

ALASKA STATE LEGISLATURE  
SENATE RESOURCES STANDING COMMITTEE

April 16, 2004

3:36 p.m.

**TAPE(S) 04-40**

**MEMBERS PRESENT**

Senator Scott Ogan, Chair  
Senator Thomas Wagoner, Vice Chair  
Senator Fred Dyson  
Senator Ralph Seekins  
Senator Ben Stevens

**MEMBERS ABSENT**

Senator Kim Elton  
Senator Georgianna Lincoln

**COMMITTEE CALENDAR**

CONFIRMATION HEARING:

Board of Fisheries

Mr. Robert Heyano - Dillingham  
Mr. Art Nelson - Anchorage

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

CS FOR HOUSE BILL NO. 409(FSH)

"An Act relating to the maximum length of salmon seine vessels; and providing for an effective date."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

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  
04/02/04 (S) Heard & Held  
04/02/04 (S) MINUTE(RES)  
04/07/04 (S) RES AT 3:30 PM BUTROVICH 205  
04/07/04 (S) -- Rescheduled to 4 pm 04/07/04 --  
04/14/04 (S) RES AT 3:30 PM BUTROVICH 205  
04/14/04 (S) Heard & Held  
04/14/04 (S) MINUTE(RES)  
04/16/04 (S) RES AT 3:30 PM BUTROVICH 205

BILL: HB 409

SHORT TITLE: SEINE VESSEL LENGTH

SPONSOR(s): REPRESENTATIVE(s) WILLIAMS BY REQUEST OF SALMON  
INDUSTRY TASK FORCE

01/28/04 (H) READ THE FIRST TIME - REFERRALS  
01/28/04 (H) FSH, RES  
02/09/04 (H) FSH AT 9:00 AM CAPITOL 124  
02/09/04 (H) Heard & Held  
02/09/04 (H) MINUTE(FSH)  
02/16/04 (H) FSH AT 9:00 AM CAPITOL 124  
02/16/04 (H) Moved CSHB 409(FSH) Out of Committee  
02/16/04 (H) MINUTE(FSH)  
02/18/04 (H) FSH RPT CS(FSH) 3DP 4NR  
02/18/04 (H) DP: WILSON, HEINZE, GUTTENBERG;  
02/18/04 (H) NR: GARA, OGG, SAMUELS, SEATON  
02/18/04 (H) RES AT 1:00 PM CAPITOL 124  
02/18/04 (H) Moved CSHB 409(FSH) Out of Committee  
02/18/04 (H) MINUTE(RES)  
02/19/04 (H) RES RPT CS(FSH) 5DP 1DNP 2NR  
02/19/04 (H) DP: STEPOVICH, HEINZE, KERTTULA,  
02/19/04 (H) GUTTENBERG, MASEK; DNP: WOLF;  
02/19/04 (H) NR: LYNN, GATTO  
02/26/04 (H) TRANSMITTED TO (S)  
02/26/04 (H) VERSION: CSHB 409(FSH)  
02/27/04 (S) READ THE FIRST TIME - REFERRALS  
02/27/04 (S) L&C, RES  
03/11/04 (S) L&C AT 1:30 PM BELTZ 211  
03/11/04 (S) <Above Bill Hearing Postponed>  
03/23/04 (S) L&C AT 1:30 PM BELTZ 211  
03/23/04 (S) Heard & Held  
03/23/04 (S) MINUTE(L&C)  
03/30/04 (S) L&C AT 1:30 PM BELTZ 211

03/30/04 (S) Moved CSHB 409(FSH) Out of Committee  
03/30/04 (S) MINUTE(L&C)  
03/31/04 (S) L&C RPT 1DP 3NR  
03/31/04 (S) NR: BUNDE, STEVENS G, FRENCH;  
03/31/04 (S) DP: DAVIS  
04/14/04 (S) RES AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

Mr. Robert Heyano and Mr. Art Nelson, nominees to the Board of Fisheries

Mr. Ron Rainey

Kenai River Sportfishing Association, Inc.

**POSITION STATEMENT:** Supports Robert Heyano and Art Nelson for Board of Fisheries.

Mr. Steve McClure, President

Kenai River Professional Guides Association

**POSITION STATEMENT:** Supports Robert Heyano and Art Nelson for Board of Fisheries.

Mr. Joe Hanes

Soldotna AK

**POSITION STATEMENT:** Supports Art Nelson for Board of Fisheries.

Ms. Rondi McClure

Soldotna AK

**POSITION STATEMENT:** Supports Mr. Nelson for Board of Fisheries.

Mr. Ed Dersham, Chairman

Alaska Board of Fisheries

**POSITION STATEMENT:** Supports both Mr. Nelson and Mr. Heyano for the Board of Fisheries.

Mr. John Jensen, Member

Board of Fisheries

Petersburg AK

**POSITION STATEMENT:** Supports Mr. Nelson and Mr. Heyano of Board of Fisheries.

Mr. Tim Barry

Staff to Representative Bill Williams

Alaska State Capitol

Juneau, AK 99801-1182

**POSITION STATEMENT:** Commented on HB 409 for the sponsor.

Mr. Matt Robus, Director  
Division of Wildlife Conservation  
Department of Fish & Game  
PO Box 25526  
Juneau, AK 99802-5226  
**POSITION STATEMENT:** Commented on SB 297.

**ACTION NARRATIVE**

**TAPE 04-40, SIDE A**

**CHAIR SCOTT OGAN** called the Senate Resources Standing Committee meeting to order at 3:36 p.m. Present were Senators Thomas Wagoner, Ben Stevens, Fred Dyson, Ralph Seekins and Chair Scott Ogan. Senators Georgianna Lincoln and Kim Elton were excused. He announced that confirmation hearings for the Board of Fisheries would be the first order of business.

**^CONFIRMATION HEARING**

**^BOARD OF FISHERIES**

CHAIR OGAN said that he would hear first from Robert Heyano and asked him why he wanted to serve.

MR. ROBERT HEYANO, Dillingham, said he had been on the Fisheries Advisory Committee for 20 years and served as chair for 10 years and currently has a sport fish camp on the Nushigak River. He felt this is an opportunity for him to be part of the process.

CHAIR OGAN noted that there were no questions and said that the biggest area of contention on the Board of Fisheries is allocation of the resources and that Mr. Heyano had both sport and commercial use experience. However, he noted that Mr. Heyano is also on the Federal Subsistence Bristol Bay Rural Advisory Council and asked if he would have to resign from that if his appointment to the board was confirmed.

MR. HEYANO said he didn't know and would have to check on that.

SENATOR THOMAS WAGONER commented that belonging to an advisory council would be okay.

CHAIR OGAN asked Mr. Art Nelson to comment on his appointment.

MR. ART NELSON, Board of Fisheries, said since he was appointed earlier last year he has enjoyed serving. He liked having the

opportunity of going around the state area by area and learning the ins and outs of all the fisheries.

SENATOR WAGONER said HB 409 would give the board the discretion to change the length of seine vessels from 58 ft. and asked what he thought about that.

MR. NELSON replied that it is up to the Legislature to decide what kind of authority it wants to give to the Board of Fisheries. But, he thought it would be a good item to loosen the statutory reins on.

We might want to look at it on an area-by-area basis.... With the situation in the fisheries now, the vessel size limit is one of the most commonly cited things that is limiting people's efficiency and their ability to take care of fish by putting in RSW systems or freezing onboard. I would support that.

SENATOR SEEKINS asked Mr. Nelson where he fit in terms of being an adjunct of the administration or the legislature.

MR. NELSON replied that he brings his own experiences to the Board of Fisheries and doesn't think in terms of aligning with either one.

SENATOR SEEKINS clarified his question further saying that he wanted to know if he thought the board was under either administrative or legislative authority.

MR. NELSON replied that obviously the board has to operate within constitutional and statutory authority that is awarded to it.

CHAIR OGAN noted there were no further questions and said the committee wouldn't make a recommendation for or against the nominees, but would forward their names to a joint session for consideration.

MR. RON RAINEY, Kenai River Sportfishing Association, Inc. supported Robert Heyano, because he is a commercial and sport fisherman and is a subsistence user. He represents a broad range of user groups and could be fair. He has observed Mr. Nelson at several meetings and he has appeared to be fair also.

Mr. Steve McClure, President, Kenai River Professional Guides Association (KRPGA), said:

First, let me say that the KRPGA has nothing but respect and admiration for the effort, work and time Art Nelson has given to the Board of Fish. Although at times we have been on different sides on various issues, we have found him to be extremely fair, unbiased and above all professional in his actions before the Board of Fish....

Second, although we have had no dealing with Mr. Heyano, we feel it is vital to the makeup of the Board of Fish that we have some representation from the Bristol Bay region and in Kenai, we have heard nothing but good.... KRPGA would like to say that we also support Mr. Heyano for confirmation to the board.

MR. REUBEN HANKE, Kenai, said he owns and operates a sportfishing guide business on the Kenai River and supported both Mr. Nelson and Mr. Heyano.

MR. JOE HANES said he is a board member of the KRPGA and a newly appointed member of the KRISMA working group on guiding issues on the Kenai. He endorsed Mr. Nelson's appointment saying that he had found him to be innovative and extremely fair.

MS. RONDI MCCLURE, Board member of the Kenai River Property Owner's Association, said she had never heard any negative comments about Mr. Heyano or Mr. Nelson.

MR. ED DERSHAM, Chairman, Alaska Board of Fisheries, supported both Art Nelson and Robert Heyano for the board. He worked extensively with Mr. Heyano for many years and he has shown a tremendous amount of fairness and deliberativeness with addressing the board and was sure those assets would carry over with him as a member of the board.

MR. JOHN JENSEN, Board of Fisheries member, echoed the comments of other speakers in support of Mr. Nelson and Mr. Heyano.

SENATOR WAGONER moved to forward Mr. Heyano's nomination to the joint bodies of the legislature. There were no objections.

4:01 - 4:02 - at ease

^#HB409

**HB 409-SEINE VESSEL LENGTH**

CHAIR SCOTT OGAN announced HB 409 to be up for consideration.

SENATOR THOMAS WAGONER wanted to let the committee know about the concerns of the United Cook Inlet Drift Association (UCIDA), which asked to have its statement read into the record.

The following are some of the issues that UCIDA has with this legislation:

1. The upper size limit - Is this going to be open-ended? [If] seiners get larger, 70 - 80 ft., the hold also gets larger. The larger the vessel, the easier they can fish in rougher waters. How much larger and longer are they going to get?
2. The potential for a super seiner to intercept fish bound for other areas increases with their size increases. Right now they can fish the capes off of Kodiak and have the ability to fish in quite rough water and intercept a lot of the fish bound for Cook Inlet and even into the upper Cook Inlet.
3. The Board of Fish should take into account all related seine regulations at the same time new seine boat lengths are under consideration.
4. They didn't want to ever see the Board of Fish start considering drum seiners. They are pretty efficient when it comes to not only seining fish, but seining just about every fish.
5. They feel it would be necessary to have guideline harvest limits placed on these seiners to prevent interception of salmon bound for other regions.

CHAIR OGAN said he shared some of those same concerns. He didn't know how long a seiner could get and alluded to a 200-footer.

SENATOR WAGONER said that includes two helicopters.

CHAIR OGAN said he heard the justification for changing the seine boat length was that fishermen wanted to do more processing to enhance fish quality and things like that, which he didn't have a problem with. But he did have a problem with super seiners that would go out and literally scoop everything up.

SENATOR BEN STEVENS noted that super seiners operate in blue water, sometimes 100 miles offshore. Finfish rules prevent harvest of salmon outside of territorial waters. The reality of

a large vessel like that operating in Alaska is not in the realm. He has no objection to the bill and said it is well thought out.

SENATOR SEEKINS added his concern, which is that the Board of Fish process, while it is a process, is not democratic. A petition gets the issue before the board and only certain people can testify before it. The guy with less resources and less time who is busy feeding his family at the time can't get to the meeting, wherever it may be and he may be left behind.

CHAIR OGAN asked the sponsor's staff if he would be amenable to putting more parameters on the seiner length.

MR. TIM BARRY, staff to Representative Bill Williams, said the Salmon Task Force suggested this measure. What authority the Board of Fisheries should have has been discussed. The main reason this came out is because it is the only length limit that is statutory. He didn't think the bill's sponsor would feel comfortable amending this legislation, but he would accept any guidance the legislature could give to the board.

SENATOR SEEKINS said he believes the allocative process should be a legislative process, not administrative. The legislature has given to the Board of Fisheries a huge burden in deciding most boat lengths. In that respect, his concern is that the boat length could change at the expense of some other fishery.

CHAIR OGAN said that enough concern had been expressed that he wanted to hold the bill over.

SENATOR DYSON said he thought it was bizarre for any legislative body to be designing boats. "I have confidence that the board would do good work and if they stray off the reservation, they will make a course correction after a while...."

SENATOR BEN STEVENS said this is one of the first suggestions that came forth from a certain sector of the industry in the first year of the task force. It has had a considerable amount of discussion and deliberation.

It was originally put in place to prevent large seiners coming up from the Lower 48 and going to multiple fishery areas, because the bigger vessel had the ability to travel a distance around the state to fish.... As a result of this law, [there] was a single area registration for the vessel so that the larger

vessel couldn't move from one part of the state to the other. We just said if you're going to fish in one area, that's where you're going to fish that boat. We still have the single area registration for the vessel. We did do a piece that said you can be an individual and move from one fishery to the next, but you can't take your boat... This law has been on the books since statehood and it's never been modified; it's never been changed. A lot of us have a concern about it.

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**TAPE 04-40, SIDE B**

SENATOR SEEKINS said this bill just removes the legislative restriction:

But don't believe that just because this legislative restriction has been removed, that the legislature isn't a court of last appeal, so to speak, if you go hog wild and don't do things in a just manner.... I'm willing to take that risk, because it is the process even though I have some question about the decisions that are made from time to time.

4:32 to 4:33 - at ease

^#SB297

**SB 297-BEAR HUNTING/DISPOSAL OF HIDE/SKULL**

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

SENATOR THOMAS WAGONER moved to adopt CSSB 297(RES), version \X.

CHAIR OGAN objected for discussion purposes. He explained that on page 2 there's a lot of concern.

There has been testimony from the Department of Law that allowing non-resident hunters to hunt without a guide may compromise the safety requirements for requiring a guide for dangerous game like bears. This is not a hunt; this is a bear predation management program. So, it is not a hunt.

CHAIR OGAN said that language on page 2, line 19, added "and has taken big game in the state during at least one calendar year and who has obtained a hunter safety certificate issued under (f) of this section" to require the person has legally hunted big game already in at least two calendar years. He thought this went a long way to address safety concerns.

SENATOR WAGONER asked how a person would prove that they have legally hunted big game in the state during at least two calendar years.

CHAIR OGAN replied that they would have to sign an affidavit saying that they have done it. It is a misdemeanor if they lie about it. "There's a certain amount of trust factor in it...."

He said the next change is on page 3, section (f), that provides the hunter safety course. He asked Mr. Robus if the department would have the authority to require a safety course.

MR. MATT ROBUS, Director, Division of Wildlife Conservation, answered that he has the authority to provide reasonable training for people who are going to go out and deal with wild animals, especially big game.

CHAIR OGAN said the next change is on page 3, line 29, which increases the fee to \$250 when the department seals the bear. "So, there's no money up front, but if you get one, you're going to pay a couple bucks. That should more than offset the cost of doing the training."

He indicated that Mr. Robus nodded when he said the fiscal note is zero.

SENATOR SEEKINS continued explaining the CS saying that all references to this program are changed to "bear predation management permit". Military people who want to accompany have the same requirement to be consistent with the rest of the bill.

SENATOR SEEKINS moved conceptual Amendment 1.

CHAIR OGAN objected to discuss where it would be inserted.

SENATOR WAGONER noted that they hadn't adopted the CS, yet.

SENATOR SEEKINS recognized that and withdrew his motion.

CHAIR OGAN maintained his objection to the CS and then noted there were no further objections and CSSB 297(RES), version X, was adopted.

SENATOR SEEKINS moved conceptual Amendment 1. He explained that it instructs the Board of Game to implement the methods and means necessary to effectively carry out the purposes of bear predator management.

MR. ROBUS acknowledged the work that went into this bill in two days and he thought the CS took care of the issues he brought forward before. He didn't have a problem with language stating the department and the board shall apply the appropriate methods in areas where bear populations are deemed to have to be decreased.

This does now form something that is analogous to the wolf control statute and regulations and the findings that come under those regulations. Now I see the board being able to rather smoothly incorporate anything that has to be taken care of in the multi-predator system can be dealt with through one predator management plan.

CHAIR OGAN removed his objection to Amendment 1. He left it up to the drafter to put the language in the appropriate place.

SENATOR SEEKINS asked Mr. Robus if he thought "the board shall authorize and department shall implement" would be more in line with what the line of authority should be.

MR. ROBUS replied that is a good point.

In the wolf predation control programs we're doing now, we are implementing in the sense that we are managing the permits. Certainly, implementing the permit part of the program is a departmental function and perhaps kind of the combination language you just said is better.

SENATOR SEEKINS moved to amend Amendment 1 to read:

The board shall authorize and the department shall implement whatever methods and means deemed necessary.

There were no objections and Amendment 1 was amended for the first time.

SENATOR SEEKINS said that this legislature now sits and observes what the Board of Game does and still has the right, if the methods and means are not authorized and implemented, to effectively reduce the bear populations in identified areas to give it legislative direction.

CHAIR OGAN noted that there were no further comments.

SENATOR SEEKINS moved to pass CSSB 297(RES), from committee with attached zero fiscal note. There were no objections and it was so ordered. There being no further business to come before the committee, he adjourned the meeting at 4:50 p.m.

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