

## **MINUTES**

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

#### **COMMITTEE ON FISH & GAME**

**Call to Order:** By Bob Williams, on March 7, 1991, at 3:00 P.M.

#### **ROLL CALL**

##### **Members Present:**

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

##### **Members Excused:**

**Staff Present:** Andrea Merrill (Legislative Council).

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

##### **Announcements/Discussion:**

Roll taken and noted.

#### **HEARING ON HB 149**

##### **Presentation and Opening Statement by Sponsor:**

Representative Forrester, House Dist. No. 98, explained that HB 149 would remove the sunset on the Board of Outfitters and make the Board of Outfitters permanent.

##### **Proponents' Testimony:**

Pat Graham, Deputy Director of Fish, Wildlife and Parks (FWP), supports HB 149. See Exhibit No. 1.

##### **Closing by Sponsor:**

Representative Forrester urged the Committee to pass this legislation as the Board is working well.

EXECUTIVE ACTION ON HB 149

Motion:

Senator Bianchi moved that HB 149 be concurred.

Recommendation and Vote:

House Bill 149 passed unanimously with Senator Jergeson voting no.

Senator Bianchi will carry the bill on the Senate floor.

HEARING ON HB 403

Presentation and Opening Statement by Sponsor:

Representative Spring, House Dist. No. 77, explained that HB 403 was necessary legislation requiring the Fish and Game Commission to regulate certain aspects of the use and breeding of raptors and the sport of falconry.

Proponents' Testimony:

Skipp Tubbs, representing the Montana Falconers Assn., supports HB 403 with amendments. See Exhibit No. 2-3.

Pat Graham, Deputy Director of Fish, Wildlife and Parks, supports HB 403. The Department also approves of amendments offered by the Montana Falconers Assn. See Exhibit No. 4.

Janet Ellis, representing Montana Audubon Legislative Fund, supports HB 403.

Questions From Committee Members:

Senator Pinsoneault asked Skip Tubbs if there were any contagious diseases that these birds might carry? Mr. Tubbs stated that any diseases that falcons have are not transmitted to other poultry. They are unique in this respect.

Les Graham, Department of Livestock, explained that the State does require health certificates and the Association members are very careful about protecting themselves as well.

Senator Grosfield asked Skip Tubbs to describe "raptors." Mr. Tubbs explained that they are all birds of prey both nocturnal and diurnal, i.e. hawks, eagles, owls, vultures, etc.

Chairman Williams asked Rep. Spring if he approved of the amendments presented by the Montana Falconers Association? Rep. Spring stated that if the FWP were pleased with them, he would not object.

Closing by Sponsor:

Representative Spring stated that the falcon experts are pleased with this bill and recommended a do pass from the committee. He suggested that Sen. Svrcek carry the bill.

EXECUTIVE ACTION ON HB 403

Amendments, Discussion, and Votes:

Senator Bianchi moved to approve the amendments to HB 403. The amendments were approved unanimously.

Recommendation and Vote:

Senator Svrcek moved that HB 403 be concurred as amended. Passed unanimously. Senator Svrcek will carry the bill on the Senate floor.

HEARING ON HB 166

Presentation and Opening Statement by Sponsor:

Representative Keller, House Dist. No. 83, explained that HB 166 was legislation to conform the provisions of law regarding spotlighting for hunting purposes to the decision of the Montana Supreme Court by inserting a requirement that the violation be committed purposely or knowingly. This would also limit the landowner to nonhunting spotlighting activities.

Proponents' Testimony:

Pat Graham, Deputy Director with Fish, Wildlife and Parks, supports HB 166. See Exhibit No. 5.

Les Graham, Department of Livestock, will continue to work with FWP. The Department supports HB 166.

Questions From Committee Members:

Senator Rye was concerned that the spotlihter would be able to run at will. Pat Graham explained that the it would still be illegal to hunt at night.

Closing by Sponsor:

Representative Keller admitted that the language of this bill is awkward but it is still against the law to hunt big game by spotlight. The landowner is still able to use the spotlight to check calves, hunt raccoons, etc. He requested Senator Grosfield to carry the bill.

EXECUTIVE ACTION ON HB 166Motion:

Senator Bianchi moved that HB 166 be concurred.

Recommendation and Vote:

House Bill 166 was concurred unanimously. Senator Jergeson will carry the bill on the Senate floor.

HEARING ON HB 613Presentation and Opening Statement by Sponsor:

Representative Ellison, House Dist. No. 81, explained that this legislation would establish the third week of September as an official week of observance of Montana's hunting heritage. Montanans who have grown up with the heritage of hunting never dreamed that it would one day become a threatened activity. He feels that we should step back and reflect on this and designating an official observance to make us more aware of what we have and what we stand to lose.

Proponents' Testimony:

Pat Graham, Deputy Director of Fish, Wildlife and Parks, supports HB 613. See Exhibit No. 6.

Questions From Committee Members:

Senator Jergeson questioned the wording of the bill where it referred to "sportsmen" and "hunters" and asked if there was a difference and if there were hunters who are not good sports? Senators Rye and Franklin explained that there are people who enjoy the hunt but never actually kill and there are those who prefer to take their camera.

Senator Bianchi asked Rep. Ellison if he had picked the third week of September for any significant reason. Rep. Ellison stated that it was a date chosen by the NRA and the only

significance he could see is the date precedes the regular hunting season.

Senator Bianchi commented that in early fall there is a national hunting and fish day and was this week selected because of it? Rep. Ellison felt this period was possibly chosen because of that day.

Senator Pinsoneault asked Andrea Merrill if there isn't already a national sportsmens' day or week. She was sure there could be a book in the library that would indicate the weekly observances. It was cautioned that the hunting observance should not fall during the same week of an animal rights observance.

#### Closing by Sponsor:

Representative Ellison urges passage of HB 613.

### HEARING ON HB 304

#### Presentation and Opening Statement by Sponsor:

Representative Clark, House Dist. 31, gave an explanation of HB 304 stating this legislation would allow the FWP to dispose of certain obsolete equipment and department property. This bill has been requested by the FWP. The Department of Livestock has asked him to amend this bill to include their officers as they are in the same situation as the FWP wardens in relation to purchasing their obsolete firearms. Amendments to HB 304 were presented by Rep. Clark. See Exhibit No. 7.

#### Proponents' Testimony:

Pat Graham, Deputy Director of Fish, Wildlife and Parks, supports HB 304. See Exhibit No. 8.

Bob Winfield, Captain of Law Enforcement for Fish, Wildlife and Parks, passed around the his old revolver for the committee to view the bear head. The guns mean a lot to the wardens who carry them. Unless there are serious mechanical problems, the same gun remains with that warden since it was issued. The wardens would appreciate the committee support on HB 304.

Les Graham, Department of Livestock, that their weapons are about the same vintage; however, theirs do not bear any stamps and are not collectors' items.

#### Questions From Committee Members:

Senator Pinsoneault commented that for those who have spent their life carrying the gun, why couldn't the gun be given to them when

they retire? He realizes that this can't be done but feels it would be a nice gesture.

Senator Grosfield asked Pat Graham concerning the \$200 charged by the Department of Administration and if this was for all property or just for the guns. Mr. Graham stated that this would not be an unreasonable amount. They review the charges on a case-by-case basis.

Chairman Williams asked Les Graham who in his Department would be getting those weapons? Les stated that it would be the field officers.

Senator Bianchi asked Bob Winfield the value of the FWP revolvers which bear the bear head stamp and the FWP logo as compared with the Department of Livestock's revolvers? Captain Winfield said he had taken his revolver to some dealers and collectors to see what they would be worth. The guns that the wardens are carrying would not bring any more than \$150 but the twenty-seven new ones would bring a substantial amount. The wardens are not interested in these because those aren't their guns so it would bring more revenue to FWP for these to be offered to the collectors and general public. The unissued guns may bring from \$500-2,000 a piece depending on the collector. The value is increased because of the bear-head stamp. When these revolvers were made, a special agreement was made with Smith and Wessen Factory. The dye was destroyed by Smith and Wessen thus making these revolvers a collectors' item.

Chairman Williams asked Bob Winfield if the new revolvers would have the same unique qualities. Captain Winfield said they would not. The new revolvers are from Smith and Wessen and there is nothing different than what can be brought across the counter.

Chairman Williams asked Les Graham the value of their used weapons. Mr. Graham said that their guns are not unique and the value would be \$100 at best.

Senator Grosfield asked Pat Graham where the monies from the sale of these weapons would be deposited? Mr. Graham stated that the money would go into the general license account.

#### Closing by Sponsor:

Representative Clark stressed the sentimental value the wardens and highway patrol have toward their weapons. He urged the committee to pass HB 304.

#### EXECUTIVE ACTION ON HB 304

#### Amendments, Discussion, and Votes:

Senator Pinsoneault made the motion to approve amendments to HB 304. Amendments passed unanimously.

Recommendation and Vote:

Senator Pinsoneault made the motion to concur HB 304 as amended.  
Passed unanimously.

Senator Pinsoneault will carry the bill on the Senate floor.

ADJOURNMENT

Adjournment At: 4:32 P.M.

  
\_\_\_\_\_  
BOB WILLIAMS, Chairman

  
\_\_\_\_\_  
JULIA LEVENS, Secretary

BW/jl

HB 149  
March 6, 1991

Testimony presented by Pat Graham, Dept. of Fish, Wildlife & Parks

The Department of Fish, Wildlife and Parks supports HB 149. We believe that the Board of Outfitters under the Department of Commerce has done a good job of licensing outfitters and guides.

We believe it is in the best interest of the public and the outfitting industry to make permanent the Board of Outfitters. Our agency has had a good working relationship with the Board, and we look forward to continuing that relationship.



EXHIBIT NO. 2DATE 3/7/91BILL NO. HB 403

Tubbs.txt

Skip Tubbs  
119 E. Main St.  
Bozeman MT 59715

Representing: Montana Falconer's Association

~~January 31, 1991~~ 3/7/91

Our membership makes up approximately 2/3rd's of the active licensed falconers in the State of Montana. Last year our membership voted "unanimously" to seek out a sponsor and request legislation that you see here in the form of HS Bill 403.

Our main goal is to remove restrictive language from state falconry statutes and put the total responsibility for rule and regulation decisions with the Dept. of Fish, Wildlife & Parks.

The reason this needs to be done has to do with Federal Law. Federal Falconry & Probagation Laws require states to conform within their guidelines. These regulations are changing yearly and present state statutes make it difficult for the Fish, Wildlife & Parks Dept. to conform in a timely manner. If we continue to have to deal with the Federal changes at the state legislative level through the statutes, there will be much unnecessary taxpayer's expense every time the state statutes are in violation of the Federal guidelines and the Montana Falconers and the Dept. of FW & P will have to appear in front of the legislature.

The Montana Falconer's Association and it's members feel they have a good working relationship with their state Fish & Game Dept. and hope they will support this bill. However, we are in support of working with any suggestions they might have for amendments necessary to make this bill work better for both of us.

SENATE FISH AND GAME  
EXHIBIT NO. 3  
DATE 3/7/91  
BILL NO. HB 403

PROPOSED AMENDMENT TO HB 403

NEW SECTION:

87-5-208 Nonresidents allowed raptors in state.

Strike current language - add:

Nonresidents possessing a valid federal falconry license may practice falconry in Montana with legally acquired and permitted raptors. Such nonresidents shall be allowed to hunt with falcons in the State of Montana subject to all other laws and rules. Nonresidents are not allowed to capture raptors from the wild in Montana for falconry or captive breeding purposes.

3/7/91

HB 403

HB 403  
March 7, 1991

Testimony presented by Pat Graham, Dept. of Fish, Wildlife & Parks

This legislation proposes to transfer the rule-making authority of our department to our Fish and Game Commission and would repeal specific regulatory statutes. The need for this legislation arises from the concurrent federal and state jurisdiction of all hawks, owls, eagles and falcons. The U. S. government, under the Migratory Bird Treaty Act, has treaties with Canada and Mexico for all migratory birds. States may have more restrictive rules, but cannot have regulations more liberal.

The Montana Falconers' Association has requested department support for HB 403. The department agrees changes are needed for compliance with federal rules. We also support the amendment to 87-5-208 to define activities allowed by nonresident falconers.

HB 166

HB 166

March 8, 1991

Testimony presented by Pat Graham, Dept. of Fish, Wildlife & Parks

The department supports HB 166 that repeals Section 87-3-122. This act had made spotlighting unlawful.

The Montana Supreme Court, in State vs. Austin, held that this law violated equal protection by exempting landowners and lessees on their own land. Subsequent attempts to amend Section 87-3-122 have been unsuccessful.

The department will continue to work with the Department of Livestock to develop appropriate legislation for a spotlighting law to address the state's interest in protecting wildlife as well as the concerns of landowners.

SENATE FISH AND GAME

EXHIBIT NO. 6

DATE 3/7/91

BILL NO. 6

HB 613  
March 7, 1991

Testimony presented by Pat Graham, Dept. of Fish, Wildlife & Parks  
To the Senate Fish and Game Committee

Montana -- the very mention of the word fills the mind with visions of the fish and wildlife that characterize this land. We occupy this place in a time blessed with an abundance and diversity of game. This wildlife resource in our custody is the product of sportsmen and women who have long appreciated the need to conserve the state's treasured resources.

The abundance and diversity of wildlife in Montana today is a result of conservation-minded men and women -- most of them hunters -- who addressed the paucity of wildlife with a simple maxim: Let those who stand to benefit be the ones to shoulder the responsibility of restoring the state's wildlife.

We should let no one forget that it was the monetary and political resources of hunters that returned many species of wildlife to healthy populations. Our present abundance of elk, deer, antelope, moose, bighorn sheep, mountain goat, Merriam's turkey and more is a direct result of the leadership hunters have provided for wildlife conservation in Montana.

People annually spend more than 2 million days hunting in this state. Nearly 300,000 people visit here each year to view wildlife species hunters have helped recover. The annual revenue that wildlife-related recreation brings to Montana exceeds \$260 million.

In the end, you can't put a dollar figure on living in a state where you can still be wakened well before dawn by your son, daughter, or grandchild on the morning of their first hunt. I think you'll agree it's priceless.

It is time we celebrate hunting in Montana and honor Montana's sportsmen and women, young and old, past and present, for all they have contributed to the restoration of wildlife and this state's hunting heritage.

It is a worthy achievement and we are proud to support HB 613.

HOUSE BILL 304

SENATE FISH AND GAME

EXHIBIT NO. 7

DATE 3/7/91

BILL NO. HB304

1. Page 1, line 8  
Following: Parks  
Insert: and the Department of Livestock
2. Page 1, line 16  
Following: parks  
Insert: and the Department of Livestock
3. Page 1, line 25  
Following: warden  
Insert: or state stock inspector
4. Page 2, line 1  
Following: warden  
Insert: or state stock inspector
5. Page 2, line 8  
Following: department  
Insert: s
6. Page 2, line 10  
Following: department  
Insert: s
7. Page 2, line 14  
Following: department  
Insert: s
8. Page 2, line 19  
Following: department  
Insert: s
9. Page 2, line 24  
Following: department  
Insert: s
10. Page 3, line 1  
Following: department  
Insert: s
11. Page 3, line 19  
Following: department  
Insert: s

HB 304  
February 5, 1991

Testimony presented by K. L. Cool, Dept. of Fish, Wildlife & Parks

This legislation would provide our department the authority to auction our 17-year old revolvers which were replaced last year.

The legislation is requested for the following reasons:

1. Under current Department of Administration authority, surplus property must first be offered to other state and local governmental entities. Because of the age of these weapons, they are worn and should not be reissued as personal safety items for any law enforcement officer.
2. If the revolvers are not transferred to other governmental entities, the Department of Administration charges \$200 per unit for disposal of property. We would like to avoid the charge in this one instance to maximize return to our law enforcement equipment fund.
3. Each of our old revolvers is stamped with the department symbol, the grizzly bear head, and the department name, which makes each old weapon a collector's item.
4. Our fiscal note indicates that we can expect to receive \$35,575 for the 127 revolvers if auctioned as collectors' items. This estimate was provided by a professional appraiser.
5. The 100 new 9mm automatics cost us \$37,600 utilizing the Highway Patrol bid from Smith & Wesson. We expect the sale of the old weapons to nearly offset the cost of the new weapons.
6. This legislation was requested by our officers for some of the following reasons:
  - a. Officers who carry a sidearm for many years develop a strong sentimental attachment to this personal safety item.
  - b. The legislation would give them an opportunity to bid on their individual weapons.
  - c. This method would maximize return of dollars to the law enforcement equipment fund which purchased the new weapons.

Amendments to House Bill No. 403  
3rd Reading Copy

Requested by Committee on Fish and Game

Prepared by Andrea Merrill  
March 7, 1991

1. Title, line 8.

Following: "87-5-204"

Insert: ", 87-5-208,"

2. Page 5.

Following: line 15

Insert: "Section 3. Section 87-5-208, MCA, is amended to read:

**"87-5-208. Nonresidents allowed raptors in state.**

~~Nonresidents who are working, attending schools, or otherwise living temporarily in the state of Montana may obtain a Montana falconry license and bring raptors, legally acquired in other states or countries, into the state of Montana. Such nonresidents shall be~~ (1) A nonresident who possesses a valid federal falconry license may practice falconry in the state of Montana with legally acquired and permitted raptors. A nonresident is allowed to hunt with falcons in the state of Montana subject to all Montana laws and rules.

(2) A nonresident is not allowed to capture raptors from the wild in the state of Montana for falconry or captive breeding purposes."

Renumber: subsequent section



## SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
March 8, 1991

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 304 (third reading copy -- blue), respectfully report that House Bill No. 304 be amended and as so amended be concurred in:

1. Title, line 8.

Following: "PARKS"

Insert: "AND THE DEPARTMENT OF LIVESTOCK"

2. Page 1, line 15.

Strike: "[section 1] grants"

Insert: "[sections 1 and 4] grant"

3. Page 1, line 16.

Following: "parks"

Insert: "and the department of livestock"

4. Page 1, line 25.

Following: "WARDEN"

Insert: "and to a department of livestock state inspector or detective"

5. Page 2, line 1.

Strike: "WARDEN"

Insert: "person"

6. Page 3, line 13.

Strike: "section"

Insert: "sections"

Following: "1"

Insert: "and 4"

7. Page 4.

Following: line 6

Insert: "

NEW SECTION. Section 4. Authority to dispose of surplus handguns. (1) The department may destroy, sell, or dispose of surplus handguns owned by the department.

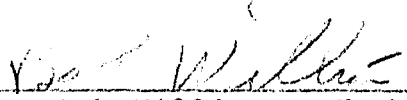
(2) All money received under subsection (1) must be credited to the account from which the handguns were purchased.

(3) The department may adopt rules to implement this section."

Renumber: subsequent sections.

8. Page 4.  
Following: line 7  
Insert: "(1)"

9. Page 4.  
Following: line 10  
Insert: "(2) [Section 4] is intended to be codified as an  
integral part of Title 81, and the provisions of Title 81,  
apply to [section 4]."

Signed:   
Bob Williams, Chairman

  
Amd. Coord.

  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 8, 1991

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 149 (third reading copy -- blue), respectfully report that House Bill No. 149 be concurred in.

Signed: Bob Williams  
Bob Williams, Chairman

3-8-91  
Amd. Coord.

                      
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 8, 1991

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 403 (third reading copy -- blue), respectfully report that House Bill No. 403 be amended and as so amended be concurred in:

1. Title, line 8.

Following: "87-5-204"

Insert: ", 87-5-208,"

2. Page 5.

Following: line 15

Insert: "Section 3. Section 87-5-208, MCA, is amended to read:

"87-5-208. Nonresidents allowed raptors in state.

~~Nonresidents who are working, attending schools, or otherwise living temporarily in the state of Montana may obtain a Montana falconry license and bring raptors, legally acquired in other states or countries, into the state of Montana. Such nonresidents shall be~~ (1) A nonresident who possesses a valid federal falconry license may practice falconry in the state of Montana with legally acquired and permitted raptors. A nonresident is allowed to hunt with falcons in the state of Montana subject to all Montana laws and rules.

(2) A nonresident is not allowed to capture raptors from the wild in the state of Montana for falconry or captive breeding purposes."

Renumber: subsequent section

Signed: \_\_\_\_\_

  
Bob Williams, Chairman

4-38-91  
And. Coord.

\_\_\_\_\_  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 8, 1991

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 166 (third reading copy -- blue), respectfully report that House Bill No. 166 be concurred in.

Signed: Bob Williams  
Bob Williams, Chairman

And. Coord.

Sec. of Senate