

STATEMENT OF RICHARD S. SLIFF, DEPUTY DIRECTOR OF FLIGHT STANDARDS SERVICE, FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION OF THE HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES ON MARCH 23, 1971, RESPECTING H.R. 2631, H.R. 3510, H.R. 5060, H.R. 5673 AND H.R. 5779

Mr. Chairman and Members of the Committee:

My name is Richard S. Sliff; I am the Deputy Director of Flight Standards Service, Federal Aviation Administration, Department of Transportation. With me is Mr. William J. Sullivan, the Chief of the FAA Legislative Staff. I appreciate this opportunity to meet with you today to express the views of the Department of Transportation on H.R. 2631, and several similar bills "To amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft."

Before we discuss this legislation, let me spend a moment to tell you something about the FAA. Under the Department of Transportation Act, many of the functions, powers and duties of the Secretary relating to aviation are carried out by the Federal Aviation Administrator. A major FAA responsibility is aviation safety, and Flight Standards Service conducts those programs which provide for safety of flight in the air commerce of our Nation.

We establish and enforce basically two kinds of safety standards: (1) Those that must be met before we issue a safety certificate under Title VI of the Federal Aviation Act of 1958, as amended; and (2) Those that govern the operation and maintenance of aircraft. We issue certificates, to those who meet the safety standards, for civil aircraft type design, production and airworthiness; for pilots, mechanics and other airmen; for air carriers and air taxis; for commercial operators of aircraft; and for pilot schools and other air agencies. Our inspectors in the field are constantly at work to ensure that all segments of aviation comply with the safety standards. Violators may be punished by the initiation of legal proceedings either to impose a civil penalty or to suspend or revoke a safety certificate.

Let us turn now to the principal purpose of this hearing. The five bills being considered differ in only one respect -- the substance of new section 12(b) that section 1 would add to the Fish and Wildlife Act of 1956. The provisions of new sections 12(a) and 12(c) in section 1, and of sections 2 and 3 are virtually identical. Similar legislation was considered in the 91st Congress. H.R. 15188 passed the House on December 7, 1970, was reported out of Committee with an amendment to the Senate floor on December 17, 1970, but failed of enactment during the closing days of the 91st Congress.

House Report 91-1632 contains an analysis of H.R. 15188, which is similar to the legislation considered today.

Section 12(a) would impose criminal sanctions (not more than \$5,000 fine, or not more than 1 year in prison, or both) for (1) shooting, or attempting to shoot, to capture or kill an animal from an airborne aircraft; (2) using an aircraft to harass an animal; or (3) participating knowingly in the use of an aircraft for either of the named actions. Section 12(c) defines "aircraft" in terms that closely parallel the definition of section 101(5) of the Federal Aviation Act of 1958, as amended.

Section 12(b) of three bills (H.R. 2631, H.R. 3510 and H.R. 5673) excepts from the prohibition in section 12(a) two classes of persons: (1) Those who are employed, authorized or licensed to protect or aid the administration or protection of land, water, wildlife or livestock; and (2) Those who (subject to State law) are protecting their livestock from predators. Section 12(b) of the other two bills (H.R. 5060 and H.R. 5779) also excepts persons in the first class I have just described, but neither expressly excepts the second class nor otherwise provides for protection of livestock. In addition, section 12(b) of these two bills requires States or their agencies to report annually to the Secretary of the Interior certain information respecting licenses or permits issued to persons in the excepted class. Section 3 would bring new section 12 into effect on the 30th day after enactment of the legislation.

I think all of us share a growing concern over the survival of wildlife both in this country and the world. Until recently, mankind has shown little concern with the quality of the environment. Mankind's very existence has terminated hundreds of species of wildlife; many others are threatened and may dwindle from existence on this planet. Today, hunting and fishing are sport for many Americans; but few of us must hunt or fish to survive. I dare say none of us needs to add the aircraft to the arsenal of weapons we use for hunting.

Accordingly, the Department of Transportation endorses the basic purpose of the legislation. As experts in transportation who are concerned with the quality of our ecology, we also recognize that others are more knowledgeable than we in matters involving the preservation of our fish and wildlife. Therefore, as to the advisability of sections 1 and 3 of these bills, the Department of Transportation defers to the views of the Departments of Interior and Justice.

Section 2 would amend section 609 of Title VI of the Federal Aviation Act of 1958, which applies to safety regulation of civil aeronautics. Section 2 would authorize the Administrator to amend, modify, suspend or revoke the airman certificate of any person convicted of a violation of new section 12(a) of the Fish and Wildlife Act of 1956. The Department of Transportation recommends against the enactment of section 2 of these bills.

In effect, section 2 of these bills would use the aviation safety regulatory and enforcement mechanisms in Title VI of the Federal Aviation Act to supplement the criminal sanctions of another, wholly unrelated body of law. In justification of this provision, the analysis of section 2 of H.R. 15188 in House Report 91-1632 states: "Your Committee felt that hunting from aircraft or discharging firearms from aircraft and harassing and chasing wildlife at low altitudes would certainly produce a safety hazard." We have no information that leads us to conclude that hunting from aircraft automatically and in every instance compromises aviation safety or that this activity is a general safety hazard.

If we find that this activity endangers aviation safety, then existing regulations would apply. Existing regulations provide:

§ 91.9 Careless or reckless operation.

No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

Thus, should the actions that House Report 91-1632 describes endanger persons or property on the ground, we can initiate enforcement action under existing regulations. Accordingly, section 2 is unnecessary to provide for any aviation safety problem that might arise from the activity that proposed section 12(a) would prohibit.

That concludes my prepared statement, Mr. Chairman. My associate and I will be pleased to respond to questions you may have.