

**MINUTES**

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

**COMMITTEE ON FISH & GAME**

**Call to Order:** By VICE CHAIRMAN LOREN JENKINS, on March 4, 1997,  
at 3:00 P.M., in Room 402

**ROLL CALL**

**Members Present:**

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:** CHAIRMAN AL BISHOP

**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 413, POSTED 2/24/97  
Executive Action: HB 271, HB 360  
Executive Action on HB 212 began but final  
action was deferred to a future meeting

**HEARING ON HB 413**

**Sponsor:** REPRESENTATIVE DICK KNOX, HD #93, Winifred

**Proponents:** Bob Lane, Chief Legal Counsel, Department of  
Fish, Wildlife & Parks  
Bud Solmonsson, National ECO Institute  
Brett Brownscombe, Montana Wildlife Federation

**Opponents:** None

{Tape: 1; Side: A; Approx. Time Count: 3:15}

Opening Statement by Sponsor:

**REPRESENTATIVE DICK KNOX, HD #93, Winifred,** said the bill would establish an ethics education course for violators who have had their hunting or fishing licenses suspended or revoked. In an average year, approximately 500 licenses are revoked. He thought about 200 of these people would take the course and the remainder would not. He didn't think that was particularly negative, because the people who didn't take the course couldn't hunt and would not be out in the field. A judge could impose community service, in addition to other penalties, as a condition of getting a license back.

**REPRESENTATIVE KNOX** said local wardens would have a good idea of the people who should take the course and could make that recommendation to the judge. Nonresident violators would be required to take a similar course in their own states if a course were available. If not, they would have to come to Montana.

The bill provides that these individuals could not be put into the existing Hunter Safety Program with Montana youth.

**REPRESENTATIVE KNOX** said he worked with the Department of Fish, Wildlife & Parks (DFWP) on the amendments to the bill (**EXHIBIT #1**) since its passage in the House. They narrow its scope by removing the violations of trespassing on state lands and negligent operation of motorboats.

The program would be evaluated in the 1999 session and sunset in 2001.

Proponents' Testimony:

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**Bob Lane, Chief Legal Counsel, DFWP,** supported the bill with the amendments provided by the sponsor. **EXHIBIT #2**

**Bud Solmonsson, National ECO Institute,** commented that Montana would be the first state in the nation to have this type of program, although New Jersey has a program for hunting violations only.

**Brett Brownscombe, Montana Wildlife Federation,** strongly supported the bill. His organization saw it as protection of wildlife as well as a crime prevention issue. The bill sets up a pilot program and changes could be made, if necessary.

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Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR MIKE TAYLOR asked REPRESENTATIVE KNOX why there was no cost on the fiscal note and what it might cost an offender to take the course. REPRESENTATIVE KNOX said he didn't know, but thought it should be self-supporting and self-sustaining. It would probably be fairly expensive.

SENATOR TAYLOR asked how the bill would apply to Tribal members who were violators. REPRESENTATIVE KNOX said he thought they would be subject to the bill, but he really didn't know.

SENATOR TAYLOR asked why REPRESENTATIVE KNOX hadn't decided to let the Department of Corrections handle the program. REPRESENTATIVE KNOX thought game wardens, who are familiar with local violators, would be preferable.

SENATOR VIVIAN BROOKE asked for examples of the type of private sector groups that might develop this type of curriculum.

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Ron Aasheim, Administrator, Conservation Education, DFWP, said several groups, including Bud Solmonsson, might be interested. Lewis & Clark County was the logical place to begin, with an additional program in another part of the state.

SENATOR BROOKE commented Bob Lane's testimony stated that the department would need to evaluate schools in the private sector. She wanted to know how DFWP would go about that. Mr. Aasheim said the department would put together a Request for Proposals (RFP) for interested groups and ask them to tell the department how they planned to proceed. Also, there is a similar program in another state.

SENATOR BROOKE was not sure program managers could accurately evaluate their own courses, and asked if DFWP would evaluate as well. Mr. Aasheim said DFWP would ask for suggestions on how to evaluate programs, but would not have the people teaching courses evaluate their own programs. The department would prepare a report for the 1999 session.

SENATOR BROOKE asked if the program would be consistent statewide or if the department would adapt to whatever was available in different places. Mr. Aasheim replied that slightly different programs would be tested and evaluated.

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SENATOR BEA MCCARTHY commented that not all poachers would be able to afford this program. A person shooting an animal for food would not be able to pay the stipend for the school. She asked if the department would make arrangements for that type of

situation. **Mr. Aasheim** said they would work with judges, but the financial part of the bill hadn't been finalized.

**SENATOR KEN MILLER** stated that page 2 (3) of the bill says, "The court may...under subsection (2)...hours of public community service." He thought that statement was already in the law.

**Beate Galda, Administrator, Enforcement Division, DFWP**, said that particular sentence would not be possible under Justice Courts.

**SENATOR DOHERTY** noted that **REPRESENTATIVE HAL HARPER** had arrived, and asked **REPRESENTATIVE HARPER** if he had any comment.

**REPRESENTATIVE HARPER** said the program would deal with people who can't get their act together. Community service might be appropriate, too.

**SENATOR TAYLOR** commented that the bill probably would not include the Tribes, and asked if it could be enforced. **Ms. Galda** said it would not affect Tribal members on the reservation.

**SENATOR TAYLOR** asked if the bill would apply if someone were convicted of trespassing on the reservation. **Ms. Galda** said the offender would be sentenced in Tribal Court, not a Justice Court.

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**ACTING CHAIRMAN JENKINS** mentioned that someone had said there were different organizations that would give these schools, and wanted to know who they were. **REPRESENTATIVE KNOX** said people who are already giving Hunter Safety courses. He had heard from two who would be interested in the program.

**SENATOR JENKINS** asked if **REPRESENTATIVE KNOX** were thinking mainly of Hunter Safety instructors. **REPRESENTATIVE KNOX** replied that there might be other people who would be available, but thought Hunter Safety instructors would be logical from the standpoint of experience.

**SENATOR JENKINS** asked which organizations **REPRESENTATIVE KNOX** had in mind. **Ron Aasheim** said **Bud Solmonsson** was interested, and there might be some private individuals who are Hunter Safety instructors - many of them are school teachers. Programs probably wouldn't be established in areas where local instructors weren't available.

**SENATOR JENKINS** asked if Hunter Safety instructors would be the first people contacted. **Mr. Aasheim** said the RFP would be widely distributed. These schools for offenders would not be part of the Hunter Safety Program.

**SENATOR BROOKE** commented that the object wasn't hunter safety, it was hunter ethics.

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SENATOR JENKINS asked Mr. Aasheim if he had looked at the amendments. Mr. Aasheim said he had.

Closing by Sponsor:

REPRESENTATIVE KNOX said REPRESENTATIVE HARPER had an almost identical bill, and had let REPRESENTATIVE KNOX' bill proceed. The bill before the committee carries some aspects of both. He thought it would be a positive step and would reach some people who are obviously in need of remediation.

A small percentage of people create most of the problems. Most hunters are very good. He thought this type of approach would improve the situation.

His intent would be to have a consistent statewide program after it had been in place for a year or so.

SENATOR TAYLOR suggested delaying the executive action on HB 413.

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EXECUTIVE ACTION ON HB 271

Amendments: hb027101.alk

Motion: SENATOR STEVE DOHERTY moved that HB 271 BE CONCURRED IN and moved the amendment (EXHIBIT #3) DO PASS.

Vote: The DO PASS motion on the amendment CARRIED UNANIMOUSLY. The motion that HB 271 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY.

SENATOR DOHERTY offered to carry the bill.

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EXECUTIVE ACTION ON HB 360

Amendments: hb036001.alk

Motion: SENATOR MCCARTHY moved the bill BE CONCURRED IN.

Discussion: SENATOR JENKINS noted there was an amendment that cleared up the statement about fishing for a wild animal. (EXHIBIT #4)

Motion/Vote: SENATOR JENKINS moved the amendment DO PASS. The motion carried unanimously.

Motion: SENATOR MCCARTHY moved the bill BE CONCURRED IN AS AMENDED.

SENATOR TAYLOR wanted to be sure the bill would not set a precedent, and asked if it had some implications he didn't understand.

SENATOR McCARTHY commented that it was similar to the bill prohibiting the harassment of big game hunters. SENATOR JENKINS agreed. SENATOR DOHERTY mentioned that the bill in question had passed constitutional muster. SENATOR JENKINS said it had gone all the way to the Supreme Court.

SENATOR McCARTHY said hunting is done in a designated area, while fishermen move around. When the other law went to the Supreme Court, it was decided the hunter already had permission to hunt in that place. She asked if that position would change as a fisherman moved up or down the river.

SENATOR DOHERTY said he didn't think so. Under the Stream Access Law, fishermen are presumed to have the right to be pursuing whatever activity brought them there. Purpose of the bill is to prevent intentional interference with that activity.

SENATOR McCARTHY pointed out the Stream Access Law granted access to the stream, not the land surrounding it.

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SENATOR BROOKE mentioned that one of the proponents objected to a landowner being out target shooting. She thought he had every right to be out on his own land.

SENATOR DOHERTY commented that it was a different thing if they shot over people in a boat.

Leanne Kurtz pointed out that the intent of the action would have to be proven in court.

Vote: The motion carried with SENATORS TAYLOR, BROOKE AND TOEWS voting NO.

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#### EXECUTIVE ACTION ON HB 212

Amendments: hb021201.alk

Motion: SENATOR DARYL TOEWS moved the amendment.

Discussion: SENATOR TOEWS said he thought there were only three islands in Montana over 100 acres.

SENATOR McCARTHY said she hadn't heard the discussion on this bill, and asked how many islands were affected.

**SENATOR TAYLOR** opposed the amendment because there were one or two islands in his area that fit the criteria mentioned and he certainly didn't want to open them up to development. **SENATOR JENKINS** asked **SENATOR TAYLOR** if he thought some islands under 100 acres might be developed. **SENATOR TAYLOR** said it was possible.

**SENATOR TOEWS** said the bill was offered in the spirit of giving directions to the State Land Board. He thought the amendment was defensible if the acreage were kept small enough.

**SENATOR BILL CRISMORE** asked who owns an island when all the surrounding land is privately owned. **SENATOR TOEWS** said the state owns the island and it would be administered by the Department of Natural Resources & Conservation.

**SENATOR CRISMORE** asked if that rule applied when all the surrounding land was owned by one person - wouldn't that person own the island? **SENATOR DOHERTY** said the bill states it applies only to state-owned or state-leased islands whose ownership is not disputed.

**SENATOR JENKINS** said it didn't affect private islands.

**SENATOR McCARTHY** asked if the committee would defer final action on HB 212 until she could read it. The committee agreed.

ADJOURNMENT

Adjournment: 4:06 p.m.

{This meeting was recorded on a Lanier recorder.}

  
SEN. AL BISHOP, Chairman

  
SERENA ANDREW, Secretary