

# Montana State Legislature

## **2013 Session**

### **ADDITIONAL DOCUMENTS MAY INCLUDE THE FOLLOWING:**

- **Business Report**
- **Roll Call - Attendance**
- **Standing Committee Reports**
- **Tabled Bills**
- **Fiscal Reports etc.**
- **Roll Call Votes**
- **Informational Items**
- **Witness Statements**
- **Any Documents; such as;**
  - \* **Petitions if any.**
  - \* **Any and all material handed end after the meeting ends.**

**The original is on file at the  
Montana Historical Society  
and may be viewed there.**

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2013 Legislative Scanner Susie Hamilton**



**BUSINESS REPORT**  
**MONTANA SENATE**  
**63rd LEGISLATURE - REGULAR SESSION**

**SENATE JUDICIARY COMMITTEE**

**Date:** Wednesday, March 6, 2013  
**Place:** Capitol

**Time:** 9:00 AM  
**Room:** 303

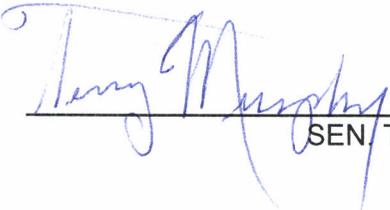
**BILLS and RESOLUTIONS HEARD:**

HB 205 - Eliminate prohibition on firearm sound reduction devices in the field - Rep. Krayton Kerns  
HB 302 - Prohibit state enforcement of any federal ban on semi-auto firearms/magazines - Rep. Krayton Kerns

**EXECUTIVE ACTION TAKEN:**

HB 45-BE CONCURRED IN  
HB 131-BE CONCURRED IN  
HB 172-BE CONCURRED IN  
HB 129-BE CONCURRED IN

**Comments:**

  
\_\_\_\_\_  
SEN. Terry Murphy, Chair

# MONTANA STATE SENATE

## 2013 JUDICIARY COMMITTEE

# ROLL CALL

DATE: 3/6/13

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
CHAIRMAN, SENATOR TERRY MURPHY	/	
VICE CHAIRMAN, SENATOR SCOTT SALES	/	
SENATOR SHANNON AUGARE	/	
SENATOR ANDERS BLEWETT	/	
SENATOR SCOTT BOULANGER	/	
SENATOR JOHN BRENDEN		/
SENATOR ROBYN DRISCOLL	/	
SENATOR JENNIFER FIELDER	/	
SENATOR LARRY JENT	/	
SENATOR CLIFF LARSEN	/	
SENATOR CHAS VINCENT	/	
SENATOR ART WITTICH	/	



SENATE STANDING COMMITTEE REPORT

March 6, 2013

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Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 45** (third reading copy -- blue) be **concurring in**.

Signed:   
Senator Terry Murphy, Chair

To be carried by Senator Cliff Larsen

- END -

**Committee Vote:**

**Yes 12, No 0**

Fiscal Note Required

HB0045001SC13681.swr



SENATE STANDING COMMITTEE REPORT

March 6, 2013

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 129** (third reading copy -- blue) **be concurred in.**

Signed:   
Senator Terry Murphy, Chair

To be carried by Senator Cliff Larsen

- END -

**Committee Vote:**

**Yes 9, No 3**

Fiscal Note Required

HB0129001SC13681.swr



**SENATE STANDING COMMITTEE REPORT**

**March 6, 2013**

**Page 1 of 1**

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 131** (third reading copy -- blue) **be concurred in.**

Signed:   
*Senator Terry Murphy, Chair*

To be carried by Senator Anders Blewett

- END -

**Committee Vote:**

**Yes 12, No 0**

Fiscal Note Required

HB0131001SC13620.swr



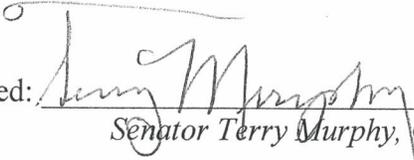
SENATE STANDING COMMITTEE REPORT

March 6, 2013

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 172** (third reading copy -- blue)  
**be concurred in.**

Signed:   
Senator Terry Murphy, Chair

To be carried by Senator Anders Blewett

- END -

**Committee Vote:**

**Yes 9, No 3**

Fiscal Note Required

HB0172001SC13620.swr

**MONTANA STATE SENATE**  
**ROLL CALL VOTE**  
**2013 JUDICIARY COMMITTEE**

DATE 3/6/13 BILL NO. HB45 MOTION NO. 1

MOTION: Reconcurred In

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	—		
SENATOR JOHN BRENDEN	—		✓
SENATOR JENNIFER FIELDER	—		
SENATOR CHAS VINCENT	✓		—
SENATOR SCOTT BOULANGER	—		
SENATOR ART WITTICH	—		✓
SENATOR SHANNON AUGARE	—		
SENATOR ANDERS BLEWETT	—		
SENATOR ROBYN DRISCOLL	—		
SENATOR LARRY JENT	—		
SENATOR CLIFF LARSEN	—		
CHAIRMAN, SENATOR TERRY MURPHY	—		

12/0

(Larsen)

# MONTANA STATE SENATE

## ROLL CALL VOTE

### 2013 JUDICIARY COMMITTEE

DATE 3/6/13 BILL NO HB 129 MOTION NO. 1

MOTION: Belonguehla

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	/		
SENATOR JOHN BRENDEN	/		/
SENATOR JENNIFER FIELDER		/	
SENATOR CHAS VINCENT	/		/
SENATOR SCOTT BOULANGER		/	
SENATOR ART WITTICH		/	/
SENATOR SHANNON AUGARE	/		
SENATOR ANDERS BLEWETT	/		
SENATOR ROBYN DRISCOLL	/		
SENATOR LARRY JENT	/		
SENATOR CLIFF LARSEN	/		
CHAIRMAN, SENATOR TERRY MURPHY	/		

9/3

*Larsen*

**MONTANA STATE SENATE**  
**ROLL CALL VOTE**  
**2013 JUDICIARY COMMITTEE**

DATE 3/6/13 BILL NO HB/31 MOTION NO. 1

MOTION: Be Concurred In

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	—		
SENATOR JOHN BRENDEN	—		—
SENATOR JENNIFER FIELDER	—		
SENATOR CHAS VINCENT	—		—
SENATOR SCOTT BOULANGER	—		
SENATOR ART WITTICH	—		—
SENATOR SHANNON AUGARE	—		
SENATOR ANDERS BLEWETT	—		
SENATOR ROBYN DRISCOLL	—		
SENATOR LARRY JENT	—		
SENATOR CLIFF LARSEN	—		
CHAIRMAN, SENATOR TERRY MURPHY	—		

12/0

(Blewett)

**MONTANA STATE SENATE**  
**ROLL CALL VOTE**  
**2013 JUDICIARY COMMITTEE**

DATE 3/6/13 BILL NO HB172 MOTION NO. 1

MOTION: Be Concurred In

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES		—	
SENATOR JOHN BRENDEN		—	—
SENATOR JENNIFER FIELDER		—	
SENATOR CHAS VINCENT	—		
SENATOR SCOTT BOULANGER	—		
SENATOR ART WITTICH	—		—
SENATOR SHANNON AUGARE	—		
SENATOR ANDERS BLEWETT	—		
SENATOR ROBYN DRISCOLL	—		
SENATOR LARRY JENT	—		
SENATOR CLIFF LARSEN	—		
CHAIRMAN, SENATOR TERRY MURPHY	—		

9/3

(Blewett)







24/1/2



1880

20/12

**MONTANA STATE SENATE**  
**Visitors Register**  
**SENATE JUDICIARY COMMITTEE**

**Wednesday, March 6, 2013**

**HB 205 - Eliminate prohibition on firearm sound reduction devices in the field**

**Sponsor: Rep. Krayton Kerns**

**PLEASE PRINT**

Name	Representing	Support	Oppose	Info
Randy Pinocci	Self	✓		
Harvey Hollandsworth	SELF	✓		
KEITH OCHS	SELF	✓		
ROYAL DAVIS	SELF	✓		
TIM RAUHL	PATH Keep Law Def	✓		
PAUL LANDSCHAED	AMERICANS	✓		
Harvey Rarndal	Self	✓		
Todd Reither	American Silencer Assoc	✓		
MICHAEL CHANDLER	WEST. MONT FISH & GAME ASSOC.	✓		
KATHY POLING	ELITE IRON	✓		
DALIZ Poling	ELITE IRON	✓		
RICK LEPAGE	SELF	✓		
Joe Perry	MSA		✓	
BRIAN JUDY	NRA	✓		
GEORGE COLIB	MWF		X	
Vito Quatraro	Montana Sportsman Alliance		X	
Garrett Bacon	Self	X		
WAYNE DELZER	SELF	✓		
E J Redding	Self	X		
Peter Venman	Self	X		
Rep. Kelly Hyman		✓		
Jim Kerns	FWP		X	

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

**MONTANA STATE SENATE  
Visitors Register  
SENATE JUDICIARY COMMITTEE**

Wednesday, March 6, 2013

HB 302 - Prohibit state enforcement of any federal ban on semi-auto firearms/magazines

Sponsor: Rep. Krayton Kerns

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Randy Pinocci	Self	✓		
KEITH OCHS	SELF	✓		
Harvey Hollandsworth	SELF	✓		
ROYAL DAVIS	SELF	✓		
Jim Raundor	COACH Reps/Amateur	✓		
PAUL LANDSGAARD	AMERICANS	✓		
Harvey Randal	Self	✓		
<del>KATHY BOLAND</del>	<del>SELF</del>			
MICHAEL CHANDLER	WEST. MONT. FISH & GAME ASSOC.	✓		
RICK LEPAGE	SELF	✓		
BRIAN JUDY	NRA	✓		
Gary Epstein	MCAA		✓	
WAYNE DELZER	SELF	✓		
Garrett Bacon	Self	X		
Sarah Rossi	MCADSV		X	
Jim Smith	MSPDA		X	
David Culen	Jud. Ctn. Atty. Ofc.		✓	
Pete Kennan	Self	✓		
Jasen New	self	✓		
Dave Withis	self	✓		

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

## TESTIMONY IN SUPPORT OF HB 302

Good Morning, Mr. Chairman and Members of this Committee. For the record, my name is Doug. Nulle. I am a retired attorney and a resident of Clancy.

I rise in support of HB 302 for the reasons given by the sponsor and proponents and I would like to add the following:

The individual rights protected by Article II, Section 12, of the Montana Constitution are fundamental in nature and are not subject to arbitrary suspension or denial by our state or local governments or by any of their agents acting under color of law. The same holds true for those rights protected by the Second Amendment to the U.S. Constitution. In fact, the recent U.S. Supreme Court decisions in D.C. v. Heller, 554 U. S. 570 (2008), and McDonald v. City of Chicago, 561 U. S. \_\_\_\_ (2010), would confirm this. In Heller, the Court held that the Second Amendment protects an individual right to possess a firearm unconnected with service in a militia and to use that arm for traditionally lawful purposes, such as self-defense within the home (slip op., at 2-53). In McDonald, the Court held that the Due Process Clause of the Fourteenth Amendment incorporates the Second Amendment right recognized in Heller (slip op., at 44). That decision also recognized this right to be a fundamental one (slip op., at 19-31). As such, this right is now binding upon the states.

Although the Court did not establish a standard of review for Second Amendment infringements in either Heller or McDonald, in light of the fact that the rights under the Second Amendment have been recognized as fundamental in nature, I am convinced that the likely standard to be applied in future Second Amendment cases of this type will be “strict scrutiny”. Under this standard, a law or regulation which substantially infringes on a Second Amendment right would be subject to ‘strict scrutiny’ by the courts and would be held to be constitutional only if that law or regulation is narrowly tailored to serve a compelling state interest. This is a very high burden for the government, to be sure. But again, we’re talking about a fundamental right, here. And I would add that the provisions of Article II, Section 12, of the Montana Constitution appear to provide even greater protection than the Second Amendment, as Section 12 provides in pertinent part that, “The right of any person to keep or bear arms in defense of his own home, person, and property,...shall not be called into question,...”. Based on the wording of this section, the standard of review for Montana courts is arguably higher than that of strict scrutiny.

In the wake of the Heller and McDonald decisions, our state and local governments should not be expending limited public funds or limited public resources to enforce potentially unconstitutional federal statutes, such as those proposed in U.S. Senate Bill 150 or in similar Congressional bills.

I commend Representative Kerns for sponsoring this bill and would respectfully request a “do-concur” vote on it. Thank you for your time and consideration.

TESTIMONY IN SUPPORT OF HB 205

Good Morning, Mr. Chairman and Members of this Committee. For the record, my name is Doug. Nulle. I am a retired attorney and a resident of Clancy.

I rise in support of HB 205 for the reasons given by the sponsor and the proponents and I would like to emphasize here that this bill provides protection for those hunters who are hearing-impaired. Contrary to popular belief, a suppressor does not suppress the sonic boom from a firearm discharge, but it does suppress the muzzle blast, which occurs much closer to the hunter.

It makes no more sense to prohibit the use of a suppressor in the field any more than it does to prohibit the use of archery equipment in the field. Accordingly, there is simply no rational basis for this prohibition.

I commend Representative Kerns for sponsoring this bill and I would respectfully request a “do-concur” vote on it. Thank you for your time and consideration.