

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
HOUSE OF REPRESENTATIVES
50TH LEGISLATIVE SESSION

January 22, 1987

The meeting of the Fish and Game Committee was called to order by Chairman Orval Ellison on January 22, 1987, at 1:00 p.m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present.

HOUSE BILL NO. 211: Rep. Jerry Devlin, District #25, sponsor, stated the bill prohibits the harassment of hunters and trappers. The most recent incidents, such as the buffalo hunt, is a good example of the need for HB 211. Other states have had problems with this and, in fact, HB 211 is patterned after either the Arizona or New Mexico law. HB 211 defines the taking as the pursuit, hunting and trapping or shooting and killing of wild game on land upon which the effected person (the hunter) has the right or privilege to pursue, hunt, trap or shoot a wild animal. No person may "intentionally" interfere with the lawful taking of the wild animals.

PROPOSERS: Dick Johnson, Deputy Director, Department of Fish, Wildlife and Parks, submitted testimony (Exhibit 1). He stated in recent years, groups and individuals have threatened to appear or have appeared in hunting areas during the fall with the expressed objective of disrupting sport hunting. Montana's experience to date, involved the first buffalo hunt conducted in 1985. One purpose of the demonstrators is attracting publicity to the anti-hunting cause. They did not dispute the right of all persons to be heard, but felt adequate public forums existed where the views can best be expressed. The proposed legislation was designed to prevent only actual interference with hunters and trappers or disturbance of game during legitimate pursuit. Their concern was for order and safety, which HB 211 serves to help ensure, when protesting citizens purposefully interfere with lawful activities or other citizens, thus, a reasonable alternative to confrontation was available when necessary.

Robert Van Der Vere, a registered concerned citizen lobbyist, voiced support for HB 211.

Roland Cheek, representing the Montana Outfitters and Guides, stated MOGA supported HB 211.

Jeanne Klobnak, representing the Montana Wildlife Federation, submitted testimony (Exhibit 2). She stated in dealing with differences of hunters versus non-hunters, the importance of wildlife resource must be recognized and ultimately accept hunting as a proper and beneficial tool used to manage that resource. Individual groups who disagree with hunting philosophically do not usually represent such a compromise. In trying to force, by way of harassment, their beliefs onto others, such groups do not respect, and in fact, violate the rights of an individual citizen to make his or her own choice of what is right and wrong. MWF felt the department was recognizing the potential abeyance of respect for individual safety when such emotional differences meet face to face. MWF believes in the right of an individual to write or speak about their beliefs, however, MWF felt no one had a right to enforce, by way of harassment, or otherwise, those beliefs onto others.

Rep. Rapp-Svrcek had concerns about the wording "to prevent the individual's enjoyment of the outdoors", and felt this could mean just about anything.

Rep. Devlin stated possibly there could be an interpretation problem, however, it could be taken out, and would leave it up to the committee. He would have no objections.

Rep. Rapp-Svrcek asked Mr. Johnson about the wording.

Mr. Johnson assured him there would be some interpretation of this and felt the department would use common sense in enforcing this kind of language.

Rep. Rapp-Svrcek stated he had every confidence in the department personnel enforcing common sense, however, his concerns involved the potential confrontation of a hunter and someone else, or anyone in the outdoors who might use this as harassment.

Rep. Ellison explained, if taken in context, it clearly refers to individuals that are hunters or trappers, in the pursuit, when taken in context with the rest of the language.

Rep. Brandewie questioned why the civil liability was taken out.

Rep. Devlin stated in other states, the problem must have existed to necessitate, however, we did not feel HB 211 must go to this drastic of a step, due to the fact there hasn't been a problem in Montana yet, and felt it would be best to leave as simple as he could. However, this would constitute a misdemeanor and still would address to a certain extent.

Rep. Ream asked Mr. Johnson if there were other statutes that cover harassment of animals themselves.

Mr. Johnson stated there are statutes that prohibit the harassment of females and other related things.

Rep. Grady asked Rep. Devlin if he would have an objection to changing the language, and felt as written, it leaves it much to wide open.

Rep. Devlin stated the wording may not be needed at all, and he would have no objection.

Rep. Bulger thought perhaps legal counsel could instruct the committee on practical locations of the injunction provision, and does it offer a simple remedy.

Dave Cogley stated the injunction would merely prevent the interference with the hunter's activity. It does not give rise to any civil liability at all, and if there was a violation of a court order, enjoining that conduct, the person would be in contempt of court, which is a different matter.

Rep. Bulger wondered how that made it better since they already have the penalty, and wondered if it gave them another legal penalty.

Dave stated, if there was a threat of interference, as in the buffalo case, this would add that action could be taken before the confrontation occurred, which may prevent it from happening. Otherwise, if there is just a penalty, you are stuck with having a confrontation and then taking appropriate action.

Rep. Moore stated with regard to intent to disturb, how will this effect the relationship between the houndsmen and the trappers.

Rep. Devlin stated in this case, they both had permission to be out there, however, you still get back to the word "intentionally", and the hunter is not "intentionally" taking the cat away from the houndsmen or trapper by running across it accidentally.

Rep. Devlin closed stating one valid point that was brought up was ranchers may run across this circumstance in their normal schedule of work, which the Cattleman's Association had literature stating would specifically exempt the activities of the agricultural land user from this section (Exhibit 3).

Hearing on HB 211 closed.

HOUSE BILL NO. 210: Rep. Ed Grady, District #47, sponsor, stated HB 210 was a simple bill which dealt with some problems people have had with game damage violations and getting the department to come out soon enough to save a crop of alfalfa seed or a haystack. In some instances, the department did not come out for three or four days, sometimes longer, thus causing landowners to lose many expensive crops. All HB 210 did is shorten up the time they would have to come out and address the problem. The Fish and Game did have an amendment, changing HB 210, that presently may be too harsh stating the department had to study a situation and came up with some conclusion within 48 hours. This puts stress on the department because sometimes, they may consider a number of different alternatives before making a final decision.

PROPOSERS: Dick Johnson, Deputy Director, Department of Fish, Wildlife and Parks, distributed testimony (Exhibit 4). He stated Mr. Flynn could not be there, so Mr. Johnson presented his prepared statement for him. He stated each year the department receives a number of game damage complaints. With few exceptions, the 48 hour goal had been met. The few occasions it was not met were usually the result of having received several complaints at one time or a complication with the 40 hour limitation for Enforcement personnel. The recent court rulings which require overtime for enforcement hours in excess of 40 each week have hampered their abilities in a number of response areas, including game damage. Making the 48 hour requirement statutory would not change the circumstances under which they currently attempt to meet their goal. They suggest a change in the bill that would address the intent of HB 210 and those few instances where it would not be possible to "investigate and study" within 48 hours. Page 1, line 17, following the word "shall", insert the words "arrange to". Their guidelines would still apply and the complaints, in most instances, would still be responded to in 48 hours. However, it was literally impossible to assure that they could investigate and study, within 48 hours, each complaint every year.

Robert Van Der Vere, concerned citizen lobbyist, felt he was part of the reason the bill was drafted after receiving several complaints from landowners stating the department people never even made a trip out to investigate. HB #210 was simply doing some housekeeping on the law, and he stated there are a sufficient amount of people in the department to get the job done.

Rep. Ray Brandewie stated he would like to go on record as supporting HB 210. However, he felt the 48-hour time frame

should remain in the bill. The 48 hours may be too restrictive regarding degradation on your range; however, in the Christmas tree business, 48 hours can mean thousands of dollars of damage. The time limit could also mean severe damage for people who grew seed crops, particularly clover or alfalfa.

PROPOSERS: Janet Ellis, representing the Montana Audubon Legislative Fund submitted testimony (Exhibit 5). She stated although MALF agrees in principle with what HB 210 asks, they cannot support the legislation because of the liability put on the DFWP. It is already department policy to respond to game damage complaints within 48 hours. If the department person who received the complaint was unable to respond within 48 hours, he would immediately refer the complaint to the nearest department employee who could respond within a 48-hour period. Their research told them the department was doing an excellent job at responding to game damage complaints within 48-hours. There is no penalty section in HB 210. The bill, however, demands the department respond within 48 hours. They can only conclude that the department could be liable in those rare cases when they could not respond so quickly.

Rep. Pavlovich asked what would happen if they did not respond at all to a complaint.

Rep. Grady stated nothing really happened, but it did give the landowner a little bit more encouragement that the department should be out there within 48 hours, so he can complain that he did not have anyone out there. It strengthens the statute, and it would make the landowner feel better knowing there is a statute there.

Rep. Pavlovich wondered if the department had ever reimbursed the landowner for any damages they may have sustained.

Dick Johnson stated not to his knowledge. However, the department had given landowners supplies and had helped alleviate by mending some fences.

Rep. Jenkins asked approximately how many complaints they received per year.

Rep. Johnson replied it depended greatly on the weather. The average was about 400-500 a year.

Rep. Jenkins then asked how many employees did the department have overall.

Dick Johnson stated they had 500 FTE's, a good share of those are summer employees they use for the parks temporarily.

In closing, Rep. Grady stated it had been hard being convinced that the 48 hours did anything more than establish department policy. They have set 48 hours as their policy. HB 210 simply made it state statute, and in essence, sent a message to the Legislature that there was a problem out there and they were directing the department to address the problem to whomever it needed to be addressed by. HB 210 was not a costly bill, which required no more FTE's. The main objective was to make contact with the person in the field, so it could be reported to the department and in turn, they could get there and investigate.

Hearing closed on HB 210.

THE HEARING ON HB 137 WAS RE-OPENED: Jim Flynn, Director of Fish, Wildlife and Parks, spoke as a proponent to the bill and distributed testimony (Exhibit 6). Mr. Flynn was unable to attend the January 20, 1987 meeting, so Chairman Ellison recessed the hearing on HB 137 so he could testify today.

Mr. Flynn stated HB 137 proposed three changes of interest to the DFWP. It increased the number of nonresident licenses from 17,000 to 31,000; it broke up the nonresident big game combination licenses, and generated an additional \$1 million per year from the sale of nonresident big game licenses. As previous testimony indicated, DFWP agreed with the concept that more nonresident licenses could be authorized by the law. We have estimated the impact of the bill upon deer and elk, which statistics indicated, would not have a drastic effect upon the state's wildlife population. With respect to breaking up the combination license, DFWP had administered the sale of the 17,000 combination licenses since its inception nearly a decade ago.

The majority of the nonresidents whom they have pulled through the years favor that license. However, at the same time, they hear complaints from nonresidents who only wished to hunt deer and had to purchase the combination license in order to pursue that particular game animal. The additional revenues the bill contemplated from the sale of licenses were not needed for the department's operational budget. They strongly suggested, if such increases are to be considered, they be earmarked for leasing, purchase of conservation easements or fee title purchase of wildlife habitat in the state.

Rep. Driscoll asked whether or not an out-of-state hunter who had a B-7 tag, could buy more than one Deer B tag in those areas.

Mr. Flynn stated yes, the nonresident Deer A license.

Rep. Driscoll asked why the department did not sell more out of state deer tags to bring more hunters in.

Mr. Flynn stated the purpose of the multiple tags were those issued in eastern Montana where they had the high populations. They want to get the population numbers down by issuing the Deer B license and at the same time, realizing the reality that most of this took place on private property. The private landowners are very cooperative up to a point. But they are also interested in getting the numbers down.

Rep. Driscoll asked Mr. Flynn how many people on an average buy the combination license.

Mr. Flynn stated approximately 3,000 to 4,000 per year.

Rep. Brandewie asked Mr. Flynn to provide a sheet that listed all the information on the tags and the fees for each.

Mr. Flynn distributed the information (Exhibit 7).

The re-opened hearing on HB 137 was closed.

THE HEARING ON HB 183 WAS RE-OPENED: Jim Flynn, Director, Department of Fish, Wildlife and Parks, spoke as a proponent to the bill and distributed testimony (Exhibit 8). He stated HB 183 amended the present licensing structure when it applied to the additional or surplus licenses which the department issues for deer and antelope. HB 183 would allow residents the same discounts on certain licenses that are presently enjoyed by nonresidents. It would provide flexibility to the commission to create management purpose licenses that can be sold by the department for less than full price, simplifying the issuance of deer and antelope licenses. The proposed legislation would allow the department to treat residents and nonresidents equal by offering price breaks for deer and antelope to both groups. This legislation should not have any measurable fiscal impact on the department. They may sell management control deer and antelope licenses for less than the current price, but they felt that would be offset by selling more licenses.

Rep. Ellison asked if they were strictly referring to the management control type of license that they issue.

Mr. Flynn stated they were referring to those headed under the term "management purposes". For the resident it would be the A-3 and A-4, and for the nonresident, B-7 and B-8.

Rep. Ream stated there may have been some confusion and still was, regarding the phrase "for game management purposes", and wondered if it was used elsewhere in the statutes.

Dave Cogley, Researcher, stated he was not aware that the term was used elsewhere.

The re-opened hearing on HB 183 was closed.

Rep. Grady then asked Chairman Ellison if he would permit Mr. Flynn to make comments on HB 210 and HB 211 that were heard previously when Mr. Flynn was unable to be present. Chairman Ellison had no objections to that.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 210: Director Flynn stated they did support HB 210 and had no problem with the contact within 48 hours, as stated in prior testimony. The department did make, for the majority of the time, response to the call in that period of time. However, if the law was read, it states they shall study and investigate within 48 hours. That was not possible 100% of the time, prompting the suggested amendment.

QUESTION (OR DISCUSSION) ON HOUSE BILL NO. 211: Mr. Flynn stated the type of legislation was becoming more and more prevalent throughout the western states. As referenced in testimony, they did have the situation before them, when the buffalo hunt was enacted. He stated the department went through all the law enforcement steps necessary to prevent any problems and felt with a bill like HB 211, those kind of things could possibly be avoided. There was no immediate pressing need for it, but it was something they had already had a brush with and could happen any time. The bison are extremely popular and the hunt is extremely unpopular in the eastern part of the country, and could have the same set of circumstances surface again.

EXECUTIVE SESSION

HOUSE BILL NO. 131: Rep. Giacometto moved HB 131 DO PASS. Question was called. The motion CARRIED, with Reps. Grady and DeMars voting no.

HOUSE BILL NO. 211: Rep. Giacometto moved HB 211 DO PASS. Rep. Rapp-Svrcek moved to amend HB 211. See Standing Committee Report No. 1.

Rep. Brandewie spoke against the proposed amendment stating there are instances when people are pursuing a lawful recreation in the wilds, and could be harassed in those areas where it was lawful for them to do.

Rep. Giacometto spoke in favor of the amendment and stated if you put up a billboard along side of the road, you could actually be preventing the individual's enjoyment of the outdoors. That individual could be a hunter driving down the road, and because the view was being obstructed, that could be part of his enjoyment of the outdoors.

Rep. Ream tried to clarify that what was being referred to was not "any" individual, but "the" individual and to make it even clearer, you could state "that" individual.

Question was called on the amendment. A roll call vote was taken. The motion CARRIED, 12-6.

Rep. Giacometto moved HB 211 DO PASS AS AMENDED. Question was called. A roll call vote was taken. The motion CARRIED 16-2.

ADJOURNMENT: There being no further business to come before the committee, the meeting was adjourned at 2:35.



ORVAL ELLISON, CHAIRMAN

DAILY ROLL CALL

FISH & GAME

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date JANUARY 22, 1987

NAME	PRESENT	ABSENT	EXCUSED
ORVAL ELLISON, CHAIRMAN	X		
MARIAN HANSON, VICE CHAIRMAN	X		
RAY BRANDEWIE	X		
TOM BULGER	X		
JOHN COBB	X		
FRITZ DAILY	X		
GENE DEMARS	X		
JERRY DRISCOLL	X		
LEO GIACOMETTO	X		
ED GRADY	X		
LOREN JENKINS	X		
VERNON KELLER	X		
JANET MOORE	X		
BOB PAVLOVICH	X		
MARY LOU PETERSON	X		
JOHN PHILLIPS	X		
PAUL RAPP-SVRCEK	X		
BOB REAM	X		
STAFF: DAVE COGLEY			

STANDING COMMITTEE REPORT

JANUARY 22

19 37

Mr. Speaker: We, the committee on FISH AND GAME

report HB 211

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. ORVAL ELLISON

Chairman

"AN ACT TO PROHIBIT HARASSMENT OF HUNTERS AND TRAPPERS"

1. Page 2, line 1.

Following: "animal"

Strike: "or ^{to prevent} prevent the individual's enjoyment of the out doors"

FIRST

reading copy (WHITE)
color

ROLL CALL VOTE

HOUSE COMMITTEE FISH & GAME

DATE JANUARY 22, 1987

BILL NO. HB 211

TIME 2:20 p.m.

NAME	EXCUSED	AYE	NAY
ORVAL ELLISON, CHAIRMAN			X
MARION HANSON, V. CHAIRMAN		X	
RAY BRANDEWIE			X
TOM BULGER		X	
JOHN COBB		X	
FRITZ DAILY		X	
GENE DEMARS		X	
JERRY DRISCOLL			X
LEO GIACOMETTO		X	
ED GRADY		X	
LOREN JENKINS		X	
VERNON KELLER		X	
JANET MOORE		X	
BOB PAVLOVICH		X	
MARY LOU PETERSON			X
JOHN PHILLIPS			X
PAUL RAPP-SVRCEK		X	
BOB REAM			X

TALLY

12 6

Lisa Rapp
Secretary

Orval S. Ellison
Chairman

MOTION: Rep. Rapp-Svrcek moved to amend HB 211. Question
being called, a roll call vote was taken. The motion carried
12-6.

ROLL CALL VOTE

HOUSE COMMITTEE FISH & GAME

DATE JANUARY 22, 1987

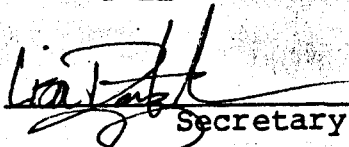
BILL NO. HB 211

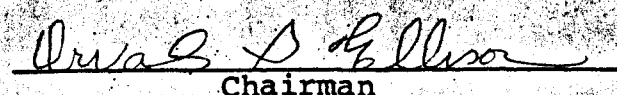
TIME 2:30 p.m.

NAME	EXCUSED	AYE	NAY
ORVAL ELLISON, CHAIRMAN		X	
MARION HANSON, V. CHAIRMAN		X	
RAY BRANDEWIE		X	
TOM BULGER		X	
JOHN COBB			X
FRITZ DAILY		X	
GENE DEMARS			X
JERRY DRISCOLL		X	
LEO GIACOMETTO		X	
ED GRADY		X	
LOREN JENKINS		X	
VERNON KELLER		X	
JANET MOORE		X	
BOB PAVLOVICH		X	
MARY LOU PETERSON		X	
JOHN PHILLIPS		X	
PAUL RAPP-SVRCEK		X	
BOB REAM		X	

TALLY

16 2


Secretary


Chairman

MOTION: Rep. Giacometto moved HB 211 DO PASS AS AMENDED.

Question being called, a roll call vote was taken. The
motion carried 16-2.

EXHIBIT (1)
DATE 1-22-87
HB 211 (Devlin)

HB 211
January 22, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

In recent years, groups and individuals have threatened to appear or have appeared in hunting areas during the fall with the expressed objective of disrupting sport hunting. While these efforts have achieved questionable success, they have generated hostile feelings and confrontations between sportsmen and preservationists. Incidents of this kind have been increasing nationwide and could produce a serious confrontation at some point in time. These situations pose a threat to the safety of all concerned, including the professionals employed by fish and wildlife management agencies.

Montana's experience to date involved the first buffalo hunt we conducted in 1985. Members of an activist preservation group threatened to intervene on behalf of the bison and stop the killing of buffalo. The threat was not carried out, but the hunt proceeded with a contingent of wardens called in to keep the peace in case of incident. We went to some effort to brief our people on crowd control, as well as to have the local sheriff and county attorney involved to prepare for contingencies.

One clear purpose of these demonstrators is attracting publicity to the anti-hunting, anti-trapping cause. We do not dispute the right of all persons to be heard, but we feel adequate public forums exist where these views can be expressed.

As an example, we would point to the extensive public hearing process of the Fish and Game Commission during the season setting process conducted each year.

The proposed legislation is designed to prevent only actual interference with hunters and trappers or disturbance of game during legitimate pursuit. Should these incidents become more prevalent in Montana - and occurrences in other states suggest they will - the law can be used to preserve the peace before a serious incident occurs.

Our concern is for order and safety, and this bill serves to help ensure that when protesting citizens purposely interfere with the lawful activities of other citizens, a reasonable alternative to confrontation is available.

We urge your favorable consideration of HB 211.



EDUCATION - CONSERVATION

DATE 1-22-87

HB 211 (Devlin)

Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION

Testimony on HB 211

House Fish & Game Committee

January 22, 1987

P.O. Box 3526
Bozeman, MT 59715
(406) 587-1713

Mr. Chairman, honorable members, my name is Jeanne Klobnak. I stand before you today on behalf of the Montana Wildlife Federation in their support of HB 211.

The Montana Wildlife Federation (MWF), comprised of 4600 members is a conservation organization dedicated to promoting wildlife, wildlife habitat and sportsmen's interests.

The make-up of membership in organizations like that of MWF is often an interesting study in contrast. Some members are non-hunters, concerned about promoting a conservation ethic in the interest of wildlife preservation and expansion. Others are hunters interested in this as well as increasing circumstances which aid in enhancing hunter opportunity. Philosophical differences amongst MWF's board of directors result in policy decisions which, above all else, recognize the importance of the wildlife resource, and ultimately accept hunting as a proper and beneficial tool used to manage that resource.

Individual groups who disagree with hunting philosophically do not usually represent such a compromise. In trying to force, by way of harassment, their beliefs onto others such groups do not respect, and in fact violate, the rights of an individual citizen to make his or her own choice as to what is right and wrong.

The Department of Fish, Wildlife, and Parks recognizes the potential abeyance of respect for individual safety when such emotional philosophical differences meet face to face.

MWF firmly believes in the right of an individual to write or speak about his or her beliefs. MWF however does not believe that one has a right to enforce, by way of harassment or otherwise, those beliefs onto others.

The intent and context of HB 211 is sound and positive. MWF urges that this committee vote do pass on HB 211. Thankyou.



MONTANA CATTLEMEN'S ASSOCIATION INTL

WITH A LARGE "Steak" IN MONTANA'S FUTURE

P.O. Box 1234
Helena, Montana 59624

TESTIMONY CONCERNING HB 211
House Fish and Game Committee

EXHIBIT (3)
DATE 1-22-87
HB 211 Devlin -

Mr. Chairman, we appreciate that the intent of this bill is to prevent deliberate and malicious harrassment of law-abiding hunters. We do not oppose that philosophy.

Nevertheless, we are concerned that a landowner, rancher, farmer, or even someone who grazes public land might, in the ordinary course of his work, be construed as intentionally disturbing stalked game. We insist that there should be a subsection added to Sec. 2 which specifically exempts the activities of an agricultural land user from being defined as harrassment.

This would not be a major change and it would eliminate the possibility of a land user being wrongfully prosecuted for harrassment. Some will say the language is already adequate in this respect. It isn't. It would be awfully hard for a rancher or other land user to prove that he did not disturb the game with intent to harrass. The fact is that agricultural activities often have the potential to disturb a hunter's stalk. Just driving out to repair a fence could ruin a hunter's day. We do not want frustrated sportsmen filing complaints against ranchers for starting up a tractor out in the hills.

UNTIL language to protect those using the land for agricultural purposes is added, the Montana Cattlemen's Association must OPPOSE HB 211, in spite of the good purpose Representative Devlin obviously intends.

Thank you for this opportunity to comment.

HB 210
January 22, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

The department established in 1985 guidelines for our personnel to follow regarding game damage complaints. Following is the first paragraph from our Department Guidelines for Big Game Damage Procedures:

"The Department of Fish, Wildlife & Parks will respond to a damage complaint as soon as possible, and within 48 hours. If the department person who received the complaint is unable to respond within 48 hours, he will immediately refer the complaint to the nearest department employee who can respond within a 48-hour period. Exceptions can be made if complainant is agreeable to a longer waiting period."

Each year the department receives a number of game damage complaints. With few exceptions, the 48-hour goal has been met. The few occasions it is not met are usually the result of having received several complaints at one time or a complication with the 40-hour limitation for Enforcement personnel. The recent court rulings which require overtime for enforcement hours in excess of 40 each week have hampered our abilities in a number of response areas, including game damage. Making the 48-hour requirement statutory would not change the circumstances under which we currently attempt to meet our goal.

We would suggest a change in the bill which we feel would address the intent of the bill and addresses those few instances when it would not be possible to "investigate and study" within 48 hours:

On page 1, line 17, following the word "shall," insert the words "arrange to."

Our guidelines would still apply and the complaints in most instances would still be responded to in 48 hours. However, it is literally not possible to assure that we could investigate and study within 48 hours each complaint every year.

With this amendment, a more realistic law would be at hand.

GUIDELINES FOR
DEPARTMENT OF FISH, WILDLIFE & PARKS
BIG GAME DAMAGE PROCEDURES

September 30, 1985

By law, the department is required to respond to all big game damage complaints. Big game damage is a department-wide responsibility, and personnel from all divisions will share a responsibility in responding to complaints. Regional supervisors will be responsible to coordinate efforts within regions. Regional biologists and game wardens will familiarize themselves with areas and circumstances where depredation might occur. General hunting seasons will remain a primary tool to deal with population numbers to address potential game damage problems.

The following procedures will be used to address and prevent game damage problems:

1. The DFWP will respond to a damage complaint as soon as possible, and within 48 hours. If the department person who received the complaint is unable to respond within 48 hours, he will immediately refer the complaint to the nearest department employee who can respond within a 48-hour period. Exceptions can be made if complainant is agreeable to a longer waiting period.
 - A. The DFWP will respond to all damage complaints under this policy with the exception of 1B. A phone call or on-site visit constitutes an immediate response under this provision.
 - B. Damage caused by nongame, furbearing, or federally listed threatened and endangered species are not covered by this policy, but will continue to be addressed on a case-by-case basis.
2. The DFWP shall make a written record of each complaint. This form must include action(s) taken or recommended. A copy of the investigator's report will be left with the landowner if so desired. This report will be submitted on all complaints, including those which required no immediate action. Such reports will be submitted to the administrator of the Field Services Division, regional supervisors, regional game managers and warden captains. A central game damage file will be maintained at the Field Services Division office in Helena. Each region will maintain a complete game damage file and it is the responsibility of the regional supervisor to keep it updated.

Report forms for recording game damage complaints will be prepared and distributed by the Field Services Division administrator.

3. Several courses of action can be initiated by the regional supervisor in response to legitimate damage complaints. A summary of potential options follows:

A. Special seasons. These will be used under the following conditions:

- (1) A time frame of mid-August through February.
- (2) Reasonable hunter access is available to allow for harvest of problem animals.
- (3) There are enough animals involved to justify public hunting.
- (4) It is a recurring problem, and animals are normally unavailable during the general season.
- (5) Special seasons to reduce numbers are a priority option if the land is posted against hunting, fee hunting is taking place, or the hunting rights are leased.

B. Herding: As a temporary measure, herding may be employed where effective.

C. Dispersal: A variety of animal dispersal methods may be employed, such as airplanes, snowmobiles, cracker shells, scareguns, and other scare tactic devices.

D. Repellents: Bloodmeal and other repellents can be employed as temporary solutions under appropriate conditions.

E. Fencing: If the problem is chronic and involves haystacks, various fencing options can be utilized:

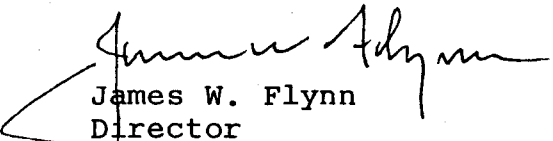
1. Permanent stackyards. In cases where records show haystack damage occurs annually, permanent stackyards are the best solution. The department will furnish the property owner with posts and wire. It will be the landowner's responsibility to construct the fence and to provide proper maintenance.

In situations where stackyards enclose several acres, particularly those surrounding round bales, permanent stackyards may not be the most desirable treatment of the problem. (See 2.)

2. Electric fencing. In situations where a large area is being used for a stackyard, such as round bale storage, electric fencing may be the most feasible solution. The department will provide the charger and fencing materials. On the initial installation, the department will assist in setting up the fence. The storage and care of this equipment is the responsibility of the rancher, and with proper care, materials should last three years. If game damage does not recur in succeeding winters, the department will pick up the charger for use in other areas.
 3. Snowfence. If a haystack has straight sides, 4 or 6 ft snowfence works well, or in the case of elk, 8 ft panels may be used. It is reasonable to assume the snowfence or panels will last for a minimum of three winters if properly cared for. Rolling and storage are the rancher's responsibility. Depending upon the size of the area and availability, the department will furnish the snowfence or panels, and the property owner will be responsible to put it up, take it down, and provide maintenance.
 4. It will be the responsibility of the landowner to store materials furnished by the department in a manner consistent with proper care with reasonable wear expected. A signed agreement with the landowner will record any planned actions and serve as a receipt for any provided materials. These agreements will be sent to the individuals outlined in Item 2. Fence fabric shall be returned to the department when it is no longer needed for wildlife depredation protection. Materials will be replenished when reasonable wear makes them ineffective.
- F. Kill Permits: In certain situations, a kill permit may be considered to be the best immediate solution and may be activated without first exhausting any of the previously mentioned methods. Authorization for kill permits may be expedited by a phone call to Helena (Director's Office, Enforcement or Field Services).
- G. In specialized situations, netting or mechanical devices may be used to reduce tree damage.
4. Bulletins - The Field Services Division Administrator will be responsible to develop:

- A. A bulletin for landowners informing them of preventive methods they can initiate to reduce game damage problems as well as assistance they can receive from this department (by Fall 1986).
 - B. A manual of techniques for department personnel, including an updated literature review for new game damage methods for preventing, minimizing, or solving game damage problems (by Fall 1986). Updates will be provided following annual review of new techniques.
5. The department has the responsibility to address all game damage complaints; however, assistance may be discontinued to a landowner who continues to aggravate game damage problems by closing or leasing his property to hunting in succeeding years or when reasonable suggestions, actions or remedies offered by the department have been refused. The decision to terminate assistance will be made by the director's office after reviewing the circumstances.
6. Evaluation - Administrators, supervisors, regional game managers, and warden captains will annually review and evaluate game damage methods to see if such methods and materials being utilized are properly addressing depredation problems. This evaluation will include an annual review of hunting regulations, quotas, etc., to ascertain their effectiveness in properly attempting to prevent game damage problems.

APPROVED:


James W. Flynn
Director

Montana
Audubon Legislative Fund

EXHIBIT 5
DATE 1-22-87
HB 210

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Legislative Fund. The Audubon Fund is composed of members of the National Audubon Society, which includes 2500 members in nine chapters located throughout the state.

The Audubon Fund must go on record in opposition to HB 210. Although we agree in principle with what HB 210 asks, we can not support this legislation because of the liability this legislation puts on the Department of Fish, Wildlife & Parks.

It is already the Department's policy to respond to game damage complaints within 48 hours. I would like to draw your attention to the Department's "Guidelines for Department of Fish, Wildlife & Parks Big Game Damage Procedures." This policy paper specifically states "The DFWP will respond to a damage complaint as soon as possible, and within 24 hours. If the department person who received the complaint is unable to respond within 48 hours, he will immediately refer the complaint to the nearest department employee who can respond within a 48-hour period. Exceptions can be made if complainant is agreeable to a longer waiting provision."

Our research tells us that the Department is doing an excellent job at responding to game damage complaints within 48-hours. Because of this we have closely examined what HB 210 could mean for the Department. There is no penalty section in HB 210. This bill does, however, demand that the Department respond within ⁴⁸~~24~~-hours. We can only conclude that the Department could be liable in those rare cases when they cannot respond so quickly. For this reason we ask that you give HB 210 a "do not pass."

Thank you.

GUIDELINES FOR
DEPARTMENT OF FISH, WILDLIFE & PARKS
BIG GAME DAMAGE PROCEDURES

September 30, 1985

By law, the department is required to respond to all big game damage complaints. Big game damage is a department-wide responsibility, and personnel from all divisions will share a responsibility in responding to complaints. Regional supervisors will be responsible to coordinate efforts within regions. Regional biologists and game wardens will familiarize themselves with areas and circumstances where depredation might occur. General hunting seasons will remain a primary tool to deal with population numbers to address potential game damage problems.

The following procedures will be used to address and prevent game damage problems:

- NOTE: 1. The DFWP will respond to a damage complaint as soon as possible, and within 48 hours. If the department person who received the complaint is unable to respond within 48 hours, he will immediately refer the complaint to the nearest department employee who can respond within a 48-hour period. Exceptions can be made if complainant is agreeable to a longer waiting period.
- A. The DFWP will respond to all damage complaints under this policy with the exception of 1B. A phone call or on-site visit constitutes an immediate response under this provision.
 - B. Damage caused by nongame, furbearing, or federally listed threatened and endangered species are not covered by this policy, but will continue to be addressed on a case-by-case basis.
2. The DFWP shall make a written record of each complaint. This form must include action(s) taken or recommended. A copy of the investigator's report will be left with the landowner if so desired. This report will be submitted on all complaints, including those which required no immediate action. Such reports will be submitted to the administrator of the Field Services Division, regional supervisors, regional game managers and warden captains. A central game damage file will be maintained at the Field Services Division office in Helena. Each region will maintain a complete game damage file and it is the responsibility of the regional supervisor to keep it updated.

Report forms for recording game damage complaints will be prepared and distributed by the Field Services Division administrator.

3. Several courses of action can be initiated by the regional supervisor in response to legitimate damage complaints. A summary of potential options follows:

A. Special seasons. These will be used under the following conditions:

- (1) A time frame of mid-August through February.
- (2) Reasonable hunter access is available to allow for harvest of problem animals.
- (3) There are enough animals involved to justify public hunting.
- (4) It is a recurring problem, and animals are normally unavailable during the general season.
- (5) Special seasons to reduce numbers are a priority option if the land is posted against hunting, fee hunting is taking place, or the hunting rights are leased.

B. Herding: As a temporary measure, herding may be employed where effective.

C. Dispersal: A variety of animal dispersal methods may be employed, such as airplanes, snowmobiles, cracker shells, scareguns, and other scare tactic devices.

D. Repellents: Bloodmeal and other repellents can be employed as temporary solutions under appropriate conditions.

E. Fencing: If the problem is chronic and involves haystacks, various fencing options can be utilized:

1. Permanent stackyards. In cases where records show haystack damage occurs annually, permanent stackyards are the best solution. The department will furnish the property owner with posts and wire. It will be the landowner's responsibility to construct the fence and to provide proper maintenance.

In situations where stackyards enclose several acres, particularly those surrounding round bales, permanent stackyards may not be the most desirable treatment of the problem. (See 2.)

2. Electric fencing. In situations where a large area is being used for a stackyard, such as round bale storage, electric fencing may be the most feasible solution. The department will provide the charger and fencing materials. On the initial installation, the department will assist in setting up the fence. The storage and care of this equipment is the responsibility of the rancher, and with proper care, materials should last three years. If game damage does not recur in succeeding winters, the department will pick up the charger for use in other areas.
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- F. Kill Permits: In certain situations, a kill permit may be considered to be the best immediate solution and may be activated without first exhausting any of the previously mentioned methods. Authorization for kill permits may be expedited by a phone call to Helena (Director's Office, Enforcement or Field Services).
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6. Evaluation - Administrators, supervisors, regional game managers, and warden captains will annually review and evaluate game damage methods to see if such methods and materials being utilized are properly addressing depredation problems. This evaluation will include an annual review of hunting regulations, quotas, etc., to ascertain their effectiveness in properly attempting to prevent game damage problems.

APPROVED:


James W. Flynn
Director

HB 137
January 22, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

HB 137 proposes three changes of interest to the Department of Fish, Wildlife & Parks. It increases the number of nonresident licenses from 17,000 to 31,000, it breaks up the nonresident big game combination license, and generates an additional \$1 million per year from the sale of nonresident big game licenses.

As we have testified previously before this committee, the department agrees with the concept that more nonresident licenses can be authorized by the law. We question whether increasing the number from 17,000 to 31,000 is appropriate, but do agree with the philosophy of some increase.

We have estimated the impact of this bill upon our deer and elk populations, and find that it would increase the state's deer harvest by 0.8% and the state's elk harvest by approximately 2.7%. These statistics would indicate that the bill would not have a drastic effect upon the state's wildlife populations.

However, in addition to the harvest statistics, one must consider the social acceptability of such an increase. The nearly doubling of nonresidents could create problems on the ground during the hunting season and it most assuredly would create a perception problem among the sporting public in Montana.

With respect to breaking up the combination license, the department has administered the sale of the 17,000 combination licenses since its inception nearly a decade ago. We find that the majority of the nonresidents whom we have polled through the years favor that license. However, at the same time we do hear complaints from nonresidents who only wish to hunt deer and have to purchase the combination license in order to pursue that particular game animal. The department does not feel strongly that it needs to remain as is.

The additional revenues the bill contemplates from the sale of licenses are not needed for the department's operational budget during this biennium. If such increases are to be considered, we would strongly suggest that they be earmarked for leasing, purchase of conservation easements or fee title purchase of wildlife habitat in the State of Montana.

It is our understanding that this legislation will be referred to a subcommittee for further consideration, along with other bills on this subject, and we would urge its support for referral to that subcommittee.

Thank you.

EXHIBIT 7
DATE 1-22-87
HB 137

MONTANA DEPT. OF FISH, WILDLIFE, & PARKS

LICENSE STRUCTURE

RESIDENT

<u>Class</u>	<u>License</u>	<u>Fee</u>
AAA	Sportsman	\$ 36.00
A	Fishing	9.00
A-1	Bird	4.00
A-2	Bow & Arrow	6.00
A-3	Deer A	9.00
A-4	Deer B	6.00
A-5	Elk	10.00
A-6	Black Bear	8.00
A-7	Antlerless Elk	10.00
C	Trappers	20.00
C-1	Landowner Trapper	1.00
C-3	Youth Trapper	3.00
D-2	Mountain Lion	10.00

NONRESIDENT

<u>Class</u>	<u>License</u>	<u>Fee</u>
B	Fishing	\$ 35.00
B-1	Bird	30.00
B-4	Two-Day Fishing	8.00
B-7	Deer A	100.00
B-8	Deer B	50.00
B-10	Big Game Combo	350.00
C-2	Trappers	250.00
D-1	Mountain Lion	300.00

HB 183
January 22, 1987

Testimony presented by Jim Flynn, Dept. of Fish, Wildlife & Parks

HB 183 amends our present licensing structure as it applies to those additional or surplus licenses which the department issues for deer and antelope. The bill will allow residents the same discounts on certain licenses that are presently enjoyed by nonresidents. It will provide flexibility to the commission to create management-purpose licenses that can be sold by the department for less than full price, and it will simplify the issuance of deer and antelope licenses.

At the present time our law allows price breaks to nonresidents for antelope and deer licenses. Although residents receive the same price break as nonresidents for their second antelope license, they are required to pay full price for second deer licenses. The proposed legislation would allow the department to treat residents and nonresidents the same by offering price breaks for deer and antelope to both groups.

In addition, our experience shows most nonresidents are willing to pay \$100 for a buck license, but few will pay \$100 for the first doe/fawn, or even \$50 for the second doe/fawn license, yet this is what we must charge as required by law. In 1985, in the eastern part of the state we had several thousand doe/fawn antelope licenses which were unsold because of this requirement. This bill will give the commission and the department the authority to lower the price of the second license to make it more attractive to the sportsman, and thus obtain the needed harvest. The price would be set according to the circumstances in a given area, but would not exceed the price of the first license as prescribed by law.

And finally, under present law the sportsman can receive the second license at half price only if he previously purchased a full priced license for that class. HB 183 would allow the department to set the fees for both nonresidents and residents when the commission authorizes the issuance of more than one license in any class. Persons purchasing these extra licenses would pay the fee set by the department whether or not they had previously purchased a license for that class. We feel this would assist in stimulating sportsmen to harvest the animals at which these additional licenses are aimed.

This legislation should not have any measurable fiscal impact on the department. We may sell management control deer and antelope licenses for less than the current price, but we feel this would be offset by selling more licenses.

We urge your favorable consideration of HB 183.

Thank you.

FISH AND GAME

BILL NO. HB 210; HB 211

DATE JANUARY 22, 1987

SPONSOR GRADY; DEVLIN

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.