

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By Bob Williams, on January 24, 1991, at 1:00 P.M.

ROLL CALL

Members Present:

Bob Williams, Chairman (D)
Don Bianchi, Vice Chairman (D)
John Jr. Anderson (R)
Eve Franklin (D)
Lorents Grosfield (R)
Greg Jergeson (D)
Dick Pinsoneault (D)
David Rye (R)
Paul Svrcek (D)
Bernie Swift (R)

Members Excused: None

Staff Present: Andrea Merrill (Legislative Council).

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

Announcements/Discussion: Chairman Williams announced the only order of business was to hear HB 17 and Executive Action on SB 13.

Executive Action on SB 97 will be heard Tuesday, January 29 in order for Legislative Council to consider amendments presented. See Exhibit No. 2.

HEARING ON HOUSE BILL NO. 17

Presentation and Opening Statement by Sponsor: Bob Ream, Representative of Dist. No. 54, introduces this bill on behalf of the Montana Bowhunters Assn. The statutes state that the Commission already has the authority to regulate bow hunting in Montana; however, due to the extensive innovations that have come to archery equipment we feel it is necessary to make explicit that the Commission has the right to regulate such equipment.

Proponents' Testimony:

Don Chance, speaking for the Montana Bowhunters Assn., stated that this bill was requested by Montana Bowhunters' Chapters from throughout the State. Over the last 4-5 years, there has been incidence as to what was or was not appropriate bow hunting equipment that was to be used in the field. The bow hunting equipment is unlike firearms and there is not much standardization in this equipment. There is a tremendous amount of innovation in this equipment. Were the Fish, Wildlife and Parks Department (Department) to regulate equipment for fishing and hunting purposes, the Department's legal staff felt that the current language in the statute was somewhat vague and more specific language was needed for the regulation.

Errol Galt, Commissioner of Fish and Game Commission, stated that the Commission supports HB 17. See Exhibit 1.

Valarie Horton, representing Montana Wildlife Federation. They recommend a "do pass" on HB 17.

Opponents' Testimony:

No Opponents testifying at this time.

Questions From Committee Members:

Senator Jergeson questioned anyone who wished to answer "If a spear was considered archery equipment." Director Cool stated that a spear was not identified as archery equipment.

Senator Jergeson questioned if someone downed a deer or elk out of season with a spear would that be considered poaching or legal. Director Cool replied that that would be considered illegal taking.

Senator Grosfield questioned Don Chance as to what kind of bow might be considered inappropriate for the taking of game. Don responded that the crossbow was considered dangerous by both hunters and the Department. Some archery equipment is now equipped with laser sights and with the increased ability of this equipment, which could make it comparable to firearms, is the extended season now allowed to archery threatened? Questions have arisen in the past as to the appropriate poundage of bows.

Senator Grosfield questioned Mr. Chance as to the possibility that certain bows, because of their capabilities, would only be allowed during rifle season. Don said he was unable to answer at this time and it would be a Department ruling. The technology is changing so rapidly, the bow hunter doesn't know what to expect year to year.

Senator Swift questioned the fact of precise standards without any definition of these standards and whether these standards

refer to design basis, standard poundage basis, or comparative basis to rifle, shotgun, etc. What does the Department really want? Don Chance stated that the bowhunters wanted the Department to have the authority to regulate the equipment and there would be a debate and discussion when and if the issue arose.

Senator Swift commented that because of the possibility of up to 500 differently designed bows, a bill like this is too vague not to raise many questions. This bill is not addressing the technical questions that need to be addressed. Don Chance commented that this bill was to be a "may" regulate rather than a "shall" regulate by the Department. The bowhunters organization would like the Department to have the authority to adopt regulations if the organization asked them to.

Senator Grosfield commented on the fact there was one sportsman who had complete trust in the Montana Fish and Game Commission, as this bill is very vague.

Chairman Williams questioned if the Fish and Game Commission would be requesting input from the bowhunters' associations on what would be prohibited. Errol Galt, Commissioner of Fish and Game, would welcome input from the associations as they already receive unsolicited input from the bowhunters.

Senator Pinsoneault questioned Don Chance as to the number of members in the bowhunters' associations. Don Chance stated that in 1979, the State issued about 6,000 bow hunting stamps and the last hunting season, they issued over 20,000 stamps. His organization has approximately 2,500 members.

Senator Pinsoneault questioned if the bowhunters association intended to bring all bowhunters under the umbrella if there were certain standards that were going to be set. Don Chance stated that this bill is a preventive medicine type legislation that is not addressing a specific issue regarding archery equipment at this time. What they are concerned about is the rapid technological change of equipment. If a problem does arise, they want to have the Department's intervention.

Closing by Sponsor:

Representative Ream stated he believes strongly in HB 17. He feels that the appropriate place for this regulation should be with the Fish, Wildlife and Parks Commission. This is a bill

that gives them no more authority than to suggest regulations and when problems arise, they will react in the appropriate way.

Senator Pinsoneault questioned Legislative Council Staff, Andrea Merrill, if the Department does publish rules will the penalty provisions that apply to other game violations likewise apply to those rules or would those penalty provisions be a part of the

rules that they would have to promogate. Ms. Merrill stated that the Department could only enforce penalties as stated in the statutes. Senator Pinsoneault pointed out that this legislation as written did not include this provision.

EXECUTIVE ACTION ON HB 17

Motion:

Senator Grosfield made the motion that the Committee concur on HB 17.

Recommendation and Vote:

Unanimous vote.

Chairman Williams asked Senator Pinsoneault to carry HB 17.

EXECUTIVE ACTION ON SB 13

Motion:

Senator Bianchi made the motion of a "Do pass" for SB 13.

Discussion:

Chairman Williams stated that Senator Svrcek was presenting a bill very similar to Senator Bianchi's SB 13 and asked Senator Svrcek to explain his bill. Senator Svrcek gave a brief description of what his bill contained.

Senator Bianchi commented on why he sponsored SB 13. When this bill was written to take off the termination date of HB 526, it was done very narrowly because he did not want to open up HB 526 to all issues.

Senator Jergeson presented amendments to SB 13 which would provide for a two year extension of HB 526. Less has been done with conservation easements that he had hoped. He recommended that from the standpoint of sportsmen and agricultural groups that they make an effort in this time period to sell the concept of conservation easements to see if we can't persuade landowners who would offer suitable habitat for conservation easements. Senator Jergeson made the motion to move on SB 13 per his amendments.

Senator Bianchi supported Senator Jergeson's amendments to SB 13.

Senator Grosfield was reluctant to pass SB 13 in the amended form as suggested for if this is the only bill that passes this

Legislature, in 1996 we will be sitting here once again with no more information than we have now.

Senator Rye commented that he has been uncomfortable with this legislation. The sentiment in his District has been in favor of this bill. However, he feels that the Department does not particularly want the power that this bill gives them. He supports the Jergeson amendments.

Senator Swift expressed concern that no problems have been solved by passing legislation to extend the sunset date to 1996. He suggested tabling SB 13 or to proceed with a committee bill.

Senator Jergeson offered the amendments as he believes the burden for greater proof of the effectiveness of this program lies not only with the Department but also on interested persons within the State of whether or not this program will work.

Amendments, Discussion, and Votes:

Senator Svrcek called for a question on the amendments. The amendments passed by an 8-2 vote.

Recommendation and Vote:

Senator Pinsoneault made the motion that SB 13 be tabled. The vote was 5-5. Motion failed.

Senator Bianchi made the motion that SB 13 be passed as amended. The Bill passed on an 8-2 vote. Senate Bill 13 passed as amended.

ADJOURNMENT

Adjournment At: 2:33 P.M.


BOB WILLIAMS, Chairman


JULIA LEVENS, Secretary

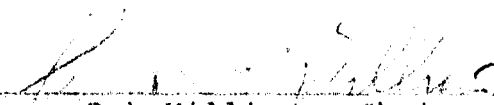
SENATE STANDING COMMITTEE REPORT


Page 1 of 1
January 24, 1991

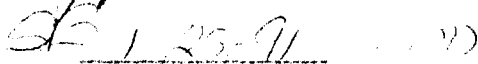
MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration Senate Bill No. 13 (first reading copy -- white), respectfully report that Senate Bill No. 13 be amended and as so amended do pass:

1. Title, line 4.
Strike: "REMOVING"
Insert: "EXTENDING"
2. Title, line 5.
Following: "TERMINATION"
Insert: "DATE"
3. Page 1, line 17.
Strike: "continue"
Insert: "extend the termination date of"
4. Page 1, line 18.
Strike: "on a permanent basis"
5. Page 1, line 23.
Following: "date"
Insert: "-- termination date"
6. Page 1, line 25.
Following: "1994"
Insert: ", and terminates March 1, 1996"

Signed: 
Bob Williams, Chairman


Am. Coord.


Sec. of Senate

HB 17
January 24, 1990

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

The Department of Fish, Wildlife & Parks and our commission support HB 17 which provides our commission the authority to regulate the type and use of archery equipment for hunting and fishing purposes.

The technological developments occurring in modern archery equipment warrant continual review to determine their resource implications. Our commission can provide the appropriate forum to consider sportsman and public comment on case-by-case issues surrounding archery equipment.

We urge your support of this bill.

Amendments to Senate Bill No. 97
First Reading Copy

Requested by Senator Grosfield
For the Committee on Fish & Game

Prepared by Doug Sternberg
January 22, 1991

1. Title, line 7.
Strike: "ENFORCE"
Insert: "PROVIDE INFORMATION REGARDING"
2. Page 1, line 11.
Following: "that"
Insert: "unfenced"
3. Page 2, line 8.
Following: "posting of"
Insert: "private roads or fenced"
4. Page 2, line 9.
Strike: "through which the public has no right-of-way"
5. Page 2, line 21.
Following: "line"
Insert: ", or, in the case of a private road, at the point where
the private road begins"
6. Page 2, line 22.
Following: "posting of"
Insert: "unfenced"
7. Page 2, line 25.
Strike: "on"
Insert: "within 30 feet of"
8. Page 3, line 1.
Strike: "upon entering"
Insert: "where it enters"
Following: "stating"
Insert: "words substantially similar to"
9. Page 3, line 3.
Strike: "conventional no trespassing signs"
Insert: "notice, as described in subsection (2)(a), within 30
feet of the edge of the roadway"
10. Page 3, line 4.
Following: "intervals"
Insert: "of not less than one-fourth mile"
Following: "along the"
Strike: "private land bordering the road"
Insert: "roadway where it borders unfenced private land"

11. Page 3, lines 17 and 18.

Strike: "The department shall enforce the posting provisions set out in subsections (2) and (3)."

Insert: "In the interests of providing the public with clear information regarding the public nature of certain unfenced rural rights-of-way, the department may develop and distribute posting signs that satisfy the requirements of subsection (3)."