

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH & GAME

Call to Order: By CHAIRMAN AL BISHOP, on March 18, 1997, at 3:00 p.m., in Room 108

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: SB 394, Posted 3/14/97
Executive Action: None

HEARING ON SB 394

Sponsor: SENATOR REINY JABS, SD #3, Hardin

Proponents: Dave Simpson, Vice Chairman, Montana Fish,
Wildlife & Parks Commission
Pat Graham, Director, Department of Fish,
Wildlife & Parks
Jean Johnson, Executive Director, Montana
Outfitters & Guides Association
Jim Richard, Montana Wildlife Federation
Bob Bugni, Prickly Pear Sportsmen, Helena

Opponents: Jerry Strong, Outfitter
Gary Sturm, Hunter

{Tape: 1; Side: A; Approx. Time Count: 3:33}

Opening Statement by Sponsor:

SENATOR REINY JABS, SD #3, Hardin, told the committee he was a farmer/rancher who had always been interested in wildlife.

The Fish, Wildlife & Parks Commission (FWPC) and the Department of Fish, Wildlife & Parks (DFWP) have been working with sportsmen for several years on restricting the mule deer harvest in some parts of the state.

Currently, the FWPC does not have the authority to separate the nonresident combination license (B-10). This license currently authorizes hunting for elk, deer and game birds as well as fishing. In order to practice biological management of deer, the commission and department would like to separate that license. SB 394 would provide a volunteer advisory group to guide the process.

The amendment changes the bill by setting license prices instead of giving that authority to the commission. EXHIBIT #1

{Tape: 1; Side: a; Approx. Time Count: 3:41}

Proponents' Testimony:

Dave Simpson, Vice Chairman, Montana Fish, Wildlife & Parks Commission, explained the commission's reasons for the bill. EXHIBIT #2

Pat Graham, Director, DFWP, explained how the bill would be implemented. (EXHIBIT #3) He also presented a fiscal note (EXHIBIT #4), a summary of the bill (EXHIBIT #5), a chart of current and proposed licenses (EXHIBIT #6), a season-setting schedule (EXHIBIT #7), and a list of licenses sold from 1994-1996 (EXHIBIT #8).

{Tape: 1; Side: a; Approx. Time Count: 4:00}

Jean Johnson, Executive Secretary, Montana Outfitters & Guides Association, thought the commission and department had reached a thoughtful solution to the mule deer problem, but was not entirely sure she was a proponent of the bill.

SB 394 would represent a big change for outfitters who have structured their entire operation around the combination license. However, the problem last year in southwestern Montana brought home the fact that the combination license does not allow flexibility for deer management. The variably priced

license cost \$835 last year; that is too much if it doesn't include deer.

She spoke in support of the bill because the outfitters trust the commission and department and think mule deer management requires more flexibility. This bill would sunset in 2001 with HB 195 (the variably priced license bill) that funds the Block Management Program. These enhancements are funded by nonresident guided hunters.

In 1999 the legislature will probably make some changes to HB 195, and she thought this bill would provide an opportunity to obtain valuable experience with a stand-alone elk license.

{Tape: 1; Side: A; Approx. Time Count: 4:05}

Jim Richard, Montana Wildlife Federation, supported the bill with the understanding that it would help the department and commission to direct nonresident deer licenses to areas with healthy deer populations.

His organization thought money from sales of more than 1700 B-7 licenses should go into the habitat program.

Bob Bugni, Prickly Pear Sportsmen, commented that the bill was obviously the result of declining mule deer populations and the commission will have to restrict mule deer hunting in southwestern Montana. Montana hunters will be affected, but the commission also needs the flexibility to manage nonresident deer tags. He thought that was a great idea as it would relieve some of the hunting pressure on mule deer. He didn't think the bill would be revenue-neutral, but felt the department could make some cutbacks.

Another solution to the problem would be to reduce the number of B-11 tags from 6600 back to its former cap of 6000 or less.

The Prickly Pear Sportsmen firmly believe something should be done to reduce the hunting pressure on deer.

{Tape: 1; Side: A; Approx. Time Count: 4:10}

Opponents' Testimony:

Jerry Strong said he was an outfitter. He thought this was a bad bill. If the commission wanted to split the combination license they should just do it. Too many tags are sold already. Montana people have been able to buy three to five tags in some areas. Two thousand mountain lions take a deer every 3-1/2 to 4 days and that problem is not being addressed. Also, too many does are being killed.

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

Gary Sturm said he was a hunter. This bill could result in up to 5000 more nonresident hunters. He didn't like to see the legislature taken out of the process and didn't think the average Montana hunter has had an opportunity to review the bill.

Questions From Committee Members and Responses:

SENATOR MIKE TAYLOR asked how many deer are killed on the highway. **Pat Graham** didn't know. **SENATOR TAYLOR** asked if as many as 300 were killed in the Swan between Ovando and Bigfork. **Mr. Graham** didn't know, but it was a substantial number this year because of the snow conditions. Many of these deer are whitetails.

SENATOR TAYLOR asked if a Montana hunter could buy a license every day. **Mr. Graham** said no, but in areas of high populations there are over-the-counter licenses to control game damage. Before the decline began these licenses were available in several parts of the state. **SENATOR TAYLOR** asked how many could be purchased. **Mr. Graham** said three, for the most part.

SENATOR TAYLOR commented that several states don't sell licenses after the season begins, and asked **Mr. Graham** how he felt about that regulation. **Pat Graham** said over-the-counter licenses are used to control game damage in years of high deer populations. A rule prohibiting license sales after the season opens would eliminate the department's ability to respond to those complaints.

{Tape: 1; Side: B; Approx. Time Count: 4:19}

SENATOR TAYLOR asked how Montana license prices compare to those of other states. **Mr. Graham** said prices in other states do not reflect a combination license, making comparison difficult.

SENATOR DARYL TOEWS asked why the bill was considered revenue-neutral. **Mr. Graham** said if the commission should decide to issue fewer deer licenses, revenue might decline; the reverse would also be true. The circumstances resulting from the bill would not always be revenue-neutral.

SENATOR TOEWS agreed that good management would not be level - bad winters would affect populations. Elk populations are too high in some areas and too low in others. **Mr. Graham** said that was the point. The department and commission would attempt to make the situation as revenue-neutral as possible, but the goal would always be responsible deer management.

SENATOR BEA MCCARTHY said she assumed the schedule for the timetable coincided with the commission meeting schedule. She asked if the proposal could be adopted for a full year. **Mr. Graham** said in terms of going to the public, big game season setting is done biennially. If the advisory group could produce

some agreement before the tentatives go out in the fall, it could be incorporated into the schedule for the 1998-99 season.

SENATOR McCARTHY commented that the two-year cycle would preclude reporting back to the legislature before the year 2000. **Mr. Graham** agreed that if the plan were implemented in the 1998 season it would be difficult to get back to the legislature in 1999. By 2001, it would be possible to report on several seasons. That is the reason the commission wanted to bring the bill before this session rather than waiting for a consensus report as was done for HB 195.

{Tape: 1; Side: B; Approx. Time Count: 4:29}

SENATOR McCARTHY asked **Mr. Graham** to comment on **SENATOR JABS'** amendment. **Pat Graham** said it was prepared because of concern that the proposal to let the FWPC set fees might cause an adverse reaction to the bill. The change would not be crucial - fees were not the essential element of the bill. He did not object to the amendment.

SENATOR BILL CRISMORE asked how the advisory group would be appointed. **Mr. Graham** said the idea would be to follow the format utilized for HB 195 - a cross-section of hunters, landowners and outfitters. The commission wanted the public to have an opportunity for in-depth comment and would ask people to volunteer.

SENATOR CRISMORE asked if the commission would decide who would serve and **Mr. Graham** said yes.

SENATOR KEN MILLER asked how the department would handle funding for the habitat program if the change on line 9, page 3 were implemented ("Money received from the sale of Class B-7 licenses in excess of 1,700 must be used as provided in 87-1-242(1).")

Mr. Graham said the commission would sell the B-11 license instead of the B-7 license and the sentence would become irrelevant. The B-11 is the same license as the B-7 except that fishing and bird hunting are included. The idea was to address revenue-neutral flexibility. The department didn't want the money earmarked, as this could result in an imbalance in accounts.

SENATOR MILLER asked **Mr. Graham** what the department intended for the wildlife habitat program. **Mr. Graham** said the habitat program would get the same amount of money it receives under existing law. Only the DFWP general license account would go down.

{Tape: 1; Side: B; Approx. Time Count: 4:35}

SENATOR MILLER commented that **Mr. Strong** had said an individual could purchase up to five licenses while **Mr. Graham** had said only three. **Mr. Strong** said it was possible to buy a license, kill a

deer, buy another doe tag and another doe tag and in Zortman this could be done up to a total of five tags. He could have predicted the decline on the C. M. Russell Wildlife Management Area (CMR).

SENATOR MILLER asked if these licenses were purchased legally. **Mr. Strong** said yes; it was wrong, but not illegal. Too many does were killed.

SENATOR MILLER asked the department if it had been possible to get five licenses in that area. **Glenn Erickson, Management Bureau Chief, Wildlife Division, DFWP**, said there were some places where it was possible.

SENATOR LOREN JENKINS commented that someone had said populations were down on the CMR and asked **Mr. Erickson** what the field biologists had told him. **Mr. Erickson** said the department had been responding to landowner complaints of game damage by deer moving off the CMR. A majority of the licenses sold were not used on the CMR; they were used on private lands for game damage complaints.

SENATOR JENKINS asked what biologists say about present populations. **Mr. Erickson** said the decline has been seen in some parts of the Missouri Breaks but not in others.

SENATOR JENKINS asked if fewer doe licenses were being sold. **Mr. Erickson** said there was poor fawn survival because of the winter/spring weather and the population could not maintain itself.

{Tape: 1; Side: B; Approx. Time Count: 4:41}

SENATOR MIKE TAYLOR said he had heard a study of deer/coyote relationships was planned for HD #510. Some researchers claim coyotes were killing fawns and lowering deer populations. **Mr. Erickson** said there was some information that coyotes do impact deer populations when other food sources are limited and this does affect recruitment. He was not sure, however, that predator control would impact deer population trends. The study is intended to address that issue.

SENATOR MESAROS asked if deer were concentrated on the fringe or in the interior of the CMR, since extra tags were issued in response to game damage complaints. **Mr. Erickson** said populations were fairly well distributed. Mule deer like the broken breaks areas and the adjacent land is interwoven with private property; the deer move back and forth.

CHAIRMAN AL BISHOP commented that he had been told predators have no effect on a stable game population, and asked if that were true. **Mr. Erickson** said predators do not affect a healthy population with good conditions for fawn recruitment.

SENATOR BISHOP asked if some populations were unstable at present. Mr. Erickson said deer populations were lower than they have been for several years. SENATOR BISHOP asked how the commission would respond. Mr. Erickson said the department had asked the commission to reduce the number of tags issued, to close some seasons and to shorten others.

{Tape: 1; Side: B; Approx. Time Count: 4:45}

SENATOR JENKINS commented that he thought the current limit on deer tags was 6000; he asked if the proposed 5000 would be added to the existing 6000. Mr. Graham said 5000 would be the maximum. The bill would allow the commission to allocate those tags among the general-deer, landowner-sponsored and outfitter-sponsored categories; however, no more than 2300 outfitter tags could be sold.

{Tape: 2; Side: B; Approx. Time Count: 4:47}

SENATOR JENKINS asked if 6000 B-11 licenses were available each year. Mr. Graham said the number was raised to 6600 by the last session.

SENATOR JENKINS asked if there were 17,000 B-10 licenses. Mr. Graham said yes.

SENATOR JENKINS asked if the only difference between the B-7 and B-11 were the addition of bird hunting and fishing. Mr. Graham said yes. The new B-11 could be restricted by the commission in a variety of ways: (1) By species; (2) By use only in one region; (3) By use only in one district or part of two districts. If they were designated as whitetail-only the same number could be sold without affecting mule deer in any way.

SENATOR JENKINS commented that made sense.

Closing by Sponsor:

SENATOR JABS said he had a question on predators. He used to have three groups of a dozen or so deer on his ranch. Now the largest group is five. Native Americans hunt year-round on the nearby reservation, but he has seen no evidence of hunting. Coyotes are even eating his calves. He thought predators were causing the decline.

He felt the amendment might avoid a problem on the floor, but if the committee felt the commission should be allowed to set fees, it would be all right with him.

The main reason for the bill was the decline in mule deer. The bill would allow the commission the flexibility to make adjustments in the combination license for management purposes, while maintaining the present statutory limits on the number of nonresidents.

ADJOURNMENT

Adjournment: 4:49 p.m.

{This meeting was recorded on a Lanier recorder.}



SEN. AL BISHOP, Chairman



SERENA ANDREW, Secretary