

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By Chairman Severson, on February 2, 1989,
at 1:07 p.m., Room 402 of the State Capitol.

ROLL CALL

Members Present: Sen. Elmer D. Severson, Sen. John
Anderson, Jr., Sen. Judy Jacobson, Sen. Al Bishop, Sen.
Paul Rapp-Svrcek, Sen. Loren Jenkins, Sen. Bill
Yellowtail.

Members Excused: None

Members Absent: None

Staff Present: Andrea Merrill, Legislative Council

Announcements/Discussion: None

HEARING ON SENATE BILL 240

Presentation and Opening Statement by Sponsor: Sen. Loren
Jenkins stated that one of his constituents asked him
if there was a way that someone could go out and get a
deer for him because he is elderly. This bill is for
someone who is 65 or older, or disabled as certified by
the Department, to be able to go down to the dealer and
get a license to allow someone else to shoot the deer.
This bill is geared toward deer game damage. The
person who gets the license can let the rancher who has
the deer problem shoot the deer. Then that rancher can
bring the disabled person the deer he shoots.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

Mr. Ron Marcoux, Department Fish, Wildlife & Parks
Scott Snelson, Montana Wildlife Federation

Testimony:

Mr. Ron Marcoux left his testimony. See Exhibit #1.

Scott Snelson stated that the Montana Wildlife Federation is opposed to SB 240.

Questions From Committee Members: Sen. Yellowtail asked Sen. Jenkins if it is possible for a disabled person to find a hunter who would be willing to pay for a "B" license and use it under his own name, to go out and get the deer and give him the meat.

Answer: Sen. Jenkins said yes, assuming that they will pay for the license, but the license will be made out to the hunter. But you would only have one license per rancher. This bill would allow multiple elderly people give you a certificate to shoot the deer on your ranch to reduce deer game damage.

Response: Sen. Severson spoke about an example that happened in the Bitterroot. A paraplegic shot a big horn sheep because his dad got him within shooting range.

Closing by Sponsor: Sen. Jenkins stated that he had planned to hear SB 240 as well as SB 306 at the same time. The Supreme Court in 1968 ruled that a hunter must get his own animal. I can't believe that is a constitutional rule because the Supreme Court has also ruled that hunting game is not a constitutional right, but a privilege. So, my point is that the legislature can write a law to change a supreme court ruling as long as it is not a constitutional rule.

Hunting is used to harvest animals. If you don't hunt them, they will die by disease and you will lose the whole heard. Through hunting you can prevent the disease. Another point is people who are living along poverty lines can use the meat throughout the year. I would like you to pass this bill, but I would like you to hold up on executive action so we can hear SB 306 at the same time.

HEARING ON SENATE BILL 236

Presentation and Opening Statement by Sponsor: Sen. Severson stated he has thought along this line for a number of years. He has done some outfitting and took out one crew a year. Those people were from the Northeast. They thought it was remarkable that Montana did not have a compulsory checkout. It is a form of management tool for fish and game. The Department presently sends out surveys in the spring to get an estimate on what the kill was for the season. With the

compulsory check out they can have the exact number at the close of the season. There is a 10 day time limit for outfitters because they go on nine day trips. The local hunters also have a 10 day time limit but they often will report within one or two days.

List of Testifying Proponents and What Group they Represent:

Ron Marcoux, Department Fish, Wildlife & Parks
Scott Snelson, Montana Wildlife Federation

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Mr. Marcoux left his testimony. See Exhibit #2.

Scott Snelson stated that the Federation is always concerned with getting accurate data on population and we want to go with the best system that is available. If this is the best system that is available, we support it fully.

Questions From Committee Members: Sen. Jenkins wasn't sure if the Fish, Wildlife & Parks Department supported the bill.

Answer: Mr. Marcoux stated that yes, they did support it, and mentioned that it depends on how good a return rate there will be, and we have to enforce that compliance. Our suggestion is to go on a pilot basis first, rather than instituting a full statewide program immediately.

Question: Sen. Yellowtail asked Mr. Marcoux how the pilot program would work.

Answer: Mr. Marcoux stated that they would take one hunting district, for instance the Bitterroot, and send them some new tags.

Question: Sen. Jacobson asked Sen. Severson what would happen if the hunter lost his card.

Answer: Mr. Marcoux responded by stating that the Department would issue them a duplicate when proper verification was provided. Then they have to sign an affidavit stating that they did lose it.

Questions: Sen. Severson asked Mr. Marcoux if a stub is needed to retain with the permit.

Answer: Mr. Marcoux thought it might be a good idea because sometimes there are problems in the mail, or the person doesn't have a acceptable proof. He stated that he would want to study the idea of a stub more.

Question: Sen. Jenkins suggested to Sen. Severson to delay the penalty for two years and try it out during those two years.

Answer: Sen. Severson asked him how you could gauge if the bill works well without the penalty. It is my opinion that without a penalty there won't be 100% return. With a penalty there will be 100% return.

Question: Sen. Rapp-Svrcek asked Mr. Marcoux how a pilot project would be done.

Answer: Mr. Marcoux stated he would have to look into that.

Question: Sen. Yellowtail asked Sen. Severson how could the recordkeeping be maintained?

Answer: Sen. Severson stated that all you would have to do is keep track of those who don't report. That shouldn't be too many people. It has to be 100% compliance.

Closing by Sponsor: Sen. Severson mentioned that there is a penalty in the bill. You are required to send in the card within 10 days of the kill or 10 days after the closing of the season. So, you will know almost exactly what the harvest was.

ADJOURNMENT

Adjournment At: 1:54 p.m.

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ELMER D. SEVERSON, Chairman

SB 240
February 2, 1989

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

While we certainly understand and sympathize with the rights of the elderly and disabled, this bill attempts to address that plight to a degree that we believe is unacceptable.

The concept of a person who holds the license doing the harvesting of the animal is of long standing in our state. In fact, in 1968 this concept was outlined by our State Supreme Court when it said: "In Montana, big game hunting is a sport. The licensed sportsman-hunter must kill his own animal; he cannot have it done for him."

When the department issues a license, we are issuing primarily a recreational opportunity. There is no guarantee of success nor assurance that an animal will be taken. Each individual buys his license with this in mind and does or does not purchase such license depending upon his personal circumstances with regard to hunting.

This legislation would seem to indicate that a special provision should be set up to assure that an elderly or disabled person who qualifies can have a successful hunt. While we prefer to see individuals have successful hunts, the filling of another's tag is an approach we cannot support.

We request that the committee not approve SB 240 and maintain the integrity of each individual filling the bag limits for his license.

SENATE FISH AND GAME
EXHIBIT NO. 1
DATE February 2, 1989
BILL NO. SB 240

SB 236
February 2, 1989

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

The intent of SB 236 to obtain timely and total harvest results for elk populations, if successfully implemented with full compliance, would provide exact harvest rates on our elk species. Timely, complete harvest information would provide benefits for our elk management program.

In our efforts to evaluate this proposal for Montana, we contacted two western states who have experience with a "report card" or "license stub" similar to that proposed in this bill. Colorado had a mandatory report card that a sportsman was required to return 10 days after a kill or, if unsuccessful, 10 days after the end of the hunting season. Due to record keeping problems and only a 25% return rate, Colorado has dropped this procedure.

Washington also has a mandatory report card but only for successful hunters. There is no penalty for noncompliance and it is not enforced. Washington experiences an approximate return rate of 50%.

The Department primarily uses a telephone survey to gather its hunter harvest information. Names are selected in a manner to assure a statistically valid response from each license type and hunting district because a statistically valid response cannot be guaranteed, and is usually not achieved for all hunting districts through a mail survey. An advantage of a telephone survey is the ability to question sportsmen and assure accurate answers to questions.

For many sportsmen this call is the only "live" conversation with a department representative during the entire year, and we believe it is a valuable and positive contribution to better department/sportsman relations. Other states have found attempts to enforce the mandatory report rule very difficult and usually result in negative contacts with sportsmen, which is not experienced with our telephone survey. An example would be cards purported to be lost in the mail.

In 1981, the department converted its harvest survey from a mail questionnaire to a telephone survey to improve accuracy at a reduced cost. It also provides the department an important opportunity to request other information to assist in addressing management issues.

Given the experience of other states, it might be desirable for Montana to initiate a pilot project to gauge compliance rates and receptivity before embarking on a statewide program.

SENATE FISH AND GAME

EXHIBIT NO. 2

DATE February 2, 1989