

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1469

2007 HOUSE NATURAL RESOURCES

HB 1469

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1469

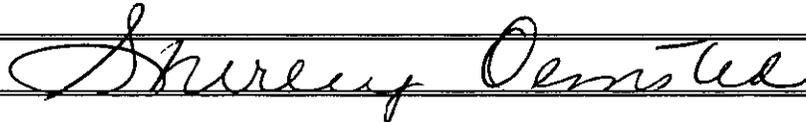
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: February 8, 2007

Recorder Job Number: 3147

Committee Clerk Signature



Minutes:

Chairman Porter opened the hearing on HB 1469 and asked the clerk to read the title.

Representative DeKrey came forward as a sponsor of this bill. It just clarifies something that is already in law. There has been a tremendous amount of problems in areas in the state that are major hay producers. The hunting seasons all take place when they are moving their hay. There is a thought among the hunting public that when it says you cannot move off the established trail, it means you can't move off the established trail. Farmers are going down these section lines which are not much more than a trail and there will be a pickup that is locked up and in the middle of the road. All this does is clarify that they cannot park their vehicles so as to impede traffic using the established road or trail.

Representative Kelsh asked what the penalty is for this.

Representative DeKrey said the biggest penalty is to get the farmer made and he pushes your vehicle out of the way.

Mr. Mike Donahue came forward representing the North Dakota Sportsman Association. He had a handout. See attachment marked Item #1. They do support this bill and can understand the frustration of the farmers. They would recommend a minor amendment on line 19 changing the line that "a individual may not part "A" person's vehicle".

Chairman Porter asked for further testimony. Hearing none, he asked for opposition to this bill.

Mr. David Munch came forward in opposition. He has farmland and when he called the game warden about this, they have a very good working relationship. It takes one or two hours of his day to get this fixed. He doesn't think it should be the game warden's job to police the roads. There is a law here about obstructing highways. He thinks this should be the job of the county sheriff or the highway patrol. It just makes more work for the game and fish. Why should we waste our money on this when we already have a law?

Mr. Dennis Daniel came forward in opposition of this law. He has fought with Morton County to open the section lines. We already have laws for this. If the farmer has a problem he should get the sheriff to tow these vehicles. They should use the law and use it to the extent.

Representative Damschen asked how he would feel about a farmer who is 10 miles from home with his tractor without his cell phone and the road is blocked. Should he have to drive 10 miles home to call the sheriff to get help? How should he handle that situation?

Mr. Daniel said it cuts both way. I guess he would have to file charges.

Chairman Porter asked for further testimony. Hearing none, the hearing was closed.

2007 HOUSE STANDING COMMITTEE MINUTES

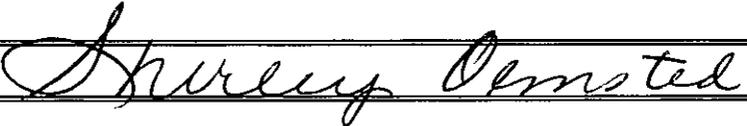
Bill/Resolution No. HB 1469

House Natural Resources Committee

Check here for Conference Committee

Hearing Date: February 8, 2007

Recorder Job Number: 3155

Committee Clerk Signature 

Minutes:

Chairman Porter asked the committee to consider HB 1469.

Representative DeKrey asked to amend the bill starting on page 1, line 16 remove everything starting with "a person and continuing on line 17 and ending with deer gun season. That is already state law from last session. This would match what we did last session. He made a motion to amend this bill.

Chairman Porter clarified the amendment.

Representative Keiser seconded the motion.

Chairman Porter asked for discussion.

Representative Keiser asked if they were striking language that is current law.

Representative DeKrey said last session when we passed the off road bill for the upland, this would be in conflict with what we passed last session. We are just taking it out to match it. It is not the intention to do anything here. It is just that we noticed this when we were looking at the bill.

Chairman Porter called for a voice vote and the motion carried.

Representative Meyer made a motion for a do pass as amended on HB 1469.

Representative Keiser seconded the motion.

Chairman Porter asked for discussion.

Representative DeKrey said it has nothing to do with the section line.

Representative Nottestad said that this puts this in the hands of the game and fish. Is that true?

Chairman Porter said he thinks it puts it in the hand of any licensed law official.

Representative DeKrey said he didn't think a law official would be involved in most cases. He said you are not going to waste your whole day looking for a law official.

Chairman Porter asked for further discussion. Hearing none, the clerk was asked to call the roll on a **do pass as amended on HB 1469**. Let the record show 12 yes, 1 no with 1 absent.

Representative Hunskor will carry the bill to the floor.

Date: 2-8-07
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1469

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken amend HB

Motion Made By DeKrey Seconded By Hunskor

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter			Rep. Hanson		
Vice-Chairman - Rep Damschen			Rep. Hunskor		
Rep. Charging			Rep. Kelsh		
Rep. Clark			Rep. Meyer		
Rep. DeKrey			Rep. Solberg		
Rep. Drovdal					
Rep. Hofstad					
Rep. Keiser					
Rep. Nottestad					

Vote

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

*Page 1 June 16 - a person
 June 17 deer gun season*

Date: 2-8-07
 Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1469

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken To Pass as Amended

Motion Made By Meyer Seconded By Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter	✓		Rep. Hanson	✓	
Vice-Chairman - Rep Damschen	✓		Rep. Hunskor	✓	
Rep. Charging		✓	Rep. Kelsh	✓	
Rep. Clark	✓		Rep. Meyer	✓	
Rep. DeKrey	✓		Rep. Solberg		
Rep. Drovdal	✓				
Rep. Hofstad	✓				
Rep. Keiser	✓				
Rep. Nottestad	✓				

Total Yes 12 No 1

Absent 1

Floor Assignment Hunskor

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1469: Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1469 was placed on the Sixth order on the calendar.

Page 1, line 16, overstrike "A person may not use a motor-driven vehicle on any land other than an"

Page 1, line 17, overstrike "established road or trail to hunt upland game during the deer gun season."

Page 1, line 19, replace "that person's" with "a"

Renumber accordingly

2007 SENATE NATURAL RESOURCES

HB 1469

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1469

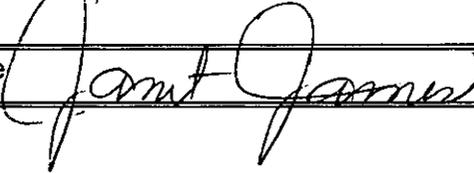
Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: # 4188, 4191

Committee Clerk Signature



Minutes:

Senator Ben Tollefson, Vice Chairman of the Senate Natural Resources Committee opened the hearing on HB 1469 relating to blocking established roads and trails for hunting purposes. All members of the committee were in and out of committee as they were testifying on bills in other committees.

Representative Duane DeKrey from District 14 cosponsor of HB 1469 introduced the bill stating the impatience of the bill is the amount of complaints from his district during the fall hunting season a lot of hunters read they are not supposed to leave established trails and took that literally. So when farmers/ranchers are trying to move hay, the roads and section lines are blocked. All the bill does is clarify what is already in existing law that a vehicle is not to be parked so as block or impede traffic. That is all the intent of the bill was although an amendment was adopted by house that stroke out the language on Line 16 and 17 and whatever the department feels about that is their business but that was not why he entered the bill. The language on Line 19 and 20 is important because it clarifies an existing law which is what he wants to see survive.

Senator Tollefson asked for opposing testimony of HB 1469.

Mike Donahue representing the United Sportsmen of North Dakota and the North Dakota Wildlife Federation testified in opposition to HB 1469 stating that in the beginning of the session they supported HB 1469 but during house committee work, an amendment on Line 16 and 17 was made and that is what they now oppose. He further recalled that last session when driving off road or trail for upland hunting was passed the agreement was for not during deer gun season. This amendment now adds the deer gun season and that is their opposition to the bill. He also added that if the committee would take out the amendment regarding Line 16 and 17 they would support the bill.

Foster Hager representing the Cass County Wildlife Club testified in opposition to HB 1469 stating they supported the HB 1469 until the house committee changed Line 16 and 17. He further stated he believed last session the bill was HB 1239 and they cannot support the bill unless Line 16 and 17 are put back into the bill. It will be a big problem for enforcement because during the deer season that unless a hunter is retrieving a shot deer, a hunter is to stay on an established road or trail.

Senator Joel Heitkamp asked why the house committee amended the bill.

Foster Hager said the amendment happened behind closed doors and when asked why it was done the response was to take it up with the senate committee.

Senator Heitkamp responded well you just did.

Foster Hager stated that it was Representative Porter's response.

Terry Steinwand, Director of the North Dakota Game and Fish Department testified in opposition of HB 1469 (see attachment #1). He also added that Mr. Donahue and Mr. Hager's testimony mirrors the department's concerns in opposition to HB 1469. Originally the department was neutral on HB 1469 because they felt it was a good bill even though they have strongly suggested that hunters do not block trails, but pull off the to the side. We believe that

the ability to drive off trail for upland game for all of the sixteen and half days is reasonable. By allowing it during the deer gun season it puts an extreme burden on the enforcement staff as they are called quite frequently and will not be able to see those violations happen. It will create a lot of challenges for the warden staff. If the language on Line 16 and 17 are reinserted the department would have no problem.

Bill Pheifer representing the North Dakota Chapter of the Wildlife Society testified in opposition to HB 1469 (see attachment #2).

David Munsch testified in opposition to HB 1469 stating he opposed the bill from the start because it is covered under century code 24-07 about blocking roads and it says that section line roads are considered to be public roads open for public travel to the width of 33 feet – 10.06 meters on each side of the section line. He stated he should be able to park anywhere in that section line all the way up to the fence worth 66 feet and others should be able to pass through with a load of hay. When he calls a game warden it takes a hour or more for them to get there or maybe the next day. If there is a problem with someone parked on the section line, the sheriff can be called and there is a much stronger offense with 24-12 because the individual can be taken care of. He does not believe the state can afford a peace officer for every farmer or rancher to escort every farmer/rancher home with a load of hay. The landowners have to be good citizens and handle their own character, sign complaints and carry through on it. There are enough laws and this bill just adds another layer of bureaucracy. The game and fish is funded by hunters and sportsmen that purchase hunting equipment and is funded by the taxes paid on that equipment. The roads are owned by the state, the county has authority over them, so why does a hunter or sportsmen have to have a game warden as a meter maid. He continued with his personal history of trying to get the county to put a gait in so that state land could be accessed. There needs to be a balance.

Dennis Daniel testified in opposition of HB 1469 stating he does not care for the language used on Line 9 through 12, as he would make the change to read "no person" instead of "a person". Unless he is reading it incorrectly is that somewhere along the line the landowner is allowed to do whatever he wants. He agrees it is his land but if he is actively hunting the landowner should be treated just a anyone else. He told of a story of a farmer claiming to be fixing fence while hunting. If the century code is just used as the law, this bill is not needed. This problem works both ways as farmers often have old unused equipment blocking roads. He also told of his personal problems of getting the counties to open up section lines for passage.

Senator Ben Tollefson asked for testimony in a neutral position of HB 1469 and hearing none closed the hearing on HB 1469.

4191

Senator Stanley Lyson opened committee work on HB 1469.

All members of the committee were present.

Senator Joel Heitkamp stated he sees the problem all the time of hunters parked on roads and farmers cannot pass. The bill might not do very much because it might already be specified in certain parts of the code, but will this bill it allows the game wardens to do something about the problem. He made a motion to remove the overstrike on Line 16 and 17.

Senator Constance Triplett second the motion.

Senator Layton Freborg commented this is so unnecessary.

Roll call vote #1 to remove the overstrike on Line 16 and 17 of HB 1469 was taken by voice vote indicating 7 Yeas, 0 Nays and 0 absent or not voting.

Senator Herbert Urlacher asked if the overstrike related to land owner rights to drive off trail.

Senator Heitkamp answered that they already have that and what the motion did was completely undo what was done two years ago when it came to deer hunting.

Senator Triplett stated the discussion on the new language which all the bill is right now is the bit of new language on Line 19 and 20 is whether this is necessary or not. There is some acknowledgment that it is already in another section of code, which people cannot do this and as one witness suggested that we are making extra work for the game wardens of work that should be done by sheriffs. She asked the chairman of the committee as a former sheriff, his comments.

Senator Lyson stated he has read the bill several times and questioned why do we want to have things in two pieces of law which does not make sense.

Senator Triplett asked if he would prefer calling the sheriff instead of a game warden in these cases.

Senator Lyson stated sheriffs are more busy than game wardens.

Senator Urlacher asked for confirmation that a hunter can drive off trail to retrieve upland game.

Senator Heitkamp agreed stating that everyone can do that and further stated the house committee does not like what was done two years ago resulting in the overstrike amendment.

Senator Ben Tollefson made a motion for a Do Not Pass as amended of HB 1469.

Senator Freborg second the motion.

Roll call vote #2 for a Do Not Pass as amended of HB 1469 was taken indicating 5 Yeas, 2 Nays and 0 absent or not voting.

Senator Freborg will carry HB 1469.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1469

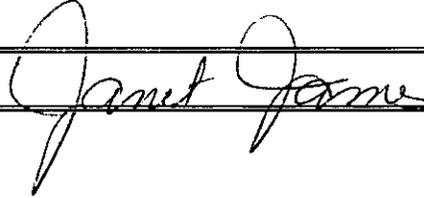
Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: March 9, 2007

Recorder Job Number: # 4764

Committee Clerk Signature



Minutes:

Senator Stanley Lyson, Chairman of the Senate Natural Resources Committee opened committee work on HB 1469.

All members of the committee were present.

Senator Herbert Urlacher: people will park on country roads and other traffic cannot get by especially for framing activity. These roads can be narrow and they could park on the side of the road but do not.

Senator Layton Freborg asked the committee if anyone did not know what the effect of removing the overstrike was. Everyone know?

All agreed.

Senator Freborg: if we are concerned about the Do Not Pass about the other language, there is language right now in code that prohibits blocking or impeding traffic on any public road including: parking lots, any place that is public. This language is not necessary.

Senator Constance Triplett: this is the discussion as she recalled it and sheriffs do more patrolling with this kind of thing than North Dakota Game and Fish Department. So therefore giving North Dakota Game and Fish Department a little more authority will give them help in situations.

Senator Lyson: the bill was brought back because the overstrike language cuts out the law that was made two years ago to allow farmers to their property.

Senator Joel Heitkamp: asked if this interferes with land owners driving on his own property.

Senator Lyson: that is what he has been told, that by over striking that.

Senator Freborg: I think they are exempted.

Senator Heitkamp: it says other than the land owner.

Discussion was held regarding the landowner rights and previous bills.

Senator Constance Triplett: by removing the overstrike, put the bill back into the original form so that if by chance the Do Not Pass failed on the house floor and the bill passed, then what would be passed would give additional authority to the North Dakota Game and Fish

Department but would not have changed the law regarding the rest.

Senator Freborg: right, it would be current law now.

Senator Triplett; she is comfortable with it and feels she understands it.

Senator Lyson: if everyone is comfortable that this is fine.

Senator Joel Heitkamp: does a game warden have just as much authority as a sheriff and more.

Senator Lyson: more as far as being able to search a vehicle.

Senator Urlacher: wants to make sure the landowner's rights are protected.

Senator Heitkamp; there will be peace of mind will come when the bill dies.

Senator Lyson: if the bill dies we will have what we had before.

Senator Triplett: if the bill lives, it does the same thing and all that has been done is the added line, that is nor necessary but not offensive either.

The committee agreed that either way there is no lose.

Senator Lyson closed the committee work on HB 1469.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1469

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: March 15, 2007

Recorder Job Number: # 5106

Committee Clerk Signature



Minutes:

Senator Stanley Lyson, Chairman of the Senate Natural Resources Committee opened committee work on HB 1469.

All members of the committee were present except Senator Herbert Urlacher.

Senator Lyson requested Roger Rostvet, Deputy Director of the North Dakota Game and Fish Department to take the podium.

Senator Lyson stated the reason the bill is before the committee again is because the committee does not understand the bill, so would you please explain it.

Roger Rostvet stated he was not sure exactly where the bill stands right now. I believe the question is the amendment on the bill. The amendment stroke lines 16 and 17. Those two lines where added on the house side on to the original bill. It was added in and taken out. It was added in last session to make the original bill pass.

Senator Layton Freborg: only these lines were not added to present law.

Senator Constance Triplett: the strikeover was added in the house side.

All agreed.

Senator Constance Triplett: and we took the strikeover back off.

Senator Freborg: I would be more interested in the question as how do Lines 16 and 17 relate to Lines 9 and 10.

Roger Rostvet: Lines 9 and 10 allow an individual landowner to give permission in writing to an individual so drive off an established road or trail during the upland game season to hunt pheasants. The part in there where it says Line 16 and 17 a person may not use a motor vehicle on land other than established road or trail to hunt upland game during the deer gun season. What that did was to say that even though you are allowed to get permission to drive off trail during the upland game season, you cannot get permission to drive off trail to hunt upland game during the big game season. That was put in there because you can see the complications with - nobody when the bill was enacted last session wanted people driving around during the big game hunting season. So Lines 16 and 17 were put in there to permit driving off trail during the big game season. This fall it would have been illegal to drive off trail for hunting upland game during deer season. If this was stricken out, it would allow that to happen during the deer gun season. The original bill started out with just those two lines in there to prohibit the blocking of roadways, and then the two lines 16 and 17 were stroke out.

Senator Lyson: so then we are back to the same thing that landowners were complaining about last time – it is my land and if I want to be able drive on it.

Roger Rostvet: last time when those two sentences were put in, there was an agreement that everybody saw that the complications that would be caused by having upland game hunters driving around during deer gun season – it is difficult to narrow it down to one thing.. Upland game hunting using motor vehicles was portrayed as being used for transportation out to a slue or whatever, people park and get out and hunt. You can't effectively hunt upland game with a motor vehicle, so those people were really not there and yes it was for those getting up there in age and making it easier for them In the same sense when it comes to big game

hunting, using a motor vehicle for off roads or trails can be an effective tool to gain an advantage over either people or with game, because you can use motor vehicle to drive along a shelter belt and flush out game and shoot it where with upland game the hunting opportunity is blown for days. That is a solid way of making off road for pheasants work but yet not disturbing the deer gun season. This session there was concern about people parking on the roads, approaches and stuff, that's why Lines 19 and 20 were added to that bill and consequently in the process, Lines 16 and 17 were stroke out.

Senator Triplett: asked Senator Freborg if his concern is the landowner themselves have the right to drive on their own land, is that what you are getting at.

Senator Freborg: no, that is a concern, but that is not why I asked the question. Council had a real time determining what this bill really meant. I'm carrying it and as you know there are people that wanted us to take the bill back and look at the language on Line 16 and 17. So I went up to council and they had a real time and their last words were "why don't you check with game and fish and see how they determine this to be and how they are going to enforce it." So at best the bill is a little shaky and I think we need to determine – do we want people hunting pheasants, driving around on the land during deer season or don't we. And make it very clear that can or can't because - and that is the only reason I ask the question because I am concerned when a landowner can't drive on their own land, I'm always concerned about that.

Senator Triplett: do you think this bill says that.

Senator Freborg: I think it does.

Senator Triplett to Roger Rostvet: do you think it does.

Roger Rostvet: Senator Freborg description was much better than mine as to what the bill actually says – it's that if you take that line out and you can drive around during pheasant

season, hunting pheasants during deer season. The exception is at the same time and landowner cannot drive while hunting deer under current law or this law.

Senator Triplett: on their own land.

Roger Rostvet: on their own land, that just hunting, you can drive around fixing fence, chasing cows, but when it comes to the actual hunting part - you can't.

Senator Lyson: but wouldn't a warden have the good sense if he stopped somebody if they were hunting or not.

Roger Rostvet: right, I mean the question is how disruptive is it - this was one of the things in the compromise last session - everybody kind of felt that the description Senator Freborg put out made sense- that you can drive off trail to hunt pheasant the entire year, but that 16 ½ days during the deer season - may it is not such a good idea to have one group of people walking and the other group of people driving around. One being legal - one being illegal. And it is a question - it wouldn't allow for deer hunting to be changed that law and then expand the exemption of driving off trail hunting pheasants or upland game.

Senator Freborg: I was only going to ask now - I understand it is against the law for a landowner to drive on their own land during deer season. Let's say they are looking for cattle and all year long it is not illegal to drive any place with rifles in the back window, but during deer season, you cannot drive across your own land with a deer riffle in the back window, right?

Roger Rostvet: no.

Senator Freborg: so you can.

Roger Rostvet: you can't hunt deer.

Senator Freborg: no you can't hunt deer, but what of if you have the gun in the vehicle.

Roger Rostvet: then it is up to us to prove that he is hunting deer, not that he simply has a gun in his vehicle.

Senator Freborg: again.

Roger Rostvet: we have to prove he is hunting deer. He can drive off trail to fix fence, so anything like that, there is nothing illegal about having a fire arm in a motor vehicle. Our obligation is to gather enough evidence to prove that he is hunting deer. If he says he is fixing fence – then he is fixing fence. Unless we see him shoot a deer.

Senator Triplett: while this has been effect, which is just the past two years, that Line 16 and 17 have just been added in the first place, is that right.

Roger Rostvet: actually prior to this year, there was no exemption for driving off trail for upland game. The last two years you could drive off trail hunting upland game with the exception that you could not during the deer gun season.

Senator Triplett: the two lines 16 and 17 have been in the law for at least the last two years, have there been any problems or complaints that you are aware of in the last two years of people understanding or violating this section as it has been in the last two years.

Roger Rostvet: not to my knowledge.

Senator Joel Heitkamp: asked Roger what would you do with this bill. Would you leave it alone or take the overstrike off?

Roger Rostvet: personally I would take the overstrike off. It worked fairly well last year, gave the opportunity during the upland game season, deer hunting season, and having variation of different laws at the same time out there, and is probably not the best thing for everybody.

Senator Lyson: did we vote to take this overstrike off.

All agreed.

Senator Heitkamp: so we got it right.

Senator Triplett: we should just leave it alone.

Senator Lyson: that is what I am hearing from my ranchers.

Senator Heitkamp: that is the way I saw the bill when it left here, was that if we are going to go fix fence, we can fix fence. If we're going to be shooting deer while fixing fence, they're going to get us either way anyway. If they get us.

Senator Lyson: this all falls back on the game warden by us putting them in a position - they have to make decisions with people they work with everyday.

Senator Freborg: it's pretty tempting when we're out there fixing fence and that buck comes trotting past, what do you do.

Roger Rostvet: this law does not change any of that. What you are talking about is a whole different set of rules; in fact this only deals with upland game hunting. The scenario you are talking about would not be changes one way or another by whatever is done with this bill.

Whatever is done with those two lines, put them in or take them out, would not change deer hunting. It has nothing to do with deer hunting, would not change the rules about deer hunting at all. It only changes the rules on upland game hunting.

Senator Heitkamp: you realize he just likes to really be ready when he carries the bill on the floor.

Roger Rostvet: that is the point I am getting at. If you look at deer hunting, the only reason deer hunting is in the bill, is when it prohibits the off road for upland game hunting. The scenarios of deer hunting do not really – would not change one way or the other.

Senator Lyson: but last year, they could hunt and still drive to hunt pheasants.

Roger Rostvet: not during deer season. That is what those two lines omitted. They could drive off trail hunting upland game all year long except for that 16 ½ days during deer gun season.

Senator Heitkamp: you remember when we had the debate over whether or not you own the land and you could throw all my decoys in the back of your trunk and we can go out and set up for geese or something like that. We had that two years ago.

Senator Triplett: to clarify, Roger you are saying, that the rules about deer hunting season are else where in statute and this line only references the deer season because it needs to talk about the upland game section.

Roger Rostvet: right, actually it contains in this law are on the next page – is the big game prohibition, but these lines only refer to the ...

Senator Lyson: why did they put this parking thing in here?

Roger Rostvet: that is what the original bill was. The original bill only those two lines. That was how it was submitted. The amendment came to take - to strike out that. So the way the original bill came in – it was just two lines in there that said - it referred to people parking.

Senator Triplett: this bill is not changing anything that wasn't already there, by us taking the overstrike off - we are just leaving the law the way it was.

Roger Rostvet: leaving the law and taking it the bill back to its original form.

Senator Heitkamp: right.

Senator Triplett: and in addition we are offering a Do Not Pass.

Senator Lyson: and that is the way we read it to begin with and then we were told we are wrong. That this is taking away what we had last time.

Senator Heitkamp: doesn't that describe a lot of the trouble we are having with the house natural resources committee.

All agreed.

Senator Freborg: I am really confused when you read on lines 8, 9 and 10, a person other than the landowner without permission, "from the landowner or lessee who actively farms or

rents while hunting big game or small game” and then some exceptions “may not use a motor driven vehicle” now doesn’t that say that the landowner can use that motor driven vehicle to hunt big game.

Senator Triplett: but it also says except as provided elsewhere in this section. Line 8 and 9. So then 16 and 17 would take priority over that.

Senator Freborg: well, as otherwise provided in this section. That depends on whether that language is in or out down there.

Roger Rostvet: I believe that section allows for is for the landowner to – for that written permission - that landowner does not need written permission on that exemption.

Senator Freborg: no but I thought that you said a bit ago you can not drive off trail to hunt big game even if you own the land. I have trouble understanding lines 8 and 9.

Roger Rostvet: lines 8 and 9 – the way the law is written is very, to be honest has four different sections that refer back to each other, but the thing in there is a landowner doesn’t need written permission to drive on his own land is what... if think of the totality of the law, what it really means is that the landowner dose not need to write himself written permission but if he is going to give someone else permission he has to give it to them in writing. That is actually how it reads - you can drive off trail with his own permission but he does not have to himself written permission.

Senator Lyson: do have your head on right. Neither to I.

Senator Freborg: no – it still talks about hunting big game or small game and talking about a person other than the landowner – they need written permission.

Roger Rostvet: if you take a look at line 20, it says “no person while hunting big game or small game may drive or attempt to drive, run or attempt to run, flush, attempt to flush “that is the section that prohibits everybody from driving at anytime for those particular species, then it

goes back and provides, except the exemption for written permission and landowner doesn't need written permission. What has happened is this law has been amended other the last 20 years many times and each time a new section gets added in, it get a little more disjointed so to speak. On line 21, no person hunting big game or small game state wide, a blanket statement, may drive or attempt to drive, run or attempt to run and keeps on going, other than the landowner without written permission of landowner, that is where it gets into that.

Senator Lyson: next session there should be a study resolution to clean up the code so everyone knows what it means.

Roger Rostvet: that's why when we put in the hunting guide, which, so the hunters see, we clarify it. Just to make it simpler maybe we can sit down and I will highlight the sections, cause it is difficult to follow, high light those section of law and work backwards from the total prohibition of off trail and then look at those exemptions. So you will have a little better...

Senator Freborg: I don't think you have to convince me that I can't drive to hunt big game but, I have trouble understanding this bill the way it is written, council had trouble understanding the bill the way it is written.

Senator Triplett: but Senator Freborg this stuff isn't the bill, the bill is just the line about impeding traffic that we are going to Do Not Pass and the only other thing is whether we should leave in the sentence that was there previously or not. If you just want to stand on the floor and acknowledge this is a poorly written bill from long ago that needs to reworked some other times, that is not the bill...

Senator Freborg: I know what you are saying, we are here talking about it and that's why I referred to that, those first few lines. And we don't need the underlined language in 19 and 20 because that's in a different section of law.

Senator Heitkamp: that's why we are killing the bill.

Senator Freborg: that is one of the reasons.

Senator Heitkamp: it is just one too.

Senator Lyson: any other questions on that. We have a Do Not Pass on this thing, right?

Senator Triplett: I am comfortable with what we have done.

Senator Lyson: I am too, but we have taken a lot of heat on it. Layton are you comfortable now?

Senator Lyson: if we kill this bill as we, the parking thing is gone, and the overstrike comes off the other part, we are back to the same as we had last year.

All agreed. What is wrong with that?

Senator Freborg: the underlined language is gone and so is the overstrike is gone so that language is back in.

Senator Heitkamp questioned his vote on the bill. He and Senator Urlacher voted no on the Do Not Pass. I may switch on the floor thing.

Senator Lyson: are you comfortable with it.

Senator Lyson: I'm comfortable but I know who won't be.

Senator Lyson: well I guess that is why we have big shoulders.

Senator Freborg: they always have the right to defeat the committee recommendation on the floor, but that doesn't take care of the problem.

Senator Lyson: no it don't. Unless I have a motion to reconsider, we are done with this.

Hearing none, we are done talking about it. And I will take the heat for that.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1469

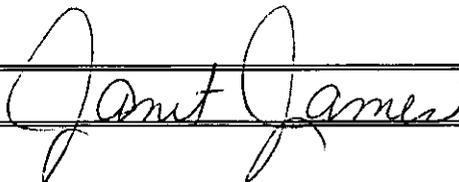
Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: March 21, 2007

Recorder Job Number: # 5401

Committee Clerk Signature



Minutes:

Senator Stanley Lyson, Chairman of the Senate Natural Resources Committee opened committee work on HB 1469

All members of the committee were present except **Senator Jim Pomeroy**.

Senator Ben Tollefson: made a motion to reconsider action on HB 1469.

Senator Layton Freborg second the motion.

Roll call vote #1 to reconsider action taken on HB 1469 was taken by voice vote indicating 5 Yeas, 1 Nay and 1 absent.

Senator Lyson asked for discussion.

Senator Constance Triplett: asked what the problem was.

Senator Lyson: he has been told to have the overstrike on lines 16 and 17 to be removed.

Senator Triplett: we did take the overstrike off. It was part of we did as the very first thing, quoting their actions as noted on the bill.

Senator Lyson: then it is the other way around. We are supposed to put it back on.

Discussion was held as to the status of the bill. If there is another change it is to put the overstrike back on.

Senator Constance Triplett: who said that is what we are supposed to?

Senator Lyson: he has been contacted as we misunderstood and should put it back on.

Senator Triplett: we have discussed this twice already and after a long discussion we decide we knew what we wanted to do.

Senator Layton Freborg: well maybe we don't think so any more. Making a point, many times we reconsider a bill and don't have a problem doing that.

Senator Joel Heitkamp: getting to the line 16, the overstrike "a person may not use a motor driven vehicle on any land other than an established road or trail to hunt upland game during the deer gun season." The overstrike goes on that and we took it off, so if we put it back on, what you're saying is a person may not use – you are taking away the ability of the game and fish to monitor who is using a motorized vehicle about here. That is pretty major change,

right? You are saying they can use, if you put the overstrike back on , what you are saying is - a person can use a motor driven vehicle on any land other than established road or trail to hunt upland game during the deer gun season.

Senator Herbert Urlacher: with permission of the landowner.

Senator Freborg: how many people are we talking about?

Senator Heitkamp: not a lot.

Senator Freborg: first of all we are talking about only landowners unless they want to give written permission to someone else.

Senator Lyson: I think we are --- landowners' stand – to put this back into the box like before – we can't drive on our property.

Senator Triplett: we are not doing that at all, the last legislative session did that and this line was not any part of the original bill and that leaving it as is unstroke only leaves that law the way it was. This bill the way it is written has nothing to do that line and besides we have a Do Not Pass on the bill itself , so even if we take – put the overstrike back on and then leave it as

a Do Not Pass, because we do not like the point of the bill and it doesn't pass, then the language is still there in the law - so we have accomplished nothing.

Senator Freborg: if they uphold the do not pass.

All agreed.

Senator Freborg: but if they happen to pass the bill, what happens?

Senator Triplett: then it makes a difference to last session...

Senator Lyson asked for further discussion or motion.

Senator Heitkamp: when we talked it through we knew we were headed for conference to have that discussion in terms of policy of when we should drive and I thought was part of what we did. This is not a party issue but explain why the overstrike should go back on if that is what we are going to do.

Senator Urlacher: this expands pheasant hunting during the deer season period. Right?

Senator Heitkamp it expands where they can drive.

Senator Lyson: the problem ... during that 16 ½ days they cannot drive or the landowner cannot drive as a hunter during those 16 ½ days to hunt pheasants, upland game.

Senator Heitkamp: I don't see it that the landowner can't and maybe some one can explain why the landowner can't.

Can or can't.

Senator Freborg: not if he is hunting.

Senator Heitkamp: not if he is hunting just like everyone else, but he can still drive on his land is he is fixing fence, if he is doing anything else, he can.

Senator Freborg: I would hope so.

Senator Urlacher: expands it so the landowner can hunt during that period of time or anyone he designates.

Senator Heitkamp: there will be a lot of guys in the name of pheasant hunting driving around slues taking some deer out. that is what you will have.

Senator Freborg: then they better have written permission in their pockets.

Senator Heitkamp: or if it is the owner, ..

Senator Freborg: I believe that owners ought to be able to drive on their own land.

Senator Triplett: let's make the motion and get it over with.

Senator Lyson: we have a bill on the floor right now, so if there is anything to do with it...

Senator Tollefson: presently the overstrike if off.

Senator Triplett: no it is back on again because we moved to reconsider, so is it as written or...

Discussion ...

Senator Triplett: okay got it.

Senator Lyson: to make any changes I think we need a motion to remove the over strike.

Discussion was held as to the present status of the overstrike. On or off?

Senator Lyson: we have a bill open on the floor, do I have any motions on the bill.

Senator Ben Tollefson made a motion for a Do Pass of HB 1469.

Senator Lyson asked for a second of the motion three times, hearing none the motion died.

Senator Heitkamp; if there had been a second to the motion, the bill would still be in the shape before the committee took action to reconsider.

All agreed.

Senator Triplett: so that would not have changed the overstrike at all, it would have just changed the part of the bill that we did not like before. So we would not have accomplished the objective.

Senator Lyson: the amendments on lines 19 and 20, did we put them on or where they on before?

Senator Triplett: that is why we put on the Do Not Pass, because we did not like that, on your advice, the sheriffs are better that the game and fish wardens enforcing that kind of rule.

Senator Urlacher: so the bill is sitting here without the overstrike right now.

All agreed – it is off now.

Senator Urlacher: and to put it back into the original form we would put the overstrike back in.

Senator Heitkamp: that would require a motion.

Senator Urlacher: and the objection in the past was on the individual – park a vehicle any place.

Senator Heitkamp: that was about hauling hay.

Senator Urlacher: I don't much care – I will still drive on my own land.

Senator Lyson: if we kill the bill, it will still go to conference anyway. We have a delayed bill we will be hearing on Friday. Do you want to hold it over until Friday?

Senator Urlacher: until you find out what you want to do.

Senator Lyson: we will lay it over until Friday and let's find out what we are going to do with this thing.

Senator Heitkamp: I respect the committee's wishes on a landowner's right, there was always a separation or a philosophy about deer season, about people getting shot during deer season. I remember when we had debates about wearing camouflage during hunting geese during deer season and putting people in harms way. There is the recognition that deer season is a dangerous time and that was the thought. For those of us who didn't see that line as a make or break it – we weren't trying to take some landowner's rights..

Senator Lyson: let's wait until Friday morning.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1469

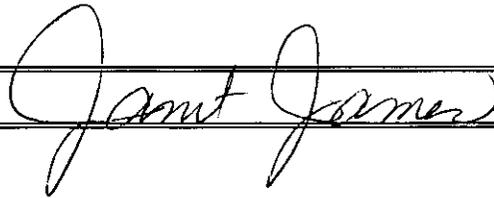
Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: March 23, 2007

Recorder Job Number: # 5523

Committee Clerk Signature



Minutes:

Senator Stanley Lyson, Chairman of the Senate Natural Resources Committee opened committee work on HB 1469.

All members of the committee were present.

Senator Lyson: lets take a look at HB1469. We brought that back so it is open to discussion.

Senator Layton Freborg made a motion to reconsider the action by which we amended HB 1469.

Senator Herbert Urlacher second the motion.

Senator Joel Heitkamp; didn't we do that already.

Roll call vote #1 to reconsider the action taken on HB 1469 was taken by voice vote indicating 6 Yeas, 1 Nays and 0 absent or not voting.

Senator Freborg: I have an amendment although not in writing but the underlined language on Line 19 and 20 is not necessary. The same language happens to be in 24.12-02 and it is a Class B misdemeanor to block or impede traffic even in a parking lot.

Senator Lyson: so your amendment is to over strike that.

Senator Freborg: it is to take the under lined language out and put a period after trail.

Senator Constance Triplett: second the motion.

Senator Lyson: we have a motion and second on amendment by Senator Freborg to take off the lines after trail; "however, an individual may not park that person's vehicle so as to block or impede traffic in an established road or trail." Any further discussion

Senator Herbert Urlacher: will that have to go to conference committee then if we do that?

Senator Lyson: if they don't concur we will.

Roll call vote #2 for the proposed amendment by Senator Freborg was taken by voice vote indicating 7 Yeas, 0 Nays and 0 absent or not voting.

Senator Lyson: we have a bill in front of us now.

Senator Ben Tollefson made a motion for a Do Pass as amended of HB 1469.

Senator Urlacher second the motion.

Senator Heitkamp: isn't the over strike still on 16 and 17. didn't you boys want to take that off?

Senator Urlacher: I thought we took that off ...

Senator Freborg: when we reconsidered the amendments we went back to the original bill.

Senator Lyson: when we reconsidered it, it came off...

Senator Urlacher: well what is intended is that a land owner or his --- can drive during the ...

Senator Freborg: he knows that...

Senator Urlacher: they knew it before.

Roll call # 3 for a Do Pass as Amended of HB 1469 was taken indicating 6 Yeas, 1 Nay and 0 absent or not voting.

Senator Layton Freborg will carry HB 1469.

Date: 3-1

Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1469

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass as Amended

Motion Made By Tollefson Seconded By Freborg

Senators	Yes	No	Senators	Yes	No
Sen. Stanley Lyson, Chairman	✓		Sen. Joel Heitkamp		✓
Sen. Ben Tollefson, ViceChairman	✓		Sen. Jim Pomeroy	✓	
Sen. Layton Freborg	✓		Sen. Constance Triplett	✓	
Sen. Herbert Urlacher		✓			

Total (Yes) 5 No 2

Absent 0

Floor Assignment Freborg

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1469, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1469 was placed on the Sixth order on the calendar.

Page 1, line 16, remove the overstrike over "~~A person may not use a motor driven vehicle on any land other than an~~"

Page 1, line 17, remove the overstrike over "~~established road or trail to hunt upland game during the deer gun season.~~"

Renumber accordingly

Date: 3-21-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1469

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken reconsider action

Motion Made By Tollefson Seconded By Freborg

Senators	Yes	No	Senators	Yes	No
Sen. Stanley Lyson, Chairman	/		Sen. Joel Heitkamp	-	
Sen. Ben Tollefson, ViceChairman	/		Sen. Jim Pomeroy		
Sen. Layton Freborg	/		Sen. Constance Triplett		/
Sen. Herbert Urlacher	/				

Total (Yes) 5 No 1

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-21-07

Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1469

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Tollefson Seconded By _____

Senators	Yes	No	Senators	Yes	No
Sen. Stanley Lyson, Chairman			Sen. Joel Heitkamp		
Sen. Ben Tollefson, ViceChairman			Sen. Jim Pomeroy		
Sen. Layton Freborg			Sen. Constance Triplett		
Sen. Herbert Urlacher					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-23-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1469

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken reconsider on action on Bill

Motion Made By Freborg Seconded By Urlacher

Senators	Yes	No	Senators	Yes	No
Sen. Stanley Lyson, Chairman			Sen. Joel Heitkamp		
Sen. Ben Tollefson, ViceChairman			Sen. Jim Pomeroy		
Sen. Layton Freborg			Sen. Constance Triplett		✓
Sen. Herbert Urlacher					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1469, as engrossed and amended: Natural Resources Committee (Sen. Lyson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1469, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on page 690 of the Senate Journal, Engrossed House Bill No. 1469 is amended as follows:

Page 1, line 19, remove "; however, an individual may not park a vehicle so as to"

Page 1, line 20, remove "block or impede traffic using the established road or trail"

Renumber accordingly

2007 HOUSE NATURAL RESOURCES

CONFERENCE COMMITTEE

HB 1469

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1469

House Natural Resources Committee

Check here for Conference Committee

Hearing Date: April 13, 2007

Recorder Job Number: 6002

Committee Clerk Signature

Shirley Oernsted

Minutes:

Chairman DeKrey called the conference committee to order and asked the clerk to call the roll. All were present include Representatives DeKrey, Porter and Solberg and Senators Freborg, Urlacher and Pomeroy. He asked someone from the Senate to explain why they had removed "however, an individual may not park a vehicle so as to block or impede traffic using the established road or trail".

Senator Freborg said that was a good question and he would give the answer right now.

There is another section of code that says the same thing and so this was unnecessary language. Not only it is on section lines, but parking lots, highways and roads, trails, on everything so that is really unnecessary language and that is why we did that.

Representative Porter said when they looked at this bill they did realize that it is already in another area of the century code and the reason why we left it in this section which is the game and fish section was because we wanted it printed in the proclamation so that when someone was out hunting it would be in the proclamation as part of the hunting regulations that you can't do this. The complaint coming back to us was from particularly individuals hauling hay in the fall and someone is getting out of their vehicle and leaving it sit on what they thought was a trail but it was actually where someone was moving hay.

Chairman DeKrey said that was his original intent is because we have a big problem.

Senator Freborg said they do not care either way. Is that the only place where we have a problem?

Representative Porter said the Senate would have to recede from your amendments.

Senator Freborg asked if that would put the overstrike back into the bill.

Representative Porter said that is the way the bill originally came to them.

Senator Freborg said they had a lot of trouble with this bill. We amended it and adopted the amendments and then returned it to the committee and we amended it again without removing the amendments and then we had to do an "in lieu of". We voted on that overstrike about 5 times. We finally decided it was on.

Representative Solberg said he had a problem with them removing the language and he thinks that takes away the intent of the bill in its present form. In its present form with the overstrike he could not support this bill.

Representative Porter made a motion that the senate recede from their amendment.

Senator Urlacher seconded the motion.

Representative Solberg asked if that would only be on lines 19 and 20.

Chairman DeKrey said yes that would only be on lines 19 and 20. He asked for further discussion. Hearing none, the clerk called the roll for ***the Senate to recede from their amendments as found on page 1284 of the House Journal***. Let the record show 6 yes, 0 no with all present. The conference committee was adjourned.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1469

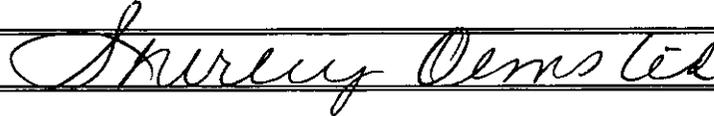
House Natural Resources Conference Committee

Check here for Conference Committee

Hearing Date: April 19, 2007 3:00 PM

Recorder Job Number: 6170

Committee Clerk Signature



Minutes:

Chairman Charging called the conference committee on HB 1469 and asked the clerk to call the roll. Those present included Representatives Charging, Dietrich and S. Meyer and Senators Freborg, Urlacher and Pomeroy. What we brought forward is HB 1469 and it was defeated yesterday and we did not confer in the house by 60 to 30 and we thought we would come back today.

Representative Dietrich said he had some proposed amendments for the engrossed HB 1469 that I would like to hand it out.

Senator Freborg asked about the folders from the last conference committee. They were not available but he said he knew it by heart anyway.

Chairman Charging said it has to do with disappear of lines 16 & 17. Do you want me to give you the brief history on the bill? When HB 1469 was introduced in the House Natural Resources the original language was on 19 and 20 and I apologize I should have had them all here. Representative Meyer was one of the sponsors. The specific goal of the bill was in relation to the number of complaints that the farmers and ranchers were receiving as they are hauling hay in the fall and they come up upon a parked vehicle in the roadway. We had the hearing and there wasn't a whole lot of support as far as testimony nor was there any negative

support. Then we later brought the bill up to a vote and at that moment the chairman of our committee made a motion to remove lines 16 & 17 and that it was in fact covered in other portions of law. I have our meeting minutes from that committee hearing as well. The clerk called the roll and everybody voted except for me actually. I didn't feel that it was right and it didn't have a public hearing on that specific issue and the ramifications of what that does by removing or striking that language. I see it was sent to the Senate Natural Resources and your first action on this bill was to put the language and remove the overstrike. Then it went back upstairs and on March 1st you asked to have the overstrike removed and on March 23 in lieu of the amendments adopted on the Senate as printed on page 690 of the journal it would be amended as follows so it put the overstrikes back on however it undid the entire reason of the original intention of the bill which was to not to park in the roadway which is why we didn't concur in the first place. The bill came to us and has had an interesting little history which was brought out yesterday on the floor and that is why we are here in a do not concur. She asked Representative Dietrich about his amendment.

Representative Dietrich said he had handed out his amendment. See attachment marked as Item #1. On the floor discussion yesterday it was suggest that the Game and Fish wasn't in opposition but they never had a chance to give any testimony and I talked to folks at Game and Fish and their point is that they were neutral on it's position on the original version of HB 1469 that simply clarified that an individual couldn't park a vehicle on an established road or trail or block and impede traffic and this by the way is from Terry Steinwand, the director of Game and Fish in an email to me. I can get copies for you if you wish. See attached email from Terry Steinwand marked as Item #2. It is simple in the mind of many folks in the House when we finally understood if the overstrike remains it simply will allow for the potential for people to treat and to get their game by hook or by crook. We didn't feel it is too much to ask

to try to keep that in check and balance so to speak. They also talk about the game wardens and in high demands and reported violations trend for permits and have a large area to cover and they have to assume that somebody driving out on the land has written permission or is the landowner. They will have to assume that or wait for them to exit and see if they are indeed legal hunters. It is a needless waste of time and there are other things that the wardens could be doing such as checking for other violations and working with transport and that type of thing. They also felt that it created the likelihood of cheating and violating ethics of the fair chase and I think most of us understand that because it does create that possibility and a real possibility I believe. Therefore with all that being said I would like to make a motion that the senate recede from their amendments that are printed on the house journal on 1284 and it be amended as follows and basically that is to remove the overstrike on lines 16 and 17.

Representative Meyer seconded it.

Chairman Charging asked for any discussion.

Senator Urlacher said a game warden can check anybody anyplace and anytime and the land owner can give permission and he can control anyone so he is a policeman in himself.

Senator Freborg said first of all they did testify on removing the overstrike on line 16. They were called to the podium and Roger was here and he told us why he did not want us to do that. He said it would make their job harder for the same reasons that you repeated. So they did have the opportunity and whatever is in the minutes they were there and Roger was asked. Secondly, why do we treat all hunters like they are the dishonest people in this world? Thirdly, I will bet 10% or less get permission to hunt. In other words, the landowners do not give permission. They do some friends and some relatives and maybe a neighbor. Most landowners won't give you permission to drive around on their land. When you see a vehicle out there 9 times out of 10 it is going to be the owner or the owners son or maybe even the

owners wife. We continually and even Game and Fish continually talk about the dishonesty of these people that are going to be driving around. It is like every one of them is going to break the law. That is why we did what we did because we don't believe that.

Senator Pomeroy said didn't you say you found it in another place in code?

Senator Freborg said there is another place and there are three or four other places where it is found in code where it speaks to line 17 about impeding traffic. There is a place that covers everything including parking lots. You cannot block or impede traffic not anyplace. The reasoning was they said that if we put it in here then we can put it in the proclamation. They can put it in the proclamation anyway and simply refer to the section of code that it is in. That is why we did that.

Representative Dietrich said what I am hearing is that the bill is really unnecessary because in fact Century Codes 20.1-01-07 and 39.10-49 and 39.10-50 are the code that address impeding traffic that you spoke too. In hearing that, in my mind, the bill as we see it is really unnecessary.

Representative Meyer said this was a huge complaint in their district or at least she did and it comes about when you are hauling hay in the fall and with that you know we get calls all the times as does the highway patrol where we just basically end up addressing that section of code that you referenced. We called the Game and Fish and they said it wasn't clear in there on an established trail in the hunting section of the code and this bill was to send a message to the hunters and to the game wardens to suggest to them that they move it. It says that you cannot impede traffic but it doesn't say on an established road or trail.

Senator Freborg said he would like to see what it says.

Senator Meyer said in the Badlands where you have the established roads or trail you wouldn't even think of it and not all hunters do this but we have had it happen also when you

come over and you are hauling hay and it is muddy and wet in the fall and they are parked side by side and you can't go anywhere. The vehicles are locked and out there we don't even lock our vehicles in case someone would have to move it but hunters lock their vehicles and they you are kind of stuck. We wanted it so that we could send a message and it seems like the hunters are very good about knowing what is in every and I mean they know their stuff and I mean it just send a notice out to them to just not do this. Don't park so that it blocks an established trail and then pulling up and reading the section of code that was the intent behind the bill and that is why I agreed with Duane to sign on.

Chairman Charging said one of the principal concerns that she had is that it did not have a public hearing in its form. The original bill as it was presented in the house version was a parking issue and it is a common sense thing and sometimes you know and you gentlemen have far more experience in the legislative body than myself but we can not make enough law for the people that do not understand or don't have the knowledge that we have and the reasoning is that after a rain you don't drive down the center of one of these prairie trails and you don't muck them up and there are just a lot of things and if we moved with laws and amendments to deal with everyone of these things we would not have enough paper to bind in a book. It does go back and there is a little history with this issue as well into one session prior to that and that bill was HB 1239. I think what it is coming down to Senator Freborg you brought up that there was a concern that everybody is doing something wrong or that is the perception and that is unfortunate. I think they do a tremendous job for the amount of ground that they have to cover and that would be the law enforcement. What we are talking about here with these 16-1/2 days is during the deer gun season. That is what I have come to understand. There are 16-1/2 days when no one in North Dakota other than the landowner himself for any purpose that he has to be on his land can drive anywhere at anytime.

Senator Freborg said that blocking and impeding traffic is not our problem. We took it out because it is in several other places. We do not care if it is in or out and that is not our problem. The problem was the overstrike.

Chairman Charging said it would be your position that you want the overstrike struck. You want the language struck. It has confused a lot of people through this process. I can tell you that.

Senator Pomeroy said they had this back and forty three times because one time we thought it should be in and then we said if it is already in, why have it in, and the last time that we voted on this which was last week with a different committee and the three of us were there and I think our response was that we don't care whatever way it is. One of the other persons said well let's keep it in and that is why it was put back in. I don't and I don't think you do because I think you were the one that said whatever. It is not that big a deal to us.

Chairman Charging said we have a motion to accept the motion that were presented by Representative Dietrich. The clerk will call the roll on a do pass motion that the language remain as it has for however many years this law has been in effect and that the original intent of the bill would be to deal with the parking issue on the established trail.

Senator Urlacher said that is the only portion that isn't right?

Chairman Charging said yes. The clerk called the roll. Let the record show 3 yes, 3 no (Freborg, Urlacher and Pomeroy). She said we will plan to schedule another hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1469

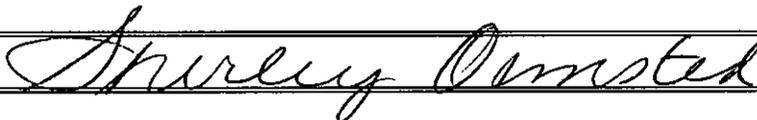
House Natural Resources Conference Committee

Check here for Conference Committee

Hearing Date: April 19, 2007 6:30 PM

Recorder Job Number: 6180

Committee Clerk Signature



Minutes:

Chairman Charging opened the conference committee on HB 1469 to order and the clerk called the roll. All were present including Representatives Charging, Dietrich, and S. Meyer and Senators Freborg, Urlacher and Pomeroy. Welcome gentlemen. We have royalty in the house. The Senate Majority leader and his beautiful bride and Senator Lyson are here. We just met a few hours ago and we discussed the history of HB 1469. Does everybody follow how it goes? The original bill was brought forward by Representative DeKrey, Meyer and Vig and Senators Erbele, Taylor and Urlacher. The original bill was 0100 and we are on like 0500 right now. The purpose of the bill was to establish in this section of code about blocking an established road or trail. In our house minutes we also challenged the bill sponsors that this was already in another sections of code but there was enough of an issue and enough of testimony saying that if we have to tell hunters or show hunters in code that there is a section or area here without having to call a sheriff because they are quite busy and then Game and Fish would be able to do something in relation to it. That was the primary concern.

Senator Freborg said we are for that.

Chairman Charging said moving on, without a hearing the chairman of our committee, House Natural Resources, just prior to the vote struck the language of lines 16 and 17. That is a

principal issue of where we are at on the house side. The bill did not have a hearing in relation to that primary issue. Having sat on Natural Resources a few years ago as well there is a bill HB 1239 of which I normally reflect back to that had plenty of public testimony about what that language would do with the overstrike on lines 16 & 17. Now in the previous conference committee we spoke a little bit about that and I thought more about that and one of the primary issues is that if you are going to come from Fargo or if you are going to travel anywhere in the state to go hunting and deer hunting is people's most important in many minds that is their big hunt of the year and they will be out doing that lawfully because that is what good hunters do only to have it potentially disrupted by people, upland game and bird hunters, who are now being able to drive at will with landowner permission of course written permission but potentially driving the coolies and disrupting the area which disrupts the hunt.

Senator Freborg said that is terrible. If he makes his motion before 6:35 I will vote for it. But if he doesn't, I won't.

Chairman Charging said you have time to reconsider.

Senator Freborg said no but he offered a motion a while ago and we defeated it but I just said if he offers it again I am liable to vote for it in the next two and one half minutes. I don't know what these guys are going to do but I will vote for it.

Representative Dietrich said the motion that was presented earlier this afternoon was a motion that the senate recede from there amendments which was the overstrike on lines 16 and 17 of the bill.

Senator Freborg seconded the motion.

Chairman Charging asked for discussion. Hearing none, the clerk called the roll. Let the

record show 6 yes, 0 no with all present. The motion prevailed. The conference committee was adjourned.

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number HB 1469 (, as (re)engrossed):

Date: 4-13-07

Your Conference Committee Natural Resources 11:30am

attend For the Senate: YES / NO *attend* For the House: YES / NO

	YES	NO		YES	NO
<i>Sen Freborg</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>Rep DeKrey</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Sen Wreacher</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>Rep Porter</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Sen Pomeroy</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>Rep Freborg</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate) (House) amendments on (SJ/HJ) page(s) 1284 -- _____

_____, and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

_____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____
CARRIER: DeKrey - Freborg

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Porter

SECONDED BY: Wreacher

VOTE COUNT 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1469, as engrossed: Your conference committee (Sens. Freborg, Urlacher, Pomeroy and Reps. DeKrey, Porter, Solberg) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1284 and place HB 1469 on the Seventh order.

Engrossed HB 1469 was placed on the Seventh order of business on the calendar.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1469

That the Senate recede from its amendments as printed on page 1284 of the House Journal and page 1017 of the Senate Journal and that Engrossed House Bill No. 1469 be amended as follows:

Page 1, line 16, remove the overstrike over "~~A person may not use a motor driven vehicle on any land other than an~~"

Page 1, line 17, remove the overstrike over "~~established road or trail to hunt upland game during the deer gun season.~~"

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number HB 1469 (, as (re)engrossed):

Date: 4-19-07

Your Conference Committee: Natural Resources

all For the Senate:

YES / NO

all

For the House:

YES / NO

<i>Sen. Freborg</i>		<i>Rep. Charging</i>	<input checked="" type="checkbox"/>
<i>Sen. Uecker</i>		<i>Rep. Dietrich</i>	<input checked="" type="checkbox"/>
<i>Sen. Pomery</i>		<i>Rep. Meyer</i>	<input checked="" type="checkbox"/>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE) from)

the (Senate/House) amendments on (S/H) page(s) 1284 - _____

_____, and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

_____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____

CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: *Dietrich*

SECONDED BY: *Meyer*

VOTE COUNT 3 YES 3 NO 0 ABSENT

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number HB 1469 (, as (re)engrossed):

Date: 4-19-07

Your Conference Committee Natural Resources

6:30 PM

^{attend}
For the Senate:

For the House:

	YES / NO	^{attend}		YES / NO
<u>Sen. Freborg</u>	<input checked="" type="checkbox"/>		<u>Rep Charging</u>	<input checked="" type="checkbox"/>
<u>Sen. Uelacher</u>	<input checked="" type="checkbox"/>		<u>Rep Dietrich</u>	<input checked="" type="checkbox"/>
<u>Sen. Pomroy</u>	<input checked="" type="checkbox"/>		<u>Rep Meyer</u>	<input checked="" type="checkbox"/>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE) from)

the (Senate/House) amendments on (S/H) page(s) 1284 - _____

_____, and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

_____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____

CARRIER: _____

LC NO. _____	of amendment
LC NO. _____	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Dietrich

SECONDED BY: Freborg

VOTE COUNT 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1469, as engrossed: Your conference committee (Sens. Freborg, Urlacher, Pomeroy and Reps. Charging, Dietrich, S. Meyer) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1284, adopt amendments as follows, and place HB 1469 on the Seventh order:

That the Senate recede from its amendments as printed on page 1284 of the House Journal and page 1017 of the Senate Journal and that Engrossed House Bill No. 1469 be amended as follows:

Page 1, line 16, remove the overstrike over "~~A person may not use a motor driven vehicle on any land other than an~~"

Page 1, line 17, remove the overstrike over "~~established road or trail to hunt upland game during the deer gun season.~~"

Renumber accordingly

Engrossed HB 1469 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1469

37. "Right of survey entry" means the right to enter property temporarily to make surveys and investigations for proposed highway improvements.
38. "Right of way" means a general term denoting land, property, or interest therein, acquired for or devoted to highway purposes and shall include, but not be limited to publicly owned and controlled rest and recreation areas, sanitary facilities reasonably necessary to accommodate the traveling public, and tracts of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to the state highway system.
39. "Right-of-way appraisal" means a determination of the market value of property including damages, if any, as of a specified date, resulting from an analysis of facts.
40. "Right-of-way estimate" means an approximation of the market value of property including damages, if any, in advance of an appraisal.
41. "Roadside" means a general term denoting the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside.
42. "Roadway" means in general, the portion of a highway, including shoulders, for vehicular use. In construction specifications, the portion of a highway within limits of construction.
43. "Severance damages" means loss in value of the remainder of a parcel resulting from an acquisition.
44. "Shoulder" means the portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.
45. "State highway system" means the system of state principal roads designated by the director of the department, the responsibility for which is lodged in the department.
46. "Through street or through highway" means every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right of way to vehicles on such through highways and in obedience to either a stop sign or yield sign, when such signs are erected by law.
47. "Traffic lane" means the portion of the traveled way for the movement of a single line of vehicles.
48. "Traveled way" means the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

Source: S.L. 1953, ch. 177, § 2; 1957, ch. 187, § 1; R.C. 1943, 1957 Supp., § 24-A0102; S.L. 1959, ch. 235, § 4; 1963, ch. 211, § 1; 1967, ch. 291, § 18; 1967, ch. 323, § 77; 1969, ch. 343, § 2; 1975, ch. 236, § 1; 1989, ch. 72, § 8; 1991, ch. 54, § 9; 1991, ch. 287, § 1; 1991, ch. 288, § 1; 1993, ch. 54, § 106.

Cross-References.

Word defined by statute always has same meaning, see § 1-01-09.

Reasonable Means of Access.

In situations where restrictions and regulations have been imposed upon the access of abutting owners, the question becomes one of

whether, under the existing facts and circumstances, a reasonable means of access remains. If the abutter has free and convenient access to his property, and his means of ingress and egress are not substantially interfered with, he has no cause of complaint. Cady v. North Dakota DOT, 472 N.W.2d 467 (N.D. 1991).

Loss of traffic, loss of business, and circuity of travel are factors to be considered in determining the reasonableness of the remaining access to and from an abutting roadway. Cady v. North Dakota DOT, 472 N.W.2d 467 (N.D. 1991).

Right of Access.

The "right of access" is a private right which

entitles the abutting land owner just compensation if that right is impaired or destroyed. Cady v. North Dakota DOT, 472 N.W.2d (N.D. 1991).

A property owner has a right of access abutting highways and streets. Cady v. North Dakota DOT, 472 N.W.2d 467 (N.D. 1991).

Width of Public Highways.

The definition of "highway, street, or road" and "right of way", together with section 01-01.2, clearly indicates that public highways are not limited in width to the actual traveled surface of the roadway. Keide Rask, 290 N.W.2d 255 (N.D. 1980).

24-01-01.2. State highway system — Mileage. The state highway system may not exceed seven percent of the entire road mileage of the state whether such roads are township, county, or state roads, which may functionally classified as to service, and in no case may such highway system exceed seven thousand seven hundred miles [12391.95 kilometers] in length.

Source: S.L. 1927, ch. 159, § 1; 1931, ch. 156, § 1; 1933, ch. 127, § 1; R.C. 1943, § 24-0101; S.L. 1975, ch. 236, § 2.

Width of Public Highways.

The definition of "highway, street, or road" and "right of way" in section 24-01-01.1, together with this section, clearly indicates that public highways are not limited in width to the actual traveled surface of the roadway. Keidel v. Rask, 290 N.W.2d 255 (N.D. 1980).

State Highway System.

All public roads are public highways, but only the roads designated by the highway commissioner as such are part of the state highway system. McKenzie County v. Lamb, 70 N.D. 782, 298 N.W. 241 (1940).

24-01-02. Designation of state highway system. The director hereby vested with complete authority to designate, locate, create, a determine what roads, highways, and streets constitute the state highway system, subject however, to such conditions, requirements, and miles limits as provided for by law. The total mileage of the state highway system may be increased by not more than fifty miles [80.47 kilometers] in any calendar year. In designating, locating, creating, and determining the several routes of the state highway system, the director shall take into account such factors as the actual or potential traffic volumes, the type service class, the construction of bypasses and alternate routes, the conservation and development of the state's natural resources, the general economy of the state and communities, and the desirability of fitting such system into the general scheme of the nationwide network of highways.

Source: S.L. 1953, ch. 177, § 29; R.C. 1943, 1957 Supp., § 24-0102; S.L. 1959, ch. 227, § 1; 1975, ch. 236, § 3; 1977, ch. 230, § 1.

Delegation of Jurisdiction by Director

The director of the department of transportation is authorized to delegate a portion of the department's exclusive jurisdiction to

**NORTH DAKOTA GAME AND FISH DEPARTMENT
TESTIMONY FOR HB 1469**

March 1, 2007

The North Dakota Game and Fish Department opposes HB 1469 as currently written. During the hearings in the House Natural Resource Committee we maintained a neutral position on this bill. However, the engrossed version that deletes the language on lines 16 and 17 completely changes the original purpose. We believe the current law in the regard to off trail driving while hunting is working well. There is the argument that people that aren't as fortunate as us in our mobility have a difficult time getting to these places to hunt. We provide those individuals that have adequate documentation of their disability the proper permits to drive off established trails at any time so they can enjoy the same hunting opportunities as the rest of us. One of the primary questions is what message do we send to our young hunters, which are the focus of many bills this session. Do we say it's alright to drive off an established trail at any time to hunt upland game? Or do we say that the compromise is that we allow it during upland game season but not during deer gun season when the primary reason the vast majority of hunters are in the field is to hunt deer.

We've seen a large amount of change in fishing and hunting in the last ten years. Technology is better. Firearms are better. Means of transportation are better. One of the few manners of protection left is the Game and Fish and the Legislature. We have to give the game we're after a fair chance. And we also need to give hunters a fair chance. I don't believe that omitting the current language does either.

In conclusion, off trail driving for upland game is already allowed for all but 16½ days of deer season. I don't see where allowing it during deer gun season accomplishes much but creates much larger issues.

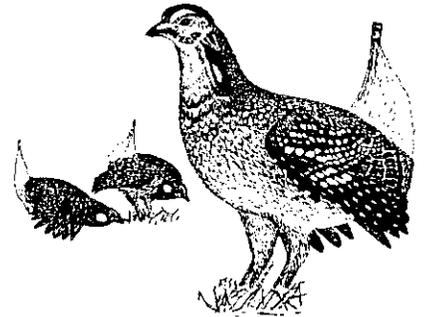
I urge that the original language on lines 16 and 17 be reinstated. If not reinstated, we would request a 'do not pass'.



North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



TESTIMONY OF MIKE McENROE
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY
PRESENTED TO THE SENATE NATURAL RESOURCES COMMITTEE
ON HB 1469, MARCH 1, 2007

CHAIRMAN LYSON AND MEMBERS OF THE COMMITTEE:

Bill Pfeifer
I am ~~Mike McEnroe~~ speaking on behalf of the North Dakota Chapter of The Wildlife Society. The Chapter opposes HB 1469 in its amended form. The original bill related to the blocking of established roads or trails for hunting purposes.

HB 1469 was amended in the House by deleting portions of line 16-17, which prohibited driving off-road or trail for upland game hunting during the deer gun season. This provision was a key component of last session's bill which did allow off-road driving with landowner permission for the purpose of hunting upland game. The Chapter asks that this provision, deleted from the engrossed version of HB 1469, be placed back in the statute. Sportsmen have not asked that the prohibition on off-road driving during the deer gun season be removed. It was placed in last session's bill to protect property, preserve deer hunting ethics, and allow law enforcement officers to be able to enforce the off-road driving restrictions during the deer gun season.

Thank you for your consideration.

Dietrich, Donald D.

Item #2

From: Steinwand, Terry R.
Sent: Thursday, April 05, 2007 12:54 PM
To: Dietrich, Donald D.
Subject: Comments on engrossed version of HB 1469

Representative Dietrich:

The Game and Fish Department was neutral in its position on the original version of HB 1469 that simply clarified that an individual couldn't park a vehicle on an established road or trail that would block or impede traffic. From our perspective it probably wasn't a required bill since we had issued many press releases and urged hunters to not block prairie trails while in the act of hunting. But it certainly clarified the issue. However, during committee work, a portion of the bill was amended that struck the language that made it illegal to drive off an established road or trail for upland game during deer gun season. It basically made it legal to drive off trail during deer gun season with written permission from the landowner.

First, there is large potential for abuse in allowing for off trail driving. While the possession of a high power rifle while in the act of driving off trail would likely be considered prima facie evidence by Game Wardens that one is actually deer hunting there is no guarantee a states attorney or judge would view it the same way if a shotgun were also present and the hunter stated he/she were actually upland game hunting and had the necessary permission.

Second, when driving up to a cattail slough or brush patch it is highly unlikely that pheasants or other upland game would immediately flush. However, in the case of deer it is highly likely they would exit the cover. This causes an issue that one hunter could drive up to the cattail slough or brush patch with simply a shotgun in his or her possession but have hunters posting with high powered rifles waiting for the deer to flush. We recognize that the law also states that it is illegal to "drive or attempt to drive, run or attempt to run, molest or attempt to molest, flush or attempt to flush, or harass, ..." but this could be difficult to prove when one is simply "driving to an area to hunt" unless they actually drive through the habitat. This scenario has a higher probability of occurring after the opening weekend of deer season when one or more members of a party have successfully filled their deer licenses while others in the party have not.

Third, the upland game season is open for approximately 120 days (counting the opening date of sharptail grouse through the closure of pheasant season). The deer gun season is 16 ½ days long so the current law isn't a great burden on upland game hunters to 'sacrifice' these days for safety and ethical purposes. If someone is incapable of walking to an area and meets criteria for a handicapped permit they would still be allowed to be driven out to the area under current law.

There will likely be those that state the Game and Fish Department is paranoid and we need to have more trust. There is a large degree of trust and respect for the vast majority of hunters in North Dakota. In large part they are an ethical and safe group. However, there is that small portion that will find any way they can to gain an advantage 'by hook or by crook'. While the engrossed version of HB 1469 might seem innocuous on the surface, it has the potential to cause large enforcement challenges. We'd have to assume that everyone driving off trail during deer gun season is either a landowner or has written permission. Or we'd have to wait until the individual exited the land to check for proper permission. This is difficult, at best, during deer gun season when Game Wardens are in high demand for reported violations, transport permits, etc. and the fact that they have large areas to cover exacerbates the issue in that they don't have much time to sit and wait for someone to exit the land. And we certainly don't want to drive out to hunters on private land and check for written permission. A good way to ruin a good hunting trip for a legal hunter.

There are certainly more negative aspects to this bill (e.g., many people asking landowners for permission reducing tolerance for hunters, assuming permission, etc.) but in conclusion, the amended version potentially causes much larger issues that it resolves. We keep hearing that society in general is overweight and needs more exercise. What better way to get that exercise than to walk for your birds or deer rather than drive to them. Just my thoughts and hope this helps.

4/19/2007

Thank You Mr. Speaker – Mr. Speaker and Members of the Assembly

HB 1469 in it's original version simply clarified that an individual could not park a vehicle on an established trail or road that would block or impede traffic.

Actually we do not need the language regarding parking on a trail or road because it already exists in our century code, therefore HB1469 is an unnecessary bill. In fact Century Codes 20.1-01-07, 39.10-49 and 39.10-50 are the codes which address impeding of traffic.

Although the bill was passed previously in the House, I do not believe that the members of the assembly fully understood the ramifications of it's passage.

During committee work, the bill was amended that struck the language that made it illegal to drive off an established road or trail for upland game during deer gun season.

There is a large potential for abuse in allowing for off trail or off road driving.

During the deer hunting season, driving off trail or road up to a slough, brush patch or clump of trees under the guise of upland hunting with the purpose of pushing deer out of their habitat to posted hunters is certainly a likely possibility.

For the large part, hunters are an ethical and safe group. However, there is that small portion that find any way they can to gain an advantage by hook or by crook.

The upland hunting season is open for approximately 120 days, and deer hunting is only open 16 ½ days, so the current law is not a great burden on upland game hunters for them to walk up to a slough for those few days. If a hunter is handicapped, they may be issued a permit to allow them to drive out to a hunting area.

While the engrossed version of HB 1469 might seem innocuous on the surface, it has the potential to cause enforcement challenges. Game Wardens would have to assume that everyone who driving off a trail during deer gun season is either a landowner or has written permission. Or the Game Warden would have to wait until the individual exited the land to check for proper permission. This is difficult at best.

During deer gun season when Game Wardens are in high demand for reported violations, transport permits, etc. and the fact that they have large areas to cover exacerbates the issue in that they don't have much time to sit and wait for someone to exit the land.

The Game Warden certainly does not want to drive out to hunters on private land and check for written permission. A good way to ruin a good hunting trip for a legal hunter.

The North Dakota Game & Fish Department does not like this bill due to the fact that it most likely will cause enforcement problems for their wardens.

Also, the sportsmen and sportswomen of North Dakota do not like this bill because it creates the likelihood of cheating and violating the ethics of fair chase.

During a lifetime of hunting in North Dakota, I have personally witnessed game & fish violations, and in my opinion as well as the Game & Fish Department, this bill will create additional opportunity for cheaters to cheat and violate game laws.

Engrossed HB 1469 potentially causes much larger issues then it resolves.

Mr. Speaker and Members of the assembly, for these reasons, please reject the conference committee report.

Mr. Speaker – I request a verification vote. Thank You Mr. Speaker

Lyson, Stanley

From: ROBERT M KELLAM [cinder4@msn.com]**Sent:** Thursday, March 29, 2007 6:58 PM**To:** Anderson, Arden; Andrist, John M.; Bakke, JoNell A.; Behm, Arthur H.; Bowman, Bill L.; Christmann, Randel D.; Cook, Dwight C.; Dever, Dick D.; Erbele, Robert S.; Fiebiger, Tom D.; Fischer, Tom L.; Flakoll, Tim; Grindberg, Tony S.; Hacker, Nicholas P.; Heckaman, Joan M.; Heitkamp, Joel C.; Holmberg, Ray E.; Horne, Robert M.; Kilzer, Ralph L.; Klein, Jerry J.; Krauter, Aaron J.; Krebsbach, Karen K.; Lee, Judy E.; Lee, Gary A.; Lindaas, Elroy N.; Lyson, Stanley; Marcellais, Richard; Mathern, Tim; Nelson, Carolyn C.; Nething, David E.; O'Connell, David P.; Oehlke, H. Dave; Pomeroy, Jim R.; Potter, Tracy A.; Robinson, Larry J.; Seymour, Tom J.; Stenehjem, Bob W.; Tallackson, Harvey D.; Taylor, Ryan M.; Tollefson, Ben C.; Triplett, Constance T.; Wanzek, Terry M.; Wardner, Rich P.; Warner, John M.**Senators**

You will be voting on HB 1469 soon. I would like to urge you to vote no. This bill as amended wrecks of political favoritism. It is a slap in the face for most ND sportsmen who hunt deer without going "road hunting". Road hunting is a problem in ND if you think otherwise you need to open your eyes and look around a little during deer hunting season this bill will increase road hunting. This bill is also an enforcement nightmare as it has no provision for verification of written permission. The intent of the bill to not block roads during hunting season is a worthy cause, adding the opportunity to drive off road while deer hunting is just plain stupid. The NDGF Department has a permit process for those people unable to access remote areas why do we need this legislation? There is no good reason other than because I want it (we all know who wants the bill passed). I urge you to vote NO!

Respectfully Submitted**Bob Kellam**

3/29/2007