

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, AND  
MINING**

**Seventy-Fifth Session  
May 13, 2009**

The Committee on Natural Resources, Agriculture, and Mining was called to order by Chair Jerry D. Claborn at 1:34 p.m. on Wednesday, May 13, 2009, in Room 3161 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 5100 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/75th2009/committees/](http://www.leg.state.nv.us/75th2009/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Jerry D. Claborn, Chair  
Assemblyman Joseph M. Hogan, Vice Chair  
Assemblyman Paul Aizley  
Assemblyman David P. Bobzien  
Assemblyman Pete Goicoechea  
Assemblyman Tom Grady  
Assemblyman Don Gustavson  
Assemblyman Harvey J. Munford  
Assemblyman James Ohrenschall  
Assemblyman Tick Segerblom

**COMMITTEE MEMBERS ABSENT:**

Assemblyman John C. Carpenter (excused)

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

J. Randall Stephenson, Committee Counsel  
Jennifer Ruedy, Committee Policy Analyst  
Judith Coolbaugh, Committee Secretary  
Cheryl McClellan, Committee Assistant

**OTHERS PRESENT:**

Rob Buonamici, Chief Game Warden, Division of Law Enforcement,  
Department of Wildlife  
Kenneth E. Mayer, M.S., Director, Department of Wildlife  
Ira Hansen, Private Citizen, Sparks, Nevada

**Chair Claborn:**

[Roll was taken.] I am opening a work session and the hearing on Senate Bill 132 (1st Reprint). A Subcommittee hearing was held to give this bill further consideration. Mr. Ohrenschall, Chair of that Subcommittee, will report on their recommendations.

**Senate Bill 132 (1st Reprint): Revises provisions governing the treatment of animals. (BDR 50-369)**

**Assemblyman Ohrenschall:**

The Subcommittee met immediately upon adjournment of the regular Committee hearing on Monday, May 11, 2009. We took testimony from proponents and opponents of the bill. We considered many different scenarios, and then determined the compromise language which Senator Copening and the other Senators had developed during their hearing on the measure was satisfactory. Originally the bill provided for 9 hours maximum tethering time per day, and that was changed to 12 hours. It was further increased to a 14-hour maximum. The Senate bill eliminated any required dimensions for pens or enclosures, but said a pen or enclosure must be appropriate and of reasonable size for the animals' breed. There are eight situations that are exempt from the permitted tethering time maximum.

The Senate achieved a fairly good compromise, and it will go a long way towards helping animal control protect these animals. We voted unanimously and as bipartisans to support the bill as it came out of the Senate. [A copy of the work session documents including a fiscal note and the Subcommittee's recommendation report was distributed to the Committee ([Exhibit C](#)).]

**Chair Claborn:**

Mr. Grady will be leaving in a few minutes to attend another committee hearing, so I am going to hold this bill in abeyance until other Committee members arrive. [Assemblymen Bobzien, Goicoechea, Munford, and Segerblom arrived, so a quorum was present to proceed with the vote.] I will entertain a motion.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS  
SENATE BILL 132 (1st REPRINT).

ASSEMBLYMAN MUNFORD SECONDED THE MOTION.

Is there any discussion?

**Assemblyman Goicoechea:**

I am concerned that the bill will pit one neighbor against another because there are not enough law enforcement officers available to monitor these situations. Although I understand there are a number of exemptions to the tethering time requirement, I think unintended conflicts between neighbors might develop. I would like to hear from the rest of the Committee on whether or not they perceive neighbor vendettas as being a potential problem.

**Chair Claborn:**

Mr. Ohrenschall, would you address Mr. Goicoechea's concern?

**Assemblyman Ohrenschall:**

No law can legislate humanity, and make humans act humanely towards a dog. This bill will give animal control officers and the county sheriff more tools to protect these animals. I think the situation you are referring to could happen now under the current law. A neighbor with a vendetta could call animal control to report alleged abuse. However, I have confidence from listening to the testimony presented at the Subcommittee and Committee hearings that a law is needed to specify maximum acceptable time a dog can be tethered.

Currently, when animal control officers are called out to check on tethered dogs, they cannot do anything because there is no law against it. To answer your question, yes, there could be abuse of the law. Any time we pass any legislation about animals or anything else, people can abuse the laws. We have to maintain confidence in the judgments and abilities of the animal control officers to distinguish between legitimate and phony complaints.

**Assemblyman Grady:**

Mr. Ohrenschall did an excellent job chairing the Subcommittee. What convinced me that this law was needed was the testimony of the law enforcement officers. They indicated they needed this law in order to do their job. There could be some abuses of the law, but the people who are enforcing the law need this tool to provide the animals with protection. I support the bill.

**Assemblyman Gustavson:**

I have a comment. I am an animal lover, and I understand the intent of the bill. It is admirable. My problem with the bill is in some ways it does not go far enough, and in other ways it goes too far. There are a lot of good pet owners out there who have to chain or tether their dogs. I think this bill will create unintended consequences. I do not support the bill.

**Assemblyman Goicoechea:**

There are some good provisions in the bill including specifying the length of the tether and the banning of certain types of collars. My big issue with the bill is the maximum length of time a dog can be tethered, and how that provision can be enforced. I commend the Subcommittee on their work because, with the exemptions in place, most of the concerns expressed by people in the rural areas were satisfied. I understand that animal control needs this enforcement tool to be able to issue a citation.

**Chair Claborn:**

I am concerned about the severity of the penalty for the first violation of the law. I would have preferred a warning ticket. However, I will go with the recommendations of the Subcommittee. Are there any other comments? [There were none.] We have a motion pending to "do pass," and I will now call for the vote since the discussion is finished.

THE MOTION PASSED. [ASSEMBLYMEN GOICOECHEA AND GUSTAVSON VOTED NO. ASSEMBLYMAN CARPENTER WAS ABSENT FOR THE VOTE.]

I am opening the hearing on Senate Bill 411.

**Senate Bill 411**: Revises provisions governing the issuance of hunting, fishing and trapping licenses. (BDR 45-1177)

**Rob Buonamici, Chief Game Warden, Division of Law Enforcement, Department of Wildlife:**

[Read from prepared testimony submitted in writing ([Exhibit D](#)).] On page 2, line 15, the word "violation" is changed to "conviction." Assessing demerit points from the date of conviction is more appropriate than in assessing them from the date of violation. This provides the alleged perpetrator the opportunity to seek due process of law. In some cases, it takes a long time to adjudicate the case. This change will ensure that upon conviction the person will receive the full penalty. It is a fairness issue.

Another change is on page 3, lines 34 and 35, which states if a person is convicted of two or more wildlife felonies for separate events, he will have his privileges permanently revoked. The changes on page 4 and 5 of the bill address residency requirements. The new language clarifies the definition of "domicile," and makes the residency rules easier to understand. There has been the misconception that just owning property in Nevada qualifies you for Nevada residency, although you may actually live in another state. That assertion is not the intent of the residency requirement. Further, the new language would make it easier for us to actually prosecute violators. [Mr. Buonamici continued to read from prepared testimony.] People who apply for tags and licenses under false pretenses currently maintain their bonus points which disadvantages the honest sportsman whether or not he is a resident.

**Chair Claborn:**

I think it is a very good bill, and it clears up a lot of problems. Are there any questions?

**Assemblyman Goicoechea:**

I interpret the language of the bill to mean a person does not receive any demerit points until a conviction is obtained. Is that correct?

**Rob Buonamici:**

Yes, that is correct.

**Assemblyman Goicoechea:**

Then technically, if a case is pending and it goes on for a long time, a person can still use their bonus points. Is that the downside of this language? Is that what you are saying?

**Rob Buonamici:**

No, they are two separate issues. The demerit points are assessed for code violations. Violators have been known to stretch out their pending cases by filing continuance after continuance, so they are still able to hunt and use their

bonus points. If they are convicted, then the penalty is determined from the date of conviction. This means the person got a "free ride" from the date of violation to the date of conviction because he was still permitted to hunt.

**Assemblyman Goicoechea:**

How does this bill change that?

**Rob Buonamici:**

This new language has the penalty start from the date of conviction. For example, if your license is revoked for three years on September 1 for a violation that occurred on January 1, the revocation period begins on September 1, the date of conviction.

**Assemblyman Goicoechea:**

I understand that, but if you start the clock from the date of violation they would lose their bonus points. Either way, they will get the opportunity to use their bonus points.

**Rob Buonamici:**

Yes, that is correct, but we cannot deny due process.

**Assemblyman Goicoechea:**

I understand that and just wanted your clarification.

**Chair Claborn:**

A problem arose and a lengthy court case ensued because a guide company exploited a loophole in the law. The guide company's client used a power of attorney to permit the guide company's agent to obtain game tags in the client's name. This means the client would not have to pay the more expensive non-residency fees for his tags. Then, the guide company's agent continued to use the power of attorney to accumulate game tags in the name of the client. However, unbeknownst to the client, the guide company was re-selling the game tags to other people. I was hoping this new amending language would prevent that activity. Mr. Mayer, do you remember the circumstances of that case?

**Kenneth E. Mayer, M.S., Director, Department of Wildlife:**

I was not in the state during that period. My domicile was in California. On page 5, line 32, the power of attorney authority is limited in the language of the bill. The guide company's agent can apply for a game tag in the guide draw using their client's power of attorney. However, the power of attorney expires on February 28 of the following year. Therefore, the power of attorney cannot be reused in future years. This language eliminates that problem.

**Chair Claborn:**

That takes care of it. Are there any more questions?

**Assemblyman Aizley:**

If someone owns property in two states, for example Arizona and Nevada, and has a Nevada driver's license and vehicle plates, is that person a Nevada resident?

**Rob Buonamici:**

In those cases, we look at the total picture. We contact the state of Arizona and find out what hunting privileges the party has received in that state. If they hold a valid Arizona hunting, fishing, or trapping license, the applicant is not automatically eligible for a Nevada resident license. We also look at power company records and interview neighbors. We run into this situation most frequently with California. A person will have a Nevada driver's license and vehicle plates, but he actually resides in California. We check to see if that person has taken the personal property tax exemption in California. There are a number of different items we consider before we determine the state of residency.

**Chair Claborn:**

A person I worked with for many years was a Nevada resident. He moved to Montana and bought a resident tag and killed a bighorn ram. He came back to Nevada, and the Montana game warden came to investigate. The game warden noticed the man had Nevada license plates on his vehicle. However, he had a resident Montana game tag on the bighorn ram. The game warden asked him which state he was a resident in. The person said he was a Montana resident. The game warden said if that is the case you owe Montana state income tax. Then, the person said he was a resident of Nevada, and there is no state income tax here. The game warden got the Internal Revenue Service involved. The Montana authorities ended up giving this person a five-year hunting license revocation. The state loses a lot of money over this residency issue. I am delighted you brought this bill forward. Are there any more questions? [There were none.]

**Ira Hansen, Private Citizen, Sparks, Nevada:**

I have a proposed amendment to this bill ([Exhibit E](#)). I have been involved in a lot of these issues for a long time. The purpose of my amendment is to clarify a loophole that exists in the law as it currently reads.

**Chair Claborn:**

First, will you tell us your position on the bill?

**Ira Hansen:**

I am in favor of the bill. In 1995, I actually wrote the demerit system, so I am very familiar with it. I am proposing the following amending language to clarify *Nevada Revised Statutes* (NRS) 503.454 which currently reads: "...it is unlawful to remove or disturb the trap of any holder of a trapping license while the trap is being legally used by him on public land or on land where he has permission to trap." The problem is defining the word "disturb." What is a disturbance? Currently, the Department of Wildlife considers a disturbance to be a physical disturbance of the trap itself.

I am going to demonstrate what I perceive to be the problem. [Mr. Hansen removed metal traps from a case and spread them out on the floor of the hearing room. He described what he was doing as he set the traps.] I had my traps set. Then, a group of competitor trappers invaded my territory setting their own traps in close proximity to mine. [Mr. Hansen moved the traps around to demonstrate what he is saying.] This arrangement gave the competing trappers the opportunity to "make the catch," even though my traps were there first. The competing trappers were intentionally blocking my chance of harvesting an animal. [Mr. Hansen returned to the microphone at the witness table.]

Under the current law, the actions of the competing trappers are not considered to be a disturbance. They set their traps close to mine to provoke me. Then, when I came by, I snapped their traps closed. These are hard-core professional trappers who are intent on eliminating my competition. They called the game warden on me when I was actually the victim. Attached to the amendment, I included an example of an advertisement where these trappers brag about the number of animals they have harvested. Most trappers are amateurs, and they are driven out by these professional trappers.

I drafted new amending language to prevent these situations from happening, and I took it to the Nevada Board of Wildlife Commissioners. They denied my request for the language change because the Attorney General said the definition of "disturb" is a physical act to the trap itself. The Board told me I would have to bring my request to the Legislature first to have the language clarified. That is why I am requesting this amendment.

**Chair Claborn:**

Was that when you came to me, and I told you to contact Mr. Stephenson, Committee Counsel, to draft suitable clarification language? Was that the procedure followed in developing this amending language?

**Ira Hansen:**

Yes, it was. This amendment was drafted by Mr. Stephenson. The new language reads: "It is unlawful intentionally to remove, disturb, interfere with or hinder, crowd or obstruct the use of, physically or otherwise, the trap of any holder...." This amending language will give the Nevada Board of Wildlife Commissioners a tool and an opportunity to establish policy. I included in your packet a letter ([Exhibit F](#)) from the chairman of the Nevada Board of Wildlife Commissioners which I wish to read into the record. [Mr. Hansen read the letter aloud.] The proposed language does not rewrite the current law which uses the word "disturb." This amending language simply clarifies the meaning of the word "disturb." It will make it easier for district attorneys and game wardens to enforce the law. It will eliminate having the victim in these situations being declared the perpetrator.

**Chair Claborn:**

Are you saying with the amendment the Board will actually be able to set policy?

**Ira Hansen:**

This new language will expand the definition of "disturb," and by doing so it will give the Nevada Board of Wildlife Commissioners the ability to set how many actual feet should be maintained between traps. The current interpretation of the word "disturb" by the Attorney General makes it impossible for the Board to establish these boundaries.

**Chair Claborn:**

Is it the Nevada Board of Wildlife Commissioners' responsibility to set those standards?

**Ira Hansen:**

Yes, it is.

**Chair Claborn:**

Are there any questions?

**Assemblyman Bobzien:**

I noticed you included in your packet, the minutes of the Nevada Board of Wildlife Commissioners meeting and a petition from you ([Exhibit G](#)) that shows changes in some of the trap boundary numbers. Can you "walk" us through that?

**Ira Hansen:**

I met with Mr. Buonamici yesterday, and we agreed those changes would "cloud" the issue, so I withdrew them. This is the only amendment I would like to present at this point.

**Assemblyman Segerblom:**

Your amending language uses the word "unlawful." Is there a penalty for violation?

**Ira Hansen:**

Yes there is, and the penalties would be the same as the current ones. If you disturb another trapper's trap, it is a \$100 fine, and the violator is assigned 6 demerit points.

**Chair Claborn:**

Is a penalty assessed fairly often? Proving someone "disturbed" a trap might be very difficult.

**Ira Hansen:**

That is why we are having this argument about the definition of the word "disturb." In most cases, the Department of Wildlife apprehends violators through voluntary confessions. The burden of proof falls upon the person making the accusation, and there are ways to provide the proof. I can address those methods if you wish.

**Chair Claborn:**

Are there instances where the competing trappers try to "trap the trapper?"

**Ira Hansen:**

I am sure that happens. On an annual basis, the Department of Wildlife does not issue many trapping citations. There are not that many complaints because most of the trapping is done in the unpopulated and open public lands of the state. Most trappers will not go out of their way to call a game warden to come out. They simply leave the area. Most of the amateur trappers do not file complaints, so the unscrupulous professional trappers get away with interfering with someone else's traps.

**Chair Claborn:**

Is the encroachment on set traps occurring on a spasmodic or regular basis?

**Ira Hansen:**

I do not think it is a big issue, but it does exist. I have had a considerable number of problems with encroachment.

**Assemblyman Bobzien:**

I have a question for Ms. Ruedy. Is it possible to get the minutes of the Board of Wildlife Commissioners meeting that includes the discussion of the word "disturb"?

**Jennifer Ruedy, Committee Policy Analyst:**

Mr. Mayer may have those minutes with him, or he may be able to answer your question.

**Assemblyman Goicoechea:**

I am concerned that you are trading the word "disturb" for "crowd or obstruct," so the meaning is still based on someone's interpretation of what the word stands for.

**Ira Hansen:**

I partially agree, but it will permit policy changes. It is clearly not an easy fix, but it will give the Nevada Board of Wildlife Commissioners an opportunity to debate the issue. They are currently "handcuffed" because of the interpretation of the word "disturb" by the Attorney General.

**Assemblyman Segerblom:**

What do other states do about interpreting similar laws?

**Ira Hansen:**

I do not know. Maybe Mr. Buonamici can answer your question.

**Chair Claborn:**

Are there any more questions?

**Assemblyman Goicoechea:**

I was not aware that a registered number is no longer required to be stamped on a trap. I understand you were the one to get it removed from the law. Is that correct?

**Ira Hansen:**

That requirement was actually put into the law in the late 1970s. The original intent of the numbered stamp was to try to prevent trap theft. Also, if a trap was stolen, the numbered stamp would facilitate returning any recovered traps to the proper owner. The problem was trappers were receiving tickets for not

having the stamp on their traps. We went to the legislature and explained the original intent of the law was to protect the trappers. It also turned out that the numbered stamps were not prima facie evidence that could be used to prove ownership. The Nevada Trappers Association and I had the stamp requirement made non-mandatory in the 1995 demerit bill. You can still choose to use a numbered stamp, but it is no longer mandatory.

**Assemblyman Goicoechea:**

All of my traps still have their numbers.

**Ira Hansen:**

I also have them on my traps.

**Assemblyman Goicoechea:**

This is the last day for bills to move forward, and you are bringing forth an amendment. It would have been preferable to hear this bill in a full hearing. I have received some emails from members of the Nevada Trappers Association.

**Chair Claborn:**

This bill is exempt.

**Assemblyman Goicoechea:**

Are you going to hold a full hearing on it?

**Chair Claborn:**

I think I will establish a Subcommittee for further consideration. It is an important bill for clarification, and Mr. Hansen is not trying to change the law. He is just trying to establish a clear definition for the word "disturb," so the Commissioners can do their job.

**Assemblyman Goicoechea:**

There is some opposition to the bill which we have not heard. As long as you are going to have a full hearing on the bill, then I am satisfied the opposition will also be heard.

**Ira Hansen:**

This bill has been neutral for funding from the start. The preamble states this is "an act relating to wildlife." There is no fiscal note attached to the bill, and the bill was not drafted by the Department of Wildlife. The bill was sponsored by the Department of Administration. It went to the Senate Finance Committee, and it did not go to the Senate Natural Resource Committee. The whole process has been very convoluted. The bill was introduced at the last possible minute on April 15, 2009.

**Chair Claborn:**

Now, that we have it, we will give it a fair hearing. Would anyone else like to speak?

**Kenneth Mayer:**

We would oppose this amendment as written. If you read the minutes from the Board of Wildlife Commissioners meeting, you will understand why I have a difficult time making the connection between the letter submitted by Mr. Hansen from the Chairman of that Board, and why the legislature is being asked to change the law by incorporating this amending language. Mr. Hansen was at the Board meeting, and he did the same trap demonstration. I do not recall the Commissioners encouraging anything. I think at that point the Commissioners had essentially dismissed the issue. We believe it clouds the issue, and it does not add anything to the bill. Mr. Buonamici can comment on it from the law enforcement aspect.

**Chair Claborn:**

We are trying to clarify the meaning of a word in the law.

**Kenneth Mayer:**

This amendment does not clarify anything in the law. I would like Mr. Buonamici to comment on it from a law enforcement perspective to explain what the change in the language really means.

**Chair Claborn:**

Let us ask Mr. Hansen what it would mean to him.

**Ira Hansen:**

It would mean a lot to me, and I would have recourse through the law. This is not a rehashing of existing words. It was drafted by Mr. Stephenson, and he can explain his word choice.

**Chair Claborn:**

Mr. Buonamici, what would it mean to you?

**Rob Buonamici:**

We oppose the amending language. It further clouds the issue, and it will require a more intensive investigation which takes time. If we get a complaint from Mr. Hansen that another trapper "crowded" his trap, we would have to go to court and try to prove that Mr. Hansen's trap was "crowded." If we had a trap registration requirement and a requirement that the trappers keep a log book like the guides and outfitters do, it would show the date, time, and location of the trap. The location would have to be determined by using the

Global Positioning System (GPS). If that was done, we could avoid the "he said, she said" type of testimony that happens during investigations. Then, we would only have to deal with "doctored" log books.

**Chair Claborn:**

Having the trappers maintain a log book may be the answer. I am going to appoint a Subcommittee to give this bill further consideration. Mr. Bobzien will be the Chair. The members of the Subcommittee will be Mr. Gustavson and Mr. Segerblom. I am closing the hearing on S.B. 411.

This meeting is adjourned [at 2:27 p.m.].

RESPECTFULLY SUBMITTED:

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Judith Coolbaugh  
Committee Secretary

APPROVED BY:

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Assemblyman Jerry D. Claborn, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name: Committee on Natural Resources, Agriculture, and Mining**

**Date: May 13, 2009**

**Time of Meeting: 1:34 p.m.**

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
S.B. 132 (R1)	C	Jennifer Ruedy	Work Session Documents
S.B. 411	D	Rob Buonamici	Testimony
S.B. 411	E	Ira Hansen	Proposed Amendment
S.B. 411	F	Ira Hansen	Letter from Gerald Lent
S.B. 411	G	Ira Hansen	Copy of the Board of Wildlife Commissioners Minutes and a Petition from Ira Hansen