

BUSINESS REPORT

MONTANA SENATE
61st LEGISLATURE - REGULAR SESSION

SENATE FISH AND GAME COMMITTEE

Date: Tuesday, March 17, 2009
Place: Capitol

Time: 3:00 pm
Room: 422

BILLS and RESOLUTIONS HEARD:

Prefix (HB, HR, HJR, SB, SR, or SJR) and number. Add Postponed (PP) when appropriate:

HB 382, HJ 15

HB 382 _____

HJ 15 _____

EXECUTIVE ACTION TAKEN:

Prefix (HB, HR, HJR, SB, SR, or SJR) and number. Enter P(pass) F(failed) DPAA (do pass as amended) BC(be concurred in) BCAA (be concurred in as amended):

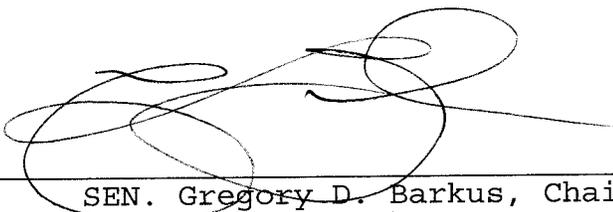
HB 221 BCAA _____

HB 222 BCAA _____

HB 317 BCAA _____

HB 337 Tabled _____

COMMENTS:



SEN. Gregory D. Barkus, Chairman

**MONTANA STATE SENATE
Roll Call
FISH AND GAME COMMITTEE**

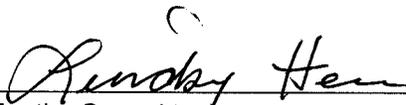
DATE: March 17, 2009

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
SENATOR GREGORY BARKUS, CHAIRMAN	✓	
SENATOR JOHN BRENDEN, VICE CHAIRMAN	✓	
SENATOR JOE BALYEAT	✓	
SENATOR DEBBY BARRETT	✓	
SENATOR STEVE GALLUS	✓	
SENATOR LARRY JENT	✓	
SENATOR TRUDI SCHMIDT		E
SENATOR JIM SHOCKLEY		E
SENATOR JOSEPH TROPILA	✓	

COMMITTEE FILE COPY

TABLED BILL

The **SENATE FISH AND GAME COMMITTEE** TABLED **HB 337**, by motion, on **Tuesday, March 17, 2009**.



(For the Committee)



(Secretary of the Senate)

7:45, 3/18
(Time) (Date)

March 17, 2009

Lindsey Hern, Secretary

Phone: 4814



SENATE STANDING COMMITTEE REPORT

March 18, 2009

Page 1 of 1

Mr. President:

We, your committee on **Fish and Game** recommend that **House Bill 221** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____

A handwritten signature in black ink, appearing to read "Gregory D. Barkus", written over a horizontal line.

Senator Gregory D. Barkus, Chair

To be carried by Senator Gregory Barkus

And, that such amendments read:

1. Page 3, line 3 through line 4.

Strike: subsection (6) in its entirety

Insert: "(6) Prior to reaching 12 years of age, minors who will reach 12 years of age by the last day of any regularly scheduled hunting season may hunt any game species after August 15 of the license year as long as the minor obtains the necessary license pursuant to this chapter."

2. Page 4, line 25 through line 26.

Strike: subsection (5) in its entirety

Insert: "(5) Prior to reaching 12 years of age, minors who will reach 12 years of age by the last day of any regularly scheduled hunting season may hunt any game species after August 15 of the license year as long as the minor obtains the necessary license pursuant to this chapter."

- END -

Committee Vote:

Yes 6, No 2

Fiscal Note Required

HB0221001SC02666.sdr

Handwritten initials in the bottom right corner, possibly "DR".



SENATE STANDING COMMITTEE REPORT

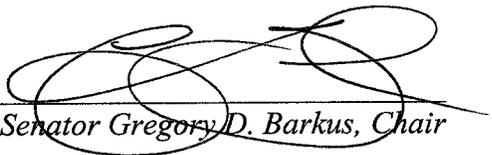
March 18, 2009

Page 1 of 5

Mr. President:

We, your committee on **Fish and Game** recommend that **House Bill 222** (third reading copy -- blue) **be concurred in as amended.**

Signed:


Senator Gregory D. Barkus, Chair

To be carried by Senator Larry Jent

And, that such amendments read:

1. Title, page 1, line 7.

Strike: "SECTION"

Insert: "SECTIONS 87-1-102 AND"

2. Page 1, line 11.

Following: line 10

Insert: "Section 1. Section 87-1-102, MCA, is amended to read:

"87-1-102. Penalties -- violation of state law. (1) (a) A person who purposely, knowingly, or negligently violates a provision of this title or any other state law pertaining to fish and game is guilty of a misdemeanor, except if a felony is expressly provided by law, and shall be fined an amount not less than \$50 or more than \$1,000 or imprisoned in the county detention center for not more than 6 months, or both, unless a different punishment is expressly provided by law for the violation. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of that person's license and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period set by the court.

(b) (i) If the court imposes forfeiture of the person's license and privilege to hunt, fish, or trap or to use state lands, the department shall notify the person of the loss of privileges as imposed by the court. The person shall surrender all licenses, as ordered by the court, to the department within

Committee Vote:

Yes 6, No 2

Fiscal Note Required

DR

10 days.

(ii) After a forfeiture period imposed pursuant to this section and upon receipt of notification from the court that the defendant has appeared and all terms of the court sentence, including making payment of any fine, costs, or restitution, have been met or the defendant is in compliance with installment payments specified by the court, the department shall reinstate the privileges unless the person is not otherwise entitled to reinstatement. After the privileges are reinstated, the department may revoke the privileges if it is notified by the clerk of court that the person is in default on any installment payment.

(iii) A person convicted of hunting, fishing, or trapping while the person's license or privilege is forfeited shall be imprisoned in the county detention center for not less than 5 days or more than 6 months and may be fined an amount not less than \$500 or more than \$2,000.

(2) (a) A person convicted of unlawfully taking, killing, possessing, or transporting a bighorn sheep, moose, wild buffalo, caribou, mountain goat, black bear, or grizzly bear or any part of these animals shall be fined an amount not less than \$500 or more than \$2,000 or imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, recreational use, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 30 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. ~~For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.~~

(b) A person convicted of unlawfully taking, killing, possessing, or transporting a deer, antelope, elk, or mountain lion or any part of these animals shall be fined an amount not less than \$300 or more than \$1,000 or imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period. ~~For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.~~

(c) A person convicted of unlawfully attempting to trap or hunt a game animal shall be fined an amount not less than \$200 or more than \$600 or imprisoned in the county detention center for not more than 60 days, or both.

(d) A person convicted of purposely, knowingly, or

negligently taking, killing, trapping, possessing, transporting, shipping, labeling, or packaging a fur-bearing animal or pelt of a fur-bearing animal in violation of any provision of this title shall be fined an amount not less than \$100 or more than \$1,000, imprisoned in the county detention center for not more than 6 months, or both. In addition, that person, upon conviction or forfeiture of bond or bail, shall forfeit any current license and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period, and any pelts possessed unlawfully must be confiscated. ~~For each conviction or forfeiture, the department shall notify the person of the loss of privileges. The person shall surrender all hunting, fishing, and trapping licenses to the department within 10 days.~~

~~(e) A person convicted of hunting, fishing, or trapping while that person's license is forfeited or a privilege is denied shall be imprisoned in the county detention center for not less than 5 days or more than 6 months. In addition, that person may be fined an amount not less than \$500 or more than \$2,000.~~

(3) If a person is convicted of illegally taking an animal described in 87-1-111 or 87-1-115 through the use of spotlights, nightscopes, or infrared scopes, the person is prohibited from fishing or hunting in the state for an additional 5 years following the ending date of the original prohibition period. In addition, the person, upon conviction or forfeiture of bond or bail, shall successfully complete, at the person's own expense, a department-sponsored hunter education course.

(4) A person convicted or who has forfeited bond or bail under this section and whose license privileges are forfeited may not purchase, acquire, obtain, possess, or apply for a hunting, fishing, or trapping license or permit during the period when license privileges have been forfeited. A person convicted of unlawfully purchasing, acquiring, obtaining, possessing, or applying for a hunting, fishing, or trapping license during the period when license privileges have been forfeited shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county jail for not more than 60 days, or both.

(5) A person convicted or who has forfeited bond or bail under this section and who has been ordered to pay restitution under the provisions of 87-1-111 or 87-1-115 may not apply for any special license under Title 87, chapter 2, part 7, or enter any drawing for a special license or permit for a period of 5 years following the date of conviction or restoration of license privileges, whichever is later. If the violation involved the unlawful taking of a moose, a bighorn sheep, or a mountain goat, the person may not apply for a special license or enter a drawing for a special license or permit for the same species of game animal that was unlawfully taken for an additional period of 5 years following the ending date of the first 5-year period. A person convicted of unlawfully applying for any special license under Title 87, chapter 2, part 7, or unlawfully entering a

drawing for a special license or permit shall be fined an amount not less than \$500 or more than \$2,000, imprisoned in the county detention center for not more than 60 days, or both.

(6) (a) A person convicted of a second offense of any of the following offenses within 10 years of the first conviction or who is convicted of two or more of the following offenses at different times within a 10-year period is subject to the penalties provided in subsection (6) (b):

- (i) hunting during a closed season;
- (ii) spotlighting;
- (iii) hunting without a license;
- (iv) unlawful taking of more than double the legal bag limit;
- (v) unlawful possession of more than double the legal bag limit; and
- (vi) waste of game by abandonment in the field.

(b) ~~(i)~~ A person convicted of the offenses in subsection (6) (a) in the time periods specified in subsection (6) (a) shall be fined an amount not less than \$2,000 or more than \$5,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for 60 months from the date of conviction or forfeiture, unless the court imposes a longer forfeiture period.

~~(ii) The department shall notify the offender of the loss of privileges.~~

~~(iii) The offender shall surrender all hunting, fishing, and trapping licenses to the department within 10 days after having received notice from the department that privileges have been revoked.~~

(7) (a) A person convicted of a third offense of any of the following offenses within 10 years of the first conviction is subject to the penalties provided in subsection (7) (b):

- (i) hunting during a closed season;
- (ii) spotlighting;
- (iii) hunting without a license; and
- (iv) unlawful taking of more than double the legal bag limit.

(b) ~~(i)~~ A person convicted of the offenses in subsection (7) (a) in the time period specified in subsection (7) (a) shall be fined an amount not less than \$5,000 or more than \$10,000 or be imprisoned in the county jail for not more than 1 year, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit all current hunting, fishing, and trapping licenses issued by this state and the privilege to hunt, fish, or trap in this state for life.

~~(ii) The department shall notify the offender of the loss of privileges.~~

~~(iii) The offender shall surrender all hunting, fishing, and trapping licenses to the department within 10 days after having~~

~~received notice from the department that privileges have been revoked.~~

(8) Subject to sentencing restrictions, the court shall order a person who is convicted pursuant to this section to pay the costs of imprisonment under this section.

(9) A mandatory forfeiture of privileges imposed pursuant to this section does not apply to juveniles. However, the court may, at its discretion, order forfeiture of a juvenile's license and privilege to hunt, fish, or trap upon conviction or forfeiture of bond or bail for a violation of this title.

(10) Notwithstanding the provision of subsection (1), the penalties provided by this section are in addition to any penalties provided in Title 37, chapter 47, and Title 87, chapter 4, part 2.

(11) If an administrative authority suspends a license, permit, or privilege to obtain a license or permit issued under this title, the administrative authority or the department shall notify the person of the suspension and the person shall surrender the license or permit to the department within 10 days.

(12) For the purposes of this section, the terms "knowingly", "negligently", and "purposely" have the same meaning as provided in 45-2-101."

Renumber: subsequent sections

3. Page 2, line 10.

Following: "met"

Insert: "or the person is in compliance with installment payments specified by the court "

Following: "effect"

Insert: "pursuant to 87-1-102(1) "

4. Page 4, line 2.

Following: "met"

Insert: "or the person is in compliance with installment payments specified by the court "

Following: "effect"

Insert: "pursuant to 87-1-102(1) "

- END -



SENATE STANDING COMMITTEE REPORT

March 18, 2009

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Mr. President:

We, your committee on **Fish and Game** recommend that **House Bill 317** (third reading copy -- blue) **be concurred in as amended.**

Signed.

Senator Gregory D. Barkus, Chair

To be carried by Senator Joseph (Joe) Tropila

And, that such amendments read:

1. Title, page 1, line 5.

Following: "LICENSE"

Insert: "OR PERMIT ISSUED BY DRAWING"

Strike: "TO A COMBAT ZONE"

Insert: "OUTSIDE OF THE CONTINENTAL UNITED STATES IN SUPPORT OF A CONTINGENCY OPERATION"

2. Title, page 1, line 6.

Following: "LICENSE"

Insert: "OR PERMIT"

3. Title, page 1, line 7.

Following: "LICENSE"

Insert: "OR PERMIT"

4. Title, page 1, line 8.

Strike: "SECTIONS" through "87-2-702,"

Insert: "SECTION 87-2-803,"

5. Page 1, line 12 through page 4, line 5.

Strike: everything after the enacting clause

Insert: "Section 1. Section 87-2-803, MCA, is amended to read:
"87-2-803. **Persons with disabilities -- service members -- definitions.** (1) Persons with disabilities are entitled to fish

Committee Vote:

Yes 8, No 0

Fiscal Note Required

HB0317001SC02657.sdr

Handwritten initials, possibly "JR", in the bottom right corner of the page.

and to hunt game birds, not including turkeys, with only a conservation license if they are residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule. A person who has purchased a conservation license and a resident fishing license or game bird license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the fishing license or game bird license previously purchased for that license year. A person who is certified as disabled pursuant to subsection (3) and who was issued a permit to hunt from a vehicle for license year 2000 or a subsequent license year is automatically entitled to a permit to hunt from a vehicle for subsequent license years if the criteria for obtaining a permit does not change.

(2) A resident of Montana who is certified as disabled by the department and who is not residing in an institution may purchase a Class A-3 deer A tag for \$6.50 and a Class A-5 elk tag for \$8. A person who has purchased a conservation license and a resident deer license or resident elk license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the deer license or elk license previously purchased and reissuance of the license for that license year at the rate established in this subsection.

(3) A person may be certified as disabled by the department and issued a permit to hunt from a vehicle, on a form prescribed by the department, if the person establishes one or more of the disabilities pursuant to subsection (9).

(4) (a) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection (4) as a permitholder, may hunt by shooting a firearm from:

(i) the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-101, except a state or federal highway;

(ii) within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-way in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public highway, where hunting is permitted; or

(iii) an off-highway vehicle or snowmobile, as defined in 61-1-101, in any area where hunting is permitted and that is open to motorized use, unless otherwise prohibited by law, as long as the off-highway vehicle or snowmobile is marked as described in subsection (4)(d) of this section.

(b) This subsection (4) does not allow a permitholder to shoot across the roadway of any public highway or to hunt on private property without permission of the landowner.

(c) A permitholder must have a companion to assist in immediately dressing any killed game animal. The companion may also assist the permitholder by hunting a game animal that has been wounded by the permitholder when the permitholder is unable to pursue and kill the wounded game animal.

(d) Any vehicle from which a permitholder is hunting must

be conspicuously marked with an orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle, or as prescribed by the department.

(5) A veteran who meets the qualifications in subsection (9) as a result of a combat-connected injury may apply at a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7 deer A tag, a Class B-8 deer B tag, and a special antelope license at one-half the license fee. Fifty licenses of each license type must be made available annually. Licenses issued to veterans under this part do not count against the number of special antelope licenses reserved for people with permanent disabilities, as provided in 87-2-706.

(6) (a) A resident of Montana who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by department rule. An applicant for a license under this subsection need not obtain a wildlife conservation license as a prerequisite to licensure.

(b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301, may be issued regular resident deer and elk licenses, in the manner provided in subsection (2) of this section, and must be accompanied by a companion, as provided in subsection (4)(c) of this section.

(7) The department shall adopt rules to establish the qualifications that a person must meet to be a companion and may adopt rules to establish when a companion can be a designated shooter for a disabled person.

(8) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers to a person experiencing a condition medically determined to be permanent and substantial and resulting in significant impairment of the person's functional ability.

(9) A person is entitled to a permit to hunt from a vehicle if the person:

(a) is certified by a licensed physician, an advanced practice registered nurse, or a licensed physician assistant to be dependent on an oxygen device or dependent on a wheelchair, crutch, or cane for mobility;

(b) is an amputee above the wrist or ankle; or

(c) is certified by a licensed physician, an advanced practice registered nurse, or a licensed physician assistant to be unable to walk, unassisted, 600 yards over rough and broken ground while carrying 15 pounds within 1 hour and to be unable to handle and maneuver up to 25 pounds.

(10) Certification by a licensed physician, an advanced practice registered nurse, or a licensed physician assistant under subsection (9) must be on a form provided by the department.

(11) The department or a person who disagrees with a

determination of disability or eligibility for a permit to hunt from a vehicle may request a review by the board of medical examiners pursuant to 37-3-203.

(12) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a contingency operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months outside of the state, upon request and upon presentation of the documentation described in subsection (12)(b), must be issued a free resident wildlife conservation license or a Class AAA resident combination sports license, which may not include a bear license, upon payment of the resident hunting access enhancement fee provided for in 87-2-202(3)(c), in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election. A member who participated in a contingency operation after September 11, 2001, that required the member to serve at least 2 months outside of the state may make an election in 2007 or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election and be entitled to a free resident wildlife conservation license or a free Class AAA resident combination sports license in the year of election and in any of the 4 years after the member's election.

(b) To be eligible for the free resident wildlife conservation license or free Class AAA resident combination sports license provided for in subsection (12)(a), an applicant shall, in addition to the written application and proof of residency required in 87-2-202(1), provide to any regional department office or to the department headquarters in Helena, by mail or in person, the member's DD form 214 verifying the member's release or discharge from active duty. The applicant is responsible for providing documentation showing that the applicant participated in a contingency operation as provided in 10 U.S.C. 101(a)(13).

(c) A Montana resident who meets the service qualifications of subsection (12)(a) and the documentation required in subsection (12)(b) is entitled to a free Class A resident fishing license in the license year that the member returns from military service or in the year following the member's return, based on the member's election, and in any of the 4 years after the member's election.

(d) The department's general license account must be reimbursed by a quarterly transfer of funds from the general fund to the general license account for costs associated with the free licenses granted pursuant to this subsection (12) during the preceding calendar quarter. Reimbursement costs must be designated as license revenue.

(13) A member of the armed forces who forfeited a license or permit issued through a drawing as a result of deployment

outside of the continental United States in support of a contingency operation as provided in 10 U.S.C. 101(a)(13) is guaranteed the same license or permit, without additional fee, upon application in the year of the member's return from deployment or in the first year that the license or permit is made available after the member's return."

- END -

MONTANA STATE SENATE
Roll Call Vote
FISH AND GAME COMMITTEE

DATE 3/17/09 BILL NO HB 337 MOTION NO. _____
 MOTION: Table

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR JOHN BRENDEN, VICE CHAIR	✓		
SENATOR JOE BALLYEAT	✓		✓
SENATOR DEBBY BARRETT	✓		
SENATOR STEVE GALLUS		✓	
SENATOR LARRY JENT	✓		
SENATOR TRUDI SCHMIDT		✓	
SENATOR JIM SHOCKLEY	✓		✓
SENATOR JOSEPH TROPILA	✓		
SENATOR GREGORY BARKUS, CHAIRMAN	✓		

7 2

**MONTANA STATE SENATE
Visitors Register**

Fish and Game Committee

Date 2/17

Bill No. 302 Sponsor(s) Hamilton

PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
John McDunn	Self	X		
Shannara McDunn	Self	X		
Bill Tiddy	Self + NFAA		✓	
Ray Wrobel Jr	Self	X		
Sean Lawlor	self	X		
Aine Lawlor	self	X		
Robert Sanders	Ducks Unlimited	X		
GEORGE COBB	SAPARI CLUB INT.	X		
BRIAN JUDY	NRA	X		
Dennis Mills Mike	wife/self/NRA	✓		
Roland Horst	Self/NRA	X		
ISAAC SCOTT WELCH	Self/Hunter for TWS	X		
Charles Houk	Self		X	
Ron AASHEIM	FWD			X

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

