

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 3, 2017

1:03 p.m.

MEMBERS PRESENT

Representative Andy Josephson, Co-Chair
Representative Dean Westlake, Vice Chair
Representative Harriet Drummond
Representative Justin Parish
Representative Chris Birch
Representative DeLena Johnson
Representative David Talerico

MEMBERS ABSENT

Representative Geran Tarr, Co-Chair
Representative George Rauscher
Representative Mike Chenault
Representative Chris Tuck

COMMITTEE CALENDAR

CONFIRMATION HEARING(S):

Board of Game

Stanley L. Hoffman Jr. - Bethel

- CONFIRMATION(S) ADVANCED

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."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 129

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

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/15/17	(H)	READ THE FIRST TIME - REFERRALS
02/15/17	(H)	RES, JUD
03/29/17	(H)	RES AT 1:00 PM BARNES 124
03/29/17	(H)	Heard & Held
03/29/17	(H)	MINUTE(RES)
03/31/17	(H)	RES AT 1:00 PM CAPITOL 106
03/31/17	(H)	Scheduled but Not Heard
04/03/17	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

STANLEY L. HOFFMAN JR., Appointee
Board of Game, Alaska Department of Fish & Game
Bethel, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Game.

BERNARD CHASTAIN, Major; Deputy Director
Headquarters
Division of Alaska Wildlife Troopers
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing of HB 129.

AARON PETERSON, Assistant Attorney General
Office of Special Prosecutions, Fish and Game
Criminal Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing of HB 129.

THOR STACEY, Lobbyist
Alaska Professional Hunters Association
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the Alaska Professional Hunters Association during the hearing of HB 129.

AL BARRETTE

Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 129.

ACTION NARRATIVE

[1:03:28 PM](#)

CO-CHAIR ANDY JOSEPHSON called the House Resources Standing Committee meeting to order at 1:03 p.m. Representatives Josephson, Parish, Birch, Talerico, Westlake, and Drummond were present at the call to order. Representative Johnson arrived as the meeting was in progress. Co-Chair Josephson made announcements.

[1:04:34 PM](#)

The committee took an at-ease from 1:04 p.m. to 1:06 p.m.

CONFIRMATION HEARING(S):
Board of Game

[1:06:25 PM](#)

CO-CHAIR JOSEPHSON announced that the first order of business would be a confirmation hearing.

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STANLEY L. HOFFMAN JR, appointee to the Board of Game (BOG), Alaska Department of Fish & Game, stated he is a lifelong Alaskan who currently lives in Bethel and has spent about 40 years in Western Alaska living along the Kuskokwim River. He works for the Yukon-Kuskokwim Health Corporation and is a small businessman. Mr. Hoffman is a member of Calista Corporation and of Bethel Native Corporation, and his wife works for Bethel Native Corporation. He holds a registered assistant guide license and his guide activities took place in Game Management Unit 19B, which is located in the upper Hoholitna River drainage; he also holds a limited entry commercial fisheries license. He and his wife have two children and are raising their nephew.

CO-CHAIR JOSEPHSON asked about Mr. Hoffman's previous experience on BOG.

MR. HOFFMAN said he has served on BOG since appointed by former Governor Palin in 2008. He opined BOG members are knowledgeable

and he enjoys serving with them and with the Alaska Department of Fish & Game (ADFG); he said he has a lot to offer to BOG as he listens carefully and studies each proposal.

CO-CHAIR JOSEPHSON noted Mr. Hoffman has garnered positive comments related to his service on BOG.

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MR. HOFFMAN observed that his experiences cover many aspects concerning wildlife in Alaska.

CO-CHAIR JOSEPHSON referred to local decision-making such as governance related to trapping within the city of Bethel.

MR. HOFFMAN said he supports local decision-making within city limits. The aforementioned issue arises in Juneau and Anchorage where there are conflicts with dogs and trapping on public trails. As far as governance in towns, he stated that in Bethel the question is handled by the municipality.

REPRESENTATIVE BIRCH agreed with Mr. Hoffman's support of local preference. He referred to the Alaska National Interest Lands Conservation Act, which grants rural priority preference for game, and asked how Mr. Hoffman would balance the issue between public access and Tribal priority for state resources.

MR. HOFFMAN answered rural priority is for all rural Alaskans and race does not matter. When the issue is before BOG the federal [qualifications] are weighed against harvest opportunities.

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REPRESENTATIVE TALERICO referred to pending legislation related to conflicts of interest [affecting BOG board members] and asked whether Mr. Hoffman has ever declared a conflict of interest.

MR. HOFFMAN recalled he recused himself once, although he did not think it was necessary; the issue had to do with a nonsubsistence status vote. He said, "It hasn't happened a lot [during] my time on the board, and I think it varies depending on the person's argument."

CO-CHAIR JOSEPHSON opened public testimony. After ascertaining there was no one who wished to testify, public testimony was closed.

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REPRESENTATIVE WESTLAKE stated the House Resources Standing Committee reviewed the qualifications of the appointee to the Board of Game and recommends that his name be forwarded to a joint session of the House and Senate for consideration. This does not reflect intent by any of the members to vote for or against this individual during any further sessions for the purposes of confirmation. There being no objection, the name was advanced.

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The committee took an at-ease from 1:19 p.m. to 1:21 p.m.

HB 129-FISH & GAME: OFFENSES;LICENSES;PENALTIES

[1:21:11 PM](#)

CO-CHAIR JOSEPHSON announced that the final order of business would be 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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BERNARD CHASTAIN, Major and Deputy Director, Headquarters, Division of Alaska Wildlife Troopers (AWT), Department of Public Safety (DPS), said two substantive changes from House Bill 286 [proposed in the 29th Alaska State Legislature] found in HB 129 are: 1. Some restitution amounts for big game animals are changed in section 17; 2. Section 18 was added to direct that a person who self-reports may not be ordered to pay restitution.

CO-CHAIR JOSEPHSON relayed that the Department of Law (DOL) advised self-reported unlawful takings in 2014 totaled 111, in

2015 totaled 115, and in 2016 totaled 114, numbers that represent approximately 33 percent of big game cases handled by AWT each year statewide. He remarked on the number of people who have tried to mitigate harm and questioned whether self-reported cases will rise - in a disingenuous way - in response to the legislation.

MAJOR CHASTAIN stated AWT and ADFG have in the last five to ten years encouraged self-reporting. He expressed his belief that the legislation will not lead to an increase in self-reported cases.

REPRESENTATIVE PARISH asked for an estimate of unreported violations, and whether there is any data in this regard.

MAJOR CHASTAIN said the number is hard to know; missions and measures for his division seek a 95-96 percent compliance rate based on the number of violations that are discovered, which is consistent year-around; for example, for one hundred people contacted, four to five violations are found. Otherwise, he said he did not have an answer. In further response to Representative Parish, he clarified that the one hundred contact rate reflects hunting, fishing, and trapping.

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REPRESENTATIVE JOHNSON referred to a change in the bill [found on page 2, lines 13 and 17].

MAJOR CHASTAIN explained the addition of "this or" in the bill [on page 2, lines 13 and 17] means a person may not receive a sport fishing, hunting, or trapping license if said license has been revoked in another state or in Alaska.

REPRESENTATIVE JOHNSON called attention to the bill [on page 3, line 29] and asked whether a transfer station would be considered a solid waste disposal facility.

MAJOR CHASTAIN was unsure and said he would provide an answer to the committee.

CO-CHAIR JOSEPHSON concluded that the bill provides "stiffer" fines for restitution and is easier to prosecute; however, changing crimes to violations means violators are not subject to criminal jailtime.

MAJOR CHASTAIN agreed that the bill provides more tools for law enforcement and for prosecution in that prosecutors may determine appropriate charges, and restitution amounts are increased to reflect inflation.

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REPRESENTATIVE PARISH recalled AWT's current practice is to not charge a full fee to those who self-report. He asked for the number of violators who have self-reported and have not been charged.

MAJOR CHASTAIN said the overwhelming majority of those who self-report is charged a violation offense with no additional restitution. In a few cases judges have implemented restitution, thus the bill will prevent adding restitution to certain violation offenses.

REPRESENTATIVE WESTLAKE directed attention to the bill on page 5, line 28, which read:

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

REPRESENTATIVE WESTLAKE suggested "may not" should be replaced with "shall not."

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AARON PETERSON, Assistant Attorney General, Office of Special Prosecutions, Fish and Game, Criminal Division, Department of Law, advised that "... when 'shall' is accompanied by a negative word, the word 'shall' usually means 'may' in fact, so, because what's being negated is the permission, not the requirement." He concluded that the legislation as currently drafted is most correct and this is "widely understood."

REPRESENTATIVE WESTLAKE pointed out that many people affected by the proposed legislation are "... people that don't have very much money that are out there doing these things and they aren't going to be ... able to hire people to go defend themselves and I really don't want any wiggle room for a judge over there to be arguing semantics" He stressed the legislature's intent should be clear.

CO-CHAIR JOSEPHSON asked Mr. Peterson if the legislation directs that the defendant cannot be ordered to pay restitution.

MR. PETERSON said yes, the correct grammatical reading of the bill is that they may not and "they do not have the discretion to order restitution as it's currently drafted."

REPRESENTATIVE PARISH asked why certain offenders have had to pay restitution.

MAJOR CHASTAIN noted his experience has shown that each case is different, and a judge or magistrate in a local area has the ability to use discretion, and decide that restitution is necessary. His division provides DOL with sentencing recommendations and the current directive to troopers is that restitution should not be applied to self-reported cases.

CO-CHAIR JOSEPHSON asked for the penalties that could still apply to an offender who immediately self-reports.

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MAJOR CHASTAIN stated that currently, taking an illegal moose is a misdemeanor and a person who self-reports and salvages the meat can have his/her charge reduced to a violation offense with a penalty under AS 12.55 of a maximum of \$500; however, a person who does not self-report and is caught can be charged a misdemeanor with the possibility of jailtime, the forfeiture of equipment, the revocation of licenses, and more.

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MR. PETERSON, in response to Co-Chair Josephson, clarified that a previous offense could be used for "historical reference purposes"; for example, if a person took a sublegal moose and next year did the same, DPS and DOL would consider his/her history of offenses.

REPRESENTATIVE PARISH inquired as to DPS's position on a proposed amendment to section 18 adding a third stipulation "that it was their only offense within, say, a five-year period."

MAJOR CHASTAIN opined that adding another stipulation is a policy decision and his division would not have a concern; however, he cautioned against taking tools away from law enforcement and establishing in statute language "that somewhat boxes us in."

REPRESENTATIVE PARISH pointed out his amendment would be related only to paying restitution.

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CO-CHAIR JOSEPHSON opened public testimony.

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THOR STACEY, speaking as the lobbyist for the Alaska Professional Hunters Association (APHA), directed attention to section 18 as related to animals that need sealing. He said when a sheep is harvested, to determine if it is legal, the horns are presented to ADFG where a qualified expert catalogs and records the animal. If the animal is not legal by the state's definition, it is confiscated. Mr. Stacey stressed that presenting the horns to ADFG is obviously voluntary, but questioned whether that action is considered "an immediate and voluntary turn-in." This could also apply to a bear. The Alaska Professional Hunters Association suggests that from a hunting guide's perspective, immediate reporting may require a wildlife trooper to fly to the hunter's location. If a hunter does not believe an animal is illegal, the concern is that a hunter may be in a remote location and thus time is needed to get back to town and present the animal to be sealed. He noted this question has previously arisen.

MAJOR CHASTAIN gave the example of Dall sheep that are required to be sealed. He acknowledged a guide may not know whether an animal is legal, but big game guides are trained and paid to know the size of an animal taken. However, if a sheep that is grossly illegal is brought in by a first-time hunter "we may have to look at that differently." Also, any guide or hunter has the ability to call in and report an animal that may not be legal, therefore one does not have to wait until it is presented to ADFG to be sealed.

MR. STACEY agreed a professional guide does have a role in the chain of responsibility and his remarks are provided on behalf of APHA and its client-hunters.

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AL BARRETTE spoke in support of the bill, except for the difficult position of AWTs when they are acting on behalf of the executive branch and make judicial decisions in the field or in the office. He said Major Chastain has fully explained the bill

and there are forthcoming amendments. In response to Co-Chair Josephson, he said the amendments are related to rescinding taxidermy licenses, the second degree of kindred in determining bag limits, and allowing legally harvested big game to be sold.

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CO-CHAIR JOSEPHSON, after ascertaining no one else wished to testify, closed public testimony.

[HB 129 was held over.]

[1:59:17 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 1:59 p.m.