HJ 16

SENATE FISH AND GAME
EXHIBIT NO. 1
DATE 3-27-07
BILL NO. HJ 16

RESOLUTION

WHEREAS, Montana's wildlife resources and the cultural significance of hunting, fishing and other outdoor recreations are part and parcel of the citizenry heritage to be preserved, and;

WHEREAS, with an ever increasing population and non-resident visitation to Montana by non-residents and the increased use and appreciation of Montana's wildlife resources by both residents and non-resident persons who, at times, subject those resources to misuse, and;

WHEREAS, the Montana Department of Fish, Wildlife and Parks being the primary protector of the wildlife resources and is statutorily charged to enact its duties through the use of laws that are conflicting, confusing and co-mingled with administrative rules, and;

WHEREAS, Title 87 of the Montana Code Annotated has not recently undergone a re-codification as has other appendant titles such as Title 45, Montana Criminal Code "1973," and expecting that re-codification would remove the conflicts, confusion and other ambiguities, and;

WHEREAS, the several agencies of the legislative, executive and judicial branches of government on behalf of the Montana citizenry should monitor, recommend and insist on clear, concise and understandable statutes to govern its citizens' conduct, and;

WHEREAS, Governor Brian Schweitzer, FWP Director Jeff Hagener and FWP Chief of Law Enforcement, Jim Kropp, have each publicly thru Montana media have expressed their concern and dismay of "poaching" of Montana's wildlife resources and have enacted and are endorsing citizen participation in the "Enough is Enough" anti-poaching campaign, and;

WHEREAS, The Courts of Limited Jurisdiction being the courts that hear the majority of complaints filed as violations of Title 87, the Montana Magistrates Association, by resolution in September 2004, formally requested the Department of Fish, Wildlife and Parks to aggressively pursue a re-codification of Montana Code Annotated title 87 with the input and assistance of the Montana County Attorney's Association, the Montana Attorney General's Office, the District Courts of the State of Montana and the Courts of Limited Jurisdiction. A request that has subsequently resulted in no action.

THEREFORE, BE IT RESOLVED,

That the Montana Legislature in its' upcoming 2007 legislative session cause to be created and funded, a Legislative Interim Committee to review, revise and re-codify Title 87 of the Montana Code Annotated. These being the statutes that provide protection to Montana's Wildlife Resources.

Johnny D. Sieffert, MMA President

Montana Magistrates Association

President Johnny Seiffert
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This letter is written to express the concerns of the Montana Magistrate's Association for our Montana Wildlife Resources. The Courts of Limited Jurisdiction, the several Justice, City and Municipal Courts in Montana are the courts that hear the majority of the Fish, Wildlife and Parks violations-the misdemeanor offenses.

In 1974 the Montana Criminal Code underwent a review and recodification process which resulted in the current criminal code we now all employ and adjudicate. Those code encompass both misdemeanors and felony level violations. There are many other violations of law out side the criminal code. This would include the statutes relating to Fish, Wildlife and Parks which includes both misdemeanor and felony violations. At the time the criminal code was recodified the other areas of stated criminal offenses were not recodified including Title 87-those statutes relating to Fish, Wildlife and Parks violations.

In our dealings with the current statutes in Title 87, we are very aware of unclear, confusing and ambiguous laws which in the end make it difficult for law-enforcement officers to enforce, prosecutors to prosecute and for the courts and juries to make reasoned findings based not only on the facts but based on the law.

At the fall meeting of the Montana Magistrates in 2004 our association passed a resolution setting forth our concerns and presented it to the Department of Fish, Wildlife and Parks, our request being that the department actively pursue a recodification of the applicable statutes, ie: Title 87. This effort has seen no action.

With this writing, we are once again asking our state officials to put in place a legislative interim committee for the purpose of recodifing Title 87. (Please visit our attached resolution). Our desire therein is to clarify the statutes as needed and add other areas of needed or desirable enforcement, prosecution, and sentencing law that may be advisable given our current times.

Recently, Montana's Governor, Brian Schweitzer, the Director of Fish, Wildlife and Parks, Jeff Hegener, and the Chief of Law Enforcement, Jim Kropp have each publicly expressed their concerns for our wildlife resources citing an increase in recognizable poaching. Management of our resources will only be as good as the enforcement of the protective statues allow. The Montana Magistrate's Association solicits all interested parties in encouraging the Montana Legislature to create and fund an interim committee to recodify Title 87 of the Montana Statutes requiring therein the committee provide a proposed recodification to the 2009 legislative session for their consideration of passage.

For further information contact John L. "Pete" Howard at (406)466-5611, email at tetonjp@3rivers.net or Larry Carver (406)566-2277, x117, or email lcarver@mt.gov.

Respectfully,

Johnny D. Seiffert, President