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CS FOR HOUSE BILL NO. 267(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 2/8/08
Referred: Finance

Sponsor(s): REPRESENTATIVES JOHNSON, Dahlstrom, Wilson, Buch, Chenault, Ramras, Fairclough,
Lynn, Gardner

SENATORS McGuire, Wilken, Therriault, Stevens, Wagoner, Stedman

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to authorizing the state to join with other states entering into the
2 Wildlife Violator Compact; excluding commercial fishing and big game commercial
3 hunting services from the provisions of the compact; and directing the initiation of civil
4 actions to revoke appropriate licenses in this state based on a licensee's violation of or
5 failure to comply with the terms of a wildlife resource citation issued in another state
6 that is a party to the compact."

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

8 * **Section 1.** AS 16.05 is amended by adding a new section to read:

9 **Sec. 16.05.332. Wildlife Violator Compact.** The Wildlife Violator Compact
10 as contained in this section is enacted into law and entered into on behalf of the State
11 of Alaska with any other states legally joining it in a form substantially as follows:

12 **ARTICLE I**

13 **FINDINGS, DECLARATION OF POLICY, AND PURPOSES**

1 Section 1. Findings. The party states find that

2 (a) Wildlife resources are managed in trust by the respective states for the
3 benefit of all residents and visitors.

4 (b) The protection of their respective wildlife resources are materially affected
5 by the degree of compliance with state statute, regulation, ordinance, or administrative
6 rule relating to the management of those resources.

7 (c) The preservation, protection, management, and restoration of wildlife
8 contributes immeasurably to the aesthetic, recreational, and economic aspects of those
9 natural resources.

10 (d) Wildlife resources are valuable without regard to political boundaries and,
11 therefore, all persons must be required to comply with wildlife preservation,
12 protection, management, and restoration statutes, ordinances, and administrative rules
13 and regulations of all party states as a condition precedent to the continuance or
14 issuance of any license to hunt, fish, trap, or possess wildlife.

15 (e) The violation of wildlife laws interferes with the management of wildlife
16 resources and may endanger the safety of persons and property.

17 (f) The mobility of many wildlife law violators necessitates the maintenance
18 of channels of communications among the various states.

19 (g) In most instances, a person who is cited for a wildlife violation in a state
20 other than the person's home state

21 (1) must post collateral or a bond to secure the person's appearance for
22 a trial at a later date;

23 (2) if unable to post collateral or a bond, is taken into custody until the
24 collateral or bond is posted; or

25 (3) is taken directly to court for an immediate appearance.

26 (h) The purpose of the enforcement practices described in (g) of this section is
27 to ensure compliance with the terms of a wildlife citation by the person who, if
28 permitted to continue on the person's way after receiving the citation, could return to
29 the person's home state and disregard the person's duty under the terms of the citation.

30 (i) In most instances, a person receiving a wildlife citation in the person's
31 home state is permitted to accept the citation from the officer at the scene of the

1 violation and continue immediately on the person's way after agreeing to comply with
2 the terms of the citation.

3 (j) The practice described in (g) of this section causes unnecessary
4 inconvenience and, at times, a hardship for the person who is unable at the time to post
5 collateral, furnish a bond, stand trial, or pay a fine and, therefore, is compelled to
6 remain in custody until another arrangement is made.

7 (k) The enforcement practices described in (g) of this section consume an
8 undue amount of law enforcement time.

9 Sec. 2. Policies. The policies of the party states are to

10 (a) Promote compliance with the statutes, ordinances, regulations and
11 administrative rules relating to management of wildlife resources in their respective
12 states.

13 (b) Recognize the suspension of wildlife license privileges of any person
14 whose license privileges have been suspended by a party state and treat the suspension
15 as if it had occurred in their state.

16 (c) Allow a violator to accept a wildlife citation, except as provided in
17 subsection (b) of article III, and proceed on the person's way without delay whether or
18 not the person is a resident in the state in which the citation was issued if the person's
19 home state is a party to this compact.

20 (d) Report to the appropriate party state, as provided in the compact manual,
21 any conviction recorded against any person whose home state was not the issuing
22 state.

23 (e) Allow the home state to recognize and treat convictions recorded for its
24 residents which occurred in another party state as if they had occurred in the home
25 state.

26 (f) Extend cooperation to its fullest extent among the party states for obtaining
27 compliance with the terms of a wildlife citation issued in one party state to a resident
28 of another party state.

29 (g) Maximize the effective use of law enforcement personnel and information.

30 (h) Assist court systems in the efficient disposition of wildlife violations.

31 Sec. 3. Purposes. The purposes of this compact are to:

1 (a) Provide a means by which the party states may participate in a reciprocal
2 program to carry out the policies set forth in section 2 of this article in a uniform and
3 orderly manner.

4 (b) Provide for the fair and impartial treatment of wildlife violators operating
5 within party states in recognition of the persons' right of due process in the sovereign
6 status of a party state.

7 ARTICLE II

8 DEFINITIONS

9 As used in this compact, unless the context otherwise requires,

10 (a) "Citation" means any summons, complaint, summons and complaint, ticket,
11 penalty assessment or other official document issued by a wildlife officer or other
12 peace officer for a wildlife violation containing an order that requires the person to
13 respond.

14 (b) "Collateral" means any cash or other security deposited to secure an
15 appearance for trial in connection with the issuance by a wildlife officer or other peace
16 officer of a citation for a wildlife violation.

17 (c) "Compliance" means the act of answering a citation by appearing in a court
18 or tribunal or the payment of fines, costs, or surcharges, if any.

19 (d) "Conviction" means a conviction, including any court conviction, of any
20 offense related to the preservation, protection, management, or restoration of wildlife
21 which is prohibited by state statute, regulation, ordinance, or administrative rule, or a
22 forfeiture of bail, bond, or other security deposited to secure the appearance of a
23 person charged with any such offense, or the payment of a penalty assessment or a
24 plea of nolo contendere, or the imposition of a deferred or suspended sentence by the
25 court.

26 (e) "Court" means a court of law, including magistrate's court and the justice of
27 the peace court.

28 (f) "Home state" means the state of primary residence of a person.

29 (g) "Issuing state" means the party state that issues a wildlife citation.

30 (h) "License" means any license, permit, or other public document that
31 conveys to the person to whom it is issued the privilege of pursuing, possessing, or

1 taking any wildlife regulated by statute, regulation, ordinance, or administrative rule
2 of a party state.

3 (i) "Licensing authority" means

4 (1) in each other party state, the department or division within the party
5 state that is authorized by law to issue or approve licenses or permits to hunt, fish,
6 trap, or possess wildlife; and

7 (2) in this state, the Department of Public Safety.

8 (j) "Party state" means any state that enacts legislation to become a member of
9 this compact.

10 (k) "Personal recognizance" means an agreement by a person made at the time
11 of the issuance of the wildlife citation that the person will comply with the terms of
12 that citation.

13 (l) "State" means any state, territory, or possession of the United States, the
14 District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada, or any
15 other countries.

16 (m) "Suspension" means any revocation, denial, or withdrawal of any license
17 privileges, including the privilege to apply for, purchase, or exercise the benefits
18 conferred by any license.

19 (n) "Terms of the citation" means those conditions and options expressly stated
20 in the citation.

21 (o) "Wildlife" means all species of animals, including, but not limited to,
22 mammals, birds, fish, reptiles, amphibians, mollusks and crustaceans, that are defined
23 as wildlife and are protected or otherwise regulated by statute, regulation, ordinance,
24 or administrative rule in a party state. Species included in the definition of wildlife
25 vary from state to state and a determination of whether a species is wildlife for the
26 purposes of this compact must be based on local law. In this state, "wildlife" means all
27 species of fish and game as these terms are defined in AS 16.05.940.

28 (p) "Wildlife law" means any statute, regulation, ordinance, or administrative
29 rule enacted to manage wildlife resources and the use thereof.

30 (q) "Wildlife officer" means any person authorized by a party state to issue a
31 citation for a wildlife violation.

1 (r) "Wildlife violation" means any cited violation of statute, regulation,
2 ordinance, or administrative rule enacted to manage wildlife resources and the use
3 thereof.

4 ARTICLE III

5 PROCEDURES FOR ISSUING STATE

6 Issuing state procedures are as follows:

7 (a) When issuing a citation for a wildlife violation, a wildlife officer shall issue
8 a citation to any person whose primary residence is in a party state in the same manner
9 as if the person were a resident of the home state. The wildlife officer may not require
10 the person to post collateral to secure that person's appearance, subject to the
11 exceptions set forth in paragraph (b) of this article, if the officer receives the person's
12 personal recognizance that the person will comply with the terms of the citation.

13 (b) Personal recognizance is permissible if

14 (1) it is not prohibited by local law or the compact manual; and

15 (2) the violator provides adequate proof of the violator's identity to the
16 wildlife officer.

17 (c) Upon conviction or failure of a person to comply with the terms of a
18 wildlife citation, the appropriate officer shall report the conviction or the failure to
19 comply to the licensing authority of the party state in which the wildlife citation was
20 issued. The report must be made in accordance with the procedures specified by the
21 issuing state and contain information as specified in the compact manual as minimum
22 requirements for effective processing by the home state.

23 (d) Upon the receipt of the report of conviction or noncompliance required by
24 (c) of this article, the licensing authority of the issuing state shall transmit to the
25 licensing authority in the home state of the violator the information in the manner
26 prescribed in the compact manual.

27 ARTICLE IV

28 PROCEDURES FOR HOME STATE

29 Home state procedures are as follows:

30 (a) Upon the receipt of a report of failure to comply with the terms of a citation
31 from the licensing authority of the issuing state, the licensing authority of the home

1 state shall notify the violator and begin a suspension action in accordance with the
 2 home state's suspension procedures. The licensing authority of the home state shall
 3 suspend the violator's license privileges until satisfactory evidence of compliance with
 4 the terms of the wildlife citation has been furnished by the issuing state to the home
 5 state licensing authority. Due process rights must be accorded to the violator.

6 (b) Upon the receipt of a report of conviction from the licensing authority of
 7 the issuing state, the licensing authority of the home state shall enter the conviction in
 8 its records and consider the conviction as if it had occurred in the home state for the
 9 purposes of the suspension of license privileges.

10 (c) The licensing authority of the home state shall maintain a record of actions
 11 taken and make reports to the issuing states as provided in the compact manual.

12 ARTICLE V

13 RECIPROCAL RECOGNITION OF SUSPENSION

14 The party states agree that

15 (a) all party states shall recognize the suspension of license privileges of any
 16 person by any state as if the violation on which the suspension is based had occurred
 17 in their state and would have been the basis for suspension of license privileges in
 18 their state.

19 (b) each party state shall communicate information concerning the suspension
 20 of license privileges to the other party states in the manner prescribed in the compact
 21 manual.

22 ARTICLE VI

23 APPLICABILITY OF OTHER LAWS

24 The party states agree that, except as expressly required by the provisions of this
 25 compact, nothing included in this compact shall be construed to affect the right of any
 26 party state to apply any of its laws relating to license privileges to any person or
 27 circumstance or to invalidate or prevent any agreement or other cooperative
 28 arrangements between a party state and a nonparty state concerning wildlife law
 29 enforcement.

30 ARTICLE VII

31 COMPACT ADMINISTRATOR PROCEDURES

1 The party states agree that

2 (a) For the purpose of administering the provisions of this compact and to
3 serve as a governing body for the resolution of all matters relating to the operation of
4 this compact, a board of compact administrators is hereby established. The board must
5 be composed of one representative from each of the party states to be known as the
6 compact administrator. The compact administrator shall be appointed by the head of
7 the licensing authority of each party state and shall serve and be subject to removal in
8 accordance with the laws of the state that the compact administrator represents. A
9 compact administrator may provide for the discharge of the compact administrator's
10 duties and the performance of the compact administrator's functions as a board
11 member by an alternate. An alternate may not serve unless written notification of the
12 alternate's identity has been given to the board.

13 (b) Each member of the board of compact administrators is entitled to one
14 vote. No action of the board is binding unless taken at a meeting at which a majority
15 of the total number of votes on the board are cast in favor thereof. Action by the board
16 must be only at a meeting at which a majority of the party states are represented.

17 (c) The board shall elect annually, from its membership, a chair and vice chair.

18 (d) The board shall adopt bylaws, not inconsistent with the provisions of this
19 compact or the laws of a party state, for the conduct of its business and may amend or
20 rescind its bylaws.

21 (e) The board may accept for any of its purposes and functions under this
22 compact any donations and grants of money, equipment, supplies, materials, and
23 services, conditional or otherwise, from any state, the United States, or any
24 governmental agency and may receive, use, and dispose of them as it deems
25 appropriate.

26 (f) The board may contract with, or accept services or personnel from, any
27 governmental or intergovernmental agency, person, firm, corporation, or private
28 nonprofit organization or institution.

29 (g) The board shall establish all necessary procedures and develop uniform
30 forms and documents for administering the provisions of this compact. All procedures
31 and forms adopted pursuant to board action must be included in the compact manual.

ARTICLE VIII

ENTRY INTO AND WITHDRAWAL FROM COMPACT

The party states agree that

(a) This compact becomes effective upon adoption by at least two states.

(b) Entry into the compact must be made by a resolution of ratification executed by the authorized officers of the applying state and submitted to the chairman of the board of compact administrators.

(c) The resolution must be in a form and content as provided in the compact manual and include

(1) a citation of the authority by which the state is authorized to become a party to this compact;

(2) an agreement to comply with the terms and provisions of the compact; and

(3) a statement that entry into the compact is with all states then party to the compact and with any state that legally becomes a party to the compact.

(d) The effective date of entry must be specified by the applying state, except that the effective date must not be less than 60 days after notice has been given by

(1) the chair of the board of the compact administrators; or

(2) the secretary of the board of compact administrators to each party state that the resolution from the applying state has been received.

(e) A party state may withdraw from the compact by giving official written notice to the other party states. A withdrawal does not take effect until 90 days after the notice of withdrawal is given. The notice must be directed to the compact administrator of each party state. The withdrawal of a party state does not affect the validity of the compact as to the remaining party states.

ARTICLE IX

AMENDMENTS TO THE COMPACT

The party states agree that

(a) This compact may be amended from time to time. Amendments must be presented in resolution form to the chair of the board of compact administrators and may be proposed by one or more party states.

1 (b) The adoption of an amendment must be endorsed by all party states and
2 becomes effective 30 days after the date the last party state endorses the amendment.

3 (c) The failure of a party state to respond to the chair of the board of compact
4 administrators within 120 days after the receipt of the proposed amendment constitutes
5 an endorsement.

6 ARTICLE X

7 CONSTRUCTION AND SEVERABILITY

8 The party states agree that this compact must be liberally construed so as to carry out
9 the purposes stated in the compact. The provisions of this compact are severable and if
10 any phrase, clause, sentence or provision of the compact is declared to be contrary to
11 the constitution of any party state or the United States or the applicability thereof to
12 any government, agency, person, or circumstance is held invalid, the validity of the
13 remainder of the compact is not affected thereby. If this compact is held contrary to
14 the constitution of any party state thereto, the compact remains in effect as to the
15 remaining states and to the state affected as to all severable matters.

16 ARTICLE XI

17 TITLE

18 The party states agree that this compact will be known as the Wildlife Violator
19 Compact.

20 * **Sec. 2.** AS 16.05 is amended by adding a new section to read:

21 **Sec. 16.05.334. Application of Wildlife Violator Compact.** The provisions of
22 AS 16.05.332 do not apply to violations involving

23 (1) commercial fishing; or

24 (2) commercial activities of providers of services to big game hunters;
25 for purposes of this section, "services to big game hunters" has the meaning given to
26 "big game hunting services" under AS 08.54.790.

27 * **Sec. 3.** AS 16.05.410 is amended by adding a new subsection to read:

28 (h) For purposes of enforcement of the provisions of the Wildlife Violator
29 Compact entered into under AS 16.05.332, upon the receipt of a report that a violator
30 has failed to comply with the terms of a citation for a wildlife violation issued by an
31 issuing state other than this state or of the violator's conviction of a wildlife violation

1 in an issuing state other than this state, a peace officer may file a civil action in the
2 district court to revoke the comparable license or licenses that the violator holds in this
3 state. Once an action has been filed, the court shall set a time and date for a hearing on
4 the proposed license revocation or revocations and shall send notice of the hearing to
5 the violator. The hearing shall be before the court without a jury. At the hearing, the
6 court shall hear evidence regarding the nature and seriousness of the offense for which
7 the violator was convicted or the nature and seriousness of the failure to comply with
8 the citation, the time period involved, the potential effect of the violator's actions on
9 the preservation of the resource, and other relevant circumstances. If the court finds by
10 a preponderance of the evidence that the violator's actions demonstrate a disregard for
11 the preservation of wildlife resources, the court may revoke the violator's license or
12 licenses for a period of not less than one year or more than three years from the date of
13 revocation. In this subsection, the terms "issuing state," "wildlife," and "wildlife
14 violation" have the meanings given in AS 16.05.332.