

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1238

2005 HOUSE NATURAL RESOURCES

HB 1238

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1238

House Natural Resources Committee

☐ Conference Committee

Hearing Date: January 27, 2005

Tape Number

1

Side A

x

Side B

Meter #

37-1055

Committee Clerk Signature

Loren Bonnet

Chr. Nelson: Opened the hearing on HB 1238. Roll was called, all present; bill read aloud.

Rep. Todd Porter, Dist. 34: HB 1238 clears up some confusion in existing law which rests around the words corporation, LLC, LLP, and other expansions of the use of a gratis (hunting) permit. The intent of the legislation is to make certain that only one gratis license be issued per individual, corporation, limited liability company. The question has come up that some of those other entities felt that they could have more than one gratis tag. The intent of this legislation is to limit that to one per entity. Mr. Schadewald from the G & F Dept. is here to discuss a recent court ruling in a situation that happened this fall.

Chr. Nelson: Are there questions of Rep. Porter? Seeing none, thank you. Further support for HB 1238? Any opposition to HB 1238?

Mike Donahue, ND Wildlife Federation: Opposed as is; asking for an amendment. (Written testimony attached)

Chr. Nelson: If I understand you, if one license per entity is clarified and is part of the bill, would you support the bill?

Donahue: That's correct.

Chr. Nelson: Any further questions of Mr. Donahue? Seeing none, than you. Further opposition to HB 1238?

Curtis Blohm, ND Outdoor Heritage Coalition: Opposed, but organization might not be after hearing Rep. Porter's comments of one license. **(Written testimony attached)**

Chr. Nelson: Your opposition revolves around the one license per entity as well?

Blohm: Yes.

Chr. Nelson: Further questions of Mr. Blohm? Seeing none, thank you. Is there further opposition to HB 1238? If not, Mr. Schadewald, would you come up?

Paul Schadewald, ND Game & Fish: As Rep. Porter mentioned, there has been some recent activity in this area of the law. Last fall, an individual went to court on this issue. Game & Fish had advice to the Attorney General prior was not allowing corporations of limited partnerships to have licenses. We were allowing the individual who actually farmed or ranched the property to get the license, but not a corporation based on ownership. Individuals who owned or had their name on the title was fine, but we had an individual who happened to be an attorney. He took this case through court in Burleigh County. He wanted to have multiple licenses for a corporation or partnership. If they had 640 acres, that would translate into four licenses for shareholders in the group. The judge said, yes, the entity should be able to "a license" or "one license" and no to the part about multiple licenses. That's a Burleigh County case, and technically it applies only to Burleigh County. Our intent is to implement it statewide. It is the best guidance we've had. This bill does clarify that those groups can't get licenses and on Pg 1, Line 12 it does say "a license" and that's what the judge used to verify that it would be one

license for an entity like this. I think the legislative intent to have one license is very helpful. If this bill is passed, that is how we would interpret "a license."

Chr. Nelson: Any questions of Mr. Schadewald?

Rep. Nottestad: I know of one situation of a family corporation where some land is held by the corporation but others own lands that are farmed within the corporation as their farm. But individuals have their names on the tags. Would you clarify a situation like that? Would the corporation be allowed one license for the corporate-held lands and would the individuals who had land in their name, which is a part of the corporation, would they have access to individual license for said land?

Schadewald: First of all, an individual could have one gratis license of any type, so we're not going to have them get one based on ownership and one based on a corporate entity.

Nottestad: There are 20 active farmers in the corporation.

Schadewald: If they are actively farming that land, there would have to be some corporate agreement available. If there is a question of law, we could ask for a farm lease or something similar. If they have an agreement farming the corporate land, that farmer is eligible for a license.

Nottestad: So the individual owner who is part of the corporation could apply for the land that he has his name on for one license. But, if someone else in the corporation does not own land, they could use the corporation license for their application?

Schadewald: That's correct.

Nottestad: That's fair.

Chr. Nelson: Further questions?

Rep. Norland: Paul, let's just use the 640 acres that you mentioned. If the corporation gets one license on it, and they lease it to another farmer, is that farmer also able to get a license?

Schadewald: It's between the landowner and the farmer. If the agreement says that the individual who is leasing for farming purposes gets the gratis, then it can be that way. If it is silent and they have a dispute over it, the law says simply that the landowner has priority on that license.

Nottestad: There would just be one license?

Schadewald: Correct.

Chr. Nelson: Further questions?

Rep. Johnson: There is a bill in the senate on 160 acres, if that were to pass, would that come into this bill?

Schadewald: It doesn't amend the same section, so I think they could probably merge without any conflict.

Chr. Nelson: Any further questions of Mr. Schadewald? Seeing none, is there any further testimony on HB 1238? Rep. Porter and I will check with the Attorney General's office to see if they would look at this bill the way it was explained in committee and get some clarification. If we're able to do that this morning, we may be able to handle this bill this afternoon. With that, I will close the hearing on HB 1238.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1238

House Natural Resources Committee

☐ Conference Committee

Hearing Date February 1, 2005

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|---------|
| 1 | x | | 17-690 |

Committee Clerk Signature

Loren Bonnet

Minutes:

Chr. Nelson: Opened hearing; roll was called, all present; bill was read aloud.

Rep. Porter sponsored this to allow a gratis license to a limited liability company, partnership...

What is the Committee's wishes.

Rep. Porter: Just to refresh the committee. There was a court case last fall where an individual who was a shareholder of a corporation that owned land was interpreting the statute to say that if they had ten members of the corporation, they could get ten gratis' for the same 160 acres. Game & Fish did go to court with the individual, they did prevail and the fact that it's only one (didn't matter). They wanted something to codify that in law. So this bill came forward to codify the judge's decision because technically, that decision only applies in Emmons Co. where the care took place.

DeKrey: Motion Do Pass.

Nottestad: Second.

Chr. Nelson: Motion and second for a Do Pass have been made. Discussion.

Rep. Solberg: So this would only allow *a* corporation or limited liability or partnership, etc. To have only one license, correct?

Chr. Nelson: Yes.

Solberg: What about this amendment suggested by Donahue during the hearing? Should we consider that?

Rep. Porter: It was felt by the Department that this language fully encompassed what the decision was, and that that amendment wasn't necessary. I did go back to the Attorney General's office and ask them to review this the way it stands right now. They have not gotten back to me, yet, but if there is something that they need to make it complete with what the court us, we'll certainly amend it to reflect that.

Rep. Keiser: The concern I have is that we're just creating another problem with this language. That is, what happens if I form a LLP with ten other guys and we buy 11,000 acres and turn it into our game preserve. Do each one of us get one?

Rep. Porter: No, you get ONE.

Keiser: I'm not sure of that. It's based on 160 acres per...

Chr. Nelson: The corporation is one entity. They'd have to break up that corporation.

Keiser: They would each need 160 acres.

Rep. Porter: That was my concern, too. In my question to the Attorney General, I specifically asked it to make sure that that wasn't a possibility to do. Game & Fish was comfortable with it because of the ruling that the word "of" is in there. That's what the judge based his decision on.

You are right, there is a potential of this being abused in the future. I hope that the A.G. Clears that up for us.

Rep. Hunskor: So this is being enacted per the judge's ruling?

Rep. Porter: Yes. The judge's ruling affects only that case in that county. What this will do is make it so that the judge's ruling becomes the law of the land, statewide.

Rep. Charging: What county is this?

Rep. Porter: It was either in Emmons or Burleigh County.

DeKrey: Question.

Chr. Nelson: Question has been called. Rep. Johnson and Norland, are you up to speed on the bill? Karen, call the roll.

Do Pass Vote: 14-Yeas; 0-Nays; 0-Absent; CARRIER: Hunskor

FISCAL NOTE
Requested by Legislative Council
03/01/2005

Amendment to: HB 1238

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2003-2005 Biennium | | 2005-2007 Biennium | | 2007-2009 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 2003-2005 Biennium | | | 2005-2007 Biennium | | | 2007-2009 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill does not change the current interpretation of the gratis license law, so it does not impact revenue or expenditures.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

None.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

None

Name: Paul Schadewald
Phone Number: 328-6328

Agency: ND Game and Fish Department
Date Prepared: 03/01/2005

FISCAL NOTE
Requested by Legislative Council
01/10/2005

Bill/Resolution No.: HB 1238

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| 2003-2005 Biennium | | 2005-2007 Biennium | | 2007-2009 Biennium | |
|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | |
| Expenditures | | | | | |
| Appropriations | | | | | |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 2003-2005 Biennium | | | 2005-2007 Biennium | | | 2007-2009 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill does not change the current interpretation of the gratis license law, so it does not impact revenue or expenditures.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

None.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

None

Name: Paul T. Schadewald
Phone Number: 328-6328

Agency: ND Game and Fish Department
Date Prepared: 01/12/2005

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✓sun

Date: 2/1/05
Roll Call Vote #: /

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1238

House

NATURAL RESOURCES

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number :

Action Taken : *No Pass*

Motion Made By : *DeKrey*

Seconded By : *Nottestad*

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------------------|-----|----|---------------------|-----|----|
| Chairman - Rep. Jon O. Nelson | ✓ | | Rep. Lyle Hanson | ✓ | |
| Vice Chairman - Todd Porter | ✓ | | Rep. Bob Hunskor | ✓ | |
| Rep. Dawn Marie Charging | ✓ | | Rep. Scot Kelsh | ✓ | |
| Rep. Donald L. Clark | ✓ | | Rep. Dorvan Solberg | ✓ | |
| Rep. Duane DeKrey | ✓ | | | | |
| Rep. David Drovda | ✓ | | | | |
| Rep. Dennis Johnson | ✓ | | | | |
| Rep. George J. Keiser | ✓ | | | | |
| Rep. Mike Norland | ✓ | | | | |
| Rep. Darrell D. Nottestad | ✓ | | | | |

Total (Yes) 14 No 0

Absent — 0

Floor Assignment *Hunskor*

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

REPORT OF STANDING COMMITTEE (410)
February 2, 2005 10:47 a.m.

Module No: HR-22-1657
Carrier: Hunskor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1238: Natural Resources Committee (Rep. Nelson, Chairman) recommends DO PASS
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1238 was placed on the
Eleventh order on the calendar.

2005 SENATE NATURAL RESOURCES

HB 1238

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1238

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date February 25, 2005

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|------------|
| 1 | X | | 45.9 - end |
| | | X | 0.0 - 3.4 |

Committee Clerk Signature



Minutes:

Senator Stanley Lyson, Chairman of the Senate Natural Resources Committee opened the hearing on HB 1238, relating to gratis and preferential landowner licenses to hunt deer.

All members of the committee were present.

Representative Todd Porter of District 34 , cosponsor of HB 1238 introduced the bill stating it was developed as a result of a court case in Burleigh County. The current law regarding gratis hunting tags does not address the corporation, the limited liability, partnership or limited liability company. This bill will take that decision made in the court case and make it state wide. Using the word "a" will limit it to one license to any one of the entities described in the bill. The North Dakota State Game and Fish Department is comfortable with this decision.

Mike Donahue although not present because he was testifying at another hearing, asked Representative Porter to relay to the committee that the North Dakota Wildlife Federation and the United Sportsmen of North Dakota are in support of HB 1238.

Paul Schadewald, (49.4) Chief of Administrative Services Division of the North Dakota State Game and Fish Department testified in support of HB 1238. He stated that current law says a resident is eligible for this type of license and interpretation of that law has been people could get the license and not a entity that was not a live body could not get the license. This was challenged so that any entity and the number of members of that entity should be able to get the licenses. The judge agreed that the entity could get a license, but only one license. North Dakota State Game and Fish Department was willing to use the judge' s interpretation but is better to have the legislature clarify the definition of the entity with one license for one entity. There would be two reasons of eligibility for the license. One would be ownership of the land and one for actively ranching or farming the land.

Tape #1 Side B, 0.0 - 3.4

Paul Schadewald presented an amendment to the committee (See attached).

Harold Neameyer representing the Cass County Wildlife Club testified that after the clarification of Paul Schadewald and his proposed amendment, they are in support of HB 1238 with the amendment.

Senator Lyson asked for opposing testimony of HB 1238 and hearing non, closed the hearing on HB 1238.

Senator Ben Tollefson made a motion to adopt the amendment as proposed by the North Dakota State Game and Fish Department.

Senator Joel Heitkamp second the motion.

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Senate Natural Resources Committee

Bill/Resolution Number HB 1238

Hearing Date 2-25-05

Roll call vote #1 for adoption of the amendment as proposed by the North Dakota State Game and Fish Department was taken by voice vote indicating 7 YEAS, 0 NAYS AND 0 ABSENT OR NOT VOTING.

Senator Tollefson made a motion for Do Pass as Amended of HB 1238.

Senator Michael Every second the motion.

Roll call vote #2 for Do Pass as Amended of HB 1238 was taken indicating 7 YEAS, 0 NAYS AND 0 ABSENT OR NOT VOTING.

Senator Tollefson will carry HB 1238.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1238

Page 1, line 16, after "partnership," remove "the" and insert "only one" and after "license" insert "may be issued and it"

Renumber accordingly

Date:
Roll Call Vote #: /

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1238

Senate Senate Natural Resources

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

A dept Amendment

Motion Made By

Tollefson

Seconded By

Heitkamp

Senators

Yes

No

Senators

Yes

No

Senator Stanley Lyson, Chairman
Senator Ben Tollefson, Vice Chair
Senator Layton Freborg
Senator Rich Wardner
Senator John Traynor

Senator Joel Heitkamp
Senator Michael Every

[Handwritten signature]

Total (Yes)

No

Absent

Floor Assignment

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

Date:

Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1238

Senate Senate Natural Resources

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass as Amended

Motion Made By

Toll.

Seconded By

Every

| Senators |
|-----------------------------------|
| Senator Stanley Lyson, Chairman |
| Senator Ben Tollefson, Vice Chair |
| Senator Layton Freborg |
| Senator Rich Wardner |
| Senator John Traynor |

| Yes | No |
|-----|----|
| ✓ | |
| ✓ | |
| ✓ | |
| ✓ | |
| ✓ | |

| Senators |
|-----------------------|
| Senator Joel Heitkamp |
| Senator Michael Every |

| Yes | No |
|-----|----|
| ✓ | |
| ✓ | |

Total (Yes)

7

No

0

Absent

0

Floor Assignment

Tollefson

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

REPORT OF STANDING COMMITTEE

HB 1238: 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 1238 was placed on the Sixth order on the calendar.

Page 1, line 16, replace the first "the" with "only one" and after "license" insert "may be issued and the license"

Renumber accordingly

2005 TESTIMONY

HB 1238

House Bill No. 1238

**Reference: Deals with landowner deer licenses for corporations
and partnerships.**

House Natural Resources Committee

Hearing Date: January 27, 2005

Good Morning, Mr. Chairman and Committee members. My name is Curtis Blohm. I appear before you today representing the North Dakota Outdoor Heritage Coalition. This coalition was founded out of the need for representation before the legislative committee by North Dakota citizens concerned for the preservation of our unique outdoor recreational heritage.

The ND Outdoor Heritage Coalition is opposed to the content of this bill. We feel that the bill would provide additional pressure on the taking of bucks. Buck tags are a highly popular license and adding more applicants to the license pool only diminishes the opportunity to resident hunters across the State.

Thank You.

MISSION STATEMENT NORTH DAKOTA OUTDOOR HERITAGE COALITION

The North Dakota Outdoor Heritage Coalition was founded out of the need to have representation of North Dakota citizens concerned with the preservation of their unique recreational heritage. Its members believe and support the following:

- a. The necessity of preserving and fostering the underlying principals of the Public Trust Doctrine and in preserving high quality outdoor recreational opportunities.
- b. The belief that North Dakota's fish and wildlife resources must be kept as publicly held resources, owned and managed by the State of North Dakota for the long-term benefit and enjoyment of its citizens.
- c. To work to create and maintain a fair distribution of our outdoor recreational opportunities, giving preference to our resident sportsmen.
- d. To seek to minimize the affect of commercial operations on our publicly held resources and recreational opportunities by limiting the number of commercial operations and the amount of land under their control.
- e. We support programs that open private land to access for outdoor recreation especially those that are community-based because of the associated economic benefit.
- f. We support the increased acquisition of public use lands for outdoor recreation such as the PLOTS program.
- g. Be an advocate for restrictions on the use of North Dakota's resources which serve to guarantee that all participants have satisfying quality outdoor experiences well into the future.

The North Dakota Outdoor Heritage Coalition believes that the State's fish and wildlife resources must be kept a publicly held resource, owned and managed by the State, for the long-term benefit and enjoyment of its citizens.

By: Mike Donahue

North Dakota Wildlife Federation

Abundant wildlife and wildlife habitat, and access to wildlife recreational opportunities



1/27/2005

For: House Natural Resources Committee

Ref: HB1238

The North Dakota Wildlife Federation is opposed to this bill as it is worded.

We are not certain that ~~it~~ meets the decision given in Burleigh County Court(last year) that a corporation only gets one license per year.

We ask for amendments that would take away our concern. Ask the Attorney General for advice.

Thank you,
Mike Donahue
Lobbyist #275



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