

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By Chairman Severson, on February 9, 1989,  
at 1:05 p.m. in Room 402, State Capitol.

ROLL CALL

Members Present: Sen. Elmer Severson, Se. 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 294

Presentation and Opening Statement by Sponsor: Sen. Paul  
Rapp-Svrcek of SD #26 stated that this bill gives the  
Department of Fish, Wildlife and Parks the authority to  
promulgate rules and regulations for the commercial  
harvesting of crayfish and other aquatic organisms that  
provide a food source for fish.

This is an important bill from the commercial  
crayfishing standpoint and also from the sport fishing  
standpoint. The Clark Fork River Basin has recently  
developed a commercial crayfishery. The harvest is  
very good there and supports a number of jobs. In 1988  
the Department received a number of concerned calls  
about the impact of the crayfish harvesting on sport  
fishing on the Clark Fork River. That is because over  
the past several years we have been able to develop  
quite a sizeable small mouth bass fishery in the lower  
Clark Fork.

Unfortunately, the way the law is presently written the  
only way the Department could control commercial  
crayfishing is through the non-game species act in need  
of management. It is a cumbersome process. It  
involves two separate administrative rule-making

procedures and it is not conducive to regulating commercial fisheries the way it is written.

The solution is SB 294. It will allow the Department to evaluate proposals for commercial harvest of these organisms. As well, it would provide protection for the sport fisheries and give Department personnel an ample level of review and resource protection that is currently achieved only through the cumbersome process mentioned earlier. There is no fiscal impact to the bill and the Department feels that it can handle the evaluations and the applications with its present employee force. There is a collection of trap fees in the bill to help a portion of the operation's costs. I urge a do pass for this bill.

List of Testifying Proponents and What Group they Represent:

Sen. Bruce Crippen, Senate District #45  
Ron Marcoux, Department of Fish, Wildlife & Parks  
Gary Smith, Bear Creek Fisheries  
Janet Ellis, Montana Audubon Legislative Fund  
Scott Snelson, Montana Wildlife Federation

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Sen. Bruce Crippen stated that he is in favor of this bill. I fish at Lake Mary Ronan. It is one of the most outstanding salmon fisheries in the state. There are also a lot of fish planted there. It is a very important part of the fishery system in the state of Montana. In 1988 I received a call from some people who operated a cabin up there at Camp Tuppit. They were concerned because there was some commercial crayfish harvesting going on there. Crayfish is the #1 source of food for the salmon. These people were concerned that the commercial crayfish harvesting would hurt the source of food for the salmon.

Through discussing this problem with the Department of Fish, Wildlife and Parks it was suggested the promulgation as it relates to species in need of wildlife management. No one objects to the reasonable commercial harvest of crayfish. I am concerned about this and think the Department should manage this. This will protect the sportsman as well as the future of the salmon population in Montana. In addition, it would

give proper guidelines to the commercial fisheries harvesting crayfish.

Ron Marcoux left his testimony. See Exhibit #1.

Gary Smith represents Bear Creek Fisheries which is a crayfish factory. He started commercial crayfishing last spring. Oregon harvests 300,000 lbs. per year, California harvests 500,000 lbs. and Idaho harvests 200,000 lbs per year. I submitted all my records of daily catch to the Department. A lot of research has been done in this country and Canada about crayfishing. People say that bass and trout eat all the crayfish. But the research shows that they only eat about 10% to 20% of the population of crayfish. I am in favor of this legislation because I would hate to see out-of-state fishermen come in with a concentrated effort and literally do damage to the fishery.

Scientific study has proven that when you harvest the larger crayfish out your catch increases. In the Clark Fork the crayfish are huge. East of the Mountains in our reservoirs there is a variety called "orconectes". There are hundreds of thousands of pounds of them in the Missouri River system. I feel that within five years this will be a multi-million dollar industry in Montana. We need to start regulating this now.

Janet Ellis stated that this bill will give the Department a much needed management tool. It is necessary to regulate this developing industry because it commercializes wildlife and, if it goes un-regulated it may harm other wildlife resources. We do support the Department having a much-needed management tool but I would like to show that we are not entirely favorable of commercializing any wildlife, game as well as non-game.

Scott Snelson stated that they consider a management tool important for food chains in any species.

Questions From Committee Members: Sen. Jenkins asked Mr. Gary Smith where they send crayfish.

Answer: Mr. Smith stated that the crayfish are sent all over Europe. Norway, Sweden and Turkey used to be huge producers of crayfish. They had a plague that wiped out their crawfish population. They found that the "pacifasticus" that we take out of the Clark Fork doesn't get the plague. It has been introduced over there as a wild species. That is where we ship all of our product. In Europe crayfish is a very popular

snack. Last year Montana's crayfish won the most prestigious taste test in Europe.

Question: Sen. Jacobson asked Ron Marcoux if the effective date for passage and approval is really necessary.

Answer: Mr. Marcoux stated that he would have to look at the specifics of the bill in order to determine that. On SB 294 we would like to get this bill in place as soon as possible.

Question: Sen. Jenkins asked Mr. Graham (FWP) about the harvesting of shrimp in Flathead Lake.

Answer: Mr. Graham stated that because there is no process by which to either prove or deny, there has been a written agreement with the person who has been harvesting. This bill would provide us an opportunity to put limitations and specifications that they have to release certain fish.

Question: Sen. Severson asked Mr. Smith what time of the year they fish.

Answer: Mr. Smith stated that water temperature is what controls the fishing. I would say that a season is from June 1 to Nov. 1. The weather will stop you from fishing. When the water temperature gets to a certain point, the crawfish will bite. Up to that point it is not commercially feasible. When we fish, we use traps with buffalo meat and crab as our bait.

There are two different varieties of crawfish and the Department is lumping them together, but they are not the same. The "orconectes" that lives east of the mountains is a totally different fishery in terms of size and production, and there are millions of pounds of them here. The Clark Fork River is a limited fishery. The "pacifasticus" are larger than the "orconectes". The taste of the meat is comparable to lobster.

Closing by Sponsor: Sen. Rapp-Svrcek stated that Mr. Smith has indicated a willingness to work with the Department on their research. It is clear that this regulation is needed in order to control crayfishing and make it a long-term industry in the state of Montana.

HEARING ON HOUSE BILL 174

Presentation and Opening Statement by Sponsor: Rep. Larry Grinde, HD #30 stated that this bill is a reaction to previous legislation. When we first started trying to help the blind to obtain a fishing license we went to a straight \$2 conservation license which they would have to send in every year. They would also have to pass in a medical form. (See Exhibit #2.) The medical report costs \$15 to \$30, so they pay more than the fishing license to begin with. Two sessions ago they went to a "blue card". That was a five year exemption for the blind. But, they would still have to send for their conservation licence every year. This effects 66 people in the state of Montana. Two of these people are in my district. I am here to help these people out. I received a recommendation from Mr. Flynn. (See Exhibit #3.) This is only for the blind, not for any other disabilities.

List of Testifying Proponents and What Group they Represent:

Ron Marcoux, Department of Fish, Wildlife & Parks

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Mr. Marcoux stated the Department of Fish, Wildlife and Parks supports this bill.

Questions From Committee Members: None

Closing by Sponsor: Rep. Grinde thanked the committee for hearing the bill.

HEARING ON SENATE BILL 306

Presentation and Opening Statement by Sponsor: Sen. Jenkins stated that this bill covers the deer "B" license tags. This is for "B" licenses the Department would issue for game damage hunts or special hunts. The companion bill is for elderly and handicapped to buy these licenses and designate a hunter, which I assume would be the rancher. He then can go out and harvest the deer causing the damage on his land.

List of Testifying Proponents and What Group they Represent:

Ron Marcoux, Department of Fish, Wildlife & Parks

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Ron Marcoux stated that the bill supports the concept of selling licenses in the location in which they are valid. We currently sell unlimited eastern Montana deer B licenses at all license agents in eastern Montana. This bill would place current department policy into law.

The situation needs clarification. We issue deer B licenses in three different ways. One would be where we sell the unlimited B license. The second way is through the drawings and the third is in the game damage. This bill refers more to the first way that we do it. So we may need some modification to accomplish what you are looking for.

When you get into the game damage situation we frequently utilize the B tag because it is generally for does. There are several ways we have to deal with the game damage season. If we want, on all game damage hunts, to sell them on a first-come-first-serve basis at the local area, we can do that. If we are talking about 40 or 50 animals then we may set up several hunters for a certain period of time. See Exhibit #4.

Questions From Committee Members: Sen. Jenkins asked Mr. Marcoux about the special early hunt for game damage. There has been a poor turnout for these hunts. Do you have any ideas how to amend the bill in that respect.

Answer: Mr. Marcoux stated that they didn't have anything proposed, but the Department is willing to do more.

Closing by Sponsor: Sen. Jenkins stated that the bill, as written, is neither positive or negative. He suggested the need for writing an amendment for it.

## DISPOSITION OF SENATE BILL 240

Discussion: Sen. Jenkins stated that this bill was to allow elderly over 65 and handicapped people to be able to

buy a B deer license, and to be able to designate a hunter at that time.

Sen. Jenkins stated that this bill is for anyone over 65 who is unable to hunt for one reason or another as well as a person who is handicapped and unable to go out hunting on their own. Not all people over 65 are unable to hunt, but some are. He gave an example of a woman who's husband hunted all his life and she is used to eating deer meat. When he dies she might want to designate a hunter to get a deer for her.

Sen. Bishop was concerned that someone could buy many licenses for different people and get many deer for themselves.

Sen. Yellowtail thought this would open the door next session to create this kind of provision for every other game species.

Sen. Jacobson stated that the reason she got involved with this bill is that a doctor in Butte spoke to her concerning some of his older patients. They expressed to him their desire to be able to have venison and how much they missed being able to get out and hunt. He thought it would be nice if their son or nephew could go out and get their animal for them. She thinks this bill meets that need.

Scott Snelson, of the Montana Wildlife Federation, stated that he would be willing to suggest to the Federation that they start a program where hunters would donate a portion of their meat to the elderly or disabled.

Sen. Bishop stated that there already is a law stating that disabled persons can shoot an animal out of their pickup or car.

Amendments and Votes: Sen. Jenkins moved to amend the bill, Sen. Anderson seconded the motion and it passed on a voice vote. See Exhibit #5.

Recommendation and Vote: Sen. Jenkins moved to pass the bill as amended. It was passed on a voice vote. DO PASS AS AMENDED.

#### DISPOSITION ON SENATE BILL 294

Discussion: None

Amendments and Votes: None

Recommendation and Votes: Sen. Jenkins moved to pass the bill, it was passed on a voice vote. DO PASS.

DISPOSITION ON HOUSE BILL 174

Discussion: None

Amendments and Votes: None

Recommendation and Votes: It was moved and seconded to pass the bill. It was passed on a voice vote. BE CONCURRED IN.

DISPOSITION ON SENATE BILL 236

Discussion: Sen. Severson asked Andi Merrill to introduce the amendments created for this bill. She did not have copies to hand out to the committee members. The amendments were to try out the bill on a trial basis, as a pilot program, in all 18 draw permit areas.

Sen. Jacobson did not want to take action on it without looking at the amendments. She stated that if there were changes to be made after we voted then we would have to deal with it out on the Senate floor.

It was decided by Sen. Severson that executive action should be taken at a later time.

DISCUSSION ON HOUSE BILL 290

Sen. Yellowtail stated that Mr. William Sutter brought up a technical point regarding the bill. It has been pointed out that we imposed two new standards. The fisherman must be in the vicinity of the line or rod, and maintain visual contact with the line or rod. I would like Mr. Sutter to make a comment.

Mr. Sutter stated that to "maintain" means to keep, and "visual" means to keep sight contact. For instance I have my line in a hole and I go 100 yards away to some friends and my back is to my pole. The game warden will come along and see my poles unattended. He will come and tell me I'm in violation of HB 290 because I'm not in visual contact with my poles. Another example, if I get into my truck and drive over to my friends and leave my poles in the water, I'm in violation as soon as I get into my truck because I'm not in visual sight. The point is, even if you turn around you are in violation because you are not in sight of your lines.



Mr. Sutter suggested an amendment, amend "and maintain visual contact of the line or rod" and leave "vicinity" in.

It was suggested that this bill be moved back to committee.

ADJOURNMENT

Adjournment At: 2:38 p.m.

  
ELMER D. SEVERSON, Chairman

LAB/FISMIN.209

FISMIN.209



SB 294  
February 9, 1989

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

The Department of Fish, Wildlife & Parks supports SB 294. This bill would grant the department authority to regulate commercial harvest of aquatic organisms that provide a food source for fish. Lack of authority to regulate these activities under present statutes is a missing link in the department's ability to, "provide effective management of Montana's aquatic resources in order to perpetuate desirable natural habitat and animal life, and to preserve and increase fishing opportunities" (ARM 12.1.101).

The department is currently empowered to regulate sport fishing, the commercial taking of fish and commercial harvest of bait minnows. We are also able to regulate or participate in processes regulating activities which may alter fish habitat. At the present time, we are not able to regulate commercial taking of fish food organisms without initiating and going through a cumbersome two-step administrative process.

Two cases have recently occurred which demonstrate the need for the department to have this authority. Commercial operators are currently taking crayfish from Noxon Rapids Reservoir near Thompson Falls. These commercial fishermen have expressed interest in expanding to other waters. The public and department expressed

concerns over potential impacts of commercial crayfish harvest on sport fish populations, and fishing opportunities.

The only avenue open to the department was to designate crayfish as a nongame species in need of management under the Nongame and Endangered Species Act. This required a scientific investigation and holding a series of public hearings in August 1988 to make the designation. There was unanimous support at the meetings, including commercial operators, for department regulation of commercial crayfishing. Additional rule making will be required for actual management.

The department periodically receives inquiries from parties interested in commercially harvesting other fish food organisms such as insects and freshwater shrimp. Commercial harvest of Mysis shrimp in Flathead Lake is presently occurring. Legislation is needed to enable the department to have some control over these activities as they occur.

Presently an operator could come in and harvest a resource, doing severe damage, before the department could gather information and hold hearings to designate that species in need of management. There is a problem, however, in that the department has little information about the organisms and techniques involved. The

permit system will allow the department to control these activities and at the same time provide an information source for the development of standardized regulations. If the fledgling industry does not expand, administrative rules will not be necessary.



Montana Department of Fish, Wildlife & Parks

Return Application To: 1420 East Sixth Avenue Helena MT 59620

SENATE FISH AND GAME

EXHIBIT NO. 2 DATE February 9, 1989 BILL NO. 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 line as applicable
Camping Fee Waiver
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.

- [] amputation [] heart disease [] respiratory dysfunction
>[] blindness [] cerebral palsy [] pulmonary dysfunction
>[] cancer [] cystic fibrosis [] neurological disorders
>[] deafness [] muscular dystrophy [] nonambulatory
>[] stroke [] multiple sclerosis [] paraplegia
>[] epilepsy [] mental retardation [] quadriplegia
>[] hemiplegia [] 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".

**SENATE FISH AND GAME**

EXHIBIT NO. \_\_\_\_\_

DATE February 9, 1989

BILL NO. HB 174

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



Helena, MT 59620  
November 22, 1988

**SENATE FISH AND GAME**

EXHIBIT NO. 3  
DATE February 9, 1989  
BILL NO. HB 174

Representative Larry Grinde  
Route 3  
Lewistown, MT 59457

Dear Representative ~~Larry~~ <sup>LARRY</sup> 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.

SB 306  
February 9, 1989

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

The Department of Fish, Wildlife and Parks supports SB 306.

This bill supports the concept of selling licenses in the location  
in which they are valid. We currently sell unlimited eastern  
Montana deer B licenses at all license agents in eastern Montana.  
This bill would place current department policy into law.

SENATE FISH AND GAME  
EXHIBIT NO. 4  
DATE February 9, 1989  
BILL NO. SB 306



SENATE STANDING COMMITTEE REPORT

February 10, 1989

MR. PRESIDENT:

We, your committee on Fish and Game, having had under consideration SB 240 (first reading copy -- white), respectfully report that SB 240 be amended and as so amended do pass:

1. Title, line 5.  
Following: line 4  
Strike: line 5 through "WHO"

2. Page 1, line 10.  
Strike: Section 1 in its entirety  
Insert: "NEW SECTION. Section 1. Certification for disabled residents to name another hunter for a kill. A resident who is certified as disabled under rules prescribed by the department and who applies for a Class A-4 license may receive certification by the department for the license that allows another person with the same class of license to shoot and kill for the certified person any game permitted by the certified person's license. The certification must:  
(1) be attached to the permit required under 87-2-803; and  
(2) include the name of the person or persons designated to make the kill of any game permitted by the license."

SENATE FISH AND GAME

EXHIBIT NO. 5  
DATE February 9, 1989  
BILL NO. SB 240

AND AS AMENDED DO PASS

Signed Elmer D. Severson  
Elmer D. Severson, Chairman

*Handwritten:*  
J.C.  
2/13/89  
9.6. am.

SENATE STANDING COMMITTEE REPORT

February 10, 1989

MR. PRESIDENT:

We, your committee on Fish and Game, having had under consideration SB 294 (first reading copy -- white), respectfully report that SB 294 do pass.

SENATE FISH AND GAME

EXHIBIT NO. 6

DATE February 9, 1989

BILL NO. SB 294

DO PASS

Signed:   
Elmer D. Severson, Chairman

410  
12/10/89  
12:50 P.M.

SENATE STANDING COMMITTEE REPORT

February 10, 1989

MR. PRESIDENT:

We, your committee on Fish and Game, having had under consideration HB 174 (third reading copy -- blue), respectfully report that HB 174 be concurred in.

Sponsor: Grinde (Williams)

SENATE FISH AND GAME

EXHIBIT NO. 7

DATE February 9, 1989

BILL NO. HB 174

BE CONCURRED IN

Signed

  
Elmer D. Severson, Chairman

4/10/89  
3:10:50  
12:10 p.m.



ROLL CALL VOTE

SENATE COMMITTEE FISH AND GAME

Date Feb. 9, 1989 Senate Bill No. 240 Time 2:05 p.m.

NAME	YES	NO
Sen. Elmer Severson	X	
Sen. John Anderson Jr.	X	
Sen. Judy Jacobson	X	
Sen. Al Bishop	X	
Sen Paul Rapp-Svrcek		
Sen. Loren Jenkins	X	
Sen. Bill Yellowtail		X

Lucy Borer  
Secretary

Sen. Severson  
Chairman

Motion: Moved amendment.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ROLL CALL VOTE

SENATE COMMITTEE FISH AND GAME

Date Feb. 9, 1989 Senate Bill No. 240 Time 2:10 p.m.

NAME	YES	NO
Sen. Elmer Severson	X	
Sen. John Anderson Jr.	X	
Sen. Judy Jacobson	X	
Sen. Al Bishop		X
Sen Paul Rapp-Svrcek		
Sen. Loren Jenkins	X	
Sen. Bill Yellowtail		X

Lucy Borer  
Secretary

Sen. Severson  
Chairman

Motion: Moved bill as amended. DO PASS AS AMENDED.

\_\_\_\_\_  
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\_\_\_\_\_