



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Fish and Game

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February 7, 2024

The Honorable Tom McKay
House Resources Committee, Chair
Alaska State Legislature
State Capitol, Room 504
Juneau, AK 99801

Re: HB272: BIG GAME HUNTING BY PERSON W/ DISABILITY

Dear Chair McKay:

Thank you for the opportunity for the Department of Fish and Game (ADF&G) to provide supplemental information on HB272 following the initial bill hearing in the House Resources Committee on January 29, 2024. Please find the requests and corresponding responses below.

1. What is the definition for a person with physical disabilities vs. mental disabilities?

Fish and Game statutes already define both a “person with physical disabilities” and a “person with developmental disabilities” under AS 16.05.940(26) and (25), respectively. Copies of the definitions can be found in Attachment 1.

These limited hunts would not apply to persons with developmental disabilities as the definition was added to allow proxy hunting on behalf of Alaska residents with developmental disabilities to put meat on the tables and in the freezers of their families. In this case, the proposed hunts are to provide a hunting opportunity, and limited hunts could only be proxy hunted by other persons with the qualifying disability if allowed by the Board of Game (BOG) bag limits. This is because BOG regulations for proxy hunters require that the proxy also qualify for the hunt. Therefore, although not specifically mentioned in the bill, proxy hunting by able-bodied hunters would be prohibited in these limited hunts to keep this opportunity specific to individuals for which the disability applies.

2. Could a qualifying disabled hunter proxy hunt for another disabled hunter that received a permit for a limited hunt?

Yes, if both have a permit, and if the bag limit set for the hunt by the BOG allows proxy hunting. For example, current regulations do not allow proxy hunting for certain species such as Dall Sheep or any moose hunt with antler restrictions, except Tier II subsistence hunts. Attachment 2 is a Proxy Hunt Authorization form that includes a full list of proxy restrictions on page 2.

3. Approximately, how many disabled hunters would potentially qualify?

ADF&G does not have data on all possible disabled persons in Alaska that could potentially qualify for a hunt limited to persons with physical disabilities. Available data, including Disabled Veterans licenses as well as approved proxies and method and means exemptions for persons with physical disabilities, can provide an approximate idea of the potential pool of qualifying hunters. The department does not believe there is a significant pool of active hunters that would qualify based on the information available.

Over the last four years, ADF&G issued an average of 755 disabled Veteran licenses and 113 proxies, and 44 method and means exemptions were granted per year for persons meeting the 70 percent physically disabled threshold set in the statutory definition.

Year	Disabled Veteran License	Proxy Physically Disabled	Method & Means Exemption Physically Disabled
2023	913	49	60
2022	804	110	39
2021	641	116	37
2020	663	176	38

It is important to note the authorizing statute for the disabled Veterans license provides for a 50 percent disability threshold while these hunts have a 70 percent threshold consistent with the statutory definition for persons with physical disabilities. A hunter with a disabled Veteran's license would not automatically qualify for the hunts under this bill. All hunters would need to meet the higher threshold of 70 percent disability to participate.

Regarding the dataset for proxies, ADF&G typically issues more proxies in years where more permits are issued because of the additional hunting opportunities. In 2020, more Nelchina and Fortymile Caribou permits were issued when compared to 2021 and 2022. Additionally, the 2023 data is not yet complete, since the regulatory year is ongoing. In recent years, approximately 10 percent of the proxies issued are for individuals with physical disabilities. Most proxies are issued based on age alone. However, some Alaskans 65 years or older may also qualify for a proxy based on physical disabilities and could potentially qualify for the hunts proposed under this legislation.

On average, the majority of methods and means exemptions for qualifying individuals with physical disabilities were issued for use of crossbows. Approximately five to eight were scope and sight exemptions, and only two to four were motorized exemptions.

4. What if the disabled hunter is unable to pull the trigger?

Under AS 16.05.330(a), without having the appropriate license, tag, or permit in possession, a person may not engage in hunting or trapping, meaning the person for which the permit is issued must take the shot unless the hunt qualifies for a proxy, and the proxy also meets the 70 percent disability threshold.

5. A participant in a limited hunt must be accompanied by a hunter with a valid hunting license who is capable of retrieving game, what if the participant is capable of retrieving game themselves – do they still need to be accompanied?

Yes, the purpose of these limited hunts is to give persons with physical disabilities, persons not fully capable of retrieving their own game and not able to compete at the same level as able-bodied hunters, an opportunity to meaningfully participate in a hunt. This requirement is consistent with method and means exemptions under 5 AAC 92.104. Attachment 1 includes a copy of the relevant regulations.

6. Does the accompanied hunter need their own permit?

No permit is required to aid in retrieval of the game.

7. Is there a definition for physician? What is the standard they would use to evaluate whether someone has a 70 percent qualifying disability?

As mentioned earlier, there is already a statutory definition for a person with physical disabilities. The definition requires that the person either provide proof that he or she already receives at least 70 percent disability compensation from a government agency for a physical disability or an affidavit signed by a physician licensed to practice medicine in Alaska attesting the patient is at least 70 percent physically disabled. While there is not a relevant definition in Fish and Game statutes or defined generally for purposes on Alaska Statutes, the common definition specifies a Doctor of Medicine. Attachment 3 is a Physician's Affidavit of Physical Disability for Proxy Fishing and Hunting and a Method and Means Exemption form setting out the standards for describing the nature and extent of the applicant's disability. A similar form would be created for the purposes of these limited hunts.

8. What other states are providing for similar hunts for disabled persons?

Both Montana and Colorado have similar hunting opportunities specifically for people with physical disabilities. ADF&G has not done a comprehensive review of all 50 states. There are potentially others states with similar hunts.

9. What is the definition for a big game?

Attachment 1 includes the definition of big game under 5 AAC 92.990(9).

I hope you find this information to be useful. Please do not hesitate to contact me if you have further questions.

Respectfully,



Doug Vincent-Lang
Commissioner

Cc: Laura Stidolph, Legislative Director, Office of the Governor



**ALASKA DEPARTMENT OF FISH AND GAME
HB272: BIG GAME HUNTING BY PERSON W/ DISABILITY
RELEVANT STATUTES & REGULATIONS**

Alaska Statutes Title 16, Chapter 5. Fish and Game Code and Definitions.

AS 16.05.940. Definitions.

In AS 16.05 — AS 16.40,

(25) **“person with developmental disabilities”** means a person who presents to the department an affidavit signed by a physician licensed to practice medicine in the state stating that the person is experiencing a severe, chronic disability

(A) attributable to a mental or physical impairment or a combination of mental and physical impairments;

(B) that is manifested before the person reaches 18 years of age;

(C) that is likely to continue indefinitely;

(D) that results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency;

(E) that reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated;

(F) and that the person is not a danger to themselves or others; and

(G) and that the person does not suffer from a mental illness; in this subparagraph, “mental illness” means an organic, mental, or emotional impairment that has substantial adverse effects on a person's ability to exercise conscious control of the person's actions or ability to perceive reality or to reason or understand.

(26) **“person with physical disabilities”** means a person who presents to the department either written proof that the person receives at least 70 percent disability compensation from a government agency for a physical disability or an affidavit signed by a physician licensed to practice medicine in the state stating that the person is at least 70 percent physically disabled;

AS 16.05.255. Regulations of the Board of Game; management requirements

(i) For the purpose of encouraging adults to take children hunting, the board shall establish annual hunting seasons in appropriate areas of the state for big game, other than bison and musk ox. Only a resident child accompanied by a resident adult or a child accompanied by the child's resident parent, resident grandparent, resident stepparent, or resident legal guardian may take big game in an area where a season established under this subsection is in effect. The adult, parent, grandparent, stepparent, or legal guardian who accompanies the child may only assist the child in taking big game. A big game animal taken under this subsection, except for a Sitka blacktail deer when the harvest limit for the deer is one for each person, must be counted against the bag limits of both the child and the adult, parent, grandparent, stepparent, or legal guardian who accompanies the child. In this subsection,

- (1) “adult” means an individual who is 21 years of age or older;
- (2) “child” means an individual who is not more than 17 years of age and not younger than eight years of age.

Alaska Administrative Code Title 5, Chapter 92. Statewide Provisions

5 AAC 92.104. Authorization for methods and means disability exemptions.

(a) A person with a disability, or their personal representative, may submit an application on a form available from the department for an exemption from a methods and means requirement set out in this chapter. The application must

- (1) include a signed statement from a physician licensed to practice medicine in this state explaining the nature and extent of the person's disability;

- (2) specifically identify the methods and means limitation at issue and the type of exemption requested;

- (3) include a statement by the person with a disability that explains the causal relationship between the disability and the requested accommodation, or how the regulation at issue prohibits meaningful access to a program, service or benefit; and

- (4) be submitted at least 30 days before the requested effective date of the exemption, unless the exemption is being requested as a result of an emergency order or emergency regulation.

(b) The department shall issue a special authorization in writing that grants the requested exemption or an alternate exemption, if it determines that the exemption would provide a person with a disability with meaningful access to the program, service, or benefit in question, and meets the standard set out in this section. In granting the exemption, the department may include any conditions it determines are reasonable to conform the exemption to existing conservation and management objectives. In considering whether to grant the exemption, the department shall consider, among other factors, whether the exemption would

- (1) fundamentally alter a program, service or benefit of the department;

- (2) place an undue administrative burden or expense on the department;

- (3) have an unreasonable impact on the conservation, development, or utilization of game; or

- (4) constitute an unreasonable risk to public health or safety.

(c) The department may require a hunter or trapper who receives an exemption under this section to be accompanied by another hunter or trapper who has a valid hunting and trapping license and is capable of retrieving game.

(d) The department will not authorize an exemption under this section

- (1) if the regulation does not substantially prohibit the person from meaningful access to the program, service, or benefit;

- (2) that would allow exemption or modifications to seasons or bag limits; or

- (3) for any accommodation if the Board of Game has previously reviewed and acted on the same request.

(e) Notwithstanding any other provision in this title, the department may issue a permit to take brown bears with the use of bait during established seasons and with established bag limits to an applicant who qualifies for the hunt and meets the requirements of (a) and (b) of this section, and who is permanently wheelchair-bound or similarly disabled to the extent that use of bait is the only reasonable option the applicant has to harvest a brown bear.

5 AAC 92.990. Definitions.

(9) "**big game**" means black bear, brown bear, bison, caribou, Sitka black-tailed deer, elk, mountain goat, moose, muskox, Dall sheep, wolf, and wolverine; "big game", for the purposes of a youth hunt, does not include bison or muskox;



Alaska Department of Fish & Game

Summary of the Proxy Regulations

Proxy hunting is allowed for **Emperor geese**, **most Deer** hunts, some **Caribou** hunts, some **Moose** hunts, and **some Muskox** hunts with the following restrictions:

ANTLER DESTRUCTION

- **Is required for Moose, Caribou, Muskox, and Deer.** *Special Note:* Antler destruction of both the proxy hunter's animal(s) and beneficiary's animal(s) is only required for the species listed on the proxy form. Example: if moose is the only species to be proxy hunted, then antler destruction is only required for moose.
- **Is required for each animal taken by the proxy hunter, both the proxy hunter's animal(s) and the beneficiary's animal(s).** *Special Note:* To avoid destroying the trophy value of your harvested animal(s) do not become an authorized proxy hunter until after you are out of the field with your harvested animal(s). Once you become an authorized proxy hunter, you must destroy the trophy value for both the proxy's animal and the beneficiary's animal.
- **Consists of removing at least one antler from the skull plate or cutting the skull plate in half to destroy the trophy value.**
- **Must occur at the kill site unless uncut antlers must be submitted to ADF&G for measuring, in which case, it will be completed after measuring by ADF&G.**

DEER

- **Unit 5A, Yakutat Youth Hunt** may not be proxy hunted.

MOOSE

- Only **"Any bull," (hunts that do not have antler restrictions), antlered bull hunts with no antler restrictions, "Antlerless", and "Tier II Hunts"** can be proxy hunted. (Any moose hunt with antler restrictions, except Tier II, cannot be proxy hunted.)

You **MAY NOT** proxy hunt for:

- More than one moose per year in **Unit 20A and 20B**;
- **Unit 20D** hunt for disabled veterans in the Delta Junction Management Area (DM795);
- **Unit 20E** moose registration hunt (RM865);
- **Units 21 and 24** moose registration hunts (RM832 and RM834) if either the Proxy Hunter or the Beneficiary holds a drawing permit for the Galena area hunts.

MUSKOX

- Only Tier II muskox hunts may be proxy hunted.

CARIBOU

You **MAY NOT** proxy hunt for:

- **Units 20B, 20D, 20E, 20F, and 25C** caribou registration hunts (RC860 and RC867);
- **Units 9A, 9B, 9C within the Alagnak River drainage, 17A drainages west of Right Hand Point, 17B, 17C east of the Wood River and Wood River Lakes, 18, 19A, 19B and 19E** (Mulchatna Herd) caribou hunts prior to November 1.

UNIT 13 MOOSE AND CARIBOU

Moose has the following special conditions:

- **You may not be a Proxy Hunter more than once per season.**
- You can only proxy hunt for one Unit 13 moose per regulatory year. Only the resident drawing moose hunts (DM324 and DM325) are eligible for proxy hunting.

Caribou has the following special conditions:

- For Unit 13 Tier I permit holders, no member of your household may proxy hunt for caribou or moose outside of Unit 13.
- **You can only proxy hunt for one Unit 13 caribou per regulatory year.**
- You or anyone in your household:
 - cannot proxy hunt Tier I caribou if you (and your household) have a Community Subsistence Harvest caribou permit during the same regulatory year;
 - cannot proxy hunt Tier I caribou if you or anyone on your household has hunted moose or caribou outside of Unit 13 during the same regulatory year;
 - cannot hunt moose or caribou outside of Unit 13 if you or anyone in your household agrees to proxy hunt Tier I caribou during the same regulatory year.

NOTE: In order for the proxy hunter to obtain a permit for the beneficiary, an official **'power-of-attorney'** document is required.



Physician's Affidavit of Physical Disability for Proxy Fishing and Hunting

Alaska Statute **AS 16.05.940 (26)** states: "person with physical disabilities" means a person who presents to the department either written proof that the person receives **at least 70 percent disability** compensation from a government agency for a **physical disability** or an affidavit signed by a physician licensed to practice medicine in the state stating that the person is **at least 70 percent physically disabled**.

PATIENT: PLEASE COMPLETE THE FOLLOWING:

Patient's Name _____

Mailing Address _____

Physical Address _____
(if different from mailing address)

By signing below, I am verifying the above information is correct.*

X Patient's Signature _____

Note: If your physician indicates below that your physical disability is permanent, you may use this affidavit each year to obtain a proxy. However, **you must bring this affidavit with you each time you apply for a proxy**. Always keep a copy of this form in a safe place. If you lose this affidavit, you will have to request a copy from your physician in order to obtain a proxy.

PHYSICIAN: PLEASE COMPLETE THE FOLLOWING:

By signing below, I affirm that I am a physician, licensed to practice medicine in the state of Alaska, and that the patient listed above **is at least 70 percent physically disabled**.*

Is this patient's **physical** disability permanent? _____ Yes _____ No

Physician's Signature

Date

Physician's Name (Print)

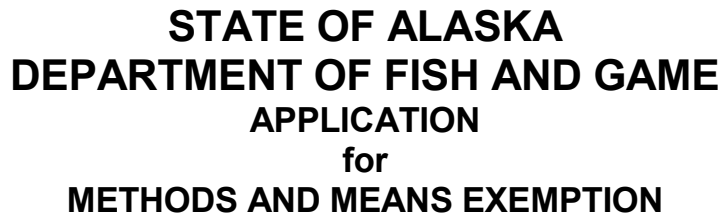
Physician's Alaska License #

Address

Phone Number

Address

*Providing false information on any portion of this affidavit is subject to a maximum penalty of \$10,000, or one year imprisonment, or both, per AS 16.05.420 and AS 11.56.210



Updated 6/23

Instructions for Completing the Methods and Means Exemption Application Form

Important: This application should be submitted at least 30 days prior to the start of your hunt.

Part 1. To be completed by the Applicant

- Enter your name and contact information.
- Check one of the boxes to indicate whether you have a resident or non-resident hunting license.
- 1. Please identify the exemption you are requesting. The most common exemptions include:
 - To use a crossbow or draw-lock in an archery-only hunt
 - To use an ATV in a controlled use area (you **must** specify the hunt number, location, and hunt dates for your application to be considered).
 - To use a laser sight to take game.
- 2. If you are requesting a crossbow exemption for an archery-only hunt, please list your crossbow education certification number.
- 3. Please explain how your disability limits your ability to comply with the methods and means restriction at issue, in other words, how your disability limits your ability to participate in the hunt without receiving an exemption.
- 4. Please sign and date the application certifying that the information contained within it is true.

Part 2. To be completed by the Physician (medical doctor licensed to practice in the State of Alaska, not a physician's assistant or nurse)

- 5. Please describe the nature and extent of the applicant's condition or disability. **It is important to understand that you are not being asked to provide a medical diagnosis on this form.**
 - To qualify for a methods and means exemption, the hunter must have a disability that substantially limits his or her ability to comply with existing methods and means restrictions. **Please address this issue when describing the nature and extent of the applicant's condition or disability or the exemption may not be granted due to lack of information.**

Examples of qualifying disabilities include:

- Loss, loss of use, or substantial impairment of one or both upper or lower extremities.
 - Inability to walk over natural terrain without the assistance of another person, prosthetic device, crutches, brace, or other mechanical, assistive device.
 - Requiring a wheelchair for mobility.
 - Blind or visually impaired.
 - Inability to walk for long distances (comparable to that of an average person in the general population) without assistance or a rest due to cardiac or lung disease where:
 - Forced (respiratory) expiratory volume for one (1) second when measured by spirometry is less than one (1) liter or his arterial oxygen tension (po) is less than 60 mm/Hg on room air at rest.
 - **Or** functional limitations due to cardiac disease are classified in severity as class III or class IV according to standards accepted by the American Heart Association.
- 5. Check "yes" if the condition or disability is not expected to improve, check "no" if improvement is possible or likely.
 - 6. Your signature indicates that the applicant's condition or disability substantially limits his or her ability to comply with the methods and means restriction identified in Part 1 of the form.