

HOUSE FINANCE COMMITTEE

April 4, 2018

1:38 p.m.

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CALL TO ORDER

Co-Chair Foster called the meeting to order at 1:38 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair  
Representative Paul Seaton, Co-Chair  
Representative Les Gara, Vice-Chair  
Representative Jason Grenn  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Dan Ortiz  
Representative Lance Pruitt  
Representative Steve Thompson  
Representative Cathy Tilton  
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Brodie Anderson, Staff, Representative Neal Foster; Brandon S. Spanos, Deputy Director, Tax Division, Department of Revenue; Martin Stepetin, Self, Juneau; Representative Scott Kawasaki, Sponsor; Jacob Gerrish, Staff, Representative Scott Kawasaki; Martin Stepetin, Self, Juneau.

PRESENT VIA TELECONFERENCE

Major Bernard Chastain, Alaska Wildlife Troopers, Department of Public Safety; Aaron Peterson, Criminal Division, Office of Special Prosecution, Department of Law; Bruce Dale, Director, Division of Wildlife Conservation, Department of Fish and Game, Anchorage; Mike Robinson, Alaska Library Association, Anchorage; Mary Jo Torgeson, Anchorage Public Library, Anchorage; Evelyn Trefon, Self, Newhalen; Leon Jaimes, Self, Anchorage; David Parrish,

Common Carrier Specialist IV, Regulatory Commission of Alaska; Jonathan Clement, Attorney, Civil Division, Department of Law.

SUMMARY

HB 129 FISH & GAME: OFFENSES;LICENSES;PENALTIES

HB 129 was HEARD and HELD in committee for further consideration.

HB 277 BROADBAND INTERNET: NEUTRALITY/REGULATION

HB 277 was HEARD and HELD in committee for further consideration.

HB 398 CORP TAX:PUBLIC UTILITY INCOME ALLOCATION

HB 398 was REPORTED out of committee with a no recommendation and with one zero fiscal note from the Department of Revenue.

Co-Chair Foster reviewed the meeting agenda.

#hb398

HOUSE BILL NO. 398

"An Act relating to the allocation and apportionment of income of a public utility for purposes of the Alaska Net Income Tax Act; and providing for an effective date."

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BRODIE ANDERSON, STAFF, REPRESENTATIVE NEAL FOSTER, relayed that the bill addressed foregone revenue. He read from a prepared statement:

HB 399 is accumulation of work to address foregone revenue and provide the state with the ability to potentially capture new revenue.

A brief history on how this piece of legislation was introduced.

In 2014, legislation was passed that required a both Department of Revenue and Legislative Finance to

create a report on Indirect Expenditures and the amount forgone revenue not captured by the State.

The first Indirect Expenditure Report was submitted in 2015. In that report it identified a list of indirect expenditures within Department of Revenue that should be terminated.

Then last year during the FY18 budget process, the House Finance Subcommittee for the Department of Revenue reviewed these indirect expenditures and recommended that House Finance Committee offer legislation that eliminates these indirect expenditures.

HB 399 repeals certain credits and exemptions from the recommendations offered in both the Indirect expenditure report and the Sub-committee.

The indirect expenditures repealed in HB 399 were selected for repeal for following reasons: The indirect expenditures did not meet legislative intent, had limited benefit or wasn't used, or their conforming purpose has changed.

House Bill 399 repeals the following indirect expenditures:

- Federal Tax Credits
- Foreign Royalty Exclusions
- Reduced Rate for Capital Gains
- Credit associated with the Stranded Gas Act

The combined total of the potential new revenue is up to an estimated \$6.9 million dollars according to the fiscal note in front of the committee.

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Mr. Anderson reviewed the sectional analysis (copy on file):

Section 1 AS 43.20 Adds new section Sec. 43.20.146 Removes the exemption of multistate public utilities from water's edge reporting within the Multistate Tax Compact.

Section 2 Uncodified Law Adds new section Applicability Section 1 does not take effect under AS 43.20 (Alaska Net Income Tax Act) until the effective date.

Section 3 Uncodified Law Adds new section Transition: Regulations shall change to implement the legislation but not be adopted before January 1, 2019.

Section 4 Effective Date Sections 1 and 2 take effect on January 1, 2019

Co-Chair Foster asked to hear from the Department of Revenue.

Representative Wilson asked if the bill included nonprofits.

BRANDON S. SPANOS, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, answered that the bill would not apply to nonprofits.

Representative Wilson provided a scenario where a telephone company operated in Alaska and New York. She asked whether the taxes paid would be split between both states. Mr. Spanos answered in the affirmative. He explained that the amount Alaska would receive was based on property, payroll, and sales.

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Representative Ortiz shared that he had a local utility in his community owned by the city. He asked if the bill would impact the utility. Mr. Spanos answered that utilities owned by the municipality had a tax-exempt status. The bill would not apply to those entities.

Co-Chair Foster spoke to utilities doing business in multiple states. He stated that typically corporations should follow the "three factor apportionment income formula". The bill would eliminate the exemption from three utilities that currently did not follow the formula resulting in all utilities following the same formula. He asked if his understanding was accurate.

Mr. Spanos answered that it was partially accurate. He clarified that the statute allowed the utility to choose a

different formula and the bill standardized the same formula for everyone.

Co-Chair Foster OPENED and CLOSED public testimony.

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Co-Chair Foster relayed amendments would be due by 5:00 p.m.

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AT EASE

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RECONVENED

Co-Chair Foster related that the committee was comfortable with moving the bill out of committee.

Co-Chair Seaton noted the bill had a new zero fiscal note from the Department of Revenue (DOR).

Co-Chair Seaton MOVED to REPORT HB 398 out of committee with individual recommendations and the accompanying fiscal note.

Representative Wilson OBJECTED for a clarification that the fiscal note was indeterminate for state revenue.

There being NO further OBJECTION, it was so ordered.

HB 398 was REPORTED out of committee with no recommendation and with one zero fiscal note from the Department of Revenue.

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AT EASE

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RECONVENED

#hb129

HOUSE BILL NO. 129

"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; creating an exemption from payment of restitution for certain unlawful takings of big game animals; 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'; and providing for an effective date."

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MAJOR BERNARD CHASTAIN, ALASKA WILDLIFE TROOPERS, DEPARTMENT OF PUBLIC SAFETY (via teleconference), read from prepared remarks. He read the sectional analysis.

Summary: This legislation will provide the Alaska Wildlife Troopers the authority to issue correctable citations, similar to those available for driver's licenses. This bill will prohibit a person from receiving a sport fishing, hunting, or trapping license in Alaska if their privileges have been suspended or revoked in this or another state. This bill increased the restitution for animals harvested illegally and provided an additional tool for the Alaska Wildlife Troopers in charging wildlife, fisheries, and habitat crimes by allowing for some offenses to be reduced to violations. Finally, the bill allows for the display of a license in an electronic format to reflect modernization efforts made to the fish and game licensing program.

Section 1 This section 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.

Under AS 16.05.330, a person engaged in the activities listed in 1-5 in section one, must have in their actual possession a license, tag or permit to legally engage in that activity. Section one re-orders the activities into two separate categories; 1 and 2 are

considered sport activities and 3, 4 and 5 are considered commercial activities. The purpose for this is contained in section three of this bill

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Major Chastain continued with Section 2.

Section 2 This section 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's rights to engage in those activities is revoked or suspended in Alaska.

Section 3 This section amends AS 16.05.330 by adding three subsections:

(f) provides that a person charged with failing to have the appropriate sport fishing, hunting or trapping license in their actual possession may not be convicted if the person produces a license previously issued to the person that was valid at the time of the offense not later than 30 days after the issuance of the citation.

(g) allows that a license or permit may be in actual possession in paper or electronic form.

(h)The third subsection specifically states any peace officer presented with an electronic device under this section shall be immune from any liability resulting from damage to the device.

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Major Chastain moved to Section 4 that had been added in a previous committee:

Section 4 This section amends AS 16.05.340 (a) (6) to require a person paying the reduced fee for a low income resident hunting, trapping, and sport fishing license to provide proof of eligibility at the time of purchase.

Section 5 Under AS 16.05.430 fish and game penalties, this section increases the specific fines and penalties associated with an unclassified misdemeanor and replaces it with a class A misdemeanor.

Section 5 specifically exempts the correctable citation section 16.05.330(f) from the penalties

portion of the statute. Additionally, it makes the crimes listed a class A misdemeanor.

Major Chastain listed Sections 5, 12, 21, 25, and 27 and explained that they were amended by a previous committee. He read from a description of the amendment that altered the sections. He delineated that the amendment was designed to limit the fines on some of the offenses in Title 16 which was amended by HB 129. The amendment removed the general reference to AS.12.55 in many places and reinstated the specific incarceration penalties from current law. The amendment left references to Class A misdemeanors in areas where the specific penalties were reinstated. Class A misdemeanors had a specific meaning in the law and the penalties were contained in AS.12.55. The Department of Public Safety (DPS) recommended removing the reference to Class A and changing to non-classified misdemeanors. He voiced that the change was consistent with current law. He reported that the representative [Representative Ledoux] who offered the amendment concurred with the recommended change.

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Major Chastain addressed Sections 6 through 8:

Section 6 Related to section 5, this section adds a new subsection and creates the ability to charge some offenses as violations that are currently only allowed to be charged as misdemeanors. It also addresses the Pittman-Robertson act and federal matching dollars lost by the State of Alaska when the state is defrauded by a defendant who does not purchase the proper license and/or tag as required by law to participate in a given hunt or fishery.

Section 6 of this bill creates two new subsections within AS 16.05.430:

Subsection (c) establishes that a person may be charged with the violation offence if there is no culpable mental state established.

Subsection (d) provides the court with the ability to impose additional restitution to the state of Alaska equal to the amount of lost federal matching funds from the Pittman-Robertson / 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. If

the court decides to implement the additional restitution for the loss of federal funds, the court will be instructed to deposit the restitution into the fish and game fund.

Section 7 This section raises the strict liability commercial fishing violation fines from the amounts established in 1988, when this section was enacted, to the same amount adjusted for inflation. The fine increase will serve as both a deterrent and tool for Alaska Wildlife Troopers to effectively enforce the states most important fisheries.

Section 8 This section requires the court system to transmit notice of all convictions under this section to the Commercial Fisheries Entry Commission (CFEC). Commercial fishers are applied points similar to driver's licenses when a person is convicted of certain commercial fishing offenses.

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Major Chastain addressed Sections 9 and 10:

Section 9 Amends AS 16.05.782 and removes the penalty section from (a) which cleans up the subsection and makes it clearer. This section makes it clear that a person may not take a brown or grizzly bear within one-half mile of a solid waste disposal facility. The penalties for this section will now be contained within sections 10 and 11.

Sectional Analysis CSHB129 (JUD) FISH & GAME:  
OFFENSES;LICENSES;PENALTIES Page 3 of 5

Section 10 Related to section 9, this section removes the unnecessary reference to section (a) and maintains the additional penalties of an additional fine for failing to salvage the hide and skull of the Brown Bear.

Major Chastain detailed that the sections cleaned up the statutes and established Class A misdemeanors as a standard for the offenses but also allowed charging for violation offenses therefore, many sections contain a violation offense and the standardized misdemeanor offense.

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Major Chastain read a summary of Sections 11 through 16:

Sections 11-16 generally standardize penalties in the statutes listed by providing an additional option of charging a person with a violation offense when appropriate.

Major Chastain highlighted Sections 17 and 18:

Section 17 Under AS 16.05.901 a new subsection is added in this section to provide for charging offenses committed under AS 16.05.871-AS 16.05.896 as a violation offence punishable as provided in AS 12.55. Section 18 Under AS 16.05.925 "Penalty for violations", subsection (a) is amended to provide consistency in the penalties as provided under AS 12.55 and provides an exemption for a new subsection added under (c).

Under AS 16.05.925 (b), this subsection provides for restitution amounts that the court may impose for illegally taken big game animals in Alaska. This section increases the restitution amounts by at least 50% that a person convicted of unlawfully taking big game may have to pay to the state if the court choses to implement restitution. Alaska's game belongs to all of us collectively. When a big game animal is unlawfully taken, it defrauds the state of the value of that animal to its citizens. This value varies greatly depending on the species of animal, the location of the take, the social value of the animal, the economic value of the animal and the food source value to the people of the state. These restitution values may be imposed by the court if the case warrants applying restitution. In most cases, it does not make the state "whole" for the loss of the animal but helps pay the state back for the illegal take.

Current restitution amounts were enacted in 1984 and have gone untouched since then.

This section adds a provision that refers to an inflation adjustment provision added in section 19.

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Major Chastain moved to Section 19:

Section 19 Under AS 16.05.925 a new subsection was added relating to subsection (b). Subsection (c)

establishes that a defendant may not be ordered to pay restitution to the state under this section if:

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

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

This subsection will provide an incentive for persons who have unlawfully taken a big game animal and wish to turn themselves in. This protects hunters who want to do the right thing from paying additional restitution amounts.

A new subsection (d) provides for restitution amounts under this section to be adjusted for inflation every 5 years, beginning in 2023.

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Major Chastain reviewed Section 20 through 24:

Section 20 Under AS 16.05.940 (38) a new definition is added. This paragraph defines "electronic form" as it pertains to section 3 under AS 16.05.330(g). It provides for display of [license] images on an electronic device such as a mobile telephone, tablet or computer that will satisfy the display of fishing and hunting licenses.

Section 21 Under AS 16.10.030 "penalty for violations of AS 16.10.010-AS 16.10.050" this subsection is amended to provide that a person who violates AS 16.10.010 through AS 16.10.050 is guilty of a Class A misdemeanor and increases the associated specific penalty.

Section 22 Under AS 16.10.030 "penalties for violations" and relating to section 20, this subsection provides for a person who violates AS 16.10.030 through AS 16.10.050 without any culpable mental state is guilty of a violation offense as provided in AS 12.55.

Section 23 Under AS 16.10.090 "penalties for violation of AS 16.10.070", this section is amended to reflect that a person who violates AS 16.10.070 is guilty of a Class A misdemeanor as provided in AS 12.55.

Section 24 Under AS 16.10.090 "penalties for violation of AS 16.10.070", this section provides that a person, who without any culpable mental state violates AS 16.10.070 is guilty of a violation offence as provided in AS 12.55

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Major Chastain summarized that Sections 25 through 28 established violation offenses and standardized offenses within the statute.

Major Chastain continued with Sections 29 and 30:

Section 29 This section amends the uncodified law of Alaska to make it clear that the act applies to offenses that occur on or after the effective date of the Act.

Section 30 Provides an effect July 1, 2018.

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Representative Wilson asked if the Department of Public Safety had concerns about the changes made in the previous committee. Major Chastain answered that DPS favored most of the changes but recommended modifying the penalties to comply with AS.12.55. He deferred to the Department of Law (DOL) to answer the question.

Representative Wilson asked to hear from DOL.

AARON PETERSON, CRIMINAL DIVISION, OFFICE OF SPECIAL PROSECUTION, DEPARTMENT OF LAW (via teleconference), responded that some of the changes referred to Class A misdemeanors, but the original bill took specific penalties that were listed and changed the penalty to a standard Class A misdemeanor. He exemplified Section 5 Under AS 16.05.430 of the bill that specified a non-classified misdemeanor was a fine of not more than \$1,000 or imprisonment of not more than 6 months or both and changed the penalty to a standard Class A misdemeanor. He elaborated that the original bill changed the several non-classified misdemeanors throughout Title 16 to achieve uniformity with charging under Title 12 and the criminal code in Title 11. The current version referred to Class A misdemeanors but created certain fine amounts and maximum

incarceration periods that were not uniform with Class A misdemeanors under Title 12, which could create confusion regarding maximum sentencing. He related that he just received an email that indicated the representative who offered the amendment in the previous committee [House Judiciary Committee] would not support changes to the amendment.

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Co-Chair Seaton requested more background information. He asked DOL to provide written information regarding a spreadsheet defining Class A penalties in other sections of statute and how they were related to sections in the bill. He wanted to determine how the same penalties could be applied across the board. He pointed to Section 21 of the sectional analysis reading "a person is guilty of a Class A misdemeanor and increases the associated specific penalty." He was uncertain how the language worked. He requested an explanation in writing from DOL. Mr. Peterson did not hear the questions. Co-Chair Seaton restated his request and questions.

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Mr. Peterson responded that under AS 12.55.355(b)(1) a Class A misdemeanor was punishable by a fine of up to \$25 thousand. The original version of HB 129 changed all the non-classified misdemeanors in Title 16 and removed the reference to specific penalties ( a fine of not less than \$100 or more than \$500) and replaced it with "guilty of a Class A misdemeanor punishable under AS 12.55". The goal was to make Class A misdemeanors uniform throughout the criminal code. He detailed that all the offenses in Title 11 referred to sentencing in Title 12. The previous committee had added a new maximum crime of \$1000 removing the standardization that would have been in place. He reiterated that the goal was to provide uniformity. Co-Chair Seaton requested the information in writing. He wanted to compare other Class A misdemeanors as well.

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Representative Tilton pointed to Section 18 that related to penalties for a violation and heard that Mr. Peterson stated that some penalties for violations increased by 50 percent. She wondered if a formula had been used to

determine the increases. Major Chastain answered that Section 18 dealt with restitution for big game animals. He explained that Section 18 was enacted in 1984 and had never been adjusted for inflation. The original fine had been \$2,016 and the bill assessed a 50 percent increase across the board. Some of the amounts were higher than 50 percent, which reflected a previous committee's belief that the animals were worth more. Representative Tilton asked about the electronic license form. She wondered whether a person would be required to have a license with them on their device if electronic licensing was adopted. Major Chastain answered in the affirmative. He clarified that the electronic licensing format was under development. The bill allowed for individuals to carry an electronic license. He furthered that when the Department of Fish and Game (DFG) had the ability to create the electronic licensing the provision in HB 120 would apply.

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Representative Wilson asked why she could not take a picture of her license and count it as an electronic version. Major Chastain answered that it may be an acceptable option in the future. The problem was related to hunting and fishing tags that needed to be written on the back of licenses. The recording requirements determined whether the individual complied with the law and changes could be problematic. Representative Wilson asked if recording requirements were not required would individuals have to wait for regulations to be written to find out if photographs of licenses were acceptable. Major Chastain answered that licensing was developed by DFG and whatever format was chosen was acceptable to DPS. If a photograph of the license was acceptable for fishing without reporting requirements it would be satisfactory for enforcement.

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Representative Tilton asked about the effective and applicability date of July 1, 2018 in relation to the increase in fines. Major Chastain answered that the July 1 timeframe was to get the provisions implemented. He offered that many changes were simple and for the most part all the changes could be implemented by the July 1 date except for two pieces: Section 4 relating to proof of eligibility for a Class 5a license. The other related to electronic licensing. He restated that the bill provided a legal

mechanism for electronic licenses to be available once DFG developed them.

Vice-Chair Gara appreciated the bill. He had two concerns. He asked if the bill addressed subsistence permits. He thought it could be a crime if a subsistence permit was left at home. Major Chastain answered that a subsistence permit was not a sport fishing, hunting, or trapping license. He delineated that subsistence permits had reporting requirements on the permit and must be reported before leaving the fishing sight.

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Vice-Chair Gara stated that a mistake was a mistake. He did not like making something that was an honest mistake a crime. He announced his other issue with the bill. He recalled that a violation was recorded on a person's record, whereas a fine was not. He wondered whether DPS agreed with changing the violations to fines. He emphasized that forgetting a permit at home was an honest mistake and a violation made the mistake appear like a crime. Major Chastain replied that violations were recorded as a violation, like a speeding ticket. He commented that there were a variety of items that could be seen and showed up on Court View like a speeding ticket. Violations were distinct from misdemeanors and had less penalties associated with them. He mentioned that it would be a policy call whether the legislature chose to change the category of offense from a violation to a fine however, it was still a criminal offense. He deferred to Mr. Peterson.

Mr. Peterson elaborated that minor fishing offenses had been described by Alaskan courts as "quasi-criminal offenses to non-criminal violations". A violation was only punishable by a fine under AS 12.53.505 of up to \$500 unless the statute had a specified fine. Under 12.55.135 related to sentences of imprisonment the statute stated that there was no term of imprisonment for a violation. He noted that part of the bill's action created a second level, lower-level offense so a person did not receive a criminal conviction for a misdemeanor and received a minor offense which was equivalent to a traffic infraction.

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Vice-Chair Gara did not believe it was quasi-criminal to forget a license at home. He asked whether an infraction or fine was the term for an offense that was not quasi-criminal. Mr. Peterson answered he was not familiar with a term that would be used in criminal law other than violation. He understood that a quasi-criminal offense could carry a negative connotation because of the word criminal, but, a speeding ticket was a criminal offense and was a more accurate equivalent. He remarked that a "fix it ticket" was a possibility. Vice-Chair Gara found the fix it ticket idea more appealing. He asked for details and whether the ticket disappears from records once proof of the license was produced.

Major Chastain responded that the fix it ticket idea would allow a person to present the license within 30 days and it would not be on their record; there was no associated fine. He delineated that there were requirements under regulation that the Board of Fish had enacted for recording requirements and varied among the different permits handed out by DFG. There were 30,000 people participating in dip netting across the state. Some of the individuals forgot their permits. The fishers were required to carry the license while fishing and record their fish prior to leaving the fishing sight. Wildlife enforcement officer's carryout enforcement according to regulation.

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Vice-Chair Gara asked if Section 3 allowed for the chance to produce the license within 30 days and the record was erased. Major Chastain answered that Section 3 provided a mechanism for an Alaskan Wildlife Trooper to make a correctable citation for not having a hunting, trapping, or sport fishing license in one's possession and was erased with proof and it became an officially correctable citation. The troopers had been operating under the quasi-legal mechanism of unofficially allowing correctible citations over the years. He indicated that DOL advised that the action was not legal. The section provided for a legal mechanism for correctible citations for certain offenses. Vice-Chair Gara had a problem with the 30-day timeframe. He asked what constituted a violation. Major Chastain responded that 30 days was the standard for other correctible citations like motor vehicle insurance and if proof was not presented after 30 days it was not correctable.

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Vice-Chair Gara asked if the offense became a violation if the individual failed to provide proof within 30 days. Major Chastain responded that it would be considered a violation offense. Vice-Chair Gara appreciated Section 3, but it did not address the subsistence problem. He related that many people hunt or fish in the wilderness for more than 30 days and the limit was burdensome for rural residents. He believed that people were being punished.

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Representative Guttenberg asked what went on a person's record that did not produce the license within 30 days. Major Chastain responded that the record appeared as a violation offense. He explained that the violation appeared on the DPS record system, Alaska Public Safety Information Network (APSIN) and showed up in the non-criminal section as a violation offense. The DFG offenses was separate from the criminal section and would not show up on a criminal record. In addition, it would be portrayed on Court View as a violation offense with the amount of the fine. Representative Guttenberg indicated he had had an experience when dip netting which he relayed. He relayed that one of the people he was fishing with forgot his wallet and his license could have been retrieved in 5 minutes. The enforcement officer wanted to write a citation. He asked whether a ticket could be negated if a person quickly produced the license after receiving a ticket. Major Chastain replied that currently the law did not allow for correctable citation for a few offenses like not having a hunting, fishing, or trapping license in one's possession. In the scenario that the representative presented he reported that Board of Fish regulations required possession, immediate record keeping, and cutting the fish's tail for dip netting. He hoped a trooper would use common sense and wait for the evidence and not issue a citation.

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Co-Chair Foster OPENED Public Testimony.

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MARTIN STEPETIN, SELF, JUNEAU, reported that he had been pulled over a couple of times where he did not have his insurance card with him but was able to offer proof. He was trying to become a member of the National Guard and a violation would make his acceptance into the guard almost impossible. He supported the fix it ticket provision.

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Co-Chair Foster CLOSED public testimony.

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Representative Kawasaki referred to the bill related to a \$5 fee applied to low income residents and additional reduced fee language in Section 4. He referenced language regarding proof of eligibility before purchasing a low income license in Section 5. He asked where individuals purchased a license.

BRUCE DALE, DIRECTOR, DIVISION OF WILDLIFE CONSERVATION, DEPARTMENT OF FISH AND GAME, ANCHORAGE (via teleconference), answered that currently a person merely had to check a box on the form and provide a signature for eligibility, which could be proven later by a trooper or interested party. He explained that proof of eligibility was added in a previous committee due to suspicions of abuse. The department had discovered that the proportion of purchases for the \$5 license reflected the proportion of the public receiving some type of assistance. The department did not believe that wide spread abuse of the low-income license was happening. Representative Kawasaki asked whether a store like Fred Meyer selling the license would need some proof of eligibility for the low-income license. Mr. Dale answered that DFG also had the same question regarding the amendment. He was uncertain what the proof would look like and the amendment did not specify what was acceptable proof.

Co-Chair Foster set an amendment deadline of 5:00 p.m. on Friday.

HB 129 was HEARD and HELD in committee for further consideration.

#hb277

HOUSE BILL NO. 277

"An Act relating to the regulation of broadband Internet; and making certain actions by broadband Internet service providers unlawful acts or practices under the Alaska Unfair Trade Practices and Consumer Protection Act."

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REPRESENTATIVE SCOTT KAWASAKI, SPONSOR, introduced the bill. He stressed that technology had changed rapidly in the past ten years. He explained that since 1996 the internet was governed under a system called "net neutrality". The bill required internet providers to engage in the practice of net neutrality. He read from a sponsor statement (copy on file):

HB 277 would require Internet Service Providers (ISPs) who provide broadband Internet to Alaskan families engage in the practice of net neutrality. The bill would make sure all data on the Internet is treated equally. It would protect small businesses from uncompetitive practices and guarantee an open and free internet for all users.

Without net neutrality, ISPs may legally speed up certain sites, slow down others, block sites all together, and require certain users to pay more for Internet fast lanes. The elimination of net neutrality gives ISPs the power to determine what websites consumers could visit and what content website creators could share. Allowing ISPs to discriminate based on content undermines a free and open Internet as well as a free and open society. Eliminating net neutrality risks Alaskans First Amendment rights of free speech, free press, and free association, the right to privacy, and distorts the free market.

On multiple occasions, millions of Americans have publicly commented in favor of protecting net neutrality and have spoken out against the recent Federal Communications Commission order to eliminate net neutrality rules implemented in 2015. The internet is a modern necessity for individuals and businesses. Net neutrality is widely supported by consumer rights groups, privacy groups, and businesses organizations.

This bill would ensure that the Internet remains a platform for unrestricted economic competition and free communication. I respectfully request your support for HB 277.

Representative Kawasaki shared that net neutrality was supported by millions of people in the United States (US) and worldwide. He indicated that it was also a bipartisan issue; 88 percent of Democrats, 71 percent of Independents, and 67 percent of Republicans supported net neutrality. He believed that net neutrality should be protected. He listed the support of various national groups from the political spectrum that supported net neutrality and maintaining an open and free internet.

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Representative Wilson needed more detail on the bill. She wondered about the definition of net neutrality. Representative Kawasaki characterized the internet as an information highway and guaranteed the essential idea that everybody had the same access as everybody else - no matter what car one drove. Large corporations and small independent businesses had access to the same internet speed, accessibility, and rates as everyone else. Representative Wilson spoke about computer games requiring high speed internet and other users that only viewed documents; she wondered whether both types of accessibility would be charged the same amount of money.

JACOB GERRISH, STAFF, REPRESENTATIVE SCOTT KAWASAKI, answered in the affirmative and furthered that it was more complicated. He provided a scenario of a broadband company who owned a video game company and could prioritize the internet for their video games; it was about specific sites and not only different types of services.

Mr. Gerrish reviewed the sectional analysis (copy on file):

Section 1: Adds a new Internet neutrality section to AS 42.05, The Alaska Public Utilities Regulatory Act that requires Internet Service Providers (ISPs) to:

- Disclose network management practices, performance, and commercial terms so that consumers can make informed decisions
- Not block, impair, prioritize, or interfere with Internet access, website content, or Internet traffic

Provides for an exception to the restriction on prioritization if the Regulatory Commission of Alaska finds that such an action would benefit the public interest.

Section 2: AS 45.50.471, adds violation of Internet neutrality to the list of unlawful acts and practices in the Alaska Unfair Trade Practices and Consumer Protection Act

Section 1: Applicability section for contracts entered after the effective date of this bill. HB 277 does not apply to contracts entered between ISPs and consumers before that date.

[2:55:35 PM](#)

Co-Chair Seaton understood that consumers had the right to buy a particular internet speed, which was not impacted by the bill. The bill would safeguard that an individual who purchased an internet speed of 10 GB (gigabyte) would be the same speed for every website the individual viewed. It would not be throttled down for a specific game site or advertiser. He surmised the bill prevented the provider of internet service from changing the speeds of the products that could be received. He asked whether he was generally correct. Mr. Gerrish replied that the remarks were very close to accurate. He used the example of the Trans-Alaska Pipeline System (TAPS) where a large corporation or a small oil producer had the same access, which encouraged a smaller company to possibly become a larger company via the access. Co-Chair Seaton hypothesized that net neutrality was comparable to all the producer's oil travelling in the pipe at the same speed versus Alyeska choosing preferred providers oil that would travel to Valdez faster than other companies oil. He asked whether the example was correct. Mr. Gerrish replied in the affirmative.

[2:58:50 PM](#)

Co-Chair Foster OPENED public testimony.

MIKE ROBINSON, ALASKA LIBRARY ASSOCIATION, ANCHORAGE (via teleconference), spoke in support of net neutrality. He elaborated that libraries supported net neutrality for equitable access and intellectual freedom reasons. The library was often the gateway to the internet for community

members. Libraries offered access to subscription content services such as e-books, newspapers, and academic journals. The ability of internet providers to offer "fast lane" service for content providers who were willing to pay a premium price undermined the equitable access principle. He acknowledged that some believed that market competition would ensure equitable access and commented that market competition for broadband did not exist in many places in Alaska. He believed that net neutrality promoted intellectual freedom by providing equal access to all speech regardless of type or origin. He wanted to prohibit broadband companies from the ability to make decisions regarding what content was promoted or limited and remain gateways and not gatekeepers.

[3:01:22 PM](#)

MARY JO TORGESON, ANCHORAGE PUBLIC LIBRARY, ANCHORAGE (via teleconference), testified in support of the bill. She informed committee members that libraries provided free and open access to information and net neutrality allowed that to happen. She cautioned that without the bill utility companies would choose to limit access even though providers would promise to abide by net neutrality. She appreciated the proactive approach to protecting internet access via the legislation. She voiced that the internet was one of the primary ways information was delivered and it was vital that providers were not able to control, limit, or manipulate the content. Libraries offered freedom of access and she supported the legislation.

Representative Wilson asked if there had been a change in the internet at the library since the Federal Communication Commission (FCC) change. Ms. Torgeson replied that the ruling took place later in April. She provided an example related to a grocery store endcap shelf space offered at a greater price to describe the impact if net neutrality was lost. She related that she had not experienced any change in internet service and remembered that GCI promised to protect net neutrality. She commented that protecting net neutrality should be up to the government, not a provider.

[3:04:36 PM](#)

EVELYN TREFON, SELF, NEWHALEN (via teleconference), testified in favor of the bill. She believed that maintaining net neutrality in Alaska was of the "utmost

importance." She worried what would happen to her home internet if GCI decided to abandon net neutrality. She shared that she currently paid \$220 per month for only 60gb. She believed internet should be available for all Alaskans at reasonable rates and speeds.

[3:05:43 PM](#)

MARTIN STEPETIN, SELF, JUNEAU, testified in support of the legislation. He believed that net neutrality was at the forefront of the first amendment and free speech. He noted that GCI was owned by a much larger non-Alaskan corporation; Liberty Interactive. He shared that he had written to Senators Lisa Murkowski and Dan Sullivan in opposition to the FCC ruling and congresses actions to repeal net neutrality laws. He voiced that the state was currently not protected by any federal laws governing net neutrality and believed the state must act to protect its broadband. He believed that history demonstrated service providers would "violate basic laws when left to their own devices". He relayed that AT&T blocked iPhone users from using SKYPE in 2007 and in 2005 a Canadian company blocked users trying to organize a labor strike. He could provide many other examples. He emphasized that the state must take measures to protect its citizens from losing net neutrality.

[3:09:04 PM](#)

LEON JAIMES, SELF, ANCHORAGE (via teleconference), spoke in support of the bill. He had worked in the information technology field for 20 years and worked as an information security consultant. He believed net neutrality protected businesses in the state from the "pay to play" practices. He believed that without net neutrality, regulation, free speech, and privacy were at risk. He elucidated that net neutrality played a vital role in ensuring that service providers did not engage in collecting large sets of data that lead to individual's personal data. He pointed to recent abuse of user privacy by Cambridge Analytica and Facebook and did not want internet providers to access the same information. He expressed concern about how an individual's data content would be catalogued and recorded in order to be billed under the ruling. He relayed that it was challenging for business to protect the information it collected, and the ruling would make it more difficult. He supported implementing net neutrality in Alaska.

Co-Chair Foster CLOSED public testimony.

[3:11:55 PM](#)

Co-Chair Foster noted there were two members of the Regulatory Commission of Alaska (RCA) online. He asked if they had comments.

DAVID PARRISH, COMMON CARRIER SPECIALIST IV, REGULATORY COMMISSION OF ALASKA (via teleconference), did not currently have remarks. The commission did not yet know what would be required of them to implement net neutrality. He stated that the RCA was uncertain whether they would have any jurisdiction in the matter considering the FCC's recent ruling.

Representative Guttenberg stated that the FCC had taken some of the authority away from the states. He asked, "what authority the state had to control what the state does." Mr. Parrish answered that New York and Montana had taken executive action to ensure that any state contracts with broadband service providers would have to comply with net neutrality provisions. He thought that states could use right-of-way permissions in the same manner. He determined that there were other avenues the state could take that would not "implicate" federal preemption.

[3:15:10 PM](#)

Representative Kawasaki stated the bill would specifically prohibit decreasing, blocking, or interfering in internet service. He reported that subsection (c) of the bill dealt specifically with the RCA regarding telehealth and telemedicine what would benefit the public interest. He asked for the RCA's interpretation. Mr. Parrish believed Representative Kawasaki was referencing to subsection (c) and the language " The commission may waive the prohibition in (b)(3)...". He guessed that it applied to the types of services that had a public service aspect if a carrier felt that they had to affect other users access to enable the public service; it would allow carriers to make appropriate network management decisions. The commission would have the ability to waive prohibitions in the act when it was found in the public's interest. Representative Kawasaki asked whether the commission viewed services relating to health, education, and public safety in the public interest versus kids playing games on the internet. Mr. Parrish answered in

the affirmative. He elaborated that it would allow carriers to make the decisions without running foul of the prohibitions on the bill.

[3:18:09 PM](#)

Representative Wilson asked what complaints the commission had that would fall under net neutrality. Mr. Parrish asked for clarification. Representative Wilson referenced the fiscal note analysis on page 2 that mentioned over 450 consumer complaints per year with the bill adding up to 85 more. She asked what type of complaints were received.

JONATHAN CLEMENT, ATTORNEY, CIVIL DIVISION, DEPARTMENT OF LAW (via teleconference), replied that the department had not tried to decide on the type of complaints they may receive regarding net neutrality. There was anticipation that additional complaints may come in due to media coverage of the bill and noted that the number was a rough estimate.

Co-Chair Foster set an amendment deadline of 5:00 p.m. on Friday.

HB 277 was HEARD and HELD in committee for further consideration.

Co-Chair Foster reviewed the schedule for the following day.

#  
ADJOURNMENT

[3:21:10 PM](#)

The meeting was adjourned at 3:21 p.m.