

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By CHAIRMAN FOSTER, on February 4, 1993, at 3:00
p.m.

ROLL CALL

Members Present:

Rep. Mike Foster, Chair (R)
Rep. Chase Hibbard, Vice Chair (R)
Rep. Bob Ream, Minority Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Bob Clark (R)
Rep. Fritz Daily (D)
Rep. Jim Elliott (D)
Rep. Duane Grimes (R)
Rep. Marian Hanson (R)
Rep. Dick Knox (R)
Rep. Bea McCarthy (D)
Rep. Brad Molnar (R)
Rep. Scott Orr (R)
Rep. Bill Ryan (D)
Rep. Emily Swanson (D)
Rep. Doug Wagner (R)

Members Excused: None.

Members Absent: None.

Staff Present: Doug Sternberg, Legislative Council
Mary Riitano, Committee Secretary

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

Committee Business Summary:

Hearing: HB 313, HB 338, SB 58
Executive Action: SB 58, HB 341

HEARING ON HB 338

Opening Statement by Sponsor:

REP. BOB REAM, House District 54, Missoula, stated illegal trade of wildlife, disease problems, importation of exotic species (those that are not native to Montana), hybridization between the species, and health concerns for rancher's livestock were the major concerns he had when he carried a game farm bill two years

ago. It began placing restrictions and tightening controls on game farming. Game farms are jointly managed by the owner and the Department. HB 338 is the result of the rulemaking process at the Department and a committee appointed by Governor Stan Stephens. Section one defines the specifications for a game farm. Section two defines penalties and the seizure of illegally possessed animals. Section three updates the application procedure for licenses. Section four is a new section and explains the criteria for issuance of license and fencing requirements. Section five sets the annual fee at \$200. Section six defines specifications for transferring a game farm license. Sections 12 and 13 set forth the procedures for revocation of game farm licenses. He felt that HB 338 is a compromise.

Proponents' Testimony:

Mr. Cork Mortensen, Executive Secretary for the Board of Livestock, distributed written testimony (EXHIBIT 1). He also distributed a proposed amendment (EXHIBIT 2).

Mr. Pat Graham, Director for the Fish, Wildlife, and Parks Department, circulated his written testimony (EXHIBIT 3). He also distributed a Guide to HB 338 (EXHIBIT 4).

Mr. Dave Majors, Montana Wildlife Federation, urged support for HB 338 and distributed written testimony (EXHIBIT 5).

Mr. Ron Bennett, Montana Wildlife Federation, felt the fees for game farms should be higher and there should be stiff gate protection regulations. Game farms owners should be held responsible for all studies and the expenses related to escaped game farm animals. Broken fences should be mended within 24 hours. In his opinion, penalties for operating a game farm without a license should result in felony charges rather than misdemeanor charges. He declared he was a proponent; however, he felt the language of HB 338 should be more direct, severe, and unquestionable.

Ms. Janet Ellis, Montana Audubon Legislative Fund, presented written testimony (EXHIBIT 6).

Mr. Gutkoski, Montana Wildlife Federation, presented written testimony (EXHIBIT 7).

Ms. Jan Hamer, Montana Bowhunters Association, asked for the committee's support of HB 338.

Mr. Tony Schoonen, Skyline Sportsman Association, offered written testimony in support of HB 338 (EXHIBIT 8).

Mr. Les Graham, Montana Breeders Association, declared the organization's support of HB 338. He said currently two herds of elk are left under quarantine regarding tuberculosis testing. One herd will probably be removed. Some concerns regarding

disease were not included in HB 338 because they are in the Department of Livestock statutes. The state veterinarian has authority, if he decides there is a serious threat, to take action.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. CHASE HIBBARD asked Mr. Les Graham what the regulations are regarding game being imported into the state for game farms. Mr. Graham explained the Department of Livestock statutes do not differentiate between the type of animals. If any animal poses a threat, they are handled in the same manner. Currently, any elk coming into the state are held in quarantine to be tested for disease.

REP. BRAD MOLNAR asked Mr. Pat Graham why the license fee for game farms was so low and why the Department plans on subsidizing the industry \$40,000 in 1994 and \$14,000 in 1995. Mr. Graham said that there were several areas through their deliberation process which were not addressed. The license application and renewal fees needed more study. The industry agreed to a small increase. The Department has not been keeping track of when and how new legislative rules are implemented. It was difficult to reach a decision whether the size of farm or number of animals should be the main factor in determining fees. REP. MOLNAR asked why there was a drop of \$30,000 in one year. Mr. Graham said that the costs reflect the involvement in the rulemaking process, development of rules, public hearings, etc. The second year reflects their best estimate of the annual operating costs. REP. MOLNAR asked if the monitoring program will cost \$13,000, how much will licenses increase. Mr. Graham said that he didn't know.

REP. DICK KNOX asked Mr. Pat Graham what varieties of wildlife live on a game farm. Mr. Graham replied red deer, sika deer, and elk. During the last legislative session, the Department identified animals that posed threats for hybridization and banned them in the state or in certain parts of the state. Some of the banned species still exist on game farms. REP. KNOX inquired what the regulations the Department had regarding the sale and disposition of the banned animals and if they could be sold to residents. Mr. Graham said that he did not believe so. The Department would not license a game farm that does not currently have them so they could possess them. REP. KNOX asked if a game farm owned a banned animal, could they sell it. Mr. Graham said no, unless they have a license. REP. KNOX asked if they could be sold out-of-state. Mr. Graham said yes.

REP. BEA MCCARTHY asked Mr. Pat Graham why reindeer were not allowed west of the divide. Mr. Graham stated there is a limited

number of caribou that abide in the northwest corner of the state. It has been considered an endangered species and is not allowed west of the divide because of its disease problems.

REP. DOUG WAGNER asked **Mr. Pat Graham** if shooting an animal on a game farm is currently allowed. **Mr. Graham** said yes but it could not be removed. The tag issued is a special tag for game farms. The livestock procedure is used for transferring an animal. **REP. WAGNER** inquired if wolves are considered. **Mr. Graham** explained that wolves are not a game farm animal.

REP. EMILY SWANSON asked **Mr. Pat Graham** how much documentation exists on the capture of live animals. **Mr. Graham** replied investigations of some problems in that area are taking place. **Mr. Les Graham** said that he could not discuss it fully. If he were aware of someone breaking this law, he would turn the person in. **REP. SWANSON** asked if there were prior cases on record. **Mr. Graham** said that there are prior cases on record, and they date back to the 1970's. Attempts to prosecute have been made.

REP. BOB CLARK asked **Mr. Pat Graham** if bird farms have as strict regulations or do they pose the problem that big game farms do. **Mr. Graham** said that bird farms are covered under a different set of statutes. The problems are different. Zoo menageries are similar in regulations to game farms and they need to be reviewed.

REP. WAGNER asked why there is an immediate effective date. **Mr. Pat Graham** explained that due to the nature of the new criteria being put on the licensing, that it would be covering all game farms including those not yet being proposed. It would eliminate the Department receiving a flood of applications prior to the effective date. **REP. WAGNER** asked if it could just be placed on hold. **Mr. Graham** said that the current law is very specific. Within 30 days of the receipt of the game farm application, a permit must be issued.

REP. KNOX inquired how escaped animals were caught. **Mr. Pat Graham** replied that it was covered in the game farm rules. The owner is given a short period of time to recapture the animal before the Department takes action.

REP. CLARK asked **Mr. Pat Graham** if a hunter can shoot a hybrid if he comes upon it and then call a warden. **Mr. Graham** said that it would not be proper to shoot it because the hunter does not have the authority to do so. **REP. CLARK** directed the question to **Mr. Les Graham**. He agreed with **Mr. Pat Graham**. Elk in Montana have been tested. Red deer have been identified. The problem will come under control due to the rules.

CHAIRMAN MIKE FOSTER asked **Mr. Les Graham** for his response regarding the amendments distributed by the Montana Audubon Legislative Fund. **Mr. Graham** stated he did not have a chance to look them over. He said that perhaps it would be a good idea to

standardize the language. He stated, however, that he supported the bill and the amendment proposed by the Department. **Mr. Pat Graham** explained that the first amendment would not change the intent of HB 338. The proposed second amendment changes "big game" to "game animal." The reason "big game" was used is because of the fencing requirements. The third proposed amendment deals with the cost of licensing and that topic has been addressed. The fourth proposed amendment is in regard to the word "unacceptable." He said that the word is used as a value term and could be further defined in rulemaking. The fifth proposed amendment poses a question regarding the terms of a license. **Mr. Graham** explained there is a separate section for revocation. The Department felt that it was not appropriate to decide whether or not a license should be revoked in the license renewal process. The sixth proposed amendment could be clarified by referring to page 10, subsection (e). The Department's intention was transferring the license from individual to individual. The seventh proposed amendment questioned whether the \$1,000 is per penalty or per day. **Mr. Graham** stated that it was per penalty. Finally, the eighth proposed amendment addresses the possibility of the public's involvement in the issuance of a game farm license. The public's involvement is outlined on page five, subsection (3) which states, "Within 120 days of the acceptance of a complete application, the Department shall notify the applicant of its proposed decision to approve." The public may be involved in the Environmental Impact Study.

REP. WAGNER asked **Mr. Graham** when an Environmental Impact Study (EIS) is required. **Mr. Graham** said that the Environmental Assessment Process (EA) helps determine if a EIS is required. A mitigated EA allows the person requesting the license to take care of concerns the EA finds. The expenses for an EA are paid for by the Department. **Mr. Bob Lane, Fish, Wildlife, and Parks Department** explained that the statutes and rules provide that the cost of an EIS is paid by the applicant.

REP. SWANSON asked **REP. REAM** what was given up in HB 338. **REP. REAM** stated that there were several issues not dealt with due to lack of time or lack of consensus.

Closing by Sponsor:

REP. REAM stated that his major concerns are the exotic species and the hybrids coming into Montana. He felt that good controls must be maintained on them.

HEARING ON HB 313

Opening Statement by Sponsor:

REP. BEVERLY BARNHART, House District 80, Bozeman, stated that HB 313 provides out-of-state college students with an opportunity to purchase a fishing license for approximately the same price as a Montana resident. She presented a letter supporting HB 313 from

Mr. Leroy Schramm, Chief Legal Counsel for the Montana University System (EXHIBIT 9).

Proponents' Testimony:

Mr. Robert VanDerVere, Citizen, declared HB 313 was a good bill for all those involved. He urged passage of the bill.

Mr. Jim Richard, Montana Wildlife Federation, said that HB 313 would result in only a small loss of revenue for the Department. He thought it was good idea to support the college students and give them a chance to experience fishing in Montana.

Mr. Joe Gutkoski, Montana Wildlife Federation, presented written testimony (EXHIBIT 10).

Mr. Tobin Morse, University Student, declared he was a student from South Dakota attending Montana State University and that he supported HB 313. He stated that the natural beauty in Montana could be explored by the students and the Department would not experience a major loss of revenue.

Opponents' Testimony:

Ms. Jan Hamer, Citizen, explained her concern with having the students want a big game license if this bill was passed.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. FRITZ DAILY asked REP. BARNHART how many nonresident students are at Montana State University. REP. BARNHART said that there were 5,100 nonresident students in all of the universities.

REP. MOLNAR asked Mr. Pat Graham if the committee could legally choose one group of nonresidents and not another group. Mr. Graham said that he believed the military received the same privilege. Other states have similar provisions.

REP. JIM ELLIOTT asked REP. BARNHART if a special rate has been discussed by the Department for the licenses. REP. BARNHART said that she would not be opposed to the idea. It is an easier route to introduce the bill and place an amendment to deal with the cost.

REP. ELLIOTT asked Mr. Pat Graham about the special license issuance class. Mr. Graham said that another license would need to be created due to the concerns of the hunting license. REP. ELLIOTT asked Mr. Graham if the Department currently had the authority to do so. Mr. Graham said he did not believe so. Another class of license would need to be created with legislation. REP. ELLIOTT stated that in order to enact this

legislation it would need to be amended. **Mr. Graham** said yes.

CHAIRMAN FOSTER asked **Mr. Graham** if there were additional comments he would like to make regarding HB 313. **Mr. Graham** said that because of the residency requirements, the licenses would only be sold at the regional headquarters.

CHAIRMAN FOSTER asked **REP. BARNHART** how the license would be issued to students. **REP. BARNHART** replied that a student must be able to demonstrate that he/she is attending college full-time or has been a full-time student for some portion on the year. It would apply to the entire season.

Closing by Sponsor:

REP. BARNHART thanked the committee for the hearing and closed on HB 313.

HEARING ON SB 58

Opening Statement by Sponsor:

SEN. BERNIE SWIFT, House District 32, Hamilton, stated he felt SB 58 was a straightforward bill. The game commission will be given the authority to set special areas and special arms for a hunting area. Minors will be given a broader opportunity to hunt. Ownership of an animal is more clearly defined. After a hunter tags the animal, he owns it. Hunter interference laws will be strengthened.

Proponents' Testimony:

Mr. Gary S. Marbut represented several organizations. SB 58 will revise the process the Department uses to restrict hunting in certain districts to muzzle loaders and shotguns. The organizations **Mr. Marbut** represented would like to see handguns included on the list. On page two, line seven, **Mr. Marbut** stated he would like archery to be included. The language of the current law will be updated by the passage of SB 58. Questions have been raised regarding who owns an animal once it has been tagged. Ownership is clarified in section three. People guilty of hunter harassment will be charged with misdemeanor penalties. If it occurs more than once, the person will face additional penalties. He urged support of SB 58.

Mr. Pat Graham, Director of Fish, Wildlife, and Parks, distributed written testimony (EXHIBIT 11).

Mr. Alfred Elwell, Citizen, stated he would like to know why handguns were not allowed when shotguns were. Handguns have no more range than shotguns. SB 58 deals with the harassment of hunters. **Mr. Elwell** hoped that the penalties imposed on those who harass hunters will help stop the problem. He felt it is a major misdemeanor.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor:

SEN. SWIFT thanked the committee for its time. He had no disagreements with the proposed amendment. He preferred the term "archery" rather than "bow and arrow." SEN. SWIFT would appreciate passage of SB 58.

Announcement:

CHAIRMAN FOSTER asked what the committee had decided on REP. GILBERT's idea regarding a committee bill for a blind person hunting with a laser scope with a person standing behind him. The committee decided not to pursue the issue.

EXECUTIVE ACTION ON SB 58

Motion: REP. CLARK MOVED SB 58 BE CONCURRED IN.

Discussion:

Mr. Sternberg stated the term "bow and arrow" is consistent with the current license language.

Motion: REP. ELLIOTT MOVED THE AMENDMENT DO PASS.

Discussion:

REP. WAGNER asked Mr. Sternberg if the term "archery" was used in Department regulations. Mr. Sternberg said that it was possible. He is attempting to keep the statutory language consistent.

REP. REAM asked Mr. Graham to respond to REP. WAGNER's question. Mr. Graham said that Mr. Sternberg was correct.

Vote: AMENDMENT DO PASS. Motion carried unanimously.

Motion: REP. ELLIOTT MOVED SB 58 BE CONCURRED IN AS AMENDED.

Vote: SB 58 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON HB 341

Motion: REP. CLARK MOVED HB 341 DO PASS.

Discussion:

REP. MOLNAR stated he would like an amendment which would address the walleye fishermen's and taxidermist's concerns. Mr.

Sternberg said that there was a suggestion for an amendment. This would be a policy decision for the committee on whether to exempt transport of walleye. HB 341 covers any live fish. On line 11, following bait, inserting "or fish possessed or transported specifically for mounting by taxidermists or for later filleting away from the body of water" may be a consideration.

CHAIRMAN FOSTER asked **REP. MOLNAR** to work on the details of the amendment with the Department and **Mr. Sternberg**. **Mr. Graham** explained work was being done on alternatives, including adjusting the filleting regulations.

Motion: **REP. CLARK WITHDREW HIS MOTION.**

ADJOURNMENT

Adjournment: 5:20 P.M.



REP. MIKE FOSTER, Chair



MARY RIITANO, Secretary

ML/MR

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HOUSE STANDING COMMITTEE REPORT

February 5, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Fish and Game report that Senate Bill 58 (third reading copy -- blue) be concurred in as amended .

Signed: Mike Foster
Mike Foster, Chair

And, that such amendments read:

Carried by: Rep. Vogel

1. Page 2, line 7.

Following: "ARMS"

Insert: ", including bow and arrow,"

-END-

Committee Vote:
Yes 11, No 0 .

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EXHIBIT 1
DATE 2/4/93
HB 338

HB 338

Mr. Chairman and members of the committee, for the record my name is Cork Mortensen, executive secretary to the Board of Livestock. On behalf of that Board I rise here today in support of this legislation.

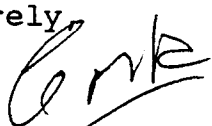
The Department of Fish, Wildlife and Parks, representatives from the game farm industry and the Department of Livestock have had a number of meetings during the past year and have arrived at a consensus on what we believe to be a workable piece of legislation.

The result in front of you addresses the concerns of the regulatory agencies involved as well as maintains the viability of the game farm industry. The Chairman of the Board of Livestock chaired this committee and he is pleased with the way this proposed legislation came out.

For those reasons, I urge you on behalf of the Board of Livestock to support this bill.

Thank you for your time and consideration in this matter. If you have any questions or need more information, I should be happy to respond.

Sincerely



E.E. "Cork" Mortensen, Executive Secretary
To the Board of Livestock

EXHIBIT 2
DATE 2/4/93
HB 338

House Bill 338
Representative Bob Ream, Sponsor

Amendments Prepared by Lon Mitchell,
Staff Attorney for the Department of Livestock
February 4, 1993

Page 10, line 15
Following: "of livestock"
Strike: "and the department"

EXHIBIT 3
DATE 2/4/93
HB 338

HB 338
February 4, 1993

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

The game farm issues that Montana has been addressing in recent months are not unique to our state - they are regional, national, and even international in scope. The Department of Fish, Wildlife & Parks has focused its attention on several biological issues, namely: 1) introduction of diseases/parasites, 2) hybridization, leading to genetic pollution of native wildlife species, and 3) habitat degradation as a result of feral populations of escaped game farm animals. These concerns are not based on unfounded fears or speculations. These scenarios have played out elsewhere, resulting in permanent, irreversible damage to wildlife resources. In addition to biological considerations, there are other issues related to game farming, including criminal activities prompted by a lucrative market in live wildlife - as well as certain animal parts.

As public servants charged with protecting and perpetuating the state's wildlife resources, we take very seriously our responsibility to prevent these problems from occurring in Montana. It became clear about two years ago that existing statutes were inadequate, especially in light of regional and national growth in the game farming industry. About 15 months ago, at the direction

of HB 556 passed by the 52nd legislature, Fish, Wildlife & Parks initiated an effort to update outmoded game farm rules and statutes.

Like many of our sister states, responsibility for regulating operation of game farms in Montana is shared by the state's wildlife agency and its livestock agency. Within the past year, the Department of Fish, Wildlife & Parks has increased efforts in its areas of responsibility and the Department of Livestock has assumed new regulatory responsibilities. Joint adoption of new rules last spring by Fish, Wildlife & Parks and the Department of Livestock constituted the first step in providing needed protection for Montana wildlife resources and the livestock industry.

Last summer Governor Stephens directed his staff to appoint a working group on game farms. This group was directed to address major game farm issues; to try to come to agreement on how to address them; and develop legislation to be presented to the 53rd legislature. We at Fish, Wildlife & Parks are pleased that a group representing diverse interests could make such significant progress in addressing problems of major importance. We believe that this bill, the product of that group's deliberations, gives both our agencies the tools necessary to effectively regulate this industry. We also believe that this legislative package benefits the game farming industry by clearly defining minimum operating standards.

Due to the complexity of game farm issues, background information is included along with my testimony. For the sake of time, I will touch only briefly on the highlights of this bill:

- Section 1: Deletion of the shooting license (carcass tag issued by FWP) - which has been replaced by an inspection certificate issued by a DOL brand inspector (also mentioned in Sections 7 and 16). Thus the shooting tag requirement no longer serves any purpose. The reasons for this change include: 1) misuse of game farm shooting tags to harvest wild animals and 2) conformation with DOL inspection procedures for domestic livestock.

- Section 3: Outlines a process for review of game farm license applications, outlining FWP procedures in handling of applications and providing for MEPA compliance in FWP decisions regarding licensing.

- Section 4: Outlines qualification criteria for issuance of a game farm license - for both the license applicant and the physical location of the proposed game farm. It also grants the license applicant an opportunity for review of his/her application by the FWP Commission.

- Section 6: Provides for transferability of a game farm license if both the transferee and the facilities meet certain criteria.

- Section 7: Provides for marking of individual game farm animals. The new rules provide for an ear tattoo registered by DOL to indicate animal ownership and a FWP ear tag that facilitates identification of individual game farm animals.
- Section 8: Procedures for transportation and sale of game farm animals were rewritten to conform with DOL procedures, replacing FWP paperwork requirements with inspection by a DOL brand inspector.
- Section 10: Increases required game farm reports from one per year to 3 times per year. This is intended to clear up some long-standing problems with record keeping and reporting requirements. It doesn't triple the needed paperwork...rather, it requires that 1/3 of the currently required paperwork be submitted at the end of each of 3 reporting periods.
- Section 12: Outlines criteria for revocation of a game farm license and outlines a range of disciplines for various violations (providing some middle ground between no action and revocation). Existing statutes are inadequate for FWP to revoke the license of a proven bad operator. Revocation is a means to address problems of concern both to regulators and to the game farming community.
- Section 13: Outlines steps to be followed in a license revocation.

- Section 15: Provides a license applicant with an opportunity for a hearing in cases of license revocation, denial of renewal, or denial of a license transfer.

A GUIDE TO HB 338

COMPILED BY
MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS

In July 1992, Governor Stephens directed his staff to appoint a working group to address and resolve controversial game farm issues. In addition to addressing problems pertaining to regulation of the game farm industry, the group was directed to develop needed legislation. The working group on game farms was comprised of Wayne Phillips (Gov.'s office), Jack Salmond and Jim Hagenbarth (Board of Livestock), Bill Fraser, who was replaced by Cork Mortensen (as Executive Secty., Dept. of Livestock), Elaine Allestad and Bill Stratton (FWP Commission), Pat Graham (deputy director, FWP), Les Graham and Ward Swanser (Mt. Game Breeders Assoc.), Dave Majors (MT Wildlife Federation) and Bob Ream (state representative). Personnel from FWP and D. of Livestock served as staff to the working group.

The game farm working group successfully reached consensus on solutions to a number of major game farm problems and agreed on proposed legislation to address those issues. This summary is intended to facilitate review of HB 338 - which, pending a minor change in Section 7, is the product of deliberations of the game farm working group.

HIGHLIGHTS OF HB 338

SECTION 1. 87-4-406. Definitions.

(2) Definition for "facilities" added, to encompass perimeter fences, holding, handling and quarantine facilities.
(old 5) -Deleted- because game farm shooting licenses (carcass tags provided by FWP at a cost of \$15 apiece) will be replaced by a certificate of inspection issued by a D. of Livestock brand inspector.

SECTION 2. 87-4-407. License required -- penalty -- seizure.

(2) Clarifies that operation of an unlicensed game farm and possession of, or trade in prohibited animals are violations.
(3) provides for seizure and disposition of illegally held animals.

SECTION 3. 87-4-409. Application for license -- limitations....

(1) "on forms provided" clarifies that application for a game farm license is to be made on a FWP form.
(1)(c) "the name and address of the individual who will be the principal manager of the game farm" - provides a contact person who is responsible for the actual operation of the game farm (especially important in cases of corporate ownership and where the license applicant is located in another state).

(1)(f) in addition to fences, the term "facilities" includes gates, quarantine, holding and handling enclosures. The "location of perimeter fencing" (legal description, plotted on a topographic map or drawn on a scale map) is information that is prerequisite to evaluating the application.

(old 2) - deleted - (replaced by criteria in NEW SECTION 4).
(new 2, a&b) outline the procedure for review of game farm license applications and requires that the department determine within an initial 30-day period whether an application contains all the information needed for evaluation.

(3) the existing 60 day application review period is replaced by 120 days to provide adequate time for MEPA compliance (completion of an environmental assessment). A provision for an additional 180 days is included for the occasional cases that require an EIS for MEPA compliance. The provision to "approve with stipulations" provides a middle ground...rather than limiting decision on a license application solely to approval or denial. "And approval" of fencing added to reflect current practices.

NEW SECTION 4. Criteria for issuance of license - fencing and enclosure requirements.

(1 a - d) outline qualification criteria for a game farm license applicant.

(2 a - e) outline criteria for issuance of a game farm license.

(3a - d) outline criteria for denial or stipulations based on site-specific wildlife and habitat factors (modification of Colorado's language).

(3)(e) addresses public safety hazards related to shooting on the game farm premises.

(4) In the event that FWP proposes to deny or to issue a game farm license with stipulations, the applicant is provided an opportunity to propose mitigation measures, to be considered in the final decision.

(5) provides for commission review of the department's proposed decision regarding a game farm license application.

SECTION 5. 87-4-411. License and renewal fees.

Application and renewal fees were increased with the intention that license fees be studied further to ascertain appropriate cost and whether license fees should be prorated on the basis of acreage or total number of game farm animals...or some other basis. As part of further study of the issue, FWP was asked to begin maintaining record of the costs of administering game farm regulations.

SECTION 6. 87-4-412. Term of license - transferability.

(1) License renewal is contingent on compliance with records and reporting requirements.

(2a-c) provides for transferability of a game farm license if the transferee meets criteria outlined in Section 4(1); the facilities

are in compliance with requirements in effect at the time the original license was issued; and if the game farm is not quarantined - with the stipulations that prohibited species cannot be transferred with the game farm license and the transfer is not used as a means to evade requirements imposed on the licensee.

SECTION 7. 87-4-414. Game farm animals as private property.

(1) "raised" replaced with "possessed"; "property of the licensee" deleted to eliminate the perception that joint ventures are prohibited - and replaced with "for which the game farm licensee is responsible as provided by law" - to clarify that regardless of who owns individual animals on the premises, the licensee is ultimately accountable and responsible for them.

(2) "and in any manner" -deleted- as unnecessary and contradictory to other provisions of the statutes and rules.

(3) provides for marking game farm animals to facilitate animal ownership and individual animal identification

(old 4) deleted "game farm shooting license" (carcass tag) -- which is no longer necessary due to implementation of tattoo inspections by D. of Livestock.

(new 4) Game farm animals must be lawfully acquired by the licensee.

SECTION 8. 87-4-415. Transportation and sale of game farm animals - quarantine.

(old 1) and (old 2) replaced with language that conforms with D. of Livestock procedures for domestic livestock (including use of DOL brand inspectors).

SECTION 9. 87-4-416. Sale of game parts, meats and byproducts.

Changed to conform with D. of Livestock procedures (including use of DOL brand inspectors).

SECTION 10. 87-4-417. Records and Reporting.

Reporting requirements were changed from one report per year to three.

SECTION 11. 87-4-422. Rulemaking.

(1) Provision to accomplish necessary regulatory coordination with DOL.

(2) Several topics added that have been already been addressed through rule-making.

NEW SECTION 12. Revocation of license -- criteria-- penalties.

(1 a-i) outlines criteria for license revocation. The criteria are intended to define licensees who do not conduct their operations in a responsible manner.

(2) includes a distinction between "negligent" and "willful"

misconduct. In situations involving negligence, the licensee will be given notice and an opportunity to remedy the misconduct within 30 days.

(3) lists penalties for misconduct, providing a range of discipline, including revocation (avoids the dilemma of a choice between no discipline and revocation).

(3b) provides for a civil penalty not to exceed \$5,000, restitution for damages caused, or both.

(4) the penalty for a misdemeanor violation of the game farm statutes and rules is set at \$1000 to conform with other fish and game violations.

NEW SECTION 13. 87-4-423. Revocation of license.

(1) - (4) outline a license revocation procedure and a process for disposition of game farm animals in the event of license revocation.

SECTION 14. 87-4-424. Department restrictions on importation of certain species.

Added "habitat degradation or competition caused by feral populations of escaped game farm animals" - (primary reason for importation restrictions on deleterious species such as aoudad, tahr, chamois, wild hogs, etc.)

NEW SECTION 15.

Entitles a license applicant or licensee to notice and an opportunity for a hearing before an impartial hearing examiner under the Administrative Procedures Act upon denial or revocation of a license, denial of renewal, or withholding consent to transfer a license.

NEW SECTION 16. Repeals 87-4-421 Game farm shooting license

Deleted because it has been replaced by D. of Livestock procedures using DOL brand inspectors.

NEW SECTION 17.

Codification Instructions.

NEW SECTION 18.

Effective date is upon passage and approval.

2-4-93
HB-338

OTHER ISSUES CONSIDERED BY THE WORKING GROUP ON GAME FARMS

It was suggested that following passage of game farm legislation during the 1993 legislative session, a working group on game farms should be formulated to accomplish the following: monitor implementation of new statutes and rules; address topics that were deemed to warrant additional study prior to initiating legislative action; and address items that would more appropriately be implemented through rule-making rather than legislation.

**OTHER CONCEPTS BROUGHT UP BY THE WORKING GROUP,
THAT WERE EITHER NOT RESOLVED, OR DEEMED TO REQUIRE FURTHER STUDY**

- The concept of separating game farm licenses into a number of categories or classes to correspond to one or more of the following attributes: 1) primary purpose of the game farm (i.e. commercial, non-commercial), 2) type of operation (breeding stock, antler production, trophy shooting, venison, photography/filming subjects, etc.); 3) acreage; 4) total number of game farm animals; 5) and/or other criteria. FWP will develop an up-to-date data base that documents status quo. (further study)
- A corresponding fee structure (initial license application and renewal) tailored to various types of licenses and commensurate with the relative amount of regulation required for each license type (with fees possibly prorated according to criteria outlined above - or other factors). FWP will track costs incurred in regulation of existing game farms to provide data for further study of this issue. (further study)
- Separate a shooting license (trophy shooting by clients) from a general game farm license (raising of animals for purposes other than shooting), in part to address public safety issues related to shooting on game farms. This might be accomplished through establishment of several categories or classes of game farm licenses. (further study)
- Disposition of the "base number" of wildlife remaining in a new game farm enclosure after all efforts to remove them have failed. (further study)
- Regulation of antler buyers as a deterrent to trafficking in antlers from illegally taken wildlife (further study).
- Eliminating client shooting on game farms altogether (consensus not possible within the working group)
- Imposing importation restrictions on elk from areas where meningeal worm is endemic. (consensus not possible within the working group)
- Federal or state indemnity program to provide reimbursement for game farm animals destroyed due to bovine tuberculosis. (federal program has been proposed)

**ISSUES BROUGHT UP BY THE WORKING GROUP
THAT MAY BE MORE APPROPRIATELY ADDRESSED THROUGH
RULE-MAKING RATHER THAN LEGISLATION**

The following ideas and needed clarifications surfaced during deliberations of the working group. The language presented here serves only to document concepts that were discussed by the group and to serve as a starting point for future consideration of rule-making. At several times during group discussions, it was suggested that rule-making may be necessary to reflect new statutes. Needs for rule-making may become apparent as revised statutes are implemented and administered.

POSSIBLE RULE-MAKING NEEDS:

12.6.1507 DEFINITIONS Add a definition of escaped, something along the lines of the following:

(16) "Escaped" means occurrence of game farm animal(s) outside the confines of the game farm perimeter fence, and beyond control of, or out of sight of, the game farm licensee or his/her agent.

12.6.1512 NEW SPECIES (1) To add a new game farm animal species that was not listed in the original application, and therefore not contemplated in design of the existing game farm fences and other facilities, the licensee must submit a new application listing the species desired.

12.6.1517 ESCAPED GAME FARM ANIMALS

Replace the 10-day stipulation for recapture of game farm animals and replace it with the term "reasonable", to allow FWP and DOL to make arrangements with the affected game farm operator that are commensurate with the degree of threat that the escaped animal(s) poses to wildlife populations or domestic livestock.....wording something like this:

(3) The licensee must recapture or destroy the animals within a reasonable time period, as determined by the department of fish, wildlife and parks or the department of livestock. Determination of an appropriate, "reasonable" time period shall be based on the degree of threat posed by escaped game farm animals to native wildlife populations and their habitats, and/or to domestic livestock.

(4) If the licensee is unable to recapture the animals within the time period set forth by FWP and DOL as reasonable, they may be destroyed.

(6) The department of fish, wildlife and parks or department of livestock may inspect a recaptured animal before it is moved from the holding facility to the pasture from which it escaped.

(7) In instances where the escape of game farm animals has been unreported, the animals can be destroyed immediately

Additional topics that may need to be addressed through rule-making include: 1) "Fleshing out" criteria for denial of, or

Exhibit 4
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HB-338

stipulations to, a game farm license based on site-specific wildlife/habitat criteria; 2) Procedures for disposing of seized animals.

K: 338GUIDE



MONTANA WILDLIFE FEDERATION

P.O. Box 1175, Helena, MT 59624 406-449-7604

1990 Outstanding State Affiliate of the National Wildlife Federation

February 4, 1993

EXHIBIT 5
DATE 2/4/93
HB 338

I am Dave Majors, of Stevensville, here today on behalf of the Montana Wildlife Federation to urge your support of HB 338. During this past year I served as a member of the Governor's Ad Hoc Working Group on Game Farms, together with representatives of the game farm industry; the Department of Fish, Wildlife, and Parks; and the Department of Livestock. The bill presented for your consideration today was formulated by the committee members through a process of consensus.

HB 338 greatly strengthens the ability of the Department of Fish, Wildlife, and Parks to regulate the expanding game farm industry in Montana. This bill sets out specific criteria for the establishment or the expansion of a game farm. In section 4 of HB 338, restrictions are set forth regarding the applicant's prior convictions of fish and game laws within the United States and any felony convictions, unless his/her civil rights have been restored pursuant to law.

This bill will allow the Department of Fish, Wildlife, and Parks to deny or condition a game farm license, if necessary, to protect the public safety, as in the case where a game farm operator intends to harvest his/her game farm animals by shooting. The Department of Fish, Wildlife, and Parks may also deny or restrict a game farm license where there may be substantial loss or destruction of seasonal big game habitat, as traditional breeding, birthing, rearing, and wintering areas; the blockage or disruption of major seasonal migration routes; the unacceptable threat of the transmission of disease or parasites to native wildlife populations; and the unacceptable threat of escape of game farm animals and the establishment of feral populations, which would result in habitat damage, competition with native wildlife, or genetic pollution of our native wildlife species. Our utmost consideration must be the protection of Montana's free roaming native wildlife species.

HB 338 additionally sets out criteria for the revocation of a game farm license and penalties when applicable. This revocation procedure is to be implemented with an appropriate appeal process to protect the game farm operator. One of the key provisions of the penalties outlined in HB 338, is that a game farm operator may be held financially liable for the costs of restoration of any damage to native wildlife.

In conclusion, I would again urge your support for HB 338 as presented today.

Montana Audubon Legislative Fund

Testimony on HB 338
House Fish and Game Committee
February 4, 1993

My name is Janet Ellis and I am here today representing the 2,500 members of the Montana Audubon Legislative Fund. We support this bill and think that it is important to pass this legislation. We do want to see the following concerns addressed before the bill is passed:

1. The definition of a game farm appears on Page 2, lines 4 through 8. Although this is existing statute, we feel that the definition should be changed in the following way:

Page 2, line 6, following "keeping,"
Strike "and"
Insert "or"

2. There are several places where the term "big game" is used. In the definition section of this bill, however, the term defined is "game animal." The term "big game" should be replaced by "game animal" for consistency sake: ~~and~~ such locations of "big game" appear on

1. Page 6, line 18
2. Page 7, line 11
3. Page 16, line 3 and 6

3. Section 5 of the bill, Page 9, lines 1 - 3 set up fees for the licensing of game farms. These fees seem very low. We would like this program, at a minimum, to pay for itself.

4. On Page 7, line 18 and on Page 7, line 22, the term "unacceptable" is used. What does this mean and who has the burden of proof to decide what is acceptable and what is unacceptable?

5. On Page 9, lines 8 - 15, the "terms of a license" are set up. We are very uncomfortable with statement that: "The department shall renew the license upon payment of the renewal fee if the licensee has complied with all recording and reporting requirements." If there is a violation of any provisions under which the license was granted, the application should be able to be denied.

~~TTG:MAJ~~

~~STAG~~

~~SM~~

6. Page 9, lines 16 - 18, state that "A game farm license is transferable with the consent of the department." What does transferable mean? By location or by operator? This section needs to be clarified. The only time a permit should be transferable is at the same location.

7. For the penalty section on page 17, lines 14 - 20, it is not clear if the \$1,000 penalty is a per day or per violation penalty. This should be made clear.

8. One of the things that concerns us is that the public does not seem to have a say in the issuance of a license. Section 15, on page 20, allows for the license applicant to have a hearing. There does not seem to be any place for the public to be involved in this process, including any public notification of hearings. We would like there to be an opportunity for citizens to be able to participate hearings on any new licenses.

EXHIBIT 7
DATE 2/4/93
HB 338

HOUSE OF REPRESENTATIVES
WITNESS STATEMENT

PLEASE PRINT

NAME Joe Gutkoski BILL NO. 338

ADDRESS 304 N. 10th Av. Bozeman MT DATE 2-4-93

WHOM DO YOU REPRESENT? Mont. Wildlife Federation

SUPPORT OPPOSE AMEND

COMMENTS: Escapement of captive animals from game farms is the largest danger. To get away from this danger I recommend a double fence be constructed around all game farms. Escapement of captive animals also threatens disease spread, genetic weakening of native game species. Tuberculosis, brucellosis, and parasites like menqial worm can be spread into the 90,000 native elk, free roaming in Montana. Regulation of the game farm industry should be strong and forceful. Exotic game species bringing old world diseases into Montana, and interbreeding with native, free roaming game animals.

HOUSE OF REPRESENTATIVES

WITNESS STATEMENT

PLEASE PRINT

NAME Tony Schonen BILL NO. HB 338
ADDRESS Box 2 DATE 4 Feb '93
WHOM DO YOU REPRESENT? Skyline Sportsmen Assn.
SUPPORT OPPOSE AMEND

COMMENTS: This bill goes a long way in controlling the game ranching industry, but it would be far better if the bill were amended to totally phase out game ranching.

If a person just looks at the number of communicable diseases such as T-B, brucellosis, scrapie or mad cow disease and others - no precautions on transport animals would be too great. The latter can withstand in a virus-like protein, immersion in formaldehyde or alcohol 2 years of burial in soil etc. This disease is found in ranches elk in the western states

This bill, H.B. 338 does a good job of screening applicants, the plan of operation etc. which could lead to the denial of an application.

Please give a Da-Pass to HB 338.

Tony Schonen



THE MONTANA UNIVERSITY SYSTEM

2500 BROADWAY
HELENA, MONTANA 59620-3101
(406) 444-6570

EXHIBIT 9

DATE 2/4/93

HB 313

COMMISSIONER OF HIGHER EDUCATION

OFFICE OF LEGAL COUNSEL

January 29, 1993

The Honorable Beverly Barnhart
State Capitol
Helena, MT 59620

RE: House Bill 313

Dear Representative Barnhart:

You have asked me for the University System view of House Bill 313 which provides that full time students attending a university or college in this state may purchase a resident fishing license, regardless of the place of legal residence of the student. In other words this bill allows non-resident full-time students to purchase a license at resident cost.

The question has been raised as to whether or not this bill would work at cross purposes with the Regents' recent action which heightened the requirements for a non-resident to qualify for resident status and lower tuition. In my opinion this bill will not impact residency decisions made by the Regents. Decisions about who must pay in-state and out-of-state fees are reserved to the Regents both by statute and the constitution. A residency decision is typically based on numerous factors and the fact that the law would allow non-resident students to get a resident fishing license will not in any way mandate that the same student pay only resident tuition. For that reason we have no problem with House Bill 313.

I note that the bill covers, not only the public colleges and universities in the state, but private schools as well. This raises the question as to whether or not you intended to cover unaccredited schools and proprietary schools that call themselves colleges, but are not true degree granting institutions. This includes barber colleges, colleges of beauty etc. If you did not intend such broad coverage you may need a definition of college such as: An institution of higher education accredited by an accrediting agency recognized by the Board of Regents. This would limit coverage to the University System, the community colleges, Carroll, Rocky, and the College of Great Falls. Finally, you might wish to consider whether or not vo-tech students should be included.

Sincerely,

A handwritten signature in cursive script, appearing to read "LeRoy H. Schramm".

LeRoy H. Schramm
Chief Legal Counsel

LHS:cm

EXHIBIT 10
DATE 2/4/93
HB 313

HOUSE OF REPRESENTATIVES

WITNESS STATEMENT

PLEASE PRINT

NAME Joe Gutkoski BILL NO. 313

ADDRESS 304 N. 18th. Av. Bozeman DATE 2-4-93

WHOM DO YOU REPRESENT? Vice. Pres. Mont. Wildlife Federation

SUPPORT OPPOSE _____ AMEND _____

COMMENTS: I think the people of Montana are generous enough to give a Mont. fishing license to non-resident students. To avoid any difficulty in the future concerning the use of the free license, it should probably be a special license going only to non-resident students

EXHIBIT 11
DATE 2/4/93
SB 58

SB 58
February 4, 1993

Testimony presented by Pat Graham, Dept. of Fish, Wildlife & Parks
before the House Fish & Game Committee

SB 58 proposes to revise the hunting and fishing laws of Montana by clarifying restrictions on hunting with specified arms; revising provisions regarding residency of minors; clarifying ownership of tagged game; and increasing penalties for second or subsequent convictions of hunter harassment.

The department supports this bill with the one correction. A Senate floor amendment may have inadvertently removed the Fish, Wildlife and Parks Commission's authority to restrict areas to bow and arrow hunting. The Commission has used this authority for many years. To correct this, language should be added so that the amendment to section 87-1-304 on page 2 reads:

"The Commission may restrict areas and species to hunting with only specified arms, including bow and arrow, for the reasons of safety or of providing diverse hunting opportunities and experience."

The added language, "including bow and arrow," will assure that the word "arms" is not read to mean by only firearms. Senator Pipinich, Senate Fish and Game Committee Chairman, agrees this amendment is necessary.

PROPOSED AMENDMENT TO SB 58
THIRD (BLUE) COPY

1. Page 2, line 7.
Following: "ARMS"
Insert: ", including bow and arrow,"

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

FISH & GAME

COMMITTEE

BILL NO. SB58

DATE 2/4

SPONSOR(S) Swift

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Pat Graban	DFWP	✓	
IRA T HOLT	RAVALLI COUNTY F&W Assoc	✓	
A. M. (Bud) Ellwell	WESTON - NWWC	✓	
CARY S. MARBUT	NRA, GOA, CCRKBA, MSSA, WMFGA, BSPSC	✓	

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

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

FISH B GAME

COMMITTEE

BILL NO. 313

DATE 2/4

SPONSOR(S) Bamhart

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jan Hamer	myself		✓
Joe Gutkoski	Mt. Wildlife Federat.	✓	
Jim Richard	MWF	✓	
Robert Van DerKore	City Leptot	✓	
Tony Schooner	SEIS	✓	
Tobin Morris	MSV	✓	
LRA T Holt	RAVALLI COUNTY F&W Assoc	✓	
Bob Kripps	myself	✓	
Pat Graham	DFWP		
Thyra Breckwater	Game Rancher		
Bill Holdorf	Self-Slayline	✓	
DUNCAN GILCHRIST	Myself		
HARRY LAFRINIÈRE	RAVALLI COUNTY FISH/WILDLIFE	✓	
GARY HABECK	RAVALLI COUNTY FISH & WILDLIFE		

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Fish & Game COMMITTEE BILL NO. HB 338
DATE 2/4 SPONSOR(S) Ram

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ronald BENNET #7065 1801 16 th Ave S SA405	SELF	✓	✓
Les Carlson	MGBA		
Dave Major, Stevensville	MWF	✓	
Cork Mortensen	Dept. of Livestock	✓	
Elaine K. Ovestad	F.W.P.	✓	
Joe Gutkoski	Mt. Wildlife Fed	✓	
Tony Schoonen	Skyline Sportsman	✓	
Ellen F. Schubert	MGBA		
Bill Holdorf	Anacosta Sportsmen	✓	
Jimi Richard	MWR	✓	
LEA T. HOYT	RAVALLI COUNTY FISHER WILDLIFE ASSOC	✓	
JAN HAMER	Montana Bowhunters	✓	
Bob Lane	FWR	✓	
Janet Ellis	MT Audubon	✓	

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

COMMITTEE

BILL NO.

HB 338

DATE

SPONSOR(S)

Ream

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
J.V. Bennett	MWF	✓	
Pat Graham	DFWP	✓	

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