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2001 HOUSE NATURAL RESOURCES

HR 1356

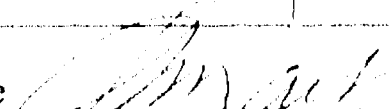
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1356

House Natural Resources Committee

Conference Committee

Hearing Date February 8, 2001

Tape Number	Side A	Side B	Meter #
1	x		525 to 3851
2	x		1649 to 2779
Committee Clerk Signature 			

Minutes:

Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Droydal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Solberg, Rep. Winrich,

Chairman Rennerfeldt: I will open the hearing on HB 1356. Rep. Wrangham will introduce the bill.

Rep. Wrangham - District 8: (See written testimony). Three months ago I didn't know what spear fishing from dark houses was, but a constituent asked me to check into it and I did. As I checked into it I found a lot of enthusiasm out there. My constituent was from Minnesota originally and would drive 250 miles one way to participate in this sport, if he could. However, Minnesota does not allow North Dakotans to dark house spear fish. I have talked with Game and Fish and we can do the same thing for Minnesotans by proclamation. Currently spear fishing is

permitted in North Dakota and would be permitted in dark houses as well as underwater if there were provisions made for it in the Governor's last proclamation for the Game and Fish Department. However, in the past, they have decided not to write the rules, however this legislation does write the rules and of course they would still be the authority on how long the season was, the species included, what lakes would be available. They would be in complete control. We are not dictating anything to them. We are not taking any powers away from them, we are just asking for some sort of season. This is something that I have been reassured by many groups that it would not have any negative effect on our fisheries, and would only allow us one more thing to do in the winter.

Rep. Klein: What is a dark house?

Rep. Wrangham: I guess it would be a fish house without windows.

Chairman Rennerfeldt: Any questions of the committee?

Eric Pearson: I am in favor of passage of HB 1356. (see written testimony).

Rep. Winrich: What sort of enforcement problems might arise if the proclamation for example permitted the taking of Northern Pike by spearing, but not Walleyes and other species. How difficult is it to identify the species of fish looking down through a hole in the ice?

Pearson: I don't think it is very difficult at all. It would be like looking at a picture of a fish on TV, where most of the sportsmen who are out there are avid sportsmen, they know the difference between Walleye and Pike.

Rep. Winrich: It seems to me that most of those characteristics have to do with color and shape of fins and so on, if you are looking down at the top of the fish a lot of those details are not clear or not available.

Pearson: I would disagree, I think they are available. You are able to differentiate by sight, it is a very clear picture. If the water isn't clear, you won't be able to fish there. Generally, the area where spear fishermen are in would be very shallow water. Walleye do not generally inhabit that shallow of water. That is not their preferred habitat, you will see other fish species coming through, but by the nature of what they look like and their shape, I think it is easily differentiated.

Rep. Porter: There is not much catch and release going on in this sport?

Pearson: You have that decision as per say bow hunters, to attempt to take that fish or not. It is very similar to bow hunting, where a hunter who takes a deer that doesn't have much chance for survival, they have to go and track that deer down. Spear fishing, that fish isn't going to go off another 100 yards and die, it will be right there. They will be able to take that fish.

Rep. Porter: One of the problems that I have heard from Minnesota in regards to this sport is the lake clarity problem and people introducing the white patio rocks and other foreign objects into the water at the base of their fishing area to improve the clarity. If they have a fishing problem and they put foreign objects into the water and into sandy bottom lakes, how are we going to prevent that from happening in North Dakota.

Pearson: Education is the first thing. I am a big fan of letting people know the right way to spear fish. That is the wrong way. Not only that, but it probably is in violation of a Corps ruling, by introducing a foreign fill to a state or federal water body. That is a law you are breaking and it is unethical. There are questions that come up like that in any type of hunting or fishing ethics. That relates back to you're going to find unethical people in any situation.

Rep. Porter: I have two questions, one is the resident only issue, should we allow this to happen in North Dakota should we look at the same restrictions that other states have and allow only North Dakotans to do, and the other thing is in regards to technology, using lights, underwater

cameras, what other restrictions would you see necessary before we would open this kind of a season up?

Pearson: If you look at the other states surrounding us and their regulations, Minnesota does have regulations for residents only. South Dakota, Montana do not. You buy a license you are able to perform that activity. Where would we get most of our non resident persons, I don't know. Would they be coming here to do that? There is such a small group of fisherman that would actually pursue this sport that not allowing non residents wouldn't be a large number at all. I don't think it will be a significant amount of residents pursuing this activity but it does allow for another activity for a small group of fishermen. It also opens up other opportunities for decoy carving. Decoys have been in the past a method of taking Pike, homemade or other decoys that people take pride in making and showing at Sport shows. It is another time honored tradition to lure in Pike for spear fishing. It would open up that avenue as well.

Rep. Porter: If you could just touch briefly on those technologies of underwater cameras and those kinds of things that are available now.. Would they add to or detract from the sport. Do they need to be regulated?

Pearson: As far as enhancing spear fishing, any type of device that you have to help yourself take a fish is up for debate. I personally think it opens up a whole new window to the underwater world for sportsmen. I do think it is enhanced whether by spearing or ice angling. Your opportunities are enhanced by electronics, whether or not they should be outlawed or prohibited during spear fishing, I don't think so. If they are prohibited for other sports, then yes. That is a much larger debate for other angling opportunities than I think it is for dark house spear fishing. I personally am in favor of using those items. It is very interesting and instructional and education looking down there and seeing what the fish are doing. I think it is a neat things for kids to see. I

am very in favor of opening those opportunities. Economically it allows the sales of other sporting equipment.

Rep. Nottestad: Based on your testimony and your e-mail, you are quite familiar with fishing in this area, is there a tremendous surge for this? If there is, how heavily is the impact of these people on the South Dakota dark houses? Do we have a lot of people driving down from Bismarck and fishing in South Dakota cause it is legal there? Do they just want to bring this sport back up here so they won't have to travel?

Pearson: I don't think we have a very large number of fishermen doing this. I do think there is a constituency out there that have either come from Minnesota who have that in their heritage and would like to try this sport. I think it is intriguing that they get a view of the underside of the lake. As I said earlier there is a large enough hole to see down in the lake, that is a view that people rarely have. It provides the opportunity to enjoy that resource.

Chairman Rennerfeldt: Any further questions of the committee?

Dean Hildebrand - Director North Dakota Game and Fish Department: Game and Fish takes a neutral position on this bill. (See written testimony).

Rep. Nottestad: The dark house so to speak versus the window ones, would that have any concerns for your wardens at all?

Hildebrand: No, this is not difficult to administer at all. Right now if you are fishing from a fish house, there are two major types of these, there is a portable you take with you and those that you leave permanently on the ice. Those permanently on the ice, we have a dimension, we tell you the materials and of course you can have a window in it, you cannot have a lock on the door, so the warden can come up and walk in anytime he wants to. The only difference would be if somebody would just take a panel and stick it in there right now or cover it. Many people just lay

down, throw a tarp over their head and fish that way. Stick a pole up there and move around the lake quite quickly. No, it is not a problem.

Rep. Nottestad: Following up on that, by cutting the larger holes and moving from place to place, when they do that is there any markings required until these holes freeze over. They are large enough that they could cause problems.

Hildebrand: Yes, the hole as you see there would probably be 3x2'. Normally when they cut these, there are several ways to cut, and normally they will push the block down and slide it under the ice, rather than bring it out and set it on top of the ice. If they do bring it out, they should break it into chunks so that someone doesn't hit it. There are always obstacles on the ice. I talked to the wardens over in Minnesota and asked them if it was a problem. Not any more than someone dropping something into the water and having it float and get hit with a boat. Not that big of a concern. The holes when they leave them open we ask them to put a marker there. I think we would do something of that particular nature also.

Rep. Nottestad: Should that be put in the proclamation?

Rep. DeKrey: Haven't we heard this before, and why haven't we done it?

Hildebrand: We haven't done it, the ND Sports Fishing Congress has gone on record in opposition to this bill. We had that little survey we took a look at. What I am telling you is that we can do it. There are people for it and there are people against it. But I know that Eric is for it, my recommendation is if we were going to do this in North Dakota, my attitude is I think I would open it up to residents as well as non residents. We get beat up so much on the resident, non resident issue that if I can bring them in to ice fish and we can hold down the numbers on it, we may be able to fill the gap a little.

Rep. DeKrey: We have the reciprocity for trappers, can we put the reciprocity in here for Minnesota and hopefully we can open up there state for North Dakota?

Liljebrand: We start talking about hunting in ND they get pretty nervous over there, they always look for a way of retaliating. Yes, it could be put in reciprocity. I don't look for a lot of people doing this, but there are a lot of dedicated people doing this. We have the flexibility of opening it or closing it, I would only do it with Northern Pike to begin with.

Chairman Rennerfeldt: Any further questions of the committee? Any one else wish to testify in favor of this bill. Anyone opposed?

Jim Nagel - ND Sport Fishing Congress: Both points I want to cover in regards to our opposition on this bill have already been brought up. Rep. Porter stole my thunder as to there not being much catch and release in this sport. That is one reason we are opposed to this bill. Conventional fishing methods allow for catch and release fishing, spear fishing would not. Spear fishing does target the larger species. The larger end of the species is the female and the breeding stock. There is that issue of no catch and release and that is why we are opposed to this bill. The other issue is we do have safety concerns as far as the block of ice laying on the table of the lake after the fish house is gone, as well as the open hole. If you do choose to pass this bill, we would urge that something be put into code as to flagging those hazards.

Rep. Nottestad: If you ask this be put in code, there would be an awful lot in code, wouldn't it be better to put it in proclamation?

Nagel: I guess that would be acceptable. We would not insist it be in code. Somehow it needs to be addressed.

Chairman Rennerfeldt: Any questions of the committee? Any one else wish to speak in opposition to this bill? If not, I will close the hearing on HB 1356.

COMMITTEE WORK

Chairman Rennerfeldt: How about HB 1356?

Rep. DeKrey: I move a Do Pass.

Rep. Solberg: I second.

Rep. Klein: Did we address the issue for non residents?

Rep. Hanson: The issue with Minnesota?

Chairman Rennerfeldt: Didn't he suggest a reciprocity with them?

Rep. Porter: I don't like the way the bill is now, but if we were to amend it to have reciprocity with other states that allow us as non residents to go to their state and do the same sport, I wouldn't have any problem with this bill. I think we have quite a community living along the Red River that is going to be able to drive west and participate in this sport in our great state, but we can't drive east and participate in their state. I have a problem with that.

Chairman Rennerfeldt: Do we have to withdraw the motion.

Rep. DeKrey: I withdraw my motion.

Rep. Solberg: I withdraw my second.

Rep. Porter: I move an amendment that we allow non residents reciprocity with the states that allow us to participate in their state.

Rep. DeKrey: I second.

Chairman Rennerfeldt: Any discussion on the amendments?

Rep. Winrich: I am not sure I understand. When you made the motion you said that we would allow reciprocity with other states. When you started talking about this earlier I thought you wanted to mandate reciprocity?

Rep. Porter: The intent of the amendment is to allow reciprocity in those states that allow us as non residents to go into their state and spear fish, like South Dakota and Montana which allow us as non residents to go into. It would not allow a person from Minnesota to come into North Dakota unless Minnesota changes their regulations to allow us to come into Minnesota.

Rep. Winrich: I guess my question would be, apparently much of the management of Wildlife, Game and Fish and so on... Here is really controlled by the Governors proclamation that comes out of the Game and Fish Department. That is where we set seasons and limits. Since the Director of Game and Fish testified that reciprocity would be part of department policy. What is the advantage of putting it into law? In stead of allowing the managers of the resource to operate the way they have been doing?

Rep. Porter: I wasn't here for that, but my understanding is the commissioner wanted to open it up completely to residents and non residents. What this amendment would say is that if your state allows us as North Dakotans to come to your state and do this sport, then you are more than welcome to come to North Dakota to do it. But if you don't allow us in your state, then your residents can't come to our state.

Rep. Nottestad: I see the rationale for this, but I also see a quagmire. If someone in the state of Mississippi wants to come up here and go ice fishing we have to have permission to have reciprocity that North Dakotans can ice fish in Mississippi. I don't think we will have that. Who is going to sell these licenses? For the dealer selling licenses, they are going to have to have a moving target about who they are allowed to sell licenses to.

Rep. DeKrey: We have reciprocity here with trapping and other things through the code and it has never been a problem before in printing non resident licenses for fishing or hunting, or anything else, so why all of a sudden is having non residents and reciprocity a problem?

