

2019 HOUSE JUDICIARY

HB 1503

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1503
2/6/2019
32494

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to prohibiting use of a device to observe, record, or photograph wildlife on private property with permission; and to provide a penalty.

Minutes:

1-5

Chairman Koppelman: Opened the hearing on HB 1503.

Rep Damschen: Introduced the bill. (Attachment #1) Went over proposed bill and amendment. This bill requires permission from an individual to put a game camera on private land.

Rep. Vetter: We are making it a crime to install a camera on someone's land without permission.

Rep. Satrom: Have there been cases that caused this bill?

Rep. Damschen: I am not aware of any.

Rep. Vetter: Does this apply to drones?

Rep. Damschen: No I don't think so.

Rep. Magrum: I am confused about the amendment. I think or is the proper use. The device could just have a Game and Fish Department tab or a name, address and telephone number on it.

Chairman K. Koppelman: What types of devices are being referred to in subsection b?

Rep. Damschen: We are referring to remote cameras.

Chairman K. Koppelman: The original language of the bill just says permission; do you want written now?

Rep. Damschen: Yes we want written.

Rep. Paur: Why do we have a need for this?

Rep. Damschen: I am concerned someone could be monitoring you on your private land.

Rep. Magrum: Would the difference be they are actually putting their property on someone else's land?

Support:

Pete Hanabut: ND Farm Bureau: Support of the bill.

Julie Ellingson, ND Stockman Association: (Attachment #2) Read testimony.

Rep. Roers Jones: Is this an issue because the land isn't posted?

Julie Ellingson: This is about the placement of camera without permission. We think this is necessary because people are taking advantage of private property without permission and we do not think it is appropriate to have surveillance cameras on somebody's property unless they had been granted permission.

Chairman K. Koppelman: Under current law

Julie Ellingson: This would be a separate tier on top

Chairman K. Koppelman: Is this needed for those cases.

Julie Ellingson: I think it is a necessary extra step.

Levis Rue, Rancher:(Attachment #3) Urge a do pass as amended.

John Bradley, ND Wildlife Federation: (Attachment #4) Read testimony.

Steve Keister, Rancher from Steele, ND: This is a privacy issue and our property should not be

Opposition:

Robert Timian, Chief Game Warden of ND Game & Fish Department. (Attachment #5)

Rep. Roers Jones: The amendment says the device cannot be left if it does not have a permanently affixed metal or plastic tag with the registration number issued by Game & Fish Department. Do you have such a tag set up to register game tags? Do you have such a tag set up for registering game camera's currently?

Robert Timian: Yes, currently we have such a thing in place for people who are going to put something on our wildlife management areas. We don't have such a thing for private property.

Rep. Roers Jones: Would there be an additional cost to set up something like that?

Robert Timian: I couldn't answer the question on costs?

Rep. Rick Becker: Did you say it was already against the law in statute to leave game camera on property?

Robert Timian: It is an administrative rule and it deals strictly with plots. Private lands entered into the agreement with the department.

Chairman K. Koppelman: What is the penalty?

Robert Timian: It is \$100.

Rep. Jones: How do you administer traps? This is supposed to be the same as that.

Robert Timian: Traps are required to have a person's identification on it. The department does issue for trappers and individual distinctive number.

Rep. Magrum: What are the uses?

Robert Timian: When we read through the bill and got to the language of installs or uses a device for observing. Discussed the problems with just taking pictures on private property.

Chairman K. Koppelman: Did the bill sponsor talk to you about Game & Fish tags?

Robert Timian: No he did not talk to me.

Neutral: None

Hearing closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HB 1503
2/11/2019
32509

☐ Subcommittee
☐ Conference Committee

Committee Clerk: DeLores D. Shimek

Explanation or reason for introduction of bill/resolution:

Relating to prohibiting use of a device to observe, record, or photograph wildlife on private property with permission; and to provide a penalty.

Minutes:

Attachment 1

Chairman Koppelman: Opened the meeting on HB 1503. The intent of the bill is people cannot install game cameras on your property without permission. Is there anyone who wants to work on a clarifying amendment?

Rep. McWilliams: Would it clarify it if you took out the word written you would have permission to take a picture of a deer.

Chairman K. Koppelman: The question that came up in committee; if you look at the wording on the bill it says without written permission from the owner or occupant installs or uses any device for observing, recording or photographing wildlife.

Rep. McWilliams: If we took out the word written and you had permission then to photograph a deer.

Rep. Vetter: Page 2, line 2 strike or uses and change that to or so it reads installs any device.

Rep. Magrum: The Game & Fish wanted us to take or uses out so we are not talking about photographing anything from the road. We are talking about installing a device.

Rep. Hanson: Would taking out that phrase elevate the concern if a wildlife photographer is present. They were concerned about leaving the camera without the photographer being present. The other concern was what if they have binoculars or other observing devices?

Chairman K. Koppelman: This is designed for something you would leave on the property.

Rep. Roers Jones: (Attachment #1) We are trying to make something that is already illegal more illegal. I agree if we are going to change something and try and pass this we obviously need to take or uses the devices. If we change that they have to go onto the person's

property and they are already trespassing. I have a problem increasing the penalty to a Class B misdemeanor I have a concern with too. This is the same penalty if you look up above it is the same as gazing or peeping into a tanning booth or sleeping room in a hotel or another place where someone would reasonably have an expectation of privacy. If you are out in an open area regardless, it is private property so if you go onto that property without permission you are trespassing. What is the expectation of privacy in an outdoor space like that?

Representative Simons: What would happen if we moved this whole thing to the peeping tom section of our Century code and just cover it like Rep. Roers Jones said.

Motion Made to amend to strike the words on line 2, page 2, or uses after the term wildlife add while the owner of the device is absent by Rep. Jones; Seconded by Rep. McWilliams

Discussion:

Chairman K. Koppelman: This bill aims at making illegal to install a game camera and leave. Someone may have permission to hunt, but they shoot a deer they set up a tripod to a selfie then they are installing a camera.

Rep. Magrum: Tripod is not installing.

Chairman K. Koppelman: Install is anything you are not physically holding.

Representative Simons: It is not about trespass; it is about taking pictures of people; not knowingly.

Chairman K. Koppelman: This amendment would allow someone to take pictures as long as they are holding a camera; but they can't leave the property.

Rep. Jones: What we have is people going out on someone's property looking for big bucks and not getting people's permission. This is to try and make them get permission and looking for game.

Rep. Hanson: It is the owner of the camera?

Voice vote carried.

Rep. Vetter: I like it to be a Class B misdemeanor?

Motion Made to amend the bill on line 1 of page 2 a replace with an infraction by Rep. Vetter; Seconded by Rep. Rick Becker

Voice vote carried.

Motion Made to amend using 19.1118.01001 by Rep. Roers Jones; Seconded by Rep. Hanson

Chairman K. Koppelman: Went over proposed Damschen amendment (attachment 1).

Discussion:

Representative Simons: I understand putting tags on the cameras from Game & Fish; I don't know if you want them to have that much more power?

Rep. McWilliams: How is written permission defined? Does it include an email or text message?

Chairman K. Koppelman: I think it would. Anything in writing.

Rep. Rick Becker: So with the amendment, if it passes, if you put a game camera out on someone's property without permission it would be an infraction. If you don't have your identifying information on it would it will be an infraction?

Rep. Bob Paulson: If you give someone written permission you don't necessarily know that is their camera; so if you walked up to the camera and you had given Joe permission and it is Joe than you are good.

Voice vote carries.

Do Pass as Amended Motion Made by Rep. Magrum; Seconded by Vice Chairman Karls

Roll Call Vote: 13 Yes 1 No 0 Absent Carrier: Rep. Magrum

Closed.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1503

Page 1, line 3, after "permission" insert "and a permanently affixed identifier"

Page 2, line 2, remove ", without written permission from the owner or occupant,"

Page 2, line 3, after "wildlife" insert: ":

- a. Without written permission from the owner or occupant of the property; or
- b. If the device does not have a permanently affixed metal or plastic tag with a registration number issued by the game and fish department, or the individual's name, address, and telephone number"

Renumber accordingly

DA 2/11/19

February 11, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1503

Page 1, line 3, after "permission" insert "and a permanently affixed identifier"

Page 2, line 1, replace "a class B misdemeanor" with "an infraction"

Page 2, line 2, remove ", without written permission from the owner or occupant,"

Page 2, line 2, remove "or uses"

Page 2, line 3, after "wildlife" insert: "while the owner of the device is absent:"

- a. Without written permission from the owner or occupant of the property; or
- b. If the device does not have a permanently affixed metal or plastic tag with a registration number issued by the game and fish department, or the individual's name, address, and telephone number"

Renumber accordingly

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1503**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: **strike the words on line 2, page 2, or uses after the term
wildlife add while the owner of the device is absent**

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ R eferred to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ R econsider ☐ _____

Motion Made By R ep. Jones Seconded By R ep. McWilliams

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			R epresentativeBuffalo		
Vice Chairman Karls			R epresentativeK. R .Hanson		
R epresentativeBecker					
R epresentativeTerry Jones					
R epresentativeMagrum					
R epresentativeMcWilliams					
R epresentativeB. Paulson					
R epresentativePaur					
R epresentativeR oersJones					
R epresentativeSatrom					
R epresentativeSimons					
R epresentativeVetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote Carried.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1503**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: line 1 of page 2 a replace with "an infraction"

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Vetter Seconded By Rep. Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Representative Buffalo		
Vice Chairman Karls			Representative K. R. Hanson		
Representative Becker					
Representative Terry Jones					
Representative Magrum					
Representative McWilliams					
Representative B. Paulson					
Representative Paur					
Representative Roers Jones					
Representative Satrom					
Representative Simons					
Representative Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote Carried.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1503**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: 19.1118.01001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Referred to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Jones Seconded By Rep. Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman			Representative Buffalo		
Vice Chairman Karls			Representative K. R. Hanson		
Representative Becker					
Representative Terry Jones					
Representative Magrum					
Representative McWilliams					
Representative B. Paulson					
Representative Paur					
Representative Jones					
Representative Satrom					
Representative Simons					
Representative Vetter					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote Carried.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
HB 1503**

House Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Referred to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Magrum Seconded By Rep. Karls

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	X		Representative Buffalo	X	
Vice Chairman Karls	X		Representative K. R. Hanson	X	
Representative Becker	X				
Representative Terry Jones	X				
Representative Magrum	X				
Representative McWilliams	X				
Representative B. Paulson	X				
Representative Paur	X				
Representative Roers Jones		X			
Representative Satrom	X				
Representative Simons	X				
Representative Vetter	X				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Magrum

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

REPORT OF STANDING COMMITTEE

HB 1503: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1503 was placed on the Sixth order on the calendar.

Page 1, line 3, after "permission" insert "and a permanently affixed identifier"

Page 2, line 1, replace "a class B misdemeanor" with "an infraction"

Page 2, line 2, remove ", without written permission from the owner or occupant,"

Page 2, line 2, remove "or uses"

Page 2, line 3, after "wildlife" insert: "while the owner of the device is absent:"

- a. Without written permission from the owner or occupant of the property; or
- b. If the device does not have a permanently affixed metal or plastic tag with a registration number issued by the game and fish department, or the individual's name, address, and telephone number"

Renumber accordingly

2019 SENATE ENERGY AND NATURAL RESOURCES

HB 1503

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

HB 1503
3/15/2019
Job Number 33779

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to prohibiting use of a device to observe, record, or photograph wildlife on private property without permission and a permanently affixed identifier; and to provide a penalty.

Minutes:

3 Attachments

Chair Unruh: Opened the hearing. All members were present.

Representative Chuck Damschen, District 10 (1:00-2:35) Introduced the bill. This bill says that you are guilty of an infraction if you set up a game camera on private property without the permission of the property owner or the device is not labeled with a metal tag that gives a registration number issued by the Game and Fish Department, or the owners name, address and telephone number. With the advance of technology, our privacy is harder to protect. This would take away some of the possible invasiveness.

Chair Unruh: There isn't already something in the law for these types of protections?

Representative Damschen: I am not aware of anything that specifically addresses the setting up a game camera without permission. We might assume that, maybe there is something, I'm just not aware.

Julie Ellingson, North Dakota Stockman's Association (3:00-6:25) Testified in favor, please see attachment #1.

Mike McEnroe, North Dakota Wildlife Society (6:45-7:25) Testified in favor, please see attachment #2.

Levi Rue, Rancher (7:45-11:05) Testified in favor, please see attachment #3. These cameras can go from basic to pretty advanced. If you have the data card it can send it right to your phone.

John Bradley, North Dakota Wildlife Federation (11:20-11:35) Testified in favor. We agree with everything that has been said. We had some concerns, but those will be addressed in the amendments.

Bill Helphrey, North Dakota Bow Hunters Association (11:50) Testified in favor. We've heard lots of reasons why cameras shouldn't be put on property without permission, we agree with all of them. We think this is bill that should be passed. Nobody should have the right to put anything on anybody's property, without them knowing it.

Pete Hanebutt, North Dakota Farm Bureau (12:30-13:05) Testified in favor. We supported this bill in the House, all the reasons have been stated. Think about how someone could use a camera like this to pattern you, and know when you would be home or not. These cameras aren't necessary used just for game.

No opposition testimony.

Robert Timian, Chief Game Warden, North Dakota Game and Fish (13:33-16:00) The Department is okay with the bill, we have some technical questions with the wording. On page 2, line 5-7, where it's requiring a permanently affixed tag or number, if you choose to continue with that, we can do that; however, we feel that when you have written permission from the landowner, the second part isn't necessary, because the landowner can require whatever type of identification he would like or not. It's similar to PLOTS, it's written permission and the landowner can decide if he wants them identified or not, it's up to him. Should you choose to keep that language, I will direct your attention to line 4, the last word 'or,' the question there is, the language itself says an individual is guilty of infraction without the written permission of the landowners or occupant of the property, and then it says 'or the following language.' Does that mean if they have the id on it, they no longer need written permission? That would be technical question, you might want to consider that. That is the main focus. Persons who are not going to obey the law, aren't going to have an identification on them anyway, so having the second part, if I have my camera on your property illegally, I'm not going to have an identification number on it.

Vice-Chair Kreun: Under 12.1-31-14, it's almost identical: 'Enters upon another's property and surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events from a house or place of dwelling of another.' Are we just adding a couple words; 'wildlife' and 'owner of device' and 'absent,' is that what this boils down to?

Robert Timian: I believe the sponsors wanted to make it clear they wanted to identify game cameras.

Vice-Chair Kreun: Okay, I guess we need to clarify it.

Chair Unruh: Closed the hearing.

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

HB 1503
3/21/2019
Job Number 34086

☒ Subcommittee
☐ Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to prohibiting use of a device to observe, record, or photograph wildlife on private property without permission and a permanently affixed identifier; and to provide a penalty.

Minutes:

No attachments

Chair Unruh: Opened committee work.

There was consternation last week about the use of the word 'or' versus 'and.' I think it should stay 'or' the way it is, but Clare Ness is here to clear it up.

Clare Ness, Legislative Council (1:15) Provided neutral information. Chairman Unruh asked me to come and discuss the new subsection we added to section 12.1-31-14 which is surreptitious intrusion or interference with privacy. Under the new subsection 3, an individual is guilty of an infraction if they leave a camera or recording or observing device on somebody else's property if either of the two conditions in subdivision a) or b) is not met. The reason we have the 'or' in place there, is because if either of those conditions is not met, then the person has committed the infraction. Another way to look at this is the person has to have both written permission from the owner or occupant and the device has to have a tag on it in order for the person to be in the clear, and not guilty of the infraction. The reason the 'or' is there is because if either of those conditions is lacking, the person has committed the infraction.

Chair Unruh: I just wanted it to be clear to the committee that the intent of the bill sponsors and the supports is reflected in the way the language currently is in the bill. I think that was the only issue with HB 1503.

Senator Cook: I move a Do Pass.

Vice-Chair Kreun: I second.

A roll call vote was taken.
Motion passes 6-0-0.

Senator Schaible will carry.

Senate Energy and Natural Resources Committee

HB 1503

3/21/19

Page 2

Chair Unruh: Closed committee work.

Date: 3/21
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1503

Senate Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Cook Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Senator Jessica Unruh	<u>X</u>		Senator Merrill Piepkorn	<u>X</u>	
Senator Curt Kreun	<u>X</u>				
Senator Donald Schaible	<u>X</u>				
Senator Dwight Cook	<u>X</u>				
Senator Jim Roers	<u>X</u>				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Schaible

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

REPORT OF STANDING COMMITTEE

HB 1503, as engrossed: Energy and Natural Resources Committee (Sen. Unruh, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1503 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1503

19.1118.01001
Title.

Prepared by the Legislative Council staff for
Representative Damschen
February 5, 2019

#1
HB 1503
2-2-19
BZ1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1503

Page 1, line 3, after "permission" insert "and a permanently affixed identifier"

Page 2, line 2, remove ", without written permission from the owner or occupant,"

Page 2, line 3, after "wildlife" insert: ":

- a. Without written permission from the owner or occupant of the property; or
- b. If the device does not have a permanently affixed metal or plastic tag with a registration number issued by the game and fish department, or the individual's name, address, and telephone number"

Renumber accordingly

#2
HB1503
2-6-19
P.1

North Dakota Stockmen's Association
Testimony to the House Judiciary Committee on HB 1503
Feb. 5, 2019

Good morning, Chairman Koppelman and members of the House Judiciary Committee. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association, an 89-year-old beef cattle trade organization representing 3,000 cattle-ranching families.

Thank you for the opportunity to comment on HB 1503, a bill initiated by our members.

As a leader in private property rights protection, the Stockmen's Association spent much of the interim working on proposals to fortify landowners' property rights. In several of those discussions, we heard from landowners who are frustrated that game cameras and other paraphanelia are being placed on their private property without their notice and without their permission. In some cases, the cameras are placed on unposted property, in others, on posted property.

Over the past couple of days, your committee has heard testimony on other bills related to privacy and cameras. This bill follows on a similar theme and would require written permission from the landowner or occupant in order for someone to install or use a game camera on another person's private property.

It is a reasonable request, as a private property owner should have the right to decide and know what gets placed and used on his or her property – property they own, pay taxes on, make a living from.

North Dakota Century Code already prohibits an individual from entering privately owned land for the purpose of trapping fur-bearing animals without first gaining written permission (NDCC 20.1-01-18). The language in HB 1503 is consistent with that for the placement of game cameras.

#2
HB 1503
2-6-19
P2

We are aware of the amendment that Rep. Damschen has proposed that includes the identification of game cameras. It is just like what is required for traps and snares (NDCC 20.1-07-03.1-3), and we support that addition as well.

For these reasons, we ask for your favorable consideration of HB 1503 and the proposed amendment.

House Bill 1503
House Judiciary Committee

#3
HB1503
2-6-19
P. 1

Ladies and Gentlemen of the House Judiciary Committee, my name is Levi Rue and I am a farmer and rancher from Sheyenne, which is a small town in central North Dakota. I come to Bismarck today to ask all of you to restore private property rights, and protect North Dakota's citizens from unlawful surveillance.

Some of you might be wondering why a rancher from the smallest county in North Dakota is standing before you talking about unlawful surveillance – I mean it was just last summer we got high-speed fiber-optic internet and TV service.

You may be wondering who is unlawfully surveilling us. It isn't the Russians, it isn't the CIA, or the NSA. Truthfully, I have no idea who is doing it because all I can find is little battery-powered cameras strapped to trees on my private property.

I can only assume the intent of these cameras camouflaged in the trees and brush, because no one has talked to me or other landowners to ask if the camera can be placed there or for what purpose they are serving.

If I was to place devices such as these on private property within the city of Bismarck, for instance, I have a feeling there would be a uproar. It would make it on the front page of the *Tribune*, most likely on the evening news and on talk radio. I can only imagine the headline. It may read something like this, "Unlawful Surveillance,' or 'Peeping Tom uses Game Cam,' or 'Smile your on Candid Camera.'"

The response would be warranted and concerns well placed.

There is no acceptable reason for someone to be able to place a device to record still pictures or videos of anything on someone else's private property without their written consent. These devices should have to be marked with a identifier so that if found they can be traced back to the person responsible for their placement.

There is a infringement of private property rights happening

right now in rural North Dakota that cannot be tolerated, and we need our elected officials in Bismarck to take a stand. I have with me today a bucket of "cameras" that I have found in trees on our private property in Eddy County. I come across them while out fencing and haying, and the occasional walk to the far end of the field after braking down. I have a pretty good idea what these cameras were placed for, but I have no idea who placed them. For that reason, I take them down and keep them in this bucket. If someone is missing a camera and can identify it, I will give it back. So far, no one has come to claim the cameras. I can't figure out why no one wants to come and claim them with the cost they are. They are not cheap to have go missing.

I'm just going out on a limb and saying that I believe no one wants to come forth and claim them because they know the respectful thing to do would have been to ask before placing them.

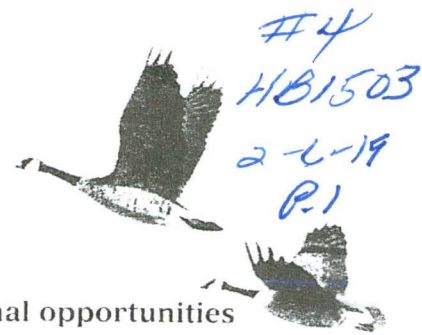
With this, I urge the committee to recommend a DO-PASS on House Bill 1503. Thank You.

I stand for any questions.

#3
HB1503
2-6-19
P. 2

North Dakota Wildlife Federation

Ensuring abundant wildlife, wildlife habitat, and access to wildlife recreational opportunities



TESTIMONY OF JOHN BRADLEY
NORTH DAKOTA WILDLIFE FEDERATION
HOUSE BILL 1503
JUDICIARY COMMITTEE
February 6th, 2019

Chairman Koppelman, members of the House Judiciary Committee:

For the Record, I am John Bradley, Executive Director of the North Dakota Wildlife Federation (NDWF). I'm here today representing our 1,500 members in 15 affiliated wildlife and sportsmen's club across North Dakota.

The North Dakota Wildlife Federation is in support of the intent of this bill - to protect the right of privacy for landowners. We believe that this bill is intended to stop the use of trail or game cameras (game cameras) on private land without permission. A landowner should not have to worry about being recorded without his knowledge on his own property. Game camera technology is expanding, with wireless and cellular technology available. These game cameras are designed with an inbuilt transmitter or a SIM card from a cellular carrier, which transport images that the camera captures to your cell phone or email. After the camera detects and captures an image of an object passing by, within 90 seconds you will have that image on your phone or email.

We recognize that some hunters won't agree with our stance, but obtaining permission for use of game cameras on private property, while difficult, has the opportunity to increase sportsmen



PO Box 1091 • Bismarck, North Dakota 58502 • E-mail: ndwf@ndwf.org • Fax: 701-223-4645
Office Manager: 701-222-2557 • 1-888-827-2557 • Web: www.ndwf.org

#4
HB 1503
2-6-19
P. 2

landowner relations and reduce conflicts and will not decrease hunter opportunity on private land.

The way this bill is written, however, would also negatively impact wildlife photographers, hunters using binoculars to glass game, or the parent taking a photo of their child with his or her's first pheasant. We would ask that the bill sponsor amends the bill to exclude photography when the individual photographer is present and to clarify that the use of binoculars, spotting scopes, or similar wildlife observing devices are not prohibited.

Thank you for the opportunity to testify. I will stand for any questions that the committee might have.



#5
HB 1503
2-6-19
P.1

House Judiciary Committee
Testimony on HB 1503

North Dakota Game and Fish Department
Robert Timian, Chief Game Warden
February 6, 2019

Chairman Koppelman, Vice Chair Karls, and members of the House Judiciary Committee, my name is Robert Timian, Chief Game Warden of the North Dakota Game and Fish Department. I am testifying today in opposition of HB 1503 as written.

While we are not opposed to what we believe is the bill's concept that is to prohibit individual from installing and placing devices on property of another without permission, the bill's language goes far beyond that. One example of this broad-brush language would be an individual on a section line trail observing a deer through binoculars would now according to HB1503 be committing a crime.

As I have stated we are not opposed to the concept, as in the past the Department had to address individuals putting things including blinds and trail cameras on PLOTS areas which where not part of the lease agreement with the landowner. With legislative agreement administrative rule 30-04-08-01 was put in place, that required written landowner permission for any hunting equipment or accessories to be left on the property.

The Department respectfully requests a DO NOT PASS on HB 1503 as written.

**TESTIMONY OF MICHAEL McENROE
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY
HOUSE BILL 1503
HOUSE JUDICIARY COMMITTEE
FEBRUARY 6, 2019**

Chairman Koppelman and Members of the House Judiciary Committee:

For the record, I am Mike McEnroe, representing the North Dakota Chapter of The Wildlife Society. The Chapter is a professional organization comprised of some 350 wildlife biologists, land managers, educators, game wardens, and natural resource administrators in North Dakota.

HB 1530 relates to the use of devices for observing and recording or photographing wildlife on private property without permission.

The Chapter supports the concept of prohibiting the installation and use of trail or wildlife cameras on private land without permission. However, the Chapter has some concerns over the unintended consequences of HB 1503 as it is drafted.

We recommend that the legislation spell out or specify that it relates to “wildlife” or “trail” cameras, or motion-activated remote cameras, to differentiate from in-person photography using a film or digital camera or cell phone for taking a snap-shot of wildlife or a successful hunting trip.

We would also recommend deletion of the words “uses”, “observing”, and “device” from HB 1503. As currently written HB 1503 would apply to a person legally hunting on private land, who then uses a pair of binoculars or a spotting scope to observe wildlife. Similarly, a father and child hunting on private land with permission would then be breaking the law by taking a picture on a cell phone of the child’s first pheasant or deer. This was not the intent of HB 1503.

Although we have not reviewed the amendments suggested by Representative Damschen when he introduced HB 1503, they seem to clarify a number of our concerns. We also support the idea of tagging permitted trail cameras with the owner’s name and phone number or an identifying registration number obtained from the ND Game and Fish Department. This would be similar to the requirement for identifying traps and snares used on private land.

Thank you for the opportunity to provide these written comments after the hearing.

19.1118.01001
Title.

Prepared by the Legislative Council staff for
Representative Damschen
February 5, 2019

#1
HB 1503
2-11-19
pg 1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1503

Page 1, line 3, after "permission" insert "and a permanently affixed identifier"

Page 2, line 2, remove ". without written permission from the owner or occupant."

Page 2, line 3, after "wildlife" insert: ":

- a. Without written permission from the owner or occupant of the property; or
- b. If the device does not have a permanently affixed metal or plastic tag with a registration number issued by the game and fish department, or the individual's name, address, and telephone number"

Renumber accordingly

North Dakota
STOCKMEN'S ASSOCIATION



407 SOUTH SECOND STREET
BISMARCK, NORTH DAKOTA 58504
Ph (701) 223-2522
Fax: (701) 223-2587
e-mail: ndsa@ndstockmen.org
www.ndstockmen.org

HB 1503
3.15.19
#1
Pg.1

**North Dakota Stockmen's Association Testimony
to the Senate Energy and Natural Resources Committee on HB 1503
March 15, 2019**

Good morning, Chairman Unruh and members of the Senate Energy and Natural Resources Committee. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association, an 89-year-old beef cattle trade organization representing 3,000 cattle-ranching families.

Thank you for the opportunity to comment on HB 1503, a bill initiated by our members.

With a foundation rooted deeply in private property rights protection, the Stockmen's Association spent much of the interim preparing a property rights bill your chamber passed last month. Through that process, landowners and sportsmen met to gain a better understanding of each others' priorities, as well as to discuss issues of mutual interest and concern. One of the issues that most everyone seemed to agree upon was the frustration landowners expressed about game cameras and other paraphanelia being placed on their private property without their knowledge and without their permission. In the cases that were cited involving cameras, the landowners felt their privacy had been violated and were uneasy, not knowing who had put them up and what their intentions were.

Two of our members who had planned to be here to share their stories, but couldn't make it due to the weather, are among those who have discovered cameras that they were not expecting on their property.

HB 1503
3.15.19
#1
Pg. 2

One member from Steele nearly destroyed his combine header when he was harvesting and discovered a game camera mounted on a steel fence post in the middle of his field on one occasion. On a few others, he found cameras mounted in trees not far from his yard. It made him especially uncomfortable as the father of two young daughters. He took the cameras and left a note saying, "If you want your camera back, here is my phone number," where they had been. In one case, he teased, it reunited him with a long-lost relative who called and fessed up that the camera belonged to him. After hearing the worry that he had caused, the camera owner understood why he should have asked for permission before he set the camera up.

In another instance, one of our McKenzie County members and her family moved a group of cattle to their pasture in the Tobacco Gardens area. It was a long project and, after they had the animals moved safely to their new grazing area, nature called and she found a discreet place to go to the bathroom – only, it wasn't so discreet when, later, the neighbor boy who had set up a game camera in their pasture without their knowledge or permission discovered he had caught her on film. You can imagine both of their embarrassments, as well as their awkward first encounter after that at church or the grocery store!

HB 1503 simply requires permission before you set up and leave a camera on someone else's property. We believe landowners should absolutely have this say on property they own, pay taxes on and, in many cases, make their living from.

The bill was written to mimic similar law already on the books. North Dakota Century Code already prohibits an individual from entering privately owned land for the purpose of trapping fur-bearing animals without first gaining written permission (NDCC 20.1-01-18), and the North Dakota PLOTS program rules already require written permission before a hunter can leave hunting equipment, accessories or provisions on another's property overnight. If the state can allow this for its program acres, we think it is only fair that private landowners are afforded the same courtesy.

For these reasons, we ask for your favorable consideration of HB 1503.

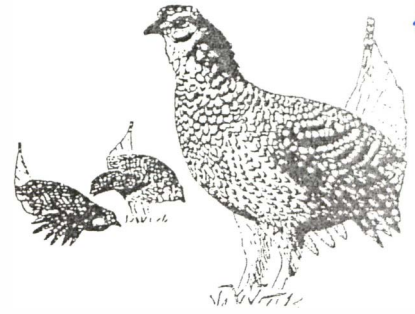
HB 1503
3.15.19
#2
Pg.1



North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MICHAEL McENROE
ND CHAPTER OF THE WILDLIFE SOCIETY
HOUSE BILL 1503
ENERGY AND NATURAL RESOURCES COMMITTEE
MARCH 15, 2019**

Chairwoman Unruh and Members of the Senate Energy and Natural Resources Committee:

For the record, I am Mike McEnroe representing the North Dakota Chapter of The Wildlife Society, comprised of some 350 wildlife biologists, land managers, educators, students, law enforcement officers, and administrators in the State.

HB 1503 requires written permission from a landowner to install a “trail camera” on private property, or requires an identifying registration number or name, address and phone number for the camera’s owner if installed on private property.

The Chapter supported the concept of HB 1503 when as it introduced in the House, but thought some of the initial wording was too broad. We would add that we would be comfortable if the “or” in section 3, line 4, was changed to “and”. That suggestion being made, we support HB 1503 as amended.

Thank you for the opportunity to address the Committee and I will stand for any questions.

House Bill 1503

Ladies and Gentleman of the Senate Energy and Natural Resources Committee. My name is Levi Rue I am a farmer and rancher from Sheyenne. Which is a small town in central North Dakota. I come to Bismarck today to ask all of you to restore private property rights, and protect North Dakota's citizens from unlawful surveillance.

Some of you might be wondering why a rancher from the smallest county in North Dakota is standing before you talking about unlawful surveillance. I mean it was just last summer we got high speed fiber optic internet and TV service.

You may be wondering who is unlawfully surveilling us. Is it the Russians, is it the CIA, or is it the NSA? Truthfully I have no idea who is doing it because all I can find is little battery powered cameras, strapped to trees on my private property. There was no permission granted to place these little battery powered devices, no return address, or calling card.

I can only assume what the intent of these cameras camouflaged in the trees and brush is, because no one has talked to me or other landowners to ask if the camera can be placed there or for what purpose they are serving.

If I was to place devices such as these on private property for instance within the city of Bismarck, I have a feeling there would be a uproar. It would make it on the front page of the Tribune, most likely on the evening news and on talk radio. I can only imagine the headline. It may read something like this, "Unlawful Surveillance, or Peeping Tom uses Game Cam, or Smile your on Candid Camera"

The response would be warranted and concerns well placed. There is no acceptable reason for someone to be able to place a device to record still pictures, or videos of anything on someone else's private property without their written consent. These devices should have to be marked with a identifier so that if found they can be traced back to the person responsible for their placement.

There is a infringement of private property rights happening right now in rural North Dakota that can not be tolerated and we need our elected officials in Bismarck to take a stand. I have with me today a bucket of "Cameras" that I have found in trees on our private property in Eddy County. I come across them while out fencing and haying, and the occasional walk to the far the of the field after braking down. I have a pretty good idea what these cameras were placed for, but I have no idea who placed them. For that reason I take them down and keep them in this bucket. If someone is missing a camera and can identify it I will give it back. So far no one has came to claim the cameras. I cant figure out why no one wants to come and claim them, with the cost they are not cheap to have go missing.

I'm just going out on a limb and saying that I believe no one wants to come forth and claim them is because they know the respectful thing to do would have been to ask before placing them.

Our hopes with this bill is to mirror the Game and Fish requirements they already have on their PLOTS land which is (Private Land Open To Sportsman). This should make 1503 easy to implement and keep North Dakota Century Code consistent.

With this I urge the committee to recommend a DO PASS on House Bill 1503. Thank You.