

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By Chairman Bob Ream, on January 19th 1989,
at 3:05 p.m.

ROLL CALL

Members Present: All present

Members Excused: none

Members Absent: none

Staff Present: Doug Sternberg, Legislative Council and
Maureen Cleary, Committee Secretary

Announcements/Discussion: none

HEARING ON HOUSE BILL 174

Presentation and Opening Statement by Sponsor:

REP. GRINDE: At times in the job of Legislator we fail to look into the future. This bill will simplify the registration for the blind in regards to conservation and fishing licenses. This bill will affect only the blind and no other disabled persons. It will also eliminate alot of red tape for the Department of Fish, Wildlife and Parks. (See Exhibits #1 and 2)

List of Testifying Proponents and What Group They Represent:

Mr. Robert VanDeVeer/ Helena, private citizen

List of Testifying Opponents and What Group They Represent:

none

Testimony:

Mr. VanDeVeer: I am in support of this bill.

Questions From Committee Members:

REP. EUDAILY: Is there presently any information within the bill to define the word "blind"? REP. GRINDE: There is none within the bill. REP. EUDAILY: I wonder if our researcher could find some information on the term and report back to the Committee. Perhaps an amendment would be called for in this case.

Closing by Sponsor:

REP. GRINDE: Closed briefly to the Committee.

HEARING ON HOUSE BILL 186

Presentation and Opening Statement by Sponsor:

REP. BOB REAM: District #54, Missoula County. This bill addresses the question of where bond monies are placed. This bill was directed by the Department of Fish, Wildlife and Parks.

List of Testifying Proponents and What Group They Represent:

Mr. Ron Marcoux/ Dept. of Fish, Wildlife and Parks, Helena

Mr. Stan Bradshaw/ Trout Unlimited, Helena

Ms. Janet Ellis/ MT. Audubon Legislative Fund, Helena

Mr. Don Chance/ MT. Wildlife Federation, Helena

List of Testifying Opponents and What Group They Represent:

none

Testimony:

Mr. Marcoux: (See Exhibit #3)

Ms. Ellis: (See Exhibit #4 and #5)

Mr. Bradshaw: I am in support of this bill.

Mr. Chance: I am also in support of this legislation.

Questions From Committee Members:

REP. PHILLIPS: Where does the money go from the fines presently? MR. MARCOUX: The money would go to the Justice of the Peace.

REP. DEMARS: What is the amount of the fines and how are they established? MR. MARCOUX: The information is in Section 2. These are 1987 figures.

REP. KELLER: What would happen in the case where a person does not have the money on him/her to post bond immediately? MR. MARCOUX: The Dept. would require that the person be taken in until the money could be posted. REP. KELLER: What about the case where a person is protecting his own property? MR. MARCOUX: That is a good question. I am unaware of any present policy in that regard.

REP. KASTEN: Shouldn't the bond money go to the county? MR. MARCOUX: The bond and fine are distributed back, with a percentage to the county and to the Dept. These figures are established on a statewide basis. REP. KASTEN: Who establishes these figures? MR. MARCOUX: The state law does clarify these.

REP. BLOTKAMP: Will the bond will cover a person until s/he appears in court, and would the forfeiture of the bond be a conviction? MR. MARCOUX: Those fees do not imply guilt. They are reimbursed if the person is found not guilty.

REP. PHILLIPS: I question the bonds and there purpose. MR. BRADSHAW: A bond simply insures your appearance in court, as in a civil suit.

Closing by Sponsor:

REP. REAM: Restitution in this bill is the same as if we were dealing with a civil penalty. The fees could be at the judges discretion.

HEARING ON HOUSE BILL 187

Presentation and Opening Statement by Sponsor:

REP. REAM: District 54, Missoula County.

List of Testifying Proponents and What Group They Represent:

Mr. Ron Marcoux/ Dept. Fish, Wildlife and Parks, Helena

Mr. Rick Gratz/ MT. Magazine and American Geographic
Publishing, Helena

Mr. Bill Schneider/ Falcon Press Publishing, Helena

List of Testifying Opponents and What Group They Represent:

none

Testimony:

Mr. Marcoux: (See Exhibit #5)

Mr. Schneider: I am in support of the bill. It presents a good opportunity to work with the private sector and help small businesses in the state.

Mr. Gratz: For the same reasons as testified earlier. I am also in support of this legislation. I feel that this will promote business within the state.

Questions From Committee Members:

REP. KASTEN: What would the charges per 1000 names be? MR. MARCOUX: For most lists it would run about \$45.00 to \$60.00 per thousand, some lists are more desirable than others.

REP. DEBRUYCKER: How does this bill protect the Dept. from anyone going out and getting the list before you do? MR. MARCOUX: The Dept. would establish rules for administering and distribution of these. We would review and decide what would be a fair value.

REP. BLOTKAMP: Does this bill make provisions to protect persons that do not want to be listed? MR. MARCOUX: directed the question to researcher Mr. Sternberg, he noted that presently these provisions are covered.

REP. PHILLIPS: Is there is any statement of intent written on renewal cards or lists that will protect the public from retrieving these lists? MR. MARCOUX: These lists are presently available to anyone wishing to come to the Dept. and write the names and addresses, etc. down and walk out with them.

REP. EUDAILY: Would a statement of intent be required on this bill? MR. STERNBERG: Yes, a statement of intent would be required.

HOUSE COMMITTEE ON FISH AND GAME

January 19th 1989

Page 5 of 5

REP. KASTEN: Will this bill will allow other departments to sell their lists? MR. MARCOUX: This bill covers only the Dept. of Fish, Wildlife and Parks.

REP. EUDAILY: Could you, in turn, re-sell your lists to others? MR. SCHNEIDER: I could, but I would have to include my costs in order to come to a fair price.

Closing by Sponsor:

REP. REAM: This bill would provide the original records to the public for sale in a more orderly arrangement and create less chaos within the Dept. of Fish, Wildlife and Parks.

ADJOURNMENT

Adjournment At: 4:20 p.m.



REP. BOB REAM, Chairman

BR/mc

1605.min

DAILY ROLL CALL

FISH AND GAME

COMMITTEE

51st Session - Legislative Council

Date JANUARY 19th

NAME	PRESENT	ABSENT	EXCUSED
Bob Ream, Chairman	✓		
Jim Elliott, Vice-Chair	✓		
Robert Blotkamp	✓		
Ben Cohen	✓		
Fritz Daily			
Gene DeMars	✓		
Bob Pavlovich Strizich			
Bob Raney	✓		
Bill Strizich Bob Geronis	✓		
Roger DeBruycker	✓		
Orval Ellison			
Ralph Eudaily	✓		
Marian Hanson	✓		
Betty Lou Kasten	✓		
Vernon Keller	✓		
John Phillips	✓		

**Montana Department
of
Fish, Wildlife & Parks**

EXHIBIT #01

DATE Jan 19

HB 174



Helena, MT 59620
November 22, 1988

Representative Larry Grinde
Route 3
Lewistown, MT 59457

Dear Representative LARRY Grinde:

I am enclosing a progress report with respect to mountain lions in Region 4. It appears that during the 87-88 season, a total of 17 lions was harvested, with 8 of them being males and 9 females. This harvest appears to be in step with the past five year average of 17.

In addition, for Region 4 during the same time period we registered the harvest of 182 bobcats.

With respect to the disabled license, I find that some of the information I gave you was not correct. It had been my understanding that we accepted disability certificates from sources other than a physician. I find this is not true, and is the primary reason we established the blue card system.

The issuance of the blue card is an attempt to prevent a disabled person from having to visit a physician every year, but to date the department has not treated the blue card as a permanent disability certificate.

Given the tenor of our conversation, I have an alternative to suggest which you might consider with this subject. The department could administratively establish another certificate - say, for example, a red card, and this card could be issued on a one-time only basis to someone such as your constituent who is obviously permanently disabled and will not be cured of the disability in his lifetime.

This would allow us to still use the blue card in the appropriate circumstances where we may wish to review the person's condition on a periodic basis and at the same time allow constituents such as yours who obviously are permanently disabled to only have to have a physician certify that disability one time.

Representative Larry Grinde


2

November 22, 1988

If this alternative has any merit from your viewpoint, please do not hesitate to let me know and we can review it from our viewpoint in detail.

I am enclosing a copy of the application form which we use and the eligibility requirements that qualify for the license.

Sincerely,


James W. Flynn
Director

JWF/sa

Encs



**Montana Department of
Fish, Wildlife & Parks**

Return Application To:
1420 East Sixth Avenue
Helena MT 59620

EXHIBIT #02

DATE JAN. 19

HB 174

YOU MUST CHECK WHICH LICENSE/PERMIT YOU WISH TO APPLY FOR:

- ☐ Conservation License -- Cost is \$2.00 which must accompany application
☐ Camping Fee Waiver ☐ Permit to Hunt From A Vehicle

Section 1 This section must be completed by the Applicant

NAME: _____ HOME PHONE # _____

HOME ADDRESS _____ CITY _____ ZIP CODE _____

SEX _____ / EYE COLOR _____ / WEIGHT _____ / HEIGHT _____ / HAIR COLOR _____ / BIRTHDATE _____

MONTANA DRIVER'S LICENSE NUMBER _____ EXPIRES _____

OTHER IDENTIFICATION** _____

**Required if you do not have a driver's license

I certify that I have been a legal resident of the State of Montana for a period of six months immediately prior to making this application and that the information on this application is true and correct. I have not made more than one application for the license/permit for which I am applying. My signature below is written consent to the use of this information for the purpose of verifying residency and disability.

APPLICANT'S WRITTEN SIGNATURE

DATE

Section 2 This section must be completed by a Licensed Physician

After reading the eligibility requirements listed on the reverse side of this application, I certify the above applicant is eligible for a:

Conservation License _____	Physician must initial each
Camping Fee Waiver _____	line as applicable
Permit To Hunt From A Vehicle _____	

Check one or more of the boxes below to indicate disability for which you are certifying the above applicant.

- | | | |
|-------------------------------------|---|--|
| <input type="checkbox"/> amputation | <input type="checkbox"/> heart disease | <input type="checkbox"/> respiratory dysfunction |
| <input type="checkbox"/> blindness | <input type="checkbox"/> cerebral palsy | <input type="checkbox"/> pulmonary dysfunction |
| <input type="checkbox"/> cancer | <input type="checkbox"/> cystic fibrosis | <input type="checkbox"/> neurological disorders |
| <input type="checkbox"/> deafness | <input type="checkbox"/> muscular dystrophy | <input type="checkbox"/> nonambulatory |
| <input type="checkbox"/> stroke | <input type="checkbox"/> multiple sclerosis | <input type="checkbox"/> paraplegia |
| <input type="checkbox"/> epilepsy | <input type="checkbox"/> mental retardation | <input type="checkbox"/> quadriplegia |
| <input type="checkbox"/> hemiplegia | <input type="checkbox"/> mental illness | |

☐ other (must be clearly explained in lay person terms) _____

Is this a permanent disability _____ yes _____ no

Is it possible this disability may be corrected _____ yes _____ no

I hereby certify that the information provided above is true and correct to the best of my knowledge and belief.

Physician's Signature (Do Not Print)

Physician's License Number

Physician's Name and Address (Please Print)

ELIGIBILITY REQUIREMENTS

A. DISABLED RESIDENT CONSERVATION LICENSE AND/OR CAMPING FEE WAIVER

To qualify for a Disabled Resident Conservation License, the applicant must be a legal resident of Montana and must be certified by a licensed physician as being disabled according to the following definitions:

- (i) A person suffering from a condition medically determined to be permanent and/or substantial, and resulting in significant impairment of the person's functional ability and specifically includes amputation, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, respiratory or pulmonary dysfunction, developmental disability, mental illness, multiple sclerosis, muscular dystrophy, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions and renal failure; or
- (ii) A person who is receiving sheltered employment or work activities/services in a protective setting; or
- (iii) A person who, in a physician's judgement, is suffering from a disease or condition not listed above, but which would otherwise qualify that person for a Disabled Resident Conservation License or Disabled Resident Camping Fee Waiver (must be explained in lay person terms under "other" in Section 2).

B. PERMIT TO HUNT FROM A VEHICLE

To qualify for this permit, the applicant must be a legal resident of Montana and certified by a licensed physician as having a permanent physical handicap and is nonambulatory or mobility is substantially impaired.

"Nonambulatory" means permanently physically reliant on a wheelchair or similar remedial appliance or device for mobility.

"Substantially Impaired Mobility" means virtual inability to move on foot due to permanent physical reliance on crutches, canes, prosthetic appliances or similar remedial appliance or device.

The disabilities listed on the reverse side that are commonly recognized as being eligible for the "Permit To Hunt From A Vehicle" are: (1) amputation (if below the waist), (2) paraplegia (if below the waist), (3) quadriplegia, and (4) nonambulatory. Any other disability certified as being eligible for the "Permit To Hunt From A Vehicle" must be clearly explained why the applicant is eligible under "other".

EXHIBIT #03
DATE Jan 19th
HB 186

HB 186
January 19, 1989

Testimony presented by Ron Marcoux, Department of Fish, Wildlife & Parks.

The Department of Fish, Wildlife & Parks supports HB 186, which would provide for uniform application of the laws requiring civil restitution for certain unlawfully taken wildlife (Sec.87-1-111 through 113). This law appears to be working well and has been applied by the courts since passage in 1987.

The one major flaw in the procedure occurs when violators, either resident or nonresident, post a cash bail bond. The defendant then forfeits the bond rather than appear in court. This is sometimes a matter of convenience, but often the bond is forfeited to avoid license revocation and the finding of knowingly and purposefully violating the laws of Montana. A bond forfeiture is not a conviction.

The proposed amendments in this bill will allow the courts to authorize officers in the field to collect the civil penalty in addition to cash bail for appearance.

As an example, if a resident of western Montana were apprehended in Glendive with an excessive number of paddlefish on Saturday or Sunday, he could post \$50 bail for the offense plus \$100 restitution for each fish over the possession limit. This would enable him to return to his home and place of employment and still meet all statutes as to penalties and reimbursement without the hassle of arrest and incarceration.

This procedure would also work well for a nonresident party checked leaving the state with an overlimit or unlawfully taken species. All applicable penalties could be collected and the entire party not detained nor the defendant incarcerated for later appearance.

It would also allow judges to set bail on certain offenses wherein the reimbursement appears applicable, but the defendant chooses not to plead guilty to avoid reimbursement and/or loss of privileges.

The defendant in all cases still has all guaranteed rights as to appearance and trial by judge or jury.



Montana Audubon Legislative Fund



Testimony on HB 186
House Fish and Game Committee
January 19, 1989

EXHIBIT #04
DATE Jan 19
HB 186

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 represents 9 Chapters of the National Audubon Society and over 2500 members statewide.

The Audubon Fund wants to go on record in support of HB 186. This legislation will close a loop-hole in the current restitution law that prevents collection of these penalties when a defendant chooses to forfeit a cash bail bond. By closing this loop-hole, the resource will ultimately benefit.

Restitution penalties allow Montanan's to get some of the value of lost wildlife back from a person who "knowingly or purposely" took that animal. In the case of many defendants from out-of-state, the individual will post a bond in the field and choose to forfeit that bond in order to return home. In such cases, no restitution penalty can be collected. If HB 186 passes, a "restitution bond" could be posted in the field. If the defendant went to court and it was not shown the s/he "knowingly or purposely" took an animal, then the individual would not have to pay a restitution penalty. If the individual decided to forfeit their cash bail bond, the state would get reimbursed for the loss of its wildlife.

Restitution penalties and other laws aimed at discouraging the illegal taking of Montana's wildlife are particularly important today because of the increase in commercial poaching operations in Montana. Higher fines make poaching less lucrative. More and more states are adopting restitution legislation as a way to regain at least a portion of the value of the wildlife lost by illegal means.

We urge that you vote "DO PASS" on this important measure.

Madison Friday Oct. 10, 1986

Warden nabs greedy anglers

DILLON (AP) — A pair of California fishermen had good luck fishing the Big Hole River and other southwestern Montana trout streams last week — a little too good, state wildlife officials said.

The two men were cited for having too many trout in their possession after being found with 187 trout during a random check by a game warden.

The men, Frank Sanchez, 52, of Sunvale, Calif., and Frank Benassi, 51, of San Jose, each posted \$500 bond and returned to California late last week.

State Warden Sarge Hoehn said he stopped to check the men's licenses last Thursday and became suspicious when the men told him they had caught 30 or 40 fish.

He asked to check their cooler found it was full of food, but a refrigerator in their motor home was "stuffed full of fish."

"That was the most fish I ever spotted by far," Hoehn told the Dillon Tribune-Examiner. "I once got 38 fish on an undercover operation. I just could not believe it."

Hoehn alleged the men had in their possession 97 brown, rainbow or cutthroat trout and 90 brook trout. They had been fishing in southwestern Montana, including trout streams such as the Big Hole and Beaverhead rivers, for a week.

The warden cited them for possession of unlawfully taken game fish and violation of possession limits.

Californians pay \$1,000 for 187 illegal fish — Page 5

Californians nabbed with 187 fish

DILLON — A local game warden's random fishing license check of two California men led to the discovery of a cache of 187 illegal fish and hefty fines for the pair.

Frank Benassi of San Jose and Frank Sanchez of Sunnyvale, each forfeited \$500 bonds in Justice of the Peace Dick Later's court on misdemeanor charges of possession of unlawfully taken fish and taking over the limit of game fish.

State Department of Fish, Wildlife and Parks warden Sarge Hoehn said the men had more than 100 brook trout in their possession. The limit is 20 fish each, he said.

They also had nearly 30 rainbows, cutthroats and brown trout in their possession. The limit on those fish is five fish per man with only one fish over 18 inches allowed.

The majority of the catch "were good pan fish" size, Hoehn said. "They didn't have any trophy fish."

The Californians had been fishing Sheep and Red Rock Creeks south of Dillon; the Big Hole River and

Governor Creek, northwest of Dillon; and the Ruby River in Madison County. They arrived in the area for their fishing excursion Sept. 25 and before their arrest Oct. 1, planned to leave the next day.

The fish will be sold at public auction Thursday at 5:30 in the Beaverhead County courthouse back parking lot. The sale will also include confiscated elk and deer meat.

EXHIBIT #05
DATE Jan 19
HB 186

HB 187
January 19, 1989

EXHIBIT # 06
DATE Jan 19
HB 187

Testimony presented by Ron Marcoux, Department of Fish, Wildlife & Parks

This bill would amend present law (2-6-109 and 87-1-601, MCA) to permit the Department of Fish, Wildlife and Parks to rent or sell lists of license purchasers, lists of special license applicants and its Montana Outdoors subscribers.

Department listings, as described above, are considered information in the public domain, and thus are a matter of public record and open to public inspection. Although current state law prohibits copying or reproducing these lists by mechanical means, they may be transcribed by hand on the department's premises. We are appreciative of the privacy issue, but recognize these lists are now available through the process indicated.

Each year, several private individuals or other parties visit the department to obtain lists of nonresident combination license buyers and special license applicants and copy them by hand for advertising or marketing purposes.

This is inconvenient and time-consuming for the parties copying the lists and requires that the department provide office space or off-site facilities for this purpose. Most of these visitors later sell the listings they have compiled.

Through selling its magazine and license buyer lists, the department could eliminate the inconvenience to parties wishing to obtain these lists, and generate an estimated \$26,000 per year. There are other state fish and wildlife agencies that sell the lists to interested parties.

We support amending current state statutes (2-6-109 and 87-1-601, MCA) to permit the Department to sell these lists. For this reason, we support HB 187.

Amendments to House Bill No. 187
Introduced Reading Copy

For the House Committee on Fish and Game

Prepared by Doug Sternberg
January 19, 1989

1. Page 1, line 18.

Following: line 17.

Insert: "(2) The department shall provide the mailing lists
described in subsection (1) at cost to Montana residents."

Renumber: subsequent subsection

WILDLIFE HABITAT PROTECTION AN INTERIM REPORT



**Prepared by:
Montana Department of
Fish, Wildlife & Parks**

**Prepared for:
House and Senate
Fish and Game Committees
1989 Montana State Legislature**

VISITORS' REGISTER

FISH AND GAME COMMITTEE

BILL NO. 186

DATE January 19th

SPONSOR Team

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FISH AND GAME COMMITTEE

DATE January 19th

SPONSOR Larry Hal Grinde

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.