

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

February 19, 1985

The eighth meeting of the Senate Fish and Game Committee was called to order at 12:50 P.M. on February 19, 1985 by Chairman Max Conover in Room 402 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SB 371: Senator Mohar, District 1, presented this bill to the committee. This bill will prohibit the purchase and sale of grizzly bear parts. It also provides for the disposition of seized grizzly bear parts. At present federal agents have to prove that grizzly bear parts have been sold illegally, which is difficult to do. This bill will solve the problem. Wildlife today is under numerous pressures and it does not need the pressure of poachers, especially in the case of the grizzly bear. He submitted an amendment to the committee which is attached as Exhibit 1.

Chairman Conover asked for proponents.

Jim Flynn, Department of Fish, Wildlife and Parks, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 2.

Janet Ellis, Montana Audubon Council, also supports this bill. A copy of her testimony is attached as Exhibit 3.

Cary B. Lund, Last Chance Audubon, supports this bill. She feels it is a reasonable step which can be taken to help maintain the population of the grizzly bear in the state of Montana.

Anne Humphrey, Montana Audubon Council, would like to say for the record that the Montana Wildlife Federation also supports this bill and had intended to testify but could not make it.

There being no further proponents and no opponents, Chairman Conover opened the hearing for questions.

Senator Jacobson asked how the Department would control somebody who already owns grizzly bear parts and wants to sell those parts.

Mr. Flynn said his understanding is that if this statute goes into effect, then it would be illegal to sell those.

Senator Mohar closed with the recommendation that this bill DO PASS.

ACTION ON SB 371: Senator Jacobson made a motion that the amendments presented by Senator Mohar and the amendments presented by Jim Flynn be adopted. THE MOTION PASSED UNANIMOUSLY WITH MEMBERS PRESENT.

Senator Jacobson made a motion that SB 371 DO PASS AS AMENDED. THE MOTION PASSED UNANIMOUSLY WITH MEMBERS PRESENT.

ACTION ON SB 302: Andi Merrill stated there was a question as to whether this bill will conflict with a bill in the House Fish and Game relating to disabled persons hunting on the right-of-way. After discussion with the drafters of the bills it is felt these two bills will travel along nicely and will not harm each other. They will mesh nicely.

Senator Jacobson made a motion to move the amendments furnished to the committee at the last hearing, attached as Exhibit 4. THE MOTION PASSED UNANIMOUSLY WITH MEMBERS PRESENT.

Senator Jacobson made a motion to move the bill as amended. THE MOTION PASSED UNANIMOUSLY WITH MEMBERS PRESENT.

FURTHER CONSIDERATION OF SB 334: Marvin Olaf, Department of Revenue, furnished the committee with an itemized list of the cost of administering the nongame wildlife checkoff program during FY 84 and FY 85. A copy is attached as Exhibit 5. He went through the cost analysis with the committee and explained that at the time they originally estimated for the program it was a new thing and they did not project their estimates high enough.

Senator Severson said it is indicated there are 232,500 returns. He asked Mr. Olaf how many of those returns have the nongame checkoff on them.

Mr. Olaf said 6,630 had the checkoff and they are estimating 7,000 for this coming year.

Senator Severson commented that he could see no reason for them to do anything on the income tax form unless there is a checkoff for the nongame fund.

Mr. Olaf said the reason is that we have 8 people that come in during the tax season and their instruction is to check the lines as they go through the form. In the data entry, when they get to line 61, the machine stops and the operator has to do something to clear the machine to continue.

Senator Severson said there would be a minimal entry on that.

Senator Jacobson asked why there is such an increase in the automated processing from when the process started to the estimated cost for 1985.

Mr. Olaf explained that there has been an increase from \$0.04 per return to \$1.68 per return.

Senator Jacobson said there is another account on the returns besides the nongame checkoff. She asked if the same person checks both account.

Mr. Olaf said that it is the same process.

Senator Jacobson asked if those costs are shared by the two accounts.

Mr. Olaf said it is based on the whole form.

Senator Jacobson said the other checkoff has been in the system for quite a while and she asked if there is a cost analysis for that program.

Mr. Olaf said that is a part of the income tax system. We do not have a cost on that.

Senator Jacobson said the cost for that program is being born by the Department. This program is evidently picking up a lot of the cost.

Mr. Olaf said it is not picking up any more than is allocated to that line.

Senator Severson said if this program were not in the Department would there be a reduction in staff.

Mr. Olaf said 1/2 of an FTE. He said this is a new program and there are numerous things that have to be taken care of.

Senator Conover said you want to remember you will have to give this same type of a report in two years.

Mr. Olaf said he was more comfortable with that than the last one. This is the maximum we are asking for.

Senator Jacobson asked who would be reviewing the report.

Mr. Olaf said the President of the Senate and the Speaker of the House.

Senator Jacobson said it does not go through an appropriation subcommittee. Nobody reviews these costs at all. In essence you have a bonus that never gets reviewed.

Ken Morrison said it doesn't go to appropriations, it says within this committee. This is the only group that will look at it.

Senator Jacobson is not comfortable with the fact that this is not reviewed in the budget. She feels that the subcommittee that does the budget for the Department of Revenue should be aware that this is an administrative cost and should be put into the budget.

Senator Smith arrived at the hearing at 1:25 P.M.

Senator Severson cannot see where a Department of state government can take in some money without some record of that money going someplace.

Senator Jacobson said it is accounted for but it isn't reviewed by anyone. The only reason this committee received the report was because it was asked for by the committee. Otherwise it would only have been put on the desks of the President of the Senate and the Speaker of the House. It would not mean much to them.


Senator Smith said when the Department of Revenue brings this in to be reviewed by the Governor's budget office and fiscal analyst, is this punched in with the other costs.

Ken Morrison said this is kept separate. We don't asked for funding for that program through the regular appropriation process. It is provided through this piece of legislation. We do have a worksheet that shows that amount at the bottom of the worksheet.

Senator Jacobson requested that the bill be held until Thursday. She will talk with the fiscal analyst and find out a better way to handle this.

Chairman Conover closed the hearing on SB 334.

ADJOURNMENT: The meeting adjourned at 1:32 P.M.


MAX CONOVER, Chairman

ROLL CALL

SENATE FISH AND GAME COMMITTEE

48th LEGISLATIVE SESSION -- 1985

Date 2-19-85

NAME	PRESENT	ABSENT	EXCUSED
22 Senator Anderson	✓		
6 Senator Jacobson	✓		
38 Senator Lane			✓
31 Senator Severson	✓		
2 Senator Smith	late ✓		
37 Senator Yellowtail			✓
Senator Conover	✓		

Each day attach to minutes.

Exhibit 1, Submitted by Senator Mohar
February 19, 1985

Amendments to SB 371

Page 2, Line 8: strike "must" and insert "may"

Page 2, Line 9: strike "." and add:

"as approved by the commission. If approved under federal law, parts may be sold at public auction if, after approval by the commission, a reasonable attempt has been made to dispose of those parts."

SB 371

Testimony Presented by Jim Flynn, Department
of Fish, Wildlife and Parks

February 19, 1985

The Department supports Senate Bill 371.

The grizzly bear, as a threatened species, requires all of the protection from illegal sources that it can get. This legislation would provide some of that protection.

While we agree with the bill, we would suggest the following amendments to allow more flexibility for the use of parts which may come into our possession:

On line 8, after "institutions" and before "or,"
insert the words "government agencies,"

This would allow the Fish and Wildlife Service, the Forest Service or this agency to display or otherwise use the grizzly parts.

With this amendment and those of the Audubon Society, we urge your support of Senate Bill 371.

Montana Audubon Council
SB 371
February 19, 1985

EXHIBIT 3

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Council. The Council supports SB 371.

According to our talks with U.S. Fish & Wildlife agent Joel Scrafford, Montana is one of the most attractive locations for poachers because of inadequate state laws. For example, if our state allows the sale of certain wildlife parts, animals that were poached in other states end up being sold here. We also encourage poaching to go on in Montana.

According to our research, a relatively new type of poacher is threatening wildlife. That poacher is more of a professional - and is hunting for a profit.

Grizzly bears are a unique animal in the west. Although they are hunted in certain areas in Montana, their populations are carefully monitored because of the small populations within the state.

It is difficult to know what exactly the market is for grizzly bear parts. There are rumors of claws being sold in stores around Yellowstone and Glacier National Parks. Evidently these merchants claim that these parts come from non-endangered Canadian or Alaska bears. We ~~have heard~~ ^{understand} that claws sell for anywhere between \$25 and \$300. It is difficult to tell if a claw is from a legally - or illegally - taken bear.

SB 371 does not affect the average person. Hunters can still clearly possess the animals they have. Others who now own claws and other parts still have that right. SB 371 only asks that the sale of such parts not be possible.

Pressures ~~of~~ grizzly bears from poachers are pressures that should be eliminated. We are asking that you eliminate that pressure by voting for SB 371.

49th Legislature

LC 1621/01

Cross-References
Highways, Title 60.

61-1-201. Highway. "Highway" means the entire width between the boundary lines of every publicly maintained way when any part thereof is open to the use of the public for purposes of vehicular travel, except that for the purpose of chapter 8 the term also includes ways which have been or shall be dedicated to public use.

History: En. Sec. 6, Ch. 267, L. 1947; R.C.M. 1947, 31-122(part); am. Sec. 11, Ch. 421, L. 1979.

61-1-202. Public highway. "Public highway" means "highway" as defined in 61-1-201.

1
2 INTRODUCED BY *Sen. Andi Merrill* BILL NO. *302*
3 *Public Highway*
4 A BILL FOR AN ACT ENTITLED: "AN ACT ~~AMENDING~~ *Section 61-1-201*
5 ~~61-8-369, MCA,~~ TO PROHIBIT SHOOTING FROM OR ACROSS A PUBLIC
6 ROAD OR HIGHWAY RIGHT-OF-WAY *amending Section 61-8-369 and 87-3-101, MCA.*"
7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 Section 1. Section 61-8-369, MCA, is amended to read:
10 "61-8-369. Shooting from or across road or highway
11 right-of-way. No person shall shoot any firearm from or
12 across the roadway right-of-way of any state or federal
13 highway or county road."

-End-

Amend Section 87-3-101 to read:

87-3-101. General restrictions. It is unlawful for anyone to take, capture, shoot, kill, or attempt to take, capture, shoot, or kill any game animal or game bird ~~from any self-propelled or drawn vehicle on or from any~~ *on the shoulder, bench or borrow-pit right-of-way of any public highway* ~~public highway~~ *as defined in 61-1-201* in the state of Montana ~~or by the aid or with the use of any~~ *or by the aid or with the use of any* set gun, jacklight or other artificial light, trap, snare, or salt lick; nor may any such set gun, jacklight or other artificial light, trap, snare, salt lick, or other device to entrap or entice game animals or game birds be used, made, or set.

Itemized costs of administering the nongame wildlife checkoff program during fiscal years 1984 and 1985.

FISCAL YEAR 1984

EXHIBIT 5

February 19, 1985

SUBMITTED BY OLAF, Department
of Revenue

Program Development

Programming, testing, form design and rule drafting \$1,719.00

Return Preparation

Check returns prior to entering checkoff amounts
in the computer (211,243 returns) 3,329.42

Automated Processing

Entering checkoff amounts into the computer
(211,243 returns) 616.37

Computer disk space and reports 109.00

Administrative cost for fiscal year 1984 \$5,773.79

FISCAL YEAR 1985

(Actual Costs July 1, 1984 to December 31, 1984)

Return Preparation

Check returns prior to entering checkoff amounts in the
computer (115,805) \$2,623.11

Automated Processing

Entering checkoff amounts into the computer
(115,805 returns) 346.07

Computer disk space and reports 108.00

(Estimated Costs January 1, 1985 to June 30, 1985)

Return Preparation

Check returns prior to entering checkoff amounts in the
computer (232,500 returns) 3,600.00

Automated Processing

Entering checkoff amounts in the computer
(232,500 returns) 4,200.00*

Computer disk space and reports 120.00

Anticipated administrative cost for fiscal year 1985 \$10,997.18

*The cost of entering the wildlife checkoff amounts is 1.68¢ per return. This is an increase from .4¢ per return charged prior to January 1, 1985. The new amount was determined from a study of actual data entry costs.

If the program costs for fiscal year 1985 are \$10,997.18 as projected, the department will spend \$6,759.18 more than appropriated by the 48th Legislature.

STANDING COMMITTEE REPORT

February 19, 1985

MR. PRESIDENT

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

having had under consideration **SENATE BILL** No. **371**

first reading copy (**white**)
color

PROHIBIT PURCHASE AND SALE OF GRIZZLY BEAR PARTS

Respectfully report as follows: That **SENATE BILL** No. **371**

be amended as follows:

1. Page 2, line 8.

Strike: "must"

Insert: "may"

Following: "institutions,"

Insert: "government agencies,"

2. Page 2, line 9.

Following: "studies"

Insert: ", as approved by the commission. If approved under federal law, parts may be sold at public auction if, after approval by the commission, a reasonable attempt has been made to dispose of the parts."

AND AS AMENDED

DO PASS

DO NOT PASS
~~XXXXXX~~

MAX CONOVER,

Chairman.

STANDING COMMITTEE REPORT

February 19, 1985

MR. PRESIDENT

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

having had under consideration **SENATE BILL** No. **302**

first reading copy (**white**)
color

PROHIBITS SHOOTING FROM OR ACROSS A PUBLIC RIGHT-OF-WAY

Respectfully report as follows: That **SENATE BILL** No. **302**

be amended as follows:

1. Title, lines 4 and 5.

Following: "ACT"

Strike: remainder of line 4 through "MCA," on line 5.

2. Title, line 6.

Following: "RIGHT-OF-WAY"

Insert: "; AMENDING SECTIONS 61-8-369 AND 87-3-101, MCA "

3. Page 1.

Following: line 13

Insert: "Section 2. Section 87-3-101, MCA, is amended to read:

"87-3-101. General restrictions. It is unlawful for anyone to take, capture, shoot, kill, or attempt to take, capture, shoot, or kill any game animal or game bird: (1) from any self-propelled or drawn vehicle or;

(2) on or, from, or across any public highway or the shoulder, berm, or borrow-pit right-of-way of any public highway, as defined in 61-1-201, in the state of Montana; or

(3) by the aid or with the use of any set gun, jacklight or other artificial light, trap, snare, or salt lick; nor may any such set gun, jacklight or other artificial light, trap, snare, salt lick, or other device to entrap or entice game animals or game birds be used, made, or set."

AND AS AMENDED

DO PASS

~~DO NOT PASS~~

MAX CONOVER,

Chairman.