

Senate Energy and Natural Resources Committee

Daley Frenette 271-3042

HB 490, relative to the definitions of "game camera" and "hunting day" and relative to the use of game cameras.

Hearing Date: April 7, 2022

Members of the Committee Present: Senators Giuda, Gray, Watters and Perkins Kwoka

Members of the Committee Absent : Senator Avard

Bill Analysis: This bill adds definitions of "game camera" and "hunting day" and permits the use of a game camera to take or attempt to take a game animal or fur-bearing animal.

Sponsors:

Rep. Roy

Rep. Spillane

Sen. Reagan

Who supports the bill: 9 People Signed in Support.

Who opposes the bill: 130 People Signed in Opposition.

Who is neutral on the bill: 1 Person Signed in Neutral.

Summary of testimony presented:

Representative Roy, Rockingham-District 32

- Representative Roy introduced HB 490 and requested that the committee vote inexpedient to legislate on the bill. He explained that the bill was drafted to allow the use of game cameras, but the bill was changed throughout the committee process to include the need for landowner permission to place a game camera. This is contrary to New Hampshire's current land use for hunting purposes. Over 70 percent of the land in NH is privately owned and people are not required to have permission to hunt on private property unless it is posted. You also do not need permission put up a tree stand as long as it does not damage the tree.
- Representative Roy understands that there may be an amendment offered by another Representative and he would be amendable to that if the committee decides to accept it. If not, he asks the committee to vote ITL on the bill as it is not what he originally intended it to be.

- The bill passed the House on consent because they were under the impression that the only thing that was changed about the bill was the hours that the cameras could be used.
- Senator Giuda asked Representative Roy to state his objections to the bill in its current form. Representative Roy stated that the bill would require written landowner permission to put up a game camera in the woods where a person is hunting. The issue is that currently people can hunt on private property without written permission if there is no posting on the land that says otherwise. People can also set up tree stands without permission if it does not damage the tree. If the bill passed it would defeat the entire open use land policy in NH and therefore would cause a lot of problems that do not currently exist.
- Senator Giuda asked if there is a problem with the current law in its present form. Representative Roy's original intention for the bill was to address the current law that states that hunters can not use a game camera that sends a picture to the hunters cell phone on the same day that they are hunting. The reason being that it is not "fair chase". He intended to fix that issue because if a hunter receives a picture of a deer on their phone, the deer is not going to still be around the game camera by the time the hunter returns. Fish and Game is concerned that hunters could set up networks of cameras to cover the entire woods and they are concerned that the related technology is evolving very quickly. Representative Roy considered Fish and Game's concerns and stated that the bill would need to be amended. He stated that the bill either needs to be amended or the committee should ITR the bill.
- Another intention that Representative Roy had for the bill was to make it easier for elderly and disabled hunters to go out and check their cameras as it is difficult for them to travel out into the woods on a daily basis.

Senator Bradley, Senate District 3

- Grant Bosse spoke on behalf of Senator Bradley.
- He presented amendment 0359 S to HB 490 as proposed by Rick Estes Senator Bradley's constituent from Ossipee. Mr. Estes is a former conservation officer and very knowledgeable about these issues. He approached Senator Bradley about an amendment to HB 490 that would clarify the removal of temporary tree stands and ensuring private lands are treated the same as lands managed by Fish and Game. Amendment 0359s accomplishes that. Additionally, Mr. Estes pointed out an oversight and amendment 0359 S in this amendment a new Section 5 creates the similar treatment Mr. Estes is seeking but inadvertently eliminates existing sections of RSA 207:36=A. The sections eliminated are 5, 6, and 7. He requested that the committee insert an amendment into RSA 207:36-A and retain section 5, 6, and 7.
- Senator Bradley also suggested that, as the prime sponsor indicates, the committee does not wish keep the underlying bill, that the committee redraft

the amendment as a replace all as opposed to an addition while making that numbering change to comply with the current law.

- Senator Watters asked if Representative Roy is okay with the amendment as a replace all. Mr. Bosse stated that based on Representative Roy's testimony, he did not object to using the bill as a vehicle for the amendment as he requested the committee to not carry the underlying bill.
- Senator Watters asked if the amendment has the language that he and Senator Bradley had previously worked on as a response to a previous bill about tree stands. Mr. Bosse stated that he believes that is true.

Representative Lang, Belknap-District 4

- HB 490 was amended by his committee in the House. Following the public hearing in the House, there was significant debate surrounding the written landowner permission. The concept was considering landowner privacy.
- Representative Lang offered an amendment to the bill that strikes section 2 of the bill which starts on line 17 and goes through line 29. This will eliminate the landowner permission. He would like the bill to move forward with the 10-hour rule as well as requiring people to have their names and contact information on the cameras.
- The 10-hour rule was developed to fix the current law that prohibits hunters from hunting on the same day as they receive a picture from their game camera. He believes that rule is too stringent as a hunter could receive a picture at 2 o'clock in the morning and not be able to hunt for the rest of the day.
- Senator Watters asked if Representative Lang would approve of Senator Bradley's amendment to the bill. Representative Lang stated that Colonel Jordan should take a look at it. To his understanding, what Senator Bradley's amendment does is already allowed. Tree stands can be set up on land without landowner permission as long as they do not penetrate or damage the tree. He also believes that hunters are required to label tree stands anyway.
- Senator Giuda asked how the 10-hour ban will be enforced. Representative Lang is a former law enforcement officer and stated that they would need a warrant to verify if the hunter received the picture and saw it before they hunted. It is a high hurdle for Fish and Game to meet, but it is possible.
- Senator Giuda asked if this would be applicable only to cameras that send images. Representative Lang stated that is correct. It is upon viewing the image. The original concern was with "couch hunters" who wait until they receive a picture and then run out to shoot the deer.

Robert Johnson, NH Farm Bureau

- Mr. Johnson expressed his support for the bill.

- The request for landowner permission was proposed by the Farm Bureau. They support the bill with section 2 as brought forth. They support landowner written permission because the cameras are surveillance devices. The farmers and landowners that he has spoken to are concerned about being unaware of cameras on their property that could be taking pictures of them.
- The landowner written permission requirement exists in Maine, Wisconsin, North Dakota, and Nevada during hunting season. Hunters should have to speak with landowners before putting the cameras up on their land.
- Technology is evolving constantly. There is now more opportunity for people to survey and keep track of whatever they see on the camera.
- Mr. Johnson shared a letter from a woman from Senate District 2. She is a supporter of hunting and owns 300 acres of land. Her concern is having surveillance devices on her property without her knowledge. They want to know where the cameras are posted and when they are there.
- The Farm Bureau supports requiring written permission for hunters to set up tree stands and game cameras. Currently, written permission is not required for tree stands if they do not damage the tree. He stated that he has yet to see a tree stand that does not damage a tree.
- They support the bill in the form that it came to the committee.
- Senator Gray asked if as the law currently stands, the only remedy for landowners would be to post the whole property as no trespassing. Mr. Johnson stated that is one way. He added that if a landowner calls Fish and Game they will remove a camera from the property. The Farm Bureau believes that the cameras should not be there in the first place without landowner permission. The bill as amended by the House required that Fish and Game take cameras down because there were concerns about conflict between landowners and the hunters. They are comfortable with the bill if it includes the written permission aspect. Perhaps a bigger issue is that landowners will post no trespassing on their land because of the game cameras. 10 years ago, there were no game cameras on Mr. Johnson's property, now there are numerous.
- Senator Gray asked if this could reduce the amount of land for hunting because landowners may begin posting no trespassing on their land. Mr. Johnson believes that it could result in landowners posting no trespassing on their land if they do not have the option of written permission. It is a reasonable request for landowners to know beforehand. The committee may hear testimony about hunters having trouble contacting the landowners for permission. If that is the case, then those folks will most likely not mind having a game camera on their land.

Colonel Jordan, Fish and Game

- Fish and Game is opposed to the bill as currently written. They like some aspects of the bill and they dislike other aspects.

- They are concerned that as technology advances it will degrade the principles of fair chase. It is not in the best interest of sportsmen and women and it is not in the best interest of the sport of hunting.
- They are concerned with cameras, drones, and firearms that can be fired without the person being present.
- The currently Fish and Game rule is that people cannot use live action cameras that send a live picture to harvest game within the same calendar day that they see the live image. Colonel Jordan also had concerns about the enforcement of that. They convicted three individuals a few days prior to the public hearing because they saw an animal on a game camera and they immediately went and found the animal. These things do happen contrary to the belief that a deer would not stay in front of the camera for long. They picked a whole calendar day because it would be easier for people to understand and easier to enforce. The bill when it was originally introduced was designed to repeal that rule and to allow live action game cameras to be used everywhere. They had concerns with that because they believe it undermines fair chase. They are trying to convince people who are opposed to hunting that they are doing it ethically and giving the animals the opportunity to escape. The cameras can be networked, and hunters can cover 5-10 acres if they wish and hunt that land without leaving their home.
- Fish and Game has respect for the Farm Bureau and understands that the majority of the land in the state is privately owned and they respect the concerns of landowners. Landowners and constituents are upset about this and it will likely result in landowners posting their land and therefore reducing available land for hunting.
- It is fair for a landowner to say they do not want people on their property with a camera taking pictures without their permission and knowledge.
- Fish and Game is going to support landowners.
- Regarding the amendment from Senator Bradley and Mr. Estes, the current law states that in order to put up a tree stand that would damage the property, they need written landowner permission. The concern that Mr. Estes has is that people will put up blinds or portable tree stands that do not require permits and then people leave them up after the season is over. There are some on his property that have been up for years. The amendment says that those tree stands need to be removed by the end of the year unless they have permission from the landowner. That is not a heavy lift for the sporting community, and they still will be able to put up a climbing tree stand if the amendment passes.
- Landowners calling Fish and Game to complain about the cameras is quickly becoming the most popular complaint at Fish and Game headquarters.
- Senator Watters asked what the status of the administrative rule is. Colonel Jordan stated that it is in existence and in effect. It is FIS-31204 which states that “no person shall use a live-action game camera to locate or surveil for the purposes of attempting to locate for a furbearing animal for the purpose of

taking or attempting to take during the open hunting season in the same calendar day as the picture is taken”.

- Senator Watters asked if they would be able to by rule, establish that any image that came from a game camera cannot be broadcast or would we need a statute. Colonel Jordan stated that they could do it in rule but a statute has more authority. They did the live-action camera rule because it could be done quickly. 5 states have completely outlawed the use of live-action cameras during the open hunting season.
- Senator Watters asked if Colonel Jordan would like this to be a study committee or if Fish and Game is going to be working on this issue regardless. They could bring language for a new bill next January. Colonel Jordan said the most important issue is that there are major landowners who are not pleased and that should be addressed. He does not think that the bill does that. He does not have a problem with Mr. Estes amendment. The rest of the bill he opposes.
- Senator Watters asked if the requirement to put contact information on the tree stands. Colonel Jordan stated that is correct.

Kyle Baker, NH Wildlife Federation

- The NH Wildlife Federation is neutral on the bill.
- They are concerned that there should be a differentiation between live-action cameras and regular store-bought cameras that do not send live images. They look very similar and can be hard to differentiate.
- They are concerned about the hunting day language. The 10-hour period is confusing and could lead to conflict between sportsmen and Fish and Game Conservation Officers.
- Institutional investment landowners may be absent and there is no concrete way to contact them. They do not want to have anyone unintentionally violate the law if they are unable to get in contact.
- Regarding the amendment for tree stands. They are in support of it. If you are placing a camera or tree stand on a property you should have to put your contact information on it. This will protect property and allow property owners to contact people if they want them to remove cameras or tree stands.

Jason Parent

- Former state representative. When he was in the office he worked to ensure the rights of hunters so they could actively go on to unposted property. They secured attorneys fees for people who were unjustly accused of causing damage to someone's property. He is opposed to the bill as written.
- Currently, Fish and Game is in charge of creating rules that are imposed on hunters and sportsmen. This bill makes it very difficult to make adjustments if

we run into problems. Having Fish and Game use its rule making authority would be better and easier to change in the future. Requiring hunters to have contact information on their equipment is something that can be done through Fish and Game rules. It should stay with the commission.

- The amendment that requires people to remove their tree stands at the end of January is more difficult than people realize.
- There are only a few major landowners in the northern part of New Hampshire. One of them is the National Wildlife Refuge. There are hurdles that people must deal with to try and get written landowner permission. If hunters are required to put their name and contact information on a game camera and a landowner from the Farm Bureau finds it and says that they do not want to have it on their property, they are now on notice from that individual landowner and therefore would not be allowed to place a game camera on that property. There are absentee landowners who are very difficult to contact.
- It will be difficult for people to meet the 60-day time frame for removing all their equipment out of the woods. It is an unfair amount of time and it provides unfair constraints on the people.
- Getting written landowner permission will also burden landowners who will receive many requests to hunt on their land during the season. This would cause more posted property.
- There is no definition for “area”, “same day”, or “10 hours” in the bill. He asked if a deer walks by a camera at 6 o’clock in the morning, is it now protected from being harvested for the rest of the day from anyone who has that camera. The circumstances are too up to interpretation.
- Senator Watters stated that in 207:36-A it currently requires that written permission is granted from the landowner to put up a tree stand. This bill is making things easier for the hunters because they can get permission to keep their stands up for longer. Mr. Parent clarified that they do not need written permission if the stands do not damage the tree in any way.

Neil Pendleton

- Neil is a hunter and avid user of game cameras. He opposes the bill, and it was not made aware to them since the original bill permitted the use of game cameras. Now it does not. It essentially bans the use of game cameras.
- Contacting landowners is difficult. In some cases, hunters would need to contact close to 40 people for one section of woods depending on if many people own different acres of land. They would need to do this annually.
- Posted land would increase and be detrimental to hunting.
- There are many benefits to allowing cameras. Hunters can be more selective of what they harvest. Game cameras can be used for wildlife education purposes.
- Mr. Pendleton owns close to 80 game cameras.

- In the 15 years that Mr. Pendleton has been using game cameras, there has only been a handful of times where he has got a picture of a landowner or someone who was not intended. They are not surveillance cameras they are game cameras. They are trying to get pictures of wildlife, not people.
- The bill has gone way to far and the language needs clarification. “Received or viewed” is up to interpretation. The picture may be taken at 10 o’clock in the morning and not received until late on. Most pictures are delayed by a few minutes. There is a lot of confusion around this.
- He has used game cameras to help find his neighbors lost dog.
- There is a whole generation of hunters who rely on this technology.
- Game cameras are important for game management. By requiring written permission, it will restrict game cameras to the point of making it impossible to use them.
- This bill should not pass, and we should let Fish and Game use their rule making authority to address this.

Mike Guillemette

- Mr. Guillemette has a few cameras. Getting written permission from landowners who are out of state will be difficult. Many hunters are just passing through and it would be difficult for them to get permission and it will cause landowners to be bombarded with permission requests.
- There are many people now who are not hunters who use game cameras to monitor game on public and private land and those people probably do not even know about the bill.
- Mr. Guillemette opposes the bill. He knows a landowner whose land he hunts on. He sometimes sends the pictures from his game cameras to the landowner so they can see the wildlife. The landowner is happy to have him hunting on their land. It is educational for people to see the images.

Patrick Rivard

- Mr. Rivard is opposed to the bill as currently written.
- The bill puts a burden on hunters who have very little time to hunt during the season already. It is fair that landowners want to know who is putting recording devices on their property. However, we do not know how this will impact public land because some people will have difficulty seeking landowner permission. Many people rely on game cameras, and it is common practice with close to 60 percent of hunters in the state use them. we do not know how this will push people into other areas and how that will affect the wildlife in those areas. Public lands are already overused with the COVID-19 pandemic and the amount of people working from home.

- He asked the committee to look at the possible consequences of the bill relating to land use and animal movements.

Jake Trickett

- Mr. Trickett opposes the bill is a hunter and uses trail cameras to assist him in hunting. Hunters need to present themselves better to landowners.
- For Mr. Trickett, game cameras are a small part of hunting. Hunters still need to scout and figure out good places to put the cameras.
- His concern is that the bill will take away game cameras. It will hurt the hunting community.
- He respects private landowners, but there are many landowners whether be residents or private companies who do not live here and are hard to contact. He has tried to contact a landowner before but the man lives in Florida.
- Cameras tell hunters a lot. It shows how the animals communicate, where they eat, and where they bed. It also tells age structure as well as if the herd is healthy and if there is good offspring. It is a huge tool for hunters.
- Senator Giuda asked if requiring a flag or colored designator on the equipment would interfere with the hunt. Mr. Trickett said that it could because it is a foreign object and the animals can tell. He is supportive of requiring the equipment to have hunters names and contact information on it.

Jason Stock, NH Timberland Association

- NH Timberland Association supports the bill.
- Private land is private property. That means hunters are guests on people's land. The majority of hunters, birdwatchers, and others are respectful of land. This is creating policy for that small minority of people.
- They are in support of having names and contact information on the cameras and tree stands. Mr. Stock has spoken to many loggers who have collections of tree stands that they take down when they are logging. It will be helpful for loggers to know who to contact if they find a tree stand. They support putting this in statute.
- They believe that hunters should be communicating with landowners as a courtesy.
- Regarding the notion that it is difficult to contact landowners, he stated that if the tax bills can find them, then so can the hunters. Large institutional owners have land managers that they can contact that are usually locally based.
- Regarding written permission, if landowners are okay with cameras, they can put up a sign indicating so.
- They support Senator Bradley's amendment. Name and contact information should be on the tree stands.

Susan Price, Carroll County Fish and Game

- The commission opposes the bill as currently written as Colonel Jordan explained.
- The legislative committee at the commission will meet the following Tuesday to discuss this issue. They hope to present a position to the committee after the meeting. Currently, they oppose.
- She is a hunter and owns a game camera. The deer she took this year never appeared on her camera. She comes from a family of deer hunters, and they never had a shortage of venison when they hunted without the cameras. She stated that if you are a good hunter, you do not really need a game camera to be successful.

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