

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

March 4, 2016

3:31 p.m.

MEMBERS PRESENT

Senator Cathy Giessel, Chair
Senator Mia Costello, Vice Chair
Senator John Coghill
Senator Peter Micciche
Senator Bill Wielechowski

MEMBERS ABSENT

Senator Bert Stedman
Senator Bill Stoltze

COMMITTEE CALENDAR

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."

- MOVED SB 164 OUT OF COMMITTEE

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."

- HEARD & HELD

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
02/22/16 (S) Heard & Held
02/22/16 (S) MINUTE(RES)
03/04/16 (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
02/22/16 (S) Scheduled but Not Heard
03/04/16 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

BYRON CHARLES, representing himself
Ketchikan, Alaska

POSITION STATEMENT: Testified in favor of amending SB 164.

MIKE TINKER
Alaska Wildlife Conservation Association
Fairbanks, Alaska

POSITION STATEMENT: Raised questions about SB 164.

AL BARRETTE, representing himself
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 164 with amendments.

RICHARD DAVIS
Seafood Producers Cooperative
Sitka, Alaska

POSITION STATEMENT: Recommended changes to the bill.

BERNARD CHASTAIN, Deputy Director
Alaska Wildlife Troopers
Alaska Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding SB 164.

AARON PETERSON, Attorney
Criminal Division
Alaska Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding SB 164.

SETH BEAUSANG, Attorney
Alaska Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding SB 164.

BRUCE DALE, Director
Division of Wildlife Conservation
Alaska Department of Fish and Game (ADF&G)
Palmer, Alaska

POSITION STATEMENT: Addressed questions regarding SB 164.

FOREST BOWERS, Deputy Director
Commercial Fisheries Division
Alaska Department of Fish and Game
Juneau, Alaska

POSITION STATEMENT: Addressed questions regarding SB 172.

SAM RABUNG, Aquaculture Section Chief
Commercial Fisheries Division
Alaska Department of Fish and Game
Juneau, Alaska

POSITION STATEMENT: Addressed questions regarding SB 172.

NANCY HILLSTRAND, Owner
Pioneer Alaskan Fisheries
Kachemak Bay, Alaska

POSITION STATEMENT: Testified in opposition to SB 172.

STEVE RYKACZEWSKI, Oyster farmer
Homer, Alaska

POSITION STATEMENT: Testified in opposition to raising permit application fees for mariculture.

CHERYL RYKACZEWSKI, Secretary
Kachemak Shellfish Mariculture Association
Homer, Alaska

POSITION STATEMENT: Addressed concerns with SB 172.

ACTION NARRATIVE

[3:31:08 PM](#)

CHAIR CATHY GIESSEL called the Senate Resources Standing Committee meeting to order at 3:31 p.m. Present at the call to order were Senators Coghill, Costello, Wielechowski, Micciche, and Chair Giessel.

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

[3:31:49 PM](#)

CHAIR GIESSEL announced the consideration of SB 164. She noted that staff at the Alaska Departments of Fish and Game (ADF&G), Public Safety (DPS), and Law (DOL) testified at a previous hearing, and she opened up the hearing to public testimony, limited to two minutes each.

[3:33:32 PM](#)

BYRON CHARLES, representing himself, Ketchikan, Alaska, said he recently saw a dead sea lion with a triple-hook stuck in its throat, which was likely the result of the sea lion's attempt to grab a snagged salmon. These "fish wars" in Alaska need to be better contained to prevent people from hurting each other, he said. The new policies proposed in SB 164 need serious amendments, he noted. "What kind of penalty can you put or impose on somebody when a sea lion has a triple-hook stuck in its throat?" He said he grew up snagging fish with halibut hooks, but the triple-hooks need to be outlawed. Additionally, section 1 of SB 164 "should be fly fishing only," he stated.

[3:36:33 PM](#)

MIKE TINKER, Alaska Wildlife Conservation Association, Fairbanks, Alaska, said the public did not get to testify at the first hearing, but the first sections of SB 164 are fine, "and probably going to the class A [misdemeanor] just reflects the modernization." He questioned the deletion of "upon conviction," as it seems a person would have to be convicted before getting fines and restitutions. The new fines are good, he said, because some of the current levels are archaic.

MR. TINKER expressed concern in trying to recoup federal matching funds; "both from the fish side and on the wildlife side, that's a reimbursement program." When a legislator asks how much the state has to pay for the management of a caribou in order to get a reimbursable figure to add into the fine is a very difficult thing to do, he said, "one that would likely cost many, many times what would come out of the fine." He said his point is that if "you took the eligible Pittman-Robertson money

on caribou, for example, where we have hundreds of thousands of them, and divided it by the hundreds of thousands of dollars we spend on qualifying characteristics, we'd come up with a dollar a caribou, and at three-to-one, you could recover three bucks." He said he does not see how Alaska could do that without "running the cost of the thing way out into the future." Mr. Tinker gave the example of someone getting a fine for [taking] a caribou, "and then the retribution for Pittman-Robertson ... comes the following October when the state makes its reimbursement charge." He said it is unclear and he would like that clarified, but he does not see it "as a doable thing."

MR. TINKER said other amendments are needed, and one thing his group has been on top of for several years is "geography getting in the way, and that is the application of restitution" where it is applied in some cases and not in others. He said first-time unintentional, technical violators who turn themselves in should be exempt, "otherwise we're not getting the bang for our buck to try to get hunters in the field; the idea is not to scare every single new or inexperienced hunter out of the field because [the hunter] might get slapped down."

CHAIR GIESSEL suggested Mr. Tinker submit a letter with his suggestions and questions.

[3:40:55 PM](#)

AL BARRETTE, representing himself, Fairbanks, Alaska, said he is a member of the Fairbanks Advisory Committee and other outdoor organizations. He stated that SB 164 is well thought out and goes in the right direction, but he suggested a restitution exemption for self-reporting violators who salvage all of their game and surrender it to wildlife enforcement. [The change] will not take anything away from public safety, he opined. The court system uses this penalty arbitrarily, he said, and he gave the examples of Judge David [Zwink] who adds restitution to plea bargain deals on self-reported violations and Superior Court Judge [Richard Erlich] who charged three Point Hope residents who killed up to 37 caribou without salvaging the meat with wanton waste and did not issue a fine, community service, or any kind of education requirement. "He actually said it was a nominal charge," and that is very disturbing that wanton waste of Alaska's wildlife is just a nominal incident, he stated.

MR. BARRETTE suggested removing "sport" from resident fishing licenses, because there are at least 20,000 to 40,000 Alaskans who subsistence fish and do not contribute since they are not required to have a license. "I think the second largest users of

our fish resources, which is subsistence, ought to pay a little bit of something into our management of our fish resources," he concluded.

[3:44:03 PM](#)

RICHARD DAVIS, Seafood Producers Cooperative (SPC), Sitka, Alaska, explained that the SPC is a fishing business collective and cold storage in Sitka, owned and operated by 600 fishers, most of whom are Alaskans. He explained that SPC has been operating since 1945 when the cooperative provided fish liver oil for WWII, and it is the oldest and largest fishery cooperative of its kind in North America. Mr. Davis noted that section 6 of SB 164 doubles the maximum fines for first and second convictions for fishery violations but does not double the maximum fine for a third conviction. In view of Alaska's demerit point system that fishers operate under, they can only collect so many points of offenses against their licenses before losing them for one to three years. "The third conviction could be any number you wanted to put in there because under the three-strikes-and-out and the strict liability risk that you incur if you have violations of a strict liability nature, you could lose your boat and your permits, and it's been done," he said. He noted that the current bill version does not double the maximum fine for any of the 12 listed game species. He said his fishermen believe that if fines are doubled, it should be done uniformly across all of the revenues collected through the penal system. If there is a chronic fisheries compliance problem somewhere in Alaska that can be pointed out to Mr. Davis, then he would be willing to reconsider. Alaska's commercial salmon fishers are earning less money for their products than they were ten years ago, he stated.

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SENATOR COGHILL suggested that Mr. Davis write down specific concerns about the fines for the committee.

[3:47:17 PM](#)

SENATOR GIESSEL asked if there were any witnesses wanting to testify, and, hearing none, closed public testimony.

[3:48:13 PM](#)

BERNARD CHASTAIN, Deputy Director, Alaska Wildlife Troopers, Department of Public Safety (DPS), Anchorage, noted that a witness asked why the term "upon conviction" was removed, and he pointed out that section 16 on page 5 of SB 164 refers to a person "who is convicted."

CHAIR GIESSEL asked about the reference on page 5, line 26.

[3:49:07 PM](#)

AARON PETERSON, Attorney, Criminal Division, Department of Law, Anchorage, said "upon conviction" was superfluous since misdemeanor fines are not imposed without convictions.

CHAIR GIESSEL referred to the question about doubling fines for a second conviction but not for more convictions.

[3:50:25 PM](#)

MR. PETERSON said that fines for first and second convictions were set in 1988, but fines for subsequent convictions were set later and do not need inflation adjustments.

CHAIR GIESSEL suggested that the fines were not increased so much as they were adjusted for justification.

MR. PETERSON said he was not involved in setting the fines; however, the increase does mirror inflation rates.

[3:52:12 PM](#)

SENATOR MICCICHE said he would like to know when big game fines were set to see if the adjustments are fair. Adjusting for inflation is a good way to raise fines, he said. He asked about a 50 percent reduction in fines for self-reporting violations, "so we don't have the waste that's associated without that self-reporting."

[3:53:40 PM](#)

MR. CHASTAIN said the legislature set the current restitution amounts in 1996. He stated that DPS is not concerned so much with the amount of the fine; however, it supports the concept of reducing or eliminating restitution for a "self-turn-in" to encourage people to bring in carcasses. "In fact, that is a policy of our department to not apply restitution to people who turn themselves in ... and we have an established history of doing that," he added. Troopers make such recommendations to district attorneys, but there have been a few times where judges have decided it would be more appropriate to apply restitution. He said having flexibility is important, and not applying restitution would encourage people to bring in animals that were illegally taken.

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SENATOR MICCICHE said it makes people less likely to cut their gear loose if they "wouldn't be fined by harvesting all the

fish." He said it is something to think about for the next committee. He said he remains concerned about the tags or permits in [subsections] (f) and (g) of section 3 that must be validated upon harvest, because "it clearly doesn't work in electronic form for something that has to be validated."

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SENATOR COGHILL asked if it is true that subsistence harvesters do not have to be licensed.

[3:57:59 PM](#)

SETH BEAUSANG, Attorney, Alaska Department of Law, Anchorage, Alaska, said some subsistence fisheries require permits, but not all.

[3:58:22 PM](#)

SENATOR COGHILL asked if there are 20,000 to 40,000 subsistence users as stated by the previous witness.

MR. BEAUSANG said he does not know.

SENATOR COGHILL requested the number of subsistence users and the number of issued sport fishing licenses. It is a legitimate point if the state does not know how many fish are being taken, he stated.

[3:59:39 PM](#)

SENATOR MICCICHE suggested that the witness was referring to the difference between subsistence and personal use, where one requires a license and one does not.

SENATOR COGHILL said the confusion is not surprising, "because it divides Alaskans pretty well ... between the personal use and subsistence use; however, it would be nice to know how many subsistence usage permits are there, if any."

SENATOR GIESSEL asked Senator Coghill to pose his question to the next witness.

[4:01:16 PM](#)

BRUCE DALE, Director, Division of Wildlife Conservation, Alaska Department of Fish and Game (ADF&G), Palmer, asked him if he is asking only about personal use fisheries.

SENATOR COGHILL said it is fisheries; how does a person distinguish between personal use and subsistence fisheries, and do they both require permits or licenses?

MR. DALE replied that he would get back to Senator Coghill.

[4:02:02 PM](#)

SENATOR MICCICHE asked why [AS 16.05.782(d)] was not in section 8 of the bill.

[4:02:45 PM](#)

MR. PETERSON clarified that subsection (d) is not being amended.

SENATOR MICCICHE spoke of a situation where a person who never breaks laws is hunting bears and stumbles within a half mile of a solid waste disposal facility and "drops a bear and a brown-shirt comes." Will there be any leniency if the hunter did not intend to use the waste facility as bait?

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MR. CHASTAIN said that section deals with taking brown bears near solid waste disposal sites. "What is attempting to be done here is that it makes it a violation if we cannot prove that negligence was part of it," he added.

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SENATOR MICCICHE interpreted Mr. Chastain's reply to mean that the DPS would be reasonable in its approach.

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CHAIR GIESSEL noted that many concerns with SB 164 are related to judicial matters, so she advocated moving it on to the Senate Judiciary Committee.

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SENATOR COSTELLO moved to report SB 164, version 29-GS2958\A, from committee with individual recommendations and attached fiscal note(s).

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CHAIR GIESSEL announced that without objection, SB 164 is reported from committee.

[4:06:43 PM](#)

At ease.

SB 172-FISH/SHELLFISH HATCHERY/ENHANCE PROJECTS

[4:08:05 PM](#)

CHAIR GIESSEL called the committee back to order and announced the consideration of SB 172.

[4:08:31 PM](#)

FOREST BOWERS, Deputy Director, Commercial Fisheries Division, Alaska Department of Fish and Game (ADF&G), Juneau, said ADF&G can permit shellfish hatcheries that supply aquaculture, but it cannot permit hatcheries designed to release shellfish into the natural environment. He explained that SB 172 establishes a permitting process for hatcheries designed to enhance existing shellfish resources. The shellfish industry is interested in doing this, he said, and people are exploring experimental shellfish aquaculture throughout Alaska. He noted that the bill is modeled after Alaska's private, nonprofit salmon hatchery program.

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MR. BOWERS said section 1 of SB 172 gives the Alaska Board of Fisheries the authority to direct ADF&G on how enhanced shellfish stocks would be managed in "special harvest areas" for cost recovery. He explained that there are special harvest areas for salmon hatchery operators to collect fish to recover their costs, and section 1 of SB 172 does the same for shellfish hatcheries. He said that once the brood stock needs are met, cost recovery could then occur in the special harvest area, which could be "a cost recovery fishery or an assessment that's supplied to common property harvesters in the special harvest area; we do both of those now."

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MR. BOWERS explained that section 2 is not directly related to shellfish enhancement, but it increases the permit application fee for new private, nonprofit salmon hatcheries from \$100 to \$1,000. The existing fee has been in place for about 40 years, he stated, and the new fee will more accurately reflect the cost of processing the applications.

SENATOR COGHILL said the increase is a big deal, and he asked if the application must be renewed annually.

MR. BOWERS replied that the fee is not for renewals; it is for new projects. There is only one or two every several years. New hatchery applications involve many staff and require public hearings, genetic assessments, and pathology work, for example.

SENATOR COGHILL asked if [permittees] can do some of that work.

[4:13:26 PM](#)

MR. BOWERS said yes. He moved on to section 3, which is the heart of SB 172 and provides the details of the permitting process. It addresses cost recovery for hatcheries, sets the application fee, allows ADF&G to solicit information from experts, and requires that a hatchery provide a substantial benefit to the public and not jeopardize natural stocks. Public hearings and addressing objections from the public are also required, he explained.

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MR. BOWERS said shellfish brood stocks must come from approved sources, ideally from native or nearby stocks, and released shellfish will be common property, except in special cost recovery harvest areas.

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SENATOR COSTELLO asked about [publishing hearing notices in a newspaper], and she recalled that legislation was passed allowing electronic notices.

MR. BOWERS said that was discussed as being somewhat archaic, but the Department of Law may have wanted that language.

[4:17:30 PM](#)

SAM RABUNG, Aquaculture Section Chief, Commercial Fisheries Division, Alaska Department of Fish and Game (ADF&G), Juneau, said the bill is verbatim from the salmon statutes, and he did not make any unnecessary changes.

CHAIR GIESSEL said she was informed that the bill Representative Costello referred to did not pass.

SENATOR COGHILL said that [allowing electronic notice] may be a good amendment, and he asked if "designated areas" are proposed to ADF&G or if they are simply designated by the department.

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MR. BOWERS answered that the Board of Fisheries can establish special harvest areas. They "are also laid out" in the "comprehensive salmon plan."

SENATOR COGHILL asked if the shellfish industry can propose special harvest areas.

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MR. RABUNG explained that the intent is to harvest the shellfish that are produced by the hatchery. The hatcheries release stock to contribute to the common property harvest; however, they are allowed to harvest a portion of that stock to fund hatchery operations.

SENATOR COGHILL said that he knows that there are places "that could or would be proposed, I just didn't know who did the vetting." He presented a scenario where a person wants to be in the shellfish industry and tells the state of a good area "because there's no other shellfish in that area; it's got good bottom lines in it; the water runs the right way; it's the right temperature, and Fish and Game says 'well we haven't designated it, sorry.'"

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MR. BOWERS said that scenario could occur, and ADF&G would evaluate the proposal.

SENATOR MICCICHE said oysters do not reproduce in Alaska, and "we" purchase spat from the Lower-48. He asked about areas that are already permitted for oysters and if they can be shipped around the state for existing aquatic farms.

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MR. RABUNG answered that SB 172 addresses indigenous species; it is for fishery enhancement. Oysters are not indigenous to Alaska, so farms have to be "under positive control."

MR. BOWERS said there is interest in hatcheries for red king crab near Kodiak, Sand Point, the Pribilof Islands, and Southeast Alaska. There is also interest in geoduck, abalone, and sea cucumber farms in Southeast. The most interest appears to be in red king crab and sea cucumbers, he added.

[4:22:30 PM](#)

SENATOR WIELECHOWSKI said ADF&G scientists have opposed geoduck fisheries for many years, although the legislature has now allowed it. He asked if some ADF&G scientists oppose SB 172.

MR. BOWERS said, "We look at this as a tool." Each project would be evaluated, he stated, and he would not be testifying if ADF&G was opposed to the proposal, but there could certainly be a number of hurdles to overcome with any given project.

SENATOR WIELECHOWSKI asked him to provide ADF&G documentation in opposition, because he wants to hear from both sides. Geoducks

have been a big issue for years, and "I just want to make sure we go into this with eyes open and that this isn't a political decision that's being made."

SENATOR WIELECHOWSKI then noted that Mr. Bowers has said that only native species will be used; however, the definition of "shellfish" in SB 172 includes those that are "authorized to be imported into the state under a permit issued by the commissioner." It is a big concern, and he asked if ADF&G would change the definition of shellfish to exclude nonnative species. There are horror stories from other states and even in Alaska, he stated. "All the science in the world supports it at the time ... and it decimates a fishery."

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MR. BOWERS said, "We would not object to that."

SENATOR WIELECHOWSKI asked if there is a prohibition of genetically modified shellfish in the bill, and he asked if ADF&G would oppose such a provision.

MR. BOWERS answered that SB 172 does not refer to genetically modified shellfish, and "I don't think we would object to ... such a prohibition at all, provided that we could develop a clear definition of what those organisms would be."

SENATOR COGHILL said if natural stock will be used, "that would be fair, but if it's going to be enhanced, that could be called genetically modified."

MR. BOWERS said enhancement relates to increasing abundance or rehabilitating [stocks], not enhancing organism characteristics.

[4:26:41 PM](#)

SENATOR COGHILL said that as long as indigenous stocks are used, then "the enhancement stays under that category." He said he wanted it to be clear.

SENATOR MICCICHE said "we" are growing oysters that are imported and do not reproduce here. There are thousands of acres of them and we all love them, he added. He questioned disadvantaging oyster growers by not allowing them to grow spat.

[4:27:28 PM](#)

MR. BOWERS answered that spat can be produced in Alaska, and the existing program permits shellfish hatcheries for the purpose of

supplying shellfish to aquatic farms. He believes there is one hatchery doing that.

SENATOR MICCICHE questioned why the legislature would not want to allow nonnative, imported species that were approved by the [ADF&G] commissioner.

MR. BOWERS noted that SB 172 addresses enhancement of fisheries by producing shellfish to be released into the wild; it does not relate to aquatic farms. "We would only be taking brood stock out of the wild, getting the offspring up to some certain size, and then releasing them back into the wild for purposes of enhancing a fishery or rehabilitating a depressed stock," he explained.

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SENATOR WIELECHOWSKI asked about section 6. "You're including them under the farmed fish definition, and so you would be banning farmed fishing of shellfish?"

MR. BOWERS said that is correct.

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MR. BOWERS said section 3 describes the cost recovery fishery; section 4 allows the Commercial Fisheries Entry Commission to issue special harvest area permits; section 5 defines the legal fishing gear for the hatchery, and section 7 provides liability immunity to nonprofit hatchery operators who donate fish to a food bank. He said sometimes there is excess brood stock or less productive stock that hatcheries donate. Section 8 establishes an Alaska corporate income tax exemption for hatcheries—"that's the nonprofit part;" section 9 exempts cost recovery fisheries from business taxes; and sections 10-12 contain standard implementation language.

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CHAIR GIESSEL opened public testimony.

[4:32:51 PM](#)

NANCY HILLSTRAND, Owner, Pioneer Alaskan Fisheries, Kachemak Bay, Alaska, said Pioneer Alaska Fisheries is a 52-year-old Alaskan corporation, and she has 21 years of experience with hatcheries and salmon stream rehabilitation. When the original legislation was written, she stated, it was an innocent attempt to rehabilitate depressed salmon fisheries while being mandated to operate without adversely affecting natural stocks. Unfortunately, she said, the hatcheries are a drain on state

revenues. Adding shellfish hatcheries will further burden Alaska budgets, because it will be difficult to have adequate oversight. She stated that "they're having a hard time with the pink salmon process, and we have a lot of problems down here in Lower Cook Inlet with strays and fish going up streams and ... fish not getting mopped up."

MS. HILLSTRAND recommended analyzing the economics of [shellfish hatcheries] and looking at the underlying causes of shellfish depletion. She said that in 1976, Commissioner Carl Rosier admitted that shellfish were overharvested, and after a political shift in 1977, "we built hatcheries right on top of the shellfish nursery here in Kachemak Bay." Pink salmon eat larvae, so the "innocent" legislation now produces almost 2 billion little pink salmon that are eating "our larvae," so maybe the state should look at the underlying cause of the shellfish problem. The state has an ideology, she stated, in favor of hatcheries, and it does not allow open doors of new information to come in.

MS. HILLSTRAND said that the controversies that surround this issue show that there really needs to be an open-door situation for new scientific information in order to prevent mistakes that will impact Alaska's natural stock. She explained that the American Fisheries Society has seven points "that they talk about," and one includes opening the door for science. There are underlying costs that people are not aware of, she stated. She asked if all comprehensive measures have been taken to comprehend, mitigate, and correct underlying causes of localized depletions of Alaska's shellfish. She does not believe that has been done; "I think we're actually adding a problem on top of it." She recommended oversight because the commissioner cannot do all of these jobs. She said there needs to be an independent, neutral council, and she suggested using the American Fisheries Society, "because they seem to have their pulse on what's going on with hatcheries ... and are more up-to-date than the State of Alaska." An independent, unbiased group that can bring in the new science would provide the third leg of the stool, she stated. She said that some ADF&G staff are not allowed to discuss hatcheries, unless they agree "with it." She said she is hoping that SB 172 will not go forward until a cost analysis is done on existing hatcheries. A report by ISER [Institute of Social and Economic Research, Anchorage, AK] shows some of the costs that the state has had to contribute, but a McDowell [Group] report does not show those costs, she said, which makes it look like hatcheries are free.

MS. HILLSTRAND said the wording of SB 172 seems to allow the movement of crab or other shellfish around the state with the commissioner's blessings. She said that is dangerous and should not be allowed. She added that there is no definition of "enhancement," "restoration," or "rehabilitation" in statute, and these words need to be defined.

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MS. HILLSTRAND summarized that there needs to be a debate pertaining to hatcheries so that Alaska's wild stocks can be protected.

CHAIR GIESSEL noted that Ms. Hillstrand's written testimony is available online.

[4:39:13 PM](#)

STEVE RYKACZEWSKI, Oyster Farmer, Homer, Alaska, said he was thrilled that Governor Bill Walker recently established the Alaska Mariculture Taskforce. He said he has just seen SB 172 and is still trying to understand it. The bill only addresses enhancement, and that is not his focus, he explained. He said the Kachemak Shellfish Mariculture Association constructed a remote setting facility four years ago in response to a West Coast shortage of oyster seed. A remote setting facility is where the larvae continue their growth after they are hatched in a hatchery, he explained. He believes it is the only Alaska facility producing oyster seed. Two days ago, ADF&G issued a "fish resource permit," allowing the experimental hatching of oysters in his existing facility. "If we're successful, we could become an oyster hatchery in the near future," he said. He noted that SB 172 might not apply, but it states that the application fee for a new facility would be \$1,000, and "our budget is a shoestring and we count, literally, every nickel." A \$100 fee seems more reasonable, he said, instead of increasing it by ten-fold. A diversified mariculture can ultimately provide state revenue, but "please don't hamstring our efforts at this stage."

[4:42:27 PM](#)

CHERYL RYKACZEWSKI, Secretary, Kachemak Shellfish Mariculture Association, Homer, Alaska, said the association is a nonprofit organization supporting mariculture in Southcentral Alaska. The group is 25-years old and the goal has long been to hatch oyster larvae from Alaskan oyster brood stock, which would come from local oyster farms, she stated. Currently, the oysters reared in the group's remote setting facility are placed in Alaska oyster farms, but the larvae come from Oregon. She noted that her perspective is from an oyster farming viewpoint, and she is not

sure that SB 172 addresses that; however, allowing and encouraging shellfish hatcheries in Alaska will help the shellfish industry grow. Keeping the permit application fees low will help sustain that growth during its early stages, she opined.

[4:43:59 PM](#)

CHAIR GIESSEL announced that public testimony would be left open. She asked Mr. Bowers if the bill applies to oysters.

MR. BOWERS answered that the bill does not cover oyster farming operations, which are permitted under separate statutes. This bill addresses the enhancement of wild stocks in Alaska only. It is analogous to the state's efforts in enhancing the five species of salmon that are native to Alaska, and SB 172 could enhance king crab, sea cucumbers, or geoduck clams, for example.

[4:45:30 PM](#)

SENATOR WIELECHOWSKI asked Mr. Bowers to address Ms. Hillstrand's questions and concerns about costs, monitoring, definitions, and impacts on other species.

MR. BOWERS said Ms. Hillstrand's concerns about independent oversight are addressed in section 3. "We specifically describe a mechanism for that where the commissioner would be required to consult with outside experts ... and they would advise the commissioner on permit issuance," he told the committee.

CHAIR GIESSEL asked where that language was.

MR. BOWERS said lines 22-24 on page 2 address the concerns expressed by Ms. Hillstrand. "We also specifically address the location where brood stock would be taken in relation to their release site," he stated, desiring that brood stock come from an area close to where the fish are released. He pointed out that ADF&G is not taking salmon from Bristol Bay and releasing them in Southeast Alaska. There may be bays off Kodiak Island where crab no longer exist or there are too few to collect brood stock, so ADF&G might take crab from other parts of the island.

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MR. BOWERS said ADF&G is going to try to get the brood stock from the geographic area that it is trying to enhance.

CHAIR GIESSEL asked him to verify the bill section. "I see it starting on line 11 on page 3; it's a pretty extensive

description." She noted a provision on surplus shellfish on line 28.

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MR. BOWERS said that page 5, lines 8-13, states that brood stock will be native to the area where the shellfish will be released. Brood stock from other areas would need approval, and "that is something we would evaluate." It would not be permitted automatically, he said.

SENATOR WIELECHOWSKI asked if stock could come from Kodiak and transplanted to Southeast Alaska.

MR. BOWERS said ADF&G "would go through this review process." He noted that the department is working on a genetics policy for shellfish, and it will be a companion to SB 172 because of the interest in shellfish enhancement. He then said, "I can't say that we would permit that particular example."

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SENATOR WIELECHOWSKI noted that he can only read what is in front of him, and on page 5, lines 11-13, it reads:

(b) Where feasible, shellfish taken by a hatchery operator shall first be taken from stocks native to the area in which the shellfish will be released, and then, upon department approval, from other areas, as necessary.

SENATOR WIELECHOWSKI pointed out that the language seems to allow taking a shellfish from Cook Inlet and transplanting it to Southeast. He asked if Mr. Bowers would support deleting the second half of [subsection (b)].

MR. BOWERS said ADF&G would not have any objection to that.

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CHAIR GIESSEL thanked the testifiers and asked them to submit answers to the questions posed by the committee. She said she will hold SB 172 and take it up in a couple of weeks after she consults with Senator Wielechowski regarding amendments.

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There being no further business to come before the committee, Chair Giessel adjourned the Senate Resource Committee at 4:52 p.m.