

CS FOR HOUSE BILL NO. 129(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/14/18

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to sport fishing, hunting, or trapping licenses, tags, or permits; relating
2 to penalties for certain sport fishing, hunting, and trapping license violations; relating to
3 restrictions on the issuance of sport fishing, hunting, and trapping licenses; creating
4 violations and amending fines and restitution for certain fish and game offenses;
5 creating an exemption from payment of restitution for certain unlawful takings of big
6 game animals; relating to commercial fishing violations; allowing lost federal matching
7 funds from the Pittman - Robertson, Dingell - Johnson/Wallop - Breaux programs to be
8 included in an order of restitution; adding a definition of 'electronic form'; and
9 providing for an effective date."

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

11 * **Section 1.** AS 16.05.330(a) is amended to read:

12 (a) Except as otherwise permitted in this chapter, without having the

1 appropriate license, [OR] tag, or permit in actual possession, a person may not
2 engage in

- 3 (1) sport fishing, including the taking of razor clams;
 - 4 (2) hunting or [,] trapping [, OR FUR DEALING];
 - 5 (3) the farming of fish, fur, or game;
 - 6 (4) taxidermy or fur dealing; or
 - 7 (5) control of nuisance wild birds and nuisance wild small mammals
- 8 for compensation.

9 * **Sec. 2.** AS 16.05.330(d) is amended to read:

10 (d) A person may not receive a sport fishing, hunting, or trapping license or
11 other permit or tag issued under AS 16.05.330 - 16.05.430, if the person's right to
12 obtain, or exercise the privileges granted by, a sport fishing, hunting, or trapping
13 license is suspended or revoked in this or another state. A person who applies for a
14 sport fishing, hunting, or trapping license or other permit or tag issued under
15 AS 16.05.330 - 16.05.430 shall sign a statement that the person's right to obtain, or
16 exercise the privileges granted by, a sport fishing, hunting, or trapping license is not
17 suspended or revoked in this or another state.

18 * **Sec. 3.** AS 16.05.330 is amended by adding new subsections to read:

19 (f) A person charged with violating (a)(1) or (2) of this section for failure to
20 have a license in actual possession may not be convicted if the person produces, in an
21 office of the arresting or citing agency, not later than 30 days after the issuance of the
22 citation, a license previously issued to the person that was valid at the time of the
23 offense.

24 (g) A license in actual possession may be in paper or electronic form.

25 (h) A peace officer presented with an electronic device under (g) of this
26 section is immune from any liability resulting from damage to the device.

27 * **Sec. 4.** AS 16.05.340(a)(6) is amended to read:

28 (6) Resident hunting, trapping, and sport fishing license 75;

29 (A) however, the fee is \$5 for an applicant who has an annual
30 family or household income equal to or less than the most recent poverty
31 guidelines for the state set by the United States Department of Health and

1 Human Services for the year preceding application;

2 (B) a person paying \$5 for a resident hunting, trapping, and
 3 sport fishing license **shall** [MUST] provide proof of eligibility under this
 4 paragraph when **purchasing** [REQUESTED BY] the **license**
 5 [DEPARTMENT].

6 * **Sec. 5.** AS 16.05.430(a) is amended to read:

7 (a) Except as provided in **AS 16.05.330(f), 16.05.407(b)** [AS 16.05.407(b)]
 8 and (d), 16.05.408(b), and 16.05.420(b), a person who violates AS 16.05.330 -
 9 16.05.420 or a regulation adopted under AS 16.05.330 - 16.05.420 is guilty of a **class**
 10 **A** misdemeanor [AND UPON CONVICTION IS] punishable by a fine of not more
 11 than **\$5,000** [\$1,000], or by imprisonment for not more than six months, or by both.

12 * **Sec. 6.** AS 16.05.430 is amended by adding new subsections to read:

13 (c) Except as provided in AS 16.05.407(b) and (d), 16.05.408(b), and
 14 16.05.420(b), a person who, without any culpable mental state, violates AS 16.05.330
 15 - 16.05.420 or a regulation adopted under AS 16.05.330 - 16.05.420 is guilty of a
 16 violation punishable as provided in AS 12.55.

17 (d) In addition to any penalty imposed under this section, a person may be
 18 ordered to pay restitution to the state equal to the amount of any lost state or federal
 19 matching funds from the Pittman - Robertson, Dingell - Johnson/Wallop - Breaux
 20 programs incurred from the person's violation of AS 16.05.330 - 16.05.420 or a
 21 regulation adopted under this chapter, AS 16.20, or AS 16.40.

22 * **Sec. 7.** AS 16.05.722(a) is amended to read:

23 (a) A person who, without any culpable mental state, violates AS 16.05.440 -
 24 16.05.690 [,] or a regulation of the Board of Fisheries or the department governing
 25 commercial fishing [,] is guilty of a violation and upon conviction is punishable by a
 26 fine of not more than

27 (1) **\$6,000** [\$3,000] for a first conviction;

28 (2) **\$12,000** [\$6,000] for a second conviction or for a subsequent
 29 conviction not described in (3) of this subsection; and

30 (3) **\$15,000** [\$9,000] for a third or subsequent conviction within a 10-
 31 year period.

1 * **Sec. 8.** AS 16.05.722 is amended by adding a new subsection to read:

2 (d) The court shall transmit notice of all convictions under this section to the
3 Alaska Commercial Fisheries Entry Commission.

4 * **Sec. 9.** AS 16.05.782(a) is amended to read:

5 (a) Except as provided in (d) of this section, a person **may not take** [WHO
6 WITH CRIMINAL NEGLIGENCE TAKES] a brown or grizzly bear within one-half
7 mile of a solid waste disposal facility [IS GUILTY OF A CLASS A
8 MISDEMEANOR].

9 * **Sec. 10.** AS 16.05.782(b) is amended to read:

10 (b) In addition to the penalty imposed by law under [(a) OF] this section, the
11 court shall order forfeiture of the hide and skull of the bear; [, BUT] if the hide and
12 skull are not salvaged and delivered to the department, [THEN] the court shall impose
13 an additional fine of up to \$10,000.

14 * **Sec. 11.** AS 16.05.782 is amended by adding new subsections to read:

15 (f) A person who, with criminal negligence, violates (a) of this section is
16 guilty of a class A misdemeanor punishable as provided in AS 12.55.

17 (g) A person who, without any culpable mental state, violates (a) of this
18 section is guilty of a violation punishable as provided in AS 12.55.

19 * **Sec. 12.** AS 16.05.783(c) is amended to read:

20 (c) A person who violates this section is guilty of a **class A** misdemeanor, and
21 [UPON CONVICTION] is punishable by a fine of not more than **\$10,000** [\$5,000], or
22 by imprisonment for not more than one year, or by both. In addition, the court may
23 order the aircraft and equipment used in or in aid of a violation of this section to be
24 forfeited to the state.

25 * **Sec. 13.** AS 16.05.789(b) is amended to read:

26 (b) A person who violates this section is guilty of a class A misdemeanor
27 **punishable as provided in AS 12.55.**

28 * **Sec. 14.** AS 16.05.789 is amended by adding a new subsection to read:

29 (c) A person who, without any culpable mental state, violates this section is
30 guilty of a violation punishable as provided in AS 12.55.

31 * **Sec. 15.** AS 16.05.790 is amended by adding a new subsection to read:

(g) A person who, without any culpable mental state, violates this section is guilty of a violation punishable as provided in AS 12.55.

* **Sec. 16.** AS 16.05.831(c) is amended to read:

(c) A person who violates this section or a regulation adopted under it is **guilty of a class A misdemeanor** punishable **as provided in AS 12.55** [BY A FINE OF NOT MORE THAN \$10,000, OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY BOTH]. In addition, a person who violates this section is subject to a civil action by the state for the cost of replacing the salmon wasted.

* **Sec. 17.** AS 16.05.901 is amended by adding a new subsection to read:

(c) A person who, without any culpable mental state, violates AS 16.05.871 - 16.05.896 is guilty of a violation punishable as provided in AS 12.55.

* **Sec. 18.** AS 16.05.925 is amended to read:

Sec. 16.05.925. Penalty for violations. (a) Except as provided in AS 16.05.430, 16.05.665, 16.05.722, 16.05.723, 16.05.783, 16.05.831, 16.05.861, [AND] 16.05.905, **and (c) of this section**, a person who violates AS 16.05.920 or 16.05.921, or a regulation adopted under this chapter or AS 16.20, is guilty of a class A misdemeanor **punishable as provided in AS 12.55**.

(b) In addition to a penalty imposed under (a) of this section or any other penalty for violation of this title or a regulation adopted under this title, **and except as provided in (c) of this section**, a person who is convicted of unlawfully taking an animal listed in this subsection, **as adjusted for inflation as provided in (d) of this section**, may be ordered by the court to pay restitution to the state in the amount set out in this subsection for each animal unlawfully taken:

- (1) Bear, black **\$ 900** [\$ 600]
- (2) Bear, brown or grizzly **2,500** [1,300]
- (3) Bison **3,000** [1,300]
- (4) Caribou **1,500** [850]
- (5) Deer **1,000** [400]
- (6) Elk **2,000** [800]
- (7) Goat **2,000** [800]
- (8) Moose **2,500** [1,000]

- 1 (9) Musk oxen 4,500 [3,000]
- 2 (10) Sheep 2,000 [1,100]
- 3 (11) Wolf 1,000 [500]
- 4 (12) Wolverine 750 [500].

5 * **Sec. 19.** AS 16.05.925 is amended by adding new subsections to read:

6 (c) A defendant may not be ordered to pay restitution under (b) of this section
7 if the defendant

8 (1) as soon as reasonably practicable, voluntarily reports the taking to
9 the department or a state law enforcement officer engaged in fish and wildlife
10 protection; and

11 (2) surrenders to the department all salvaged portions of the animal,
12 including its horns, antlers, hide, and skull, as applicable.

13 (d) Beginning July 1, 2023, and every five years thereafter, the department
14 shall recalculate and update by regulation the restitution amounts provided in (b) of
15 this section to adjust for inflation, based on a formula provided by the Department of
16 Labor and Workforce Development, reflecting the change in the Consumer Price
17 Index for the Anchorage metropolitan area compiled by the Bureau of Labor Statistics,
18 United States Department of Labor, rounded to the nearest \$50 increment.

19 * **Sec. 20.** AS 16.05.940 is amended by adding a new paragraph to read:

20 (39) "electronic form" means the display of images on an electronic
21 device such as a mobile telephone, tablet, or computer.

22 * **Sec. 21.** AS 16.10.030 is amended to read:

23 **Sec. 16.10.030. Penalty for violation of AS 16.10.010 - 16.10.050.** A person
24 who violates AS 16.10.010 - 16.10.050 is guilty of a class A misdemeanor and [,
25 UPON CONVICTION,] is punishable by a fine of not less than \$100 nor more than
26 \$1,000 [\$500].

27 * **Sec. 22.** AS 16.10.030 is amended by adding a new subsection to read:

28 (b) A person who, without any culpable mental state, violates AS 16.10.010 -
29 16.10.050 is guilty of a violation punishable as provided in AS 12.55.

30 * **Sec. 23.** AS 16.10.090 is amended to read:

31 **Sec. 16.10.090. Penalty for violation of AS 16.10.070.** A person who violates

1 AS 16.10.070 is guilty of a **class A** misdemeanor [AND IS] punishable **as provided in**
 2 **AS 12.55** [BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY A
 3 FINE OF NOT MORE THAN \$5,000 OR BY BOTH].

4 * **Sec. 24.** AS 16.10.090 is amended by adding a new subsection to read:

5 (b) A person who, without any culpable mental state, violates AS 16.10.070 is
 6 guilty of a violation punishable as provided in AS 12.55.

7 * **Sec. 25.** AS 16.10.110 is amended to read:

8 **Sec. 16.10.110. Penalty for violation of AS 16.10.100.** A person who violates
 9 AS 16.10.100 is guilty of a **class A** misdemeanor and is punishable by imprisonment
 10 for not more than one year or by a fine of not more than **\$10,000** [\$5,000], or by both.

11 * **Sec. 26.** AS 16.10.110 is amended by adding a new subsection to read:

12 (b) A person who, without any culpable mental state, violates AS 16.10.100 is
 13 guilty of a violation punishable as provided in AS 12.55.

14 * **Sec. 27.** AS 16.10.130 is amended to read:

15 **Sec. 16.10.130. Penalty for violation of AS 16.10.120 or 16.10.125.** A person
 16 who violates AS 16.10.120 or 16.10.125 is guilty of a **class A** misdemeanor, and
 17 [UPON CONVICTION] is punishable by imprisonment for not more than six months,
 18 or by a fine of not more than **\$5,000** [\$1,000], or by both.

19 * **Sec. 28.** AS 16.10.130 is amended by adding a new subsection to read:

20 (b) A person who, without any culpable mental state, violates AS 16.10.120 or
 21 16.10.125 is guilty of a violation punishable as provided in AS 12.55.

22 * **Sec. 29.** The uncodified law of the State of Alaska is amended by adding a new section to
 23 read:

24 APPLICABILITY. This Act applies to offenses committed on or after the effective
 25 date of this Act.

26 * **Sec. 30.** This Act takes effect July 1, 2018.