

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN RUSSELL FAGG**, on January 15, 1993, at 9:30 a.m.

#### **ROLL CALL**

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

Rep. Russ Fagg, Chairman (R)  
Rep. Dave Brown, Vice Chairman (D)  
Rep. Randy Vogel, Vice Chairman (R)  
Rep. Ellen Bergman (R)  
Rep. Jody Bird (D)  
Rep. Vivian Brooke (D)  
Rep. Bob Clark (R)  
Rep. Scott McCulloch (D)  
Rep. Jim Rice (R)  
Rep. Angela Russell (D)  
Rep. Tim Sayles (R)  
Rep. Liz Smith (R)  
Rep. Bill Tash (R)  
Rep. Howard Toole (D)  
Rep. Tim Whalen (D)  
Rep. Karyl Winslow (R)  
Rep. Diana Wyatt (D)

**Members Excused:** None.

**Members Absent:** Rep. Duane Grimes (R)

**Staff Present:** John MacMaster, Legislative Council  
Beth Miksche, Committee Secretary

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

##### **Committee Business Summary:**

Hearing: SB 14  
Executive Action: SB 14, SB 1, HB 90

#### **HEARING ON SB 14**

##### **Opening Statement by Sponsor:**

**SEN. BERNIE SWIFT, SD 32, Hamilton,** stated that SB 14 revises the

law regarding the use of firearms by children under 14 years of age; it allows those children to use a firearm when accompanied

by an adult authorized by a parent or guardian. This will assure that Montana youngsters under 14 years of age are able to hunt with their friends and with another adult based on permission of an adult or guardian.

**Proponents' Testimony:**

Jean Johnson, Executive Director, Outfitters and Guides Association, stated that Gov. Stan Stephens appointed the Landowners Sports Council in 1992 to eliminate problems between landowners and sportsmen. Ms. Johnson spoke in support of this bill since several thousand youngsters graduating from a hunter's safety course may not have an authority figure who can take them hunting and give them a good foundation on hunting ethics. It is a natural link to put a youngster with a responsible adult.

Pat Graham, Director, Department of Fish, Wildlife & Parks, provided written testimony. EXHIBIT 1

**Opponents' Testimony:** None.

**Questions From Committee Members and Responses:**

REP. TIM SAYLES confirmed with Mr. Graham that this bill only encompasses the age group of 12 and 14.

REP. JODY BIRD asked Mr. Graham how he arrived at the age of 14, and how the bill relates to bow hunting. Mr. Graham replied that age 14 is in current statute. There is no age limitation for bow hunting.

REP. DAVE BROWN commented that this statute has been on the books since 1907 and must not be enforced.

REP. BOB CLARK suggested that on page 1, line 16, firearms be changed to loaded firearm which was confirmed by Mr. Graham. There is an amendment to clarify that statement. EXHIBIT 2

**Closing by Sponsor:**

SEN. SWIFT responded to three questions: 1) He agrees with a change in language from powder and lead to firearms. 2) Bow hunting is covered in other codes. 3) He has no disagreement with amending the bill except than the suggestion made is not within the scope of the bill presented.

**EXECUTIVE ACTION ON SB 14**

**Motion:** REP. BROWN MOVED SB 14 BE CONCURRED IN AS AMENDED.

Discussion:

REP. BROWN said this amendment affects the use of firearms by children and broadens what they're able to use. He offers the amendment and asked the committee and Senate to review the bill.

REP. BROWN asked Mr. MacMaster if the amendment is proper. Mr. MacMaster said that, under this amendment, a youth cannot carry a firearm whether it's loaded or unloaded. The amendment says, "Any firearm of any description loaded with powder and lead," Mr. MacMaster suggested that "loaded with powder and lead" be taken out. On line 16, strike "firearms" and insert "loaded firearm." On line 17, strike "loaded with powder and lead" and insert "loaded firearm."

REP. RANDY VOGEL explained it would read that any minor child could carry or use in public any loaded firearm of any description except when the child is unaccompanied.

CHAIRMAN FAGG asked Mr. MacMaster to explain why the term "loaded" is needed in the amendment, because firearm means loaded and unloaded. He wondered would be more appropriate. Mr. MacMaster explained that the current bill speaks of firearms that are loaded with lead; when this was written, only rifles or shotguns were loaded. The bill can be amended, but many parents allow their to children carry unloaded firearms.

REP. BOB CLARK declared he does not want minors carrying loaded firearms. He said he is concerned because, although 18-year-olds are considered adults, some 18-year-olds are not capable of making mature judgements.

REP. BROWN clarified the amendment as it was offered. On line 16, between "any" and "firearm" insert "loaded"; strike "s" on firearms. On line 17, strike "loaded with powder and lead."

REP. VOGEL emphasized that this bill only allows children under the age of 14, when accompanied by an adult, to possess a firearm. Anyone over the age of 14 would not have to be accompanied by an adult to possess a firearm.

REP. BROWN said if "loaded" is taken out, it means that nobody under 14 can carry a firearm. It's unlawful, unless they're with an adult. He inquired if the intent is that no one under the age of 14 can carry a loaded firearm.

REP. CLARK responded the law doesn't allow minors to drive in cars until they're 16, so why should they be allowed to carry loaded firearms. REP. WINSLOW agreed with REP. CLARK and said a minor should not be allowed to carry a loaded gun; if the law gives minors the right to carry a loaded gun, they should go through some type of gun-safety course.

REP. BROWN asked Mr. Graham the intent of his amendment. Mr. Graham said his attempt was to try to clarify the concern over

powder and lead. It isn't clear to Mr. Graham either, after reading the bill, if the bill means the firearm is loaded or unloaded.

Motion/Vote: REP. VOGEL moved the Department language as a substitute amendment to SB 14. Motion carried with REPS. WHALEN and BROWN voting no.

Discussion (on original motion):

REP. DIANA WYATT said line 21 reads: "authorized by parent or guardian" and asked CHAIRMAN FAGG to clarify authorized. She asked whether that would mean written or oral, or simply an understanding that they were going hunting together.

REP. VIVIAN BROOKE spoke in opposition to the bill. She compared driving a vehicle with carrying firearms, whether they're loaded or unloaded. Children age 14 and under have a much less general understanding of danger and harm. There's too much inattentiveness in this age group, even while carrying the weapon with an adult.

REP. BROWN commented that a minor has to be 12 years old to have a hunting license and have taken a firearms safety course, and this bill doesn't apply to REP. BROOKE'S comments.

Vote: SB 14 BE CONCURRED IN. Motion carried with REPS. WINSLOW, TOOLE, WYATT, BROOKE, and RUSSELL voting no.

REP. SAYLES will carry SB 14 on the House floor.

EXECUTIVE ACTION ON SB 1

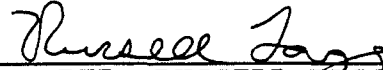
Motion/Vote: REP. RICE MOVED THAT SB 1 BE CONCURRED IN. Motion carried unanimously. REP. RICE will carry SB 1 on the House floor.

EXECUTIVE ACTION ON HB 90

Motion/Vote: REP. CLARK MOVED TO TAKE HB 90 OFF THE TABLE. Motion failed on a 9-9 tie vote with REPS. BROWN, TOOLE, BROOKE, WINSLOW, MCCULLOCH, RUSSELL, BIRD, WYATT and RICE voting no.

ADJOURNMENT

Adjournment: 11:00 a.m.



REP. RUSSELL PAGE, Chairman



BETH MIKSCHKE, Secretary

RF/bcm

## HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

1-15-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes		✓	
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993

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CS-09

HOUSE STANDING COMMITTEE REPORT

January 15, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that  
Senate Bill 1 (third reading copy -- blue) do pass .

Signed: \_\_\_\_\_  
Russ Fagg, Chair

*Phil [unclear]*  
1/15/93

HOUSE STANDING COMMITTEE REPORT

January 15, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that  
Senate Bill 14 (third reading copy -- blue) do pass as amended

Signed: \_\_\_\_\_  
Russ Fagg, Chair

And, that such amendments read:

1. Page 1, lines 16 and 17.

Strike: "of any" on line 16 through "lead" on line 17

*GH*  
*11/13/93*



SB 14  
January 15, 1993

**Testimony presented by Pat Graham, Dept. of Fish, Wildlife & Parks  
Before House Judiciary Committee**

The Department of Fish, Wildlife & Parks supports allowing a child under 14 years of age to use a firearm when accompanied by a person who is authorized to do so by the child's parent or guardian. Currently that person would have to obtain power of attorney in order to take the child hunting.

We think it is vitally important to Montana's hunting heritage that the sport of hunting be passed on to the state's youth. We are actively encouraging sportsmen and sportswomen to consider taking along a boy or girl who would not otherwise have the opportunity to spend a day afield.

The spirit of this bill is in concert with the spirit of that goal. Yet, we believe children just learning to handle firearms and coming to understand the art of hunting need adult mentors who can impart their experience in a mature and meaningful fashion.

EXHIBIT # 2  
DATE 1-15-93  
SB 1A

PROPOSED AMENDMENT TO SB 14  
FIRST READING (WHITE) COPY

1. Title, line 7.  
Following: "ACCOMPANIED BY"  
Strike: "A PERSON"  
Insert: "AN ADULT"
2. Page 1, line 20.  
Following: "other"  
Strike: "person"  
Insert: "adult"

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

JUDICIARY COMMITTEE SEN/BILL NO. 1A  
DATE 1-15-93 SPONSOR(S) SEN. BERNIE SWIFT

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
JEAN JOHNSON, Ex Dir	OUTDOORS & GUIDES ASSOC	X	
PAT GRAHAM, Dir. Sec.	FWP	X	

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