

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

April 2, 2004

3:30 p.m.

TAPE(S) 04-35

MEMBERS PRESENT

Senator Scott Ogan, Chair
Senator Thomas Wagoner, Vice Chair
Senator Fred Dyson
Senator Ralph Seekins
Senator Ben Stevens
Senator Kim Elton
Senator Georgianna Lincoln

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR HOUSE JOINT RESOLUTION NO. 34(FSH)
Requesting the United States Department of Agriculture and the United States Department of Labor to extend Trade Adjustment Assistance benefits to Alaska salmon fishermen; requesting the United States Congress and the United States Department of Agriculture to extend additional disaster and price support benefits to Alaska salmon fishermen; and requesting the United States Department of Commerce to establish a Trade Adjustment Assistance program specific to commercial fishermen.

MOVED CSHJR 34(FSH) OUT OF COMMITTEE

HOUSE BILL NO. 524 AM

"An Act relating to the protection of land and water from waste disposal; providing for the regulation of waste management; making conforming amendments; and providing for an effective date."

MOVED SCS HB 524(RES) OUT OF COMMITTEE

SENATE BILL NO. 297

"An Act relating to the taking of black bear, brown bear, and grizzly bear and to registration of big game guides for certain guide use areas."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 34

SHORT TITLE: FED TRAINING AND ASSISTANCE FOR FISHERMEN

SPONSOR(S): REPRESENTATIVE(S) OGG BY REQUEST OF SALMON INDUSTRY
TASK FORCE

01/28/04 (H) READ THE FIRST TIME - REFERRALS
01/28/04 (H) FSH, L&C
02/09/04 (H) FSH AT 9:00 AM CAPITOL 124
02/09/04 (H) Moved CSHJR 34(FSH) Out of Committee
02/09/04 (H) MINUTE(FSH)
02/12/04 (H) FSH RPT CS(FSH) NT 5DP
02/12/04 (H) DP: OGG, WILSON, SAMUELS, GUTTENBERG,
02/12/04 (H) SEATON
02/16/04 (H) L&C AT 3:15 PM CAPITOL 17
02/16/04 (H) Moved CSHJR 34(FSH) Out of Committee
02/16/04 (H) MINUTE(L&C)
02/18/04 (H) L&C RPT CS(FSH) NT 4DP 1NR
02/18/04 (H) DP: LYNN, GATTO, GUTTENBERG, ANDERSON;
02/18/04 (H) NR: DAHLSTROM
02/26/04 (H) TRANSMITTED TO (S)
02/26/04 (H) VERSION: CSHJR 34(FSH)
02/27/04 (S) READ THE FIRST TIME - REFERRALS
02/27/04 (S) L&C, RES
03/23/04 (S) L&C AT 1:30 PM BELTZ 211
03/23/04 (S) Moved CSHJR 34(FSH) Out of Committee
03/23/04 (S) MINUTE(L&C)
03/24/04 (S) L&C RPT 4DP 1NR
03/24/04 (S) DP: BUNDE, SEEKINS, DAVIS, STEVENS G;
03/24/04 (S) NR: FRENCH
03/31/04 (S) RES AT 3:30 PM SENATE FINANCE 532
03/31/04 (S) <Bill Hearing Postponed to 4/2/04>
04/02/04 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HB 524

SHORT TITLE: WASTE MANAGEMENT/DISPOSAL

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/26/04 (H) READ THE FIRST TIME - REFERRALS
02/26/04 (H) RES
03/03/04 (H) RES AT 1:00 PM CAPITOL 124
03/03/04 (H) Moved Out of Committee
03/03/04 (H) MINUTE(RES)
03/04/04 (H) RES RPT 5DP 1NR

03/04/04 (H) DP: LYNN, STEPOVICH, HEINZE, DAHLSTROM,
03/04/04 (H) MASEK; NR: GATTO
03/25/04 (H) TRANSMITTED TO (S)
03/25/04 (H) VERSION: HB 524 AM
03/26/04 (S) READ THE FIRST TIME - REFERRALS
03/26/04 (S) RES
03/29/04 (S) RES AT 3:30 PM BUTROVICH 205
03/29/04 (S) Heard & Held
03/29/04 (S) MINUTE(RES)
04/02/04 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 297

SHORT TITLE: BEAR HUNTING/DISPOSAL OF HIDE/SKULL

SPONSOR(s): SENATOR(s) SEEKINS

02/06/04 (S) READ THE FIRST TIME - REFERRALS
02/06/04 (S) RES, FIN
03/17/04 (S) RES AT 3:30 PM BUTROVICH 205
03/17/04 (S) Heard & Held
03/17/04 (S) MINUTE(RES)
04/02/04 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

Representative Dan Ogg
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of HJR 34.

Ms. Melissa Dover
Staff to Representative Dan Ogg
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Commented on HJR 34 for sponsor.

Mr. Mark Vincel, Executive Director
United Fishermen of Alaska
211 4th Street, Suite 110
Juneau, Alaska 99801-1172
POSITION STATEMENT: Supports HJR 34.

ACTION NARRATIVE

TAPE 04-35, SIDE A

^#HJR34

HJR 34-FED TRAINING AND ASSISTANCE FOR FISHERMEN

CHAIR SCOTT OGAN called the Senate Resources Standing Committee meeting to order at 3:30 p.m. Present were Senators Thomas Wagoner, Ben Stevens, Ralph Seekins, Kim Elton and Chair Scott Ogan. Senators Fred Dyson and Georgianna Lincoln arrived at 3:37. The first order of business to come before the committee was CSHJR 34(FSH).

REPRESENTATIVE DAN OGG, sponsor, introduced Melissa Dover, his staff person who worked on HJR 34.

MS. MELISSA DOVER, staff to Representative Ogg, said HJR 34 relates to Alaska's commercial salmon fishermen qualifying for federal trade adjustment assistance and was introduced at the request of the Joint Legislative Salmon Industry Task Force.

As salmon imports have increased, Alaska salmon fishermen have experienced a sharp decline in the price. The U.S. Department of Agriculture (USDA) and the Department of Labor have trade adjustment assistance programs to help workers whose industries have been hurt by imports. The USDA provides cash benefits of up to \$10,000 and the Department of Labor provides retraining benefits. Last year, Alaska's salmon fishermen were made eligible for these programs, however the programs were designed primarily for agricultural workers and fishermen have problems qualifying for them.

Many fishermen don't qualify for the program because of other income that counts as fishing income on their federal tax returns, such as Exxon payments from the 1989 oil spill. The resolution asks for four specific things. It asks the USDA to extend price adjustment benefits to salmon fishermen who fished five of the six years in the qualifying years 1997 - 2002 and subsequent qualifying years, if Alaska salmon fishermen continue to qualify for these programs - if they can prove that they lost income or lost their market due to imports. It also asks that the Department of Labor extend retraining benefits to the same group of people. It requests that the Congress and the USDA make salmon a covered commodity, which would make Alaska salmon fishermen eligible for various other kinds of relief. Finally, it requests that the United State Secretary of Commerce pursue the creation of a trade adjustment assistance program specific to commercial fishermen.

CHAIR OGAN asked what trade adjustment assistance is.

MS. DOVER answered that it's a federal program with sections in the USDA and U.S. Department of Labor. The USDA has cash benefits of up to \$10,000 to workers whose industries have been hurt by imports and the Department of Labor extends retraining benefits to the same group of people.

CHAIR OGAN asked if fishermen would be retrained to do something else.

MS. DOVER replied not in all cases. Some people learn how to better market their fish and things like that.

MR. MARK VINCEL, Executive Director, United Fishermen of Alaska, supported HJR 34 and offered to clarify questions about the USDA program. There were no further questions.

SENATOR KIM ELTON moved to pass CSHJR 34(FSH) from committee with the attached fiscal note. There were no objections and it was so ordered.

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^#HB524

HB 524-WASTE MANAGEMENT/DISPOSAL

CHAIR SCOTT OGAN announced HB 524am [as amended @ 3/29 meeting] to be up for consideration.

COMMISSIONER ERNESTA BALLARD, Department of Environmental Conservation (DEC), was available to answer questions, but there were none.

SENATOR THOMAS WAGONER moved to pass [SCS HB 524(RES)] from committee with individual recommendations. There were no objections and it was so ordered.

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^#SB297

SB 297-BEAR HUNTING/DISPOSAL OF HIDE/SKULL

CHAIR SCOTT OGAN announced SB 297 to be up for consideration.

SENATOR RALPH SEEKINS, sponsor, moved to adopt SSSB 297, version \W.

CHAIR OGAN objected for discussion purposes.

SENATOR SEEKINS said he removed the section having to do with a fourth guide area - primarily because that section was moved into the Commercial Service Board bill that the committee heard earlier. Section 2 is now section 1 and talks about control of different species of bears. The Board of Game has to first identify predation by bears to be the cause of the depletion and determine that a reasonable reduction would solve the problem.

The department is required to provide notice to the public when those sections are in effect.

Page 2, line 5, section (b) says that the permit would be issued by the department and that taking of the bear under it is subject to the provisions of AS 16 and the regulations governing it that do not conflict with other sections in this bill. Section (c) lists concerns that the guides have about continuing to require guide services for hunting dangerous animals in dangerous terrain.

Attorneys told the sponsor that the most logical place that issue would be challenged is under the second degree of kindred statutes. Under those statutes, a 10-year old Alaska resident could take his adult stepbrother, or stepwhomever, hunting grizzly bears. This section says any permit holder who is over 21 years of age and is a resident of the state who has legally hunted big game in the state at least two calendar years could accompany a maximum of two people into the field and stay with them. This is a tougher requirement than to be an assistant guide under the commercial services proposal who would have to be only 19 years of age, have hunted big game in the State of Alaska for two years and have a Red Cross First Aid certificate. A registered master guide would not be restricted to the number of people they could accompany into the field under their regular rules and could use these methods and means for the harvest of bear as long as the client has a permit under this section.

CHAIR OGAN asked if a registered guide could book a hunt and send the clients out with someone who wasn't a registered guide.

SENATOR SEEKINS replied no, the registered guide or his assistant must stay with the non-resident at all times.

SENATOR GEORGIANNA LINCOLN asked if a resident who is over 21 years old, who is not a registered guide could take out up to two non-resident hunters, but can't receive any remuneration in excess of direct expenses.

SENATOR SEEKINS replied that is correct. Direct expenses include food, fuel and how they got there.

CHAIR OGAN said some kind of standard should be established for that.

SENATOR SEEKINS said:

I intend for it to mean on the record that that direct expense would be for fuel if they had a boat... and for food necessary to get there, what it cost that person to get into the field and stay in the field with them - the direct expense.

CHAIR OGAN said he didn't want it to mean:

Okay, I had to buy an airplane to take my friend hunting and I had to buy a tent and guns and all this stuff. Those were my direct expenses for taking this person out. So, he owes me \$10,000....

SENATOR SEEKINS said he didn't have any problem with that. He means what it cost to get there, not to buy the implement to get there with.

CHAIR OGAN asked about feed for horses, since it costs him several thousand dollars per year to feed his.

SENATOR SEEKINS responded that he could charge for the feed for the horse while they were in the field with him with the particular person. "There is no way they can profit from it."

CHAIR OGAN indicated everyone concurred with that.

SENATOR ELTON asked if someone had to take two weeks off from his job to do this, would that be considered a direct expense?

SENATOR SEEKINS said no:

There should be no repayment of wages lost. In other words, I should be able to come up with an itemized list of what it costs for me to be out there with you in terms of my food, my equipment and that's it. That's my intent.

He thought that could be established in regulation.

CHAIR OGAN wanted to say hunters can't receive remuneration at all. If buddies want to go hunting, they can split the expenses. He moved to delete "in excess of direct expenses incurred in" and insert "for" and insert "may not receive any remuneration for accompanying".

SENATOR ELTON said he didn't object, but suggested getting a dictionary because he observed that he thought remuneration means to pay and striking the other language may broaden what someone could charge off to expenses.

CHAIR OGAN said, "We can clearly state on the record that the committee's intent is that there is no compensation whatsoever for doing this...."

SENATOR GEORGIANNA LINCOLN suggested making a conceptual amendment.

CHAIR OGAN agreed and withdrew his amendment.

SENATOR SEEKINS clarified that he didn't expect that the guide taking the person out would have to pay for the expenses of the person going out with him, but for his own expenses.

He moved on to section (d), a suggestion brought to him by Alaska Department of Fish and Game (ADF&G).

Since our intent is to put more hunters into the field, that we do have a universe of people who tend to be hunters, who enjoy the outdoors, who are active participants in the outdoors, who are well-acquainted with firearms in most cases and who have been equipped with survival skills in most cases and whose lifestyle generally would include this kind of an activity in the military and those folks who come to Alaska, we have said here that if someone is in the military service or the United States Coast Guard, they're stationed in Alaska and they have met the other requirements in this section and are at least 19 years of age, we're going to treat them as a resident in terms of getting a bear control permit. If they are over 21 years of age and they meet the other requirement of having hunted big game in Alaska for two years, they can get a permit to accompany.

CHAIR OGAN thought that language might be pushing the issue in section (c), which covers the reasons for requiring guides for bear hunting.

SENATOR SEEKINS said:

The only conceptual way I could see this happen would be if a military person had grown up in Alaska, had been here before, had hunted big game in Alaska for two years and now they came back to the state, but were not technically a resident, but they had the same experience as if they had been, could accompany.

CHAIR OGAN said the term "legally hunted big game" means that they basically got a tag and put on it that they hunted one day in a subunit when they may have gotten out of their car for only five minutes.

SENATOR ELTON said he understands why the sponsor put that section in, but testimony from previous years on requiring a guide to accompany a non-resident used the safety issue. He feared this started down the "slippery slope" away from that and wanted to hear opinions from the ADF&G and Attorney General.

SENATOR SEEKINS said he was trying to use the same level of experience used for a resident in terms of their experience in the field, not based on their status as a military person.

SENATOR LINCOLN asked why the ADF&G said a provision for a non-resident military person had to be put in. He or she could be 19 years old and in the state for only one day and get a resident hunting license.

SENATOR SEEKINS explained the reason is:

We're attempting to put additional hunters in the field of people who have reasonably good skills in terms of survival and weapons use.

SENATOR LINCOLN couldn't see how a military person who qualifies as a resident by being here one day, and hasn't been in the field, can go out there without any assistance. "How is that reflective of a person who is knowledgeable about the area, the species and how to safely hunt?"

SENATOR SEEKINS agreed that there is no comparison between someone who has not hunted big game before and someone who has, no matter how long they have lived in Alaska.

All I was attempting to do in this case is shorten the period for the qualification of being a resident. There is no guarantee that in that first 12 months that someone is in the state that they are going to get any more experience than they had when they first came into the state. So, all I was trying to do here was basically make people on a limited budget able to help us reduce bear populations....

CHAIR OGAN agreed with his point saying all a person needs now to hunt bear is to be a resident for 12 months to get a bear tag and \$25.

SENATOR SEEKINS continued on to (e) and (j) where he removed the tag fee and required a sealing fee for the hide of \$50. "I am trying to disassociate this from hunting as much as I can and make it a predator control program...."

SENATOR ELTON asked what tag fees are for black, brown and grizzly bears for residents and non-residents.

CHAIR OGAN said they could ask the department representative when he testifies.

SENATOR SEEKINS explained that (f) says a person who holds a bear control permit may use within that area scents and edible parts of game or whole or parts of dead domestic livestock as an attractant for bear without having to register.

Here, Mr. Chairman, the intent is - many bear kills are incidental kills on gut piles. Trying to be able to relocate that gut pile in a place that is more advantageous for the hunter rather than for the hunted. A moose does not always die where you want it to. If it's in an area of high density cover, you may want to move that gut pile to an area that's clear where you can conceal yourself and ask the bear to expose him or herself to make it safer, make it easier for a more humane kill and make it more probable to be able to actually harvest the bear.

Secondly, to be able to use, for example, dead livestock. When I grew up in Wyoming, we had a steer

that died. We used that for bear bait. We took it out and chained it to a log in the middle of an open area. But, because gut piles are incidental kills, they're in the field, it's not easy for someone to be able to come back to town to be able to get a registration permit. We talked about a way to be able to do that in these areas if you have that permit without having to register.

CHAIR OGAN said, "That's only if you relocate it. Right now you can shoot a bear off your kill if you don't relocate any of the parts."

SENATOR SEEKINS added that relocating gut piles under normal hunting rules is prohibited.

CHAIR OGAN said that argument isn't germane to using dead domestic livestock, because obviously you have an intent to bring something out there.

SENATOR SEEKINS said he only wanted to give a hunter the opportunity to place that in the field in an advantageous place that is a long way from civilization rather than getting an actual location like bear baiting stations are now.

SENATOR LINCOLN asked if "without having to register" referred to the bait station.

SENATOR SEEKINS replied yes.

I wouldn't have a problem if under regulations we tried to define proximity and a few other things along that line, Mr. Chairman. Now, if you're going to have a bait station, you have to locate it; you have to post signs around it; you have to do all kinds of things, because you're generally assumed to be in a little closer proximity to where people live.... In this case we're anticipating that when someone is out in the field, that it's very difficult for them to get back to town to go through the process at the Department of Fish and Game to do all the registration on the gut pile or on where they might place the dead remains of a domestic animal.

SENATOR LINCOLN asked him to look closer at that point before this comes back before the committee.

I don't know how difficult it is if you're going out into that field to hunt bear in that given permit area to say that you will at least have the baiting stations within the area.

CHAIR OGAN responded that there would be some discussion about that.

SENATOR SEEKINS forged on that he had talked at length to the department about how to differentiate this from a bait station. He explained that (g) covers same-day air borne hunting that is allowed in this bill.

TAPE 04-35, SIDE B

SENATOR SEEKINS continued saying that (h) deals with current regulations and allows a person with a permit to use a motorboat or a motorized land vehicle to intercept or pursue a bear that has become aware of the person's presence. Section (i) talks about two-way communication and optical illumination equipment to aid in taking a bear.

CHAIR OGAN asked if he intended to allow hunting bears at night.

SENATOR SEEKINS professed allowing someone to locate or hunt a bear on the permitted area at night. The use of two-way communication equipment is for safety as much as anything else. He related how a hunter he knew wounded a bear that circled around and mauled him, but his friends who saw it happen couldn't warn him. "It's not necessarily an unethical practice...."

CHAIR OGAN contended that someone could herd bears by using a swamp buggy, huge lights and radios. The bears wouldn't have a chance.

SENATOR SEEKINS believed that would be an extreme case and probably wouldn't happen. He strongly believed that two-way radios would be a big help.

Unfettered use of big spotlights and everything else would not be within my intent. My intent is to try to safely eliminate bears and to give the advantage to the hunter.

SENATOR ELTON went back to the last part of section (h) that says a motorized boat or land vehicle can be used to pursue a

bear that has become aware of the person's presence. He asked why the distinction.

SENATOR SEEKINS replied:

Once that bear becomes aware of your presence and flees, you cannot pursue it with a motorized vehicle under current law. This gives you the opportunity to be able to do that.

SENATOR ELTON asked if this would preclude a person from getting into a riverboat and cruising the river and if they spot a bear, they can't shoot it - although the bear would be aware of their presence.

SENATOR SEEKINS said this bill would allow that, although other regulations are still in effect. You couldn't shoot from a moving boat, for instance.

SENATOR LINCOLN asked since he was opening up the law, did he want to include a moving boat. She has seen many bears just stand there and not go running. If you landed and had to shoot, that bear would more than likely not be there. "It seems like you might allow turning off the motor or it doesn't matter. Why not put in there that you could also shoot from a moving boat?"

CHAIR OGAN said that's what this bill does.

SENATOR SEEKINS added:

I don't think you can shoot when it's under power.... I would not have a problem with it if it's coasting and it's a safe opportunity. It was meant primarily for safety of other people in the boat and themselves.... I'm not trying to rule that out. I am just trying to say here that you could use that boat to pursue, to use that snow machine, without breaking the law. I didn't go to the end shot where you have to.

SENATOR SEEKINS said the last sections deal with bear hides and skulls. Currently when the ADF&G comes into possession of bear hides and skulls, it is able to sell them at auction and use the proceeds in the fish and game fund. This bill allows someone to donate a hide or skull to the department to be sold for that purpose or to a qualified organization that is associated with conservation. It could be sold and a commission of up to 50

percent of the net proceeds could go to the person who donated it to recover his expenses.

Part of the reason we have it restricted the way it is ... [to] keep them out of the strict identification of being involved in interstate commerce and allow someone who may have harvested a bear and may not want that skull or may not want that hide any longer to be able to put the value to good use.

SENATOR DYSON asked if gall bladders are allowed.

SENATOR SEEKINS replied that gall bladders are not allowed.

SENATOR WAGONER asked if the qualified organization already has a bear hide or skull that's been donated to them and they want to sell it, can they do that under this bill.

SENATOR SEEKINS replied not the way it's classified now, but he wouldn't have a problem with doing that. He didn't think the department would either.

SENATOR ELTON said he thought a legally taken bear under this permit program could have the skull and hide donated, but he didn't know for sure if that was an expansion of what can happen now.

CHAIR OGAN conceded that was a good point. It might have to say legally taken bear under AS something or other.

SENATOR SEEKINS added that the intent was to try and accommodate a request from folks who want to give a bear hide away to someone else who would value it.

Then we are allowing them to auction them or raffle them and to do that through the department or through a 501(c)(3) who also has conservation purposes. I don't care how they get the hide.

SENATOR WAGONER said he has a 501(c)(3) [the food bank in Kenail] that had a skull and hide donated to it and this legislation would allow them to be sold and he had no problem with that happening.

CHAIR OGAN said he was in Jackson Hole for an Energy Council Conference a year and a half ago and saw a lot of Alaska moose racks and Grizzly bear. People take them to other states and

sell them and according to ADF&G, we can't stop them. He didn't know if they could sell animals killed in their state, though.

SENATOR LINCOLN noted that proceeds could not be used to contribute to a political candidate or to any organization supporting or opposing ballot propositions or to pay expenses associated with lobbying. Yet, she thought the Outdoor Council has a lobbyist and someone mentioned it earlier as a recipient. She asked how the department determines how that money is used by an organization. How would one know if someone was going to support or oppose a ballot proposition? It is such a wide-open statement and doesn't even mention a timeframe.

SENATOR SEEKINS replied that it's not uncommon for organizations to have affiliate organizations that are made up of the same members, but for different purposes and he used the National Rifle Association as an example.

Our attempt here is to not use these things to fund the contentious side of the issues, but rather to support those that are 502(c)(3) that don't partake in those kinds of activities. I think a (c)(3) is precluded from being able to participate in many of these activities.

SENATOR WAGONER agreed.

CHAIR OGAN elaborated that a 501(c)(3) cannot make that kind of contribution and that language doesn't even need to be there. "A (c)(3) can't do anything political at all or they lose their status."

SENATOR ELTON assumed that the board would still set the time of year a person could hunt with this permit and would set the number of animals that could be taken under one permit.

SENATOR SEEKINS replied that is absolutely correct.

CHAIR OGAN said the committee would be receiving a lot of comments on this bill in the future and set it aside.

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CHAIR OGAN stated that HB 524 am was moved from committee earlier, but not as amended and asked for the motion to be restated.

SENATOR WAGONER clarified his previous motion to pass SCS HB 524(RES) from committee with individual recommendations. There were no objections and it was so ordered. There being no further business to come before the committee, Chair Ogan adjourned the meeting at 4:50 p.m.

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