

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on February 11, 2003 at 3:00 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Dan McGee, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Ken (Kim) Hansen (D)
Sen. Dale Mahlum (R)
Sen. Trudi Schmidt (D)
Sen. Debbie Shea (D)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jane Hayden, Committee Secretary
Mary Vandenbosch, Legislative Branch
Mari Prewett, Transcription of Minutes

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

Committee Business Summary:

Hearing & Date Posted: HB 79, HB 248, 2/7/2003
Executive Action: SB 237 not completed, HB 248, HB 79, SB 209

EXECUTIVE ACTION ON SB 237

Motion: SEN. BALES moved that SB 237 DO PASS.

Motion: SEN. BALES moved that SB 237 BE AMENDED.

Discussion:

The proposed amendments to SB 237 were distributed to the Committee and are attached as Exhibit 1.

EXHIBIT (fis30a01)

SEN. BALES explained the purpose of his amendments and how they fit into the bill.

Executive Action on SB 237 was postponed awaiting further information.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 8.1}

HEARING ON HB 248

Sponsor: REP. JOE BALYEAT, HD 32, Bozeman

Opening Statement by Sponsor:

REP. BALYEAT provided the Committee with two letters in support of HB 248 and a copy of his written testimony, which he read into the record. The two letters and testimony are attached as Exhibit 2, 3 and 4. REP. BALYEAT stated that HB 248 would grant a one-time only free hunting and fishing license to youth under the age of 18 once they had completed a hunter safety course and urged the Committee to support the bill.

EXHIBIT (fis30a02)

EXHIBIT (fis30a03)

EXHIBIT (fis30a04)

{Tape: 1; Side: A; Approx. Time Counter: 8.1 - 16.2}

Proponents' Testimony:

Bob Gilbert, Walleyes Unlimited of Montana, stated that they strongly supported HB 248. He went on to say that HB 248 would encourage youth to start fishing and hunting and made good sense.

Robert Friedman, Hunter Education Instructor and Member of the Citizens Advisory Committee for Fish, Wildlife and Parks, stated that they discussed programs constantly to encourage young people to hunt and fish. He went on to say that HB 248 was a great idea.

Chris Smith, Chief of Staff, Fish, Wildlife and Parks, spoke in support of HB 248. **Mr. Smith's** written testimony is attached as Exhibit 5.

EXHIBIT(fis30a05)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. BALYEAT discussed the recruitment rate of young people from urban areas that could be generated by HB 248. He went on to say that it was a rare opportunity to address such a need and help preserve Montana's hunting and fishing heritage as well.

{Tape: 1; Side: A; Approx. Time Counter: 16.2 - 19.8}

EXECUTIVE ACTION ON HB 248

Motion/Vote: SEN. BARKUS moved that HB 248 BE CONCURRED IN. Motion carried unanimously.

SEN. BARKUS will carry HB 248 on the floor of the Senate.

{Tape: 1; Side: A; Approx. Time Counter: 19.8 - 21.1}

HEARING ON HB 79

Sponsor: REP. VERDELL JACKSON, HD 79, Kalispell

Opening Statement by Sponsor:

REP. JACKSON stated that HB 79 was a bill that provided that an individual or nonprofit organization, who placed warning signs of boating hazards near publicly accessible water, could not be sued. He went on to say that government agencies, such as, Fish,

Wildlife and Parks, the Coast Guard Auxiliary did not mark boating obstacles because of the potential liability for negligence. He continued that this bill would greatly reduce the potential for liability to individuals and nonprofit organizations by providing that they could not be sued except for gross negligence. **REP. JACKSON** reported that it was not against the law for people to mark boating obstacles now, however, there was a potential for liability. He then referred to Page 1, Lines 18-25 of the bill and discussed the designated standards for placing warning signs. He went on to discuss other pertinent language in the bill.

Proponents' Testimony:

Robert Friedman, Director and Secretary to the Ashley Lake Property Owners Association and Director of the Resource Users Association, stated that the idea for the bill had come about as a result of problems encountered on Ashley Lake. He commented on his extensive research into the problem. **Mr. Friedman** distributed a handout which included a copy of his written testimony and a copy of Boating Statistics - 2000, attached as Exhibit 6. **Mr. Friedman** talked about the report and the information contained therein.

EXHIBIT (fis30a06)

{Tape: 2; Side: A; Approx. Time Counter: 0 - 9.7}

Lee Shannon spoke in favor of HB 79. He stated that he felt that it made good sense to encourage folks to mark hazards of various kinds to help prevent property damage. He went on to say that what concerned him the most was the potential that existed, from partially submerged rocks, to cause personal injuries.

Bob Gilbert, Walleyes Unlimited of Montana, provided the Committee with written testimony from **Robin Cunningham** in support of HB 79, attached as Exhibit 7. **Mr. Gilbert** remarked that HB 79 was a safety bill which would allow boaters to protect each other. He stated that he felt they were saving lives by marking hazards. He went on to say that it was something that needed to be addressed and passed.

EXHIBIT (fis30a07)

{Tape: 2; Side: A; Approx. Time Counter: 9.7 - 12.4}

Opponents' Testimony:

Janet Ellison, Montana Audubon, stated that the problem with the bill was that it would not work on big rivers. She went on to discuss the problems created by spring runoffs. **Ms. Ellison** suggested that the bill might work better if the word "water" was changed to lakes." She continued to discuss the problems that could be encountered on various bodies of water if milk jugs were used to mark hazards. She concluded by making suggestions that she felt might make the bill work for those people that wanted it.

{Tape: 2; Side: A; Approx. Time Counter: 12.4 - 14.1}

Informational Testimony:

Chris Smith, Fish, Wildlife and Parks, stated they had been concerned with the bills original language. He went on to say that the amendments that had been made to the bill, on the House side, had addressed all of their concerns, therefore, they did not have a problem with the bill.

Questions from Committee Members and Responses:

SEN. HANSEN asked **REP. JACKSON** if there was a reason that there was not an effective date. **REP. JACKSON** responded that he thought there was one. **Mary Vandebosch** explained that if there was no effective date listed on the bill it would become effective October 1st. She went on to explain that it was the standard way to handle a bill.

SEN. BARKUS asked **REP. JACKSON** to explain to him why he required that the name and telephone number of the individual or nonprofit organization that had placed the marker be on the marker. **REP. JACKSON** replied that if there was a problem with a marker they needed a person to contact. He went on to say that when he had talked with Fish, Wildlife and Parks he discovered that there was no specific penalty for someone that would misuse or abuse the program. He further stated that if there was a problem they would know whom to contact. He continued by saying that if there was a problem they would know to whom the citation should be issued.

SEN. BARKUS asked **REP. JACKSON** what the citation would be for. **REP. JACKSON** deferred to **Jim Kropp, Law Enforcement Chief, Fish, Wildlife and Parks** for an answer. **Mr. Kropp** responded that since there was no specific penalty for the violation being talked about, they didn't have the means to cite anyone. He went on to discuss the types of markers they did have control over.

SEN. BARKUS asked **Mr. Kropp** if there would be a citation for littering or for placing a buoy in a place that was inappropriate. **Mr. Kropp** stated that it would be a stretch given the fact that people would be placing buoys with public safety in mind. He went on to explain what littering was under the law.

SEN. SPRAGUE asked **Mr. Kropp** in regard to **Ms. Ellison's** concerns if Fish, Wildlife and Parks could act as a friendly advisor, in regard to the buoys, if problems should occur. He further asked if the bill did not work, could penalties be assessed. **Mr. Kropp** stated that he felt **SEN. SPRAGUE** was correct. He went on to say that by marking the buoys it would give them some basis of where to start. He continued by saying that in the long term they could work with the Coast Guard to secure grants to obtain buoys that would be legally identifiable.

SEN. SPRAGUE asked **Mr. Kropp** how they currently handled diver buoys. **Mr. Kropp** replied that divers maintained their own buoys. They place them in the water while they are diving and remove them when they are done.

SEN. SPRAGUE asked **Mr. Kropp** if the present proposal could become standardized. **Mr. Kropp** responded that there were various devices available at present that people could place in the water at hazard sites. He went on to say that in the long term he felt it would work, but it would need to be monitored.

{Tape: 2; Side: A; Approx. Time Counter: 14.1 - 21.6}

SEN. SCHMIDT asked **REP. JACKSON** if the intention of the bill was mainly for lakes or if it was for rivers too. **REP. JACKSON** replied that the idea for the bill was mainly for lakes but rivers could be included. He went on to explain what the requesters of the bill had in mind and how they planned to implement it. He further commented on what hazards they were marking and maintenance of the buoys. **REP. JACKSON** pointed out that it was legal to put markers out at present, so there would not be a change. The bill would simply give Fish, Wildlife and Parks general oversight and the ability to set some standards. **REP. JACKSON** showed a couple of examples of what the buoys would look like. He concluded by saying that the bill was for both because he saw more danger in the river as they move and have the potential for numerous snags just underneath their surface.

SEN. HANSEN asked **REP. JACKSON** if the effective date should be moved up. **REP. JACKSON** responded that if possible he would amend the bill to move the effective date up.

There was discussion as to whether or not the proposed amendment would create a problem.

{Tape: 2; Side: A; Approx. Time Counter: 21.6 - 28}

SEN. TROPILA asked **REP. JACKSON** that since Ashley Lake froze in the winter, what would happen if his buoys washed up on someone else's beach in the spring, after the thaw. **REP. JACKSON** replied that his intention was for folks to maintain their buoys.

{Tape: 2; Side: A; Approx. Time Counter: 28 - 29.1}

SEN. TROPILA asked **Mr. Friedman** to respond to his previous question to **REP. JACKSON**. **Mr. Friedman** replied that the intention of the Association was for people to maintain proper buoys. He further stated that they did not want to clutter up the lake. He continued that they would use proper buoys, remove them prior to the lake freezing and return them when the ice melted.

SEN. TROPILA asked **Mr. Friedman** what kind of fish were in Ashley Lake. **Mr. Friedman** replied kohanee salmon and rainbow trout.

SEN. SPRAGUE asked **Mr. Friedman** where Ashley Lake was located. **Mr. Friedman** stated that it was 15 miles west of Kalispell.

SEN. SPRAGUE asked if a decision had been made as to whether they wanted to amend the effective date on the bill. The Committee discussed the issue.

REP. JACKSON stated that they would prefer to leave the bill with the effective date as it was. He went on to inform the Committee of the concerns that had been expressed in the House during the debate on HB 79.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 4.3}

Closing by Sponsor:

REP. JACKSON addressed the remarks made on behalf of the Audubon Society. He explained the use of jugs for marking crab pods in Alaska, how well the process had worked and the fact that they were checked by the Fish and Game. **REP. JACKSON** stated that the farmers were not present, however, they were in favor of the bill as it would allow them to mark their headgates.

{Tape: 2; Side: B; Approx. Time Counter: 4.3 - 6.1}

EXECUTIVE ACTION ON HB 79

Motion/Vote: SEN. MAHLUM moved that HB 79 BE CONCURRED IN.
Motion carried unanimously.

SEN. DEPRATU will carry HB 79 on the floor of the Senate.

{Tape: 2; Side: B; Approx. Time Counter: 6.1 - 6.8}

EXECUTIVE ACTION ON SB 209

Motion/Vote: SEN. TROPILA moved that SB 209 DO PASS. Motion carried unanimously.

{Tape: 2; Side: B; Approx. Time Counter: 6.8 - 9.1}

EXECUTIVE ACTION ON SB 237

Executive Action on SB 237 was continued.

SEN. TROPILA asked Chris Smith what Fish, Wildlife and Parks thought about the amendments proposed by SEN. BALES. Mr. Smith stated that the amendments addressed a number of the concerns that Fish, Wildlife and Parks had. He went on to say that in discussing the bill with Mr. Kropp and with SEN. BALES he still had some concerns about the language clarifying the difference between criminal trespass and the other provision for trespass. He continued by asking the Committee to give them until Thursday to sort through the amendment.

Motion: SEN. BALES WITHDREW HIS DO PASS MOTION ON SB 237.

Executive Action on SB 237 was postponed until the next Committee Meeting.

{Tape: 2; Side: B; Approx. Time Counter: 9.1 - 10.5}

SEN. SPRAGUE informed the Committee that they had considerable work to accomplish so they might not always meet their 5:00 p.m. deadline.

SEN. SPRAGUE discussed the Committee bill regarding hazing of endangered species.

Mary Vandebosch explained that they were talking about a resolution. She went on to discuss the resolution in detail and explain its purpose.

The Committee discussed the proposed resolution and the need for a few technical adjustments.

{Tape: 2; Side: B; Approx. Time Counter: 10.5 - 20.3}

ADJOURNMENT

Adjournment: 5:00 P.M.

SEN. MIKE SPRAGUE, Chairman

MARI PREWETT, Secretary

MS/MP

EXHIBIT (fis30aad)