



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Fish and Game

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Headquarters Office

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February 7, 2024

The Honorable Click Bishop
Senate Resources Committee, Co-Chair
State Capitol Building, Room 504
Juneau, AK 99801

The Honorable Cathy Giessel
Senate Resources Committee, Co-Chair
State Capitol Building, Room 427
Juneau, AK 99801

Re: SB190: BIG GAME HUNTING BY PERSON W/ DISABILITY

Dear Senators Bishop and Giessel,

Thank you for the opportunity for the Department of Fish and Game (ADF&G) to provide supplemental information on SB190 following the initial bill hearing in the Senate Resources Committee on January 29, 2024. Please find the requests and corresponding responses below.

1. If two people had physical disabilities and both qualify for the hunt, could one proxy hunt for the other, and two animals could be harvested, if two is the limit?

Yes, if both have a permit, and if the bag limit set for the hunt by the Board of Game (BOG) allows proxy hunting. For example, current regulations already 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 1 is a Proxy Hunt Authorization form that includes a full list of proxy restrictions on page 2.

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 BOG bag limits. This is because BOG regulations for proxy hunters require the proxy to 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 those individuals for which the disability applies.

2. What would language look like to make clear that landholders – public or private, would still have a process for consent or dissent to these types of hunts? Is the department supportive of such language?

The committee may want to consider the following points before deciding to amend this bill:

First, the Board of Game and ADF&G have the exclusive right to regulate hunting in the state. This is a longstanding interpretation that derives in part from a 1982 Attorney General opinion (1982 WL 43763). The constitutional authority to regulate game was delegated to the Board of Game by the legislature through AS 16.05.221 (purpose of boards) and 16.05.255 (regulatory authority). An amendment to carve out an exception for a municipality, to acknowledge municipal jurisdiction, or even a stand-alone carve out for Kincaid Park could create legal issues regarding the BOG's ongoing authority in this area.

Second, sometime soon the Alaska Supreme Court will issue an opinion directly related to state vs. municipal authority to regulate trapping. It's an appeal of a Valdez Superior Court case wherein the judge concluded that Valdez, as a home rule municipality, is constitutionally entitled to all legislative powers that the state has not expressly or impliedly prohibited it from exercising – thereby upholding Valdez's trapping ordinance. The state filed an amicus curiae brief to contest the decision, arguing that the Superior Court misconstrued the constitutional delegation of authority over wildlife to the legislature and then to BOG/ADF&G. It also argues that state law preempts the local ordinance. Because this decision could impact the BOG's authority to regulate hunting or support municipal authority in this area, the amendment could conflict with the Court's decision and impede the bill's passage.

Third, the amendment may not be necessary due to existing authority of local governments to adopt ordinances restricting use of firearms on municipal land. This authority effectively restricts hunting in a municipal park like Kincaid. Tangentially, the amendment could impede the ability of the BOG and a municipality to reach cooperative agreements that ensure resident safety while allowing special permit hunts in designated areas (e.g., JBER moose and black bear permit hunts).

Lastly, this language would be inconsistent with the precedent statutory authority for youth only hunts established under AS 16.05.255(i). The statutory language, along with relevant definitions for this bill, are included in Attachment 2.

For these reasons, ADF&G does not believe such an amendment is necessary. ADF&G's desire would be to keep the bill discretely focused on disabled hunters. However, the decision regarding whether to proceed with such an amendment is ultimately a matter of policy.

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

PROXY HUNTING AUTHORIZATION

This authorization permits an Alaska resident age 10 and older with a current Alaska hunting license (Proxy Hunter) to take Emperor geese, most deer, some **caribou**, some **moose**, and some **muskox** for another Alaska resident (Beneficiary) who is blind, 70% physically disabled (affidavit required), 65 years of age or older, or developmentally disabled (affidavit required). A Proxy Hunter may not proxy hunt for more than one Beneficiary at a time, and may possess only one authorization at a time.

This authorization is valid from the date of issuance to June 30 of the current regulatory year.

Reason for authorization: Blind 70% Physically disabled 65 years of age or older Developmentally disabled

Beneficiary: (person being hunted for)

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By signing this authorization, I understand and attest that:

1. With this authorization, the Proxy hunter listed below may hunt for me in some general hunts, and certain permit hunts, as described in the proxy hunting provisions of the current Hunting Regulations and page 1 of this form.
2. My license, harvest ticket(s), registration (including Tier I Nelchina caribou), drawing, and/or Tier II permit(s) will be used and carried by the Proxy hunter.
3. I am subject to all the hunt conditions and requirements (except Hunter Education) just as if I had hunted or killed the game personally.
4. I understand that antler destruction is required for all animals harvested by the Proxy hunter.
5. Whether or not the Proxy hunter is successful, I must complete and return my filled out harvest report(s) and permit hunt report(s) as required.

I hereby certify that I am the Beneficiary and all of the information I provide in this authorization is true and correct. I understand that any prior proxy authorization of mine is null and void. Providing false information on this authorization is subject to a maximum penalty of either a \$5,000 fine or one year imprisonment, or both, per AS 16.05.420, AS 16.05.925 and AS 11.56.210.



X

Signature of Beneficiary (REQUIRED)

Date

Proxy: (hunter)

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By signing this authorization, I understand and attest that:

1. With this authorization, I may hunt for the Beneficiary listed above, in some general hunts, and certain permit hunts, as listed in the proxy hunting provisions of the current Hunting Regulations and page 1 of this form.
2. When hunting for the Beneficiary, I must have in my immediate possession: this authorization, my own hunting license, and the beneficiary's hunting license, harvest ticket(s), drawing, registration and/or Tier II permit(s) for the species hunted.
3. I am subject to all the hunt conditions (including antler destruction) that would apply to me and to the Beneficiary as if the Beneficiary hunted or harvested the game personally. If the hunt requires it, I am subject to Hunter Education requirements even though the Beneficiary is not.
4. I am eligible to hunt this regulatory year and AM NOT on the failure to report list.
5. I must personally deliver all salvageable parts of the harvested game to the beneficiary within 30 days after harvesting.
6. Whether or not I harvest game for the Beneficiary, I must provide the required report information to the Beneficiary, so that the Beneficiary may return his or her completed harvest or permit hunt reports in a timely manner.

I hereby certify that I am the Proxy and all of the information I provide in this authorization is true and correct. I understand that any prior proxy authorization of mine is null and void. Providing false information on this authorization is subject to a maximum penalty of either a \$5,000 fine or one year imprisonment, or both, per AS 16.05.420, AS 16.05.925 and AS 11.56.210.



X

Signature of Proxy (REQUIRED)

Date

ADF&G Instructions: Sign below and make 3 copies. Send original to Information Services (333 Raspberry Rd, Anchorage, AK 99518). Keep 1 copy on file and give 2 to the applicant. Authorization is NOT effective until signed by a representative of the ADF&G		
Issuing Officer: Printed Name	Signature	Office Location
Date		



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.



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ALASKA DEPARTMENT OF FISH AND GAME
SB190: 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.

(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 92.990. 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;