

HOUSE BILL 478

IN THE HOUSE

January 30, 1979

Introduced and referred to
Committee on Fish and Game.

February 14, 1979

Committee recommend bill, as
amended, do not pass.

February 15, 1979

Report adopted.

HOUSE BILL NO. 478

INTRODUCED BY

League Manuel
Robbins Daily
Ellis
Christ
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Hennrich
Hansen

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE TAKING OF GAME AND NONGAME FISH BY SPEAR OR GIG WHEN THE FISHERMAN IS SUBMERGED; PROVIDING THAT ANGLERS AND UNDERWATER FISHERMEN SHALL BE TREATED EQUALLY; PROVIDING FOR UNDERWATER FISHING LICENSES; AMENDING SECTIONS 87-2-301 THROUGH 87-2-304 AND 87-3-204, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 87-3-204, MCA, is amended to read:

"87-3-204. Restrictions on fishing methods. (1) No game fish may be caught, captured, or taken or attempted to be caught, captured, or taken by the aid or with the use of any gun or trap, nor may any such set gun, trap, or other device to entrap game fish be used, made, or set.

(2) It is unlawful for a person to take or catch fish in any of the waters of this state, except with hook and line held in hand or line and hook attached to rod or pole held in hand; to take or catch fish with hook baited with any poisonous substance or by means of the use of any poisonous substance, including fish berries; or to take or catch fish by means of the use of fishtraps, grabhooks, seines, nets, or other similar means for catching fish.

(3) The department may designate such waters within the state of Montana wherein, in the judgment of the department, spears or gigs may be used for taking ~~wetfeyed~~ ~~pikev-sougers~~ ~~northern--pikev~~ ~~game~~ and nongame fish and traps, seines, nets, and rubber or spring-propelled spears, when employed by sportsmen swimming or submerged in the water, may be used for the taking of designated species of fish. The waters so designated may be closed at the discretion of the department. The taking of all fish by such means in the waters, when so designated, is to be done under such rules as the department may prescribe with reference thereto and under the supervision of the department. All such nongame fish so taken may be possessed and sold in such manner and under such restrictions as the department may direct. All fish, other than those herein designated, so taken under department rules, when prescribed by the department, shall be returned uninjured to the waters from which they were taken.

(4) The taking of black bass in Flathead Lake may be permitted by the department.

(5) The department shall have the power to designate certain waters where setlines may be used to fish for certain species of game or nongame fish, and the department may designate the number of hooks and lines and the length of line or lines which may be used as setlines.

1 (6) Game fish shall be taken only by angling, that is
2 by hook and single line in hand or single rod in hand or
3 within immediate control. This does not prevent, however:

4 (a) the snagging of paddlefish, coho (silver salmon),
5 and kokanee (sockeye salmon) when the department declares an
6 open season when paddlefish, coho (silver salmon), and
7 kokanee (sockeye salmon) may be taken by snagging;

8 (b) the taking of paddlefish with longbow and arrow
9 when the department declares an open season when paddlefish
10 may be taken by longbow and arrow;

11 (c) the taking of ~~walleyed-pike~~~~seuger~~~~northern~~
12 ~~pike~~ ~~game~~ and nongame fish with spear or gig when the
13 department declares an open season for taking ~~walleyed-pike~~
14 ~~seuger~~~~northern-pike~~ ~~game~~ and nongame fish with spear or
15 gig;

16 (d) the use of landing net or gaff to land a game fish
17 after the same has been hooked by angling as above
18 specified; or

19 (e) the taking of minnows other than game fish variety
20 by the use or aid of a net not to exceed 12 feet in length
21 and 4 feet in width in such waters as may be designated by
22 the department.

23 (1) The taking of game and nongame fish with spear or
24 gig when the person fishing in such a manner is totally
25 submerged shall be governed by the same rules as those that

1 relate to the taking of game and nongame fish by angling.
2 Unless the department demonstrates that the fish of the
3 state will be unduly endangered by this policy, the taking
4 of game and nongame fish by underwater fisherman and anglers
5 shall be treated equally."

6 Section 2. Section 87-2-301, MCA, is amended to read:
7 "87-2-301. Class A--resident fishing license. (1) Any
8 resident, as defined by 87-2-102, upon payment of a fee of
9 \$5, shall receive a Class A license which shall entitle the
10 holder thereof to fish with hook and line or rod as
11 authorized by regulations of the department.

12 (2) Upon payment of an additional \$1 fee, any resident
13 shall receive an underwater Class A stamp that entitles the
14 holder to fish with gig or spear as authorized by the
15 department."

16 Section 3. Section 87-2-302, MCA, is amended to read:
17 "87-2-302. Class B--nonresident fishing license. (1)
18 Any person not a resident, as defined in 87-2-102, upon
19 payment of the sum of \$20 to any agent of the department
20 authorized to issue fishing and hunting licenses, shall be
21 entitled to a Class B license which shall entitle the holder
22 thereof to fish with hook and line as authorized by the
23 rules and regulations of the department.

24 (2) Upon payment of an additional \$3 fee, any
25 nonresident shall receive an underwater Class B stamp that

1 entitles the holder to fish with gig or spear as authorized
 2 by the department."

3 Section 4. Section 87-2-303, MCA, is amended to read:

4 "87-2-303. Class B-3--temporary nonresident or tourist
 5 fishing license. (1) Any person not a resident, as defined
 6 in 87-2-102, upon payment of the sum of \$10 to any agent of
 7 the department authorized to issue fishing and hunting
 8 licenses, shall be entitled to a temporary nonresident
 9 fishing license which shall authorize the holder to fish
 10 with hook and line as authorized by the rules and
 11 regulations of the department for a period of 6 days,
 12 inclusive of the dates indicated on the license.

13 (2) Upon payment of an additional \$2 fee, any
 14 nonresident shall receive an underwater temporary
 15 nonresident fishing license that entitles the holder to fish
 16 with a gig or spear as authorized by the department for 6
 17 days, inclusive of the dates on the stamp."

18 Section 5. Section 87-2-304, MCA, is amended to read:

19 "87-2-304. Class B-4--one-day nonresident fishing
 20 license. (1) Any person not a resident, as defined in
 21 87-2-102, who is a holder of a valid wildlife conservation
 22 license, upon payment of the sum of \$2 to any agent of the
 23 department authorized to issue fishing and hunting licenses,
 24 shall be entitled to a 1-day nonresident fishing license
 25 which shall authorize the holder to fish with hook and line

1 as prescribed by rules and regulations of the department for
 2 1 calendar day as indicated on the license.

3 (2) Upon payment of an additional \$1 fee, any
 4 nonresident who holds a Class B-4 license shall receive an
 5 underwater Class B-4 stamp that entitles the holder to fish
 6 with gig or spear as authorized by the department for 1
 7 calendar day as indicated on the stamp."

-End-

STATE OF MONTANA

Request No. 364-79

FISCAL NOTE

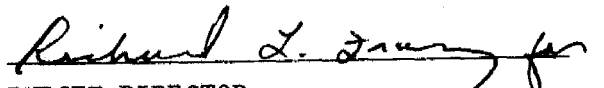
Form BD-15

In compliance with a written request received February 13, 1979, there is hereby submitted a Fiscal Note for House Bill 478 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 478 is legislation proposed to allow the taking of game and nongame fish by spear or gig when the fisherman is submerged.

House bill 478 was killed in House Fish and Game Committee February 15, 1979.


BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2/16/79