

## **MINUTES**

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

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

**Call to Order:** By CHAIRMAN FOSTER, on February 13, 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. Bea McCarthy (D)  
Rep. Brad Molnar (R)  
Rep. Bill Ryan (D)  
Rep. Emily Swanson (D)  
Rep. Doug Wagner (R)

**Members Excused:** Rep. Knox (R), Rep. Scott Orr (R)

**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 595, HB 576  
Executive Action: None.

#### **HEARING ON HB 576**

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

REP. BILL ENDY, House District 74, Whitehall, stated HB 576 was "An act submitting to the qualified electors of Montana an amendment to Article II, Section 12, of the Montana Constitution to provide that the right to keep or bear arms extends to lawful hunting and recreational use and other lawful purposes." He felt HB 576 will help strengthen Montanan's right to bear arms.

Proponents' Testimony:

Mr. Stan Frazier, Prickley Pear Sportsman Club, declared the organization's support of HB 576.

Mr. Jim Richard, Montana Wildlife Federation, gives hunting a constitutional recognition. Constitutional Initiative 62 dealt with the distribution of the funds from the license fees and discussed the right to hunt. The language of CI 62 lead to legal concerns regarding the basic constitutional right, which might have interfered with sound game management. He related that he is pleased to support HB 576.

Mr. Stan Bradshaw, Montana Bowhunters Association, stated that in his discussions with the Department, the language of HB 576 will not impede reasonable regulation of hunting. He expressed the organization's support of the bill.

Mr. Bob Lane, Chief Legal Council for Fish, Wildlife, and Parks Department, distributed written testimony (EXHIBIT 1).

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor:

REP. ENDY urged passage of HB 576.

HEARING ON HB 595

Opening Statement by Sponsor:

REP. HAL HARPER, House District 44, Helena, stated that HB 595 is presented at the request of REP. STOVALL. He believes HB 595 will correct the court jurisdiction problem that occurred in the Lake Mary Ronan case.

Proponents' Testimony:

Mr. Bob Lane, Chief Legal Council for Fish, Wildlife, and Parks Department, distributed written testimony (EXHIBIT 2).

Mr. Craig Hoppe, Montana Magistrates Association (MMA), stated he was familiar with the Lake Mary Ronan case since he is the city judge in St. Ignatius. In the State of Montana vs. Mosley case, Mosley was observed transplanting perch from Flathead Lake into Lake Mary Ronan. The Department did its best to recover most of the perch. The MMA feels the obligation to protect the resources in the state of Montana. The MMA was disappointed that the Supreme Court had overturned the whole decision. Mr. Hoppe said that the organization supports HB 595.

Mr. Stan Frazier, Prickley Pear Sportsman Club, declared the organization's support of HB 595.

REP. ELLIOTT expressed his support of HB 595.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. BOB REAM asked Mr. Lane if the second portion of HB 595 would apply to other animals. Mr. Lane said no. HB 595 is specific for fish. There are similar provisions in the game farm bill.

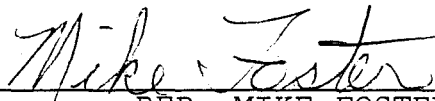
CHAIRMAN MIKE FOSTER questioned on page three, lines 13-15, "money recovered by the department or county attorney must be deposited in the state special revenue fund." He asked Mr. Lane which special revenue fund is referred to. Mr. Lane replied that it is the Department's special revenue fund. The money replaces the Department's funds used to mitigate and restore the damages.

Closing by Sponsor:


REP. HARPER felt that HB 595 was a good bill and urged its passage.

ADJOURNMENT

Adjournment: 3:20 p.m.



REP. MIKE FOSTER, Chair



MARY RIITANO, Secretary

ML/MR

# HOUSE OF REPRESENTATIVES

FISH & GAME

COMMITTEE

ROLL CALL

DATE

2/13/93

NAME	PRESENT	ABSENT	EXCUSED
VICE-CHAIRMAN CHASE HIBBARD	✓		
VICE-CHAIRMAN BOB REAM	✓		
REP. BARNHART	✓		
REP. CLARK	✓		
REP. DAILY	✓		
REP. ELLIOT	✓		
REP. GRIMES	✓		
REP. HANSON	✓		
REP. KNOX			
REP. MCCARTHY	✓		
REP. MOLNAR	✓		
REP. ORR			
REP. RYAN	✓		
REP. SWANSON	✓		
REP. WAGNER	✓		
CHAIRMAN MIKE FOSTER	✓		

EXHIBIT  
DATE 2/13/93  
HB 576

HB 576  
February 13, 1993

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

The bill proposes a constitutional amendment for voter approval that would protect a citizen's right to bear arms "for lawful hunting and recreational use and for other lawful purposes." Similar protection is provided by the constitution of at least six states, including Delaware, Nebraska, Nevada, New Mexico, North Dakota and West Virginia. The language chosen is carefully balanced so the state can fully regulate the recreational use of arms.

Protecting the right to bear arms for hunting and other recreational purposes will help secure and maintain hunting as an integral part of Montana's culture and heritage.

One-hundred and twenty-five years ago, your predecessors in the Second Territorial Legislature adopted Montana's first hunting laws. The laws sought to protect quail and partridge.

Just two years ago, the legislature adopted a resolution that established the third week in September as Montana's first Hunting Heritage Week - a time for Montanans to reflect on hunting as an expression of their culture; to acknowledge the contributions made

by sportsmen and sportswomen that have resulted in Montana's diverse wildlife populations; and to celebrate the rich traditions of Montana's hunting heritage. That bold resolution by Montana's lawmakers spawned week-long celebrations across Montana in 1991 and 1992. Montana's "Hunting Hall of Fame" emerged out of Hunting Heritage Week in 1992 and 11 Montanans were inducted.

Yet, in today's social and political climate, when so many Americans live in urban cities far removed from Nature's yearly cycle, Montanans have asked us to do more. This constitutional amendment further supplies the comfort many Montanans have asked their government to provide. Our statistics show that up to 50 percent of our male population and 20 percent of our female population buy hunting licenses. In this day and age, those are phenomenal numbers. For many of our state's residents, to be a Montanan is to be a hunter. It is in our blood. It is our history, our heritage, and, if we are to maintain the quality of life so precious to all of us, it is our destiny.

This amendment will constitutionally recognize Montana's commitment to our hunting heritage.

EXHIBIT 2  
DATE 2/16/93  
HB 595

HB 595  
February 13, 1993

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

House Bill 595 will correct a jurisdictional defect in the authority of Justice Courts over prosecutions of certain fish and game violations. The Montana Supreme Court, in the case of Mosely v. Lake County, decided January 12, 1993, held that a Justice Court does not have jurisdiction over prosecutions for fish and game violations where the potential fine exceeds \$1,000.

A county attorney could still prosecute in state District Court. However, this would have significant adverse impacts on prosecutors. The increased procedural formalities in District Court, in comparison with Justice Court, would greatly increase the workload of prosecutors for most fish and game violations that come under the Supreme Court's decision.

Under the proposed amendment, fish and game misdemeanor violations would be treated like all other misdemeanor violations. Misdemeanors, with a potential fine under a specified amount, can be prosecuted initially only in Justice Court. For misdemeanors with a potential fine over a specified amount, the prosecution can be in either Justice Court or District Court. Because of an inadvertent defect in the statute, fish and game misdemeanors with a potential fine over \$1,000 can only be prosecuted in District

Court. HB 595 will correct this and allow prosecution of all fish and game misdemeanor violations in Justice Court, the same as all other misdemeanors.

The Supreme Court also questioned whether the restitution payment for illegal introductions of fish under Section 87-5-721, MCA, is allowed in a criminal sentence. The bill addresses this problem by holding violators civilly liable for the cost of eliminating or mitigating the effects of an illegal introduction of fish. The department believes that a civil action in District Court is the proper procedure, because some mitigation cost may be very high.

Illegal fish introductions are one of the most serious problems for fish management, with mitigation costs exceeding \$100,000. Determining liability for costs of this magnitude is beyond the normal concept of a misdemeanor prosecution and the function of Justice Courts. A civil suit in District Court is appropriated to the potential magnitude of the liability and provides an accused with all formal safeguards of due process.



**HOUSE OF REPRESENTATIVES  
VISITOR REGISTER**

**COMMITTEE**

**BILL NO.**

576

DATE \_\_\_\_\_

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**SPONSOR (S)**

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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 & GAME

COMMITTEE

BILL NO.

595

DATE

2/13/93

SPONSOR(S)

Harpur

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Craig L. Harpur	MT. MAGISTRATES ASSN	X	
Stan Frozier	Priekly Deer Spt.	X	
Bob Lane	DFWP	X	

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