

ND GAME AND FISH DEPARTMENT
TESTIMONY RELATED TO FISCAL ANALYSIS OF THE INITIATED
MEASURE TO PROHIBIT “HIGH-FENCE HUNTING”

Legislative Management Committee

September 30, 2010

Initiated Statutory Measure No. 2

SECTION 1. A new section to chapter 36-01 of the North Dakota Century Code is created and enacted as follows:

Fee killing of certain captive game animals prohibited – Penalty – Exception. A person is guilty of a class A misdemeanor if the person obtains fees or other remuneration from another person for the killing or attempted killing of privately-owned big game species or exotic mammals confined in or released from any man-made enclosure designed to prevent escape. This section does not apply to the actions of a government employee or agent to control an animal population, to prevent or control diseases, or when government action is otherwise required or authorized by law.

The Board of Animal Health (BOARD) under N.D.C.C. § 36-01-08 and N.D.C.C. § 36-01-08.4 is charged with the oversight and regulatory responsibility of both Non-traditional Livestock (NTL) and Farmed Elk facilities. The BOARD's administrative rules define "Nontraditional livestock" as any wildlife held in confinement or an animal that is physically altered to limit movement and facilitate capture. Farmed elk were removed from the NTL category by the Legislature in the early 1990's, receiving their own domestic designation and separate statutes but still remained under the BOARD's authority. The BOARD's administrative rules address the specific requirements associated with inventory, health status, disease testing, movement, identification, housing, and welfare of NTL and Farmed Elk.

The North Dakota Game and Fish Department (DEPARTMENT), on the other hand, has permitting authority over the possession, propagation, and domestication (PPD) of protected game species, as per N.D.C.C. § 20.1-02-04 and N.D.C.C. § 20.1-09-02.

Only the "big game species" specified and encompassed in Measure No. 2. would be encompassed by the DEPARTMENT's oversight since N.D.C.C. § 20.1-02-02 states "big game" means deer, moose, elk, bighorn sheep, mountain goats, and antelope. Because of their domestic status, Farmed Elk no longer fall under the DEPARTMENT's PPD responsibility. In addition, "exotic mammals" do not fall within the DEPARTMENT'S authority. It is assumed the BOARD's regulatory oversight would encompass all "privately-owned big game species or exotic mammals confined in or released from any man-made enclosure designed to prevent escape" as specified by Measure No. 2.

The DEPARTMENT and BOARD sign a memorandum of understanding each biennium. One of the services provided in this MOU is a "one-stop" application for producers raising NTL species. Producers apply to the BOARD to get their NTL permit (which again addresses inventory, health status, disease testing, movements, identification, housing and welfare). If the species in question is a "protected" wildlife species, the BOARD then sends the application over to the DEPARTMENT for PPD approval (addresses possession, propagation, & domestication); thereby, becoming a PPD permit, as well. The DEPARTMENT, at times, assists and serves as agents of the BOARD to conduct facility inspections or other compliance and enforcement activities since they do not have field staff.

Although the possession, raising, propagation, housing, movement, welfare, etc. of privately-owned game animals are regulated, neither agency regulates, monitors, or has oversight over the "high-fence hunting" aspect of these operations. Therefore, of the approximately 115 farmed deer and elk producers in our state, there is no tracking of those conducting fee hunts or an accounting of the revenues they obtain from those services. Based on information provided by DEPARTMENT field staff, it is estimated that approximately a dozen farmed deer and elk operations in the state provide fee hunts.

It is believed there would be little to no fiscal impact to the DEPARTMENT if Measure No. 2 was passed. The DEPARTMENT has incurred costs of nearly \$50,000 over the last decade to removal wild deer and elk posing a threat to or gaining entry into farmed deer and elk operations, as well as dealing with escapes by farmed deer and elk into the wild. These activities are associated with game farm facilities whether they provide fee hunts or not. In addition, there is no way to determine if these facilities would continue to operate and raise game animals without fee hunts or if they would fold and liquidate altogether.