

2009 HOUSE NATURAL RESOURCES

HB 1240

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1240

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 for HB 1240. Rep. Hofstad

Rep. Hofstad – The section code allows a person who owns real property to act as a guide the problem is, that person can violate the law and still act as a guide. They are not held to the same paramaters as licensed outfitters and guides. Therefore he would be held to the same standards as other guides and outfitters. Questions

Chairman Porter – We have delt with this in the past with the exemption. It was clear that if you moonlighted you don't need a outfitters or guide license. However the unintended consequences for that landowner who commits game & fish violations that if he was competing with a business doing the same thing he should be held to the standard of potentially put out of business for game & fish violation.

Rep. Hofstad – Exactly, a landowner that owns 1,000 acres of land could act as an outfitter regardless of the number of violations he might have committed. What this does is holds him to exactly the same standards as guides and outfitters.

Rep. DeKray – How would this be enforced? As a landowner he won't be issued a license or anything right? He can just go out and guide on his land.

Rep. Hofstad – Exactly so if he violates the law he should be punished like the other guides and outfitters, but, what do you take away from him? He doesn't have a license, so what can you take away from him? I think that is a question I would refer to the game & fish.

Chairman Porter – Any other questions of Rep. Hofstad? Rep. Clark

Rep. Clark – What brings about the need for this bill?

Rep. Hofstad – It is an issue that it is not fair. You have a farmer or rancher that owns 1 to 2 thousand acres of land and have an opportunity to compete with the licensed guides and outfitters, and they do all the time. This is holding those landowners to the same standards.

Chairman Porter – Any other questions for Rep. Hofstad? Further testimony in support of HB 1240? Rep. Pinkerton

Rep. Pinkerton – Would this back date to prior violations?

Rep. Hofstad – Nothing we do goes retroactive unless it says so in the law it is retroactive.

Chairman Porter – Further testimony in support of HB 1240?

Clarance Bina – United Sportsman of ND – Their board is neutral on this. This language is really dense. This is loaded with qualifiers – however, if, not otherwise, otherwise – double negatives all over the place. The syntax is torture. Please take a look at the language in this.

Chairman Porter – Maybe you should have been up at UND Law school when this was written.

Any questions for Mr. Bina? Further testimony in support of HB 1240? Testimony in opposition to HB1240.

Chief Timion – An issue that has come up is that landowners are exempt from licensure. It doesn't exempt him from other penalties that may incur. If a landowner is convicted of a criminal game & fish violation, because he isn't licensed, we can't take anything away from him. If he were to lose his exemption from licensure because of that conviction, then he could be charged with being a guide or outfitter without a license which is a criminal offence.

Chairman Porter – The only thing that would happen to the landowner is they couldn't advertise themselves as a guide or outfitter, nor could they charge at their door to take someone out. Rep. Keiser

Rep. Keiser – This bill still doesn't work. The bill should read: The landowner loses his exemption.

Chairman Porter – Any further questions for the chief? We will close the hearing on HB 1240.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1240

House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: 1-29-09

Recorder Job Number: 8170

Committee Clerk Signature

*Nancy L. Gerhardt*

Minutes:

Rep. Hofstad – I worked with Game & Fish – We take the landowner who is entitled to guide on his land if he is using it for agricultural purposes and if he is convicted of a game & fish violation we place him under the same restrictions as the licensed guide and outfitters.

Chairman Porter – A motion from Rep. Hofstad and a 2<sup>nd</sup> from Rep. DeKray – discussion.

Seeing none, all in favor say eye opposed 0. Rep. DeKray makes a motion for a Do Pass As Amended 2<sup>nd</sup> from Rep. Keiser.

Yes 13 No 0 Absent 0 Carrier Rep. Hofstad

VR  
1/30/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1240

Page 1, line 9, replace "that owns or leases real" with "who has been convicted of a state or federal criminal game or fish violation within the last three years or whose license to hunt or fish is under suspension or revocation"

Page 1, remove lines 10 through 12

Page 1, line 13, remove "landowner" and after "licensure" insert "and is subject to subsection 5 of section 20.1-03-37"

Renumber accordingly

Date: 1-29-09  
Roll Call Vote #: \_\_\_\_\_

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1270

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 DeKrey Seconded By Keiser

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) 13 No 2

Absent 0

Floor Assignment Hofstad

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

**REPORT OF STANDING COMMITTEE**

HB 1240: Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1240 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "that owns or leases real" with "who has been convicted of a state or federal criminal game or fish violation within the last three years or whose license to hunt or fish is under suspension or revocation"

Page 1, remove lines 10 through 12

Page 1, line 13, remove "landowner" and after "licensure" insert "and is subject to subsection 5 of section 20.1-03-37"

Renumber accordingly



2009 SENATE NATURAL RESOURCES

HB 1240

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1240

Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: March 5, 2009

Recorder Job Number: 10392

Committee Clerk Signature



Minutes:

**Senator Lyson** opens the hearing on HB 1240, relating to guide and outfitter license exemptions.

**Representative Hofstad** introduces the bill. This is a simple bill that corrects a problem. As you may be aware of people who have an agriculture interest that own land and are engaged in the operation of agriculture have the opportunity to act as guides and outfitters. There is a loop hole in the law. These people can be convicted of state and federal game violations and still act as outfitters and guides. This bill attempts to close the loop hole. It says that anyone who is convicted of a federal or state game violation is now held to the same standards as other guides and outfitters.

**Senator Lyson asks Robert if they have problems with this now.**

**Robert Timian**, Chief Game Warden for the North Dakota Game and Fish Department, We have had some instances. Everyone goes deer hunting. People in the gratis status get a license for free. People who aren't pay the \$20 fee. It is the same thing with guides and outfitters. People who are in exempt status do not pay anything for licenses and are not required to be licensed. People who aren't pay a license fee. The difference being that if you don't follow the rules and get a conviction while you are in the exempt status you can continue

guiding and outfitting. If you are in the non exempt status and are convicted you will lose your ability to be licensed for 3 years. The person who is exempt there is no function in the law to prohibit them from guiding and outfitting. All this does is say if you are convicted of a criminal game and fish violation and you are in exempt status you will lose your exemption and you will be treated the same as a regular guide and outfitter.

**Senator Lyson** closed the hearing on HB 1240.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1240

Senate Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: 4/2/09

Recorder Job Number: 11677

Committee Clerk Signature

*Diane Davis*

Minutes: **Senator Lyson, Chairman**

**Committee work**

**Senator Freborg** motions do pass

**Senator Schneider** seconds

Vote -7 - 0

**Senator Freborg** will carry

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 #: 1340

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

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

Motion Made By Sen. Freborg Seconded By Sen. Schneider

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. Freborg.

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

**REPORT OF STANDING COMMITTEE**

**HB 1240, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)**  
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1240 was placed on the Fourteenth order on the calendar.