

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By VICE CHAIRMAN AL BISHOP, on February 2, 1995,
at 1:00 P.M.

ROLL CALL

Members Present:

Sen. Kenneth "Ken" Mesaros, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Bruce D. Crippen (R)
Sen. William S. Crismore (R)
Sen. John R. Hertel (R)
Sen. Ken Miller (R)
Sen. Mike Sprague (R)
Sen. Gary Forrester (D)
Sen. Judy H. Jacobson (D)
Sen. Terry Klampe (D)
Sen. Bob Pipinich (D)

Members Excused: None

Members Absent: None

Staff Present: Andrea Merrill, Legislative Council
Serena Andrew, Committee Secretary

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

Committee Business Summary:

Hearing: SB 269
Executive Action: SB 211 and SB 269

{Tape: 1 ; Side: A; Approx. Counter: 64}

HEARING ON SB 269

Opening Statement by Sponsor:

SENATOR BRUCE CRIPPEN, SD #10, BILLINGS, told the committee this bill was requested by the Department of Fish, Wildlife & Parks (DFWP). It would allow Montana to become a member of the Interstate Wildlife Violator Compact. Wyoming is considering similar legislation. Current members of the compact are Colorado, Nevada, Oregon, Arizona, Idaho, Utah and Washington.

If this legislation is adopted, Montana residents who receive citations in another state would be treated as if they were residents of that state. Under current law, if nonresidents receive a citation in Montana they must post a cash bond or wait to appear before a judge or justice of the peace. This is not necessary in other states.

Under the compact, if an individual from a member state violates a law in his home state resulting in suspension of his license and comes to Montana, Montana would have the authority to suspend license privileges here as well. Incarceration is not included in authorities granted by the compact.

Proponents' Testimony:

PAT GRAHAM, Director, Department of Fish, Wildlife & Parks, said passage of SB 269 would not prevent unlawful activities, but would hopefully act as a major deterrent. He presented testimony in support of the bill as well as a section-by-section summary and a copy of the compact operations manual (EXHIBITS 1, 1A & 2).

JANET ELLIS, Montana Audubon Society, stated that the compact has been successful in seven other states; it's a good program.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

SENATOR MIKE SPRAGUE, SD #6, BILLINGS, asked if there were any downsides to this bill. **Mr. Graham** said the bill makes it more dangerous to commit an offense in any of the member states. For those who obey the law there is no impact.

SENATOR SPRAGUE asked **Mr. Graham** if he were sure that Montana was not giving up any privileges by joining this organization. **Mr. Graham** stated that this bill would only give his department authority to enter the agreement. Should the agreement not prove beneficial to Montana or its residents, the state can revoke its membership. License suspensions would be concurrent with Montana's present mandate. People coming to Montana might lose privileges longer here than in other states, but other states will not make decisions for Montana.

SENATOR GARY FORRESTER, SD #8, BILLINGS, asked if a Montana resident falsely identified as the perpetrator of a crime in another state would need to hire a lawyer. **Mr. Graham** said it should not be necessary. **SENATOR FORRESTER** said he would like to see a mechanism in the bill that would clearly define when a license must be forfeited. **Mr. Graham** commented that Montana would tell people they have 10 days to send in their licenses and 20 days to request a hearing, which would be informal. The worst that could happen would be the suspension of a license.

SENATOR FORRESTER asked where a hearing would take place. **Bob Lane, DFWP Chief Legal Counsel**, responded that an accused person can request a hearing as soon as he is notified there is a problem; the department is required to hold that hearing as soon as possible and would attempt to accommodate the accused by accepting his choice of location. Records would be checked immediately.

SENATOR TERRY KLAMPE, SD #31, FLORENCE, stated that he didn't think a fiscal note would be necessary for this bill, but he would like to know the expected costs. **SENATOR CRIPPEN** replied, "Roughly \$7000, and it will be provided internally by the department."

SENATOR KLAMPE then asked **Mr. Graham** how much he thought the bill would cost. **Bob Winfield, DFWP Chief of Enforcement Operations**, responded that first year costs to implement the program would include purchase of a computer to handle information from member states plus about \$4500 in travel expenses. Later only travel expenses and computer software will be necessary. **SENATOR KLAMPE** asked if more FTE's would be required. **Mr. Winfield** said that existing staff could handle the program for the present. **Mr. Graham** agreed that there would be no additional FTE's.

SENATOR FORRESTER characterized the compact as a rare opportunity, and asked the Yellowstone County Attorney if he thought the bill would cause an additional workload for county officials.

DENNIS PAXINOS, Yellowstone County Attorney, stated that he didn't think any county attorney's office would be burdened by this bill.

Closing by Sponsor:

SENATOR CRIPPEN commented that it was a good hearing. As points of clarification, he mentioned the following:

- (1) The bill does not deal with incarceration; it should save county attorneys some time and money. People will not have to appear before a judge or justice of the peace.
- (2) Falsely accusing innocent persons is always a concern, but procedures under this bill will not put a person into greater jeopardy than currently exists. In a free society a person is sometimes falsely accused; very little can be done about that. Under this bill, a hearing is mandated and there will be witnesses to show where the innocent person was at the time the violation occurred as a citation gives exact details on time and place. An inconvenience might occur under this bill, but the legislature has a responsibility to protect the state's natural resources. Montanans are all concerned when people from other states take unlawful advantage of our resources.

INFORMATION FROM RILEY JOHNSON

RILEY JOHNSON, Walleyes Unlimited of Montana, requested a resolution from the committee supporting a "native species" designation for walleye in Montana **EXHIBIT #3**).

SENATOR CRIPPEN asked **Mr. Johnson** if he had discussed this matter with the Department of Fish, Wildlife & Parks. **Mr. Johnson** replied that he had but the department appeared to have some concerns about the change in classification. Management dollars are currently going to native species and walleye fishermen would like some of that money spent on walleye.

SENATOR CRIPPEN commented that he didn't know the impact of these designations, and asked if anything dealing with taking or possession of walleye would be changed from what it is now. **Mr. Graham** said he didn't think so.

SENATOR CRIPPEN asked **Mr. Graham** if he would like some time to consider this matter. **Mr. Graham** replied that he would as the matter may have been discussed with his staff but he hadn't been informed.

SENATOR CRIPPEN said a bill would be coming from the House dealing with transportation of fish in live wells. People want to bring walleyes home fresh, but the House bill would prohibit that. The House bill was introduced because people are illegally transplanting fish. The egg gathering program at Lake Mary Ronan has been nearly destroyed by illegal introductions. Walleye have been illegally introduced into Canyon Ferry. He said he and **REPRESENTATIVE HARPER** have grave concerns and he wanted to make sure there is no unintentional scuttling of the House bill by this requested resolution.

Mr. Johnson replied that the House bill is about transporting and live wells and would have nothing to do with declaring walleye a native species.

SENATOR SPRAGUE stated that he would defer his questions until DFWP reviews the resolution.

Mr. Johnson said he appreciated the committee's time and would check back with the chairman. **CHAIRMAN MESAROS** commented that he would look forward to receiving information from **Mr. Graham**.

{Tape: 1; Side: Side B; Approx. Counter: 36}

EXECUTIVE ACTION ON SB 211

CHAIRMAN MESAROS stated that the first two amendments to SB 211 were for clarification purposes. Some discussion had centered

around "willful" and "malicious" in Section 4; these terms are addressed in the third amendment.

The fourth amendment was a result of **SENATOR KLAMPE'S** question regarding whether or not a two-thirds majority would be required on this bill because liability was being limited for a public entity. Greg Petesch of the Legislative Council has confirmed that the two-thirds majority rule does apply to this bill. Also, a contingency clause entitled "NEW SECTION. Section 11" has been added, stating that if the legislature fails to pass this act by the two-thirds vote required in section 10, then the first sentence of section 2(2) is amended to read: "'Owner' means a private person or entity of any nature."

Motion: SENATOR HERTEL MOVED THE AMENDMENTS.

SENATOR CRIPPEN asked if he were correct in assuming that if Billings charged for the use of a city park where a person was injured, Sections 1-4 would not apply. **Mr. Paxinos** agreed that was correct from the point of view of the bill drafters.

Mr. Lane said it was his understanding that HB 195 would be amended or coordinated to refer to this bill, should it pass. That bill already refers to the recreational use statute as a shield for landowners who do not charge. Should SB 211 take its place, he believed there would be coordinating instructions referring to the immunity shield.

SENATOR SPRAGUE asked if **Mr. Lane** were comfortable with SB 211. **Mr. Lane** replied that his department was monitoring this bill as well as HB 195 to be sure DFWP would be covered with an immunity shield under either bill.

SENATOR BISHOP commented that it has been an interesting question, and asked if the bill drafters had given any consideration to minors in vehicles who weren't charged. **Mr. Paxinos** replied that the intent of the drafters would be not to punish minors (who were not charged) under a different standard of care because they were with parents who did get charged.

SENATOR CRIPPEN commented that even if the bill drafters say there will be no exception for minors, the bill itself does not say that. The word "person" is not defined.

MR. PAXINOS responded that this bill is not intended to give people an opportunity to circumvent willful acts because they didn't charge for children.

SENATOR CRIPPEN stated that Section 3 limits liability for landowners who do not charge for recreational use of their property whether they directly or indirectly invite people to use it. It also states that the landowner does not offer any assurance that the property is safe for recreational purposes.

STAN KALECZYC, representing the City, Town and Municipal Insurance Authority, testified that his organization is in favor of clarifying the existing law. He suggested looking at sections 301 and 302. His recollection of the law was that if a landowner allowed someone on his property for recreational purposes and did not charge, a recreational immunity applies. The words in SB 211 are different but the intent is the same. His group wants to be sure this same immunity applies to government entities.

SENATOR WILLIAM CRISMORE, SD #41, LIBBY, commented that he was becoming more confused and asked if he would have immunity if he let friends, but not the general public, on his land to shoot gophers. There would be no signs allowing the public in; they would be allowed to do some things but not others. He asked if it would be necessary to have your land completely open to have it covered.

MR. PAXINOS said private landowners already have recreational immunity. The idea of the bill is to get the same standards for cities, counties and states.

SENATOR KLAMPE asked if private landowners already have exactly the same thing that is being proposed in this bill. **Mr. Paxinos** said that to the best of his knowledge they do.

SENATOR KLAMPE said the wording of the bill wasn't totally clear. Some land is basically open; he asked if the owners of that type of land were immune from liability. **Mr. Paxinos** responded that they already have a lower standard of care as private landowners. It is part of common law. Cities, states and counties don't have that immunity.

SENATOR CRIPPEN asked if a landowner is in a different category if he has a ranch where he allow people to hunt and fish but not spelunk, putting a restriction on the type of activities allowed; the bill says recreational purposes without charge and recreational purposes are defined.

MR. KALECZYC stated that if people are allowed to hunt and fish without charge but a charge is made for spelunking and someone gets hurt, that person can sue under a different standard. He thought landowners could be selective on access to their land.

SENATOR SPRAGUE asked if all members of a family would be treated equally if they entered public or private property, pay a fee, and bring children. **Mr. Kaleczyc** stated that in cases where there is a fee for the car and children are free, he believed the court would hold to the higher standard.

BOB JOVICK, City Attorney for Livingston, commented that one would think common sense and equal protection where there had been a vehicle charge would mean there would be a liability. An amendatory definition is needed for "charge for a vehicle" where an adult is charged and a minor isn't.

Mr. Jovick commented that under the Federal Tort Claims Act the federal government is held to the same level of care as private individuals. This bill is merely trying to treat cities and counties the same as individuals.

Vote: ALL VOTED AYE ON THE AMENDMENTS TO SB 211 AND THEY PASSED UNANIMOUSLY.

Motion:

SENATOR SPRAGUE MOVED THE BILL AS AMENDED.

Discussion:

SENATOR HERTEL commented that the bill had some real merit. There were some concerns by landowners who felt that HB 195 did not cover them in all respects and thought this bill would do that. Liability is a big concern. He supported the bill.

SENATOR MILLER said he thought the bill needed a statement of intent.

ANDREA MERRILL, Legislative Council Staff, told SENATOR MILLER that the bill has a statement of purpose. That is used to state the intent of the bill and make it clear. A statement of intent is customarily used on rule making for a state agency.

Vote:

SENATOR KLAMPE WAS OPPOSED TO THE BILL. ALL OTHERS IN ATTENDANCE VOTED AYE ON THE MOTION THAT SB 211 DO PASS AND THE MOTION CARRIED.

EXECUTIVE ACTION ON SB 269

Motion & Vote :

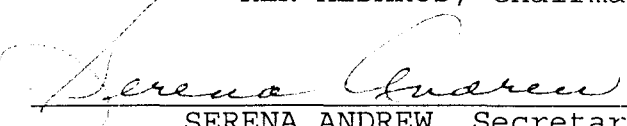
SENATOR HERTEL MOVED THE BILL AND THE MOTION THAT SB 269 DO PASS CARRIED BY UNANIMOUS VOTE.

ADJOURNMENT

Adjournment: The meeting adjourned at 2:36 p.m.

{This meeting is recorded on Sides A & B of One 60-Minute Tape}


KEN MESAROS, Chairman


SERENA ANDREW, Secretary

KM/sa

MONTANA SENATE
1995 LEGISLATURE
FISH AND GAME COMMITTEE

ROLL CALL

DATE _____

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 2, 1995

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration SB 269 (first reading copy -- white), respectfully report that SB 269 do pass.

Signed: 
Senator Ken Mesaros, Chair



Amd. Coord.
Sec. of Senate

281549SC.SRF

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 2, 1995

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration SB 211 (first reading copy -- white), respectfully report that SB 211 be amended as follows and as so amended do pass.

Signed: 
Senator Ken Mesaros, Chair

That such amendments read:

1. Page 1, line 18.

Following: "asked"

Insert: "from a person engaged in a recreational activity"

2. Page 1, line 26.

Following: "property"

Insert: "or with an agreement to use or occupy property"

3. Page 3, line 8.

Strike: "malicious"

Insert: "wanton"

4. Page 4, line 27.

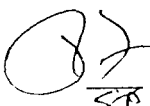
Following: line 26


Insert: "NEW SECTION. Section 10. Two-thirds vote required.

Because [sections 1 through 4] limit governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage."

NEW SECTION. Section 11. Contingency clause. If the legislature fails to pass [this act] by the two-thirds vote required in [section 10], then the first sentence of [section 2 (2)] is amended to read: "'Owner" means a private person or entity of any nature."

-END-

 Amd. Coord.

 Sec. of Senate

281540SC.SRF

TSB269P.S

Senate Bill No. 269
February 2, 1995
Testimony presented by Pat Graham
Montana Fish, Wildlife & Parks
before the Senate Fish and Game Committee

Montana Fish, Wildlife & Parks is asking for authority to join the Interstate Wildlife Violator Compact because we believe that membership in the compact will benefit Montana by creating an additional deterrent to wildlife resource violators. The concept of a wildlife violator compact was first suggested in the early 1980's by member states of the Western Association of Fish and Wildlife Agencies. The idea is based on the existing Drivers License Compact and the Non-Resident Violator Compact which are related to motor vehicle operator licensing and enforcement. Montana has been a member of the Driver License Compact, 61-5-401, MCA, since 1963.

In 1985 draft compacts were developed by Colorado and Nevada. These were merged into the present Wildlife Violator Compact. In 1989 the Colorado, Nevada and Oregon legislatures passed bills adopting the compact. Since then Arizona, Idaho, Utah and Washington have joined. Wyoming is presently considering legislation to join.

The compact benefits hunters, anglers and trappers as well as law enforcement officers. For the sportsmen and women, the compact avoids the delay and inconvenience which normally occurs for nonresidents cited for a violation in another state. Under the compact, residents of member states are treated the same as residents in the state where the violation occurs. For most fish and game violations this means that a nonresident is allowed to show identification, agree to comply with the citation and go on his way rather than posting a cash bond or spending time in jail before he can see a judge. This procedure is also a benefit to the officer who does not have to spend time processing a nonresident violator through the criminal justice system. Instead the officer can return to patrolling after giving the violator a citation.

A major benefit of the compact is that violators from compact member states are put on notice that their activities in one state can affect their privilege to hunt, fish, and trap in all of the participating states. We believe this will promote compliance with Montana's laws and regulations relating to hunting, fishing, and trapping.

The procedures under the compact are described in the section-by-section summary we have passed around. I want to briefly describe each procedure using fictitious examples. Under Article III, let

us assume a Montana game warden cites Hank, a Colorado fisherman, for catching an overlimit of rainbow trout. Hank will be asked to show identification and to agree to comply with the citation. At that point, Hank will be able to get back to his hotel. Hank decides he wants to get home and throws away the citation. When he fails to appear or post bond in justice court, the game warden notifies our Helena enforcement division which then notifies Colorado. In Colorado, the fish and game authority sends Hank a letter suspending his privileges to hunt, fish or trap in Colorado until he takes care of his Montana citation. Hank, who loves to fish, reconsiders and returns to Montana to face the justice of the peace. Once he listens to the court's lecture and pays his fine, Montana notifies Colorado that he has complied. At that point, Colorado ends Hank's suspension and returns his licenses to him.

Under Article IV of the compact, our Department notifies Colorado of Hank's conviction. The Colorado officials check their laws to see what would have happened to Hank if he had been cited for catching an overlimit in Colorado. They decide that although Hank would have been fined in Colorado, his fishing privileges would not have been forfeited for one offense. Therefore, they take no further action. Having learned his lesson, Hank plans to fish within the limit for the rest of his days.

I will use another example to illustrate the procedure under Article Five. Diana, a Washington resident, goes to Utah to hunt big game. She bought a nonresident hunting license, but while she's hunting for deer, she sees an impressive moose. She has always wanted to shoot a moose, so she takes a chance and kills it. A Utah game warden has been watching from across the valley and comes over to check her license. She's in trouble and pleads guilty to unlawful taking of a moose. Under Utah law, her privileges to hunt in Utah are suspended for three and a half years. Her name is sent out to the participating compact states. Her privilege to hunt in her home state of Washington is suspended for three and a half years.

We get Diana's name on a list from Utah. We run her name through our computer and find she has purchased a nonresident license to hunt in Montana in 1995. Under Montana law, a person convicted of unlawfully taking a moose would lose their hunting, fishing and trapping privileges for a minimum of 30 months. We send Diana a letter notifying her of our obligation under the compact, the suspension of her Montana hunting, fishing and trapping privileges for three and a half years, and the requirement that she send in her Montana hunting license within 10 days. She sends in the license but decides to hunt here anyway. She is caught hunting without a license and with her privileges suspended in Montana. She is heavily fined for both offenses, and because the court is not convinced she takes the laws seriously, she is also required to spend 10 days in jail.

These examples briefly illustrate how the compact would work in Montana. Section 1 of the bill is the compact itself. Sections 2 through 4 give the Department the authority to comply with the requirements of the compact. Section 5 provides an informal hearing procedure. For instance if we received notification from Arizona that Jim from Two Dot had his hunting privileges suspended in Arizona for five years for illegally taking three mule deer, we would notify Jim that his Montana hunting privileges are suspended for five years. He could request a hearing on the suspension. At the hearing he could present evidence that he wasn't the same Jim from Two Dot as they caught in Arizona, that they didn't really suspend his hunting privileges, or that the same offense in Montana would not have resulted in any loss of privileges. After an informal hearing, the Department will issue a decision. If Jim disagrees with the decision, he can appeal to district court.

To see what kind of workload the compact might generate for Montana, we asked Colorado for a list of the persons who were suspended in Colorado. We compared the 250 names with our list of license purchasers. There were no Montana residents on their list. Of the 250 names, only one person had purchased a license in Montana. His Colorado hunting, fishing, and trapping privileges had been suspended in 1992 for three years in Colorado for the unlawful taking of two cow elk, hunting without a rifle season license, unlawful transfer of an elk license, and failure to properly void an elk license. He moved to Montana in 1992. We found that he was recently charged in Montana with two counts of possessing unlawfully taken cow elk, three counts of possessing unlawfully killed deer, two counts of possessing unlawfully killed buck antelope, one count of possessing an unlawful black bear hide, one count of possessing an unlawfully killed mountain lion, one count of possession of a protected bird (a woodpecker), two counts of using licenses issued to another person, one failure to keep accurate taxidermy records, and one failure to obtain landowner permission while hunting big game. These 14 counts are pending trial. Because of the Colorado list, we discovered that he claimed Montana residency while he was a Colorado resident in 1992. This is currently under investigation and may lead to additional charges.

The compact will not prevent unlawful activity within Montana, but it will provide us with a good tool to use to discourage unlawful actions. I'll be happy to answer any questions on how the compact will work.

SENATE BILL NO. 269

INTERSTATE WILDLIFE VIOLATOR COMPACT

Section-by-section Summary

Section 1: Text of the compact.

Article I: Findings, declaration of policy, and purpose.

Policies

- Promote compliance with laws and rules relating to wildlife resource management.
- Recognize suspension of hunting, fishing, or trapping privileges by participating states.
- Allow violators from participating state to be treated the same as a resident - no need for cash bond or jail stay.
- Report convictions to home state which will recognize the convictions occurring in a participating state.
- Enforce compliance with citations in participating states.
- Maximize effective use of law enforcement personnel and information.

Article II: Definitions

Article III: Procedures for Issuing State

1. A wildlife officer must issue a citation to a person who is resident of a participating state in the same way as citations are issued to residents of the officer's state. (e.g. accept own recognizance, thus no bond necessary for violator).
2. Personal recognizance is acceptable if allowed by the participating state's law and the violator provides adequate proof of identity.
3. If a violator fails to comply with citation, the officer will notify licensing authority in his state.
4. Licensing authority will notify the home state of the violator.

Article IV: Procedure for Home State

1. Home state will notify a violator of consequences of

failing to comply with citation in the participating state and shall begin suspension process. Hunting, fishing, and trapping privileges will be suspended until the home state receives proof of compliance.

2. When the home state receives report of conviction from a participating state, it shall enter the conviction in its records and treat the conviction as though it occurred in the home state for the purpose of license suspension. (If the conviction would have led to suspension of privileges in Montana, the department will suspend the violator's privileges for the period required by law.)

3. Reports of actions taken in the home state under the compact will be reported to the other member states.

Article V: Reciprocal Recognition of Suspension.

1. Participating state will recognize suspensions of license privileges by other participating states as though the violation occurred in their state for the purpose of suspending privileges.

2. States will report suspensions as required in the manual.

Article VI: Applicability of other laws.

Nothing in the compact affects the right of any member state to apply its laws relating to license privileges to any person.

Article VII: Compact Administrator - Procedures

One representative from each state (known as the compact administrator) will serve on the board of compact administrators. The board will have bylaws, elect officers, be able to accept grants or donations, have contract authority, and develop procedures for administering the compact.

Article VIII: Entry into Compact and Withdrawal.

The compact is valid whenever two states are members. Entry is made by resolution of ratification by authorized officials providing required information (60 days written notice). A participating state may withdraw at any time by giving 90 days written notice.

Article IX: Amendments to Compact.

Amendments require endorsement by all participating states.

Article X: Construction and Severability.

Liberal construction required. The validity of remainder is not affected by invalidity of any section and will remain in full force.

Section 2: Department authorization to effect purpose of compact.

General authorization to allow department to join, enforce, agree to amend, and withdraw from the compact.

Section 3: Reciprocal recognition of license suspensions.

1. When department receives notice of suspension of privileges by participating state, it must determine whether same offense could have resulted in suspension here. If so, Montana must suspend the privileges for the same period as the participating state or for the minimum period under Montana law, whichever is longer.

(As a practical matter, Montana will compare the list of suspended persons with the list of license applicants or holders in Montana, and notify those applicants or licensees who may be suspended in Montana and any Montana residents on the list each year.)

2. When the department receives notice of a conviction of a Montana resident by a member state, it will treat the conviction as though it occurred in Montana. If the conviction would lead to suspension of privileges in Montana, the department will suspend the privileges for the minimum period required by Montana law. All of the member states treat their residents in the same way.

3. Notice of suspension must be sent and require surrender of Montana hunting, fishing and trapping licenses within 10 days.

4. If a person who has been suspended hunts, fishes, traps, or buys a license during the period of suspension, he or she is guilty of a misdemeanor.

Section 4: Suspension of privileges for failure to comply with citation issued in another state.

1. The department must suspend the privileges of any resident who has failed to comply with a wildlife citation issued in a member state. The suspension must stay in effect until the person complies and the member state so notifies the department.

(This process allows each state to treat nonresidents the same as residents when citations are issued. Normally, the

nonresident would not have to post a cash bond or spend time in jail because the home state will provide the hammer to enforce compliance. State generally do not extradite on misdemeanor charges. The compact thus helps get compliance with misdemeanor citations by having the home state impose the penalty of suspension of privileges until the person complies with the citation.)

2. Notice of suspension must be sent and require surrender of Montana hunting, fishing and trapping licenses within 10 days.

3. If a person who has been suspended hunts, fishes, traps, or buys a license during the period of suspension, he or she is guilty of a misdemeanor.

Section 5: Hearing on suspension

This section provides for an informal hearing procedure for a person notified of suspension of privileges under the compact. The person has 20 days to request a hearing.

The only issues at the hearing are:

Did the participating state suspend privileges?

Was there a conviction in a participating state?

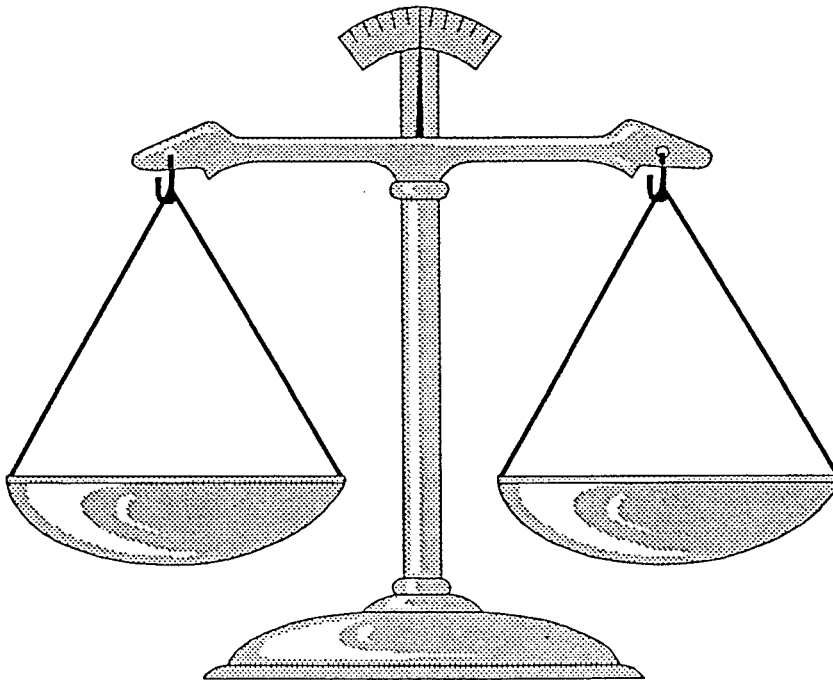
Did the person fail to comply with the terms of a citation from a participating state?

Could the same offense lead to suspension of privileges under Montana law?

The department is the decisionmaker under the administrative hearing procedure. Further appeals on the record could be made to the district (and eventually supreme) courts.

WILDLIFE VIOLATOR COMPACT

OPERATIONS MANUAL



SECTION I BACKGROUND

I. Historical Information

The concept of a wildlife violator compact was first advanced in the early 1980s by member states in the Western Association of Fish and Wildlife Agencies. Law enforcement administrators and Wildlife Commissioners from several states began discussing the idea of a compact based on the format of the existing Drivers License Compact and Non-Resident Violator Compact, both of these related to motor vehicle operator licensing and enforcement.

In 1985 draft compacts were developed independently in Colorado and Nevada. Subsequently, these drafts were merged and the Wildlife Violator Compact (WVC) was presented for discussion at the 1986 Law Enforcement Technical Committee Workshop of the Western Association.

During the 1989 Legislative session compact legislation was passed into law in Colorado, Nevada and Oregon. These three states formed the nucleus for the development of the operational procedures of the WVC.

II. Compact Benefits

A. For the consumer

1. Delays, and/or the inconvenience involved with the processing of a violation are comparable for residents and non-residents of participating states.
2. Personal recognition is permitted in many cases involving wildlife violations. Certain violations and circumstances still require an immediate appearance or bonding.

B. For the agency

1. Wildlife law enforcement officers are able to devote more time to patrol, surveillance and apprehension of violators since they are not burdened with violator processing procedures.

2. The burden on courts and jail facilities is reduced because of the decreased case load involving immediate appearances, bonding and incarceration.
3. Public relations are improved by not having to subject as many violators to the inconveniences of immediate appearance, bonding, or incarceration.
4. The number of "Failure to Appear" cases is reduced because non-residents cannot ignore a citation from participating states without facing the suspension of their wildlife license privileges in their home states.
5. Wildlife law violators are put on notice that their activities in one state can affect their privilege to recreate in all participating states.

SECTION II
WILDLIFE VIOLATOR COMPACT

NOTE: This section contains the text of the Wildlife Violator Compact as passed by the Colorado Legislature in 1989. Details may differ from Wildlife Violator Compact language enacted by other participating states, but the substantive language remains intact.

ARTICLE I
Findings, Declaration of Policy, and Purpose

- (a) The participating states find that:
- (1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.
 - (2) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, laws, regulations, ordinances, and administrative rules relating to the management of such resources.
 - (3) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of such natural resources.
 - (4) Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.
 - (5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.
 - (6) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.
 - (7) In most instances, a person who is cited for a wildlife violation in a state other than his home state:
 - (i) Is required to post collateral or a bond to secure appearance for a trial at a later date; or

such conviction shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere and the imposition of a deferred or suspended sentence by the court.

- (e) "Court" means a court of law, including magistrate's court and the justice of the peace court.
- (f) "Home state" means the state of primary residence of a person.
- (g) "Issuing state" means the participating state which issues a wildlife citation to the violator.
- (h) "License" means any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state.
- (i) "Licensing authority" means the department or division within each participating state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.
- (j) "Participating state" means any state which enacts legislation to become a member of this wildlife compact.
- (k) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that such person will comply with the terms of the citation.
- (l) "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada, and other countries.
- (m) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.
- (n) "Terms of the citation" means those conditions and options expressly stated upon the citation.
- (o) "Wildlife" means all species of animals including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a participating state. Species included in the definition of

"wildlife" vary from ~~state to state~~ and determination of whether a species is "wildlife" for the purposes of ~~this compact~~ shall be based on local law.

- (p) "Wildlife law" means ~~any statute~~, law, regulation, ordinance, or administrative rule developed and enacted ~~for the management~~ of wildlife resources and the uses thereof.
- (q) "Wildlife officer" means ~~any individual~~ authorized by a participating state to issue a citation for a wildlife ~~violation~~.
- (r) "Wildlife violation" means ~~any cited~~ violation of a statute, law, regulation, ordinance, or administrative rule ~~developed and enacted~~ for the management of wildlife resources and the uses thereof.

ARTICLE III

~~Procedures~~ for Issuing State

- (a) When issuing a citation ~~for a wildlife violation~~, a wildlife officer shall issue a citation to any person whose ~~primary residence~~ is in a participating state in the same manner as though the person ~~was a resident~~ of the issuing state and shall not require such person to post collateral to ~~some~~ appearance, subject to the exceptions noted in paragraph (b) of this ~~article~~, if the officer receives the recognizance of such person that he will comply ~~with the terms~~ of the citation.
- (b) Personal recognizance ~~is acceptable~~ (1) if not prohibited by local law, issuing agency policy, procedure or ~~regulation~~, or by the compact manual and (2) if the violator provides adequate ~~proof of identification~~ to the wildlife officer.
- (c) Upon conviction or ~~failure of a person~~ to comply with the terms of a wildlife citation, the appropriate official ~~shall report~~ the conviction or failure to comply to the licensing authority of the ~~participating state~~ in which the wildlife citation was issued. The report shall be made ~~in accordance~~ with procedures specified by the issuing state and shall contain information ~~as specified~~ in the compact manual as minimum requirements for ~~effective processing~~ by the home state.
- (d) Upon receipt of the ~~report of conviction~~ or noncompliance pursuant to paragraph (c) of this article, the ~~licensing authority~~ of the issuing state shall transmit to the licensing authority of the ~~home state of the violator~~ the information in form and content as prescribed in the ~~compact manual~~.

ARTICLE IV
Procedure for Home State

- (a) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify the violator and shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.
- (b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as though it occurred in the home state for the purposes of the suspension of license privileges.
- (c) The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

ARTICLE V
Reciprocal Recognition of Suspension

- (a) All participating states shall recognize the suspension of license privileges of any person by any participating state as though the violation resulting in the suspension had occurred in their state and could have been the basis for suspension of license privileges in their state.
- (b) Each participating state shall communicate suspension information to other participating states in form and content as contained in the compact manual.

ARTICLE VI
Applicability of Other Laws

- (a) Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.

ARTICLE VII
Compact Administrator Procedures

- (a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each of the participating states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each participating state and shall serve and be subject to removal in accordance with the laws of the state he represents. A compact administrator may provide for the discharge of his duties and the performance of his functions as a board member by an alternate. An alternate shall not be entitled to serve unless written notification of his identity has been given to the board.
- (b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor thereof. Action by the board shall be only at a meeting at which a majority of the participating states are represented.
- (c) The board shall elect annually from its membership a chairman and vice-chairman.
- (d) The board shall adopt bylaws not inconsistent with the provisions of this compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.
- (e) The board may accept for any of its purposes and functions under this compact any and all donations and grants of moneys, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize and dispose of same.
- (f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, or corporation, or any private nonprofit organization or institution.
- (g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in a compact manual.

SECTION III PROCEDURAL MATTERS

I. The Wildlife Violator Compact

A. What is it?

The Wildlife Violator Compact (WVC) assures non-resident violators receiving citations for ~~certain~~ wildlife violations in participating states the same treatment accorded ~~residents~~ who are in violation. Procedures are established in Section IV of ~~this~~ manual which cause a non-resident violator who fails to comply with the ~~terms~~ of a citation issued in a participating state to face the possibility of the ~~suspension~~ of his wildlife license privileges in his home state until the terms of the citation are met. Safeguards are built into the WVC to assure that a non-resident violator is afforded all due process protection.

In addition, the WVC provides for the reciprocal recognition of the suspension of license ~~privileges~~ by participating states, subject to limitations again intended to provide ~~due~~ process protection. The reciprocal recognition of suspensions is ~~intended~~ to address the problems associated with the mobility of many violators.

Finally, the WVC provides that information on convictions in participating states shall be ~~forwarded~~ to the home state of the violator. The home state shall treat such ~~convictions~~ as if they had occurred in that state for the purposes of license ~~suspension~~ actions.

The WVC not ~~only~~ assures equal treatment of residents and non-residents of participating states, ~~but~~ also enhances the law enforcement services and deterrent value of ~~time~~ spent patrolling by uniformed officers.

B. What it is not.

The WVC is not a ~~device~~ to secure court appearance if a defendant has previously ~~delivered~~ himself into the court's jurisdiction and trial has been postponed to a ~~later~~ date. It is not a device for collecting unpaid portions of fines allowed to ~~be paid~~ in installments by the courts. It is not a punitive device.

II. Release on Personal Recognizance

A. Violations covered

1. Any violation subject to the provisions of a "Penalty Assessment", which allows a violator to comply with a citation by mailing a fine payment to the issuing agency or a court, thereby admitting guilt without a formal appearance.
2. Any violation written as a summons requiring a violator to deal directly with the court, either in person, by mail or through an attorney. Unless there are other restrictions in this document or in the laws, policies or procedures of the issuing state or the court of jurisdiction.

B. Types of Violations Not Covered

1. Any violations that mandate a personal appearance.
2. Any petty offense or misdemeanor violation that has a jail term as a mandatory penalty.
3. Any felony violation.
4. Any violation that the issuing officer deems serious enough to arrest a resident violator.
5. Any violation or situation which the laws, policies or procedures of the issuing state dictate shall be handled otherwise.

III. Compliance With a Citation

A. Methods of Compliance

1. Payment by mail where provided for.
2. Responding to the citation in person.
3. Submission of a plea by mail where allowed.
4. Responding through an attorney where allowed.

EXHIBIT 2
DATE 2-2-95
SB 269

B. Evidence of Compliance (in response to a notice of suspension for non-compliance).

1. Certificate from the court.
2. Copy of the court judgement.

NOTE: personal representations, check stubs, money order receipts, etc. are not acceptable.

3. The violator copy of a Notice of Compliance sent by the issuing state.

SECTION IV COMPACT PROCESS

The following are the general procedures to be followed by enforcement agencies and courts in States which are participants in the Wildlife Violator Compact (WVC). Specific procedures which are developed to comply with the legal and administrative requirements of the various States shall be acceptable so long as they comply with the intent of this manual.

The following procedures make the assumption that the violation in question meets the general requirements of Paragraph II A. of Section III of this Manual.

I. Procedures for the Issuing State

- A. The officer issues a citation to the violator on the standard form used in that state.
 - 1. When a non-resident is issued a citation and released on personal recognizance under the provisions of this compact, it is advisable that the signature of the recipient is contained on the citation, regardless of specific requirements on that issue.
 - 2. The citation is returnable to the court at a future date specified on the document, in accordance with the laws, regulations, policies, or procedures of the Agency and/or the Court of jurisdiction
- B. If the violator pays the fine or resolves the case with the court, as appropriate, the matter is closed and no further action is taken under the provisions of Paragraphs I and II of this section of the WVC.
- C. If the violator does not resolve the case by payment of the fine or with the court, action under the provisions of the WVC will be initiated.
 - 1. The "Notice of Failure to Comply" form will be completed and the original delivered to the violator by certified mail, return receipt requested, or in person. The remaining copies are held in a suspense file pending a response from the violator.

Any "Notice of Failure to Comply" shall be processed by the issuing state and reported to the home state within six months of issuance of the citation.

- a. Sufficient time will be allowed for the defendant to respond to the Notice of Failure to Comply Form prior to initiating further action under the WVC. This will normally be not less than 14 days and not more than 28 days.
 - b. If the defendant complies with the terms of the citation within the grace period allowed, no further action is taken under the provisions of this section of the WVC. Final action in a court case is not a prerequisite.
2. If the defendant fails to respond within the time allowed, copy 2 of the Notice of Failure to Comply will be sent to the home state of the defendant. The home state will proceed as outlined in Section II. Procedures for Home State
 - a. If at any time beyond this point in the WVC process the defendant resolves the case with the court, it is imperative that copies 3 and 4 of the Notice of failure to comply (Defendant's and Home State Acknowledgement of Compliance) be mailed immediately so that any pending or ongoing suspension of license privileges which are the result of the action at hand may be canceled.
 - b. At any time subsequent to the mailing of the Notice of Failure to Comply that the violator complies with the citation as specified in Section B or Section C.1.b, above, no further actions under this section of the WVC will take place.

II. Procedures for the Home State

- A. Upon receipt of the "Notice of Failure to Comply" from the issuing state, the licensing authority of the home state of the violator will review the form for the following:
 1. Is it legible?
 2. Is it complete?
 3. Is it timely, within the six month limit of the compact?
 4. Is the violation covered under the compact?
 5. Are all other aspects of the case proper under applicable state laws, policies, and procedures?

- B. If for any reason the case cannot be acted on, it will be returned to the issuing state within 14 days with an explanation of the problem. If all problems are resolved and the case is returned to the home state it will be reinstated.
- C. If the case is accepted, it will be entered into the suspension process of the home state.
- D. A Notice of Suspension will be prepared and sent to the violator. If it is a provision of the laws, policies or procedures of the home state, an advance warning letter to the violator is acceptable.
 - 1. The Notice of Suspension should have a delayed effective date to permit the violator to contact the court in the issuing state and resolve the case. The length of this delay is subject to the laws, policies or procedures of the home state, but should be at least 14 days in length.
 - 2. The Notice of Suspension must inform the violator of the facts behind the suspension with special emphasis on the procedures to be followed in resolving the matter with the court in the issuing state. Accurate information on the court (name, address, phone number) must be provided in the Notice of Suspension. This will help eliminate inquiries of the home state which are costly, time consuming and nonproductive as the home state can do nothing to resolve the case.
- E. Should the defendant request a hearing on the suspension, it will follow the form appropriate to the laws, policies or procedures of the home state.
 - 1. Such hearings will normally be restricted to challenging the right of the home state to suspend under the provisions of the WVC; to deny receiving the original citation (thus the importance of the violator's signature on the citation); or to claim that the case has been resolved.
 - 2. The question of guilt or innocence regarding the original charge will not be a subject of hearings held under the provisions of this section.
 - 3. If needed, assistance can be requested from the issuing state. This is normally limited to obtaining certified documentation.
 - 4. **NOTE: Suspensions levied for failure to comply with the terms of a citation are enforced only in the home state of the violator. These administrative suspensions are not to be confused with suspensions which are the result of convictions of wildlife violations in one or more states which are participants in the WVC.**

- F. If the suspension is upheld, the defendant must then proceed to resolve the court case with the suspension remaining in effect.
- G. If the suspension is denied for any reason, the case is terminated and the suspension order vacated. In such cases the issuing state will be informed of the reason for denial.
- H. Appeals from suspension orders will be handled in accordance with the laws, policies and procedures of the home state.
 - 1. Should a suspension order be overturned on appeal, the issuing state shall be notified.
- I. When a violator resolves a case with the court in the issuing state, an acknowledgement of compliance will be issued directly to that person. It is the responsibility of the violator to present this document to the licensing authority in the home state in order to terminate the suspension. The acknowledgement of compliance may take any form acceptable to the home state and the Court.
 - 1. If the acknowledgement of compliance is presented prior to the effective date of the suspension, the suspension is cleared immediately.
 - 2. If the acknowledgement of compliance is presented after the effective date of the suspension, reinstatement will be handled in accordance with the laws, policies and procedures of the home state.
- J. Any reinstatement or restoration fees shall be established and assessed in accordance with the laws, policies and procedures of the home state.

III. Reciprocal Recognition of Suspensions

- A. States participating in the WVC shall recognize the suspension for cause of the license privileges of any person by any other participating state under the following circumstances.
 - 1. Such recognition of suspension is not contrary to the laws of that state.
 - 2. The suspension is based on violations which could have been the basis of a suspension in that state.
- B. Recognition of suspensions which do not meet the criteria of section III. A. 2. above will be up to the laws, policies and procedures of that state.

1. The following personal identification information must be included.
 - a. Name
 - b. Date of birth
 - c. Physical description
 - d. Last known address
- B. For the purpose of license suspension, the home state shall treat such convictions in other participating states as if they had occurred in the home state.

C. Each state participating in the WVC shall communicate suspension information to other participating states within 30 days of the effective date of such suspension using a form with the following content:

1. Positive identification of the subject of the suspension. Including:

- a. Name
- b. Date of birth
- c. Physical description
- d. Last known address

2. The basis of the suspension. Including:

- a. Violation(s) on which the suspension is based.
- b. Dates of any hearings or other adjudicatory proceedings involved in the suspension.
- c. Scope of the suspension (fishing, hunting, trapping, all privileges).
- d. Effective dates of the suspension.

D. If a receiving state does not recognize the suspension the sending state will be notified of such with an explanation.

IV. Transmittal of Conviction Information to the Home State of the Violator

A. Upon a conviction, the issuing state shall forward to the home state of the violator a copy of the citation or other charging instrument, a copy of the disposition certified by the Compact Administrator of the issuing state to be true and correct, and copies of arrest or investigation reports (if any).

SECTION V
ADMINISTRATIVE MATTERS

I. Entry into the Compact

- A. Entry into the WVC may be accomplished by the following methods.
1. A state legislature may accomplish WVC joinder by adopting the full compact as a statute.
 2. A state legislature may authorize and direct that state's wildlife agency to enter into the compact.

- B. Upon legislative action as specified above, entry into the WVC shall be finalized by the submission of a resolution of ratification submitted to the chairman of the board of compact administrators.

The resolution of ratification shall be signed by the chief administrator of the wildlife agency or licensing authority and shall include the items found in section (b),2 of Article VIII of the WVC.

- C. The effective date of entry shall be specified by the applying state but shall be at least sixty days after notice has been given to each member state by the chairman of the board of compact administrators.

II. Withdrawal from the Compact

- A. A member state may withdraw from the WVC by submitting official written notice to the other member states. Such withdrawal shall not be effective until ninety (90) days after such notice is mailed.
- B. Such notice must be directed to the compact administrator of each member state.
- C. The withdrawal of one or more member states shall have no effect on the validity of the WVC as to the remaining member states.

BYLAWS

WILDLIFE VIOLATOR COMPACT

BOARD OF COMPACT ADMINISTRATORS

April 1, 1991

BYLAWS

WILDLIFE VIOLATOR COMPACT

BOARD OF COMPACT ADMINISTRATORS

ARTICLE I - STRUCTURE AND OFFICERS

Section 1.

Each state or province participating in the Wildlife Violator Compact (Compact) shall have one representative on the Board of Compact Administrators (Board).

Section 2.

Board members shall be appointed by the heads of the licensing authority in the participating states and shall be subject to removal in accordance with the laws of that state or province.

Section 3.

The Board shall elect annually from its membership a chairman and a vice-chairman. The chairman shall appoint a secretary from the remaining membership of the Board. Officers shall serve no more than two consecutive one year terms.

Section 4.

In the event that an officer of the Board is unable to continue in that capacity for any reason, the vacancy shall be filled as follows:

Chairman - The vice-chairman shall assume the duties of chairman until the next meeting of the Board at which time a new chairman shall be elected from the membership.

Vice-chairman - The chairman shall appoint an interim vice-chairman from the membership to serve until the next meeting of the board at which time a new vice-chairman shall be elected from the membership.

Secretary - The chairman shall appoint a new secretary from the membership.

ARTICLE 2 - VOTING

Section 1.

Each participating state or province shall have one vote in matters affecting the Compact. That vote shall be in the person of the Board member from that state or province.

ARTICLE 5 - COMPACT MANUAL AND FORMS

Section 1.

The Board shall formulate all necessary procedures for the administration of the compact. These procedures shall be contained in the Compact Manual which will be provided to all participating states and provinces and which will govern the specific activities authorized in the Compact.

Section 2.

The Board shall develop uniform forms and data formats for the transmittal of Compact related information.

Section 3.

Revisions to Compact forms and data formats shall be done in conjunction with Board meetings and such revisions shall require a majority vote of the Board members present.

ARTICLE 6 - AMENDMENTS TO THE COMPACT

Section 1.

Proposed amendments to the Compact shall be initiated in accordance with Article IX of the Compact.

Section 2.

Depending on the enabling laws in a state or province, endorsement of an amendment to the Compact may require additional legislative action and may delay a state's or province's participation in, or compliance with, the amended section of the Compact. Such delay shall have no impact on that state or province as relates to the remainder of the Compact.

Section 3.

Failure or inability of a state or province to endorse an amendment to the Compact shall have no impact on that state or province as relates to the remainder of the Compact.

ARTICLE 7 - AMENDMENTS TO THE BY LAWS

Section 1.

No amendments to these By Laws shall become valid except by a majority vote of the Board. Written notice containing the text of any proposed amendments must be furnished to each Board member at least 30 days prior to a meeting at which such amendment is to be considered, unless such notice is waived by all members of the Board.

MINUTES
INTERSTATE WILDLIFE VIOLATOR COMPACT (Compact)
MEETING OF THE BOARD OF COMPACT ADMINISTRATORS (Board)
JANUARY 21, 1991
PHOENIX, ARIZONA

ELECTION OF OFFICERS

CHAIR:	Colorado:	Bob Leasure
VICE CHAIR:	Arizona:	Don Vance
SECRETARY:	Oregon:	Roy Hyder
MEMBERS:	Nevada:	Tom Atkinson
	Idaho:	Frank Nesmith

BUSINESS:

- A) Each member state will provide the chair a copy of their enabling legislation and administrative rules or policy and procedures.
- B) Each member state will distribute to the chair and other member states a letter providing notice of adoption of the Compact. (refer to Arizona format.)
- C) For purposes of initiating the Compact, the Board determines offenses occurring on or after April 1, 1991 will be subject to provisions of the Compact.

BY-LAW PROVISIONS

- A) Term of officers of the Board shall be one year with officers elected annually.
- B) Board shall meet in conjunction with the Annual Law Enforcement Technical Committee Workshop.
- C) Chair may call special meetings of the Board if necessary for the purposes of Compact administration when issues need to be addressed between annual meetings.
- D) Board shall carry out authorities as described in the Compact.
- E) Chair may act to exercise authority in Article VII (e) to accept donations, grants etc.

1) Disposition, utilization or expenditure of such materials or revenue shall be by majority vote of the Board either at a meeting of the Board or by written notification by Board members.

By-Laws will be consistent with provisions of the Compact and will be printed and distributed with the Compact Manual. The Chair will prepare a draft of By-Laws by 2-15-91 for review by the Board. Board members will review the draft and respond to the Chair by 2-28-91.

Conviction information will be provided by the issuing state to the home state by sending a copy of the citation or other charging instrument, a copy of the disposition certified by the Compact Administrator to be a true copy, copies of arrest or investigation reports (if any) and personal or biological information pertaining to the defendant equivalent to what is normally required on a citation.

Suspension information shall be provided as stated in the Compact Administration Manual Draft; Section IV; part III; Reciprocal Recognition of Suspension, pages 17, 18. Such information shall be certified by the Board Administrator as true and correct.

The Chair will format a uniform cover letter for conviction and suspension data to be exchanged.

The Chair will provide each Administrator with 5 copies of the final By-Laws and Manual and one copy of the unbound copy for reproduction by each member state.

The secretary will provide each member of the Western Law Enforcement Committee a copy of the Manual and By-Laws.

WILDLIFE VIOLATOR COMPACT

COPY 1
DEFENDANT'S NOTICE
FAILURE TO COMPLY

OREGON STATE POLICE FISH AND WILDLIFE DIVISION

CASE NUMBER

The records of this agency and of the court show that you have not complied with the terms of the wildlife citation identified below. If you do not comply immediately, the wildlife agency in your state will be requested to suspend your wildlife license privileges pursuant to the terms of the Wildlife Violator Compact, of which your state is a member. You may comply with the citation by contacting the court listed below for instructions on how to proceed.

THE PEOPLE OF THE STATE OF OREGON VS:

Last Name		First Name		Middle		
Street Address (or P.O. Box)						
City		State			Zip Code	
DOB	Sex	Weight	Height	Hair	Eyes	Drivers Lic # and State

VIOLATION:

Citation No.	Date of Violation	County	Location of Violation
Statute/Regulation		Description of Violation	

COURT INFORMATION:

Court Name		Mailing Address		
City	State	Zip Code	Telephone No.	
Special Instructions				

FINE AND COST INFORMATION:

FINE AMOUNT	\$
COURT COSTS	\$
OTHER	\$
TOTAL	\$

Copy 1-Date Mailed_____

Copy 2-Date Mailed_____

Copy 3-Date Mailed_____

Copy 4-Date Mailed_____

EXHIBIT 2DATE 2-2-95WILDLIFE VIOLATOR COMPACT, SB269

COPY 2
HOME STATE NOTICE OF
FAILURE TO COMPLY

OREGON STATE POLICE
FISH AND WILDLIFE DIVISION

CASE NUMBER

The records of this agency and of the court show that the below named defendant has not complied with the terms of the wildlife citation identified herein. Pursuant to the terms of the Wildlife Violator Compact, we ask that you initiate license suspension proceedings against the defendant pending compliance with the citation. If at any time subsequent to the mailing of this notice the defendant complies with the citation, both you and the defendant will be notified immediately.

THE PEOPLE OF THE STATE OF OREGON VS:

Last Name		First Name		Middle		
Street Address (or P.O. Box)						
City		State		Zip Code		
DOB	Sex	Weight	Height	Hair	Eyes	Drivers Lic # and State

VIOLATION:

Citation No.	Date of Violation	County	Location of Violation
Statute/Regulation		Description of Violation	

COURT INFORMATION:

Court Name		Mailing Address		
City	State	Zip Code	Telephone No.	
Special Instructions				

FINE AND COST INFORMATION:

FINE AMOUNT	\$
COURT COSTS	\$
OTHER	\$
TOTAL	\$

Copy 1-Date Mailed _____

Copy 2-Date Mailed _____

Copy 3-Date Mailed _____

Copy 4-Date Mailed _____

WILDLIFE VIOLATOR COMPACT

**COPY 3
DEFENDANT'S NOTICE
OF COMPLIANCE**

OREGON STATE POLICE FISH AND WILDLIFE DIVISION

CASE NUMBER

A request to initiate license suspension proceedings due to your failure to comply with the wildlife citation identified herein has been sent to the wildlife agency in your home state. Subsequent to that request, this agency has received verification of compliance. At this time we are notifying both you and your home state wildlife agency of this new information, and further we are requesting that any suspension or pending suspension action be rescinded. Please retain this notice as proof of compliance.

THE PEOPLE OF THE STATE OF OREGON VS:

Last Name		First Name		Middle		
Street Address (or P.O. Box)						
City		State		Zip Code		
DOB	Sex	Weight	Height	Hair	Eyes	Drivers Lic # and State

VIOLATION:

Citation No.	Date of Violation	County	Location of Violation
Statute/Regulation		Description of Violation	

COURT INFORMATION:

Court Name		Mailing Address		
City	State	Zip Code	Telephone No.	
Special Instructions				

FINE AND COST INFORMATION:

FINE AMOUNT	\$
COURT COSTS	\$
OTHER	\$
TOTAL	\$

Copy 1-Date Mailed_____

Copy 2-Date Mailed_____

Copy 3-Date Mailed_____

Copy 4-Date Mailed_____

EXHIBIT 2
DATE 2-2-95
SB 269

WILDLIFE VIOLATOR COMPACT

COPY 4
HOME STATE NOTICE
OF COMPLIANCE

OREGON STATE POLICE FISH AND WILDLIFE DIVISION

CASE NUMBER

Subsequent to the mailing of copy 2 of this form, "HOME STATE NOTICE OF FAILURE TO COMPLY", this agency has received verification of compliance by the defendant with the terms of the citation identified herein. At this time we are requesting that your agency terminate any ongoing suspension proceedings and/or rescind any suspension enacted as a result of the prior request. We have also notified the defendant of this verification of compliance.

THE PEOPLE OF THE STATE OF OREGON VS:

Last Name		First Name		Middle		
Street Address (or P.O. Box)						
City		State		Zip Code		
DOB	Sex	Weight	Height	Hair	Eyes	Drivers Lic # and State

VIOLATION:

Citation No.	Date of Violation	County	Location of Violation
Statute/Regulation		Description of Violation	

COURT INFORMATION:

Court Name		Mailing Address			
City	State	Zip Code	Telephone No.		
Special Instructions					

FINE AND COST INFORMATION:

FINE AMOUNT	\$
COURT COSTS	\$
OTHER	\$
TOTAL	\$

Copy 1-Date Mailed _____

Copy 2-Date Mailed _____

Copy 3-Date Mailed _____

Copy 4-Date Mailed _____

STATE OF COLORADO
Roy Romer, Governor
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WILDLIFE

AN EQUAL OPPORTUNITY EMPLOYER

Perry D. Olson, Director
6060 Broadway
Denver, Colorado 80216
Telephone: (303) 297-1192

REFER TO



*For Wildlife—
For People*

WILDLIFE VIOLATOR COMPACT

CERTIFICATION OF AUTHENTICITY

The attached documents and information are certified to be true and correct copies of the (criminal) (suspension) records maintained by the *Colorado Division of Wildlife* on the following subjects:

NAME	DOB	LAST KNOWN ADDRESS
------	-----	--------------------

Compact Administrator *Colorado Division of Wildlife*

DEPARTMENT OF NATURAL RESOURCES, Kenneth Salazar, Executive Director
WILDLIFE COMMISSION, William R. Hegberg, Chairman • Eldon W. Cooper, Secretary • Felix Chavez, Member
Rebecca L. Frank, Member • Louis F. Swift, Member • George VanDenBerg, Member • Larry M. Wright, Member

EXHIBIT 2
DATE 2-2-95
SB 269

STATE OF COLORADO
Roy Romer, Governor
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WILDLIFE
AN EQUAL OPPORTUNITY EMPLOYER

Perry D. Olson, Director
6060 Broadway
Denver, Colorado 80216
Telephone: (303) 297-1192


REFER TO



DATE: January 17, 1991

MEMORANDUM

TO: Randy Fisher, Director, Oregon Department of Fish & Wildlife

FROM: Perry Olson, Director, Colorado Division of Wildlife 

SUBJECT: Resolution of Ratification, Wildlife Violator Compact

This memorandum shall serve as notice from the Colorado Division of Wildlife of its resolution of ratification and intent to be a party to the Wildlife Violator Compact (Compact) with all other states who have adopted, or shall adopt in the future, such Compact in a form substantially similar to that adopted by the Colorado Legislature during the 1989 session.

The Colorado Division of Wildlife agrees to comply to the full extent allowed by statute with the terms and provisions of the Compact and with the procedures contained in the Compact Manual and the Bylaws of the Board of Compact Administrators, when such manual and bylaws are adopted.

The effective date of Arizona's entry to the Compact shall be the date the Secretary of the Board of Compact Administrators gives notice that this resolution has been received.

As indicated in a separate memorandum to the Board of Compact Administrators, Robert A. Leasure, Assistant Chief of Law Enforcement, is appointed Compact Administrator for Colorado.

cc: Roy Hyder, Major
Oregon State Police, Game Bureau

FEB 26 1991

REFER TO



[Handwritten signature]

STATE OF COLORADO
Roy Romer, Governor
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WILDLIFE
AN EQUAL OPPORTUNITY EMPLOYER
Perry D. Olson, Director
6060 Broadway
Denver, Colorado 80216
Telephone: (303) 297-1192

January 18, 1991

MEMORANDUM

TO: Board of Compact Administrators - Wildlife Violator Compact
FROM: Perry Olson, Director *[Handwritten initials: PDO]*
SUBJECT: Compact Administrator

In accordance with the provisions of Article VII of the Wildlife Violator Compact as contained in Section 24-60-2602, C.R.S. I am hereby appointing Robert A. Leasure, Assistant Chief of Law Enforcement for the Colorado Division of Wildlife, as the Compact Administrator for the state of Colorado.

Resolution '04
~~Initiative~~

There is major and growing interest in "A wildlife violator compact for the promotion of interstate cooperation in connection with the enforcement of wildlife laws".

Several of the western states Fish and Wildlife agencies are at various stages in implementing enabling legislation for gaining approval to become fully involved in the wildlife law enforcement compact.

Because of the nature and goals of this joint cooperative project - the sharing of violation data is imperative.

As this multi state compact expands cooperative guidelines and procedures must be established. The ADP (Information Systems) panel strongly recommend the inclusion of information system standards to guarantee compatibility between compact members.

Such standards should include:

- Data coding

- File formats

- File density

- Media standards

- Naming conventions

- How data is to be shared

- Frequency of updates

H
5-3

A-Engrossed House Bill 2187 GAME BUR.

Ordered by the House May 1
Including House Amendments dated May 1

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Game Bureau, Department of State Police)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Enacts Wildlife Violator Compact.

A BILL FOR AN ACT

Relating to wildlife laws; ~~creating~~ new provisions; and amending ORS 497.415 and 497.435.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section ~~2 of this~~ Act is added to and made a part of ORS chapter 496.

SECTION 2. The Wildlife Violator Compact is hereby enacted into law and entered into on behalf of this state with ~~all other~~ states legally joining therein in a form substantially as follows:

ARTICLE I

FINDINGS, DECLARATION OF POLICY AND PURPOSE

(a) The party states ~~find that~~:

(1) Wildlife resources ~~are managed~~ in trust by the respective states for the benefit of all residents and visitors.

(2) The protection of ~~the~~ respective wildlife resources can be materially affected by the degree of compliance with state ~~state~~, law, regulation, ordinance or administrative rule relating to the management of those resources.

(3) The preservation, ~~protection~~, management and restoration of wildlife contributes immeasurably to the aesthetic, recreational and economic aspects of these natural resources.

(4) Wildlife resources ~~are valuable~~ without regard to political boundaries, therefore, all persons should be required to ~~comply with~~ wildlife preservation, protection, management and restoration laws, ordinances and ~~administrative~~ rules and regulations of all party states as a condition precedent to the continuance ~~or~~ issuance of any license ~~to~~ hunt, fish, trap or possess wildlife.

(5) Violation of wildlife ~~laws~~ interferes with the management of wildlife resources and may endanger the safety of persons ~~and~~ property.

(6) The mobility of ~~many~~ wildlife law violators necessitates the maintenance of channels of communications among the ~~various~~ states.

(7) In most instances, ~~a person~~ who is cited for a wildlife violation in a state other than the person's home state:

NOTE: Matter in bold face in ~~an amended~~ section is new; matter *[italic and bracketed]* is existing law to be omitted.

- 1 (i) Must post collateral or bond to secure appearance for a trial at a later date; or
- 2 (ii) If unable to post collateral or bond, is taken into custody until the collateral or bond is
- 3 posted; or
- 4 (iii) Is taken directly to court for an immediate appearance.

5 (8) The purpose of the enforcement practices described in paragraph (7) of this subdivision is to
6 ensure compliance with the terms of a wildlife citation by the person who, if permitted to continue
7 on the person's way after receiving the citation, could return to the person's home state and disre-
8 gard the person's duty under the terms of the citation.

9 (9) In most instances, a person receiving a wildlife citation in the person's home state is per-
10 mitted to accept the citation from the officer at the scene of the violation and to immediately con-
11 tinue on the person's way after agreeing or being instructed to comply with the terms of the
12 citation.

13 (10) The practice described in paragraph (7) of this subdivision causes unnecessary inconven-
14 ience and, at times, a hardship for the person who is unable at the time to post collateral, furnish
15 a bond, stand trial or pay the fine, and thus is compelled to remain in custody until some alternative
16 arrangement can be made.

17 (11) The enforcement practices described in paragraph (7) of this subdivision consume an undue
18 amount of law enforcement time.

19 (b) It is the policy of the party states to:

20 (1) Promote compliance with the statutes, laws, ordinances, regulations and administrative rules
21 relating to management of wildlife resources in their respective states.

22 (2) Recognize the suspension of wildlife license privileges of any person whose license privileges
23 have been suspended by a party state and treat this suspension as if it had occurred in their state.

24 (3) Allow violators to accept a wildlife citation, except as provided in subdivision (b) of Article
25 III, and proceed on the violator's way without delay whether or not the person is a resident in the
26 state in which the citation was issued, provided that the violator's home state is party to this com-
27 pact.

28 (4) Report to the appropriate party state, as provided in the compact manual, any conviction
29 recorded against any person whose home state was not the issuing state.

30 (5) Allow the home state to recognize and treat convictions recorded for their residents which
31 occurred in another party state as if they had occurred in the home state.

32 (6) Extend cooperation to its fullest extent among the party states for obtaining compliance with
33 the terms of a wildlife citation issued in one party state to a resident of another party state.

34 (7) Maximize effective use of law enforcement personnel and information.

35 (8) Assist court systems in the efficient disposition of wildlife violations.

36 (c) The purpose of this compact is to:

37 (1) Provide a means through which the party states may participate in a reciprocal program to
38 effectuate policies enumerated in subdivision (b) of this Article in a uniform and orderly manner.

39 (2) Provide for the fair and impartial treatment of wildlife violators operating within party states
40 in recognition of the person's right of due process and the sovereign status of a party state.

41 42 ARTICLE II

43 DEFINITIONS

44 As used in this compact, unless the context requires otherwise:

(a) "Citation" means any summons, complaint, ticket, penalty assessment or other official document issued by a wildlife officer or other peace officer for a wildlife violation containing an order which requires the person to respond.

(b) "Collateral" means any cash or other security deposited to secure an appearance for trial, in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(c) "Compliance" with respect to a citation means the act of answering the citation through appearance at a court, a tribunal or payment of fines, costs and surcharges, if any, or both such appearance and payment.

(d) "Conviction" means a conviction, including any court conviction, of any offense related to the preservation, protection, management or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance or administrative rule, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, or payment of a penalty assessment, or a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.

(e) "Court" means a court of law, including Magistrate's Court and the Justice of the Peace Court.

(f) "Home state" means the state of primary residence of a person.

(g) "Issuing state" means the party state which issues a wildlife citation to the violator.

(h) "License" means any license, permit or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing or taking any wildlife regulated by statute, law, regulation, ordinance or administrative rule of a party state.

(i) "Licensing authority" means the department or division within each party state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(j) "Party state" means any state which enacts legislation to become a member of this Wildlife Compact.

(k) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of that citation.

(l) "State" means any state, territory or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada or other countries.

(m) "Suspension" means any revocation, denial or withdrawal of any or all license privileges, including the privilege to apply for, purchase or exercise the benefits conferred by any license.

(n) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(o) "Wildlife" means all species of animals, including but not necessarily limited to mammals, birds, fish, reptiles, amphibians, mollusks and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance or administrative rule in a party state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.

(p) "Wildlife law" means any statute, law, regulation, ordinance or administrative rule developed and enacted to manage wildlife resources and the use thereof.

(q) "Wildlife officer" means any individual authorized by a party state to issue a citation for a wildlife violation.

(r) "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance or ad-

1 ministrative rule developed and enacted to manage wildlife resources and the use thereof.

2
3 ARTICLE III

4 PROCEDURES FOR ISSUING STATE

5 (a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any
6 person whose primary residence is in a party state in the same manner as if the person were a
7 resident of the home state and shall not require the person to post collateral to secure appearance,
8 subject to the exceptions contained in subdivision (b) of this Article, if the officer receives the per-
9 son's personal recognizance that the person will comply with the terms of the citation.

10 (b) Personal recognizance is acceptable:

11 (1) If not prohibited by local law or the compact manual; and

12 (2) If the violator provides adequate proof of the violator's identification to the wildlife officer.

13 (c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the
14 appropriate official shall report the conviction or failure to comply to the licensing authority of the
15 party state in which the wildlife citation was issued. The report shall be made in accordance with
16 procedures specified by the issuing state and shall contain the information specified in the compact
17 manual as minimum requirements for effective processing by the home state.

18 (d) Upon receipt of the report of conviction or noncompliance required by subdivision (c) of this
19 Article, the licensing authority of the issuing state shall transmit to the licensing authority in the
20 home state of the violator the information in a form and content as contained in the compact man-
21 ual.

22
23 ARTICLE IV

24 PROCEDURES FOR HOME STATE

25 (a) Upon receipt of a report of failure to comply with the terms of a citation from the licensing
26 authority of the issuing state, the licensing authority of the home state shall notify the violator,
27 shall initiate a suspension action in accordance with the home state's suspension procedures and
28 shall suspend the violator's license privileges until satisfactory evidence of compliance with the
29 terms of the wildlife citation has been furnished by the issuing state to the home state licensing
30 authority. Due process safeguards will be accorded.

31 (b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the
32 licensing authority of the home state shall enter such conviction in its records and shall treat such
33 conviction as if it occurred in the home state for the purposes of the suspension of license privileges.

34 (c) The licensing authority of the home state shall maintain a record of actions taken and make
35 reports to issuing states as provided in the compact manual.

36
37 ARTICLE V

38 RECIPROCAL RECOGNITION OF SUSPENSION

39 All party states shall recognize the suspension of license privileges of any person by any state
40 as if the violation on which the suspension is based had in fact occurred in their state and could
41 have been the basis for suspension of license privileges in their state.

42
43 ARTICLE VI

44 APPLICABILITY OF OTHER LAWS

Except as expressly ~~required by~~ provisions of this compact, nothing herein shall be construed to affect the right of any party state to apply any of its laws relating to license privileges to any person or circumstance, ~~or to invalidate~~ or prevent any agreement or other cooperative arrangements between a party ~~state and a~~ nonparty state concerning wildlife law enforcement.

ARTICLE VII

COMPACT ADMINISTRATOR PROCEDURES

(a) For the purpose of ~~administering~~ the provisions of this compact and to serve as a governing body for the resolution of ~~all matters~~ relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each of the party states to be known as the compact administrator. The compact administrator shall be appointed by the head of the ~~licensing~~ authority of each party state and will serve and be subject to removal in accordance ~~with the laws~~ of the state the administrator represents. A compact administrator may provide for ~~the discharge~~ of the administrator's duties and the performance of the administrator's functions as a board member by an alternate. An alternate may not be entitled to serve unless written notification of the alternate's identity has been given to the board.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be ~~binding unless~~ taken at a meeting at which a majority of the total number of votes on the board are cast in favor thereof. Action by the board shall be only at a meeting at which a majority of the party ~~states are~~ represented.

(c) The board shall ~~elect annually~~, from its membership, a chairperson and vice-chairperson.

(d) The board shall ~~adopt bylaws~~, not inconsistent with the provisions of this compact or the laws of a party state, for ~~the conduct~~ of its business and shall have the power to amend and rescind its bylaws.

(e) The board may ~~accept for~~ any of its purposes and functions under this compact all donations and grants of money, ~~equipment, supplies~~, materials and services, conditional or otherwise, from any state, the United States ~~or any governmental agency~~, and may receive, utilize and dispose of the same.

(f) The board may ~~contract with~~ or accept services or personnel from any governmental or intergovernmental agency, ~~individual~~, firm, corporation or any private nonprofit organization or institution.

(g) The board shall ~~formulate~~ all necessary procedures and develop uniform forms and documents for administering ~~the provisions~~ of this compact. All procedures and forms adopted pursuant to board action shall be ~~contained in~~ the compact manual.

ARTICLE VIII

ENTRY INTO COMPACT AND WITHDRAWAL

(a) This compact shall ~~become~~ effective when it has been adopted by at least two states.

(b) (1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the ~~applying~~ state and submitted to the chairperson of the board.

(2) The resolution shall ~~be in a~~ form and content as provided in the compact manual and shall include statements that ~~in substance~~ are as follows:

(i) A citation of the ~~authority~~ by which the state is empowered to become a party to this compact;

1 (ii) Agreement to comply with the terms and provisions of the compact; and

2 (iii) That compact entry is with all states then party to the compact and with any state that
3 legally becomes a party to the compact.

4 (3) The effective date of entry shall be specified by the applying state, but shall not be less than
5 60 days after notice has been given by the chairperson of the board of the compact administrators
6 or by the secretariat of the board to each party state that the resolution from the applying state
7 has been received.

8 (c) A party state may withdraw from this compact by official written notice to the other party
9 states, but a withdrawal shall not take effect until 90 days after notice of withdrawal is given. The
10 notice shall be directed to the compact administrator of each member state. No withdrawal shall
11 affect the validity of this compact as to the remaining party states.

12
13 ARTICLE IX

14 AMENDMENTS TO THE COMPACT

15 (a) This compact may be amended from time to time. Amendments shall be presented in resol-
16 ution form to the chairperson of the board of compact administrators and may be initiated by one
17 or more party states.

18 (b) Adoption of an amendment shall require endorsement by all party states and shall become
19 effective 30 days after the date of the last endorsement.

20 (c) Failure of a party state to respond to the compact chairman within 120 days after receipt
21 of the proposed amendment shall constitute endorsement.

22
23 ARTICLE X

24 CONSTRUCTION AND SEVERABILITY

25 This compact shall be liberally construed so as to effectuate the purposes stated herein. The
26 provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this
27 compact is declared to be contrary to the constitution of any party state or of the United States or
28 the applicability thereof to any government, agency, individual, or circumstance is held invalid, the
29 compact shall not be affected thereby. If this compact shall be held contrary to the constitution of
30 any party state thereto, the compact shall remain in full force and effect as to the remaining states
31 and in full force and effect as to the state affected as to all severable matters.

32
33 ARTICLE XI

34 TITLE

35 This compact shall be known as the Wildlife Violator Compact.

36
37 SECTION 3. ORS 497.415 is amended to read:

38 497.415. (1) Except as provided in ORS 497.435, when any person is convicted of a violation of
39 law or any rule adopted pursuant thereto, [or] forfeits bail or otherwise fails to comply with the
40 requirements of a citation in connection with such violation as provided in subsection (2) of this
41 section, the court [in which such person is convicted or in which bail is forfeited] may order the
42 commission to revoke such of the licenses, tags and permits issued to that person pursuant to the
43 wildlife laws as the court considers appropriate. Revocation of licenses, tags and permits is in ad-
44 dition to and not in lieu of other penalties provided by law.

(2) The license, tag and permit revocation provisions of subsection (1) of this section apply to the following persons:

(a) Any person who is convicted of a violation of the wildlife laws, or any rule adopted pursuant thereto, [or] who forfeits bail or otherwise fails to comply with the requirements of a citation in connection with any such offense when bail has been set in the amount of \$50 or more.

(b) Any person who is convicted of a violation of ORS 164.245, 164.255, 164.265, 164.345, 164.354 or 164.365 committed while the person was angling, hunting or trapping, [or] who forfeits bail or otherwise fails to comply with the requirements of a citation in connection with any such offense when bail has been set in the amount of \$50 or more.

(c) Any person who is convicted of a violation of ORS 166.630 or 166.638 committed while hunting, [or] who forfeits bail or otherwise fails to comply with the requirements of a citation in connection with any such offense when bail has been set in the amount of \$50 or more.

(3) When a court orders the revocation of a license, tag or permit pursuant to this section or ORS 497.435, the court shall take up any such licenses, tags and permits and forward them, together with a copy of the revocation order, to the commission. Upon receipt thereof, the commission shall cause revocation of the appropriate licenses, tags and permits in accordance with the court order.

(4) For purposes of the Wildlife Violator Compact, the commission shall:

(a) Suspend a violator's license for failure to comply with the terms of a citation from a party state. A copy of a report of failure to comply from the licensing authority of the issuing state shall be conclusive evidence.

(b) Revoke a violator's license for a conviction in a party state. A report of conviction from the licensing authority of the issuing state shall be conclusive evidence.

[(4)] (5) No person who has had a license, tag or permit revoked pursuant to this section for the first time shall apply for or obtain another such license, tag or permit for the period of 24 months from the date the court ordered the revocation. Upon having a license, tag or permit revoked for a second time pursuant to this section, no person shall apply for or obtain another such license, tag or permit for the period of three years. Upon having a license, tag or permit revoked for a third or subsequent time pursuant to this section, no person shall apply for or obtain another such license, tag or permit for the period of five years.

[(5)] (6) If a person convicted of conduct described in subsection (2) of this section does not possess at the time of conviction those licenses, tags and permits issued pursuant to the wildlife laws that the court would have revoked pursuant to this section, the court shall specify by order those licenses, tags and permits that would have been revoked and shall forward a copy of the order to the commission. No person who is the subject of such a court order shall apply for, possess or obtain another such license, tag or permit for the period of 24 months from the date of the order. Upon being the subject of a court order under this subsection for a second time, no person shall apply for or obtain another such license, tag or permit for the period of three years. Upon being the subject of a court order under this subsection for a third or subsequent time, no person shall apply for or obtain another such license, tag or permit for the period of five years.

SECTION 4. ORS 497.435 is amended to read:

497.435. (1) Notwithstanding ORS 497.415 (1), (2) or [(4)] (5), when a person is convicted of taking any game mammal, in violation of the wildlife laws or any rule promulgated pursuant thereto, during a season or time of year other than as set forth in the finding of the commission provided in ORS 496.162, the court in which the conviction occurs shall order the commission to revoke all hunting

1 licenses, tags and permits issued to that person pursuant to the wildlife laws. Revocation of licenses,
2 tags and permits is in addition to and not in lieu of other penalties provided by law.

3 (2) No person who has been convicted of conduct described in subsection (1) of this section shall
4 apply for, obtain or possess any hunting license, tag or permit issued pursuant to the wildlife laws
5 within 24 months after the conviction.
6 _____
7
8

OREGON ADMINISTRATIVE RULES
CHAPTER 635, DIVISION 1 — DEPARTMENT OF FISH AND WILDLIFE

Hist.: FWC 43-1991, f. 5-1-91, cert. ef. 5-6-91

**Standards and Procedures Under the
Wildlife Law Violator Compact**

Purpose

635-01-200 The purpose of these rules is to provide standards and procedures for license suspension and revocation required under the Wildlife Law Violator Compact (Compact), and to identify the Compact Administrator to the Board of Compact Administrators for the State of Oregon.

Stat. Auth.: ORS Ch. 496 & 497

Hist.: FWC 43-1991, f. 5-1-91, cert. ef. 5-6-91

Definitions

635-01-205 The Wildlife Violator Compact, ORS 496.715, defines "suspension" to include any revocation, denial or withdrawal of any or all license privileges. However, to insure consistency with other applicable law, the terms "revocation" and "suspension" as used in these rules shall have the following meaning:

(1) "Revocation" means to cancel, annul and make void for the entire remainder of the term of any license.

(2) "Suspension" means to temporarily discontinue and interrupt a license, but with an expectation that it may be reinstated upon the occurrence of a specific event, such as evidence of compliance with a citation.

Stat. Auth.: ORS 496 & 497

Standard for License Suspension or Revocation

635-01-210 (1)(a) Upon receipt of the following information from a party state to the Compact, the Director shall initiate license suspension proceedings in accordance with ORS 635-01-215:

(b) That a person has failed to comply with the terms of a citation from the licensing authority of a party state. Such suspension shall remain in effect until the Director receives adequate evidence of compliance with the citation.

(2) Upon receipt of the following information from a party state to the Compact, the Commission may initiate license suspension or revocation proceedings as appropriate in accordance with OAR 635-01-215:

(a) That a person has had his or her license privileges suspended or revoked in a party state for an offense which could have been the basis for suspension or revocation of license privileges in Oregon. Where the Commission chooses to suspend, such suspension shall remain in effect until the Commission receives adequate evidence of reinstatement of license privileges in the party state;

(b) That a person has been convicted in a party state of a misdemeanor or felony or forfeited bail, for an offense that could have been the basis for revocation of license privileges had it occurred in Oregon and when bail in Oregon for the offense would have been \$50 or more;

(c) That an individual has been convicted in a party state of a crime which would be classed as a violation in Oregon; and that person has been convicted of previous violations in Oregon or of previous crimes in a party state that would be classed as a violation in Oregon.

Stat. Auth.: ORS Ch. 496 & 497

Hist.: FWC 43-1991, f. 5-1-91, cert. ef. 5-6-91

Procedures to Suspend or Revoke

635-01-215 (1) When the Director is notified of a failure to comply with the Terms of a citation from the licensing authority of a party state, the Director shall initiate license suspension proceedings in accordance with this section.

(2) When the Commission has been notified of any of the conditions under OAR 635-01-210(2), the Commission may initiate license suspension or revocation proceedings in accordance with this section.

(3) The person shall be notified in writing of the Director's or Commission's intention to suspend, revoke, or refuse to issue, licenses and tags, and shall be provided with an opportunity to request a hearing within 30 days of the date of mailing.

(4) If at the end of 30 days no response has been received, a final order shall be issued suspending, revoking or refusing to issue license privileges and mailed by certified mail to the person.

(5) If prior to 30 days from the date of mailing the person submits a request for a hearing, a hearing will occur. At the discretion of the Department, the case may be reviewed in writing upon stipulation by the licensee or a hearing may be scheduled before the hearings officer.

(6) Following the hearings officer's review, a proposed order in the form prescribed by OAR 137-03-070, including findings of fact and conclusions of law, shall be prepared by the hearings officer, served on all parties, and shall be forwarded to the Director or Commission.

(7) In accordance with ORS Chapter 183, the Director or Commission shall provide an opportunity to all parties to respond in writing within 30 days to the proposed order of the hearings officer.

(8) A final order shall be reviewed and signed by the Director or Commission chair and all parties shall be provided a copy by certified mail.

Stat. Auth.: ORS Ch. 496 & 497

Hist.: FWC 43-1991, f. 5-1-91, cert. ef. 5-6-91

Compact Administrator

635-01-220 For the purposes of Article VII of the Wildlife Violator Compact referred to in ORS 496.750 the Administrative head of the Oregon State Police Game Enforcement unit, or his or her designee, shall be the Compact Administrator for the State of Oregon.

Stat. Auth.: ORS Ch. 496 & 497

Hist.: FWC 43-1991, f. 5-1-91, cert. ef. 5-6-91

SENATE FISH AND GAME

EXHIBIT NO. 3DATE 2/02/95BILL NO. None

January 31, 1995

Mr. Riley Johnson
491 S. Park Ave.
Helena, MT. 59601

Re: Native status of Walleye in Montana.

Dear Mr. Johnson:

Pursuant to my phone conversation with Don Groven on this date I am faxing you the following two letters with attachments:

- Letter received by Larry Peterman, FW&P Department from Terry Steinwand, Chief of the Fisheries Division of the North Dakota Game and Fish Department regarding the native status of walleye in the Missouri River system.
- Letter received by John Lamb, WUM from Steve Leathe, Region 4 Fisheries Manager for the FW&P Department regarding the native status of walleye in the Missouri River system.

ISSUES

- #1 There are no natural boundaries or obstacles which exist between the acknowledged range of walleyes in North Dakota and Montana.
- #2 There has been no scientific explanation which has been provided by the Montana Department of FW&P to explain why or how the walleye would have stopped just short of the Montana - North Dakota boundary.
- #3 Steve Leathe, Region 4 Fisheries Manager for the FW&P Department admits in his letter to John Lamb, dated November 4, 1994, that, "Maybe it is possible an occasional walleye swam up the Missouri...". The point here is that even if only an occasional walleye swam up the Missouri in Montana, Montana should be included within the established range of a fish which is unquestionably considered indigenous to the rest of Missouri River system.

- #4 Montana's Department of FW&P admits that the sauger (Stizostedion canadense) which is the cousin of the walleye (Stizostedion vitreum) is in fact native to the Missouri and Yellowstone River systems in Montana. Again there is no scientific proof that walleyes stopped short of the Montana border while their cousins (saugers) continued to swim upstream.
- #5 As result of the Endangered Species Act the focus of Fisheries management in Montana has shifted from sport Fisheries management to native Fisheries management. Additionally federal money, such as the Wallop-Breaux funds, have began to be targeted and earmarked toward native fisheries issues and management.
- #6 It is likely that the sauger will become listed as a "State Threatened Species" in the Yellowstone River due to the Montana's Department of FW&P preference for managing the Yellowstone for paddlefish despite their acknowledgement that saugers are also a native fish.

Montana is every bit as much of the walleye's native range as it is the sauger's native range, furthermore, it is not scientifically possible for the walleye to have chosen to inhabit the Missouri River system just short of the Montana border with North Dakota. Currently, walleyes which inhabit Fort Peck Lake annually swim upstream in search of spawning habitat which is in short supply in Fort Peck Lake. Please contact me should you have any questions concerning this information.

Sincerely,



John E. Lamb
Executive Director
Walleyes Unlimited of Montana

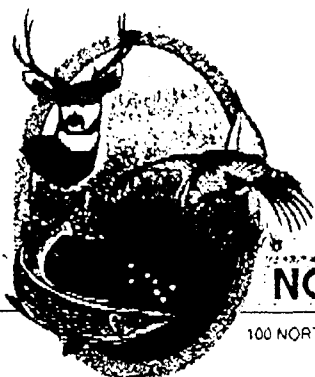


EXHIBIT 3
DATE 2-2-95
None

RECEIVED

AUG 22 1994

FISHERIES DIV.
DEPT. FISH, WILDLIFE & PARKS**NORTH DAKOTA GAME AND FISH DEPARTMENT**

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-221-8300 FAX 701-221-8352

August 18, 1994

Larry Peterman, Administrator
Fisheries Division
Montana Dept. of Fish, Wildlife & Parks
1420 East Sixth Avenue
Helena, MT 59620

Dear Larry:

About a month ago you asked whether or not walleye were indigenous to the Missouri River system. Evidently you had heard they were not or were unable to find any reference to walleye in the Missouri River. I asked Greg Power to find evidence that they are native to the river.

Enclosed are two references that Greg has found to substantiate that they are native to the Missouri River. They are certainly native to North Dakota but there are those that will undoubtedly question their "native" status in the Missouri River system. The fact that they were commonly found in the lower/mid Missouri River suggests they were also present in the upper portion of the river. The fact that the Lake Sakakawea walleye fishery established itself without benefit of stocking (until recently) is further proof that they were/are native to the Missouri River.

I hope this information is helpful.

Sincerely,

A handwritten signature in cursive script that reads "Terry".

Terry Steinwand, Chief
Fisheries Division

DATE

2/02/95

SENATE COMMITTEE ON

Senate Fish & Game

BILLS BEING HEARD TODAY:

SB 269, Extension SB 211

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Beate Galda	FWP	269	X	
Bob Lane	FWP	269	X	
Janet Ellis	MT Audubon	269	X	
Bob Winfield	FWP	269	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY