

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By Senator Rea, on January 27, 1993, at 1 p.m.

ROLL CALL

Members Present:

Sen. Jack "Doc" Rea, Chair (D)
Sen. Francis Koehnke, Vice Chair (D)
Sen. Gary Aklestad (R)
Sen. Tom Beck (R)
Sen. Jim Burnett (R)
Sen. Gerry Devlin (R)
Sen. Mike Halligan (D)
Sen. Bob Pipinich (D)

Members Excused: None

Members Absent: Sen. Forrester, Sen. Bruski-Maus

Staff Present: Doug Sternberg, Legislative Council
David Martin, Committee Secretary

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

Committee Business Summary:

Hearing: HB 58
Executive Action: None

HEARING ON HB 58

Opening Statement by Sponsor:

Rep. Keller, HD 83, referred to an article in a Kalispell newspaper from last year in which a rancher had to pay over \$800 in damages after shooting a dog that was chasing livestock in his corral. These shootings happen often but luckily have not been brought to suit.

A wording change is necessary to include the word "harass". Dogs that harass cattle can cause injury or stress to livestock. Rep. Keller said HB 83 did have some difficulty in the House due to the highly emotional nature of the topic.

The House Committee defined the word "harass" using Colorado law as a basis. "Harass" refers to when dogs worry, chase, or run after livestock leading to subsequent injury. The word "worry"

is a term used in livestock law in other states including Colorado.

In the event a dog returns to an area and harasses livestock, the owner or a peace officer has 24 hours to kill the dog provided that due process is followed. Should a dog be found on a livestock owner's property, then the dog may only be killed by the agent or his employee. A safety amendment was added to prohibit shooting dogs with people in nearby proximity.

HB 58 should clarify some aspects of the old law. There is also a penalty clause included to compensate for economic loss. Rep. Keller distributed testimony from the House proceedings. (Exhibit #1).

Proponents' Testimony:

Gary Graves, Montana Wool Growers Association and Montana Stock Growers Association supported HB 58. (Exhibit #2).

Stanley Pelton, Rancher, Absarokee, MT supports HB 58. (Exhibit #3).

Dorothy Denning, Rancher, Manhattan, MT supports HB 58 for many of the reasons already testified to. In the past, her ranch has lost up to \$10,000 in a year due to damage by dogs. She showed photographs of livestock destruction to the Committee.

Dave Donaldson, Ranch Manager, supports HB 58. Mr. Donaldson said dogs become repeat offenders once they begin harassing livestock. Not only do the dogs directly injure livestock, but they can cause the livestock to injure themselves through panic. Mr. Donaldson showed photos of actual livestock damage done by dogs that he felt was inhumane. Beyond destruction of livestock, additional expenses are incurred caring for injured animals in the weeks that follow. Mr. Donaldson said this problem occurs when negligent owners allow their dogs to run free.

Gib Goodman, Shepherd, cited an example of two dogs that attacked penned sheep and injured over 24 of them. He stated that much of the problem occurs when animals run at night and feels ranchers need the resources to deal with this problem.

Opponents' Testimony:

Kent Rice, responsible dog owner, voiced general support of the current law but had reservations about certain provisions of HB 58. Mr. Rice said dogs should be held accountable for damage or loss they inflict, which is covered by current law. Perhaps a more appropriate area that should be emphasized is irresponsible dog owners. The owners of the dogs should be responsible for livestock loss/injury. His main concern with HB 58 is the lack of burden of proof. Mr. Rice asked that a definition of

harassment be added to the House version which would pertain to the term "worries". He felt the term "worried" could be too vague and cover too many situations. Mr. Rice gave as an example, a wandering dog that is only crossing property may be viewed as harassing and shot unjustly. Dogs may be unjustly shot by overzealous ranchers under this provision. HB 58 either needs a clear definition of the word "worried" or removal of the word altogether.

Questions From Committee Members and Responses:

Sen. Beck asked Doug Sternberg, Legislative Council, if there was a definition for "worried" in the codes. Mr. Sternberg replied there was not, but the term is found in Colorado and Washington law, for example. "Worried" is used in the HB 58 but is not defined.

Sen. Beck asked Rep. Keller why poultry were not included. He responded poultry are covered in other Livestock Law in another section.

Sen. Koehnke asked Mr. Rice for input on how the bill could be written to prevent innocent dogs from being shot, i.e. a dog just crossing property and not harassing livestock. Mr. Rice again referred to the burden of proof but did not have a concrete suggestion. He would still like to see some kind of language to address irresponsible livestock owners rather than change the bill.

Sen. Devlin commented even if the word worried was removed then dogs would still be shot. Mr. Rice replied that if a dog goes on ranch property and livestock are not killed, injured or damaged, then persons who do not like dogs may be justified in shooting dogs under the term worried.

Sen. Devlin added dogs can sometimes run livestock to death without causing a mark. Mr. Rice said that situation should be covered under the chase language in the bill. He also conceded that dogs will run in packs, even those that would not normally chase livestock individually.

Sen. Beck provided an example of worried. He said a dog might circle a cow with a newborn calf. The cow may become nervous and trample the calf. He also feels that most ranchers would give the dog the benefit of the doubt.

Sen. Beck asked Doug Sternberg if HB 58 reimbursed an owner that has lost livestock. Mr. Sternberg replied Section 402 directly following this section would provide for that. Sen. Beck then asked if formal charges would have to be filed or would the charges be somewhat automatic. Mr. Sternberg replied Section 2, the penalty clause, would provide misdemeanor penalties.

Sen. Halligan asked if HB 58's intent is to kill the dog after the first harassment incident. Bob Gilbert replied yes, because once dogs begin this behavior it is almost impossible to break them of this habit. In nearly all cases, an attempt is made to inform the dog owner of a problem.

Sen. Halligan asked if this problem is related to suburbs. Bob Gilbert responded most occurrences are west of the Continental Divide and involve subdivisions or small acreages.

Closing by Sponsor:

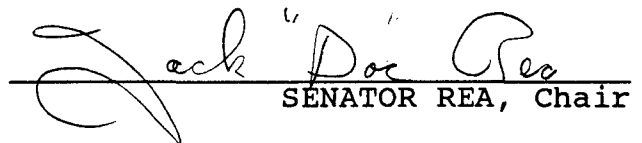
Rep. Keller stated the purpose of the bill is to add the word "harass" to the law. Harassment is ultimately prevented by shooting the dog. "Harass" already exists in livestock law in other states. He quoted Colorado law which is simpler than the proposed legislation here.

Burden of proof provisions were added in the House. Rep. Keller has experienced times when four or five local officials were called in to satisfy that burden of proof. The best proof is to have possession of the animal.

Rep. Keller offered an analogy concerning the concept of responsibility by comparing children and dogs. Since parents are held responsible for the care and whereabouts of their children, then pet owners should be held responsible for their animals.

ADJOURNMENT

Adjournment: The meeting adjourned at 1:45 p.m.


SENATOR REA, Chair

DAVID MARTIN, Secretary

JR/dm

STATEMENT before Senate Agriculture Committee

Montana State Legislature

Jan. 5, 1993

My name is Stephan R. Sherick. I live at 4995 Lower Miller Creek Road, Missoula, Montana. I am President of the Western Montana Sheep Association with a membership of approximately 350 producers. I am here speaking on behalf of HB 58, and with your permission will share some recent experiences with out livestock and uncontrolled dogs roaming free.

On March 22, 1990, two dogs attacked and killed sheep in the corrals and adjacent pasture during lambing season. During a routine check of the sheep by my wife at about 2:00 a.m., she discovered the sheep being attacked. Trying to chase them off didn't work so she came to the house and awakened me for help. I got dressed and took a shotgun and shells, headed for the barnyard where I saw two dogs stalking sheep and a goat. I yelled at the dogs, one growled at me, so I shot it. The other ran toward the sheep; when I turned the flashlight on it and yelled it growled also and I shot it.

Then we examined the sheep and found dead and wounded sheep in the corrals and pasture. I called 911 that dispatched a deputy sheriff. He examined the dogs and took their out of state tags and collars. He also helped sort and load the injured sheep in the trailer. I took the sheep to a veterinarian that sewed and worked on them for three hours.

Later that morning I contacted the county animal control and the brand inspector. Animal control came and picked up the dogs. The following day Animal Control notified me who the owner of the dogs was and where he lived. They told me they had visited with the owner.

Thirty-nine sheep were killed or badly wounded, nine were killed and two have died from complications. Of the dead, two were purebred bucks and the rest were pregnant ewes. The remaining wounded sheep are pregnant and may have complications. This can result in lambing problems, loss of lambs and effects on the wool.

I support enactment of House Bill No. 58.

Thank you very much. If you have any questions, I would be glad to answer them.

TO: Senate Agriculture Committee

FROM: Richard C. Bridges
RR 1 Box 2810
Absarokee MT 59001

DATE: January 2, 1993

RE: Testimony in support of ammending Section 87-7-401 MCA "Allowing for killing of a dog that harrasses livestock."

Sen Ag
Ex #1
1/27/93
HB 58

I ranch north of Absarokee along the Stillwater River. I am the third generation to take my livelihood from this ranch.

A new subdivision was developed across the river from us where people enjoy semi-country living. Since they believe they're in the country, they let their dogs run loose. These dogs cross the river and run my sheep and chase my cattle. I've spent hours at night turning ewes off their backs and hunting in the brush for sheep frightened away from the flock. I've had ewes crippled, torn, and so scared that they cannot eat. It takes these ewes months to completely heal and they do not raise good quality wool or have good lamb production.

The cabin people down the road from us bring their dogs with them on weekends and turn them loose. These dogs have run my cattle through the fences into the neighbor's causing us to spend hours separating cattle and repairing fences. The dogs have also chased my sheep into the poor feed at the far end of the pasture where they remain until the dogs are taken home after the weekend.

Seasonal fishermen along the river turn their dogs loose while they fish and these dogs have chased my sheep and cattle. They have even come into my barnyard to harrass my chickens.

We have also had dog packs run our livestock. One such pack of five has chased livestock into our fence corners.

We need this bill put into law to help control dogs that are destroying our livelihood. Since there are more people in the area every year and, consequently, more dogs, the problem grows and will not go away. Law enforcement also needs this bill to give them authority in dealing with this problem. Please help us.

Richard Bridges

TO: Senate Agriculture Committee

FROM: Ed and Karen Miller
RR 1 Box 2882
Absarokee, MT 59001

DATE: January 2, 1993

SUBJECT: Domestic Predator Control

My name is Ed Miller. My wife and I ranch in southern Stillwater County and operate a family-size cattle and sheep enterprise. My family on both my mother's and father's side have been engaged in animal agriculture in this valley since the late 1880's. Historically, they have stayed with cattle and have been in and out of the sheep business basically due to two factors: economics and predators.

In the beginning predators were assumed to be a part of the cost of doing business. At that time they were dealing with native predators such as wolves, coyotes and bears. The problem today, while still not immune to pressure from these predators, is much amplified with the presence of domestic dogs.

In the past we have done as any livestock person would do when the neighbors dogs were on our property and doing damage, we took care of the problem. Law enforcement people tell us now that we can no longer handle these problem individually and immediately.

This past winter we turned 18 head of mature ewes in a pasture immediately adjacent to our ranch buildings; and in over a period of over six months and numerous dog attacks, there were six ewes left to lamb and shear in the spring. These sheep were being fed daily and were not neglected.

Realistically, we know that we will have more people in our valley and with them will come more dogs. I ask only that legislation considered here today allow us to protect our livestock from these predators when they are on my property. I will guarantee you that when you see dogs in your sheep or cattle, you don't have time to call the authorities. Give us the right to protect our property and then we won't be the culprits in this situation.

Ed Miller

SENATE AGRICULTURE COMMITTEE
JANUARY 27, 1993

SENATE AGRICULTURE
EXHIBIT NO. # 2
DATE 1/27/93
BILL NO. HB 58

HB 58, By Representative Vern Keller/ Senator Cecil Weeding

My name is Gary Graves and I am President of the Montana Wool Growers Association. I raise sheep and cattle on our family ranch north of Roundup. I am testifying today on behalf of our associations members who strongly support HB 58. At our annual meeting in Billings this past December, the membership passed a resolution which led to Representative Keller introducing this bill.

Each year the Montana Crop and Livestock Reporting Service surveys a select number of sheep producers in the state regarding loss to all types of predators including dogs. In 1991, the last year numbers are available a total of 3,500 head of sheep were reported killed by dogs with a value of \$162,000. It would be hard to estimate the number of sheep injured by dog attacks and the subsequent veterinary bills to sew them up and treat them for infections.

The problem of dogs attacking and harassing livestock seems to be growing, likely caused by the expanding city boundaries and subdivisions. It seems that folks want to come to the country but they forget there's responsibility in that move, especially in controlling their dogs. A move to the country doesn't mean you don't have to control your dogs and many counties in our state are struggling with dog leash laws.

When this bill was in the house an amendment was provided for that states the dog causing a problem be on the land of someone else and that the dog is harassing the livestock. Dogs chasing livestock, nipping at them causes a great deal of stress and in times of the ewe being pregnant it causes abortions.

A responsible dog owner will not be adversely affected by this bill. In the majority of cases, the rancher having problems with dog packs has likely spoken to neighbors about keeping their dogs away from the livestock. Speaking for our membership, I feel we should have a legal right to protect our livestock and by passing this bill, the legislature makes that clear.

In closing, I also want to point out that the bill provides for a monetary penalty on the dog owner. In many cases, this penalty will be incentive for people to pay more attention to dogs which are not under their control. I urge you to pass HB 58 and I know there are others here to relate to you their dog problems.

METHODOLOGY and DEFINITIONS

The sheep and lamb survey utilized multi-frame sampling procedures. This involved drawing a random sample from a list of livestock producers maintained by the Montana Agricultural Statistics Service. In addition, sheep producers living in a selected sample of area segments were interviewed. This procedure assures more complete coverage by accounting for and representing those who may not be on the list of producers.

Sheep and lamb loss estimates published by the USDA include sheep losses for the entire year, but include only those lamb losses that occur after docking. This special report includes an estimate of lambs lost before docking as well.

COOPERATION

This study was undertaken at the request of the Montana Wool Growers Association who also provided funding. The Montana Agricultural Statistics Service conducted the survey and expresses appreciation to all cooperating sheep producers.

MONTANA HISTORIC SHEEP and LAMB LOSS

		1985	1986	1987	1988	1989	1990	1991
Sheep & Lambs 1/	000 Hd.	615	523	563	597	600	663	683
Pred. Death Loss	000 Hd.	51.7	42.1	36.7	43.1	35.9	39.1	44.9
Value Pred. Loss	000 Dol.	2,469.5	2,051.1	2,260.5	2,519.7	1,956.4	1,491.1	1,590.0
Non-Pred. Death Loss	000 Hd.	59.8	72.1	79.8	84.7	80.8	79.9	83.5
Value Non-Pred. Loss	000 Dol.	2,704.6	3,437.9	4,825.4	5,115.3	4,264.8	3,586.1	3,179.6
Unknown Death Loss	000 Hd.	15.5	17.8	20.3	22.2	24.3	14.0	13.6
Value Un-known Loss	000 Dol.	776.1	920.0	1,343.0	1,386.6	1,405.0	659.8	550.4
Total Death Loss 2/	000 Hd.	127.0	132.0	137.0	150.0	141.0	133.0	142.0
Value Death Loss 3/	000 Dol.	5,950.2	6,409.1	8,428.9	9,021.6	7,626.2	5,737.0	5,320.0

1/ On farms and ranches January 1. 2/ For entire year. 3/ Lamb values equal to market year average price received for lambs applied to an average weight of 60 pounds per lamb. Sheep value equal to January inventory value Ewes 1+, straight average 1991 and 1992.

SENATE AGRICULTURE

EXHIBIT NO. 3

DATE 1/27/93

BILL NO. HR 58

To: Senate Agriculture Committee

From: Stanley L. Felton
RR 1 Box 2820
Absarokee, MT 59001

Date: January 1, 1993

Re: Testimony in support of amending Section 87-7-401 MCA,
"Allowing for the killing of a dog that harasses livestock."

Let me first introduce myself, I am Stanley L. Felton of Absarokee MT. I operate a ranch based just north of Absarokee with small leases and deeded holdings in South Central Stillwater County as well as Northern Carbon County. Our enterprize base is currently a cow-calf operation but in the past has included sheep. Part of the leases of our operation are family holdings of which I am a member of the fourth generation.

I would like to appeal to you for support of the measure you have before you. Having had numerous experiences with dog problems in the past sixteen years, I have sought solutions through law enforcement and legal council only to be advised that Section 81-7-401 MCA does not address problems of livestock being harassed which often times creates a very real economic hardship to livestock owners in terms of lack of gain, conception rates being diminished or fences being destroyed by fleeing livestock. Yet another aspect to be considered is how humane is it to allow dogs to harass demesticated livestock who by restriction of fences and habitat can not adequately defend themselves. Even worse, since dog problems become a very emotional issue, livestock owners actions are severly restricted under current statute.

While restitution for dog damage, in my experience, is seldom an achieveable end the changes proposed in this legislation would allow the livestock producer in this state to protect his economic livelyhood. I firmly believe this proposed change will also act as a deterant to the owners of chronically neglected dogs as well as those incidental problem dogs. It will also have a positive impact on an already overburdened rural sheriff departments time by reducing the number of calls for help in nuisance dog cases involving livestock. The calls not only involve time but stress to the sheriff's staff when they become mediators in this emotional situation.

In searching my soul and viewing these changes as a dog owner, I do not find the changes offensive. I, too, have a canine who not only earns her keep each day as a stock dog but also is friend, companion and protector of each of our family members. I do find offensive, dogs who wander at will in groups and tempt otherwise peacefull and useful dogs into the chase. This problem would also be deterred by implementation of these changes.

I would like the indulgence of this group in allowing me to describe some incidences that have happened to me over the last sixteen years wherein implementing the word "harrassing" into this act would have been an aid. These incidents are listed chronilogically. Also let me preface these examples by stating that most occured near subdivisions or the Stillwater River or both.

1) Dogs run a small group of sheep in river at night. The temperature was extremely cold. None of the animals were killed outright but four were frozen in that river. End result was frozen feet and legs which caused permanent laminitis over time and eventual loss of use.

2) Dogs harrassed calving cows at night in lots and sheds located away from home base. Resulting in agitated cows, torn up corrals, and trampled calves. It is very difficult to prove these dogs were indirectly killing these calves. Had harrassment been included in the statute, witnesses were available and an officer could have acted.

3) Dogs were seen by neutral witnesses chasing cows from a single water source during the winter. This was a man-made self waterer which would handle two to four cows at a time in a single location. The result was an extremely agitated herd of cows that performed very poorly all winter. There were no deaths, because these cows would water at night when the dogs were housed.

4) I have had cattle run through fences on a recurring basis. Not only weaned calves but adult cattle as well.

5) We have had dogs that would prevent cattle and sheep from utilizing hay fed to them during the winter months. Not a continual problem, but one that was totally unnecessary, hard to resolve and a pure game for the dog involved.

6) An ever increasing incidence of campers along our scenic rivers who turn their dogs loose and result in cattle and sheep being run or at least intimidated from grazing certain areas of a pasture. This is economic harrassment!

7) Most recently river floaters, whom also fish with dogs, can legally embank below high water lines to fish. They in turn allow dogs to run loose spooking cows and young calves through fences during the spring calving season!

Change always is difficult. Time dictates need for change in respect to this act. As my examples clearly have shown, with demands of recreation, the need for land by the populace and their dogs, and the need of livestock entrepreneurs to survive we must implement this change so we can peacefully coexist. Thank you for your time. I ask you to please give full and complete consideration to this measure.

DATE 1-27-93

SENATE COMMITTEE ON AGRICULTURE

BILLS BEING HEARD TODAY: HB 58

Name (Please Print)	Representing	Bill No.	Check One Support Oppose	
Stanley L. Pelton	self	HB58	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gib Goodman	self	HB58	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dave Donaldson	self	HB58	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DOROTHY DEWECKE	SELF	HB58	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gary H. Graves	MWGA+MSG A	HB58	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bill Myers	APA	HB58	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sheryl Graves	self	HB58	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kent Rice	self	HB58	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Carl Toyne	MWGA/MSCA	HB58	<input checked="" type="checkbox"/>	<input type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY