

**ALASKA STATE LEGISLATURE**  
**HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**

April 1, 2010

8:09 a.m.

**MEMBERS PRESENT**

Representative Bob Herron, Co-Chair  
Representative Cathy Engstrom Munoz, Co-Chair  
Representative John Harris  
Representative Wes Keller  
Representative Charisse Millett  
Representative Sharon Cissna

**MEMBERS ABSENT**

Representative Berta Gardner

**COMMITTEE CALENDAR**

HOUSE BILL NO. 281

"An Act relating to the duties of the commissioner of fish and game and to the interest of the Board of Game in public safety as it relates to game."

- HEARD AND HELD; ASSIGNED TO SUBCOMMITTEE

HOUSE BILL NO. 318

"An Act relating to public use of unregulated water systems."

- BILL HEARING POSTPONED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 281

SHORT TITLE: BOARD OF GAME/FISH & GAME COMMISSIONER

SPONSOR(S): REPRESENTATIVE(S) MILLETT

01/15/10	(H)	PREFILE RELEASED 1/15/10
01/19/10	(H)	READ THE FIRST TIME - REFERRALS
01/19/10	(H)	CRA, RES
02/02/10	(H)	CRA AT 8:00 AM BARNES 124
02/02/10	(H)	Heard & Held
02/02/10	(H)	MINUTE(CRA)
02/11/10	(H)	CRA AT 8:00 AM BARNES 124
02/11/10	(H)	<Bill Hearing Rescheduled to 02/16/10>
02/16/10	(H)	CRA AT 8:00 AM BARNES 124

02/16/10 (H) <Bill Hearing Canceled>  
03/23/10 (H) CRA AT 8:00 AM BARNES 124  
03/23/10 (H) <Bill Hearing Canceled>  
04/01/10 (H) CRA AT 8:00 AM BARNES 124

#### **WITNESS REGISTER**

JEDIDIAH SMITH, Legislative Liaison  
Alaska Center for the Environment (ACE)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified that the Alaska Center for the Environment doesn't believe HB 281 is necessary.

JENNIFER YUHAS, Legislative Liaison  
Alaska Department of Fish & Game  
Juneau, Alaska

**POSITION STATEMENT:** Testified that HB 281 is unnecessary.

GARY FOLGER, Colonel/Director  
Division of Wildlife Troopers  
Department of Public Safety  
Anchorage, Alaska

**POSITION STATEMENT:** During hearing of HB 281, answered questions.

#### **ACTION NARRATIVE**

[8:09:18 AM](#)

**CO-CHAIR BOB HERRON** called the House Community and Regional Affairs Standing Committee meeting to order at 8:09 a.m. Representatives Herron, Munoz, Keller, Millett, and Cissna were present at the call to order. Representative Harris arrived as the meeting was in progress.

#### **HB 281-BOARD OF GAME/FISH & GAME COMMISSIONER**

[8:09:38 AM](#)

CO-CHAIR HERRON announced that the only order of business would be HOUSE BILL NO. 281, "An Act relating to the duties of the commissioner of fish and game and to the interest of the Board of Game in public safety as it relates to game."

[8:10:40 AM](#)

REPRESENTATIVE MILLETT, speaking as the sponsor of HB 281, explained that HB 281 came about after two maulings in her district in 2008. This legislation proposes a management tool for the Alaska Department of Fish & Game (ADF&G) to utilize to address nuisance bears. The legislation proposes that the top priority with wildlife for ADF&G is public safety over the sustainable yield of the wildlife.

[8:13:20 AM](#)

REPRESENTATIVE KELLER pointed out that although the sponsor statement refers to garbage, it doesn't include anything regarding that aspect of the bear issue. He inquired as to how the garbage issue is connected to game management.

REPRESENTATIVE MILLETT answered that the legislation doesn't address the garbage issue because it's a municipality issue. She noted that she has worked with the Municipality of Anchorage, which intends to implement some pilot projects, including bear proof containers, this summer in areas with high bear activity.

[8:14:49 AM](#)

JEDIDIAH SMITH, Legislative Liaison, Alaska Center for the Environment (ACE), informed the committee that the Alaska Center for the Environment is Alaska's oldest and largest home-grown grass roots conservation organization. The organization represents over 6,000 members. He then provided the following testimony:

The Alaska Center for the Environment has been working collaboratively with state and federal agencies, the municipality, other entities, and businesses to help inform residents who live and recreate in bear country how they can reduce their risks of having negative encounters with bears, both in their neighborhoods and on the trails through our Safe Neighborhoods and Wild Bears campaign. Our group has been responsible for securing funding, producing educational materials, reaching out to thousands of people, and managing pilot projects to keep bears out of neighborhoods by promoting the use of bear resistant containers and dumpster lids. Taken all together, our efforts have been successful and we have seen a decrease in the reports of bears hanging around in neighborhoods. The Alaska Center for the Environment does not believe

that HB 281 is necessary nor do we believe that it would result in fewer negative bear encounters. Just to add some perspective, two people have been killed by bears in the Municipality of Anchorage in Chugach State Park in the past 95 years. The money needed to implement this bill, over \$100,000 the first year and \$50,000 therein to maintain, could be spent on programs that will have far better results, such as implementing a garbage management policy. Representative Millett has acknowledged the success of Juneau's garbage policies, but has concerns that Anchorage is simply too large to implement such a program. One hundred thousand dollars would go a long way to help neighborhoods comply with and enforce stricter guidelines. And if there is money available from the state to reduce the incidents of bears in neighborhoods, it is our recommendation that we start there. I respectfully request that if you haven't done so already, please review the recent survey released by the Alaska Department of Fish & Game, which shows that most adult residents living in Anchorage appreciate seeing moose and bears in the city, even in their neighborhoods. Most want the number of moose and bears to be maintained or even increased in the city. Most adult residents accept the presence of brown and black bears and moose in city parks like Far North Bicentennial Park. Most opposed destroying brown bears, black bears, or moose every year to reduce the population. Most opposed designating specific areas in Anchorage, such as downtown, where bears would be killed as soon as possible. Most supported wildlife authorities destroying specific bears at their discretion when the authority believes the bears pose a threat to human safety in the Anchorage area. I have the web site for where the survey is available that I can submit to the committee. While we recognize the potential danger of sharing our neighborhoods and trails with wildlife, we believe there are more effective ways of addressing this issue. Our recommendations include creating an ordinance requiring bear-resistant tipper carts and dumpster lids in identified neighborhoods; fund programs that address the root cause of negative encounters with wildlife; enforce existing laws that prohibit the feeding of wildlife through garbage and other attractants; educate residents about bears and moose behavior and how to reduce risks of a negative

encounter; engage in long range park and trail subdivision planning; identify critical wildlife migration corridors; evaluate salmon stocking programs in urban areas; and develop a cooperative planning committee with the Alaska Department of Fish & Game and the city.

8:18:43 AM

CO-CHAIR HERRON inquired as to the mission of the Alaska Center for the Environment.

MR. SMITH related that ACE has a number of programs, including a sustainable communities program, a local foods program, a program that promotes gardening, a public lands and wildlife program that promotes the sustainable management of wildlife, a trailside education and outreach program, and an energy program that promotes renewable and sustainable energy programs.

CO-CHAIR HERRON recalled that Mr. Smith complimented Juneau's garbage program, and suggested that the \$100,000 could be used to implement a [program] in Anchorage. He asked if \$100,000 is reasonable to address an area the size of Anchorage. He further asked if ACE is willing to match that amount.

MR. SMITH responded that ACE has already made a start in terms of outreach efforts in the way of education as well as secured grant funding for some of the education programs. He said that he's not the manager of that program, but would be happy to seek information on it for the committee. Furthermore, he related his willingness to work with the municipality, the state, and the sponsor toward a solution.

8:20:53 AM

REPRESENTATIVE HARRIS related that although he officially lives in Valdez, he has had a house in Anchorage for the last five years. [At the Anchorage house] moose are in the front yard year round, which is of concern. He stressed that public safety has to be the highest priority. Therefore, if a bear is in the area kids are playing, the bear will [be killed] before any of the kids die or the police arrive. Representative Harris further stressed that placing something before public safety will be difficult, particularly since the public is upset about wild animals. He expressed the need for the wild animals to go elsewhere and to be controlled in some fashion. The Moose Federation, he noted, is doing a good job getting moose off the

road. "We have an obligation, the department has an obligation to try and make sure that the public safety is taken care of first," he stated. He concluded by relating his support for HB 281.

[8:24:35 AM](#)

REPRESENTATIVE CISSNA opined that one of the challenges here is choosing respect. The Municipality of Anchorage survey referenced by Mr. Smith included Representative Cissna's district, and therefore she surmised that her constituents likely weighed heavily on appreciating the wildlife in the area. She mentioned that her neighborhood is becoming watchful, particularly in terms of putting out garbage. She expressed interest in ensuring [everyone is] mindful of safety in communities and acknowledging the potential for moose to return to areas where management has been done carefully. In closing, Representative Cissna said she wanted to be sure that [the committee is acknowledging the mix of people in Alaska's communities and their desire to determine how to exist with the wildlife in Alaska.

[8:27:48 AM](#)

MR. SMITH, in response to Representative Harris, clarified that ACE is not saying it supports wildlife over the safety of children. The organization, however, is promoting education and awareness and responsible management of garbage.

[8:28:36 AM](#)

JENNIFER YUHAS, Legislative Liaison, Alaska Department of Fish & Game, related that while ADF&G lauds the sponsor raising the issue of bear awareness and public safety, the department still has significant concerns with HB 281. The department, she further related, believes HB 281 is unnecessary. The only obstacle the Anchorage Police Department (APD) faces when determining whether to dispatch an animal that they are unsure is causing a public safety issue is APD's own policy. Since the prior hearing on HB 281, the department has worked with APD, which has been more amenable to utilizing training that ADF&G already provides in Kodiak and Juneau. Ms. Yuhas pointed out that nothing in statute or in a memorandum of understanding (MOU) prohibits APD from dispatching an animal that's causing an immediate public safety problem. On the contrary, statute expressly allows an individual to dispatch an animal that is causing a problem for the individual's own life and property.

8:30:23 AM

REPRESENTATIVE KELLER related his understanding that no individual has ever been prosecuted for protecting family, kids, or garbage as that's already the policy and the law. He then asked if there has ever been a prosecution for someone shooting an animal when he/she felt his/her life was in danger.

MS. YUHAS answered that she wasn't aware of such a prosecution, but deferred to Kevin Saxby who is the attorney for ADF&G.

8:31:47 AM

GARY FOLGER, Colonel/Director, Division of Wildlife Troopers, Department of Public Safety, in response to Representative Keller, said that very few prosecutions occur due to defense of life and property. He attributed the aforementioned to the fact that one person's fear may be completely different than another's fear, which makes prosecution very difficult.

8:32:16 AM

REPRESENTATIVE KELLER said that it was a leading question because the legislature shouldn't change its game management laws if the matter is already addressed in existing law.

8:32:38 AM

MS. YUHAS, in response to Co-Chair Herron, agreed to provide Mr. Saxby's response to Representative Keller's question. She then clarified that ADF&G's game management in urban areas isn't for abundance or large populations of ungulates or fur bearers. The game management populations are set through the advisory committee process and the Board of Game, with significant public testimony. Public safety is taken into consideration during that process. In rural areas, there would likely be significant testimony relating the desire of a high population of moose in order to feed their families whereas in urban areas there is significant testimony regarding public safety issues. Ms. Yuhas explained that while the department is bound to manage for a sustainable yield, that's not abundance. She compared it to having a bank account in that while interest has to be generated, in an urban area it can be the lowest allowable interest possible on the account of any type of animal. However, in a rural area where the department manages for

abundance, the department would want a high interest yield in order to draw from it every year.

8:34:05 AM

REPRESENTATIVE MILLETT directed attention to ADF&G's fiscal note specifying a fiscal impact on the Division of Wildlife Conservation, which she disputed. She opined that HB 281 didn't change the process of picking up carcasses in the Municipality of Anchorage. Therefore, she asked if the fiscal note could be zeroed out since it seems disingenuous.

MS. YUHAS related that ADF&G's Administrative Services staff read the legislation to mandate that ADF&G pick up these carcasses. The aforementioned mandate wouldn't allow ADF&G to work with the road crews, Hunters for the Hungry, and other groups who pick up carcasses. She recalled that in Fairbanks, the [local government] retrieved moose from residents' yards, although there is no mandate for such, as it's a private property issue. The department has simply done the same, and thus the mandate in HB 281 would change the situation and the department would expect to receive more calls. Furthermore, the department doesn't have the fleet resources to address the aforementioned, which is why the purchase of a truck was included in the fiscal note.

8:35:45 AM

CO-CHAIR HERRON inquired as to where that mandate is located in the legislation.

MS. YUHAS said that the mandate is located in Section 1(20). If the mandate stands, the department doesn't have the resources to respond to the volume of calls expected.

8:36:55 AM

CO-CHAIR HERRON, referring to an amendment labeled 26-LS1194\R.1, Kane, 3/26/10, asked if changing the term "game" to "predators" would change the [department's view and fiscal note]. He mentioned his understanding that there are a lot of moose carcasses rather than predator carcasses.

MS. YUHAS clarified that the department's fiscal note was drafted to address the legislation before the committee. However, should the aforementioned amendment be adopted, the fiscal note would likely change.

The committee took a brief at-ease.

8:38:10 AM

CO-CHAIR HERRON announced that by request of the sponsor, HB 281 will be assigned to a subcommittee of one, the sponsor.

8:38:31 AM

REPRESENTATIVE CISSNA discussed the different views of the presence of animals in urban and rural areas. Although she indicated the need to address wildlife that is endangering humans, she expressed the need to remember that in Alaska it's difficult to control animals that are being fed knowingly. She expressed the need for HB 281 to include education for the public.

MS. YUHAS said that she doesn't see much in the language that doesn't cause complication. With regard to the rural public safety issue, Ms. Yuhas related that public safety is taken into account. In fact, recently the department dealt with some very high profile issues in Chignik Lake. Just prior to the incident at Chignik Lake, ADF&G had proposed a management plan for aerial predator control. Although the aforementioned plan was brought forth for ungulate population recovery, the department understands that public safety issues occur throughout the state. With regard to what the department can do to help, Ms. Yuhas reminded the committee that ADF&G has bear aware programs. The department would [support] representatives in communities with bear problems to promote bear awareness in ways that the department doesn't believe requires statutory changes. Ambassadors for such programs, she opined, would benefit the department and the public significantly.

8:42:20 AM

CO-CHAIR HERRON expressed his hope that nothing happens this summer that would cause the committee to see fit to hold a hearing.

8:44:37 AM

REPRESENTATIVE CISSNA recalled the training she received to deal with teenagers with violent histories. The training begins by informing everyone that prevention is best. The aforementioned

is true with animals as well. Therefore, she encouraged the use of prevention methods.

[8:45:28 AM](#)

REPRESENTATIVE MILLETT anticipated that in her district there will continue to be bear problems and encounters with humans. She clarified that she's referring to the casual encounter with a bear in an individual's backyard where meat is being grilled and children are playing. She, too, expressed hope that this summer no incidents occur that cause the committee to hear the legislation again and be in a position of reacting, much like with the incident in Chignik Lake. She charged that in the Chignik Lake situation, the state reacted too late and nothing meaningful that provided public safety was put in place. With regard to the ACE survey, Representative Millett characterized it as a jaded, one-sided survey that she considered to be the worst survey that she's ever seen. She further charged that the survey was meant to obtain the results it did and the science was poor. Moreover, the survey wasn't conducted by an Alaska company and there was no due diligence with regard to the types of questions that should've been asked. She related that while she enjoys viewing wildlife, she prefers it to be in a controlled environment in which she or her children aren't at risk. A three-year-old can't be taught how to be careful [around] bears. Representative Millet told the committee that she introduced HB 281 in an effort to find solutions.

[8:48:45 AM](#)

REPRESENTATIVE KELLER recommended that the sponsor consider the definition of "predator" when working on HB 281. He related his understanding that the term "predator" includes birds of prey and goes beyond the sponsor's intent. He expressed concern that [HB 281] would establish a game management plan that's different for one area over another. The department and citizens, he reiterated, already have the authority to deal with bears.

[8:50:08 AM](#)

REPRESENTATIVE MILLETT remarked that the legislation may need language to address nuisance bears. She informed the committee that although statute doesn't have a definition of "predator," ADF&G's definition includes bears, raptors, wolverines, lynx, [wolves], and pike fish. Of those, she said she would focus on bears and wolves. She related she no longer walks in her neighborhood without pepper spray.

[8:51:54 AM](#)

CO-CHAIR MUNOZ moved Amendment 1 labeled 26-LS1194\R.1, Kane, 3/26/10, which read:

Page 1, line 2:

Delete "**game**"

Insert "**predators**"

Page 1, line 5:

Delete "remove a game carcass when notified that game"

Insert "provide for the removal of a predator carcass when notified that a predator"

Page 1, line 13:

Delete "game resources"

Insert "predators"

Page 2, line 3:

Delete "game"

Insert "a predator"

Page 2, line 4:

Delete "game"

Insert "predator"

CO-CHAIR HERRON objected for purposes of discussion.

[8:52:04 AM](#)

CO-CHAIR HERRON closed public testimony and reminded the committee that HB 281 will be assigned to subcommittee.

REPRESENTATIVE CISSNA offered a conceptual amendment to Amendment 1 such that Section 1 would allow the various groups to pick up carcasses without getting in the way of sharing edible meat.

REPRESENTATIVE MILLETT interjected that Amendment 1 addresses what Representative Cissna is suggesting in the proposed conceptual amendment to Amendment 1. She directed attention to the language being inserted on page 1, line 5, which would read: "provide for the removal of a predator carcass when notified that a predator". The aforementioned language was developed in

conjunction with ADF&G to accommodate ADF&G's current practices related to removing carcasses.

8:54:53 AM

CO-CHAIR HERRON withdrew his objection. There being no further objection, Amendment 1 was adopted.

8:55:09 AM

REPRESENTATIVE CISSNA expressed the need to ensure that humans respect and take care of each other rather than kill and hurt.

[HB 281 was held over.]

8:56:24 AM

#### **ADJOURNMENT**

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:56 a.m.