

House Fish, Wildlife and Parks Committee
HB 516 - Feb. 10, 2005
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Montana's most important heritage is the sanctity of private property rights.

HB 516 appears to agree with certain amendments: right up to the point where the values of certain landowners don't match the values of certain sportsmen. Right up to the point where the belief that the public "owns" the wildlife collides with the landowner's management decision for his own land that may preclude public hunting.

Peel away the layers of good sense and you come to the heart of the bill in the amended Whereas: "Whereas, existing laws are not adequate to address problems associated with the choices by some landowners to harbor concentrations of big game." The heart of HB 516 is remedy the fact that "the choices of some landowners" deny some folks the right to hunt where ever they please.

Section 2: Prohibition on creating or maintaining conditions leading to concentration of big game . . . in such numbers as to pose a potential threat.

- "Concentration" is defined, but "conditions" are not. "Conditions" can be alfalfa and other crops.
- "Concentration" is defined as wildlife numbers that lead to POTENTIAL outcomes.
- "Potential" is a pretty low bar and pretty subjective.

Section 2 also speaks to conditions that MAY result in "damage" to adjoining "public" property. Who will survey that public property in order to determine the "damage" - if any? Has the Forest Service, DNRC and BLM been included in drafting this bill or will they first hear of it when when of them is appointed to serve on the advisory council?

Page 2, Line 3: An "owner of real property" could include the Fish, Wildlife and Parks - doesn't FWP own the Sun River Game Range, for example? Would FWP have to "disperse" those elk if an adjoining landowner complained?

Section 3. "Determination of existence of concentration...." HB 516 allows "a person who owns land" to look across at the elk on his neighbor's property and complain to FWP, and FWP WILL investigate the complaint. [#4 on the fiscal note]

HB 516 sets the stage for rampant resentment among landowners who are subject to the investigation.

Section 4. Mitigation of circumstances causing [the] concentration . . . If FWP does find the landowner is "creating or maintaining a condition" that results in lots of elk or deer, FWP MAY direct the landowner to take certain actions. "May" is permissive, but sportsmen who have hungered to hunt on that specific ranch for years will exert pressure on the department - and the commission, creating resentment on both sides.

Page 2, Lines 21 and 22: essentially allows FWP to reduce the number of big game animals through "requirement" such as hunting. Be realistic about this: It's public hunting forced upon the landowner and it will cause endless resentment.

Sections 3 and 4 appear to work together to squeeze the landowner who makes management decisions for his private property that are contrary to the hopes and desires of some sportsmen.

Section 5. Remedies for creating or maintaining . . .

What an interesting section! Landowners who fail to comply with FWP's "mitigation proposals" - except "hunting" - are subject to *a loss of circumstances that clearly say that landowner was allowing hunting:*

- can't participate in Block Management
- no more landowner preference licenses
- no more leasing to an outfitter
- no more hunting bulls and bucks on his private land

The hunting that's allowed just doesn't satisfy the sportsmen's need to hunt everywhere and anywhere they want - despite a landowner choosing another direction for his private property. Truth is, the landowner's choice of hunting opportunities is just not the free public access type of hunting that HB 516 aims to achieve.

Section 6. Method of determining if the landowner is creating or maintaining...

This is the section that provides for the rules that specify the procedure for pitting one land owner against another landowner with FWP in the middle.

Page 3, Lines 17 and 18 allows the accused landowner to present "evidence" to the contrary of the accusation. What kinds of evidence would that be?

Lines 19 and 20 other landowners in the hunting district to provide evidence "regarding the effects of big game concentrations on their property." Won't some of these landowners have to describe the very real monetary value that wildlife populations bring to their land?

Section 8. Advisory committees. Past legislatures have recognized the importance and value that outfitters bring to discussions on Montana's wildlife and hunting policies. Where's the outfitter on the advisory committee in HB 516?

Let's peel HB 516 like an onion: If HB 516 is actually a "wildlife damage" bill, why didn't it come from FWP?

- **HB 516 is not a "game damage mitigation" bill. HB 516 is an attempt to force public access onto private lands for the purpose of hunting.**
- Yes, there is a problem with concentrations of wildlife "harboring" on certain private lands during the hunting season. FWP, the FWP Commission, and the PL/PW are struggling to find solutions. Give them some time.
- Yes, hunting is a time-honored and traditional way to manage big game populations. **HOWEVER**, wide-open hunting would lead to hunting by permit only within my lifetime. There must be "safe harbors" for Montana's wildlife.
- Once a bill like HB 516 passes, Montana is on the slippery slope towards lowering the bar with regard to what is an acceptable violation of private property rights. Don't let HB 516 cross over that line and violate the sanctity and heritage of private property rights as we know it in Montana.