

2009 FWP Legislative Proposals Under Consideration

August 25, 2008

1. Statutory Changes Proposed by the Private Lands/Public Wildlife Council. Before the year is up, the Private Lands/Public Wildlife Council (PL/PW) may propose statutory changes to the management of the state's hunting, fishing, and trapping resources. This is a placeholder in the event the governor concurs with any proposed changes and decides to request that an agency bill be drafted. At this point, the PL/PW council is considering amendments to the Hunter Access Enhancement Program to increase the incentives for landowners to open their land for public hunting. The free hunting license for participating landowner would not be deducted from impact payments and eligibility for use of the free license would be broadened. Another concept under consideration is to create 1,000 nonresident elk combination licenses and 1,000 nonresident deer combination licenses for former residents who are sponsored by a resident family.

2. Stream Access and Fences at county Bridges. The purpose is to allow landowners to attach fences across public right-of-ways to county bridges that cross streams provided the fence construction allows for public access to the stream.

This has been a controversial issue in the last two sessions. A successful resolution would allow landowners to use the most practical fencing to control livestock, would ensure that recreationists can still access public streams using county road right-of-ways, and would give clear statutory guidance to county commissions who have the authority to administer the use of county road right-of-ways. Director Hagenner has been working with representatives of the Montana Stockgrowers' Association, the Farm Bureau, Trout Unlimited, the Montana Wildlife Federation, the Montana Association of Counties, the Montana Cattlemen's Association, the Montana Farmers Union, the Northern Plains Resources Council, and the Public Lands Access Association, Inc. to develop a bill. A basic, straightforward bill has been drafted and agreed to by the Montana Cattlemen's Association, the Montana Farmers' Union, the Northern Plains Resources Council, the Public Lands Access Association, Inc., Trout Unlimited, the Montana Wildlife Federation, and, tentatively, the Montana Association of Counties. The Montana Stockgrowers Association has stated it has reservations because the Stockgrowers feel a legislative resolution is premature. The Farm Bureau has not yet expressed a position.

A bill draft request will likely be made by a sponsor requested by the collaborative group. However, if the collaborative group does not move forward with sponsors, FWP may proceed with this as an agency bill.

3. Hunting Access Enhancement Placeholder. In addition to deliberations by the Private Land/Public Wildlife Council, FWP is exploring ways to enhance hunting access to private lands through landowner incentives. Among concepts being considered is broader authority to negotiate access agreements with landowners, similar to those authorized by 87-2-513. Ongoing discussions within FWP and with various user groups and landowners may identify additional options.

4. Mandatory Trapper Education. The purpose of this legislation is to require a person to complete a trapper education course before he or she may purchase a trapping license. The recreational aspects of trapping are similar in many aspects to big game hunting in that the public expects safe use of equipment, appropriate harvest practices and ethical behavior by trappers. Increasing conflicts between resident trappers and a growing number of recreating publics with dogs has highlighted the need for the state to require a reasonable level of knowledge by trappers to obtain a state license to harvest furbearers in Montana. The Montana Trapper's Association has endorsed trapper education as a state requirement.

Similarly to the bowhunter safety and education course, this proposal would affect only first-time trappers. The bill would require a trapper education course before a person who has never been issued a trappers license can be issued a Class C general trapping license. FWP proposed similar legislation in 2005 and 2007.

5. Revise Revocation of Privileged Statutes. This bill would clarify the statutes governing penalties for violation of hunting, fishing and trapping laws and add additional penalties. The proposed legislation would clarify that a person who hunts, fishes or traps while his or her privilege to do so is revoked is guilty of a misdemeanor. Similarly, the bill would state that anyone who fails to comply with any term or condition of a revocation of a hunting, fishing or trapping privilege imposed by a court is guilty of a misdemeanor. Penalties for conviction of either misdemeanor would not change except that the person convicted could also be subject to additional revocation of his or her privilege to hunt, fish or trap in this state or to use state lands. Finally, the bill would add revocation of privileges to hunt, fish, or trap as a penalty for vandalism of FWP property, including state parks, fishing access sites or Wildlife Management Areas, as well as for criminal trespass on FWP or private property while violating other laws related to hunting, fishing or land use.

6. Authority to Revoke Fur Dealer Licenses. The purpose of this legislation would be to provide authority for the FWP to revoke or not renew commercial fur dealer licensure for violations of rules or statutes that govern their licensure. Additionally, the legislation would include a provision that makes it unlawful to purposefully or knowingly buy or sell, trade or deal in the skins or pelts of furbearers that have not been obtained from a legal source. Other commercial wildlife licensure, including taxidermy, alternative livestock ranches, shooting preserves, etc. provide for a mechanism for revocation or nonrenewal or license for violations of laws or regulations. Enforcement hasn't been able to address problem fur dealers through non-renewal or revocation and has to instead renew licenses for even those individuals who continue to violate the laws. The licensed fur dealer, when faced with revocation or non-renewal of its license, could invoke the contested case proceeding that would ensure that the revocation or non-renewal was fairly administered through protections afforded through Montana Administrative Procedure Act.

Additionally, there has been no requirement against dealing in illegally obtained pelts and skins. Most other commercial wildlife laws, such as the alternative livestock statutes, make this a specific prohibition in the law. Without this prohibition, the FWP has no authority to enforce against persons knowing dealing in illegally obtained pelts and skins.

7. Authority for Archery Seasons for Mountain Lion, Wolf and Bear. Expand the authority of Fish, Wildlife & Parks Commission to establish archery only seasons to include seasons for bear, wolf, and mountain lion. The Commission presently has the authority to

establish archery only seasons for deer, antelope, elk, moose, mountain sheep, and mountain goats. The Commission has traditionally set archery seasons for deer, antelope, and elk. The Commission added an archery season for sheep in most permitted districts for the first time starting this fall. There has been some interest in considering early archery seasons for bear, wolf, and mountain lion. Whether to have separate archery seasons for these additional species would be a decision for the Commission after public input.

There may be some increased revenue from the sale of additional archery licenses. However, most archers who will hunt during any wolf, mountain lion, or bear archery season will have already purchased an archery license. This is because one archery license covers all species that have an archery season.

8. Nonresident Antlerless Deer License Price Reduction. Give authority to the Fish, Wildlife & Parks Commissions to decrease the price of a nonresident antlerless deer license (nonresident deer B) when it determines that decreasing the price of the license would encourage more hunting from nonresident hunters to aid with deer population objectives during the regular season. FWP has seen a decreased interest in nonresident hunters to pay the license price of \$75 for an antlerless deer license. As such, FWP has missed out on the opportunity to utilize nonresident hunting to manage deer population objectives because the Commission and Department only have authority to reduce the price of second or third licenses for game management purposes under MCA 87-2-104(4). Rather, with this legislation, the Commission could authorize a reduced price for the first nonresident antlerless deer license purchased by a nonresident. Otherwise the \$75 for the initial license will be a barrier to encouraging more participating by nonresidents to help reduce over populations of deer.

The fiscal impact could be to decrease revenue for FWP in sales of nonresident antlerless deer licenses. However, it is expected that more licenses will be sold because of the reduced pricing and that will either offset the reduced price with no impact or possibly have a positive effect of more revenue for FWP.

9. Extend Legislative Short-Term Employee Status to FWP employees typically hired for summer work. The purpose of this proposal is to give FWP the flexibility to employ short-term employees. Presently, for FWP a short-term employee is defined as one who works for less than 90 days in a 12-month period. This proposal would redefine short-term employees for FWP as workers eligible to work from May 1 to October 1 who are hired in positions classified under complexity level II and other positions that support the summer operation and maintenance of state parks and other FWP programs.

FWP hires more than 200 employees each summer to perform a variety of tasks such as fisheries and maintenance support and provide front line services to visitors in the 50 state parks and 320 fishing access sites. These staff generally starts in May and work through the end of September. Historically, the department has classified these personnel as seasonals, temporaries or short-term workers as defined under state law. These three classification types are confusing and cumbersome to apply. In addition, none of these categories allow for short-term employment long enough to meet all of FWP's summer employment needs. A more flexible definition of short-term employee is needed for FWP for workers eligible to work between May 1 and October 1 who are hired in positions classified under complexity level II and other positions that support the summer operation and maintenance of state parks and other FWP programs.

The fiscal impact would be negligible. There would be a savings realized from the standpoint of not having short-term employees qualify for sick leave, holiday pay and retirement, but this savings would be passed on to the employees by paying them at a higher hourly wage thereby allowing the agency to recruit more effectively.

10. Amend Publication of Laws Requirement. The purpose of this proposal is to reduce the number of copies of statutes books relating to fish, wildlife and parks that FWP is now required to make available. FWP could reduce its costs for publication without reducing service to the public because statutes are now available online. This bill would not affect publication of hunting, fishing or trapping regulations.