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OMB/RECORDS MANAGEMENT DIVISION
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ROLL NUMBER

DESCRIPTION

1356

2007 HOUSE NATURAL RESOURCES

HB 1356

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1356

House Natural Resources Committee

Check here for Conference Committee

Hearing Date: February 1, 2007

Recorder Job Number: 2587

Committee Clerk Signature

Shirley Persted

Minutes:

Chairman Porter opened the hearing on HB 1356 and asked the clerk to read the title.

Representative Kari Conrad introduced HB 1356. This bill is regarding hunters near school grounds. This is a very simple bill. This bill is being amended to say eight hundred eighty yards and also to change this to an occupied school. Kids need to be protected and we need to keep the hunters from making a mistake.

Chairman Porter asked if she knew of any instances where anybody has been shot at a school.

Representative Conrad said that she did not but this particular school does not have much property and the superintendent of that school is here to explain their situation.

Chairman Porter asked if she thought this bill would impede any of the landowners around the school.

Representative Conrad said no.

Representative Drovdal said as he reads this law, no person can hunt within 440 yards. Isn't that thirteen hundred and twenty feet? Don't we already have a further distance than this law is requesting?

Representative Conrad said when they checked with game and fish they said they no.

Chairman Porter said one thing he could clear up is that the way the law is written you cannot take that off of your property. The 440 yards is around your property. But if your tree rows are right next to property line and your house, I can still hunt on my property.

Representative Drovdal said you mentioned something about amendments stating an occupied school building. In the summer we know that they are not occupied. Would they have to stay away from the empty school house?

Representative Conrad said there may be children there playing because there is playground equipment, you might get yourself into a real tragic situation.

Representative Drovdal said that he didn't the word occupied was correct to use here.

Representative Nottestad said he did not think occupied was sufficient because that would mean you could hunt there on Saturday and Sunday. I would think that it should be changed to a school ground or building that is used to educational purposes or something like that. I am sure that legal council could help you with that.

Representative Conrad said they had not checked that and it just came up this morning.

Representative Clark said in these two cities in North Dakota have in place archery hunting within the city limits. This bill does not address firearms or archery. How would this affect the city of Fargo?

Representative Conrad said if he could suggest an amendment she would appreciate it.

Representative Clark said we will need an amendment for firearms only.

Representative Hunskor said it seems like with schools this is such a variable, including Saturday and Sunday, and summer. How do you know when kids are there? It seems like it should just be year round.

Representative Conrad said that was her feeling as well.

Representative Hanson referred to present law on line 6.

Representative Charging said she feels the same way but the hunter should have a reasonable sense. I think it should exclude high powered guns.

Chairman Porter said there are also a lot of small country churches out there as well. Are you concerned about those?

Representative Conrad said that was not the issue on the table.

Superintendent Rich Solberg of the Bell School District came forward in support of HB 1356. Bell School district is about 40 sections of land, two and one half miles from Minot. It is right along the river and there is a railroad there. My school has about five acres of land which is about two and one half acres or about the size of a football. There is a field on the east side of the school and there are kids playing on this play ground for quite a few minutes each day.

We have 164 kids and they are scattered all over that field at various times of the day. This last fall he watched hunters park right behind the school within 100 feet of the school. They take their weapons out and insert the magazines and they start walking. I can't say that anyone has been shot, and I hope no one ever gets shot. I am an avid hunter myself and hunt a great deal. When a nice buck jumps up and starts moving through the trees, it is very wooded on the east side of our school, and when a nice deer gets up, you probably are not thinking about the kids at that school. I am not anti hunting but we would not be taking much prime land away from these hunters. This entire area is great for hunters and they use it a lot. We are trying to prevent an accident from happening. This is a matter of safety.

Chairman Porter asked who owned the land that we are trying to restrict.

Mr. Solberg said the landowners name is Jim Mostad and he has a number of quarters of land. When I called the game and fish about this last fall, they said we could not stop people from hunting on land as long as they have permission. I know there is something about not having firearms within 1000 feet of a school. I started researching federal law and that law

does say you may not have a firearm within 1000 feet of a school. If you read case law about this you just about have to be a terrorist or have terrorist inclinations for them to pursue. The federal law is aimed at people who would take advantage of kids on a play ground. The game and fish is not willing to use this as your model.

Chairman Porter asked him if he had contacted Mr. Mostad. Does he post the land currently?

Mr. Solberg said he does not post the land currently.

Chairman Porter asked him if he had talked to him about his safety concerns.

Mr. Solberg said they had not. There are other landowners with small parcels within the 1000 feet, but they are not the field where these people park. There must be other rural schools with the same issue.

Representative Clark asked if 1000 feet would provide enough of a comfort zone.

Mr. Solberg said that was absolutely right, but they were thinking about the federal guideline. The road on the other side of our school is highway 52. There are over 7000 per day on that road. We do not want to upset hunters.

Representative Charging said when we change and create laws, they are for the entire state of North Dakota.

Mr. Solberg said most good sportsmen don't need many laws. It is just for a few.

Chairman Porter asked for further testimony in support of HB 1356. Hearing none, he asked for opposition to this bill.

Mr. David Monson said in Bismarck they have a solution to this already. Why can't they go up there and put up a sign that says no hunting except with muzzle loaders, shotguns, or archery. I am sure there must be a law that game and fish already is using.

Mr. Bill Helphrey of the ND Bow Hunters Association said that he concurred with Representative Clark's comments about this not addressing archery. It sounds like it would go from 1000 feet to 880 yards and we are now talking about one half mile.

Representative Meyer asked how many feet in a mile.

Mr. Helphrey said 5,280.

Mr. Keith Ternes, Police Chief for the city of Fargo, came forward in opposition of this bill. He wanted the committee to give serious consideration to Representative Clark's suggestion for an amendment relative to archery. The city of Fargo last year spent an enormous amount of time trying to resolve the deer population within the city limits of Fargo. We did everything we could to insure that any deer hunting, which is exclusive to archery hunting, was done in an incredibly safe manner. I am just asking that you consider that amendment and the archery hunting within the city limits of Fargo and Bismarck.

Chairman Porter asked if they allowed handicapped individuals to use cross bows in your in town archery.

Mr. Ternes said they have a very comprehensive testing process where anybody who wants to participate in the hunt within the city limits. They have to go through a written and practical exam with their archery equipment. Anyone handicapped would have to confirm to the same standards as anyone else.

Representative Hanson said that present law says you cannot hunt within 440 yards of an occupied building. Did you change that in Fargo? The ND law wasn't changed.

Mr. Ternes said you cannot use a firearm in the city of Fargo period. Archery hunting established that you cannot hunt within 100 yards of any occupied structure.

Representative Hanson said you never changed the state law and that says 440 yards.

Mr. Ternes said he would defer this to the game and fish.

Hearing no further testimony the hearing was closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1356

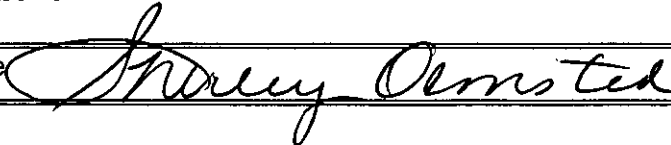
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: February 1, 2007

Recorder Job Number: 2648

Committee Clerk Signature



Minutes:

Chairman Porter said that there is some debate, but the way the bill was originally introduced, there are some definite problems with it. Current law is 440 yards of an occupied building but inside that particular law it says that "without consent of the person occupying such building" and Game and Fish's interpretation of this is that you cannot impose that onto someone else's land. The way this bill is written, you will be imposing or taking someone's personal property rights on their land near a school. With that, it is open for discussion. Current law is 440 yards.

Representative DeKrey said he would move for a do not pass on HB 1356.

Representative Hofstad seconded the motion.

Chairman Porter asked for discussion.

Representative Meyer asked what should we do with these kids that are out playing, in a wooded area. I am familiar with that school. It would be tragic if one of them gets shot and the only satisfaction that we have is I told you so.

Chairman Porter said it is no different that going down to Kimball Bottoms during deer season camping or fishing. There is an inherent risk and the person who is on the trigger end of a

firearm is responsible for that shot until it is no longer lethal. There is nothing to say that they can't be on the other side walking the ditch on Highway 52. That is open to hunting also.

Representative Hofstad said there are so many situations, like churches, 4-H camps and farmsteads that have children running around also.

Representative Nottestad the first thing I would have done if I were the principal or superintendent and this was a problem I would have gone to that landowner and asked if we could work something out. Can we put some posting on your land to protect the kids at this school? Therefore if we put a law in, it is going to affect every school in the state of North Dakota. In talking with Roger, they cut agreements with some of those schools with private property where the schools have the protection. There was an effort by the schools to do this.

This law will supersede every law that was put in place on private property around the state so the bill had to be cleaned up and there seems to be no attempt to do that. At this point, do not pass is the only thing that makes sense.

Representative Hanson said just in case the bill passes line 10 where it says 1,000 feet that is less than 440 yards, so this makes it closer than present law. Rather than take a chance on this passing on the floor we better change line 10 because that is less than present law.

Representative DeKrey said he would remove his motion if the intent is to amend present law.

Chairman Porter said **Representative DeKrey** would amend it to within 440 yards.

Representative Hanson asked if they wanted to change the meters too and that is the same as 402.34 meters.

There was a second by **Representative Hofstad**.

Chairman Porter said the amendment would be to change line 10 from 1000 feet to 440 yards and then in parentheses put 402.34 meters.

Representative Keiser said he opposes the amendment. They should strike the new language on 9 and 10.

Chairman Porter said that would be the same as killing the bill.

Representative Keiser said no because they have that language up above that. My point being is that you are going to read this bill or someone is when it gets into statute and they are going to say what's the difference between this section and the school? That is terrible to put into code. Just strike it. It is less than current law.

Representative Hanson said you are hoping that this gets killed on the floor.

Representative Keiser said that if Representative Hanson carries the bill and says this bill will allow you to shoot closer to schools than you could currently, how many votes are you going to get.

Representative DeKrey said he will remove his motion as well as Representative Hofstad.

Chairman Porter said it is off the table.

Representative DeKrey said he will move for a do not pass motion. Representative Hofstad seconded the motion.

Representative Meyer asked with no amendments?

Chairman Porter said we have a motion for a do not pass with no amendments on HB 1356.

The clerk took the roll for a do not pass with no amendments. Let the record show the vote was 14 yes, 0 no with all present. Do not pass prevails. **Representative Charging** will call this bill to the floor.

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

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1356

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken To Not Pass

Motion Made By DeKrey Seconded By Hofstad

| 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 | | | | | |
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Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

Withdrew

70659.0101
Title.

Prepared by the Legislative Council staff for
Representative Hanson
January 30, 2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1356

Page 1, line 10, replace "one thousand feet" with "eight hundred eighty yards" and replace
"300.48" with "804.68"

Renumber accordingly

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

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1356

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Amend to Chapter 10 to 440 yds

Motion Made By DeKrey Seconded By Hofstad

| 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 | | | | | |
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Total Yes voice vote No _____

Absent _____

Floor Assignment _____

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

W/I
S 10 - 440 yds -

Date: 2-1-07
 Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 1356

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Not Pass ~~Pass~~

Motion Made By DeKrey Seconded By Hofstad

| 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 | ✓ | | | | |
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Total Yes 14 No 0

Absent 0

Floor Assignment Charging

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

REPORT OF STANDING COMMITTEE

HB 1356: Natural Resources Committee (Rep. Porter, Chairman) recommends DO NOT PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1356 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

HB 1356



Cass County
WILDLIFE CLUB

Box 336
Casselton, ND 58012



TESTIMONY OF FOSTER HAGER
CASS COUNTY WILDLIFE CLUB
PRESENTED TO THE HOUSE NATURAL RESOURCES COMMITTEE
ON

HB 1356
February 1, 2007

Mr. Chairman and Members of the Committee:

My name is Foster Hager representing the Cass County Wildlife Club.

We are opposed to HB 1356 because it does not specify if the school building is in operation.

There are many one room schools that are empty and still set out in some areas of North Dakota. The way this bill is written you could not hunt within the 1000 yards.

This bill also limits the right of a land owner as to where he may let someone hunt on his own property.

Please oppose HB 1356 as written.

