

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By Senator Bob Pipinich, Chair, on March 9, 1993,
at 3:00 p.m.

ROLL CALL

Members Present:

Sen. Bob Pipinich, Chair (D)
Sen. Gary Forrester, Vice Chair (D)
Sen. Don Bianchi (D)
Sen. John Brenden (R)
Sen. Chris Christiaens (D)
Sen. Bruce Crippen (R)
Sen. Judy Jacobson (D)
Sen. Kenneth Mesaros (R)

Members Excused: Sen. Terry Klampe (D)
Sen. Tom Beck (R)
Sen. Gerry Devlin (R)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Council
Kathy Collins, Committee Secretary

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

Committee Business Summary:

Hearing: HB 251, HB 82
Executive Action: HB 251, HB 82

HEARING ON HB 251

Opening Statement by Sponsor:

Representative Bob Pavlovich, House District 70, stated HB 251 would allow the possession, transportation and sale of antlers and attached skull of a game animal that has died from natural causes.

Proponents' Testimony:

Pat Graham, Director, Department of Fish, Wildlife & Parks (DFWP), spoke from prepared testimony in support of HB 251 (Exhibit #1).

Wayne Lundberg, representing the Montana Taxidermist Association (MTA), stated he supported HB 251.

Steve Rhodes, President, MTA, stated there is tremendous support from the public for HB 251 and submitted a petition supporting HB 251 (Exhibit #2).

Tom Hardesty, representing Anaconda Sportsmens' Club and Skyline Sportsmens' Association, stated he supports HB 251.

J.V. Bennett, Montana Wildlife Federation, stated the Federation supports HB 251.

Brad Lencioni, owner, Tri-City Taxidermy, stated he supports HB 251.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Crippen asked Pat Graham if antlers could be taken from animals who had been accidentally killed. Mr. Graham stated they could not. Senator Crippen asked if a person could remove the antlers from an animal who had obviously been hit by a vehicle. Mr. Graham stated under HB 251, the antlers could not be legally removed from an animal who had died as a result of an accident. Senator Crippen asked Mr. Graham if the burden of proof would be on the person in possession of the antlers. Mr. Graham stated the Department would have to prove if the antlers had been legally taken. Senator Crippen stated this part of HB 251 did not make sense; a person should be able to take the antlers from an animal found dead on the side of the road. Mr. Graham stated no other part of an accidentally killed animal can be legally taken; this regulation is not limited to the antlers. Senator Crippen asked Bob Lane, DFWP, if a person could remove the antlers from an accidentally killed animal if the person reported the animal to the Department first. Mr. Lane stated in the case of road-kill animals, the antlers are auctioned off by the Department. Mr. Lane stated there is an enforcement problem with some people who are in possession of an animal's head and antlers and claim they found the animal already dead.

Senator Mesaros asked Pat Graham how the Department would enforce HB 251 when the cause of death is difficult to determine. Mr. Graham stated in the case of an animal that has been dead for some time and has experienced some decay, it would be difficult to determine the cause of death. Mr. Graham stated HB 251 was a liberalization, not a restriction, of the law as it has been.

Senator Pipinich asked Mr. Graham if sheep heads would fall under HB 251. Mr. Graham stated sheep heads are not included in HB 251.

Closing by Sponsor:

Representative Pavlovich respectfully closed and asked Senator Pipinich to carry HB 251.

HEARING ON HB 82

Opening Statement by Sponsor:

Representative Bill Wiseman, House District 41, stated HB 82 would permit the Board of Outfitters to hire their own executive to oversee and coordinate the administrative process of the Board.

Proponents' Testimony:

Max Chase, Chairman, Board of Outfitters, spoke from prepared testimony in support of HB 82 (Exhibit #3).

Steve Meloy, Bureau Chief, Professional and Occupational Licensing Bureau, spoke from prepared testimony in support of HB 82 (Exhibit #4).

Jean Johnson, Executive Director, Montana Outfitters and Guides Association (MOGA), stated the licensed outfitter who violates fish and game laws hurts the outfitting business as a whole. Ms. Johnson stated there is not enough enforcement available to get that outfitter out of the business. Ms. Johnson urged the Committee to support HB 82.

Robin Cunningham, representing the Fishing Outfitters Association of Montana (FOAM), stated the Board of Outfitters need more horsepower to get their job done and HB 82 would provide the needed horsepower.

Pat Graham, DFWP, stated the Department supports HB 82 and submitted written testimony (Exhibit #5).

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Brenden asked Pat Graham if the cost of insurance and benefits that would go along with the position to be filled will be covered by fees. Mr. Graham stated this is in the Department of Commerce's budget. Steve Meloy stated any unanticipated cost with HB 82 would be absorbed by the special revenue of the Board of Outfitters. Mr. Meloy stated currently the Board has a cash balance of \$238,000 and the Board has the money to support HB 82. Mr. Meloy stated in the event the Board has to replenish their authority, and they do not have enough fees, they would have to raise the fees. Mr. Meloy stated it is predicted the Board will have to do this in the middle of the fiscal year 1995.

Senator Bianchi asked Mr. Meloy if the fees were in statute or if it was something the Board itself could increase. Mr. Meloy stated the statute allows the Board to collect the fee, but the fees are set by rule. Senator Jacobson stated it states in statute that the fee should be commiserate with the costs, and if the fund balances start building up, the Board would be cited by the Legislative Auditor.

Closing by Sponsor:

Representative Wiseman stated the Board of Outfitters needs someone in executive position to run their office to keep control of the organization and urged the Committee to support HB 82. Representative Wiseman stated Senator Mesaros has agreed to carry HB 82.

EXECUTIVE ACTION ON HB 82**Motion/Vote:**

Senator Crippen moved HB 82 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 251**Motion/Vote:**

Senator Jacobson moved HB 251 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.


SENATE FISH & GAME COMMITTEE

March 9, 1993

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ADJOURNMENT

Adjournment: 3:35 p.m.


SENATOR BOB PIPINICH, Chair


KATHY COLLINS, Secretary

BP/kc

ROLL CALL

SENATE COMMITTEE Fish & Game DATE 3-9-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Jacobson	✓		
Senator Bianchi	✓		
Senator Christensen	✓		
Senator Crippen	✓		
Senator Beck			✓
Senator Mesaros	✓		
Senator Devlin			✓
Senator Brenden	✓		
Senator Klampe			✓
Senator Forrester	✓		
Senator Pipinick	✓		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1993

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 82 (first reading copy -- blue), respectfully report that House Bill No. 82 be concurred in.

Signed: Senator Bob Pipinich
Senator Bob Pipinich, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 9, 1993

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill NO. 251 (first reading copy -- blue), respectfully report that House Bill NO. 251 be concurred in.

Signed: Senator Bob Pipinich
Senator Bob Pipinich, Chair

m- Amd. Coord.
or Sec. of Senate

Pipinich
Senator Carrying Bill

531600SC.Sma

HB 251
March 9, 1993

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

HB 251 would amend Section 87-3-111 to allow the possession, transportation, sale, or purchase of antlers and attached skulls from game animals that have died from natural causes and have not been unlawfully or accidentally killed.

The Department of Fish, Wildlife and Parks has the responsibility to protect and manage the wildlife resource of Montana. In part, that responsibility is to enforce game laws to protect our wildlife resource. During the course of covert investigations conducted in 1991, the department confirmed that individuals were illegally killing trophy game animals, leaving them in the field and picking up the heads later, claiming they were winterkills.

This practice, or the practice of picking up any antlers, was illegal for many years, but the statute had not been enforced very often. The department requested legislation to allow picking up naturally shed antlers with the intent of becoming more active in discouraging picking up antlers still attached to game animal skulls. This resulted in an amendment to 87-3-111.

Although this legislation was directed at illegal antler collectors, it created concern among honest, well-intentioned persons picking up antlers from winter-killed animals.

We support the bill as amended because it strikes a balance. It allows lawful possession of antlers with attached skulls from animals that have died from natural causes, yet prohibits possession where the game animal was illegally killed or where the game animal was killed by a motor vehicle.

6
We do not support the current law in Montana which does not allow the citizens of Montana to pick up antlers with skulls attached from winter kills or predator kills. Therefore, we support the effort in Montana to change the law so that the citizens of Montana may pick up such antlers of winter or predator kills.

NAME	ADDRESS	BUTTE MT.	SIGNATURE
Bruce Smith	43 MISSOULA AV		Bruce Smith
Jeffrey A. RAJMAN	3111 PAXSON AVE		Jeffrey A. Rajman
Theresa Willard	2005 Carolina Ave		Theresa Willard
Steve Willard			Steve Willard
Thomas Sullivan	2519 WASHOR		Thomas Sullivan
Steve Roberts	913 Colorado ST		Steve Roberts
Laura Roberts			Laura Roberts
Andy Rosin	609 E Aluminum		Andy Rosin
DUANE LANE	BOX 363 WHITEHALL		Duane Lane
Robert W. McCormick	4034 Wynne Lot #11		Robert W. McCormick
Joe McEwan	3003 BANKS		Joe McEwan
Rick Powers	1107 S. Wyoming		Rick Powers
Robert Aguirre	PO BOX 138 PASIN		Robert Aguirre
BERNARD J. AGUIRRE	PO BOX 38 PASIN		Bernard J. Aguirre
Kurtie Reed	1241 Butte		Kurtie Reed
Don Kent	1107 Maryland Butte		Donald C. Kent
Paul D. Leckman	1102 S. Tenth St		Paul D. Leckman

EXHIBIT 2
DATE 3-9-93
HB 251

DEPARTMENT OF COMMERCE
PUBLIC SAFETY DIVISION

STAN STEPHENS, GOVERNOR

111 N. JACKSON



STATE OF MONTANA

HELENA, MONTANA 59620-0407

March 9, 1993

Committee Members
Senate Fish and Game Committee
Montana Senate

Subject: House Bill 82

Dear Chairman and Committee Members:

Before the transfer from Fish, Wildlife and Parks to Commerce on October 1, 1987, the administrative process of the Board was absorbed by a large staff at Fish, Wildlife and Parks. The wardens of FWP enforced the outfitter laws, and FWP provided all administration of the Board's needs. Thus, when the Board was transferred to Commerce, we had no idea as to how much administration would be required to enforce the outfitter laws.

After the transfer to Commerce, we hired private investigators to investigate complaints and report back to the Board with their findings. Enforcement of the outfitter laws was provided by FWP wardens, who, at that time, did not have clear authority to provide us with such assistance. As of the last legislative session, FWP wardens received the authority to enforce the outfitter laws. Consequently, FWP is the enforcement agency for the outfitter industry, and the Board is comfortable with this arrangement. The Board, however, needs someone with management skills to adequately oversee and coordinate the administrative process. There are complaints against licensees that need to be dealt with, inspections of new operations that need to be assigned and supervised, statistical information that needs to be compiled, such as harvest and client reports, and various local, state, and federal agencies that depend on a contact person from the Board for assistance on a number of issues.

The Board respectfully urges this committee's support of this bill, and thanks this committee for its consideration.

Sincerely,

Irving "Max" Chase

Irving "Max" Chase
Chairman
Board of Outfitters

DEPARTMENT OF COMMERCE
PUBLIC SAFETY DIVISION

SENATE FISH AND GAME

EXHIBIT NO. 4

DATE 3-9-93

BILL NO. HB 82

STAN STEPHENS, GOVERNOR

111 N. JACKSON

STATE OF MONTANA

HELENA, MONTANA 59620-0407

March 9, 1993

Committee Members
Senate Fish and Game Committee
Montana Senate

Subject: House Bill 82

Dear Chairman and Committee Members:

House Bill 82 came to the legislature at the request of the Department of Commerce, and was presented as part of the Governor's executive budget. The Bill is designed to create better efficiency in regulating the outfitting and guiding industry, by creating an executive director.

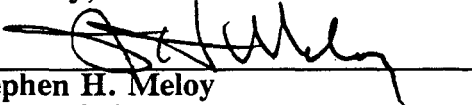
The duties of the executive director would be to make sure that the Board is adequately regulating the profession and protecting the public safety, while also ensuring that there is adequate dialogue between the Board and various agencies with which the Board has daily contact.

House Bill 82 passed through the House Committee on Business and Economic Development, with amendments that were prepared by the Board in response to concerns of some of the Representatives on the Committee. This Bill passed the House by a vote of 79-18 on third reading.

The Board needs additional staff to uphold its regulatory duty under section 37-47-101 et seq. All administrative assistance for the Board is currently provided by 7/8 of a grade 11 position. The work load of this Board, however, is far too demanding for one individual to handle alone. The task is even more difficult for this grade 11 position because the position also provides administrative assistance for another Board.

This Bill will be funded by license fees for outfitters and guides, and such license fees will not need to be increased until the second year that the position is filled. The Bill has the support of both the Montana Outfitters and Guides Association and the Fishing Outfitters Association of Montana. The Bill has been developed through a consensus building process in which the industry was polled and consulted, and should be passed on to the whole Senate with its amendments.

Sincerely,



Stephen H. Meloy
Bureau Chief

Professional and Occupational Licensing Bureau

SENATE FISH AND GAME

ENROLL NO. 5

DATE

3-9-93

BILL NO.

HB 82

HB 82
March 9, 1993

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

HB82 will provide an executive director for the Montana Board of Outfitters. In our opinion, this position would help the board become even more responsive and professional in its administration of the outfitting industry in Montana. The Board has evolved significantly since its creation in 1987, but without a full time staff position, will be hampered in its ability to license and administer the growing outfitter industry in Montana.

We believe it is in the best interest of the public to have an effective and responsive Board of Outfitters.

We support passage of HB82.

DATE 3-9-93

SENATE COMMITTEE ON Fish & Game

BILLS BEING HEARD TODAY: HB 82, HB 251

Name Representing Bill No. 251 Check One Support Oppose

WAYNE LUNDBERG	MONTANA TAXIDERMIST ASS	HB 251	✓	
JOE RHODES	M.T.A. PRES.	HB 251	✓	
Brad Lencioni	Tri-City Taxidermy & ^{Russell} Country Sports	HB 251	✓	
Tom & Melinda	Russell Country Sports	HB 251	✓	
ALAN LENCE	MT. HUNTER	HB 251	✓	
Shirley "Mae" Cramer	Board of Outfitters	HB 82	✓	
BOB FRY	MT BOARD OF OUTFITTERS	HB 82	✓	
ROBIN CUNNINGHAM	F.O.A.M.	HB 82	✓	
George Kamps	Antler artist	HB 251	✓	
Tom Hargrave	^{Antler artist} Taxidermist skyline	251	✓	
STEVE MELOY	HB 82 Commerce		✓	
MARK SMART	MT. TAXIDERMIST ASSN		✓	
Eric Thunstrom	MT TAXIDERMIST		✓	
JOE UZETA	MT TAXIDERMIST		✓	
J.V. Bennett	Montana Wildlife Federation	HB 251	✓	
Rob Lane	DFWP		✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-9-93

SENATE COMMITTEE ON HB 82, HB 251

BILLS BEING HEARD TODAY: Fish & Game

Name	Representing	Bill No.	Check One	
			Support	Oppose
Patthaban	D F W D	HB 251	<input checked="" type="checkbox"/>	<input type="checkbox"/>
William R. Wiseman	HD 41	HB 82	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Russell Greenwood	AB 018 m Gold Butte	HB 82	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gladys Johnson	MT Sect. 9 Guides	HB 82	<input checked="" type="checkbox"/>	<input type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY