

2009 HOUSE NATURAL RESOURCES

HB 1217

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1217

House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: 1-22-09

Recorder Job Number: 7545

Committee Clerk Signature

*Nancy L. Gerhardt*

Minutes:

Chairman Porter: Open hearing on HB 1217 Rep. Kerzman

Rep. Kerzman: See attachment #1. Questions?

Chairman Porter: Further testimony in favor of HB 1217?

Clarance Bena – United Sportsmen of ND – Supports bill as written.

Chairman Porter: Further testimony in support of HB 1217?

Testimony in opposition to 1217?

Jamie Bradle: Beulah – farmer & hunter - Has a problem with what is not included. I see a glaring omission of over 2 million acres of privately owned agricultural land used to make money. If you are going to be specialized you should pay attention to – inaudible. Hunters tend to ignore the rights of people who have their land in CRP. If that CRP is damaged the owner doesn't get paid. It is a cash crop. Questions?

Chairman Porter: Questions for Mr. Bradle? Further testimony in opposition to HB 1217?

Close the hearing on HB 1217.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1217 - Part 2

House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: 1-22-09

Recorder Job Number: 7547

Committee Clerk Signature

*Nancy S. Gerhardt*

Minutes:

Chairman Porter: I agree in part with this bill. You can't list every crop. The problem with the bill & the law previous to this was that it didn't include oil seed crops it just said cereal crops.

Soy bean crops are not cereal crops. Rep. DeKray

Rep. DeKray: Move to make an amendment that line 9 add the word soy beans.

Chairman Porter: We have a motion from Rep. DeKray – do we have a 2<sup>nd</sup>?

2<sup>nd</sup> from Rep. Nottestad. On line 9 after the word crambe insert the words soybeans,. Any discussion on the amendment? Any discussion on the amendment? All in favor Yeas – unison vote -- opposed -- no opposition. Motion carried.

Chairman Porter: Rep. Nottestad

Rep. Nottestad: If I read this the intent of this bill is good and I agree with it. There is so much that is open. It lists alfalfa grown for seed, but in a good year the third cutting of alfalfa in an irrigated area is grown for hay. My amendment would be cereal crops grown for seed or hay. That would cover both.

Chairman Porter: I read that different than what you are reading it. The reason is on line 8 the definition of cereal crop include alfalfa. Then you go back up to line 7 and it says an

unharvested cereal crop is covered. Alfalfa is covered as a cereal crop in the present for it is

written. I think your amendment makes it cloudier and takes away from the clarity that is already there. Rep. Hofstad

Rep. Hofstad: I think the whole thing is cloudy. We are leaving out edible beans etc. It is going to be hard to list every edible bean crop.

Chairman Porter: Chief would you like to step up here for a minute?

Chief Timian - Chief Game Warden – ND Game & Fish – Rep. Nottestad

Rep. Nottestad: How do you interrupt it? If someone is hunting in an unharvested crop are we going to go down the list of all the crops or how are you going to interpret it?

Chief Timian – It is a question dealt with in the court, not in my officers. Most hunters don't go into unharvested crops unless they ask. We do get some that do. The technical stuff you are asking gets handled between attorneys and judges not us. When we use the word cereal crops include – when the word INCLUDE is used it does not limit the list only to those crops. It says those crops MUST be included. There could be other crops included but are not listed. If it said cereal crops ARE, then only those crops listed could be considered.

Rep. DeKray: That answered my question. Why don't we just end it with unharvested crops period?

Chief Timian – Maybe you could say unharvested crops that have commercial value.

Rep. Clark: Why not just let unharvested crops define the issue.

Chairman Porter: Rep. Keiser

Rep. Keiser – I concur -- when it reads includes it means implied. It is asking that oilseed crops be included and it seems reasonable.

Robert – It is reasonable – I don't think if we had a bean or pea crop that was unharvested I don't think we would have a problem prosecuting but there again that would be between the

attorney and the judge. We have had an issue with the oilseed crops because they aren't raised for food they are raised for oil.

Chairman Porter - The interpretation of 3<sup>rd</sup> cutting alfalfa.

Robert – Bill doesn't say 2<sup>nd</sup>, 3<sup>rd</sup> cutting alfalfa, so that would be considered an unharvested crop.

Rep. Nottestad – The reason I brought it up is what the rest of it says – grown for seed. If the farmer/rancher wanted to cut it instead of letting it go for seed.

Robert - I would suggest that is your decision.

Rep. Hunskor – Is the committee ready for a Do Pass? I would so move.

Chairman Porter - There is a motion on the floor – I was going to ask Rep. Nottestad to withdraw his motion and second. And bring this up at a later time.

Rep. Nottestad – I withdraw my motion.

Chairman Porter - And a 2<sup>nd</sup> from Rep. DeKray to rescind the motion. Close hearing on HB 1217.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1217

House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: 1-22-09

Recorder Job Number: 7547

Committee Clerk Signature

*Nancy L. Gerhardt*

Minutes:

Chairman Porter – Open the hearing again on HB 1217. On line 9 after the word crambe you insert soybeans. Rep. Nottestad

Rep. Nottestad – By adding more things to this, I feel we've made it more complicated and less able to understand it than before. If we are going to start being specific on things then we are just going to have to do that. 3<sup>rd</sup> cutting alfalfa is a crop. It is not a cereal crop, it is not a grain crop. I will make my motion again. Other grasses grown for seed or forage or hay whatever is proper language.

Rep. DeKray – 2nd

Chairman Porter – We have a motion & second. I am going to be opposed to this amendment for one simple reason. You have now taken a pasture that is unposted and virtually posted it. There isn't a single blade of ground doesn't fit into this new category you have just created. I can't support that kind of amendment.

Rep. Nottestad – With that interpretation I would rescind my amendment.

Chairman Porter – Rep. Nottestad has receded his amendment will Rep. DeKray recent the 2<sup>nd</sup>? The more complicated we make something the more complicated it gets in the end. The

only problem we have is the lack of the words oilseed in this part of the law. That is what this simple bill will cover. Rep. Keiser

Rep. Keiser – I move for a Do Pass as amended.

Chairman Porter – 2<sup>nd</sup> Rep. DeKray

Yes 11 No 0 Absent 2 Carrier Rep. Keiser

January 22, 2009

VK  
1/23/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1217

Page 1, line 9, after the fourth underscored comma insert "soybeans."

Renumber accordingly



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

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1217**

**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 Hunsakor	✓	
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 Keiser

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

**REPORT OF STANDING COMMITTEE**

**HB 1217: Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1217 was placed on the Sixth order on the calendar.

Page 1, line 9, after the fourth underscored comma insert "soybeans."

Renumber accordingly

2009 SENATE NATURAL RESOURCES

HB 1217

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1217

Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: March 12, 2009

Recorder Job Number: 10783

Committee Clerk Signature



Minutes:

**Senator Lyson** opens the hearing on HB 1217, relating to hunting on lands having un-harvested oilseed crops.

**Representative Kerzman**, introduces the bill (see attached testimony #1).

**Senator Hogue** do you have any feelings about corn?

**Representative Kerzman**, Corn is a cereal grain and it should be covered.

**Senator Krauter** I am here in support of this bill. This bill clarifies the law and makes sure oilseeds are included in the statute so we shouldn't have any problems.

**Sandy clark**, North Dakota Farm Bureau, We are in support of the bill.

**Julie Ellingson**, North Dakota Stockmen's Association, spoke in favor of the bill (see attached testimony #2).

**Roger Kaseman**, North Dakota Wildlife Federation, We would like to go on record in support of the bill.

**Clarence Bina**, North Dakota United Sportsmens, we are also in favor of the bill.

**Senator Lyson** closed the hearing on HB 1217.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1217

Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: March 12, 2009

Recorder Job Number: 10784

Committee Clerk Signature



Minutes:

**Senator Lyson** opens the discussion on HB 1217.

**Senator Erbele** moves a do pass on HB 1217.

**Senator Schneider** seconds the motion.

**Senator Freborg** why isn't it easier to say it is unlawful to hunt or pursue game in ANY or ALL un-harvested crops?

**Senator Triplett** I think that Senator Freborg makes a valid point. The way the law is written now it only says un-harvested cereal crops. There are some prosecutors out there, like **Senator Hogue** said, who might not know that corn is a cereal crop and there are other crops that should be included.

**Senator Schneider** Can we include corn within the definition of cereal crops just to be clear?

**Senator Lyson** according to Senator Krauter it is already defined as a cereal crop.

**Robert Timian**, Chief Game Warden with the Game and Fish Department, My understanding as to why this was introduced was not to broaden it too much, but to make it clear what is considered an un-harvested crop. People have their own definitions of un-harvested crops.

**Senator Hogue** there is a definitions section in the code and cereal is not defined. I think of small grains as a term that is more often used to define cereal crops. Is there a place where we can look to see if cereal crops are defined in the code?

**Robert Timian** I can assume you can make whatever definition you wanted. We haven't had a big issue with this law other than couple instances with oil crops where a couple of attorney's questioned it.

**Senator Triplett** a couple of years ago we did have some complaints of hunters walking through winter wheat fields and apparently not knowing that they had been planted. I assume that is clearly covered in the reference to cereal crops.

**Senator Triplett** Would we want to include such things as vegetables? We have heard testimony in relation to a water bill that people grow vegetable gardens in fairly good sizes for truck gardens. They are also a known attraction for deer.

**Senator Triplett** asks Mr. Timian how he would interpret that if you were discussing with a prosecutor under this law if someone complained about hunters trampling through their un-harvested pumpkin patch was a problem.

**Robert Timian** it has never happened, but I suppose it could. We would view it as an un-harvested crop and that is the way we would argue it.

**Senator Triplett** it doesn't fit within either of these definitions.

**Robert Timian** any of these laws can be argued in court by attorneys.

**Senator Triplett** they can be argued but they should be decided on the plain meaning of the language. I think the judge would look at these very specific definitions and say "I'm sorry but vegetables are not included".

**Robert Timian** if you feel strongly that you want to include it I would have not opposition. I don't think it is a major issue out there in terms of enforcement.

Senator Erbele and Senator Schneider take with draw their motions. The committee is holding the bill to allow for Senator Triplett to draft an amendment.

**Senator Lyson** closes the discussion on HB 1217.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1217

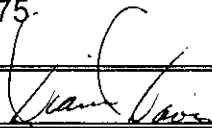
Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: 4/2/09

Recorder Job Number: 11675-

Committee Clerk Signature



Minutes: **Senator Lyson, Chairman**

### **Committee Work**

Senator Lyson says there was no opposition to this bill.

Senator Freborg motions for a do pass

Senator Triplett seconds

Vote – 7 – 0

Senator Pomeroy will carry



Date: 4/2/09Roll Call Vote #: 1**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES**Senate Natural Resources Committee☐ Check here for Conference Committee*Bill: 1217*

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ AmendmentMotion Made By Sen. Freborg Seconded By Sen. Triplett

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 0Absent 0Floor Assignment Sen. Pomeroy

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

**REPORT OF STANDING COMMITTEE (410)**  
**April 2, 2009 1:50 p.m.**

**Module No: SR-56-6008**  
**Carrier: Pomeroy**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1217, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)**  
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1217 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1217

# 1

Same  
testimony given  
to Senate.

Mr. Chairman,

Members of House Natural Resources Committee,

Century Code 20.1-01-22 addresses hunting game on lands having unharvested crops. As written, there is a question of whether oilseed crops are included in the definition of unharvested crops.

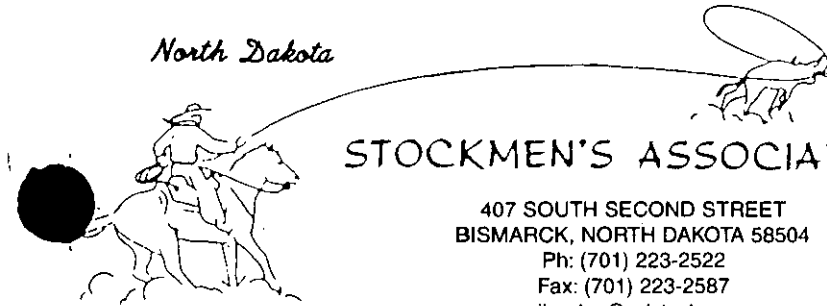
Hettinger County State's Attorney brought this to my attention. There was an incident in our county where a farmer discovered hunters going through his unharvested sunflowers. The farmer looked at prosecution; the attorney revealed hunters may be within their rights, the law isn't quite clear. My understanding is that Game and Fish were also contacted; they also expressed concern of "safety" hunting under those conditions.

I am not familiar with the original intent of the law, but feel strongly that oilseeds should be included in definition of unharvested crops. Clarifying the question I believe will help foster more positive farmer/hunter relationships, plus enhance the safety of all involved.

Please look at HB 1217 favorably, it's intent is not to restrict hunting in any way - this clarification should benefit all.

Rep. James Kerzman

*North Dakota*



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### HB 1217

Good morning, Mr. Chairman and Senate Natural Resource Committee members. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association.

We too would rise in support of HB 1217, as it will help protect farmers' valuable oilseed crops, which are becoming more commonplace in North Dakota. The bill should also help encourage better communication between landowners and hunters and, ultimately, improve long-term relationships between the two groups.

For these reasons, we ask for your favorable consideration of this bill.