#### MINUTES

#### MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON FISH & GAME

Call to Order: By CHAIRMAN JIM ELLIOTT, on January 24, 1991, at 3:00 p.m.

#### ROLL CALL

#### Members Present:

Jim Elliott, Chairman (D) John Johnson, Vice-Chairman (D) Beverly Barnhart (D) Fred "Fritz" Daily (D) Roger DeBruycker (R) Orval Ellison (R) Gary Forrester (D) Bob Gilbert (R) Marian Hanson (R) Vernon Keller (R) Bea McCarthy (D) Bruce Measure (D) John Phillips (R) Ted Schye (D) John Scott (D) Wilbur Spring (R)

Staff Present: Doug Sternberg, Legislative Council Ginger Puntenney, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

#### HEARING ON HOUSE BILL 185

#### Presentation and Opening Statement by Sponsor:

REP. ORVAL ELLISON, House District 81, McLeod, said HB 185 should not stand alone as there are two other bills being introduced that should be considered. HB 185 would increase the number of class B-10 nonresident big game combination licenses that may be sold in a license year from 17,000 to 18,500. The funds from these extra 1,500 licenses would revert to the Department of Fish, Wildlife, and Parks (FWP) general license account.

Proponents' Testimony: None

Bill Strizich (D)

## Opponents' Testimony:

Jo Brunner, Montana Outfitters Guide Association, said they do not oppose or support HB 185 and have submitted another bill. They would like both bills considered together.

Rich Day, Montana Wildlife Federation said FWP requested public input to review options for eliminating the funding shortfall in its license account. The majority of public input received was in opposition to any increase in the number of nonresident hunters. The Federation supports an increase in license fees, but opposes an increase in out-of-state hunters.

Bill Holdorf, Skyline Sportsman, was concerned about the impact this bill would have on resources due to additional hunters. A harvest of too many elk would have a tremendous impact on Region 3.

Larry Thomas, Anaconda Sportsmen Club, said to leave resources as they are and opposed HB 185.

Tony Schoonen, Skyline Sportsmen, opposed this bill. Hunters should look at the Fish and Game Commission's tentative big game regulations. There are more restrictions and less hunting areas. The majority of elk hunting is in Region 3, so there is a need to be concerned with resources and sportsmen's hunting opportunities.

K.L. Cool, FWP, said the Department and Commission oppose HB 185 due to public input. EXHIBIT 1

#### Closing by Sponsor:

REP. ELLISON said it seems the same organized groups of people appear at public hearings, and the 3 to 1 opposition that Mr. Cool stated they received from the public was from these groups who only represent approximately 10% of hunters statewide. The other 90% of hunters don't want their license fees to increase.

#### HEARING ON HOUSE BILL 166

## Presentation and Opening Statement by Sponsor:

REP. VERNON KELLER, House District 83, Fishtail, said this is not a simple bill due to the 1985 Supreme Court decision. This bill is an act to conform to the decision of the Montana Supreme Court by inserting a requirement that the violation be committed "purposely or knowingly" and by limiting the landowner's exemption to "nonhunting" activities. He requested time to work with FWP and the Livestock Departments legal staff to update this statute.

## Proponents' Testimony:

Kim Enkerud, Montana Stockgrowers, supports the concept of the bill and asked that it be held until all concerns are worked out.

Marvin Barber, Agriculture Preservation Association, supports HB 166, but the bill still needs changes.

Tony Schoonen said sportsmen are in favor of this bill and hope problems can be worked out.

John Skufca, Department of Livestock, hopes the committee will allow the sponsor, FWP, and the Department of Livestock to draft a better bill.

## Opponents' Testimony:

Tom Harwood said this bill prohibits him from going on adjacent land at night with a spotlight and gun to control predators.

Predator control should be addressed in this bill. EXHIBIT 2

#### Informational Testimony:

**K.L. Cool, FWP,** said the Department was not prepared to provide testimony due to lawsuits and legal difficulties of drafting a good spotlighting bill. More research is needed to prepare a solid bill.

## Closing by Sponsor:

REP. KELLER said FWP and Livestock need to rewrite this bill. An exemption should be included regarding predator control for landowners.

CHAIRMAN ELLIOTT asked REP. KELLER if this bill should be held until it is revised. REP. KELLER agreed.

#### HEARING ON HOUSE BILL 172

#### Presentation and Opening Statement by Sponsor:

REP. ROGER DEBRUYCKER, House District 13, Floweree, said this is a landowner-sportsman bill. This bill would require a landowner's permission before a hunter could do any type of hunting on private property and it would repeal the big game statute.

#### Proponents' Testimony:

REP. ELLISON supports this bill so a landowner would know who had hunted on his property in case of damage.

REP. WILBUR SPRING voiced his support of HB 172.

Kim Enkerud, Montana Stockgrowers, supports any bill that protects private property rights.

Lorna Frank, Farm Bureau, supports legislation which would require a sportsman to get written permission from the landowner before entering private property. Whenever he or she is on that property, this written permission is to be carried on that person. An amendment will be submitted to reflect these changes.

REP. KELLER voiced his support of HB 172.

Nels Debruycker, Chouteau County Livestock Association, presented signatures of its membership who support this bill. There were 118 in favor and 1 opposed. EXHIBIT 3

Carol Mosher, Montana Cattle Women, supports HB 172.

## Opponents' Testimony:

Tom Harwood said any land that is posted should have a notice of who to contact to get permission to hunt. Are we going to need passports in order to cross another person's property? EXHIBIT 4

Valerie Horton, Montana Wildlife Federation, said present law is sufficient and hunting will become more restrictive with HB 172.

K.L. Cool, FWP, said the Department opposes HB 172. EXHIBIT 5

Larry Thomas, Anaconda Sportsmen, said this bill will confuse everyone. If this bill does pass, landowners must be sure it is their own private property they are posting and should be fined if it is not.

Bill Holdorf, Skyline Sportsmen, opposed this bill due to property rights of the sportsmen, as some landowners do not know their property boundaries.

Tony Schoonen, Skyline Sportsmen, said property is being rapidly purchased by out-of-state buyers, so landowners need to post their property so hunters can identify whose property it is.

#### Questions From Committee Members:

REP. GARY FORRESTER asked REP. DEBRUYCKER the definition of big game. Does any type of hunting, such as rabbit hunting, apply to this bill and would it be a criminal offense if you did not get permission from the landowner? Does the trespass law apply? REP. DEBRUYCKER said the way the law reads now, you have to obtain permission to hunt big game. If you want to keep someone off your property, you have to post it with signs and also post it for big game hunting. It should not be a problem to ask permission to hunt any type of game.

REP. JOHN PHILLIPS asked Mrs. Frank if it wasn't asking a little much to always get written permission instead of verbal. Mrs. Frank said it should not be a problem to get written permission.

## Closing by Sponsor:

REP. DEBRUYCKER said he did not feel people need written permission, but that is a committee decision. Under present law hunters can quote the big game statue and say they don't need permission since the land wasn't posted. I think this bill will benefit landowners and therefore, they will not close their land to hunting.

#### EXECUTIVE ACTION ON HOUSE JOINT RESOLUTION 2

Motion: REP. BEA MCCARTHY MOVED HJR 2 DO PASS.

#### Discussion:

Doug Sternberg said amendments to this bill have been prepared.

MOTION: REP. BRUCE MEASURE moved to adopt the resolution as amended.

REP. MCCARTHY said the big concern with the amendments was changing "white-tail deer" to "wildlife". REP. DEBRUYCKER asked if this was going to open up other issues, like the spotted owl, when "wildlife" is inserted. Mr. Sternberg said white-tail deer is specific; the meaning and areas that may be studied are broadened by changing it to "wildlife".

Vote: Motion to adopt amendment failed 5 to 9. EXHIBIT 6

Vote: HJR 2 DO PASS. Motion failed 5 to 10. No further action taken on this bill.

## EXECUTIVE ACTION ON HOUSE BILL 172

Motion: REP. DEBRUYCKER MOVED HB 172 DO PASS.

#### DISCUSSION:

REP. ELLISON said this bill does not include fishing, so landowners with water would still have a problem. REP. JOHN SCOTT asked REP. BRUCE MEASURE whether our current trespass laws affect a person with a gun in their hands or a fishing pole. REP. MEASURE said they do. The purpose of this bill is so hunters will have to get permission from the landowner. It does omit small game birds and fishing, but a person could be prosecuted for trespassing. This bill will create problems.

HOUSE FISH & GAME COMMITTEE January 24, 1991 Page 6 of 6

REP. GILBERT said he agreed that this bill creates more problems then it solves. REP. DEBRUYCKER said if this bill doesn't pass, more landowners will close their property to hunting.

CHAIRMAN ELLIOTT read the amendments that Lorna Frank, Farm Bureau, had submitted. In section 1, line 10, the word written be inserted at the end of that line. It would read "a resident or nonresident will obtain written permission". Section 1, line 12, add "written permission shall be carried by the person whenever he/she is on that property".

No motion on the amendments.

## Motion/Vote:

REP. FRED DAILY MADE A SUBSTITUTE MOTION THAT HB 172 BE TABLED. Motion carried 7 to 5.

#### **ADJOURNMENT**

Adjournment: 4:30 p.m.

Jim Elliott, Chair

Secretary

JE/qp

#### HOUSE OF REPRESENTATIVES

## FISH AND GAME COMMITTEE

ROLL CALL

DATE 1-24-91

NAME	PRESENT	ABSENT	EXCUSED
REP. JOHN JOHNSON, VICE-CHAIRMAN			
REP. BEVERLY BARNHART			
REP. FRED "FRITZ" DAILY	V		
REP. ROGER DEBRUYCKER			
REP. ORVAL ELLISON			
REP. GARY FORRESTER			
REP. BOB GILBERT			
REP. MARIAN HANSON	V		
REP. VERNON KELLER			
REP. BEA MCCARTHY			
REP. BRUCE MEASURE			
REP. JOHN PHILLIPS			
REP. TED SCHYE			
REP. JOHN SCOTT			·
REP. WILBUR SPRING			
REP. BILL STRIZICH			
REP. JIM ELLIOTT, CHAIRMAN			

EXHIBIT / P3 F0 f2 DATE 1 - 24 - 91 HB 185

## HB 185 January 24, 1991

Testimony presented by K. L. Cool, Dept. of Fish, Wildlife & Parks to the House Fish and Game Committee

HB 185 proposes to increase the number of nonresident big game combination licenses from 17,000 to 18,500. This license presently includes the opportunity to fish and hunt upland game birds, deer, elk and black bear. In 1976 the legislature established a quota of up to 17,000 on these licenses.

Our department and our commission conducted an extensive public involvement process last year to review options for eliminating the funding shortfall we have projected in our license account. One of the options we took to the public was to increase the big game combination quota to 18,000 licenses.

Based on public input and our analysis of this legislation, we wish to provide the committee the following information:

- 1. There is currently demand for at least 1,000 more big game combination licenses, as there were 18,198 applicants for this license in 1990.
- 2. From a biological perspective, we believe 1,000 additional nonresident hunters would not significantly affect the total number of deer and elk at current population levels. No increase in the number of these licenses has occurred since 1976, but numbers of animals, especially elk, have increased.
- 3. There would, however, be some increased competition for large buck deer and bull elk. Sale of 1,500 more licenses could increase the number of bull elk harvested by as many as 300 animals.
- 4. If illegal harvest of trophy big game animals is reduced as a result of our expanded covert enforcement program, these additional animals would be available to sportsmen and could make up for the increased harvest.
- 5. Hunter numbers on public land and block management areas would be expected to increase somewhat.
- 6. The potential for an increased acreage of leased lands is a concern voiced to us by many sportsmen.
- 7. Additional funds for block management could potentially improve hunting opportunities lost by increased leasing.
- 8. More nonresident hunters could benefit local economies.

Ex. 1 pg 20/2 1/24/91 HB 185

- 9. If these licenses were all issued, over \$600,000 annually could accrue to our general license account shortfall.
- 10. On behalf of our department and our commission, I want to thank Representative Ellison for exploring this potential for fiscal relief in our license account. However, the public comment we received on this issue was 3 to 1 in opposition to any increase in the number of nonresident hunters. Concerns primarily focused on competition for animals and access. As a result, our department and our commission concluded at a December 5 meeting to not recommend any increase in the quotas for these two combination licenses as a means to address our current license funding shortfall.

INTRODUCED BY House BILL NO. 166

INTRODUCED BY Holliem Sety Styles Cost A BILL FOR REQUIREMENT THAT THE VIOLATION BE COMMITTED PURPOSELY OR DECISION OF THE MONTANA SUPREME COURT IN STATE V. AUSTIN, PROVISIONS OF THE SPOTLIGHTING WHILE HUNTING STATUTE TO THE prairie wherein wildlife or domestic livestock may be or may cast the rays of a spotlight having a luminance of greater BE NONHUNTING ACTIVITIES; AND AMENDING SECTION 87-3-122, MCA." KNOWINGLY AND BY LIMITING THE LANDOWNER'S EXEMPTION TO vehicle into any field, pasture, woodland, forest, or that .. 75 candlepower attached to or cast from a motorized IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: any person or one or more of a group of persons together purposely or knowingly, as defined in 45-2-101, throw or Section 1. Section 87-3-122, MCA, is amended to read: \*87-3-122. Spotlighting unlawful. (1) It is unlawful Minister profession AN ACT ENTITLED: "AN ACT TO CONFORM THE 265, 704 P.2D 55 (1985), BY INSERTING A LC 0410/01 OVOI (1/24) AM RAN 312 3 2 3 CC a with the keep land with the control of employees of such landowners, lessees, and agents are exempt connection with their legitimate nonhunting activities, and lessees, or their agents, while on their own lands in imprisoned in the county jail for any term not to exceed 6 this section shall be fined not to exceed \$500 or be and there is no intent or attempt to locate that animal. upon such animal on or adjacent to the highway or roadway in a normal manner on any highway or roadway, cast a light the headlights of a motor vehicle, operating and proceeding from the provisions of this section. In Contract of the livestock laws of the state of Montana and all landowners (b) The provisions of this section do not apply where (3) A person convicted of violating subsection (1) of

LC 0410/01

Montana Legislative Council

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killed by aid of an artificial light.

(2) (a) All officers authorized to enforce the game and

implement whereby any wildlife or domestic animal could be or their possession or under control a firearm or other 21

be reasonably expected to be while having in his possession

INTRODUCED BILL HOIGE

EXHIBIT 3 p. 1 of 9 DATE 1-24-91 HB 172

We the undersigned pledge our support for the proposed House Bill 172, introduced by Representative Roger DeBruycker. This Bill will require a resident or nonresident to obtain permission of the landowner, the lessee, or the landowner's or lessee's agent before hunting on private property.

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Exhibit 3 consists of 9 pages of signed petitions. The originals are available at the Montana Historical Society, 225 North Roberts, Helena, MT 59601. (Phone 406-444-4775)

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Farmer R. Touchen 1/21/91

Roy S. Land 1-21/91

Buck Malton 1-21-91

Niley H. Quederman 1/21/91

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HB /22

We the undersigned pledge our support for the proposed House Bill 172, introduced by Representative Roger DeBruycker. This Bill will require a resident or nonresident to obtain permission of the landowner, the lessee, or the landowner's or lessee's agent before hunting on private property.

Box 782 Ft. Benton not. 59442 1/22/91 Joseph a. Cyen Box 475 Et. Benton, Mt. 59442 1/22/9/ Sharen Acord Box 782 A Berdon MT 594142 1/22/91 Tan a year Us Ve Brungder HCR67 Box 7 Loma W1. 5-4460 1/22/91 Forraine V LaBruncker HCR 67 Box7 Jona, MT 59460 1/20/91 Myle Schutz HCR67 BOX 6 LOMA, MT 59460 /23/9/ Sorii Schutz HCR67 BOX 6 LOMA, Mt 59460 1/22/91 Jayne Le Jurgey HCR 67 Box 13 Loma MT 59460 1-22-91 SUSagues 4CR 67 Box 23 Lem D, M7. 59460 1/22/9 Stevens HCR 67 Box 23 Lem D, M7. 59460 1/22/91 Tanet Stevens HCR 67 Box 23 Forma Mt. 59460 1/22/91 Firstette Ranch a HCR 67 Box 27 Loma, Mr. 59460 1/22/91 Robert & that A HCR 67 Box 26 Loma, Mt 59460 1/22/91 Inald Myhan 130 Roma mt 59460 1/22/9/ Terry Exelam 14CRE7 Box 31 Loma not 59460 1-22-91 Francis Schoonever HER 67 Box 68 Long mit

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Segislature A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A LANDOWNER'S required for hunting. A resident or nonresident shall obtain p(x) = (x,y)SECTION 87-3-304, MCA." PERMISSION BEFORE HUNTING ON PRIVATE PROPERTY; AND REPEALING 87, chapter 3, part 1, apply to [section 1]. MCA, is repealed. or lessee's agents before hunting on private property. permission of the landowner, the lessee, or the landowner's of Title 87, chapter 3, part 1, and the provisions of Title [Section 1] is intended to be codified as an integral part IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA NEW SECTION. Section 1. Landowner's NEW SECTION. Section 2. Repealer. Section 87-3-304, NEW SECTION. Section 3. Codification Som Stem of Many of HOUSE BILL NO. 172 permission 1/24 3PM Bm 312=3 Recher 3 304 Manusco, but of alde and in when the war of the Military front about Just offices whereigh war and the Know of alactions where Ja. Down on a co Letter M

INTRODUCED BIL

#### HB 172 January 24, 1991

Testimony presented by K.L. Cool, Dept. of Fish, Wildlife & Parks to the House Fish and Game Committee

The Department of Fish, Wildlife & Parks has always supported the ask-before-you-enter ethic. We promote it constantly and in every way that we can think of. There is no question that an individual should have permission from the landowner when private land is entered for any reason. Our experience also confirms that hunters and fishermen want to pursue their sport only where they are welcome.

Our concern with this legislation is that no distinction is made between a person who knowingly trespasses and one who inadvertently does so. This shortcoming is of concern to our wardens who would have to enforce this law.

Landownership patterns are complex arrangements and this is particularly true in some of the places favored by small game, upland birds and the people who seasonally hunt them. Under many real circumstances the best intentioned person cannot always know who the current owner of every tract of land is, where the exact boundary between landowners is, and where to find the people to ask. Managing this situation needs to be a cooperative effort. The hunters certainly need to do their best to learn who and where the landowners are.

In fairness, however, the landowners likewise should carry some responsibility to notice the public where their boundaries are and what their terms for entry are. It does not appear fair to have land closed without notice and simultaneously establish a certain penalty if unintentional trespass occurs.

We feel progress is being made on landowner/sportsman problems, working within the existing law, and recommend that those laws not be changed unless a posting provision is required.

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## HOUSE OF REPRESENTATIVES

## FISH AND GAME COMMITTEE

## ROLL CALL VOTE

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REP. BEVERLY BARNHART		
REP. FRED "FRITZ" DAILY	V	
REP. ROGER DEBRUYCKER		V
REP. ORVAL ELLISON	i_	
REP. GARY FORRESTER		
REP. BOB GILBERT		V
REP. MARIAN HANSON		V
REP. VERNON KELLER		V
REP. BEA MCCARTHY		
REP. BRUCE MEASURE	<i>i</i> ~	
REP. JOHN PHILLIPS		4
REP. TED SCHYE		
REP. JOHN SCOTT		
REP. WILBUR SPRING		
REP. BILL STRIZICH		
REP. JIM ELLIOTT, CHAIRMAN		
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# HOUSE OF REPRESENTATIVES VISITOR'S REGISTER

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RickDay	MT Wildlife Federo	tion	X
Valerie Horton	n the y		X
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Marvin Barba	APA.	X	
1326 Lane	FATA		×

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

# HOUSE OF REPRESENTATIVES VISITOR'S REGISTER

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# HOUSE OF REPRESENTATIVES VISITOR'S REGISTER

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