

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

February 22, 2016

3:33 p.m.

MEMBERS PRESENT

Senator Cathy Giessel, Chair
Senator John Coghill
Senator Peter Micciche
Senator Bert Stedman
Senator Bill Stoltze
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Mia Costello, Vice Chair

COMMITTEE CALENDAR

CONFIRMATION HEARING

Board of Game
Nathan Turner

- CONFIRMATION ADVANCED

SENATE BILL NO. 164

"An Act relating to sport fishing, hunting, or trapping licenses, tags, or permits; relating to penalties for certain sport fishing, hunting, and trapping license violations; relating to restrictions on the issuance of sport fishing, hunting, and trapping licenses; creating violations and amending fines and restitution for certain fish and game offenses; relating to commercial fishing violations; allowing lost federal matching funds from the Pittman - Robertson, Dingell - Johnson/Wallop - Breaux programs to be included in an order of restitution; adding a definition of 'electronic form'; amending Rule 5(a)(4), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 172

"An Act relating to management of enhanced stocks of fish; authorizing the operation of nonprofit shellfish hatcheries;

relating to application fees for salmon and shellfish hatchery permits; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 164

SHORT TITLE: FISH & GAME: OFFENSES; LICENSES; PENALTIES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/29/16 (S) READ THE FIRST TIME - REFERRALS
01/29/16 (S) RES, JUD
02/22/16 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 172

SHORT TITLE: FISH/SHELLFISH HATCHERY/ENHANCE. PROJECTS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/05/16 (S) READ THE FIRST TIME - REFERRALS
02/05/16 (S) RES, FIN
02/22/16 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

NATHAN TURNER

Nenana, Alaska

POSITION STATEMENT: Board of Game re-appointee.

BOB MUMFORD, representing himself

Anchorage, Alaska

POSITION STATEMENT: Supported Mr. Turner's reappointment to the Board of Game.

THOR STACEY, lobbyist

Alaska Professional Hunters Association

Juneau, Alaska

POSITION STATEMENT: Supported Mr. Turner's reappointment to the Board of Game.

MAJOR BERNARD CHASTAIN, Deputy Director

Alaska Wildlife Troopers

Department of public Safety

Juneau, Alaska

POSITION STATEMENT: Commented on SB 164.

BRUCE DALE, Director

Wildlife Conservation Division
Alaska Department of Fish and Game (ADF&G)
Juneau, Alaska
POSITION STATEMENT: Answered questions on SB 164.

JOHN SKIDMORE, Director
Criminal Division
Department of Law (DOL)
Anchorage, Alaska
POSITION STATEMENT: Answered questions on SB 164.

KACI SCHROEDER, Assistant Attorney General
Department of Law (DOL)
Juneau, Alaska
POSITION STATEMENT: Answered questions on SB 164.

ACTION NARRATIVE

[3:33:09 PM](#)

CHAIR CATHY GIESSEL called the Senate Resources Standing Committee meeting to order at 3:33 p.m. Present at the call to order were Senators Stoltze, Stedman, Coghill, Micciche, Wielechowski and Chair Giessel.

Confirmation Hearing
Board of Game

[3:33:32 PM](#)

CHAIR GIESSEL announced the confirmation hearing for Nathan Turner, re-appointee to the Board of Game. She invited Mr. Turner to tell the committee why he wants to continue serving on the Board of Game.

NATHAN TURNER, Nenana, Alaska, Board of Game re-appointee, said he wanted to continue serving on the Board of Game (BOG) for a couple of reasons. One is that a person gets invested in the processes he has devoted a lot of time to and, two, he has enjoyed being on the board and feels he is giving back to the state.

CHAIR GIESSEL asked him to tell the public what he does for a living.

MR. TURNER said his family came to Alaska 26 years ago, following his father's dream to be a trapper in the North Country. He was 17 years old, and it wasn't his ambition to be a trapper or a hunting guide, but he fell in love with Alaska. He

found what his father had been telling him was really true: there is something special about living close to the land, and for the first 10 years he never saw a street in Alaska with snow on it. He spent his time out in the woods on the trap line. A neighboring trapper who worked as a hunting guide offered to employ him as a packer on a hunt one year. Later that neighboring trapper/guide helped him become an assistant guide. Then later, he became a registered guide on his own. Trapping and guiding are his only occupations. His family grows almost everything they eat; they dry it and put it away for the winter. He lives entirely off the land. He considered guiding as an extension of his subsistence lifestyle; his family relies on it for financial returns and immediate returns in the form of meat.

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SENATOR COGHILL thanked Mr. Turner for his willingness to serve on the board. A constituent wanted him to ask why Mr. Turner voted against the Advisory Committee recommendations on the test bear trapping season.

MR. TURNER answered that there were a lot of discussions about bear trapping for a number of years before he was on the board. Several different concepts came out of them. One is a test in the Cook Inlet region initiated by the board and conducted by the Alaska Department of Fish and Game (ADF&G) and members of the public to see whether controlling bear predation would help moose populations, and he voted to continue that test. Doing it in other parts of the state was discussed, and he supported the idea, but the rest of the board didn't. He didn't remember voting against bear trapping, specifically, but if handled correctly it could be helpful in rural communities. It couldn't happen just any place under a normal trapping season. He asked Senator Coghill if he could be more specific.

SENATOR COGHILL remembered that it was a Fairbanks Advisory Committee proposal they weren't happy about.

MR. TURNER said that bear trapping is a very controversial topic that brings out a lot of emotions on both sides of the issue, but he couldn't remember that particular discussion.

CHAIR GIESSEL opened public testimony.

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BOB MUMFORD, representing himself, Anchorage, Alaska, supported Mr. Turner's reappointment to the Board of Game saying it was his pleasure to work with Mr. Turner for three years when he

served on the board with him. He is a strong board member who comes to the meetings prepared. He didn't push any single agenda; he is fair and balanced. One of Mr. Turner's strengths is that he can stand up to certain user groups' agendas. He doesn't "just cave in" and is able to weigh all issues evenly. Even though he at times disagreed with Mr. Turner, he could appreciate the thoughtfulness in which Mr. Turner deliberated these issues, and the mutual respect he and Mr. Turner had for each other's views.

SENATOR STOLTZE thanked Mr. Mumford for serving on both the Board of Game and the Board of Fisheries, and asked if he was speaking for just Mr. Turner.

MR. MUMFORD answered yes.

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THOR STACEY, lobbyist, Alaska Professional Hunters Association, Juneau, Alaska, strongly supported Nathan Turner's reappointment to the Board of Game. He said the State of Alaska has about 300 active registered hunting guides at any one time. He said Alaska's guiding industry is significant. It is one of the two defined commercial services that is allowed to market or sell Alaska's big game for consumptive use, those being the guided hunt industry and the transporting industry. They rely on the allocation process that the Board of Game represents per legislative direction. So, the BOG process for them is an absolutely essential component to how they not just interact with the resource, but how they interact with the public and the state's decision makers.

He explained that hunting guides live across the state; many live in rural Alaska. About 90 percent of Alaska's hunting guides are Alaska residents and most live in rural areas, so the economic benefit tends to be close to the rural communities where the guides live. There is a very strong relationship between Alaska residency and the guide industry. The Alaska Professional Hunters Association strongly support Mr. Turner's reappointment.

He explained that Mr. Turner is an active registered hunting guide and, therefore, as an active commercial user in these kinds of formats, is held to a very high standard in the public eye. If you come forward representing just the commercial interest or don't have the ability to balance competing views, you quickly lose credibility in the eyes of the public just as a

guide loses credibility in the eyes of the public if he is irresponsible in the field.

MR. STACEY said they are proud to have Mr. Turner on the board as a guide, because they feel he has done a good job of reaching out to the public and building support within the general public sector on how those perspectives are perceived, and they think that one of the things hunter guides contribute to society, while they have the ability to profit from a public-owned resource, they also have the unique expertise or knowledge that are supposed to come back and benefit the public as a whole. Mr. Turner represents a link in that chain.

MR. STACEY said the guide industry in Alaska is very challenged with regard to federal management, the state budget, and how the state is going to approach managing its resources. Having someone like Nate Turner involved is a positive for the state as a whole, because of some of the really important challenges facing the guide industry and because of new rules the Park Service adopted, one that alters the authority and the relationship between the federal government and the state. The U.S. Fish and Wildlife Service (FWS) has a similarly proposed rule. In federal agencies' arguments for their decision they are using the Board of Game process against itself. Having a conscientious person that builds a good record gives the state better standing and a better chance at resisting these types of things in the future. Hopefully, the whole board will have the ability to lay down a record of decisions based on sustained yield and its mandates, which would give the state a strong future moving forward if it is to argue against those actions.

MR. STACEY said a third issue that the state is struggling with, and the board will be forced to address, is the Bureau of Land Management (BLM) action in moving forward with limiting guides on its lands. Guides thought they had more time when the concession program failed in the legislature, but the BLM is moving faster than they thought. Also, the Obama administration is winding down and they fear executive action. The importance of the Board of Game in that process is that even though it can't synthesize the positive benefits of a concession program, it can at least have a sensitive member, so that when they have to make resource decisions, does as little harm as possible and still accomplishes the resource goal. A good regulation can be crafted, and having Mr. Turner on the board is absolutely essential from their perspective on that.

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SENATOR STOLTZE said it's valuable to have a guide on the board, but doesn't Mr. Turner have to recuse himself from most activities that would benefit himself and a guiding activity?

MR. STACEY said Mr. Turner has to recuse himself, and often does when decisions will directly, or could be construed to, benefit him financially. However, a direct vote up or down, from his perspective on a guide issue, is not as important as having that perspective in the deliberation on the way the board approaches a problem.

SENATOR STOLTZE commented that he had inferred correctly that Mr. Turner is not "the guide vote," but he brings a broader perspective to the board.

CHAIR GIESSEL, finding no further comments, closed public testimony.

SENATOR GIESSEL asked Mr. Turner to elaborate a bit more on recusing himself.

MR. TURNER responded that he learned early that it is important to have transparency about his interests and to recuse himself when there is even an appearance of a conflict. He made it a point to assess meeting topics or proposals well in advance, and would ensure that if there was a conflict, or the appearance of a conflict, he would recuse himself not only from voting, but also from deliberations.

SENATOR STOLTZE said he had observed Mr. Turner's actions on the Board of Game, and, like Mr. Turner, he thinks an ethical person exceeds what any written ethics law requires. He thanked Mr. Turner for his service.

MR. TURNER thanked Senator Stoltze for raising the issue. He indicated it was important to discuss this, since there is a perception in the public of commercial operators influencing the board. Mr. Turner pointed out that the Board of Game, unlike the Board of Fisheries, is distinct in its lack of commercial operators who are members.

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CHAIR GIESSEL pointed out that Mr. Turner answered very clearly the section that says please explain a potential financial benefit by saying that he is very careful to recuse himself at the appropriate times.

CHAIR GIESSEL, finding no further questions, said according with AS 39.05.080, the Resources Committee reviewed the following and recommends the appointment be forwarded to a joint session for consideration: Board of Game, Nathan Turner, Nenana; appointed in 5/10/2010, reappointed in 7/1/2013, and reappointed in 7/1/2016; term expires in 6/30/2019. This does not reflect an intent by any of the members to vote for or against the confirmation of the individual during any further sessions.

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At ease

SB 164-FISH & GAME: OFFENSES;LICENSES;PENALTIES

[4:00:42 PM](#)

CHAIR GIESSEL called the meeting back to order and announced the consideration of SB 164.

MAJOR BERNARD CHASTAIN, Deputy Director, Alaska Wildlife Troopers, Department of Public Safety (DPS), Juneau, Alaska, said he would provide a sectional analysis of SB 164.

BRUCE DALE, Director, Wildlife Conservation Division, Alaska Department of Fish and Game (ADF&G), Juneau, Alaska, offered to answer questions related to SB 164.

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MAJOR CHASTAIN provided the sectional analysis of SB 164 as follows:

Sec. 1 amends AS 16.05.330(a) to include "permit" in addition to "license" and "tag" for purposes of clarifying the proper types of documentation a person must have in their actual possession when engaging in certain activities, and reorders the activities of "trapping" and "fur dealing" to exclude the latter from being a correctable citation.

Sec. 2 amends AS 16.05.330(d) to make it unlawful for a person to obtain a sport fishing, hunting, or trapping license if the person has had their rights to engage in those activities revoked or suspended in Alaska. Currently the statute directs that if a person's license is suspended or revoked, they are prohibited from purchasing or using the privileges of that license only in another state. Surprisingly, this does not include the State of Alaska. This change will actually align the statute with the intent of the law.

SENATOR WIELECHOWSKI asked if a person is banned from hunting, would that prohibit him from getting a sport fishing license or just a hunting license.

MAJOR CHASTAIN replied that normally it depends on the activity that is suspended. If a person is suspended from sportfishing in another state or this state, he is prohibited from purchasing a sportfishing license in this or another state.

SENATOR WIELECHOWSKI asked how people who are banned from getting a sportfishing license in Alaska are able to get them in other states. Is that happening or is it just a hypothetical event he is trying to prohibit?

MAJOR CHASTAIN answered that it happens, for example, when people with a suspended license in another state come to Alaska and purchases a license. Alaska currently has a wildlife violator's compact that establishes reciprocity with a number of states across the U.S., and that prohibits a person from utilizing the privileges of that license. This bill prohibits them from purchasing it. So, if their license is suspended or revoked in another state, they cannot come to Alaska and purchase a like license.

SENATOR WIELECHOWSKI remarked that he thought the current law already says that.

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MAJOR CHASTAIN explained that state law currently prohibits the use of a sportfishing license, but it doesn't prohibit purchasing one. The problem is that a wildlife trooper has no way of knowing a license is suspended or revoked out in the field. That is why Alaska is being added as a state where a license can't be purchased.

Sec. 3 makes it an official citation to not have a sportfishing, hunting or trapping license in one's possession. Sometimes people forget them in the cars or at home, and now they have to have it in their possession to participate in those things. This means a person can bring their correctible citation to any Department of Public Safety (DPS) office and have it signed off when they show that they had a valid license before they were cited.

SENATOR MICCICHE said he supported the concepts in sec. 3 generally, but he didn't understand how a tag or permit could be

correctable. He has heard of folks who have creatively harvested more than their game species by not punching a tag.

MAJOR CHASTAIN responded that there is another possibility. Under regulation people are required to notch their harvest ticket and have it in their possession. If they don't have their tag in their possession and they have an animal, that is a violation in and of itself. In this situation, if they contacted someone who maybe hadn't taken an animal yet and they were just hunting and didn't have the tag that could be an official correctable citation.

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SENATOR MICCICHE said he could still see issues with the tag or permit language.

MR. DALE added that staff gave this a considerable amount of thought, and in the case where someone forgot their license, tag, permit, and/or harvest ticket, if they were asked by an enforcement officer what they were doing, they thought that would be an officially correctable citation like the license is, if it could be presented later at a DPS office. But that would have to be clarified in separate regulations that are not correctable. Hunters still have to comply with regulations on harvesting animals, but the simple person who just can't find their tag can correct that violation.

SENATOR MICCICHE said it's not illegal to hike around with a rifle, but it becomes an issue when a person takes an animal. It's confusing if the person thinks it is a correctable citation.

MAJOR CHASTAIN said he would look at that language again.

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SENATOR WIELECHOWSKI noted that sec. (f) on line 19 says a person charged with violating (a)(1) or (2) of this section may not be convicted if the person produces "in court or in the office of the arresting or citing officer". He envisioned a scenario where someone from Anchorage goes out to western Alaska and gets cited by someone from western Alaska. Under this language, the court is probably going to be in western Alaska and the arresting officer might be based somewhere out there, too. He asked if that language could be changed so that the person could go to an DPS office on Raspberry Road in Anchorage or somewhere in Fairbanks. Is it important that they go to the office of the arresting officer?

MAJOR CHASTAIN replied the intent is that they can go to any office of the issuing agency. They don't want to clog the court system by having the clerk of the court validate licenses, tags and permits.

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He continued explaining that sec. 4 removes a correctable citation section under AS 16.05.330(f) from the penalties portion of the statute and aligns other areas of Title 16 and appropriately makes the crimes listed class A misdemeanors.

Sec. 5 creates two new subsections. Subsection (c) establishes that a person may be charged with a violation offense if a culpable mental state cannot be established and it maintains a misdemeanor offense for more serious cases under subsection (a). Subsection (d) provides the court with the ability to impose additional restitution to the state equal to the amount of lost federal matching funds from the Wildlife and Sportfish Restoration Program, Pittman Robertson (PR) and Dingle Johnson Wallop Breaux programs, when the state is defrauded by a defendant who does not purchase the appropriate license or tag, or claims residency when they are not a resident.

He explained that in this scenario they are talking about non-residents coming to Alaska and purchasing resident licenses. Investigations have found that this often happens over a period of years, and the non-resident not only purchases a hunting license and a fishing license, but they get dipnet permits and locking tags and shoot a brown bear and go Dall sheep hunting. By the time they are caught, the offenses have added up and they have defrauded the State of Alaska, not only in the cost difference between the resident license versus a non-resident license and the tags differences, but also in the Pittman Robertson funds and all the matching funds Alaska gets from the federal government.

MR. DALE explained that the state's Fish and Game (F&G) Fund (receipts from hunting and trapping licenses and tags) are matched with the federal Wildlife Sportfish Restoration Program at a rate of three federal dollars for every state F&G Fund dollar. The concept of this change is that over time the state not only loses the value of the license that the person should have bought, but the ability to leverage into federal funds. This provides the court a way, in appropriate cases, to restore some of those funds.

SENATOR STOLTZE asked if this is a revenue bill or a deterrence bill.

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MAJOR CHASTAIN answered that SB 164 does three things: the first is housekeeping to make statute reflects intent; the second is increasing restitution amounts; and third, the statute is being made more flexible in determining the seriousness of an offense.

SENATOR STOLTZE asked if he heard correctly that part of it is restorative justice.

MAJOR CHASTAIN answered yes.

SENATOR STOLTZE asked if he had looked at inflation indexes for inflation-proofing theft and felony activities as a mechanism for determining escalating or de-escalating commodities market values.

MAJOR CHASTAIN answered no.

CHAIR GIESSEL said she assumed that not all F&G funds get matching federal funds.

MR. DALE said that was correct, but it would be easier for the courts to retrieve some of the lost revenues with this language change.

SENATOR MICCICHE said he expected those to be smaller quantities of dollars. He asked if it's more of a figurative gesture than having any real value.

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MAJOR CHASTAIN replied that most of the time the cases are small, but several cases per year result from multiple years of abuse of that resident privilege and amount to tens of thousands of dollars. For instance, if a non-resident gets multiple resident harvest tickets where they should have purchased a non-resident license and multiple non-resident locking tags - for a brown bear it is \$500, and that is matched three to one by PR funds.

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MAJOR CHASTAIN said sec. 6 raises the strict liability commercial fishing violation fines under AS 16.05.722 that was enacted in 1988 and has gone unchanged since then. These fine increases will act as a deterrent and a tool for Alaska Wildlife

Troopers to effectively enforce the state's most important fisheries worth billions of dollars. It ensures that more commercial fishermen can participate in the fisheries by deterring illegal fishing that harms the industry. The fines for strict liability have gone up from \$3000 to \$6000, and \$3000 in 1988 dollars equals about \$6050 in 2016 dollars.

SENATOR MICCICHE said he assumed those 50 percent increases are from 1995.

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MAJOR CHASTAIN said his research showed 1996 is when that was enacted.

SENATOR MICCICHE asked if the 100 percent adjustment was applied to commercial numbers that were adopted in 1988.

MAJOR CHASTAIN replied that he did not do that for the restitution amounts, but that could be done with the committee's support.

SENATOR MICCICHE said when Major Chastain talked about inflation adjusted from 1988, it's about \$6,000. So, the bail schedule for the wildlife, as well, in sec. 16 looks like a similar adjustment, because that bail schedule was revised in 1996 (versus 1988). He would like to keep the numbers consistent, but said the details could be worked out later.

CHAIR GIESSEL asked if these fines go into the general fund (GF) or F&G Fund.

MAJOR CHASTAIN replied that the strict liability fines go into the General Fund.

JOHN SKIDMORE, Director, Criminal Division, Department of Law (DOL), Anchorage, Alaska, said the fines in sec. 6 of the bill go into the GF. The restitution amounts in sec. 16 go into the F&G fund.

CHAIR GIESSEL asked if the matching funds that would be reimbursed go to the F&G fund or the GF.

MR. SKIDMORE answered those funds actually go into the F&G Fund; the federal matching funds are earmarked to be used for purposes of conservation, so they couldn't simply go into the GF.

SENATOR STOLTZE commented that other sections of law sometimes take away unrelated professional licenses if the fines don't work for multiple offenses against access to a commonly owned resource.

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MAJOR CHASTAIN responded that these are strict liability offenses, which means that a person is strictly liable for the offense regardless of the intent. Under these circumstances, the department doesn't have to prove a "culpable mental state." They still have the ability to charge commercial fishing violations as a misdemeanor, and in those situations when the case is serious, it is brought before a court that can deal with the offender's license or their permit. In addition, misdemeanors for certain offenses can accrue points through the Commercial Fisheries Entry Commission (CFEC), and just like a driver's license, once a certain number of points is reached, their permit can be suspended for a period of time.

MAJOR CHASTAIN said sec. 7 creates a new subsection requiring the court system to transmit notice of all convictions to the CFEC. The importance of misdemeanor commercial fishing cases is that those permits accrue points, and it's important to transmit those to the CFEC so they can be tracked and appropriate action taken.

SENATOR WIELECHOWSKI said the governor just issued a proclamation transferring some duties of CFEC to ADF&G and asked if notice needs to be transmitted to ADF&G also.

MR. DALE answered no; the CFEC will still remain a separate entity; its functions are limited to IT, licensing, and administration.

MAJOR CHASTAIN said sections 8 - 15 standardize across-the-board violations for consistency and creates them all as a class A misdemeanor. It also provides for a mechanism to charge each violation appropriately. Right now there is no mechanism to charge as violations. This will enable officers to charge either as a violation or as a class A misdemeanor.

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SENATOR WIELECHOWSKI asked him to explain the inter-relationship of sec. 8 with sec. 9, which talks about making taking a brown or grizzly bear within a half-mile of a solid waste disposal facility a violation instead of a class A misdemeanor, and the additional fine of up to \$10,000 in sec. 9 for the same action.

MAJOR CHASTAIN explained that sec. 8 creates a section that removes a class A misdemeanor and makes taking a brown or grizzly bear within a half-mile of a solid waste disposal facility a violation offense if the department cannot prove a culpable mental state. It's still a misdemeanor if it's intentional or if it can be proved they knew that the solid waste disposal facility was there. Sec. 9 (on page 3, lines 30-31 to page 4, lines 1-3) was put in place by the legislature, and he wasn't sure why they chose to address [AS 16.05.] 782(b) in that manner. But they made it very clear that it was an additional \$10,000 fine.

SENATOR WIELECHOWSKI said maybe the DOL could explain that. Then he asked which part of the statute talks about the culpable state and being guilty of a criminal violation.

[4:32:33 PM](#)

MAJOR CHASTAIN explained that the additional penalty in sec. 9 is for when that person fails to salvage that animal.

SENATOR WIELECHOWSKI asked what section of law sec. 8 was relying on and what the penalty is for violating .782(a).

KACI SCHROEDER, Assistant Attorney General, Department of Law (DOL), Juneau, Alaska, asked him to clarify if he was asking where the penalty provisions are for sec. 8.

SENATOR WIELECHOWSKI said he wanted to know what the penalty is under the new sec. 8 and then he wanted to know if you do it with a culpable state of mind - intentionally, recklessly -is there a criminal penalty to that.

MS. SCHROEDER said the answers to both of his questions are yes and are found in sec. 10 of the bill. If a person acts with criminal negligence, it's a class A misdemeanor, and if a person has no culpable mental state, it's a violation.

SENATOR WIELECHOWSKI asked if you don't act with criminal negligence, but act with recklessness or intentionally do it, do you fall under this section as well.

MS. SCHROEDER answered yes, you would. Criminal negligence is the lowest mental state required, so anything above that would be the same.

SENATOR STOLTZE asked if sec. 11 make any changes to administrative forfeitures and forfeitures before a presumption of guilt. Is the forfeiture process only after a court action?

MS. SCHROEDER answered that sec. 11 itself does not make any changes to the forfeiture statutes or the forfeiture process. She deferred to Mr. Skidmore for a more detailed description of the forfeiture process.

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MR. SKIDMORE explained that this statute does not change anything in the law. The aircraft or the equipment used is only done after a conviction in a case. The forfeiture Senator Stoltze was referring to is of meat. In those cases when meat is seized, because of the constitutional provisions requiring all game in the State of Alaska be used to the greatest benefit of the citizens and because these cases often can take a significant period of time to be resolved, there is practice that is supported through the interpretation of the law that allows the meat to be given to those who can consume it so that it is not wasted. Later, should that taking of the meat have deemed to have been inappropriate, then it is replaced with an equal quantity of meat from the person from whom it was taken.

SENATOR STOLTZE asked if the person loses stewardship of the equipment at any time prior to a disposition of his court case.

MAJOR CHASTAIN answered that equipment is seized under a criminal seizure warrant issued by a judge and it's held pending court until the judge decides what happens with that item. A provision allows someone to come to court (under a remission hearing) and portray why their item should be returned to them. If the court decides that it needs to be held, the judge has that ability.

SENATOR STOLTZE said he appreciated the clarification and remarked that equipment like an airplane could be held for quite a while in a pre-conviction forfeiture.

MAJOR CHASTAIN answered that it varies depending upon lots of different things. For instance, the length of time it takes a case to get to court, the number of motions filed by both sides, and the court calendar.

MAJOR CHASTAIN said that sec. 16 increases restitution amounts by 50 percent that a person convicted of unlawfully taking big

game may have to pay to the state if the court so chooses to implement this restitution. The judge can apply these restitution values in addition to the fine, if he decides that the unlawfully taken big game animal defrauds the state of the value of that animal to its citizens. The value varies greatly depending on the species of animal, the location of the take, the social value of the animal, economic value of the animal and the food source value to the people of the state. In most cases it does not make the state whole for the loss of the animal, but it does help pay the state back in some measure.

As an example of this, he said several years ago a very large Dall sheep was illegally shot on the Seward Highway south of Anchorage. This area is closed to hunting for Dall sheep. That animal was worth an unknown amount of money to the state in tourism. Many thousands of people took photos of the sheep. There are many examples like this every year where the illegally taken resource may never be fully recovered by the state. So, this is an ability for the judge to impose additional amounts above and beyond the fine. The restitution goes back to the F&G fund.

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SENATOR STOLTZE commented that Major Chastain just put a subjective value on game on the record.

SENATOR WIELECHOWSKI said the current law says if you violate that provision you are guilty of a misdemeanor, and upon conviction punishable by a fine of not more than \$5,000, or by imprisonment for not more than a year or both, but sec. 11 takes out the fine provision, making it less of a penalty. Or is it changed somewhere else?

MAJOR CHASTAIN replied that actually cleans up that section. The class A misdemeanor is the penalty, and that has a penalty of \$10,000 and a year in jail.

SENATOR WIELECHOWSKI said current language lowers the penalty from \$10,000 to \$5,000, and now under some other section not cited here, the court can go ahead by virtue of a class A misdemeanor and fine the person up to \$10,000.

MAJOR CHASTAIN said that was correct. He pointed out two drafting errors, the first one in sec. 17 should say "AS 16.05.901" instead of "AS 16.05.925". The reason is the penalty provision for AS 16.05.871 and AS 16.05.896 is AS 16.05.901.

He said sec. 18 adds a definition of "electronic form." Language in an earlier section mentions an "electronic form" and this creates a definition of that.

MR. DALE explained that currently the Divisions of Wildlife and Sportfish don't have electronic license forms, so this language will enable that to be done in the future. Currently the regulations, especially for wildlife and some sportfish, require that either something is recorded on a license and/or validated on a permit or harvest ticket; by regulation it requires hard copies. But in the future, validation will be done with a digital application, or app, on personal devices. It may be especially useful for things like non-residents buying one-day or three-day fishing licenses and having them in hand and not have to get to a printer and spend half a day on a charter boat.

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SENATOR MICCICHE asked if sec. 17 language is in reference to Article 8 violations (the protection of waterways for anadromous fish).

MAJOR CHASTAIN answered that AS 16.05.871 is Article 8, which is protection of waterways for anadromous fish, .871 is for protection of fish and game, and .881 is construction without approval prohibited, and .891 goes on through that section.

SENATOR MICCICHE asked him to clarify what punishable under AS 12.55 means.

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MR. SKIDMORE answered that previously AS 16.05.896 indicated that offenses were punishable as a misdemeanor for those various sections. Sec. 17 of SB 164 allows a violation to be charged instead of a misdemeanor, and a violation under AS 12.55 would be punishable up to \$500.

SENATOR MICCICHE asked if that is a significant reduction in the level of charge.

MR. SKIDMORE answered that this language does not reduce a charge from a misdemeanor to a violation. It allows charging a violation when a culpable mental state can't be proved, consistent with the rest of the bill. It's an easier way to prove the case, which is why there is also a lower penalty. But if there is an appropriate mental state, it remains a misdemeanor punishable the same as it was previously.

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MAJOR CHASTAIN said sections 19-26 in general standardize penalties as is done throughout the bill. All these sections create standardization for charging as misdemeanors but also gives the ability to charge as a violation when appropriate.

MAJOR CHASTAIN said sec. 27 amends the court rule, which allows the department to create a correctable citation. Right now there is no mechanism in place to make a correctable citation.

Sec. 28 amends the uncodified law of Alaska to make it clear that the act applies to offenses that occur on or after the effective date, and sec. 29 provides for an effective date of July 1, 2016.

CHAIR GIESSEL said he mentioned there were two typos and one was in sec. 17, and asked where the other typo is.

MAJOR CHASTAIN said it is in sec. 23, on line 9. Now it reads: "16.10.010" and it should say "16.10.110".

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SENATOR MICCICHE asked if the sportfish bail schedules had been adjusted or if they are remaining the same.

MAJOR CHASTAIN answered that bail schedules have changed over the years, and six to eight years ago, they were changed to a flat fee with an additional amount per fish. Those bail schedules are published in statute. In some situations, more can be charged for a more serious offense.

SENATOR MICCICHE pointed out that a different value was put on different species in sec. 16 depending on whether or not there are return problems.

SENATOR STEDMAN asked what penalty a licensed hunter is facing who has tags and shoots a game animal on private property without permission and doesn't collect the animal.

MAJOR CHASTAIN said that would be difficult to answer because of the hypotheticals, but in general, they would investigate the case to determine what actually happened. If that person did not have permission to be on private property, it's likely that animal, in consultation with the District Attorney's Office, would be seized and the person would be charged.

SENATOR STEDMAN said he didn't run into that situation too often in the Southeast Alaska. If the animal isn't harvested, it would most likely be a wanton waste issue and become another potential concern about taking a game animal on private property without permission.

MAJOR CHASTAIN said that was correct; the offender would look at wanton waste charges or failed to salvage charges, depending on the severity, along with any additional crimes they would discover throughout their investigation.

SENATOR STOLTZE asked if the Department of Public Safety, ADF&G, and the Department of Law look at self-reporting as a mitigater in the case where someone self-reports they made an inadvertent act.

MAJOR CHASTAIN said self-report, in general, is a major topic they deal with every year. Quite a few people self-report hunting violations throughout the state, and in his view, the department had done a phenomenal job of encouraging people to do that and not waste animals. This has been accomplished through targeted and direct interface with the hunters to make sure they understand that they are going to be treated dramatically different when they come into an Alaska Wildlife Troopers office and bring that animal in in good condition than if they are discovered in the field or waste the animal by leaving it there and not salvaging it.

SENATOR STOLTZE asked if that is done on a discretionary basis or if a lesser penalty is codified if a person self-reports.

MAJOR CHASTAIN answered that it is up to the State Trooper's discretion to consider someone a self-turn-in, but turning themselves into a Wildlife Trooper who pulls up to their camp on a four-wheeler is not going to cut it.

CHAIR GIESSEL thanked everyone for presenting the bill and set it aside for another hearing. She

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CHAIR GIESSEL adjourned the Senate Resources Standing Committee meeting at 4:59 p.m.