



TERRY MOULTON



WISCONSIN STATE SENATOR

23RD SENATE DISTRICT

From: Senator Terry Moulton

To: Committee on Sporting Heritage, Mining and Forestry

Re: Testimony on Senate Bill 444
Relating to: authorizing a person to shoot to kill an animal wounded by certain hunters.

Date: January 5th, 2016

Good morning Chairman Tiffany and members. Thank you for the opportunity to speak to you today about Senate Bill 444, the humane animal dispatch bill. This bipartisan bill was introduced by the chairs of the Legislative Sportsmens Caucus: Senator Miller, Representatives Kleefisch and Milroy, and me.

As an experienced hunter, I know that there are times when new hunters mortally wound an animal but have difficulty issuing the final kill shot. Current law prohibits an individual from issuing a kill shot when acting as a mentor or when supervising a youth. An animal that has been mortally wounded should not have to undergo further suffering as a result of hesitation or refusal to act by a new hunter.

In the case where an animal is mortally wounded by a youth or an individual participating in a mentored hunt, Senate Bill 444 allows an accompanying hunter serving as a mentor or supervisor to end the animal's suffering. The individual issuing the kill shot may only do so at the request of the individual who issued the initial shot.

This is a small change to existing law that will help ensure the humane treatment of animals taken in the field. Thank you for your consideration of this legislation and for allowing me to testify.

Serving the 23rd Senate District

State Capitol • Post Office Box 7882 • Madison, WI 53707-7882

(608) 266-7511 • Toll Free: (888) 437-9436 • Fax: (608) 282-3563 • Sen.Moulton@legis.wi.gov • **Website:** www.SenatorMoulton.com



Committee on Sporting Heritage, Mining, and Forestry

2015 Senate Bill 444

Authorizing a person to shoot to kill an animal wounded by certain hunters

Good morning Chairman Tiffany and committee members. My name is Matt O'Brien, and I am the law enforcement policy officer at the Department of Natural Resources. Thank you for the opportunity to testify, for informational purposes, as to the conservation law enforcement components of SB 444.

This proposal creates a new provision that allows a licensed hunter, under certain circumstances, to "shoot to kill" a mortally wounded animal that was already shot by a youth hunter, or an individual that was hunting as a "mentee." The Department does not track the number of calls or cases where a youth has mortally wounded an animal but has requested an adult to kill it. I have not been made aware of any request for this authorization in my professional capacity.

Under current law, there are generally few exceptions for an individual to shoot game under the authorization of another's approval such as a tag. Most relevant to this proposal are group deer hunting and backup shooting of bear (only to protect human safety). Under both of those provisions, clear statutory direction establishes requirements for physical proximity, valid unfilled tags, and tagging instructions. AB 527 does not establish similar requirements, so in the case of hunting deer, the "kill shooter" would be required to immediately possess and validate their own tag, rather than the original shooter.

Similarly, the general regulatory scheme of Chapter 29 and associated administrative rules is based on singular continuity from shooter to harvester. If a subset of animals effectively have a harvester whom is not the person killing the animal, certain accountability items that attach to the individual killing the animal, such as bag limits, goose harvest reporting etc., would become increasingly complex, and the enforceability for many provisions would require substantial edits to administrative code.

This bill requires any valid hunting approval to act as a "kill shooter" for any species; this presents incongruent legal standards while effectively eliminating the approval requirements for "kill shooters" that are hunting species for which numerous approvals may be required. Particularly in the case of waterfowl, this proposal would allow a "kill shooter" to shoot at and harvest "mortally wounded" ducks at the request of a mentee because the "kill shooter" possessed a deer license.

This proposal does not modify the general bagging standard by which the person who harvests the animal must count that animal in their bag, but additionally provides that someone acting as a "kill shooter" is exempt from established bag and possession limits. The consequence of this would be unregulated bag limits for anyone acting as a "kill shooter."

Additionally, this bill uses the phrases "shot and mortally wounded" and "shoot to kill." These new phrases establish exceptionally difficult elements for the public desiring to utilize this provision, and law enforcement in adequately addressing violations. Particularly in the instance of archery shot deer, determining status of "mortally wounded", even posthumously, may require a high degree of expertise that neither average citizens nor investigating law enforcement can provide.

This proposal allows any weapon type to be utilized by a “kill shooter”, which would, for example, allow the use of a firearm to “shoot to kill” a non-mentored youth’s archery shot deer on opening archery weekend. Similarly, this bill would permit a “kill shooter” to shoot to kill during youth-only hunts, which could present the risk for tag exploitation, particularly in light of recent changes to youth treatment under the group deer hunting law. Similarly, wildlife violators could additionally exploit the backup shooter provisions for bear hunting through invocation of this new provision.

So while it is true that certain potential violators may choose noncompliance regardless of the text of the law, it is equally important to recognize that effectively detecting and prosecuting wildlife violators requires minimal exploitable lawful exemptions (“loopholes”) as well as effective enforcement mechanisms (“tools”).

As currently drafted—this proposal, while creating a lawful means for certain individuals to act as “kill shooters,” generally creates a new lawful exemption that may be exploited to undermine otherwise effective prosecutions for wildlife violators. Similarly, this proposal will create additional regulatory and technical complexity that the Department will need to explain in regulation pamphlets and communications with the public.

The Assembly author has introduced substitute amendment that the department believes effectively removes the risk of potential wildlife violators from using the proposed statute to avoid prosecution or conviction.

I hope you find this information helpful, and would be happy to address any questions you may have.