

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By Chairman Severson, on February 7, 1989,
at 1:07 p.m. in Room 402 at the State Capitol.

ROLL CALL

Members Present: Sen. Elmer 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 HOUSE BILL 120

Presentation and Opening Statement by Sponsor: Rep. Leo
Giacometto of HD #24 stated that this bill concerns his
district. I have Carter County, Ballard County and
Wibaux County. We boarder North Dakota, South Dakota
and Wyoming. This deals with a non-resident's fur
dealers license. Currently in Montana, the fee is \$50
for non-resident fur dealers license. In North Dakota
it is \$500, in South Dakota it's \$400 and in Wyoming it
is \$100. On the other side of the state, in Idaho, it
is \$22. They feel it is an unfair trade practice
because on the boarder everyone does business with both
states. The Montana fur dealer pays \$500 in North
Dakota and the North Dakota fur dealer only has to pay
\$50 in Montana. These are small fur dealing outfits
and they feel they are being unfairly taken advantage
of. This bill puts everybody on equal footing.
Currently there are only nine non-resident fur
licenses.

List of Testifying Proponents and What Group they Represent:

Ron Marcoux, Department of Fish, Wildlife and Parks

List of Testifying Opponents and What Group They Represent:

None

Testimony:

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

Questions From Committee Members: Sen. Yellowtail asked Rep. Giacometto if this will exclude out-of-state fur dealers from coming into Montana.

Answer: Rep. Giacometto stated that he didn't think that would happen. From my area there are two from Wyoming and some out of Rapid City and North Dakota who are substantially large fur buying operations. The only one in Montana is in Baker.

Closing by Sponsor: Rep. Giacometto stated that Idaho charged only \$22 and he thought it was unfair to place a \$50 fee on them. We want this bill to treat everyone involved fairly. This bill is mainly to address the surrounding states. Those are the only ones that do any business in Montana. If someone comes from a state that doesn't have a non-resident fur dealers license we thought we needed a fee for processing, at least. If the committee thinks the fee stated needs to be amended, please feel free to do that. I am trying to keep this as fair as possible. That is the purpose of the bill.

HEARING ON HOUSE BILL 290

Presentation and Opening Statement by Sponsor: Rep. Leo Giacometto of HD #24 stated that this bill was brought to him by a man from Butte. He was ice fishing from his car and the game warden arrested him. That is because, according to the statute, you have to be in contact with your pole. But at the same time, it is legal to ice fish with more than one pole. This bill just puts into the statute that it is legal to maintain visual contact with the line or rod while ice fishing. Because of the weather, most people get into a tent or their car anyway. So this is just a clarification of the law.

List of Testifying Proponents and What Group they Represent:

Robert Van Der Vere, Concerned Citizen Lobbyist
Ron Marcoux, Department of Fish, Wildlife and Parks

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Mr. Robert Van Der Vere stated that he was a proponent of the bill. He felt that the fishermen as well as the State would benefit from this bill.

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

Questions From Committee Members: None

Closing by Sponsor: Rep. Giacometto stated that sportsmen would support this bill and he wants to help them out the best he can.

HEARING ON SENATE BILL 237

Presentation and Opening Statement by Sponsor: Sen.

Severson stated that this bill says if you draw a cow elk permit you must shoot a cow elk. When the permit system was first put into effect that is what was originally intended. It is basically a management tool for harvesting cow elk. If you had 20 elk in front of you and there was a 6-point bull in the middle of them, which one would you shoot? I would say 90% of them would shoot the 6-point bull. This bill requires a person with a cow elk permit to shoot a cow elk.

List of Testifying Proponents and What Group they Represent:

Julie Hacker, Landowner from Missoula County
Jack Perkins, Chairman Natural Resource and Wildlife
Commission
Robert Van Der Vere, Concerned Citizen Lobbyist
Rep. Ed Grady, House District 47

List of Testifying Opponents and What Group They Represent:

Ron Marcoux, Department of Fish, Wildlife and Parks
Don Chance, Montana Wildlife Federation

Testimony:

Julie Hacker stated that as a landowner she sincerely supports this bill. If someone has a special license to hunt cow elk, they should hunt cow elk. She has spoken to many of the hunters who hunted on her land and she always asked them to please hunt cow elk if they had a cow elk permit. Most of them said as long as it is not the law they were not bound to do that. But, in respect to her they said they would do it.

At one time she had cooperation from the Fish and Game Department who sent notices to all the people who drew cow permits in the area of her land. The notice said that she welcomed hunters and they could harvest a cow on her land. Part of the reason for this cow tag is, in her area they have a lot of game and it multiples fast. In the last 25 years they have gone from zero to 80 elk, and they eat off her land every night all summer long as long as the grass in the meadow is green.

That is why I support this bill. I believe that until we start to harvest the game animals two things are not going to happen: We are not going to have a sustainable forage for livestock as well as game animals and; we are not going to preserve or grow, for along period of time, the real trophy bulls. I would like to have see things: have trophy animals for the hunt and harvest off the cows that are eating the ranchers out of house and home. If you pass this bill you will harvest the cow and restrict the hunter from taking the very few prize bulls we have left now. Then there will be two satisfied factions.

Jack Perkins stated that four years ago there was a resolution to this effect. My cattle permit has been cut from 235 head to 110 in the past 40 years. The grass isn't as good because it has been taken by the elk. On the east side of Deer Lodge it is much worse. This bill would be a way to harvest the cows and reduce the problem. People hunting just want a trophy hunt, they don't care to get the cow elk. I am in support of this bill.

Robert Van Der Vere stated that this bill is a management tool and he supports this bill.

Rep. Ed Grady supports the theory of this bill. I feel it needs amendments. You are aware of the A-7 tag, which the Department uses for the purpose of cow elk kills. It is used in my district only. I've tried to get the

Department to expand this and all I've heard is that the landowners are not agreeable to it. But the landowners don't know anything about and they are not getting cow kills. The A-7 tag does exactly what SB 237 is supposed to do. I feel that the A-7 tag could be used state-wide. There may be some areas where the A-7 tag couldn't be used. But I think it could be used in most areas.

When the A-7 bill was originally drafted we didn't allow out-of-state hunters to use the A-7 tag. To get an A-7 tag you have to turn in your A-5 tag. I would like to see this bill amended to expand the A-7 tag and let the Department go out and see what areas can be changed to an A-7 tag and an "either sex". The landowners really need this. The elk herd has been growing in the last few years and we haven't been getting a kill. All the sportsmen I talk to support this bill.

Ron Marcoux left his testimony. See Exhibit #3.

Don Chance stated that he is concerned about SB 237 in its current form. A hunter who pulls an A-7 tag loses his ability to engage in a successful elk hunt. There is a significant amount of concern among the sportsmen that they don't want to give up that hunting opportunity. Also, our concern is that we believe there would be a disincentive for people to apply for an A-7 tag if they knew they would be restricted to cows only. We would suggest, as a potential amendment, that the "cows only" requirement be applied to the specific district in which it was issued for. Then the individual would still be able to participate in a bull elk hunt in another part of the state.

Questions From Committee Members: Sen. Yellowtail asked Mr. Marcoux under what conditions would the Department issue those licenses. Would it be in an area where there is clearly a surplus? And, according to the Commission, there are only two areas of surplus elk.

Answer: Mr. Marcoux stated that the original A-7 tag focus was reacting to landowners who had too many elk. We have offered the A-7 opportunity for landowners on many occasions. There have been a couple of situations where the landowners didn't want to get involved with the A-7. One situation was if all the cow-elk licenses for that area were A-7 tags, only residents could apply and non-resident friends could not apply for the tags. So this is a situation where landowners were not willing to get involved with A-7.

Question: Sen. Yellowtail stated to Mr. Marcoux that some hunters get assurance of access for hunting and then they turn back. He then asked within a particular hunting district how many landowners must assure access before the Department would be willing to grant the A-7 tag.

Answer: Mr. Marcoux stated it would depend on each district and where the elk concentrate.

Closing by Sponsor: Sen. Severson stated that most hunters would agree with this philosophy. Some hunters are complaining that trophy elk don't exist anymore. I have no problem with amending the bill to use the A-7 tag and we can certainly work with the Department amendments. This bill is needed and I urge its passage.

DISPOSITION ON HOUSE BILL 290

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Sen. Bishop moved for a do pass and Sen. Jacobson seconded the motion. It was passed on a voice vote. BE CONCURRED IN. See Exhibit #4.

DISPOSITION ON HOUSE BILL 120

Discussion: There was a discussion to lower the fee from \$50 to \$10. But some want to leave it at \$50 and not lower it at all with the minimum license being \$50.

Amendments and Votes: Sen. Yellowtail moved for an amendment. Sen. Rapp-Svrcek seconded the motion. The amendment passed on a voice vote. See Exhibit #5.

Recommendation and Vote: Sen. Jenkins moved to pass the bill as amended. Sen. Jacobson seconded the motion. The bill passed on a voice vote. AND AS AMENDED BE CONCURRED.

DISPOSITION ON SENATE BILL 237

Discussion: None

Amendments and Votes: Sen. Jenkins moved to pass the Department amendments, Sen. Paul Rapp-Svrcek seconded the motion. The amendments passed on a voice vote.

Recommendation and Vote: Sen. Jenkins moved to pass the bill as amended and Sen. Jacobson seconded the motion. The bill passed as amended on a voice vote. DO PASS AS AMENDED. See Exhibit #6.

DISPOSITION ON SENATE BILL 236

Discussion: Sen. Severson spoke about the penalty section on SB 236. I think the only way this bill will work is with a penalty section. Sen. Severson mentioned some statistics given by the Department during previous testimony. Some states that don't have a penalty section in their bill are getting only a 60% compliance. That is of no value in my viewpoint. A compulsory check-out has to meet 100%. It is strictly a management tool to know how many elk were harvested in that year. I can see no problem with compliance by hunters because hunters would see that type of regulation as better elk management.

Sen. Severson asked Mr. Marcoux how this could be tried out on an area basis, which Mr. Marcoux had mentioned during previous testimony. Mr. Marcoux stated it would involve taking some of the fully permitted area and see what kind of return rate there would be. Sen. Severson asked him what states were surveyed. Mr. Marcoux mentioned that Colorado did have a long-term program but didn't have any penalty requirements. They had a 25% return rate and they dropped the procedure. Washington has a mandatory report card only for successful hunters. They don't have a penalty for non-compliance and they have a return rate of 50%.

Sen. Rapp-Svrcek stated he was worried about the penalty provision because some hunters can't keep track of their tag from season to season. So what about giving them \$1 off on their tag the following year when they turn the tag in. Sen. Severson thought that \$1 was no incentive whatsoever.

Sen. Bishop mentioned to Mr. Marcoux that after the winter the Department will have an elk count anyway. The mortality rate is considerable. Mr. Marcoux stated that the harvest rate is one of the primary factors used in management. The point of this legislation is to try to get 100% return so we know exactly how many were harvested in the various classes.

Sen. Bishop stated that to not let a hunter get a permit the next year is a stiff penalty. Sen. Severson asked Mr. Marcoux what the average yearly elk kill is. Mr. Marcoux stated that the average is between 15,000

to 19,000 elk. The Department is in the process of trying to increase the percentages of bulls in the population. The low is 5% bulls per 100 cows, average is 15% bulls per 100 cows and high is 35-40 bulls per hundred cows.

It was decided not to act on this bill today.

ADJOURNMENT

Adjournment At: 2:19 p.m.


ELMER D. SEVERSON, Chairman

LAB/FISMIN.207

FISMIN.207

ROLL CALL

FISH AND GAME

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2/9/89

NAME	PRESENT	ABSENT	EXCUSED
Sen. Elmer Severson	X		
Sen. John Anderson Jr.	X		
Sen. Judy Jacobson	X		
Sen. Al Bishop	X		
Sen. Paul Rapp-Svrcek	X		
Sen. Loren Jenkins	X		
Sen. Bill Yellowtail	X		

Each day attach to minutes.

HB 120
February 7, 1989

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

We support the concept of putting nonresident fur buyers on par with Montana fur buyers operating outside the state.

The department would request, however, that the present \$50 fee for a nonresident fur buyer's license remain for individuals from states that do not have nonresident fur buyers' licenses.

SENATE FISH AND GAME

EXHIBIT NO. 1

DATE February 7, 1989

BILL NO. HB 120

HB 290
February 7, 1989

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

The Department of Fish, Wildlife and Parks concurs with the intent of this bill.

Section 87-3-204(6) Restrictions on fishing methods provides . . . Game fish shall be taken only by angling. That is by hook and single line in hand or single rod in hand or within immediate control.

The department has already been using the "within vision" concept in enforcing immediate control as long as a reasonable attempt was made to comply. An example would be a fisherman on a cold day sitting in his pickup, but close enough and within vision to attend his fishing pole.

Generally speaking, if a warden approaches a fishing rod and the owner comes at the same time, it is considered under his immediate control. When the fisherman does not appear at the site and the warden must go looking for him to establish ownership of the pole, the person is considered to be fishing with an unattended pole.

This bill does not define whether visual contact is with the unaided eye or within visual contact using binoculars or spotting scopes. We are assuming that the intent is visual contact by the unaided eye.

In 1987 there were only 11 citations issued for failing to keep the fishing rod under immediate control.

Although we question the need for this legislation, we can support the proposed language of HB 290.

SENATE FISH AND GAME

EXHIBIT NO. 2

DATE February 7, 1989

BILL NO. HB 290

SENATE FISH AND GAME

EXHIBIT NO. 3

DATE February 7, 1989

BILL NO. SB 237

SB 237
February 7, 1989

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

Hunters in Montana now have the opportunity to enter drawings for cow elk permits. If successful, they may hunt bulls in any open hunting district and hunt cows in the area drawn. Currently 80 to 90% of all cow permit holders who successfully harvest an elk harvest a cow elk rather than a bull. In 110 districts in 1987, 17,325 cow permit holders harvested 4970 elk, of which 4290 were cows and 680 were bulls.

The current system provides a wide freedom of opportunity for resident and nonresident elk hunters. By allowing only cows to be taken by cow permit holders, we will be reducing the broad opportunity that exists today.

With regard to benefits, we could currently expect to see about 650-700 more bulls available to A-5 hunters. This would translate to 6-7 bulls being available per hunting district, which would not provide significant additional opportunities for bulls by non-cow hunters. We may also expect to see a decrease in the number of cow permits issued due to higher success rates for those hunting only cows.

There is also the sensitive issue of hunter access. Currently, if a cow permit holder cannot obtain access to private land to harvest an elk, considerable opportunity to hunt bulls statewide is still available. Without some assurance of access, a sportsman drawing a cow elk license could potentially lose good opportunity to hunt elk entirely in a given year.

Currently the commission requires an A-5 prerequisite license be purchased before the drawings. If this commission provision remains intact, a total of 18-20,000 A-5 elk licenses would have to be exchanged for A-7 cow elk licenses between mid-August and early September.

The department and Fish and Game Commission are also currently involved in developing a comprehensive statewide elk plan for Montana. Our approach is seeking extensive public comment from all sectors on goals and objectives desired for elk management and strategies to meet those goals. The issue addressed in this legislation has already been brought up in the early phases of public comment.

The department and the Fish and Game Commission have the authority currently to implement the intent of HB 237 for resident elk hunters. This has been done in two hunting districts, based on

enabling legislation in 1985 (87-2-501) which established the A-7 cow-only license. There is, however, no provision for nonresidents to be included in this season type.

The department, therefore, proposes the attached amendments to 87-2-501 which will allow nonresidents to be eligible for the A-7 license. The Fish and Game Commission could then review appropriate situations where there is public support for this season type and implement a change during the annual public season setting process.

Given the situation with a prerequisite A-5 required for drawings and the ongoing development of a statewide elk management plan, we urge that HB 237 not be passed in its current form and that consideration be given to our proposed amendments allowing the Fish and Game Commission to have the authority to more fully utilize the A-7 license.

AMENDMENT TO SB 237
INTRODUCED (WHITE) COPY

1. Title, line 4.

Following: "AN ACT"

Strike: "REQUIRING THAT A PERSON ISSUED A LICENSE OR PERMIT
TO HUNT COW ELK MAY TAKE ONLY A COW ELK; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE"

Insert: "ALLOWING NONRESIDENTS TO POSSESS CLASS A-7
ANTLERLESS ELK LICENSES; REMOVING THE RESTRICTION THAT CLASS
A-7 ANTLERLESS ELK LICENSES BE USED ONLY FOR SURPLUS
ANTLERLESS ELK; AND PROVIDING AN EFFECTIVE DATE"

2. Page 1, line 9 through 16.

Strike: Sections 1 and 2 in their entirety

Insert: "Section 1. Section 87-2-501 is amended to read:

"87-2-501. Class A-3, A-4, A-5, A-7 -- resident deer, elk,
and bear licenses -- special Class A-7 resident and
nonresident license requirements and preference. (1) Except
as otherwise provided in this chapter, a resident as defined
by 87-2-102, or a nonresident elk license holder for the
purposes of a Class A-7 license only, who will be 12 years of
age or older prior to September 15 of the season for which the
license is issued may, upon payment of the proper fee or fees,
be entitled to purchase one each of the following licenses at
the prescribed cost which will entitle the holder to pursue,
hunt, shoot and kill the game animal or animals authorized by
the license held and to possess the carcasses of those game
animals as authorized by department rules:

- (a) Class A-3, deer A tag, \$9;
- (b) Class A-4, deer B tag, \$6;
- (c) Class A-5, elk tag, \$10;
- (d) Class A-6, black or brown bear tag, \$8
- (e) Class A-7, antlerless elk tag, \$10;

(2) The holder of a Class A-7 antlerless elk tag is entitled to take ~~surplus~~ antlerless elk in areas designated by the commission and at such times and upon such terms as set forth by the commission but may not simultaneously possess a Class A-5 license or nonresident elk tag and a Class A-7 license in the same year. The commission shall include in the terms of issuance of the Class A-7 license a requirement for surrender of a current Class A-5 license or nonresident elk tag if held by a person at the time he purchases a Class A-7 license. If a current Class A-5 license or nonresident elk tag is surrendered, as required by this section, the Class A-7 license must be issued without cost to the holder. No person may take more than one elk during any license year, and a person holding a Class A-7 antlerless elk tag may not take an elk during the same license year with a Class A-5 elk tag license or nonresident elk tag. A nonresident must hold a nonresident Class B-10 license as a prerequisite to applying for a Class A-7 license. The use of Class A-7 antlerless elk licenses does not preclude the use of special elk permits.

Renumber: Subsequent subsections

3. Page 1, line 22

Following: "effective"

Strike: "on passage and approval"

Insert: "March 1, 1990."

SENATE STANDING COMMITTEE REPORT

February 8, 1989

MR. PRESIDENT:

We, your committee on Fish and Game, having had under consideration HB 290 (third reading copy -- blue), respectfully report that HB 290 be concurred in.

Sponsor: Giacometto (Jacobson)

SENATE FISH AND GAME

EXHIBIT NO. 4

DATE February 7, 1989

BILL NO. HB 290

BE CONCURRED IN

Signed: Elmer D. Severson

Elmer D. Severson, Chairman

W.C.
3/18/89
11
I.P.M.

SENATE STANDING COMMITTEE REPORT

February 8, 1989

MR. PRESIDENT:

We, your committee on Fish and Game, having had under consideration HB 120 (third reading copy -- blue), respectfully report that HB 120 be amended and as so amended be concurred in:
Sponsor: Giacometto (Yellowtail)

1. Title, line 7.

Strike: "\$10"

Insert: "\$50"

2. Page 1, line 20.

Strike: "\$10"

Insert: "\$50"

SENATE FISH AND GAME

EXHIBIT NO. 5

DATE February 7, 1989

BILL NO. HB 120

AND AS AMENDED BE CONCURRED IN

Signed

Elmer D. Severson
Elmer D. Severson, Chairman

4/18/89
218189
1112

SENATE STANDING COMMITTEE REPORT

page 1 of 2
February 8, 1989

MR. PRESIDENT:

We, your committee on Fish and Game, having had under consideration SB 237 (first reading copy -- white), respectfully report that SB 237 be amended and as so amended do pass:

1. Title, lines 4 through 6.

Following: "AN ACT"

Strike: lines 4 through 6 in their entirety

Insert: "ALLOWING A NONRESIDENT TO POSSESS A CLASS A-7 ANTLERLESS ELK LICENSE; REMOVING THE RESTRICTION THAT CLASS A-7 ANTLERLESS ELK LICENSES BE USED ONLY FOR SURPLUS ANTLERLESS ELK; AMENDING SECTION 87-2-501, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

2. Page 1, line 9 through 16.

Strike: sections 1 and 2 in their entirety

Insert: "Section 1. Section 87-2-501, MCA, is amended to read:

"87-2-501. Class A-3, A-4, A-5, A-6, A-7--resident deer, elk, and bear licenses -- special Class A-7 resident and nonresident license requirements and preference. (1) Except as otherwise provided in this chapter, a resident, as defined by 87-2-102, or a nonresident who wishes to purchase a Class A-7 elk license only, who will be 12 years of age or older prior to September 15 of the season for which the license is issued may, upon payment of the proper fee or fees, be entitled to purchase one each of the following licenses at the prescribed cost which will entitle the holder to pursue, hunt, shoot, and kill the game animal or animals authorized by the license held and to possess the carcasses of those game animals as authorized by department rules:

- (a) Class A-3, deer A tag, \$9;
- (b) Class A-4, deer B tag, \$6;
- (c) Class A-5, elk tag, \$10;
- (d) Class A-6, black or brown bear tag, \$8;
- (e) Class A-7, antlerless elk tag, \$10.

(2) (a) The holder of a Class A-7 antlerless elk license is entitled to take ~~surplus~~ antlerless elk in areas designated by the commission and at such times and upon such terms as set forth by the commission but may not simultaneously possess a Class A-5 license or nonresident elk tag and a Class A-7 license in the same year. The commission shall include in the terms of issuance of the Class A-7 license a requirement for surrender of a current Class A-5 license or nonresident elk tag if held by a person at the time he purchases a Class A-7 license. If a current Class A-5 license or nonresident elk tag is surrendered, as required by this section,

SENATE FISH AND GAME,
EXHIBIT NO. 6
DATE February 7, 1989
BILL NO. SB 237

the Class A-7 license must be issued without cost to the holder.

(b) No person may take more than one elk during any license year, and a person holding a Class A-7 antlerless elk tag may not take an elk during the same license year with a Class A-5 license or nonresident elk tag. The use of a Class A-7 antlerless elk license does not preclude the use of a special elk permit.

(c) A nonresident shall hold a nonresident Class B-10 license as a prerequisite to application for a Class A-7 license.

(3) Subject to the limitation of subsection (5), a person who holds fee title to 640 acres or more of contiguous land, at least some of which is used by elk, in a hunting district where Class A-7 licenses are awarded under this section shall be issued, upon application, a Class A-7 license.

(4) An applicant who receives a Class A-7 license under subsection (3) may designate that the license be issued to an immediate family member or a person employed by the landowner. A corporation owning qualifying land under subsection (3) may designate one of its shareholders to receive the license.

(5) Fifteen percent of the Class A-7 licenses available each year under this section in a hunting district must be available to landowners under subsection (3). ""

Remember; subsequent sections

3. Page 1, line 22.

Strike: "on passage and approval"

Insert: "March 1, 1990"

AND AS AMENDED DO PASS

Signed


Elmer D. Severson, Chairman

H.C.
2/9/8
10:00

