations. Rep. Quilici explained it was felt this might affect other agencies with rulemaking ability that have nothing to do with environmental rules, and this might broaden the scope of this bill.

Senator Van Valkenburg suggested reinserting the language and stating that unless there is a showing of a need by clear and convincing evidence, because this would establish burden of proof. Senator Story stated he had suggested using a compelling need because that is a standard usage. Senator Eck then moved that the bill be amended in the proper area to insert "Clear and convincing evidence". All voted 'aye' and motion carried. Ex. '1' attached.

There was then discussion of reinserting further language that had been removed by the House. After further discussion it was agreed that a subcommittee be appointed to work out further amendments to the bill, Senators Van Valkenburg, Keating and to have them work with Howard Johnson, EQC. Executive action would be taken later.

ACTION ON SJR 20: Senator Lee proposed amendments to the bill, attached as Exhibit '2'. That the title be amended, by striking line 7 through "substantive on line 8, and inserting "the methods and means of providing for implementation of the Montana Environmental Policy Act", and striking the remainder of line 25 following "interim" through line 1 on page 2., and inserting "the methods and means of providing for implementation, promotes informed decision making, establishes effective and uniform procedures, encourages public involvement and provides certainty with respect to the procedural and substantive requirements of the Act." Senator Lee moved the amendments. All voted 'aye' and motion carried.

Senator Halligan then moved that SJR 20 be tabled, all voted 'aye' and motion carried.

ACTION ON HOUSE BILL 68: Senator Lee said the subcommittee met on the bill and offered amendments, attached as Exhibit '3'. He said this process would not involve everyone owning boats and there would not need to be noise equipment purchased. The subcommittee had asked Sheriff O'Reilly regarding complaints. He said they only had two calls in four years from people around the lake. Lee asked where complaints were filed?

Minutes  
Senate Natural Resources Comm.  
March 16, 1983

-3-

(HB 68, cont.)


He was told complaints were made to the Fish and Game. Upon asking Fish and Game why they didn't enforce complaints, they said they don't have authority to do so. This amendment would give them authority to do so. It would strike the major part of the bill, and give them power for enforcing the public nuisance and disorderly conduct laws as they apply to operation of motorboats. Senator Lee moved the amendments proposed.

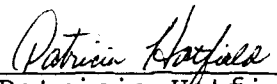
Senator Mohar suggested these amendments would not do what was trying to be done and suggested the amendments to give permits to the power boat racing people. Senator Eck asked to have those explained further. Senator Mohar said these would include language to except a motorboat registered by a bonafide national boat racing association, with permits authorized on an annual basis. Senator Shaw suggested that since the entire bill had to be changed he would move to table the bill. Senator Eck said this matter was discussed two years ago also and needs to be carried out. Senator Lee said the racers weren't excited about the bill, they would rather have killed it, but did work on it.

Senator Lees motion was again repeated, that the bill be amended with substitute bill as presented, and to have an effective date of May 1, 1983, amendments shown on committee report attached. All voted 'aye' and motion carried. Senator Lee then moved to strike the statement of intent, all voted 'aye' and motion carried.

Senator Keating moved that HB 68 Be Concurred In as amended, all voted 'aye' and motion carried.

There being no further business to come before the committee the meeting was duly adjourned at 2:30 p.m.

  
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SENATOR HAROLD L. DOVER, CHAIRMAN  
SENATE NATURAL RESOURCES COMMITTEE

  
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Patricia Hatfield  
Committee Secretary

ROLL CALL

SENATE NATURAL RESOURCES COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3-16-83

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (D)	✓		
HALLIGAN, Mike (D)	✓		
KEATING, Thomas F. (R)	✓		
LEE, Gary P. (R)	✓		
MANNING, Dave (D)	✓		
MOHAR, John (D)			
WILLIAMS, John (R)			
TVEIT, Larry J. (R)			✓
VAN VALKENBURG, Fred (D)	✓		
ETCHART, Mark (R) Vice Chairman	✓		
DOVER, Harold L. (R) Chairman	✓		

DATE \_\_\_\_\_  
Senate Natural Resources

3-16-83

# VISITORS' REGISTER

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(Please leave prepared statement with Secretary)

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PROPOSED AMENDMENTS TO HB 228

1. Page 2, line 13.  
Following: "made"  
Insert: "financial"  
Following: "commitments"  
Insert: "after completing an application for an environmental permit"
2. Page 2, line 16.  
Strike: "rules"  
Insert: "requirements in such a permit"
3. Page 2, line 17.  
Following: "detriment."  
Insert: "Therefore where a person makes a financial commitment after completing an application for an environmental permit it is the policy of the state not to change the requirements in such a permit to the detriment of such persons except upon a showing of clear and convincing evidence of need to protect public health or the environment or to comply with federal regulations."

PROPOSED AMENDMENTS TO SENATE JOINT RESOLUTION NO. 20

Encl.  
3-16-83  
Net Rev.

1. Title, lines 7 through 8.  
Following: line 6  
Strike: line 7 through "substantive" on line 8  
Insert: "THE METHODS AND MEANS OF PROVIDING FOR IMPLEMENTATION  
OF THE MONTANA ENVIRONMENTAL POLICY ACT"
2. Page 1, line 25 through line 1 on page 2  
Following: "interim," on line 25  
Strike: the remainder of line 25 through line 1 on page 2  
in their entirety.  
Insert: "the methods and means of providing for implementation  
of the Act in a manner which improves efficiency of implementa-  
tion, promotes informed decision making, establishes effective  
and uniform procedures, encourages public involvement and  
provides certainty with respect to the procedural and sub-  
stantive requirements of the Act."

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PROPOSED AMENDMENTS TO HB 68

1. Title, lines 5 through 12.

Following: "MOTORBOATS"

Strike: lines 5 through 12 in their entirety

Insert: "BY AUTHORIZING FISH AND GAME WARDENS (STATE CONSERVATION OFFICERS) THE POWER FOR ENFORCING PUBLIC NUISANCE AND DISORDERLY CONDUCT LAWS AS THEY APPLY TO THE OPERATION OF MOTORBOATS; AMENDING SECTION 87-1-506."

2. Pages 1 through 11.

Strike: all of the bill following the enacting clause.

Insert: Section 1. Section 87-1-506, MCA is amended to read:

"87-1-506. Enforcement powers of wardens. A warden may:

(1) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

(2) search, without a warrant, any tent not used as a residence, any boat, vehicles, box, locker, basket, creel, crate, game bag, or package or their contents upon probable cause to believe that any fish and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or fur-bearing animals has been violated;

(3) search, with a search warrant, any dwelling house or other building;

(4) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in violation of the law or the rules of the department;

(5) seize and hold, subject to law or the orders of the department, devices which have been used to unlawfully take game, fish, birds, or fur-bearing animals;

(6) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the department, violation of which is a misdemeanor;

(7) enforce the disorderly conduct and public nuisance laws (45-8-101 and 45-8-111) as they apply to the operation of motorboats on all waters of the state;

(8) (7) exercise the other powers of peace officers in the enforcement of the fish and game laws, the rules of the department, and judgments obtained for violation of those laws or rules.

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Proposed Amendments to Senate Bill 68

1. Page 3, line 7.

Following: line 6.

Insert: " (3) a motorboat registered by a bona fide national boat racing association, displaying numbering approved by that association, and authorized by a permit issued on an annual basis;

Renumber following subsections.

2. page 1, line 21

Following: "manufactured"

Strike: "on or after January 1, 1978, and"

147  
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Proposed Amendments to Senate Bill 68 Statement of Intent

1. Page 2, line 5.

Strike: "and"

Insert: "however, permits will be issued on an annual basis to the owner of a motorboat that is registered by a bona fide national boat racing association and displaying numbering approved by that association for the purposes of competing in regattas and testing for competition races. Proof of registration and displayed numbering authorized by a bona fide national boat racing association ~~are~~ required; and"

# STANDING COMMITTEE REPORT

March 16 19 83

MR. **PRESIDENT:**

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE** Bill No. **68**

**Harper (Lee)**

Respectfully report as follows: That **HOUSE** Bill No. **68**

third reading copy, be amended as follows:

1. Title, line 5.

Following: "MOTORBOATS"

Strike: remainder of line 5 through "23-2-512" on line 11

Insert: "BY AUTHORIZING FISH AND GAME WARDENS (STATE CONSERVATION OFFICERS) THE POWER FOR ENFORCING PUBLIC NUISANCE AND DISORDERLY CONDUCT LAWS AS THEY APPLY TO THE OPERATION OF MOTORBOATS; AMENDING SECTION 87-1-506,"

2. Title, line 11.

Strike: "A DELAYED"

Insert: "AN"

(cont.)

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1. Pages 1 through 11.

Strike: all of the bill following the enacting clause.

Insert: "Section 1. Section 87-1-506, MCA is amended to read:  
87-1-506. Enforcement powers of wardens. A warden may:

(1) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

(2) search, without a warrant, any tent not used as a residence, any boat, vehicles, box, locker, basket, creel, crate, game bag, or package or their contents upon probable cause to believe that any fish and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or fur-bearing animals has been violated;

(3) search, with a search warrant, any dwelling house or other building;

(4) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in violation of the law or the rules of the department;

(5) seize and hold, subject to law or the orders of the department, devices which have been used to unlawfully take game, fish, birds, or fur-bearing animals;

(6) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the department, violation of which is a misdemeanor;

(7) enforce the disorderly conduct and public nuisance laws (45-8-101 and 45-8-111) as they apply to the operation of motorboats on all waters of the state;

~~(7)~~ (8) exercise the other powers of peace officers in the enforcement of the fish and game laws, the rules of the department, and judgments obtained for violation of those laws or rules.

Section 2. Effective Date. This act is effective May 1, 1983."

4. Statement of Intent, House Bill 68.

Strike: The statement of intent in its entirety

And, as so amended,  
BE CONCURRED IN

SENATOR HAROLD L. DOVER, Chairman.