



House Judiciary Committee
Testimony on HB 1340

North Dakota Game and Fish Department
Scott Winkelman, Chief Game Warden
February 15, 2021

Chairman Klemin, Vice Chair Karls, and members of the House Judiciary Committee, my name is Scott Winkelman, Chief Game Warden of the North Dakota Game and Fish Department. I am testifying today in opposition of HB 1340.

The fourth amendment to the US Constitution prohibits unreasonable search and seizure by the State. This creates a balance between an individual's rights and the State's need to protect the whole. In addition to subsequent Federal and State laws, the United States Supreme Court and North Dakota Supreme Court have produced rulings that more clearly define what the State may or may not do related to search and seizure. Game Wardens and all other North Dakota licensed peace officers receive extensive and continuing training on all laws and court decisions dealing with search and seizure and the limits those place on law enforcement. This bill as written would have a negative impact on Game Wardens' ability to inspect hunters in the field and enforce current laws and regulations related to hunting, fishing, and trapping. This bill would also negatively impact the ability of Game Wardens to provide other services to the public and landowners such as simply stopping at a farmstead to inform the landowner that their cattle are loose or create a positive relationship with landowners by stopping at a house or in a field and having a friendly conversation. Passing this bill would create a fog of legal uncertainty that would require new case law and court rulings for guidance.

In my experience, in addition to any agency or States Attorney review to ensure search and seizure was done appropriately, most cases involve a motion to suppress evidence. This motion to suppress requires a Judge to review the circumstances and procedures regarding how law enforcement obtained the evidence, and should the Judge find the State did not act appropriately the evidence is suppressed.

The US Constitution, current law and Judicial oversight currently provide the appropriate balance between the needs of society and the rights of the individual and allow Game Wardens to provide the services that are expected by the public.

The Department respectfully requests a DO NOT PASS on HB1340.