

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FISH & GAME

Call to Order: By Senator Bob Williams, on January 29, 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: Roll was taken and noted.

HEARING ON SB 97

Presentation and Opening Statement by Sponsor:

The hearing is a continuation from January 22, 1991 to allow
Legislative Council Staff, Andrea Merrill, to peruse the
amendments offered by Senator Grosfield.

Closing by Sponsor:

Senator Beck recommended that the Committee pass SB 97.

EXECUTIVE ACTION ON SB 97Amendments, Discussion, and Votes:

Senator Grosfield gave detailed explanations of the suggested amendments. See Exhibit No. 1.

Senator Jergeson questioned Senator Grosfield about the change in the amendments that the Department merely provide information regarding public and private land. Who then would be enforcing the posting provision? Senator Grosfield stated that the present statute can be enforced by either the sheriff or Fish and Game wardens. Senator Jergeson further questioned Senator Grosfield if the department chose not to distribute the posting signs, would this relieve the landowner of responsibility of posting according to the law? Senator Grosfield indicated that he did not think so.

Senator Jergeson asked if the Department would provide the signs free of charge or if they would be able to recover a portion of the cost of the signs. Senator Grosfield stated that this would be up to Department policy.

Bob Lane, Chief Legal Council, Fish, Wildlife and Parks, stated that the distance from the road was not addressed (that is flexible). What they intended to clear-up was posting a private marking right at the intersection. The posting needs to be clearly marked so that the traveling public does not get the wrong idea of what is a public or private roadway.

Gordon Morris, Executive Director, Montana Association of Counties, suggests that the distinction between unfenced and fenced leaves a question as to what the Attorney General says is the problem. The posting must be consistent in such a way as to leave no doubt as to private property and a public roadway. He believes SB 97 comes very close to doing this.

Senator Grosfield sympathizes with the counties because "Joe Rancher" is not posting his land correctly; therefore, the Department of Revenue is withholding federal gas tax funds. It also becomes a Fish and Game issue because the sportsman does not know what is posted and unposted land. This situation should be taken care of by the Attorney General's opinion because it states orange marking cannot be placed where a public roadway enters private land.

Senator Svrcek questions why a sign could not be put up that stated "this land is posted--the road is public." Senator Beck responded that he wishes to make things as simple as possible. Signs last a very short time.

Chairman Williams called on Director Cool to give the Department's viewpoint as to this issue. Director Cool stated that this is a Fish and Game issue and will have a major impact on sportsmen. He feels that the Department has a responsibility to educate sportsmen through their brochures and explain the complexities of this issue. However, even though the Department has a policy of providing signs to facilitate and manage public access under the Block Management Program; this amendment as proposed would require for the first time that the Department produce and provide signs to restrict access. The Department does not feel that they should be required to provide these signs to restrict access to private property.

Senator Beck commented that the Forest Service has signs everywhere which state that a particular road is public and is accepted in the western part of the State.

Director Cool commented if the Department could produce a sign that would better identify to sportsmen where a road was public, they would be more than happy to do it. The concern is the Department does not believe they have the technical ability to determine which roads are public and which are private and should not be looked upon to do that. He said that there had been a group of unscrupulous sportsmen who had moved the Department's signs to indicate that the public land was in fact private and no hunting allowed.

Senator Svrcek made a request to separate and vote on amendments 2-7 and amendments 1 & 8.

Senator Grosfield made the motion to divide the amendments as requested by Senator Svrcek. Motion carried.

Chairman Williams called for a vote on amendments 2-7. Unanimous vote.

Senator Grosfield made the motion to approve amendments 1 & 8. Ms. Merrill suggested that the title of the bill could be improved by rewording. See Exhibit 2.

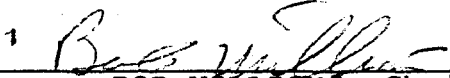
Chairman Williams called for a motion to approve amendments 1 & 8 as suggested by Legislative Council. Motion carried. Chairman William called for a vote on amendments 1 & 8. Unanimous vote.

Recommendation and Vote:

Chairman Williams made the motion to pass SB 97 as amended. Unanimous vote.

ADJOURNMENT

Adjournment At: 1:45 P.M.



BOB WILLIAMS, Chairman



JULIA LEVENS, Secretary

BW/jl

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
January 30, 1991

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration Senate Bill No. 97 (first reading copy -- white), respectfully report that Senate Bill No. 97 be amended and as so amended do pass:

1. Title, line 6.

Strike: "REQUIRING"

Insert: "ALLOWING"

2. Title, line 7.

Strike: "ENFORCE"

Insert: "PROVIDE INFORMATION REGARDING"

3. Page 1, line 11.

Following: "that"

Insert: "unfenced"

4. Page 2, line 23.

Following: "which"

Insert: "or along which"

Following: "has"

Strike: "the"

Insert: "an unfenced"

5. Page 2, line 25.

Strike: "on"

Insert: "within 30 feet of"

6. Page 3, line 1.

Strike: "upon entering"

Insert: "where it enters"

Following: "stating"

Insert: "words substantially similar to"

7. 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"

8. 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, except that orange markings may not be placed on posts where the public roadway enters the private land"

9. 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)."

Signed: _____
Bob Williams, Chairman

[Signature] 1-30-91
And. Coord.

[Signature] 1-30-91
Sec. of Senate

Amendments to Senate Bill No. 97
First Reading Copy

Requested by Senator Grosfield
For the Committee on Fish & Game

Prepared by Andrea Merrill

January 29, 1991

1. Title, line 7.
Strike: "ENFORCE"
Insert: "PROVIDE INFORMATION REGARDING"
2. Page 1, line 11.
Following: "that"
Insert: "unfenced"
3. Page 2, line 23.
Following: "which"
Insert: "or along which"
Following: "has"
Strike: "the"
Insert: "an unfenced"
4. Page 2, line 25.
Strike: "on"
Insert: "within 30 feet of"
5. Page 3, line 1.
Strike: "upon entering"
Insert: "where it enters"
Following: "stating"
Insert: "words substantially similar to"
6. 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"
7. 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, except that orange markings may not be placed on posts where the public roadway enters the private land"
8. 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

EXHIBIT NO. 2DATE 1/29/91BILL NO. SB97

Amendments to Senate Bill No. 97
First Reading Copy

Requested by Senator Grosfield
For the Committee on Fish & Game

Prepared by Andrea Merrill

January 29, 1991

1. Title, line 7.

Strike: "ENFORCE"

Insert: "PROVIDE INFORMATION REGARDING"

2. Page 1, line 11.

Following: "that"

Insert: "unfenced"

3. Page 2, line 23.

Following: "which"

Insert: "or along which"

Following: "has"

Strike: "the"

Insert: "an unfenced"

4. Page 2, line 25.

Strike: "on"

Insert: "within 30 feet of"

5. Page 3, line 1.

Strike: "upon entering"

Insert: "where it enters"

Following: "stating"

Insert: "words substantially similar to"

6. 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"

7. 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, except that orange markings may not be placed on posts where the public roadway enters the private land"

8. 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

Amendments to Senate Bill No. 97
First Reading CopyRequested by Senator Grosfield
For the Committee on Fish & Game

Prepared by Andrea Merrill

January 29, 1991

1. Title, line 6.

Strike: "REQUIRING"

Insert: "ALLOWING"

2. Title, line 7.

Strike: "ENFORCE"

Insert: "PROVIDE INFORMATION REGARDING"

3. Page 1, line 11.

Following: "that"

Insert: "unfenced"

4. Page 2, line 23.

Following: "which"

Insert: "or along which"

Following: "has"Strike: "the"

Insert: "an unfenced"

5. Page 2, line 25.

Strike: "on"

Insert: "within 30 feet of"

6. Page 3, line 1.

Strike: "upon entering"

Insert: "where it enters"

Following: "stating"

Insert: "words substantially similar to"

7. 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"

8. 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, except
that orange markings may not be placed on posts where the
public roadway enters the private land"

9. 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)."