

MINUTES OF THE MEETING  
FISH AND GAME COMMITTEE  
MONTANA STATE SENATE

March 7, 1985

The tenth meeting of the Senate Fish and Game Committee was called to order at 1:20 P.M. on March 7, 1985 by Chairman Max Conover in Room 402 of the Capitol Building.

ROLL CALL: All members were present at roll call with the exception of Senator Jacobson, who arrived late.

CONSIDERATION OF HJR 1: Representative Vincent, District 80, presented this resolution to the committee as chief sponsor. This resolution simply congratulates and honors the Fighting Bobcats of Montana State University, this year's national champions of Division I-AA Football. This will recognize that this team excelled not only on the football field but academically as well. He noted to the committee that 149 members of the legislature signed the resolution.

There were no proponents and no opponents that appeared to testify on this resolution. Chairman Conover opened the hearing for questions. There were no questions from the committee members.

ACTION ON HJR 1: Senator Severson made a motion that HJR 1 BE CONCURRED IN. THE MOTION PASSED UNANIMOUSLY.

CONSIDERATION OF HB 159: Representative Rapp-Svrcek, District 51, presented this bill to the committee. He stated this is merely a housekeeping measure which will give the Department the ability to sell or to give game meat to charitable organizations. It also gives them the authority to sell game animals that the Department itself has killed or that the Department has authorized land owners to kill due to game damage on agricultural property.

Chairman Conover opened the hearing for proponents.

Jim Flynn, Department of Fish, Wildlife and Parks, gave testimony in support of this bill. A copy is attached as Exhibit 1.

Robert VanDerVere supports this bill.

There were no further proponents and no opponents. Chairman Conover opened the hearing for questions from the committee.

Senator Smith said this bill is something that is needed by the Department because of game damage.

There was much discussion from the committee concerning the recent killing of buffalo outside Yellowstone Park. This subject will be brought up during the discussion on the buffalo bill.

Representative Rapp-Svrcek closed by stating this is a mechanism to take care of waste. There are a lot of people that could make good use of this meat and this allows the Department the flexibility they need.

ACTION ON HB 159: Senator Smith made a motion that HB 159 BE CONCURRED IN. THE MOTION PASSED UNANIMOUSLY.

CONSIDERATION OF HB 136: Representative Ellison, District 81, presented this bill to the committee as sponsor. This bill would give a 20 day transfer of ownership period for the owner of a boat to display the required decal. This bill will also allow a misdemeanor penalty if your boat is not registered.

Chairman Conover asked for proponents to this bill.

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.

There were no further proponents and no opponents to this bill. Chairman Conover opened the hearing for questions.

Senator Lane said the range would be from \$15.00 to \$500. He asked if the judge would set the fine.

Mr. Flynn said that would be up to the judge.

Senator Lane said if you didn't like a person you could fine him \$500.

Mr. Flynn said it would be at the discretion of the judge.

Senator Lane said the reason that is wanted is for larger boats because it is cheaper to pay the \$10 fine now than to license the boat.

Mr. Flynn said he would assume that would be the guideline the judge would use. The smaller boats would be charged less than the larger boats.

Senator Lane said that should be written in the bill.

Mr. Flynn said he would certainly trust the judge's judgement.

Senator Smith related an instance where a couple were fined and the wife had the decal in her purse and not on the boat. He certainly would hate to see someone in this instance assessed \$500.

Mr. Flynn said that particular case would be taken care of in the first part of the bill. Now we do not have a grace period from the time you purchase and get a license. When talking about the amount of the fine, there is no way of telling what the judge will do.

Representative Ellison said this is the same statute, the penalty section, which applies to a lot of things in the Fish and Game laws. In the past we haven't had much trouble with the courts. It is better to go in front of the judge than in front of the Department. The warden now levies the \$10 fine.

Senator Smith said if we increase this penalty would this allow the warden to assess a fine above the \$10. A fine as he sees fit.

Representative Ellison said he thought it would be handled in the same manner as they do for hunters trespassing on private land and they do not fine an outrageous amount for that.

Mr. Flynn said the warden would not levy the fine. The judge would access the penalty. The warden issues the citation and if you have a problem with that you will go and talk to the judge. The judge has the final authority. This is strictly to address the problem with large boat owners not registering their boats and opting to pay the fine because it is cheaper to pay \$10 seven or eight times rather than to pay for the registration of the boat.

Mr. Smith asked if there were any known instances where people are abusing it to this extent.

Mr. Flynn said there are a number of people on Flathead Lake.

Andi Merrill explained that 23-2-507 states that a violation of any section of this part, unless otherwise specified, shall be a misdemeanor and fine not less than \$15 and not more than \$500. This relates to the whole part on recreational boating.

Senator Conover said that this will allow a 20 day grace period before licensing the boat.

Representative Ellison said it will allow a 20 day grace period. The \$10 fine was established for the provisions of this bill but any other violation on motor boat recreation were subject to the standard penalty. Now everything will be subject to the same fine. There is a problem with the big boats being licensed. The small guy is licensing his boat.

Senator Jacobson said the effective date is on passage and approval. She wondered if notification should be made to these people ahead of time.

Mr. Flynn said under the present law those people are supposed to have their boats licensed.

Senator Jacobson said you are not changing the law, you are only changing the penalty.

Mr. Flynn said we hope to have this in effect by this summer.

Senator Lane wondered if the bill could be amended to put some limits on the \$500 fine.

Mr. Flynn said we are talking about judicial discretion and how tight do you want to tie a judge's ability to determine each individual circumstances. This penalty applies to the whole act.

Andi Merrill said this is a standard range for a misdemeanor penalty in all kinds of things in the codes. This violation was an exception to the penalty section and only levied a \$10 fine. They are requesting that this be changed to a regular misdemeanor offense because of problems with large boat owners who are not licensing their boats on the Flathead.

Senator Smith said that if he is caught speeding he can pay that fine right there to the officer. Would that be a provision made for the game warden.

Mr. Flynn said he cannot answer that. He does not know if you can pay a game warden or not.

Senator Jacobson made a motion that HB 136 be concurred in.

Senator Lane thinks that the fine is too stiff, especially in the case of an owner of a small boat.

Senator Jacobson said you do not trust the judge.

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Senator Smith said we cannot change the amount because the misdemeanor penalty applies to so many different areas. If there is so much abuse then we should leave the judge to make the decision.

Senator Yellowtail said we could establish a progressive fine that would tie it to the value of the boat. A person who operates a motor boat on the water without a decal is punishable by a fine not to exceed the amount of the license for the boat in question.

Andi Merrill said it would still be a misdemeanor and the judge would have to decide. Now the Fish and Game warden can fine the \$10.

Senator Jacobson withdrew her motion to allow Andi Merrill time to present amendments to the committee on Senator Yellowtail's suggestion.

ADJOURNMENT: There being no further business the meeting adjourned at 2:15 P.M.

  
MAX CONOVER, Chairman

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( March 7, 1985

## Senate Fish and Game

HB 136 / HB 159

[illegible]

(Please leave prepared statement with Secretary)

EXHIBIT 1

HB 159

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

March 7, 1985

Under present law, game animals harvested under a game damage permit must be distributed to a state institution, school lunch program or the Department of Social and Rehabilitation Services.

HB 159 would propose to allow the department to still consider those options for distributing game animals, but to broaden our options to include needy individuals or public auction, if necessary.

When the present law was first enacted, the named facilities were willing recipients of the game animals available. However, in recent years this has changed.

As an example, state health requirements will not permit domestic beef and wild game to be kept in the same cooler and butchered at the same time. As a result, institutions and rest homes more and more frequently cannot accept wild game when it is available because of the domestic beef present in their systems.

Welfare departments can and will disperse some game meat to clients, but are not set up to handle fresh meat in more than a single animal or two at a time. On the other hand, rescue missions, Salvation Army facilities, friendship centers, etc. can often handle surplus animals not readily disposable elsewhere. They also serve a needy clientele, but don't always qualify as state institutions.

In addition, we frequently find that we have the carcass in a location some distance from a recipient under present law. To comply with the present law mandates that considerable transportation costs be incurred to transport a few or even one carcass. The alternative is to store a few carcasses until you have a number and then the storage gets to be a cost item.

HB 159 would give us some needed flexibility and it would be our intent to still utilize institutions and rest homes as much as possible and then utilize needy families as a second source with public auction being a last resort.



EXHIBIT 2

HB 136

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

March 7, 1985

HB 136 would amend the boating laws to allow a 20-day grace period for the operation of newly purchased boats before they are required to be registered. This will conform with the statutes covering other motor vehicles, such as cars, trucks, trailers and snowmobiles.

In addition to the grace period, HB 136 also addresses the subject of the penalty for failure to register a motorboat.

At its inception, this law provided for judicial discretion to levy a fine in the range of \$15.00-\$500.00. Some years back a special section of the law was enacted that set the fine at \$10.00. This allowed individuals with larger and more expensive boats to risk paying a number of fines and still pay out less than if they had licensed their boats.

HB 136 would delete this special provision and allow fines to be levied in the \$15.00-\$500.00 range. We would anticipate this would encourage individuals to register and license their boats with their county treasurers.

I would point out that of the current \$10.00 fine, \$7.50 goes to the county for court costs, leaving only \$2.50 for the department to cover its cost of issuing and processing the citation.

# STANDING COMMITTEE REPORT

March 7,

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MR. PRESIDENT

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

having had under consideration..... **HOUSE JOINT RESOLUTION**

No. **1**

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

**BOYLAN WILL CARRY**

Respectfully report as follows: That..... **HOUSE JOINT RESOLUTION**

No. **1**

**BE CONCURRED IN**  
**XXXXXX**

**XXXXXX**

.....  
**MAX CONOVER,**

Chairman.

# STANDING COMMITTEE REPORT

March 7,

1985

MR. PRESIDENT

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

having had under consideration **HOUSE BILL** No. **159**

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

**SMITH WILL CARRY**

Respectfully report as follows: That **HOUSE BILL** No. **159**

**BE CONCURRED IN**

~~XXXXXX~~

~~XXXXXXXXXX~~

**MAX CONOVER,**

Chairman.