

HOUSE BILL NO. 286

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/29/16

Referred: Resources, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sport fishing, hunting, or trapping licenses, tags, or permits; relating
2 to penalties for certain sport fishing, hunting, and trapping license violations; relating to
3 restrictions on the issuance of sport fishing, hunting, and trapping licenses; creating
4 violations and amending fines and restitution for certain fish and game offenses; relating
5 to commercial fishing violations; allowing lost federal matching funds from the Pittman
6 - Robertson, Dingell - Johnson/Wallop - Breaux programs to be included in an order of
7 restitution; adding a definition of 'electronic form'; amending Rule 5(a)(4), Alaska Rules
8 of Minor Offense Procedure; and providing for an effective date."

9 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

10 * **Section 1.** AS 16.05.330(a) is amended to read:

11 (a) Except as otherwise permitted in this chapter, without having the
12 appropriate license, [OR] tag, or permit in actual possession, a person may not

engage in

- (1) sport fishing, including the taking of razor clams;
- (2) hunting or [,] trapping [, OR FUR DEALING];
- (3) the farming of fish, fur, or game;
- (4) taxidermy or fur dealing; or
- (5) control of nuisance wild birds and nuisance wild small mammals for compensation.

* **Sec. 2.** AS 16.05.330(d) is amended to read:

(d) A person may not receive a sport fishing, hunting, or trapping license or other permit or tag issued under AS 16.05.330 - 16.05.430, if the person's right to obtain, or exercise the privileges granted by, a sport fishing, hunting, or trapping license is suspended or revoked in this or another state. A person who applies for a sport fishing, hunting, or trapping license or other permit or tag issued under AS 16.05.330 - 16.05.430 shall sign a statement that the person's right to obtain, or exercise the privileges granted by, a sport fishing, hunting, or trapping license is not suspended or revoked in this or another state.

* **Sec. 3.** AS 16.05.330 is amended by adding new subsections to read:

(f) A person charged with violating (a)(1) or (2) of this section may not be convicted if the person produces in court or in the office of the arresting or citing officer, a license, tag, or permit previously issued to the person that was valid at the time of the offense.

(g) A license or permit may be in actual possession in paper or electronic form.

(h) Any peace officer presented with an electronic device under this section shall be immune from any liability resulting from damage to the device.

* **Sec. 4.** AS 16.05.430(a) is amended to read:

(a) Except as provided in AS 16.05.330(f), 16.05.407(b) [AS 16.05.407(b)] and (d), 16.05.408(b), and 16.05.420(b), a person who violates AS 16.05.330 - 16.05.420 or a regulation adopted under AS 16.05.330 - 16.05.420 is guilty of a class A misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRISONMENT FOR NOT MORE THAN

1 SIX MONTHS, OR BY BOTH].

2 * **Sec. 5.** AS 16.05.430 is amended by adding new subsections to read:

3 (c) Except as provided in AS 16.05.407(b) and (d), 16.05.408(b), and
4 16.05.420(b), a person who, without any culpable mental state, violates AS 16.05.330
5 - 16.05.420 or a regulation adopted under AS 16.05.330 - 16.05.420 is guilty of a
6 violation punishable under AS 12.55.

7 (d) In addition to any penalty imposed under (a) or (b) of this section, a person
8 may be ordered to pay restitution to the state equal to the amount of any lost state or
9 federal matching funds from the Pittman - Robertson, Dingell - Johnson/Wallop -
10 Breaux programs incurred from the person's violation of AS 16.05.330 - 16.05.420 or
11 a regulation adopted under AS 16.05, AS 16.20, or AS 16.40.

12 * **Sec. 6.** AS 16.05.722(a) is amended to read:

13 (a) A person who without any culpable mental state violates AS 16.05.440 -
14 16.05.690, or a regulation of the Board of Fisheries or the department governing
15 commercial fishing, is guilty of a violation and upon conviction is punishable by a fine
16 of not more than

17 (1) **\$6,000** [\$3,000] for a first conviction;

18 (2) **\$12,000** [\$6,000] for a second conviction or for a subsequent
19 conviction not described in (3) of this subsection; and

20 (3) **\$15,000** [\$9,000] for a third or subsequent conviction within a 10-
21 year period.

22 * **Sec. 7.** AS 16.05.722 is amended by adding a new subsection to read:

23 (d) The court shall transmit notice of all convictions under this section to the
24 Alaska Commercial Fisheries Entry Commission.

25 * **Sec. 8.** AS 16.05.782(a) is amended to read:

26 (a) Except as provided in (d) of this section, a person **may not take** [WHO
27 WITH CRIMINAL NEGLIGENCE TAKES] a brown or grizzly bear within one-half
28 mile of a solid waste disposal facility [IS GUILTY OF A CLASS A
29 MISDEMEANOR].

30 * **Sec. 9.** AS 16.05.782(b) is amended to read:

31 (b) In addition to the penalty imposed by law under [(a) OF] this section, the

1 court shall order forfeiture of the hide and skull of the bear, but if the hide and skull
 2 are not salvaged and delivered to the department then the court shall impose an
 3 additional fine of up to \$10,000.

4 * **Sec. 10.** AS 16.05.782 is amended by adding new subsections to read:

5 (f) A person who, with criminal negligence, violates (a) of this section is
 6 guilty of a class A misdemeanor.

7 (g) A person who, without any culpable mental state, violates (a) of this
 8 section is guilty of a violation punishable under AS 12.55.

9 * **Sec. 11.** AS 16.05.783(c) is amended to read:

10 (c) A person who violates this section is guilty of a **class A** misdemeanor [,
 11 AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN
 12 \$5,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY
 13 BOTH]. In addition, the court may order the aircraft and equipment used in or in aid
 14 of a violation of this section to be forfeited to the state.

15 * **Sec. 12.** AS 16.05.789 is amended by adding a new subsection to read:

16 (c) A person who, without any culpable mental state, violates this section is
 17 guilty of a violation punishable under AS 12.55.

18 * **Sec. 13.** AS 16.05.790 is amended by adding a new subsection to read:

19 (g) A person who, without any culpable mental state, violates this section is
 20 guilty of a violation punishable under AS 12.55.

21 * **Sec. 14.** AS 16.05.831(c) is amended to read:

22 (c) A person who violates this section or a regulation adopted under it is **guilty**
 23 **of a class A misdemeanor** [PUNISHABLE BY A FINE OF NOT MORE THAN
 24 \$10,000, OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR
 25 BY BOTH]. In addition, a person who violates this section is subject to a civil action
 26 by the state for the cost of replacing the salmon wasted.

27 * **Sec. 15.** AS 16.05.901 is amended by adding a new subsection to read:

28 (c) A person who, without any culpable mental state, violates AS 16.05.871 -
 29 16.05.896 is guilty of a violation punishable under AS 12.55.

30 * **Sec. 16.** AS 16.05.925(b) is amended to read:

31 (b) In addition to a penalty imposed under (a) of this section or any other

penalty for violation of this title or a regulation adopted under this title, a person who is convicted of unlawfully taking an animal listed in this subsection may be ordered by the court to pay restitution to the state in the amount set out in this subsection for each animal unlawfully taken:

- (1) Bear, black \$900 [\$600]
- (2) Bear, brown or grizzly 1,950 [1,300]
- (3) Bison 1,950 [1,300]
- (4) Caribou 1,275 [850]
- (5) Deer 600 [400]
- (6) Elk 1,200 [800]
- (7) Goat 1,200 [800]
- (8) Moose 1,500 [1,000]
- (9) Musk oxen 4,500 [3,000]
- (10) Sheep 1,650 [1,100]
- (11) Wolf 750 [500]
- (12) Wolverine 750 [500].

* **Sec. 17.** AS 16.05.925 is amended by adding a new subsection to read:

(c) A person who, without any culpable mental state, violates AS 16.05.871 - 16.05.896 is guilty of a violation punishable under AS 12.55.

* **Sec. 18.** AS 16.05.940 is amended by adding a new paragraph to read:

(38) "electronic form" means the display of images on an electronic device such as a mobile telephone, tablet, or computer.

* **Sec. 19.** AS 16.10.030 is amended to read:

Sec. 16.10.030. Penalty for violation of AS 16.10.010 - 16.10.050. A person who violates AS 16.10.010 - 16.10.050 is guilty of a class A misdemeanor [AND, UPON CONVICTION, IS PUNISHABLE BY A FINE OF NOT LESS THAN \$100 NORE MORE THAN \$500].

* **Sec. 20.** AS 16.10.030 is amended by adding a new subsection to read:

(b) A person who, without any culpable mental state, violates AS 16.10.010 - 16.10.050 is guilty of a violation punishable under AS 12.55.

* **Sec. 21.** AS 16.10.090 is amended to read:

1 **Sec. 16.10.090. Penalty for violation of AS 16.10.070.** A person who violates
 2 AS 16.10.070 is guilty of a class A misdemeanor [AND IS PUNISHABLE BY
 3 IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A FINE OF NOT
 4 MORE THAN \$5,000 OR BY BOTH].

5 * **Sec. 22.** AS 16.10.090 is amended by adding a new subsection to read:

6 (b) A person who, without any culpable mental state, violates AS 16.10.070 is
 7 guilty of a violation punishable under AS 12.55.

8 * **Sec. 23.** AS 16.10.110 is amended to read:

9 **Sec. 16.10.010. Penalty for violation of AS 16.10.100.** A person who violates
 10 AS 16.10.100 is guilty of a class A misdemeanor [AND IS PUNISHABLE BY
 11 IMPRISONMENT FOR NOT MORE THAN ONE YEAR OR BY A FINE OF NOT
 12 MORE THAN \$5,000, OR BY BOTH].

13 * **Sec. 24.** AS 16.10.110 is amended by adding a new subsection to read:

14 (b) A person who, without any culpable mental state, violates AS 16.10.100 is
 15 guilty of a violation punishable under AS 12.55.

16 * **Sec. 25.** AS 16.10.130 is amended to read:

17 **Sec. 16.10.130. Penalty for violation of AS 16.10.120 or 16.10.125.** A person
 18 who violates AS 16.10.120 or 16.10.125 is guilty of class A misdemeanor [AND
 19 UPON CONVICTION IS PUNISHABLE BY IMPRISONMENT FOR NOT MORE
 20 THAN SIX MONTHS, OR BY A FINE OF NOT MORE THAN \$1,000, OR BY
 21 BOTH].

22 * **Sec. 26.** AS 16.10.130 is amended by adding a new subsection to read:

23 (b) A person who, without any culpable mental state, violates AS 16.10.120 or
 24 16.10.125 is guilty of a violation punishable under AS 12.55.

25 * **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to
 26 read:

27 DIRECT COURT RULE AMENDMENT. Rule 5(a)(4), Alaska Rules of
 28 Minor Offense Procedure, is amended to read:

29 (4) Provide proof of compliance to a law enforcement agency if a
 30 statute, regulation, or ordinance permits dismissal of the citation upon a showing of
 31 compliance, except that proof of compliance may also be made to the court for

1 violation of AS 28.15.131 (failure to carry or exhibit license), [OR] AS 28.22.019
2 (proof of insurance), **or AS 16.05.330 (failure to carry sport fishing, hunting, or**
3 **trapping license, tag, or permit)**. The court or municipality shall dismiss the citation
4 upon notification from the agency or proof of compliance.

5 * **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 APPLICABILITY. This Act applies to offenses committed on or after the effective
8 date of this Act.

9 * **Sec. 29.** This Act takes effect July 1, 2016.