

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND
MINING**

**Seventy-Sixth Session
April 26, 2011**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Maggie Carlton at 2:05 p.m. on Tuesday, April 26, 2011, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Maggie Carlton, Chair
Assemblyman Joseph M. Hogan, Vice Chair
Assemblyman Paul Aizley
Assemblyman Elliot T. Anderson
Assemblyman David P. Bobzien
Assemblywoman Irene Bustamante Adams
Assemblyman John Ellison
Assemblyman Ed A. Goedhart
Assemblyman Ira Hansen
Assemblyman Kelly Kite
Assemblyman Pete Livermore
Assemblyman Harvey J. Munford
Assemblywoman Peggy Pierce

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Amelie Welden, Committee Policy Analyst
Randy Stephenson, Committee Counsel
Judith Coolbaugh, Committee Secretary
Gianna Shirk, Committee Assistant

OTHERS PRESENT:

Kyle Davis, representing the Nevada Conservation League
Rob Buonamici, Chief Game Warden, Division of Law Enforcement,
Department of Wildlife
Ken Mayer, Acting Director, Department of Wildlife

Chair Carlton:

[There was no roll call.] I am opening the hearing on
Senate Bill 102 (1st Reprint).

Senate Bill 102 (1st Reprint): Revises provisions governing the taking of
wildlife. (BDR 45-764)

Kyle Davis, representing the Nevada Conservation League:

I would like to give the Committee a brief overview of the bill, and the reasons why we requested it. I will leave the educational information and specific details on antler shedding to the representatives from the Department of Wildlife (DOW). The bill was originally designed to regulate the practice of shed antler hunting and collecting. The practice is becoming more popular, so more people are in the field. In some cases, people are bothering wildlife and stressing the animals in the winter when they are most vulnerable.

The second part of the bill is the addition of a revised civil penalty structure for trophy game hunters who are poaching. It will align the Nevada penalties with those being used in surrounding states. It will alleviate the problem of Nevada being a target for big game poaching because our penalty fee structure is far below other states. This portion of the bill was added after the bill was heard on the Senate side.

The bill will give the DOW the authority to promulgate regulations to oversee shed antler hunting. It will also increase civil penalties for big game poaching. The primary reason for this bill is to protect our animal resources and to manage them.

Rob Buonamici, Chief Game Warden, Division of Law Enforcement, Department of Wildlife:

I have a PowerPoint presentation ([Exhibit C](#)) prepared for an overview of the shed antler situation, which has come to the forefront over the last five to ten years. Before that time, you rarely heard anything about shed antlers.

To provide an overview of the issue, I will discuss demand and value of the shed antlers. Another issue is the impact shed antler collecting has on the wildlife and their habitat. Finally, I will discuss the status of the issue in Nevada, and a solution. [Mr. Buonamici continued to read from the prepared PowerPoint testimony ([Exhibit C](#)). Some supplemental information and dialogue have been included where they were appropriate.]

In the spring of 2008, we conducted extended patrol operations to maximize our contacts with shed antler hunters in Lincoln and White Pine Counties. Through a variety of materials including the deployment of our Operation Game Thief trailer, informational flyers, giveaways, and radio spots ([Exhibit D](#)), we worked on educating the public. Our purpose was to raise public awareness of habitat damage through irresponsible use of all-terrain vehicles (ATVs), and to increase awareness of the stresses human activity creates on wintering big game.

The project cost about \$28,000, and we made 247 contacts with shed hunters. We were able to determine that 39 percent of the hunters spent 11 to 20 days in the field collecting; 36 percent, 1 to 10 days; 18 percent, 30-plus days; and, 7 percent, 21 to 30 days. The hunters collected the antlers for different purposes including commercial and personal uses, and for family recreational activities. [Mr. Buonamici continued to read from the PowerPoint presentation.]

The justification for the enhancement of civil penalties for poaching is two-fold. First, big game animals are worth a great deal to the people of the state for both monetary and aesthetic reasons. Secondly, trophy-class big game animals are targeted by poachers for both their unique attributes and their monetary value on the black market. Nevada is the only state in the west that does not have trophy big game civil penalty enhancements. Big game poachers can target the state because currently the penalty is less severe than in other western states. I have submitted a chart ([Exhibit E](#)) showing the amounts of the fines in other states for poaching big game. It includes proposed fines for Nevada. The civil penalties have not been increased since the 63rd Session. The funds generated by the civil fines will finance the DOW's efforts to catch poachers instead of having the legitimate sportsmen pay for it. I would be happy to answer any questions.

Chair Carlton:

Mr. Mayer, did you have anything to add? [He said, off the microphone, "Answer questions."] Are there any questions?

Assemblyman Ellison:

If one of our family members picks up shed antlers on our ranch, are we in violation of the law? I can understand having the penalty for people who kill animals just for their horns, but I would like clarification on penalties for people just going out to collect horns.

Rob Buonamici:

The civil penalty only applies to animals on the hoof, and it does not apply to shed antlers. They are totally separate issues, and there is no penalty proposed for the collection of shed antlers unless the collectors are harassing the animals. The civil penalty is just for trophy class game animals on the hoof.

Assemblyman Ellison:

Under section 2 on page 3 of the bill, it states a new section to *Nevada Revised Statutes* (NRS) Chapter 503 will be added that says, "The Commission shall adopt regulations for the taking of shed antlers." There is also a definition for shed antlers. How is that new section interpreted?

Rob Buonamici:

The reference to shed antlers in that section is with regard to regulations. We would like to establish an online course, modeled after Utah's. With completion of the course, a person can collect sheds all year. If a person does not take the online course, then he can only collect when the shed collection season starts. This legislation does not assess fines for picking up shed antlers. Through this bill, we are providing protection for the animals during their critical wintering periods.

Chair Carlton:

Let us address the shed antlers portion of the bill first, and then we will move to the civil poaching penalty part of the bill. Are there any questions on the shed antler portion of the bill?

Assemblyman Hansen:

On the results of your survey of 247 contacts with people who were collecting antlers, only 25 people were collecting for commercial use. You have the ability under current law to issue citations to people who are chasing the game with ATVs. How many citations have you actually issued for harassment of game that has anything to do with the shedding of antlers?

Rob Buonamici:

Two years ago we issued a citation in Elko County, and possibly, one was issued this past year.

Assemblyman Hansen:

Two citations is the total.

Rob Buonamici:

Correct.

Assemblyman Hansen:

Then having shed antler collectors chasing game with ATVs is not a major issue in Nevada.

Rob Buonamici:

Our enforcement officers are stretched extremely thin. We see the evidence of the ATVs by seeing their tracks in the right locations to find game, and we receive complaints from citizens about the use of ATVs. We cannot measure what we do not observe.

Assemblyman Hansen:

You have issued two tickets for animal harassment. Is that correct?

Rob Buonamici:

Correct.

Kyle Davis:

I would like to expand on that point. Since the DOW is spread thinly when it comes to enforcement, it cannot get to all the cases where harassment may be occurring. That is the reason for regulating that practice, for the educational component. We will be able to educate people about the types of problems it can cause wildlife. The result would hopefully be a decline in that type of activity without putting more game wardens in the field.

Ken Mayer, Acting Director, Department of Wildlife:

From a biological standpoint, deer and elk go to the winter range to die. That is their last bastion. They migrate down the mountains because the snow pushes them to lower elevations. When the snow pack is very high, they go further and further into the winter range. Those animals that do survive are the regenerators of the following year's herds. If we have a very bad winter, we need a season for people to collect sheds to prevent their human activity from having a negative impact on the animal populations. This bill gives us the

ability to look at these issues and design a system that will work for the animals and the people.

Assemblyman Hansen:

From the evidence we have, we are creating new laws to regulate a small number of people. It would be making acts illegal that are currently legal. We seem to be creating a solution for a problem that does not exist.

Chair Carlton:

Collecting shed antlers will still be legal. The DOW is asking for an educational component.

Assemblyman Aizley:

What is the legality? Can people pick up shed antlers or a set of them on public and private lands?

Rob Buonamici:

It is legal if you have the permission of the landowner to enter private property.

Assemblyman Aizley:

Is it okay to collect in federal and state parks?

Rob Buonamici:

Yes, it is.

Assemblyman Hogan:

Does the Bureau of Land Management have any prohibitions on collecting shed antlers?

Rob Buonamici:

No, they do not.

Assemblyman Livermore:

It is legal to collect shed antlers. Is it legal to sell them?

Rob Buonamici:

It is not illegal to sell shed antlers. They are nonedible. This bill is not about capturing "bad guys"; it is about educating the public, so we can protect our animals. The civil penalty portion of the bill is different. Nothing in this bill makes it illegal to pick up or collect sheds. The measure authorizes the DOW to establish an educational program, similar to Utah's, for all-year collecting. Otherwise, collecting can only be done during the season dates. If we created

a program like that, and a person collected sheds outside the season dates without taking the course, then that would be a violation.

Assemblyman Livermore:

I have horns and antlers in my house from animals I have hunted. The proposed regulations do not prohibit people from acquiring antlers through legal means. Is that correct?

Rob Buonamici:

The DOW encourages people to enjoy our wildlife; we encourage shed collection. The purpose of this bill is to encourage people to responsibly enjoy our wildlife and shed collecting. The proposed bill creates the mechanism to allow us to do that.

Assemblyman Goedhart:

Will you need a card or some sort of certification to show you actually took the course? We do not want "to throw this net so wide" that a family on a hike in the out-of-season period could be cited if they pick up any sheds. They may not know a card is required to prove online course completion. It unwittingly puts those people in a situation where they are violating the law. How can we craft this legislation, so we do not inadvertently put people in a legal quandary?

Ken Mayer:

Most people will not be out hiking in February or March in the rural areas of Nevada where the winter ranges are located. It is too cold, and there is too much snow. It is that period where the shed collecting can have a detrimental effect on the game populations. Our goal is to protect the big game animals at their most critical period of survival. Spooking the animals and making them run means an added energy expense on the animals. It is energy they cannot afford to expend.

Rob Buonamici:

We most likely would not be issuing a citation on a first offense. If the Commission wanted to, it could put language in the regulations to read, "intentionally collect sheds," since intent is not required for a misdemeanor charge. That would be an option.

Chair Carlton:

Are there any other questions from the Committee? [There were none.] I would be more comfortable with the language in section 2 of the bill if I saw the language the Utah program uses. The current language in the bill is very broad in authorizing the Board of Wildlife Commissioners to adopt regulations. We need assurance the regulations will not go too far in either direction.

The language needs to be moderate and in the middle. Seeing the Utah model would be very helpful, and most especially, if any penalties are involved. There will be no penalties in this shed antler portion of the bill; it is strictly educational. Is that correct?

Ken Mayer:

That is our intent at this point. This provides regulatory authority to the Commission. I am not sure what might happen in the future, but I think we can deal with this by providing some protection for the animals and providing an educational program. I think most people will not want to have a detrimental effect on the animals.

Chair Carlton:

If you would provide that information to me or staff, we will distribute it to all the Committee members. They will be able to review it before we process the bill. We will now go to the other part of the bill, section 1, on the civil penalties. Criminal penalties are also involved with poaching. Can counsel enlighten us on them?

Randy Stephenson, Committee Counsel:

Criminal penalties for poaching or killing animals out-of-season are covered in NRS 501.376. Generally, it says if a person performs such an act it is punishable as a category E felony unless it is pleaded down to a gross misdemeanor.

Chair Carlton:

Mr. Hansen has distributed a document ([Exhibit F](#)). Could you explain it to the Committee?

Assemblyman Hansen:

Mr. Stephenson did not cover one item. If you are convicted of a felony, such as big game poaching, there are also significant civil penalties. Your vehicle, guns, and equipment can be impounded. Can you elaborate on that, Mr. Stephenson?

Randy Stephenson:

If you look at section 1 of this bill, it lists the civil penalty provisions imposed under NRS 501.3855. Currently in the law, it states that any person who unlawfully kills or possesses a big game mammal, bobcat, swan, or eagle is liable for a civil penalty of not less than \$250 nor more than \$5,000. That penalty is in addition to the imposition of any criminal penalty.

Assemblyman Hansen:

Is there also a provision that provides for vehicle or gun forfeiture?

Randy Stephenson:

If a person is convicted of a poaching category E felony, he is subject to the forfeiture requirements. Whatever you used to commit that crime is forfeited.

Chair Carlton:

Is that upon conviction?

Randy Stephenson:

Yes. Also, subsection 6 of NRS 501.3855 states that if a person is ordered to pay a civil penalty, then the Department may suspend, revoke, or refuse to issue or renew any license, tag, permit, certificate, or other document or privilege otherwise available to the person pursuant to this title or Chapter 488 of NRS.

Assemblyman Hansen:

I obtained [Exhibit F](#), Big Game Poaching Records, from Mr. Buonamici. I requested the documentation of the number of big game poaching cases in Nevada. It shows the total number of the species poached categorized by year. In 2010, there were less than 500 citations issued for all wildlife violations, and more than half of those violations are typically for fishing without a license. In 2010, there was one case of big game poaching in Nevada that was prosecuted as a felony. There were 11 in 2009. I have been watching these numbers for many years, and they are very consistent. Big game poaching is extremely rare. We already enhanced these penalties a couple of sessions ago to make them felony violations. We did so on the assumption that there was a big problem; the figures show a minimal problem. We seem to keep enhancing penalties for a problem that is virtually nonexistent.

Chair Carlton:

The Committee Secretary needs to have the document identification to incorporate the exhibit in the minutes.

Assemblyman Hansen:

I will provide that, and when we do our work session on this bill, I will provide a report on poaching.

Chair Carlton:

Are there other questions?

Assemblyman Hogan:

To state that a low number of arrests indicate there is not a problem, and we are overreacting, may not be a viable conclusion. I would like to assume that we are positively influencing people to not engage in poaching activities. Perhaps, we did not have many arrests because we were succeeding in our prevention efforts.

Chair Carlton:

Are there any other questions? [There were none.] I notice bears are not included, but people can now hunt bears.

Assemblyman Hansen:

Mountain lions are also not listed. One of the reasons they left it off is because there have been no documented cases of poaching.

Chair Carlton:

That does not matter. If there were not documented cases of murder, we would still have a charge on the books for murder. Mr. Buonamici or Mr. Mayer, would you clarify the lack of listings for poached bears and mountain lions?

Rob Buonamici:

On page 2, line 10, it says, "big game mammal," which includes bears and mountain lions.

Chair Carlton:

So "big game mammal" would include the bear?

Rob Buonamici:

Yes.

Chair Carlton:

Would it include the bobcat or mountain lion?

Rob Buonamici:

No, the bobcat is listed separately. A mountain lion is considered big game, yes. The *Nevada Administrative Code* (NAC) 503.020 gives the definition of big game mammal.

Assemblyman Ellison:

The penalty of up to \$30,000 seems high.

Rob Buonomici:

Thirty thousand dollars is a substantial amount of money, and that is exactly the point. A steep penalty deters poaching.

Assemblyman Ellison:

I think it is too much.

Kyle Davis:

If someone goes out and poaches a bighorn sheep, he can sell the head for significantly more than \$30,000.

Assemblyman Hogan:

Do we have wild swans in Nevada? And what is the moose count in Nevada?

Ken Mayer:

We do have tundra swans, and we have a tundra swan hunting season. You can purchase two tags a season. It is highly regulated, and only a small number of swans are taken on an annual basis. We have some trumpeter swans, but they are not harvested. The moose wander into the state from Idaho and Utah. In Utah they are becoming a problem in urban areas. A cow with a calf can be very dangerous.

Chair Carlton:

Are there other questions? [There were none.] I am closing the hearing on S.B. 102 (R1). Is there any public comment? [There was none.] We will postpone the work session.

This meeting is adjourned [at 2:59 p.m.].

RESPECTFULLY SUBMITTED:

Judith Coolbaugh
Committee Secretary

APPROVED BY:

Assemblywoman Maggie Carlton, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Natural Resources, Agriculture,
and Mining

Date: April 26, 2011

Time of Meeting: 2:05 p.m.

| Bill | Exhibit | Witness / Agency | Description |
|---------------|----------------|---------------------------|------------------------------|
| | A | | Agenda |
| | B | | Attendance Roster |
| S.B. 102 (R1) | C | Rob Buonamici | PowerPoint Presentation |
| S.B. 102 (R1) | D | Rob Buonamici | CD of Radio Spot |
| S.B. 102 (R1) | E | Rob Buonamici | Trophy Civil Penalty Chart |
| S.B. 102 (R1) | F | Assemblyman Ira Hansen | Big Game Poaching Records |