

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FISH & GAME

Call to Order: By **CHAIRMAN AL BISHOP**, on February 4, 1997, at
3:00 p.m., in Room 402

ROLL CALL

Members Present:

Sen. Al Bishop, Chairman (R)
Sen. Loren Jenkins, Vice Chairman (R)
Sen. Vivian Brooke (D)
Sen. William S. Crismore (R)
Sen. Steve Doherty (D)
Sen. Bea McCarthy (D)
Sen. Kenneth "Ken" Mesaros (R)
Sen. Ken Miller (R)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)

Members Excused: None

Members Absent: None

Staff Present: Leanne Kurtz, Legislative Services Division
Serena Andrew, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 175, Posted 1/28/97
Executive Action: None

HEARING ON HB 175

Sponsor: REPRESENTATIVE BOB REAM, HD #69, Missoula

Proponents: Dino Fanelli, Montana Bowhunters Association
Bruce Bender, City of Missoula
Alec Hansen, League of Cities & Towns
Jim Richard, Montana Wildlife Federation
Pat Graham, Director, Department of Fish, Wildlife
& Parks
David Harmon, Missoula

Opponents: None

{Tape: 1; Side: A; Approx. Time Count: 3:17}

Opening Statement by Sponsor:

REPRESENTATIVE BOB REAM, HD #69, Missoula, told the committee his bill did not automatically open deer hunting in Montana cities - it merely repeals Section 87-3-305, MCA that prohibits the hunting of deer within city limits. Deer are the only game animals mentioned in the statute.

HB 175 would provide a tool to deal with increasing deer populations in urban areas throughout the state. In the Rattlesnake area of Missoula there is a deer/auto collision about once a week and shrubs and gardens are constantly damaged.

Missoula has annexed mountains on either side of the valley and there are large open areas in the Rattlesnake and Grant Creek. Under very controlled conditions, an archery season could be held, (perhaps from dawn to 9:00 a.m.), but only with the concurrence of the local community.

{Tape: 1; Side: A; Approx. Time Count: 3:22}

Proponents' Testimony:

Dino Fanelli, Montana Bowhunters Association, supported the bill because it would allow local control. His organization would offer assistance. EXHIBIT #1

Bruce Bender, City of Missoula, also supported the bill because it would offer local control and address concerns that deer attract mountain lions. EXHIBIT #2

Alec Hansen, League of Cities & Towns, supported repeal of the old law (Section 87-3-305) and agreed that it is difficult to control urban deer populations.

Jim Richard, Montana Wildlife Federation, supported the bill for all the reasons previously given. In addition, his organization feels that sport hunting should be used whenever possible to control game populations.

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Pat Graham, Director, Department of Fish, Wildlife & Parks (DFWP) said he understood the perceptions surrounding the bill and the problems leading to its introduction. EXHIBIT #3

David Harmon, Missoula, an outfitter and wilderness guide, supported the bill because: (1) there have been numerous deer/auto collisions, (2) deer are doing considerable damage to gardens and alfalfa fields, and mountain lions have been observed stalking deer on his neighbors' land. EXHIBIT #4

Opponents' Testimony: None

Questions From Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Count: 3:37}

SENATOR KEN MILLER commented that local control and archery hunting were not mentioned in the bill. If DFWP wanted to allow gun hunting they could without any local input. REPRESENTATIVE REAM replied that there is a law forbidding the discharge of a firearm within city limits. The bill simply removes an impediment to hunting. Also, deer are the only species mentioned in the law; technically, it would be possible to hunt any other game species within city limits. He thought the decision to hunt within a city should be made by the Fish, Wildlife & Parks Commission (FWPC) rather than the legislature.

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SENATOR KEN MESAROS said he knew there were problems with urban deer. If it is currently unlawful to hunt deer within city limits, he asked if repeal of Section 87-3-305 would make it lawful. REPRESENTATIVE REAM said the law is silent on the issue. Theoretically it would be lawful, but the FWPC should deal with this issue in the future. It is, however, unlawful to discharge a firearm within city limits.

SENATOR MESAROS commented that a deer was shot in Lincoln several years ago, and asked if that had been legal. Pat Graham said passage of HB 175 would not affect current restrictions: it is unlawful to hunt big game on private property without permission, it is also unlawful to shoot from a road right-of-way. He pointed out that currently there is no regulation prohibiting elk hunting in town.

{Tape: 1; Side: A; Approx. Time Count: 3:46}

SENATOR MESAROS asked if it would be better if cities and towns were closed to hunting and then opened by local request. Mr. Graham said passage of this bill would allow that option. REPRESENTATIVE REAM commented that it couldn't be done without passage of HB 175.

SENATOR MESAROS said all the testimony he had heard was for local control or control by the FWPC. The bill before the committee was only repealing existing law. Mr. Graham said cities have the authority to prohibit hunting within their boundaries. Cities and towns would come to the FWPC and request authorization of a season. There is nothing in current law that would keep cities and towns from prohibiting deer hunting.

{Tape: 1; Side: A; Approx. Time Count: 3:49}

SENATOR STEVE DOHERTY said people hunt ducks on the Missouri in Great Falls and the city has said they can't hunt ducks in town. The problems will only increase. **Mr. Graham** said the commission addresses public safety along the river corridor by restricting hunting to shot guns, hand guns or bow and arrow. There were 200 deer in Colstrip this winter - some challenged people. This bill would make it possible to address that type of problem, and only local people can decide how to do it.

He mentioned that it would have been possible to put dogs after mountain lions when they were seen in urban areas but the local people were against it.

{Tape: 1; Side: A; Approx. Time Count: 3:54}

SENATOR VIVIAN BROOKE asked if cities other than Missoula had requested assistance and if FWP had considered trapping and transplanting urban deer. **Mr. Graham** said they either come back or other deer move in. As cities spread out, places where hunting was formerly authorized are no longer available. Those are the places where these animals congregate - in the no-shooting zone.

{Tape: 1; Side: B; Approx. Time Count: 3:58}

SENATOR BROOKE asked what else could be done. **Mr. Graham** suggested changing the type of flowers and shrubs people plant. Biological contraceptives have been tried but were unsuccessful. It would be possible to have department staff shoot them, but some people are opposed. It costs too much to move deer, particularly when they are replaced so quickly.

SENATOR BROOKE asked if Montana were in danger of lyme disease because of urban deer. **Mr. Graham** said lyme disease is in the east and midwest but didn't think it had reached the west, although it is only a few states away.

SENATOR WILLIAM CRISMORE commented that DFWP has moved other animals. **Mr. Graham** said some animal populations recover rapidly. Ungulates have a high capacity to bounce back, and moving animals wouldn't reduce the problem over time. Bear and lion are moved for public safety. **SENATOR CRISMORE** commented that the number of deer taken by archery hunting in cities and towns probably wouldn't help the problem either.

{Tape: 1; Side: B; Approx. Time Count: 4:01}

SENATOR MIKE TAYLOR thought archery hunting for deer would cause an anti-hunting sentiment and damage the image of hunting. He asked if hunters would be tested for skill. He suggested hiring some good bowhunters instead of allowing public hunting. **Mr. Graham** agreed that proficiency would be important.

{Tape: 1; Side: B; Approx. Time Count: 4:06}

SENATOR MESAROS commented that he knew DFWP had an elk management plan and probably has one for deer as well. He asked what the overall population trends, problems and goals were. **Mr. Graham** said they were observing divergent trends between whitetails and mule deer. Statewide, mule deer are doing quite well, but numbers are down in the western part of the state. Mule deer are more vulnerable to weather and their populations fluctuate over a 20-year period. Whitetail populations are more stable and more difficult to regulate because of human distribution. The Bitterroot is a classic example. Houses are spread throughout the area and hunting seasons are difficult to manage.

{Tape: 1; Side: B; Approx. Time Count: 4:09}

SENATOR MESAROS asked how deer numbers compare to those of 20 years ago. **Mr. Graham** said there might be a few more mule deer. There was a very severe decline about 1965. Three or four years ago mule deer numbers reached nearly a record high, and have dropped off since. **Don Childress, Wildlife Division Administrator**, said whitetails have increased steadily for the last 20 years. They are probably at an all-time high for the state.

SENATOR MESAROS asked if the department had a goal and what the state could sustain, considering the number of residents is also increasing. **Mr. Childress** said the goal has been to allow as liberal a harvest as possible but many Montana hunters prefer mule deer. That's why additional tags are offered for antlerless whitetails.

{Tape: 1; Side: B; Approx. Time Count: 4:12}

SENATOR JENKINS commented that when the bison hunt was held in the Yellowstone most of the anti-hunting people came from Missoula. **Mr. Graham** said communities would have to decide they wanted a hunt.

SENATOR JENKINS said the bowhunters' letter outlines what would be done, but that isn't what's in the bill.

SENATOR JENKINS asked how far a deer will go after it is shot. **Dino Fanelli** said he had been a bowhunter for 10 years and used a long bow and wooden arrows. He had dropped deer in their tracks, but they could go 150 yards.

SENATOR JENKINS asked if Missoula people were willing to have photos taken of deer running through town with arrows in them. **Mr. Fanelli** said hunters care what they do. The subject is difficult, but all the bill really does is return control to cities and towns. **SENATOR JENKINS** warned that negative publicity would probably result from urban hunting.

{Tape: 1; Side: B; Approx. Time Count: 4:18}

CHAIRMAN AL BISHOP asked if cities could declare deer a public nuisance and destroy them. **Mr. Graham** said the department could issue kill permits that would allow cities to remove them. That would not be considered hunting.

SENATOR BISHOP asked if police or wardens would remove the deer. **Mr. Graham** said he thought his department could.

SENATOR CRISMORE commented that a hunt confined to city limits wouldn't be reasonable - deer don't stay in town all day. **Mr. Graham** agreed. Missoula has large open areas where deer congregate. They appear to be able to find areas closed to hunting.

Closing by Sponsor:

REPRESENTATIVE REAM said HB 175 had been an uncomfortable bill because of the issues it raises. He didn't think local issues should be decided at the legislative level, but the old law precludes local control. Each place in Montana is unique and that fact should be recognized by the law.

{Tape: 1; Side: B; Approx. Time Count: 4:25}

SENATOR BISHOP closed the hearing on HB 175.

SENATOR BEA McCARTHY asked about the possibility of a committee bill for a license plate bearing a fish logo for a fee of \$20 that would go toward whirling disease research.

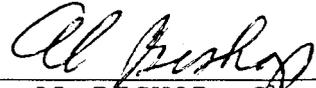
Leanne Kurtz said a number of license plate proposals were being suggested, and instead of new legislation for each type, a generic plate issued through the Department of Justice is being considered.

SENATOR BISHOP suggested taking the matter up at the next meeting. **Ms. Kurtz** offered to check on progress of the generic license plate bill.

Motion: **SENATOR McCARTHY** moved that a Senate Fish and Game Committee bill be prepared for a sportsman's license plate with the proceeds going to the Whirling Disease Research Center at Bozeman. **SENATOR MESAROS** voted NO. The remainder of the committee agreed and the **MOTION CARRIED**.

ADJOURNMENT

Adjournment: 4:35 p.m.



SEN. AL BISHOP, Chairman



SERENA ANDREW, Secretary