2009 HOUSE NATURAL RESOURCES

HB 1188

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1188

House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: 1-22-09

Recorder Job Number: 7544

Committee Clerk Signature Nancy L. Gerhardt

Minutes:

Chairman Porter – Opened the hearing on HB 1188. Introduced the bill. Right now we only go as far as misdeminor laws on game & fish violations. When we get into situations the ND game & fish has no options but to bring in US fish & wildlife so the violations get into the federal system because they have a felony provision inside the federal system. That puts a 3 year delay from the time of the act to the time of the conviction. In order to move things along faster we felt it would be a good idea to make a felony game & fish violation. It also allows a court in ND on those acts to implement a lifetime suspension of the privilege of hunting.

Vice Chairman Damschen – Rep. Kelsh

Rep. Kelsh – Do you know what it means by being an accomples?

Chairman Porter – I am going to let Mr. Erickson answer that.

Mr. Ladd Erickson – There is a problem in the current law, and it is in implementation. Generally I am down here testifying against most felonies. In this instance I'm supporting this bill. What happens is you have dozens or hundreds of misdemeanors and it becomes a very difficult court management thing. What prosecutors do is tell game wardens; give us your 10 or 20 best misdemeanors out of the 200 you have and that is what we are going to do. It is a case management problem. If you look at sect. 2, this has the making of two current statutes

in it. The continuous repeated conduct over a period of time. The second is the state racketeering or criminal organization. Showed photographs on overhead.

Rep. DeKray – Are the people who own the tags charged also then?

Mr. Erickson – No. A person can't be charged with both a misdemeanor and a felony. The way this is put in here you can't charge people with both a felony and a misdemeanor. You have to decide up front which you will charge them with. In paragraph "C" is to make it clear to the courts that a conviction is different than offense. Questions

Rep. DeKray – Is there any way that these offences can be transferred to different jurisdictions? There are states' attorneys out there that will not prosecute game & fish violations.

Chairman Porter – Any further questions for Mr. Erickson? Rep. Hunskor

Rep. Hunskor – Are all of our neighboring states involved in the compact? How many?

Mr. Erickson – I was told there 35 states in it now.

Chairman Porter – Any other questions for Mr. Erickson? Further testimony in support of HB 1188? Any opposition to HB 1188? Mr. Timion would you come up and address a couple questions?

Rep. Hunskor – As far as the compact – neighboring states that are all involved, how many, how far out does it go and is there any relationship with the provinces?

Mr. Timion – Currently there are 31 and in the first of February 32 – Louisiana will be joining. Virtually all the western states including Alaska are compact members. The only state in the Midwest that is not a member is Nebraska.

Rep. Hunskor – How about the provinces?

Mr. Timion – This is strictly a relationship between states, it doesn't include the federal government nor any other country. It is strictly a state to state relationship.

Chairman Porter – Any other questions for Chief Timion? We will close the hearing on HB 1188.

Rep. Keiser – I move we pass HB 1188.

Chairman Porter – We have a motion from Rep. Keiser and a 2nd from Rep. DeKray for a Do Pass on HB 1188. Any discussion?

Yes 11 No 0 Absent 2 Carrier Rep. Drovdal

Date: 1-22-09
Roll Call Vote #:

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1188

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ As Amended

Motion Made By Keiser Seconded By DeKrey

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hanson		
Vice Chairman Damschen	✓		Rep Hunskor	✓	
Rep Clark	✓		Rep Kelsh	✓	
Rep DeKrey	✓		Rep Myxter	✓	
Rep Drovdal	✓		Rep Pinkerton		
Rep Hofstad	✓				
Rep Keiser	✓				
Rep Nottestad	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Drovdal

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

REPORT OF STANDING COMMITTEE

HB 1188: Natural Resources Committee (Rep. Porter, Chairman) recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1188 was placed on the Eleventh order on the calendar.

2009 SENATE NATURAL RESOURCES

HB 1188

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1188

Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: March 6, 2009

Recorder Job Number: 10391

Committee Clerk Signature

Minutes:

Senator Lyson opens the hearing on HB 1188, relating to exploitation of wildlife.

Representative Todd Porter this bill comes before you after a couple of sessions of work on game and fish violations. We have had very egregious violations of our game and fish laws. A couple things have happened. We had situations where people have committed 100-300 misdemeanors as part of an investigation. North Dakota Game and Fish Department and the investigating officers typically will pull in US Fish and Wildlife in those most egregious situations because there is no felony provision in North Dakota law. That brings the federal government into it. There is a felony in the US Fish and Wildlife provisions. It also brings the three year delay in getting someone convicted. We wanted to have the ability to charge for a felony in the most egregious cases. We want it to be a North Dakota felony and have it go through our judicial system so it goes through faster. We had a case where an outfitter shot a bald eagle and the case had to go to the feds because North Dakota does not have a provision to cover an egregious activity.

Senator Freborg Why isn't our law consistent with the federal law if we want a felony for some offenses?

Representative Porter that was exactly where we were coming from on this. We need something in place that is targeted at those large violation type situations so we don't have to rely on the feds coming in and being a part of the investigation.

Ladd Erickson, Mclean County State's Attorney, four years ago I got together with some people before the session and we re-wrote the entire code and we did it in an agreement fashion. One issue we came across was how you deal with egregious violations. I was averse to doing a felony because I didn't know how you would do it and we left it off the table because we couldn't get it right. The beginning of the research on this involved him having legislative council get 15 state's game and fish codes. We studied what other states were doing in these situations. We didn't really find anything that would fit in here. The main problem I want you to consider is to make the distinction between what is going to be misdemeanor or infraction conduct and what is going to be a felony. Because game and fish occupy the code and they have these proclamations. There are a lot of different regulations out there. The proposal before you is to hopefully create a clear demark when the state's attorneys are going to charge a felony and it is not arbitrarily applied from county to county. I have some photos that I think will help you understand what this bill is about (see attachment #1). The reason the proposals before the committee to suspend for a conviction of a felony is this, other states in our area suspend people for up to life for very egregious violations. If we do not suspend for up to life currently our law only allows us to suspend for up to three years. The person who is suspended for up to life out of state is only suspended in North Dakota for the amount of time you can suspend in North Dakota which is three years. I don't personally seeing a judge suspending someone for life. The proposal is written like that so we can turn those people away who have suspended for life in other states. When you work on game and fish bills you are typically working on strict liability crimes. This is actually creating the highest mental state

we use in criminal law, intentionally. The second thing you will see in here is the predicated offenses all have to be misdemeanors. Many game and fish issues are in the proclamation or are infractions and those will not count as predicated offenses. If you have 5 or more offenses you can charge them with a felony, but you cannot charge them for both. One way they can charge for a felony is if they can prove it is a pattern and it is happening over and over. The other way would be if the government proves there is more than 4 times the daily limit. The government is going to have to prove that each predicate violation was intentionally committed and prove each violation with proof beyond reasonable doubt.

Senator Schneider intentionally is the same mental state as knowingly right?

Ladd Erickson it is a little different. The definitions are written in here.

Senator Triplett I am wondering if we have the word assistance defined either in this statute or elsewhere?

Ladd Erickson I don't think it is it would be dictionary definition.

Senator Triplett I am concerned with how some people are going to interpret the language. I don't want an 18 year old to get a felony because it was a family operation and dad coerced him into helping.

Ladd Erickson If you look at the last intentionally there and you think of how the jury would be instructed on it, it would be intentionally trying to be involved in the crimes. So the government would have to prove you intentionally managed and supervised.

Senator Triplett I agree 4 times the daily limit gives you a clear cut off for modest offense and really bad offenses. I am not sure something occurring over more than 2 days gives you that same kind of spread. So that means that if you can prove someone is over there limit by 1 bird on the third day they are in offense. I am not sure that it helps when you are trying to make a clear demarcation between casual offenders and serious offenders.

Ladd Erickson there are two ways a case comes in. One is when the warden comes across them or someone calls them in. The ones that are causing the State's Attorney's problems are the undercover where there are 100 violations and there is pattern. It isn't going to necessarily going to be one day when someone violates it is going to be those people who do it day after day. You have to show at least 3 days of that conduct.

Senator Triplett do you mean 3 consecutive days?

Ladd Erickson yes.

Senator Triplett maybe we should put that in there then because I would interpret it differently.

Ladd Erickson I don't know if consecutive would actually work. If you look at it in a hunting sense. We are looking for a pattern and say you hunt two days and go over your limit both days but then take off the third day because of rain. The point is to prove a pattern, not the consecutiveness in it.

Senator Triplett and Ladd Erickson continue to discuss this issue.

Roger Kaseman, North Dakota Wildlife Federation, we strongly support this bill.

Larry Schneider, I personally feel that putting game violations in the category of felonies are tremendous. I think it is going too far in my opinion. My greatest concern is the page 5 line 16. Right now the number is 5 and I feel that in future session's people are going to want to reduce it down. Game violations can occur rather easily. When you are hunting sometimes you forget certain things. Tells personal story. I would like to show you a copy of the snow goose regulations (see attachment #2). I just cut this out of the paper (see attachment #3). There are tremendous penalties for violating laws. No one talks about the suspensions. It you violate the law you can be suspended for a year. So some of these people may never get to this point because they will continue to violate each year and continually get suspended.

Senator Lyson closed the hearing on HB 1188.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1188

Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: 4/2/09

Recorder Job Number: 11673

Committee Clerk Signature

Minutes: **Senator Lyson, Chairman**

Committee Work

Senator Triplett states she has concerns about this bill. She said they are trying to make a big deal out of people violating the hunting rules in regards to poaching and there were guides helping people to exceed. She agrees with the concept of the bill but thinks they go a little far. They suggest that doing something for more than two days makes it a major game violator but it doesn't have to be consecutive days. She doesn't think this builds a pattern of making someone a felon.

Senator Lyson says this bill was brought to light over two incidents.

Senator Triplett motions for a do not pass

Senator Pomeroy seconds

Senator Schneider asks if there is a way the bill could be cleaned up instead of killed. There still seems to be a lot of behavior we want to prohibit here.

Senator Hogue remarks that it says in the bill you must be convicted seven or more times in a ten year period or you committed 5 misdemeanor offenses in 3 year period. He says you have to be a serial game law violator before you can be a class C felon. He supports the idea if you have been convicted 7 times something should be done.

Committee votes on a do not pass

Vote – 6 no , 1 yes, motion fails

Senator Lyson asks for more discussion

Senator Hogue says the bill could be worked to accomplish what it intended. He will bring some amendments in to the next meeting.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1188

Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: April 2, 2009

Recorder Job Number: 11698

Committee Clerk Signature

Minutes:

Committee Work

Senator Lyson said that we had a motion to Do Not Pass and it failed 1-6-0.

Senator Hogue presented an amendment but he wanted to run it by Senator Triplett because she had some main concerns. As he reads the bill it is trying to get at the serial offender that isn't deterred by convictions for misdemeanors or fines and that is what he believes that section 2 is getting at. What the amendments do is change all to convictions so if you are convicted of five or more misdemeanor offenses within a three year period or if you are helping somebody who commits five or more in a three year period or if you are convicted of seven or more in a ten year period, at that point in time you can be charged and convicted of a class c felony.

Senator Triplett she said that the amendments do help a lot to make it more clear. She did say on line 18 take out the word "to".

Committee worked on some additional wording in the amendment.

Discussion followed on earlier testimony. Roger...made some comments what the officer had actually meant.

Senator Lyson said he liked the amendments that were offered here better than what the officer's explanation was.

Senator Triplett she still has a little discomfort with the piece in section 2, where we have left the phrase, "unless the state proves that the conduct occurred over more than two days. She thinks it needs more clarity. Example: More than two days within a calendar year or more than two days within a defined hunting season. She said it can't be more than two days spread out over a period of years. It seems wide open and is not sure of the intent. The states attorney that testified suggested that he was talking about two days in very close proximity.

Senator Schneider said that he thought her suggestion, in the morning, to add consecutive in between two and days may clarify it. When he read it, he thought that was what he meant but said she had a good point and it is unclear.

Discussion followed on the two day license period or consecutive days. (Microphone not on).

Senator Lyson commented that is why we have a judge or state's attorneys. He thinks we are trying to read too much into this.

Senator Triplette said that she would concede and leave it alone, she thinks Senator Hogue's amendment improves it a lot.

Senator Hogue moved the amendment with the wording they discussed on page 2, line 18 replace the work furnishes with furnishing.

Senator Erbele seconded.

Carried by a voice vote.

Senator Schneider moved a Do Pass as amended.

Senator Erbele seconded.

Roll call vote: 7-0-0

Senator Schneider will carry the bill.

Date: 4/2/09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

Senate Natural Resources Committee

☐ Check here for Conference Committee

Bill #: 1188

Legislative Council Amendment Number

Action Taken ☐ Do Pass ☑ Do Not Pass ☐ Amended ☐ Amendment

Motion Made By Sen. Triplett Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Stanley W. Lyson, Chairman		✓	Senator Jim Pomeroy		✓
Senator David Hogue, Vice Chairman		✓	Senator Mac Schneider		✓
Senator Robert S. Erbele		✓	Senator Constance Triplett	✓	
Senator Layton W. Freborg		✓			

Total (Yes) 1 No 6

Absent

Floor Assignment

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

failed

UNOFFICIAL PROPOSED AMENDMENTS to HB 1188

- proposed by Sen. Hogue -

Page 2, line 15, replace "intentionally" with "is convicted of"

Page 2, line 16, remove "Commits" and replace "five" with "Five"

Page 2, line 18, replace "Furnishes assistance, management" with "Furnishing, assisting," and replace "supervision" with "supervising"

Page 2, line 21, remove "Commits a title 20.1 misdemeanor offense after having been previously"

Page 2, line 22, remove "convicted of"

Renumber Accordingly

Date: 4/2/09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

Senate Natural Resources Committee

☐ Check here for Conference Committee Bill Number: 1188

Legislative Council Amendment Number Unofficial Hogue amend - change

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended ☑ Amendment

Motion Made By Sen. Hogue Seconded By Sen Erbele

Senators	Yes	No	Senators	Yes	No
Senator Stanley W. Lyson, Chairman			Senator Jim Pomeroy		
Senator David Hogue, Vice Chairman			Senator Mac Schneider		
Senator Robert S. Erbele			Senator Constance Triplett		
Senator Layton W. Freborg					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

pg 2 line 18 - Δ to Jeremiah

Carried voice vote

Date: 4/2/09

Roll Call Vote #: 3

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

Senate Natural Resources Committee

☐ Check here for Conference Committee Bill Number: 1188

Legislative Council Amendment Number

Action Taken ☑ Do Pass ☐ Do Not Pass ☑ Amended ☐ Amendment

Motion Made By Sen. Schneider Seconded By Sen Erbele

Senators	Yes	No	Senators	Yes	No
Senator Stanley W. Lyson, Chairman	✓		Senator Jim Pomeroy	✓	
Senator David Hogue, Vice Chairman	✓		Senator Mac Schneider	✓	
Senator Robert S. Erbele	✓		Senator Constance Triplett	✓	
Senator Layton W. Freborg	✓				

Total (Yes) 7 No 0

Absent

Floor Assignment Sen Schneider

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

REPORT OF STANDING COMMITTEE

HB 1188: Natural Resources Committee (Sen. Lyson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1188 was placed on the Sixth order on the calendar.

Page 2, line 15, replace "intentionally" with "is convicted of"

Page 2, line 16, replace "Commits five" with "Five"

Page 2, line 18, replace "Furnishes" with "Furnishing"

Page 2, line 21, remove "Commits a title 20.1 misdemeanor offense after having been previously"

Page 2, line 22, replace "convicted of seven" with "Seven"

Renumber accordingly

2009 HOUSE NATURAL RESOURCES

CONFERENCE COMMITTEE

HB 1188

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1188

House Natural Resources Committee

☒ Check here for Conference Committee

Hearing Date: 4-16-09

Recorder Job Number: 11909

Committee Clerk Signature Nancy L. Gerhardt

Minutes:

Chairman Porter: Opened the Conference Committee to order.

Senator Triplett: We thought the way bill was drafted left so much flexibility that overzealous prosecutors might be able to read into the language something that would make less egregious behavior into a felony. What caught my attention personally was on pg. 2, line 28 – referencing "conduct occurred over more than two days". It was so undefined. We thought you could read that as conduct occurring over more than 2 days in 2 different years, or though out a season or whatever. It was an individual violating a few hunting laws all of a sudden could become accused of a felony and have their life ruined for something that wasn't really the egregious level of poaching we felt the sponsor intended to get at. We were trying to make sure the words would make a clearly line between felony behavior and non-felony behavior.

Senator Schneider: I received an email from Ladd Erickson and he doesn't mince his words on the senate amendments, he said "The amendment will invalidate the statute and make it so it will never be able to be charged." I don't know if Lad provided you with any amendments to this, or if he just wanted to go back to the house version, but those were his concerns.

Senator Triplett: We changed – on page 2 line 15 – "intentionally" to "is convicted of". That's a real key difference in the two versions. What Mr. Erickson was intending is these would not actually be convictions, but they were just behaviors that procedures were judging to be intentional acts that would let people go on making some of these acts while they investigating and watching, and they would go snatch them for all of them. We changed that to actually be prior convictions. That's why he is so annoyed with us, because we did make it a lot tougher to get a felony conviction.

Senator Hogue: The 200 version kept jumping between conviction and commission. I thought there was too much latitude for the prosecutor to charge a felony by just serving a bunch of separate charges that he is accusing them of committing. I would like to make it a little clearer that it would be for the serial offenders that they need convictions, not commissions. I wanted to take away some of his discursion to vaselate between convictions and commissions. That's why I took out the commission language and said you have to have a conviction. You are going to start charging people with felonies. To prove they are a serial offender.

Senator Triplett: You may notice they appointed all three of the lawyers to this bill. We all feel passionately that felony level conviction is a really, really serious deal. Being convicted of a felony is a very serious thing. The difference between a class "A" misdemeanor and a class "B" felony like night and day in how a person is perceived for the rest of their lives. This language seemed way to soft to us. We aren't unwilling to negotiate, maybe the 7 could be 5, or whatever, but in terms of the basic idea, we don't take a felony conviction lightly.

Chairman Porter: I don't think anybody took the felony lightly. A lot of times just reading nubs of the news we see the felony charge was dismissed by the prosecution. They always charged them with the felony and then ended pleing it down to a "A" misdemeanor or "B" misdemeanor. I do think the way it is written I would tend to agree with Mr. Erickson that it

does become a useless law for the prosecution of the egregious individuals it is intended to go after. When I say that it is based on the fact when you have an individual and since it's a known case and it's already been prosecuted such as the one up at the Sheyenne Lodge, where they walk in and there's 300 ducks laying in a garbage pit. To convict that person of 5 misdemeanors, and then charge them with a felony doesn't make a lot of sense when you are standing there looking at that kind of an egregious action. If that number needs to move so if they have committed 10 misdemeanors, or 15 misdemeanors, or 20 misdemeanors so we are truly focused on those egregious cases. I don't have a problem with that. To actually say they have to be convicted first of those 5 misdemeanors, we are going to go back to the same situation we are currently in. We will have 3 to 5 year delays on prosecution of these cases because the law enforcement community is going to rely on the federal statutes in those cases and convict them of felonies through the federal system. Part of the reason behind this bill is to give our law enforcement community the ability to not have to have those kinds of delays. It's not that we don't have the ability now to convict someone of a game & fish felony. We don't have the ability in the state law to do it. The law enforcement community goes to the federal system and gets those convictions federally, but it takes so long in the case of the one at the Sheyenne Lodge. That individual continued to operate their duck killing factory for 3 years before they were shut down. It kept mounting up and that's what this bill was intended for. This bill was not for the hunter that goes hunting and gets caught with 4 roosters and a hen. It's intended for those situations that far exceed. I do appreciate the fact we have to make sure we aren't giving the prosecutor's an opened felony. I do want to work toward something that works for both so we do have something that can be used by law enforcement and prosecutors. If we can't get something that can be used then we might as well kill the bill. We also need to have something they can use without jumping to that federal hoop and getting

bogged down in the federal system where we have a state charge that typically can be charged out and dealt with in 6 to 9 months, and that person's illegal actions are done. That's the goal of this legislation.

Senator Triplett: You brought up 2 points. One, on the federal felony issue, I'm not sure we received specific information on what it takes to make a felony in this area of law. Did you get that information specifically?

Chairman Porter: We had did have that information presented to us. Also could you get the actual federal statute that applies to that from your counterpart at US Fish & Wildlife. We will be meeting on this again.

Robert Timian: Chief Game Warden – ND Game & Fish – The federal law that applies is the Federal Lacy Act. That is generally the statute we work with. That's generally the bedrock law used to get the felony statute. That's the illegal interstate transport of wildlife, or the illegal transport of wild life. That's generally what it is. That's based on predicate offences at the state level. If you shot an over limit or did something illegal on the state level, then transport those birds away, the federal AC act would be enacted.

Chairman Porter: If a ND game warden witnesses someone shooting a bald eagle, what in state court could they be charged with?

Mr. Timian: A class "A" misdemeanor. Under this law we are actually talking about 1 particular portion of an overall law in the felony law. We appreciate the legislature, both the house and senate, with potentially giving us a valuable tool here. We would hate to see the tool disappear because of a disagreement of one section. We would hope you wouldn't throw the baby out with the bathwater. We do investigations, they sometimes play out over months, and sometimes years. In one particular case, after the end of the investigation, which was a year in length, we had over 100 violations we had the evidence to prove. All being

misdemeanors. The prosecutor could go forward. They will pick a representative number, they charge them out, and then there was a disagreement over whether, because they were "B" misdemeanors, even if there was convictions, if the sentences, whether it was fines or jail terms, could be consecutive or concurrent. The view that won the day was with misdemeanors you are not allowed to stack the penalties. It's 30 days and $1,000 and that's it. It depends on each prosecutors view. You started out with 100 violation with hard evidence that go through the system, and in the end at the conviction level the sentence is as if he committed a single misdemeanor. That's an additional reason why the "A" is in there. That's why it was commission instead of conviction because it was based on the convictions didn't happen in the past, they'll happen at the time of the investigation. The commission may have occurred over several months, but there is no record of conviction because it doesn't exist. In sect. 2 it tried to address that. Obviously not the satisfaction. The conviction couldn't be a single day's events. That alone couldn't move it to a felony. If you had them more than a day, maybe 2 days is too short a time. The intention was to address a serious issue with very serious violations, multiple violations, that currently we have a very difficult time addressing to the level we feel they need to be addressed. We feel the only result was to go to the federal prosecution and we would like to have it state.

Senator Triplett: Instead of saying, near the bottom of sec. 2, they were talking a person taking or possessing more than 4 times the daily limit. If we are talking about factory duck killing, maybe we need to make that number bigger to distinguish somebody who takes a few more than their daily limit, maybe 4 times isn't enough. Maybe we should say 10 times over the limit. We are really talking about big time serious poachers.

Mr. Timian: Maybe extending the 2 days to 4 days rather than the limit. 4 times the daily limit is in most cases is an almost unusual occurrence, a very serious nature. The vast majority of

over limits we deal with. We have no problem dealing within the misdemeanor realm. In fact one for upland game pheasants, grouse, and for water fowl, 1 bird over the limit doesn't trigger even a criminal citation. It's a non criminal offense. You have to actually go to 2 birds over limit before you even trigger the criminal offense. We rarely see people who take 4 times the day limit. It's almost not heard of. In those cases where they are taking 4 times the daily limit, it is an egregious intentional act. That's why Lad picked 4 times. It almost never happens.

Chairman Porter: For instance ducks, that would be 24 ducks per day.

Mr. Timian: As of last year's limits that would have been 25 ducks in a single day. I would have liked to see the commissions on one rather than the convictions. Overall if there is not a consensus on that, I would hope the bill at least in some part would go forward. The felony statute still has things in here that would work. In 2 years, if we really have troubles at the prosecution level, we certainly have the ability, I hope, to come back and say this is our problems, could we address it. I would like in 1 A the commissions rather than the convictions for the reasons I've stated. I would hate to see the whole bill disappear because of 1 point of contention.

Rep. Hanson: Is there a different section in code for big game vs. birds?

Mr. Timian: Yes, that is in a different section. What you are referring to is a mandatory restitution amount. We still use that. This bill would not effect that at all. That is based on a conviction. If someone is convicted of illegally killing or taking a big horn, moose, or elk, there is a statutory amount they have to pay in restitution.

Chairman Porter: Comments? As we look at we do have a common goal. We need to tweak some numbers in order to get to the point we make sure we are targeting those individuals that we're intending to target.

Senator Triplett: None of us have a desire to kill the bill. We agree there are egregious felony people that needs to be prosecuted at a felony level.

Chairman Porter: Any thoughts on numbers?

Senator Schneider: I'd like to talk to McLean Co. States Attorney – Lamb – and see if we can raise the numbers.

Chairman Porter: Do we want, as this gets scheduled, the earliest we could meet again would be next Tuesday. Do you want me to have Lad here to run through it? I will get in contact with Lad and have him be here so he can run through it with us and we can have a general discussion on the numbers we are looking at.

Senator Hogue: I like the chief's suggestion about stretching out that period on line 26 to 2 days. That could be a single hunting trip. Stretch that out to maybe 30 or 25 days.

Chairman Porter: We will ask for 1 hour. We will shoot for Tuesday April 21st.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1188

House Natural Resources Committee

☒ Check here for Conference Committee

Hearing Date: 4-21-09

Recorder Job Number: 12042

Committee Clerk Signature Nancy L. Gerhardt

Minutes:

Chairman Porter: Called the conference committee for HB 1188 to order. Mr. Lad Erickson is here.

Mr. Lad Erickson: McLean Co. States Attorney – See **Attachment # 1**. This is based off the bill as it was in the house, not off the engrossed version in the senate. Our concerns with the senate version – when you go too convicted and you still require intentionally, the prior convictions are never going to show that on a judgment. When you come into court there's no reason for it, so the judges are just going to sign off on a judgment. This doesn't have that mental state of intentionally on it. The way the senate version was, one of the problems was it got into an unchargable situation because none of the prior offences had intentional on the judgment, but the law required you only could charge out a felony if there were 7 intentionally prior offences. It was just a word change; I don't think it was intended. It was a problem. We are also looking at a law that would allow us, when there is a very egregious situation, to charge a felony. Before there's a bunch of prior convictions. The senate has expressed some concerns about that, I believe the senate's concerns are legitimate. This is a new law, it should be tight, and if problems develop they should be developed where we come back and loosen it, as opposed to come back and tighten it. I respect the concerns of the senate. A

couple proposals I have here for the committee to consider are: Originally we were looking at committing offences within a 3 year period. Talking with Warden Timian, picking through how the cases actually come in, we think we can reduce that by 1 year to 2 years. That shouldn't be a problem because, our under covers is where a lot of the big egregious stuff comes up. The game & fish has under covers. Those are generally going to be completed within 2 years. The first year you run the undercovers in and there's some violations, the 2nd year is where there's of hundreds of violations because there's more comfort level between the operators and the under covers. That can be accomplished within 2 years. That should tighten up some of the things. We also added another paragraph. The paragraph "a" would be "class "A" misdemeanor events is 5 or more. I want to make an argument to the committee. Maybe that should be 4. The class "A" misdemeanor is the illegal taking of big game. Poaching deer, the law here would be on the 5th poached deer within 2 years under this proposal as it is written. That would be potentially a felony. The state will have to prove up all those priors. See **Attachment # 2**. Just for an example, this is a criminal case from Valley City from a states attorney's perspective. The problem is: this is only 30 counts, but trying to manage a case with this many accounts in court, and trying to keep a jury straight on each particular violation, is our challenge. When you have a hundred counts like the case in Stutsman Co., you try to do a hundred count misdemeanor case is what we're trying to deal with from our perspective. What we would do here, each of these are an "A" misdemeanor. The argument would be if we had this law in place what you would see, under the way this version of the amendment is, is 5 of these counts would be charged out as a class "C" felony, then there would be 5 individual counts there. The state would have to prove each one of the 5 that were intestinally committed by the person. If the jury did find all 5 counts then he would be convicted of the "C" felony. That is much more manageable for the court systems, & juries as opposed to the multiple.

Although I put in the amendment 5 deer, I think there is a policy question there. What that means is, you poached 4, then the 5th one turns it into a felony. Should that be you poached 3 in 2 years and the 4th one becomes a felony. That's a lot of deer poaching. The additional paragraph here "B" we moved that up to 7 and reduced it down from 3 years to 2 years. Again these have to be misdemeanors. A number of violations are infractions. In the game & fish code we have to prove these are misdemeanors. The senate's concern that this is too broad, this is a proposal to potentially tighten it up a little. Again, these are going to be like it is a big over limit case on birds or fish, you would alleged out 7 counts. The way paragraph 2 is written in the law the state has to prove each individual count and then if you prove up more than 7 you could be convicted of a felony. The concern I would have with going even broader than that is again management. We're trying to manage these cases in court. Paragraph "C" is an adjustment on the years. Down below are syntax adjustments, because the paragraphs change but we didn't change anything else.

Senator Hogue: Referring to the Attachment # 2: Let's assume you get 30 convictions – all counts – does the court have the flexibility in that situation to have these sentences run consecutively? Can you explain how that works?

Mr. Erickson: I think they do, there's other states attorneys that don't. Generally it's my view you can stack. Other states attorneys take a different view of the way that's written. That's actually based on a title 12.1 statute.

Rep. Hanson: Could you explain "C" to me.

Mr. Erickson: That language is out of the state racketeering law. That is very similar to what they call accomplice liability. That language is designed so if you're a guide or outfitter and you are running a criminal guide or outfitting operation, and you're managing and you're assisting in facilitating the criminal operation of clients. "C" is designed to address that.

Rep. Hanson: What would be the definition of assisting? Making a phone call or actually getting involved in poaching?

Mr. Erickson: If you look on line 1, "intentionally", we are not going with strict liability here. All the game & fish stuff you've worked on over the years there is strict liability. We are putting a mental state the government has to prove. Intentionally trying to assist in the commission of a crime. Inadvertence assistance, like giving someone a ride, should not meet the mental state. The government's got the burden.

Senator Hogue: In Sub Sec. 2, you as the prosecutor would have to prove the conduct occurred over more than 2 days. How would you feel if that was stretched out to 7 or 10 days?

Mr. Erickson: I wouldn't think that was a good idea because, the 2 days when we were war gaming this out, and takes the week-end excursions away. The states got to prove 3 days; it has to be more than 2. That takes the week-end, double limiting kind of thing out. More than 2 make sure it is done as a pattern; it's not done as a 1 time incident. Adding those days wouldn't be very helpful. 3 times the daily limit is an awful lot over the limit. 4 was added because we don't see that much.

Rep. Hanson: I'll move the amendment.

Chairman Porter: This goes back to the 200 version of the bill, so that would mean the motion is the senate recedes from their amendment and then we are further amending.

Senator Schneider: 2nd that motion.

Chairman Porter: We have a 2nd. Discussion?

Senator Hogue: I wanted to ask the committee about Mr. Erickson's explanation about stretching out the 2 days. The individuals I don't want to be charged under this would be the people who go out on the week-end with a group of 5 or 6 people and they throw all the birds in 1 pickup. This amendment as written would allow that person to be charged with a felony.

I'd like to add a couple more days to that. Over 2 is 3, and three could be a Friday, Saturday, Sunday situation.

Chairman Porter: I guess Senator Hogue, I don't know that your example fits because of the predicated language and the intentional language that follows. I understand the scenario you are presenting, but it doesn't fit the intently language. Someone who just takes the pick-up load of ducks that all the guys shot and drives in with them, then gets caught over the limit because the other people are following behind or are missing, the state would have a hard time proving that person took all those ducks themselves. While they may have broken the law transporting more than their limit, I don't know that would fit in the way this reads.

Senator Hogue: The crime would be to possess them. If you throw them in the back of your pick-up you are intentionally in possession of them. Is that accurate?

Mr. Erickson: That could be. Intention is obviously decided by the jury. Would it help if we go to 3 days here? That would mean the state would have to prove 4. You would have 2 ways of proving it then. You're more than 4 times the daily limit, and a 1 time stop with 300 ducks in your vehicle, or as a pattern, over 4 days or more would be how that would work. For what we need for the big cases that wouldn't is a problem. I just am concerned with going more than that. If you went from 2 to 3 that way the state has to prove 4 days.

Senator Triplett: I'd be a lot more comfortable with that too.

Chairman Porter: We can change the amendment if everybody is in agreement the wording would be more than 3 days rather than more than 2 days.

Rep. Hanson: If all the birds are in a pick-up and you are following, is that legal if you are within so many feet, so many yards, or whatever it is?

Chief Timian: That situation occurs routinely, both in waterfowl, upland, deer hunting, where a party is out with 2 or 3 or 4 vehicles and they have all the birds, or all the game in 1 vehicle.

By practice, and quite frankly the law, as long as the party is traveling together it is considered 1 party. When the warden stops and checks the party, all three vehicles pull over, and they go we have all the game in pick-up 1, they count the birds, they check the licenses, and it's not an issue. The only issue is say you have all the game in pick-up 1, and you have 3 vehicles, and you come to the intersection and pick-up 1 goes west to Dickinson and the other two turn east to Bismarck. Now pick-up 1 definitely has an issue. As long as they stay together we don't have a problem with it.

Chairman Porter: Before we move forward the other question for Mr. Erickson was under the class "A" misdemeanor side of it. If we are comfortable with the 5 number or if we want to move it to the 4 number.

Senator Triplett: I'm comfortable with the 5, I agree with Mr. Erickson's comment that we should keep it as tight as possible this time around. If it becomes unworkable you folks will be back asking for amendments later. I think it will be easier to open it up than to lock it down further.

Chairman Porter: So we're clear, the motion from Rep. Hanson is that the senate recedes from the senate amendments and that we further amend. In the further amendment, under sub sect. 2 it is more than 3 days. Any further discussion on that motion? We will call the roll on that motion.

Vote: 6 Yes 0 No 0 Absent Motion Carries

Carriers: House - Representative Porter Senate: Senator Schneider

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number HB 1188 (, as (re)engrossed): Date: 4-16-09

Your Conference Committee House Natural Resources

For the Senate:				For the House:			
Roll		YES / NO		Roll		YES / NO	
P	Senator C. Triplett	✓		P	Chairman Rep. Porter	✓	
P	Senator D. Hogue			P	Rep. Damschen	✓	
P	Senator M. Schneider			P	Rep Hanson	✓	

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

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

____, 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: _____

SECONDED BY: _____

VOTE COUNT ___ **YES** ___ **NO** ___ **ABSENT**

Revised 4/1/05

Adopted by the Conference Committee
April 21, 2009

VR
4/21/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1188

That the Senate recede from its amendments as printed on page 1176 of the House Journal and pages 1008 and 1009 of the Senate Journal and that House Bill No. 1188 be amended as follows:

Page 2, line 16, after "20.1" insert "class A" and replace "three-year" with "two-year"

Page 2, after line 17, insert:

"b. Commits seven or more title 20.1 misdemeanor offenses within a two-year period;"

Page 2, line 18, replace "b." with "c."

Page 2, line 19, replace "five" with "seven"

Page 2, line 20, replace "three-year" with "two-year"

Page 2, line 21, replace "c." with "d."

Page 2, line 27, replace "a" with "b" and replace "b" with "c"

Page 2, line 28, replace "two" with "three"

Page 2, line 31, replace "c" with "d"

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number HB1188 (, as (re)engrossed): Date: 4-21-2009

Your Conference Committee House Natural Resources

For the Senate: Roll		YES / NO		For the House: Roll		YES / NO	
✓	Senator Hogue	✓		✓	Chm. Porter	✓	
✓	Senator Triplett	✓		✓	Rep. Wamschen	✓	
✓	Senator Schneider	✓		✓	Rep. Hanson	✓	

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

the (Senate/House) amendments on (SJ/HJ) page(s) 1176 - _____

____, and place _____ on the Seventh order.

✓, (adopt) (further) amendments as follows, and place 1188 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: 4-21-2009
CARRIER: Rep. Porter / Senator Schneider

LC NO. 90427.0203	of amendment .0400
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Rep. Hanson

SECONDED BY: Senator Schneider

VOTE COUNT 6 **YES** 0 **NO** 0 **ABSENT**

Revised 4/1/05

REPORT OF CONFERENCE COMMITTEE

HB 1188: Your conference committee (Sens. Hogue, Triplett, Schneider and Reps. Porter, Damschen, Hanson) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1176, adopt amendments as follows, and place HB 1188 on the Seventh order:

That the Senate recede from its amendments as printed on page 1176 of the House Journal and pages 1008 and 1009 of the Senate Journal and that House Bill No. 1188 be amended as follows:

Page 2, line 16, after "20.1" insert "class A" and replace "three-year" with "two-year"

Page 2, after line 17, insert:

"b. Commits seven or more title 20.1 misdemeanor offenses within a two-year period;"

Page 2, line 18, replace "b." with "c."

Page 2, line 19, replace "five" with "seven"

Page 2, line 20, replace "three-year" with "two-year"

Page 2, line 21, replace "c." with "d."

Page 2, line 27, replace "a" with "b" and replace "b" with "c"

Page 2, line 28, replace "two" with "three"

Page 2, line 31, replace "c" with "d"

Renumber accordingly

HB 1188 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

HB 1188

THE HUMANE SOCIETY
OF THE UNITED STATES

January 21, 2009

House Natural Resources Committee

Re: Please SUPPORT House Bill 1188

Dear Committee Members:

On behalf of The Humane Society of the United States (HSUS), and our over 19,000 constituents in North Dakota, I urge you to support House Bill 1188 to create the crime of "exploitation of wildlife" for repeated poaching violations.

Hunters, conservationists, environmentalists, and animal advocates may not agree on all issues, but we all agree that those who commit repeated crimes against wildlife should be punished accordingly.

In an October 11, 2007 *Time* magazine article, wildlife officials estimated that for every wild animal killed legally another is killed illegally. With tens of millions of animals legally hunted each year, the number of animals poached is staggering.

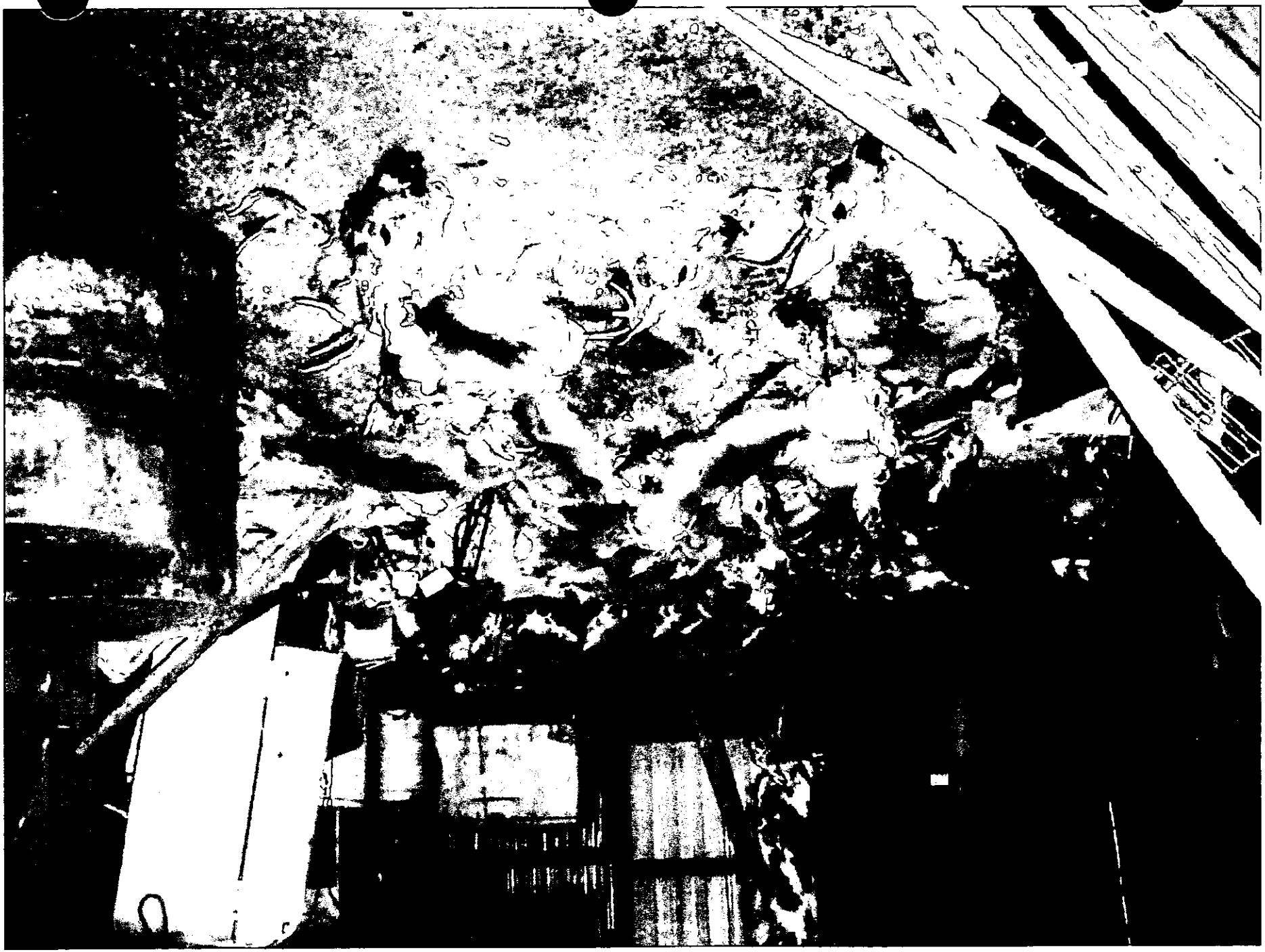
Wildlife belongs to all people, but poachers step into North Dakota's backyard to exploit animals for their own personal gain or thrill knowing they will most likely not be caught and if they are, punishment will be minimal. With each enforcement officer covering hundreds of square miles each, the most effective tool in stopping poaching must include adequate deterrents. Put simply, the cost of being caught must outweigh the risk and profit of poaching.

In addition to failing to act as a deterrent, low penalties for poaching sends a message to poachers and the wider public that wildlife has little or no value.

Thank you for your serious consideration of this important issue.

Sincerely,

Andrew Page
Senior Director, Wildlife Abuse Campaign



Attachment 2
HB 1188

ly to foul.

Are you rigorous in having maintenance performed?

If you, like so many of us, are less than scrupulous about having it done, it won't take long to recoup the extra parts cost, and you'll enjoy quick starts and thrifty performance for tens of thousands of miles to come," said Smith. For more information, visit www.boschautoparts.com.

ATTENTION GOOSE HUNTERS

The North Dakota Game and Fish Department announces the following summary of regulations from amendment number two of the 2008-2009 Small Game and Furbearer Proclamation.

2009 SPRING LIGHT GOOSE HUNTING SEASON
February 21 - May 10, 2009 — Statewide

- Resident hunters can hunt during this season using either 2008-2009 or 2009-2010 resident hunting licenses (fishing, hunting and furbearer certificate, small game license, general game and habitat license (or combination license)).
- Nonresident hunters can hunt during this season by purchasing a 2009 nonresident spring light goose season license ($50.00). This license enables nonresidents to hunt statewide for the entire season and does not affect their eligibility to purchase a regular nonresident waterfowl hunting license for the fall 2009 season.
- Required licenses may be purchased only through the Department's Bismarck office, through the Department's toll free phone licensing system (1-800-406-6409), or through the Department's website at gf.nd.gov.
- **All 2009 Spring Light Goose Season hunters must register with the Harvest Information Program (HIP).** Resident hunters with valid 2008-2009 licenses need only call **1-888-634-4798** to be HIP registered. HIP registration can be obtained with license purchases through the Department's Bismarck office, toll free phone licensing service, or website. HIP registration for this spring season will carry thru for fall hunting.
- The Federal Waterfowl Stamp is not required for this season.
- Only light geese may be taken. Light geese include snow geese, blue geese, and Ross's geese. They may be taken statewide from February 21 thru May 10, 2009.
- There will be no daily limit or possession limit on light geese during this season.
- Shooting hours will be from 1/2 hour before sunrise to 1/2 hour after sunset.
- Electronic and recorded calls, as well as shotguns capable of holding more than 3 shells, may be used to take light geese during this season.
- All Waterfowl Rest Areas designated for 2008 are open during this season.
- **Non-toxic shot is required** for hunting light geese.

LICENSING BY COMPUTER OR BY PHONE

Via the Internet
Visit our website at gf.nd.gov

Regular license fees apply with no service charge added.

QUICK - CONVENIENT - EASY

You can instantly purchase your licenses — 24 hours a day — 7 days a week.

Visa, Discover and MasterCard accepted.

By Phone
Simply call toll free 1-800-406-6409.

Besides license fee, a service charge will be added. Service charge will vary depending on amount of transaction.

A complete proclamation along with amendments one and two that contain regulations for the 2009 Spring Light Goose Season are available from the North Dakota Game and Fish Department, 100 North Bismarck Expressway, Bismarck, ND 58501-5095. (701) 328-6300.

✂ CLIP AND SAVE

✂ CLIP AND SAVE

Attachment 3

in Bismarck on March 7.

Social hour begins at 5:30 p.m. and will be followed by a live auction, silent auction, general raffle, youth table, ladies table, other raffles and door prizes.

For tickets or more information, call John at 258-8777 or LaDawn at 224-8551.

Couple sentenced for hunting crimes

PIERRE, S.D. (AP) — The owners of a Mina, S.D., outfitter have been sentenced for their role in a federal investigation that also charged four others for crimes stemming from illegal hunting trips.

Brent and Dawn Barton own the Mobridge and Mina-area hunting outfitter South Dakota Adventures.

He was sentenced to just over three years in custody and ordered to pay more than $12,500 in restitution.

Dawn Barton was sentenced to two years of probation and nearly $1,000 in fines and restitution.

Prosecutors say Brent Barton guided illegal deer, pheasants, turkey and grouse hunts on the Cheyenne River and Standing Rock Indian reservations.

Others charged in the case include siblings Kirk Johnson and Frankie Johnson of Dupree, Dan Haakenson of Bismarck, N.D., and Connie Frailing.

[illegible] Grindler, Rogers; Chris Hansen, Napoleon; Colin Hoffart, Harvey; Orville Hoger, New Salem; Ronald Hunsberger, Larimore; Ronald Koenig, Elgin; Noel Podoll, Velva; Myron Schell, Underwood; and Mike Voglewede, Northwood.

Receiving 25-year service awards were: Dale Brewster, Stanley; Donald Brewster, Bowbells; Clyde Grosz, Hazen; Donald Meyer, Devils Lake; Mark Montgomery, Center; David Rensch, Garrison; and Rick Suckut, Bowdon.

Honored for 20 years of service were: Norman Amundson, Harvey; Rene Arnold, Cavalier; Orrin Berg, Max; James Boley, Minot; Richard Brewster, Washburn; Douglas Crosby, Williston; Ralph Danuser, [illegible] ice were: Adnan Aldayel, New Rockford; Paul Anderson, Hillsboro; Leland Bratlie, Drayton; Jack Carlson, Mandan; Randy Christensen, Hettinger; Paul Drechsel, Grand Forks; Mark Engen, Anamoose; Mark Entzi, Watford City; Vincent Grant Sr., Belcourt; Gary Grosz, Kulm; Gerry Henriksen, Hazen; Matthew Herman, Ashley; Leon Hiltner, Wales; Michael Hinrichs, Bismarck; Morris Hummel, Washburn; Brent Jacobson, Garrison; Steven Kilwein, Hettinger; Marvin Knell, Jamestown; Jeffrey Lemer, Anamoose; Barry McCleary, Napoleon; Curtis Miller, Tioga; Marvin Neumiller, Washburn; Loran Palmer, West Fargo; Mark

THE HUMANE SOCIETY
OF THE UNITED STATES

March 6, 2009

Re: In SUPPORT of House Bill 1188

Dear Chairman Lyson and Members of the Senate Natural Resources Committee:

On behalf of The Humane Society of the United States (HSUS), and our over 19,000 constituents in North Dakota, I urge you to support House Bill 1188 to create the crime of "exploitation of wildlife" for repeated poaching violations.

Hunters, conservationists, environmentalists, and animal advocates may not agree on all issues, but we all agree that those who commit repeated crimes against wildlife should be punished accordingly.

In an October 11, 2007 *Time* magazine article, wildlife officials estimated that for every wild animal killed legally another is killed illegally. With tens of millions of animals legally hunted each year, the number of animals poached is staggering.

Wildlife belongs to all people, but poachers step into North Dakota's backyard to exploit animals for their own personal gain or thrill knowing they will most likely not be caught and if they are, punishment will be minimal. With each enforcement officer covering hundreds of square miles each, the most effective tool in stopping poaching must include adequate deterrents. Put simply, the cost of being caught must outweigh the risk and profit of poaching.

In addition to failing to act as a deterrent, low penalties for poaching sends a message to poachers and the wider public that wildlife has little or no value.

Thank you for your serious consideration of this important issue.

Sincerely,

Andrew Page
Senior Director, Wildlife Abuse Campaign

Celebrating Animals, Confronting Cruelty

2100 L Street, NW Washington, DC 20037 t 202.452.1100 f 202.778.6132 *humanesociety.org*

Attachment #1

SECTION 2. A new section to chapter 20.1-01 of the North Dakota Century Code is created and enacted as follows:

Exploitation of wildlife - Penalty.

1. A person is guilty of exploitation of wildlife if that person intentionally:

a. Commits five or more title 20.1 class A misdemeanor offenses within a two ~~three~~-year period;

b. Commits seven or more title 20.1 misdemeanor offenses within a two year period;

~~b.~~ c. Furnishes assistance, management, or supervision to an individual who commits or assists in the commission of seven ~~five~~ or more title 20.1 misdemeanor offenses within a two ~~three~~-year period; or

~~c.~~ d. Commits a title 20.1 misdemeanor offense after having been previously convicted of seven or more title 20.1 misdemeanor offenses within a ten-year period.

2. Violation of this section is a class C felony and, in addition to other penalties imposed by law, is subject to section 20.1-01-26. The defendant being over a daily or possession limit of fish, small game, or waterfowl is not sufficient as a predicate offense for a conviction under subdivision ~~a~~ b or ~~b~~ c of subsection 1 unless the state proves that the conduct occurred over more than two days or the person takes or possesses more than four times a daily limit and the state alleges and proves beyond a reasonable doubt that the minimum number of predicate offenses required were committed intentionally. Except for a charge under subdivision ~~c~~ d of subsection 1, the state may not charge an individual for both the predicate offense and a charge under this section. A conviction from another state or a federal court for an offense similar to one prescribed in title 20.1 may be used as a conviction under this section.

Attachment #2

ORIGINAL

IN DISTRICT COURT FOR BARNES COUNTY, NORTH DAKOTA

THE STATE OF NORTH DAKOTA	)	
	)	
Plaintiff,	)	
	)	CRIMINAL COMPLAINT
vs.	)	
	)	04K891
JEREMY HANSEN,	)	
	)	
Defendant.	)	

Corey Erck, Game Warden in North Dakota, being first duly sworn and examined on oath makes complaint and says that in approximately November, 2004, in Barnes County, North Dakota, the above named defendant, **JEREMY HANSEN**, did commit the crime of **Illegal Possession of Big Game**, which said crimes were committed as follows, to-wit:

COUNT 1

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license.

COUNT 2

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 1.

COUNT 3

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 2.

COUNT 4

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 3.

COUNT 5

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 4.

COUNT 6

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 5.

COUNT 7

Defendant did, in approximately November of 2004, in Barnes County, North Dakota,

COUNT 8

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 7.

COUNT 9

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 8.

COUNT 10

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 9.

COUNT 11

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 10.

COUNT 12

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 11.

COUNT 13

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 12.

COUNT 14

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 13.

COUNT 15

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 14.

COUNT 16

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 15.

COUNT 17

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 16.

COUNT 18

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 17.

COUNT 19

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 18.

COUNT 20

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 19.

COUNT 21

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 20.

COUNT 22

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 21.

COUNT 23

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 22.

COUNT 24

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 23.

COUNT 25

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 24.

COUNT 26

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 25.

COUNT 27

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 26.

COUNT 28

Defendant did, in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 27.

COUNT 29

Defendant, did in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 28.

COUNT 30

Defendant, did in approximately November of 2004, in Barnes County, North Dakota, possess, individually and jointly with his father, a deer which was untagged for which the defendant possessed no legal license, this deer being a different one than set forth in Count 29.

All this in violation of **Section 20.1-05-03, 20.1-05-03, 20.1-05-07** of the North Dakota Century Code and acts amendatory thereto. Each count is a **Class A Misdemeanor**. This contrary to the form of the statute in such a case made and provided and against the peace and dignity of the State of North Dakota.

WHEREFORE, Complainant prays that the said defendant, **JEREMY HANSEN**, may be arrested and dealt with according to law.

Dated this 24th day of November, 2004.

Corey Erck

Corey Erck
Game Warden

Sworn to and subscribed before me this 24th day of November, 2004

Judge of the District Court

IN DISTRICT COURT, BARNES COUNTY, NORTH DAKOTA

THE STATE OF NORTH DAKOTA

To any sheriff, constable, marshal, or policeman in this State.

COMPLAINT UPON OATH having been made before me, the undersigned District Judge of said County, by Corey Erck, accusing **JEREMY HANSEN** of the commission of a public offense, to-wit:

Illegal Possession of Big Game, this in violation of **Section 20.1-05-03, 20.1-05-03, 20.1-05-07** of the North Dakota Century Code and acts amendatory thereto. Each count is a **Class A Misdemeanor.**

YOU ARE THEREFORE COMMANDED to arrest said **JEREMY HANSEN** at any time of day or night, forthwith and bring him before me at my office in the City of Valley City in said County and State, there to be dealt with according to law.

WITNESS, My hand this ___ day of _____, 2004.

_____
Judge of the District Court

STATE OF NORTH DAKOTA)
)ss
County of Barnes)

I hereby certify and return that the within warrant came into my hands for service on the ___ day of _____, 2004, and that under an by virtue thereof I have arrested the within named defendant, **JEREMY HANSEN** and have him now before the Court in Custody.

Dated this ___ day of _____, 2004.

_____
of Barnes County, North Dakota

To Judge:

The State's Attorney's Office is requesting a Promise to Appear. William Mackenzie is the attorney for the defendant.

Clerk: Please Do Summons for December 7th at 10:00 A.M. Please send Summons to Bill Mackenzie, Jamestown