

**MINUTES OF THE  
SENATE COMMITTEE ON NATURAL RESOURCES**

**Seventy-Eighth Session  
May 14, 2015**

The Senate Committee on Natural Resources was called to order by Chair Don Gustavson at 2:43 p.m. on Thursday, May 14, 2015, in Room 2144 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Don Gustavson, Chair  
Senator Pete Goicoechea, Vice Chair  
Senator James A. Settelmeyer  
Senator David R. Parks  
Senator Mark A. Manendo

**GUEST LEGISLATORS PRESENT:**

Assemblyman Ira Hansen, Assembly District No. 32

**STAFF MEMBERS PRESENT:**

Alysa Keller, Policy Analyst  
Matthew Nichols, Counsel  
Gayle Farley, Committee Secretary

**OTHERS PRESENT:**

Tyler Turnipseed, Chief Game Warden, Department of Wildlife  
Jeremy Drew, Chair, Board of Wildlife Commissioners

**Chair Gustavson:**

We will open the work session on Assembly Bill (A.B.) 142.

**ASSEMBLY BILL 142 (1st Reprint):** Revises provisions governing the administration and enforcement of wildlife laws. (BDR 45-402)

**Alysa Keller (Policy Analyst):**

Assembly Bill 142 transfers certain responsibility for the revocation and suspension of certain hunting and other licenses from the Department of Wildlife (NDOW) and Board of Wildlife Commissioners to the courts. The measure also limits length of time for revocations and suspensions of various licenses and revises the criminal penalties for unlawful killing or possession of a mountain lion.

The bill also transfers the existing demerit points system to be assigned for specific violations of wildlife laws from the *Nevada Administrative Code* to *Nevada Revised Statutes* (NRS) and repeals existing regulations relating to demerit points.

Two amendments were proposed after the hearing and are attached to the work session document for further information ([Exhibit C](#)).

**Senator Goicoechea:**

The language in section 1.15 is confusing. What is the intent?

**Assemblyman Hansen:**

The confusion stems from the fact that many of these offenses have been treated as strictly liability acts when they are actually criminal acts. Unless an offense is specified as a liability issue, it will be treated as an act of criminal intent.

**Senator Goicoechea:**

Jeremy Drew has proposed in his amendment that the class for hunter education be taken only once in a lifetime instead of every 60 months to remove four demerits. I would prefer that six demerits be removed if we accept this proposed amendment and the class is limited to only once per lifetime.

**Assemblyman Hansen:**

I think six demerits is reasonable. If someone makes an honest mistake, I am comfortable giving him or her the opportunity to make amends for it.

**Senator Goicoechea:**

I am concerned, as well as is our legal counsel, with section 9.3 of your amendment. This language was adopted in another bill with which I concurred. I am uncomfortable with the language, "Fur-bearing mammals injuring any

property may be taken or killed at any time in any manner, by the owner or occupant of the property or with the permission of the owner or occupant." My concern is that someone could be on private property without permission and take an animal and it would not be a game violation, it would only be a trespass violation.

In addition, I do not see a penalty for someone going on private property to gather shed antlers in this language. This would seem to invite people to trespass on private property because they might think they are shielded from a game violation.

**Matthew Nichols (Counsel):**

There is a concern regarding the application of section 1.15 to a provision of Title 45 of NRS in Assemblyman Hansen's proposed amendment. There is no place in this language that specifically says, "this act is prohibited," or "if this act is committed, it is a violation of the law and is punishable in a specific way." This is a viable concern. In addition, section 9.3 of the proposed amendment does not provide that this act is prohibited, therefore does not specify a criminal penalty. Would a violation of section 9.3 be penalized as a criminal act or would it only be subject to demerit points?

**Assemblyman Hansen:**

I want it to be a criminal act. I see this as two criminal acts, trespassing, and willingly and knowingly violating a game law. My purpose in these proposed amendments is to protect private property owners who are trying to safeguard their livestock. I would be comfortable if counsel wanted to place language in the proposed amendment to that effect. In no way am I trying to allow anyone to go onto private property without the expressed permission of the property owner.

**Senator Goicoechea:**

I cannot pick up a shed antler on my own property, but if someone is on my property without my permission and picks up a shed, it would not be a crime until they left the property with it.

**Assemblyman Hansen:**

I am open to any suggestions for the proposed amendment.

**Mr. Nichols:**

If the Committee accepts this proposed amendment in some form, my suggestion is to read NRS 501.385, which is part of the language in section 2.3. My direction would be to make a change to subsection 1, paragraph (a) to clarify that any knowing or willful violation of any provision of Title 45 of NRS is a misdemeanor.

**Senator Manendo:**

Please clarify the proposed change to NRS 503.452, regarding trap registration.

**Assemblyman Hansen:**

This was a "shall" to "may" language change issue with regard to trap registration. Instead of changing shall to may in the language of NRS 503.452, we deleted the entire section, which should have been removed in 1995.

**Senator Goicoechea:**

Is your proposed amendment restoring the demerit system to where it was in 1995?

**Assemblyman Hansen:**

No, I would like to restore the demerit system to the 1996 guidelines. Following the recommendation of this Committee, I increased the demerits for the unlawful use of aircraft to hunt and working as a wildlife guide without a license. This reestablishes the 1999 demerit system. The Board of Wildlife Commissioners will have the authority to go forward with this agreement once the Legislative Commission reviews it.

**Senator Goicoechea:**

It is my understanding that the Board of Wildlife Commissioners and the NDOW would like to bring a new demerit system back to the Legislative Commission. I would like to ask Mr. Wasley or Mr. Turnipseed how long it will take to establish a new set of regulations.

**Assemblyman Hansen:**

This would also help to involve the County Advisory Boards (CAB) again. It would have to go through the entire process, but in the meantime, the demerit system in my proposed amendment would be in place. There are not many variations to the demerit system as it is now, and we need to keep in mind that the offenders still have to go before a judge.

**Senator Goicoechea:**

Yes, the language allows a judge to either increase or decrease the demerits of an offense depending on the severity of the offense.

**Senator Manendo:**

Does this conflict with Senate Bill (S.B.) 4?

**SENATE BILL 4 (1st Reprint)**: Revises requirements for the taking of wild mammals on private property. (BDR 45-89)

**Senator Settlemeyer:**

This would probably have to be resolved at the end of the Session.

**Senator Gustavson:**

At the end of the Session, legal counsel will advise us as we go through the process. Many bills have duplicate language in them.

**Tyler Turnipseed (Chief Game Warden, Department of Wildlife):**

I received Assemblyman Hansen's proposed amendment, [Exhibit C](#), one hour ago, but will do my best to go through it from the beginning. The discussion earlier about the lead-in language in section 1.15 is very concerning. Does this language say that the law is only broken if you knew you were breaking it?

**Mr. Nichols:**

It is broader than that. The language in section 1.15, subsection 1, and subsection 2, is in line with Assemblyman Hansen's testimony.

**Mr. Turnipseed:**

I interpret this as a person is not in violation unless that individual knowingly and intentionally disobeys the law.

**Senator Gustavson:**

We have addressed this with Assemblyman Hansen and are going to work on this language.

**Mr. Turnipseed:**

Section 1.9 of Assemblyman Hansen's proposed amendment addresses the hunter education class. The original language includes the phrase, "after his or her most recent wildlife conviction." Without this clause in the language, I

interpret the language in section 1.9, subsection 1, to imply that all someone would have to do in order to reduce demerits is present a hunter education card showing that he or she took the class, even if it was 20 years ago. There is no language in this proposed amendment to prevent this from happening. I like Mr. Drew's proposed amendment with regard to taking the hunter education class once in a lifetime, [Exhibit C](#). The current language allows someone to take the class again after 60 months.

To my knowledge, there has only been one trapper license revoked and this person had taken the class numerous times and continued to violate the law. It took the NDOW 23 years to revoke his license, and he is still appealing the case. Removing six demerits instead of four demerits for taking the hunter safety class is fine with me, but only if the class can be taken once in a lifetime.

**Senator Goicoechea:**

We are proposing to increase the demerits removed by taking the class to six demerits instead of four demerits, but, only if we adopt Mr. Drew's language.

**Mr. Turnipseed:**

Section 1.9, subsection 7, limits the revocation time to 3 years. Currently, a misdemeanor could be revoked for 2 to 3 years, a gross misdemeanor for 5 years and a felony for 10 years. Three years is not enough time for someone who has poached a deer on the winter range in January, or anything else egregious enough to get a person's license revoked.

The language in section 2, subsection 4, of Assemblyman Hansen's proposed amendment states, "A person who kills or aids and abets another person to kill a mountain lion in violation of the provision of subsection 1 is guilty of a misdemeanor." Currently, this is a felony because a mountain lion is classified as a big game animal. There is no reason to kill a mountain lion out of season or illegally, because you can buy a tag over the counter for \$29. I think the lion hunters in the State would be uncomfortable relaxing the restriction.

**Senator Goicoechea:**

I think the real concern would be if someone were trapping for bears and caught a lion in a trap. Trying to release a lion from a trap is very dangerous. I think the intent here is to protect trappers from this type of situation and the rancher's livestock as well.

**Mr. Turnipseed:**

There are statutes in place for protection if mountain lions are a threat to someone on private property or there is imminent danger. We do not need to change the statute.

**Senator Goicoechea:**

Are there demerits in Assemblyman Hansen's proposed amendment for this type of situation?

**Mr. Turnipseed:**

I would assume so, but as I said earlier, I have not had the time to look through this entire proposed amendment because I just received it.

**Senator Goicoechea:**

It would still be a violation if someone killed a lion out of season without a tag. I know you are uncomfortable about this; however, it is still a violation.

**Mr. Turnipseed:**

There is a requirement in NRS that the trapper is to notify the NDOW if a mountain lion is caught in a bobcat or coyote trap. If the paw is not torn up too badly, we allow the trapper to release it if he or she is comfortable with that; if not, we go out and dart it with drugs. We would not cite the trapper because it was unintentional and an accidental catch. When we do become concerned is when a mountain lion is shot with a trapping pistol; this is a prohibited means of the taking of an animal.

**Senator Goicoechea:**

If the trapper saw the lion in the trap and shot it, would that be a misdemeanor?

**Mr. Turnipseed:**

Yes. I am going back to Assemblyman Hansen's proposed amendment, [Exhibit C](#), section 3, subsection 6, where it removes the NDOW authority to suspend or revoke a license if a person fails to pay their civil penalties. When we write a citation for a poaching crime, the offender is usually charged with two crimes and assessed two fines. One fine is for the bail amount, which goes to the school district. The other fine pays the court administrative fees. Some violations are fined as civil penalties. Currently, if a person fails to pay the fine for a civil penalty, we revoke his or her license. This proposed amendment takes

away the NDOW authority to do this, allowing only the court to revoke a license.

**Mr. Nichols:**

In section 3, subsection 6 of the proposed amendment, [Exhibit C](#), the language changes the NDOW from having the discretion to suspend, revoke or refuse to issue a license, and instead, provides this authority to the court. The same issue occurs in section 1.9, subsection 7, and again in section 2, subsection 6, paragraphs (a), (b) and (c) where the language is struck out. Upon a conviction of any violation, only the court could order the suspension or revocation of a license.

**Senator Goicoechea:**

Mr. Turnipseed, is it your interpretation that the NDOW does not have the ability to revoke a license after a citation was issued and the offender paid the fine unless he or she received 12 demerits?

**Mr. Turnipseed:**

That is my understanding.

**Senator Goicoechea:**

If the offender was cited and pled guilty, as long as the person did not get 12 demerits, his or her license would not be revoked. Why would you revoke a license if the offense was not egregious enough to impose this many demerits?

**Mr. Turnipseed:**

With the current system, depending on the violation, we issue a citation or file a criminal complaint with the district attorney's office. Upon conviction, the offender is assessed the number of demerits for that specific violation. Administratively, within the NDOW, we revoke the license similar to what the Department of Motor Vehicles does with its demerit points. The proposed amendment takes our authority away to do that, and only the court may revoke a license. Am I interpreting this correctly?

**Senator Goicoechea:**

I do not interpret it that way. I think the NDOW can still revoke a license depending on the number of demerits applied. The big issue is that revocation is only for 3 years in the proposed amendment.

**Mr. Nichols:**

Under section 1.9, subsection 7 of Assemblyman Hansen's proposed amendment, a suspension or revocation cannot be for more than 3 years, but only for the violations that are set out in section 1.9. Revocation or suspension of a license for failure to pay the civil penalty within 90 days after being ordered is now the court's decision.

**Mr. Turnipseed:**

I am not sure how to sort this out. I am unsure if it allows for license revocation for a misdemeanor, gross misdemeanor or felony with the language that has been struck out in section 1.9, subsection 7 of the proposed amendment. I do not see where it talks about misdemeanors.

In section 4, subsection 2, the language appears to remove the authority to revoke a license if the person fails to appear in court. If someone is fishing without a license and chooses not to appear in court, the court would issue a warrant for that person's arrest. However, we would not have the ability to revoke that person's license. In addition, section 4, subsection 3, paragraph (c), maintains if someone's license is revoked by the court, and the person pays the fine, the NDOW shall reinstate the license under direction of the court. Section 9.3 removes the provision that a property owner or occupant must have a permit to kill or take a fur-bearing mammal that may be injuring property. This duplicates the language in S.B. 4.

Section 9.5 addresses shed antlers. There were 2 years of testimony during several meetings of the Board of Wildlife Commissioners with regard to the regulation of removing shed antlers. From a law enforcement standpoint, I do not see this being enforceable the way this proposed amendment specifies commercial purposes. When someone is on the mountainside picking up shed antlers, there is no way to tell if he or she is doing this commercially. The person collecting the shed antlers does not become a commercial collector until he or she sells the antlers. The issue from a wildlife standpoint is simply displacing animals from the winter range when they are vulnerable in January, February and March. There are many shed hunters, especially on the eastern side of the State, and specifically in Lincoln County and White Pine County, which is where this issue became known.

I have not had the chance to see how the demerits have been reduced in this proposed amendment. Section 14.5 repeals NRS 503.452. This is about the

trap registration issue that has been discussed for 2 years at the Board of Wildlife Commissioners' level. Trap registration helps me to do my job.

**Senator Manendo:**

I would like to go back to section 1.9, subsection 3, with regard to the education classes. Are these online classes?

**Mr. Turnipseed:**

This class requires attendance. It is an investment of time; the class is 6 to 8 hours long and held on a Saturday or on two weeknights. It is a comprehensive class about hunter ethics, safety with firearms, keeping the muzzle pointed in the right direction and many other safety measures. There is a book to be studied and questions that must be answered.

**Senator Manendo:**

Do you see many people repeating this class after 60 months?

**Mr. Turnipseed:**

I only know of the one person I discussed earlier. I would have to research this to find out if there are others.

**Senator Manendo:**

Mr. Turnipseed, is there any middle ground between you and the bill's sponsor? Assemblyman Hansen, do you see any way that you two can work this out?

**Assemblyman Hansen:**

Mr. Drew's proposed amendment addresses this. In his proposed amendment, [Exhibit C](#), it reads that the individual can only take this class once in a lifetime, which would eliminate that problem. We have talked about removing six demerits with the class, and I agree.

**Senator Manendo:**

In section 2, subsection 5, the language changes the penalty for killing a mountain lion from a felony offense to a misdemeanor. Am I reading this right?

**Mr. Turnipseed:**

That is correct. Assemblyman Hansen's proposed amendment, [Exhibit C](#), reduces the illegal killing of a mountain lion from a felony offense to a misdemeanor.

**Senator Manendo:**

This question is directed to Assemblyman Hansen. Would it be fair to go to a gross misdemeanor for this?

**Assemblyman Hansen:**

The reality in Nevada is that we kill around 100 to 150 mountain lions a year in the animal damage control program. To send someone to prison for killing a mountain lion by mistake is too harsh. If someone were to do this as an intentional and deliberate poaching act, the court has the discretion to punish that person. As it stands in statute, it is always going to be a felony no matter what the circumstances are. If a rancher shot a lion while protecting his or her livestock, it would be a felony, and that rancher could go to prison. I think a misdemeanor is sufficient, because we are trying to reduce the number of mountain lions. It does not make sense to me that we are paying people for an animal damage control program and potentially sending people to prison for doing the same thing.

**Chair Gustavson:**

Thank you, Assemblyman Hansen. I would like to bring Jeremy Drew to the table so he can discuss his proposed amendment.

**Jeremy Drew (Chair, Board of Wildlife Commissioners):**

Mr. Turnipseed expressed a few concerns of the NDOW. I want to make it perfectly clear to the Committee that the Board of Wildlife Commissioners is neutral on this issue. Unfortunately, the other members of the Commission have not had the chance to see Assemblyman Hansen's proposed amendment. I only saw it 2 hours ago. My comments and the proposed amendment I have offered, [Exhibit C](#), are also personal. The Commission has not endorsed my proposed amendment.

In regard to A.B. 142, the Board of Wildlife Commissioners had a concern with someone coming to the NDOW and presenting a hunter safety card. People have been known to bring in the hunter safety cards they received when applying for their permits years before to have recently applied demerits removed. This does not make offenders repentant. Assemblyman Hansen's proposed amendment offers a person who has a six-demerit violation the ability to take the class and receive a four-demerit reduction. I think it is fair to allow this class once in a lifetime. There are only so many times a person can claim they are repentant.

With regard to the shed antler section in Assemblyman Hansen's proposed amendment, this issue was brought to the Board of Wildlife Commissioners by the CABs, specifically, the Lincoln County Advisory Board, which had a major concern. Twelve CABs supported a specific season for the collection of shed antlers. There was an issue because private property was not addressed in the language. The amendment was sent back to the Board of Wildlife Commissioners from the Legislature, and we have been working to address this issue.

The commercial aspect that Mr. Turnipseed spoke about does not allow us to regulate the impact on the wintering mule deer and elk. Specifically, you cannot regulate someone who may not sell an antler for months or years after it has been collected.

In regard to trap registration, I can speak on the Board of Wildlife Commissioners' behalf in terms of what was amended in S.B. 4. We were neutral on that issue. We supported Senator Settelmeyer's original bill and I think it has been pointed out that A.B. 142 is different from S.B. 4.

In terms of reestablishing the demerit system to the 1999 schedule, I personally feel this displays disrespect to my predecessors. This would essentially throw out 16 years of work done by the Board of Wildlife Commissioners, the CABs and the public process. Throughout this process, I have been committed to reviewing the demerit schedule and have consistently had discussions regarding A.B. 142. The Commissioners have always gone through the public process by holding open meetings with the public. I will not be untrue to that process. I personally have trouble swallowing the idea of going back to the 1999 demerit schedule if the concern is over a situation that occurred last year or 2 years ago.

**Senator Goicoechea:**

While we have all three of you at the table, I would like to ask about the ability to determine whether a person was picking up sheds for commercial use. Would this apply to just someone picking up sheds, who had the right to be on that property and was not a commercial gatherer? Would this apply to public and private property?

**Assemblyman Hansen:**

The current law states if someone is collecting sheds and he or she is on someone's property with permission, he or she would still need to get a commercial license. During the months of February to April, I am not sure what the season is, anyone that picks up an antler could potentially be charged with a criminal act. Boy Scout groups collect these antlers for non-profit purposes, and I do not think they should be considered criminals. They should not be forced to get a license for something like that.

**Senator Goicoechea:**

This is a good point.

**Assemblyman Hansen:**

My original idea was to allow each county commission to apply its own laws for this issue, because there are only two counties that will even mention this as a significant problem, Lincoln County and White Pine County. However, the laws apply to all 17 counties. The current law states if someone was walking along the river and picked up an antler, that person could be cited. This allows flexibility and will protect people who innocently, randomly find an antler or elk horn. This would fall under the purview of the Board of Wildlife Commissioners.

**Mr. Drew:**

I would like to clarify one point. Assemblyman Hansen has mentioned that there is a law in place in terms of the shed antler season. There is no law in place. As I mentioned earlier, the amendment was sent back by the Legislative Commission because we did not have an exemption for private property. We had workshops regarding this issue, although this has not been approved. If we could develop a law by choosing seasons in specific areas where the winter range has had problems, it might work. Nye County has had significant problems and is in favor of a season. I think limiting it to just commercial use constrains us in terms of what we can do with the on-the-range impacts, which is my concern.

**Chair Gustavson:**

As we all know, we make many laws that are unenforceable, but by having it in statute, it can be enforced when and if it needs to be. This applies to traffic laws and other various laws we have made. People ask why we make these laws if no one ever enforces them. We do this because there are times when

Senate Committee on Natural Resources  
May 14, 2015  
Page 14

we really need to enforce a law. I know there is discretion out there for law enforcement and officers can use it, but we do not want it abused.

**Senator Goicoechea:**

I have asked Mr. Nichols how long it would take him to prepare a proposed amendment that covers what we discussed today. I would like to get something for Assemblyman Hansen, the Board of Wildlife Commissioners, the NDOW and this Committee to review by tomorrow. Right now, we still have work to do on this bill and if we have a document with language to work with, perhaps both parties can come to an agreement.

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Senate Committee on Natural Resources  
May 14, 2015  
Page 15

**Chair Gustavson:**

There being no further testimony or public comment, the Senate Committee on Natural Resources is adjourned at 3:42 p.m.

RESPECTFULLY SUBMITTED:

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Gayle Farley,  
Committee Secretary

APPROVED BY:

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Senator Don Gustavson, Chair

DATE: \_\_\_\_\_

EXHIBIT SUMMARY				
Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
A.B. 142	C	26	Alysa Keller	Work Session Document