

**ALASKA STATE LEGISLATURE**  
**HOUSE RESOURCES STANDING COMMITTEE**

February 23, 2018

1:04 p.m.

**MEMBERS PRESENT**

Representative Andy Josephson, Co-Chair  
Representative John Lincoln, Vice Chair  
Representative Harriet Drummond  
Representative Justin Parish  
Representative Chris Birch  
Representative George Rauscher  
Representative David Talerico

**MEMBERS ABSENT**

Representative Geran Tarr, Co-Chair  
Representative DeLena Johnson  
Representative Mike Chenault (alternate)  
Representative Chris Tuck (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 267

"An Act requiring the release of certain records relating to big game hunters, guided hunts, and guided sport fishing activities to municipalities for verification of taxes payable; and providing for an effective date."

- MOVED CSHB 267(RES) OUT OF COMMITTEE

HOUSE BILL NO. 305

"An Act relating to oil and hazardous substances and waiver of cost recovery for containment and cleanup of certain releases; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 267

SHORT TITLE: RELEASE HUNTING/FISHING RECORDS TO MUNI

SPONSOR(S): REPRESENTATIVE(S) EDGMON

01/12/18	(H)	PREFILE RELEASED 1/12/18
01/16/18	(H)	READ THE FIRST TIME - REFERRALS
01/16/18	(H)	CRA, RES
01/25/18	(H)	CRA AT 8:00 AM BARNES 124

01/25/18 (H) Heard & Held  
01/25/18 (H) MINUTE(CRA)  
02/08/18 (H) CRA AT 8:00 AM BARNES 124  
02/08/18 (H) Moved CSHB 267(CRA) Out of Committee  
02/08/18 (H) MINUTE(CRA)  
02/14/18 (H) CRA RPT CS(CRA) 4DP 2NR  
02/14/18 (H) DP: DRUMMOND, LINCOLN, KREISS-  
TOMKINS, PARISH  
02/14/18 (H) NR: TALERICO, SADDLER  
02/16/18 (H) RES AT 1:00 PM BARNES 124  
02/16/18 (H) Heard & Held  
02/16/18 (H) MINUTE(RES)  
02/23/18 (H) RES AT 1:00 PM BARNES 124

BILL: HB 305

SHORT TITLE: OIL/HAZARDOUS SUB.:CLEANUP/REIMBURSEMENT

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/24/18 (H) READ THE FIRST TIME - REFERRALS  
01/24/18 (H) RES, FIN  
02/09/18 (H) RES AT 1:00 PM BARNES 124  
02/09/18 (H) Heard & Held  
02/09/18 (H) MINUTE(RES)  
02/23/18 (H) RES AT 1:00 PM BARNES 124

**WITNESS REGISTER**

NIKKI REED, Assistant Finance Officer  
Lake and Peninsula Borough  
King Salmon, Alaska

**POSITION STATEMENT:** On behalf of Susan Edwards, Finance Officer, Lake and Peninsula Borough, read testimony in support during the hearing of HB 267.

NATHAN HILL, Manager  
Lake and Peninsula Borough  
King Salmon, Alaska

**POSITION STATEMENT:** Testified in support during the hearing of HB 267.

TIM CLARK, Staff  
Representative Bryce Edgmon  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Speaking on behalf of Representative Edgmon, sponsor, related the sponsor's approval of proposed amendments to HB 267.

KRISTIN RYAN, Director  
Division of Spill Prevention and Response  
Department of Environmental Conservation  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing of HB 305.

JENNIFER CURRIE, Senior Assistant Attorney General  
Environmental Section  
Civil Division(Anchorage)  
Department of Law  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing of HB 305.

### **ACTION NARRATIVE**

[1:04:06 PM](#)

**CO-CHAIR ANDY JOSEPHSON** called the House Resources Standing Committee meeting to order at 1:04 p.m. Representatives Josephson, Parish, Birch, Talerico, Rauscher, Drummond, and Lincoln were present at the call to order.

### **HB 267-RELEASE HUNTING/FISHING RECORDS TO MUNI**

[1:04:46 PM](#)

CO-CHAIR JOSEPHSON announced that the first order of business would be HOUSE BILL NO. 267, "An Act requiring the release of certain records relating to big game hunters, guided hunts, and guided sport fishing activities to municipalities for verification of taxes payable; and providing for an effective date."

[Before the committee was CSHB 267(CRA).]

CO-CHAIR JOSEPHSON opened public testimony.

[1:05:38 PM](#)

NIKKI REED, Assistant Finance Officer, Lake and Peninsula Borough, read testimony on behalf of Susan Edwards, Finance Officer, Lake and Peninsula Borough, as follows:

Mr. Chairman and committee members,

Passage of HB 267 would mean additional revenue to the Lake and Peninsula Borough. The money collected

would support our schools, their programs, capital projects, and as leverage for grants. In these times of shrinking revenue - sharing expenditures by the state - we and every other borough are looking to maximize local revenue sources. There are two points I would particularly like to bring to the committee's attention: First, having access to the hunt reports would help streamline [the] fall collection process, eliminate paperwork for the guides, ensure that every hunting guide doing business within the borough was paying for the harvesting of borough resources. Secondly, is the issue of confidentiality that has been raised. Both myself and the assistant finance officer, Nikki Reed, are members of the Alaska Government Finance Officers Association which has [a] confidentiality clause in its code of ethics. Mrs. Reed is a licensed paralegal with all the strictures of confidentiality that comes with that certification. Our borough code has its own confidentiality policy, and the amendment to HB 267 which adds state criminal penalties. I can certainly speak to the integrity of our office and believe that I can speak for my AGFOA colleagues across the state. We take our responsibilities seriously because it is a matter of public trust; without that there would be no government. Mrs. Reed would be happy to answer any of your questions.

[1:09:31 PM](#)

NATHAN HILL, Manager, Lake and Peninsula Borough, informed the committee he is a lifelong Alaska resident. He said the borough supports HB 267 for several reasons: the borough code requires professional hunting and fishing guides to register with the borough and pay a nominal per person per day use tax on professional guides conducting guided fishing and hunting parties within the borough boundaries; the tax is similar to those on commercial fisheries' activities and other activities of commerce. The tax is imposed on everyone, not just local businesses, and without access to [state] reports, the borough cannot independently verify if the activities reported are correct. [HB 267] would make taxes equitable to all operators who are paying taxes and complying, and fair to residents who depend on the resource. He restated Lake and Peninsula Borough's support for the passage of HB 267.

[1:11:44 PM](#)

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

1:12:23 PM

REPRESENTATIVE RAUSCHER moved to adopt Amendment 1, labeled 30-LS0808\J.4, Bullard, 2/6/18, which read:

Page 1, line 13, through page 2, line 3:

Delete all material and insert:

"(2) to a municipality that levies a tax on those activities, if the

(A) information concerns hunts or activities occurring within the four calendar years preceding the date of the request; and

(B) municipality

(i) requests the records for the purpose of verifying taxes payable; and

(ii) agrees to maintain the confidentiality of the records."

Page 2, line 31, through page 3, line 2:

Delete all material and insert:

"(5) records or reports of guided sport fishing activities filed by a guide to a municipality that levies a tax on those activities if the

(A) municipality requests the records for the purpose of verifying taxes payable; and

(B) activities occurred within the four calendar years preceding the date of the request;"

Page 4, lines 3 - 13:

Delete all material.

Renumber the following bill section accordingly.

REPRESENTATIVE DRUMMAND objected for discussion purposes.

REPRESENTATIVE RAUSCHER explained Amendment 1 limits the time a municipality is allowed to review [state] records to four years.

[1:13:23 PM](#)

TIM CLARK, Staff, Representative Bryce Edgmon, Alaska State Legislature, on behalf of Representative Edgmon, sponsor, informed the committee Representative Edgmon has no objection to Amendment 1.

REPRESENTATIVE DRUMMOND withdrew her objection. There being no further objection, Amendment 1 was adopted.

[1:14:21 PM](#)

REPRESENTATIVE RAUSCHER moved to adopt Amendment 2, labeled 30-LS0808\J.5, Bullard, 2/19/18, which read:

Page 2, following line 3:

Insert a new bill section to read:

**"\* Sec. 2.** AS 08.54.760 is amended by adding a new subsection to read:

(d) The department may charge a municipality a fee, set by the department under AS 37.10.050, to provide a record under (b) (2) of this section."

Renumber the following bill sections accordingly.

Page 4, line 10:

Delete "sec. 2"

Insert "sec. 3"

CO-CHAIR JOSEPHSON objected for discussion purposes.

REPRESENTATIVE RAUSCHER explained Amendment 2 grants the Department of Commerce, Community & Economic Development (DCCED) the authority to charge a fee for providing a municipality access to records, in order to help offset the additional fiscal burden, and avoid the possibility of additional costs being assessed to guides and hunters.

MR. CLARK said Representative Edgmon has no objection to Amendment 2.

CO-CHAIR JOSEPHSON removed his objection.

1:16:09 PM

REPRESENTATIVE TALERICO objected for discussion purposes.

1:16:15 PM

REPRESENTATIVE RAUSCHER informed the committee he previously obtained approval for Amendments 1 and 2 from the sponsor of the bill.

1:16:28 PM

REPRESENTATIVE TALERICO withdrew his objection. There being no further objection, Amendment 2 was adopted.

1:17:23 PM

REPRESENTATIVE PARISH moved to adopt Conceptual Amendment 3, which read:

Page 2, Line 15:

After "reports." INSERT "The department may charge a municipality a fee, set by the department under AS 37.10.050, to provide a record under (5) of this subsection."

REPRESENTATIVE RAUSCHER objected for discussion purposes.

MR. CLARK said the sponsor of the bill has no objection to Conceptual Amendment 3. The purpose of the amendment is to allow the Alaska Department of Fish & Game, in addition to DCCED, to recoup expenses from the municipalities for its work, if warranted. In response to Co-Chair Josephson, he confirmed Amendments 2 and 3 merely refer to different departments, and are otherwise identical.

REPRESENTATIVE RAUSCHER removed his objection. There being no further objection, Conceptual Amendment 3 was adopted.

REPRESENTATIVE RAUSCHER expressed reservations about excessive data collection and the four-year applicable time period; however, he said the parties most affected are supportive of the bill.

[1:20:43 PM](#)

REPRESENTATIVE LINCOLN moved to report the committee substitute for HB 267(CRA), Version J, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 267(RES) was reported from the House Resources Standing Committee.

[1:21:08 PM](#)

The committee took an at-ease from 1:21 p.m. to 1:23 p.m.

**HB 305-OIL/HAZARDOUS SUB.:CLEANUP/REIMBURSEMENT**

[1:23:33 PM](#)

CO-CHAIR JOSEPHSON announced that the final order of business would be HOUSE BILL NO. 305, "An Act relating to oil and hazardous substances and waiver of cost recovery for containment and cleanup of certain releases; and providing for an effective date."

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

REPRESENTATIVE RAUSCHER expressed his understanding the bill removes the requirement that [the Department of Environmental Conservation (DEC)] must issue a fine to a homeowner for an accidental spill.

CO-CHAIR JOSEPHSON concurred and added the intent of the bill is also to increase homeowners' compliance regarding reporting spills and asking DEC for help.

[1:26:10 PM](#)

KRISTIN RYAN, Director, Division of Spill Prevention and Response, DEC, explained DEC is required to recover all of its costs associated with providing assistance to a homeowner; however, DEC would prefer homeowners use their limited resources to clean up the spill and contact DEC for assistance.

REPRESENTATIVE PARISH questioned whether DEC currently experiences resistance when it seeks to collect its costs.

[1:27:58 PM](#)

JENNIFER CURRIE, Senior Assistant Attorney General, Environmental Section, Civil Division (Anchorage), Department of Law, deferred to Ms. Ryan.

MS. RYAN explained homeowners are inhibited [by costs] and do not want to contact DEC and receive a bill, thus homeowners have often avoided contacting DEC and DEC learns about a release too late to help a homeowner avoid worse contamination and more expensive cleanup costs.

REPRESENTATIVE PARISH inquired as to how DEC would communicate the change in billing to the public, were the bill to become law.

MS. RYAN was unsure. She suggested information could be provided on DEC's web site and at public events notifying the public DEC could provide assistance for free.

REPRESENTATIVE BIRCH spoke in support of the bill and pointed out the distinction between fines and penalties and cost recovery, noting the language in the bill refers to cost recovery relief. He urged DEC to treat all equitably. Representative Birch paraphrased from the bill [page 2, lines 8-14], as follows:

The individual did not willfully or negligently fail to comply with spill prevention, reporting, and response requirements and the individual took immediate measures upon discovery of the release and provides reasonable assistance in the cleanup

REPRESENTATIVE BIRCH suggested DEC should "give the same sort of latitude to anybody" who has a problem if a spill is not willful.

REPRESENTATIVE TALERICO directed attention to page 2, lines 5-7, which read:

(1) the release was from piping, tankage, or other equipment used solely to provide space heat or electrical power generation for a single-family home or a residential building with four or fewer housing units;

REPRESENTATIVE TALERICO advised some of his constituents operate successful and important commercial operations from their single-family home or residential units, and he gave an example.

He asked for clarification on whether "homeowner" would apply to a small business run from a person's primary residence.

[1:33:16 PM](#)

MS. RYAN responded the bill is explicitly written to only provide a cost recovery exemption to homeowners, and there was no intention to exempt cost recovery from a professional or business operation. If a heating oil tank was used to heat a primary residence it would be exempt, but not if it was used primarily as a fuel source for a business. She added, "But if it's their home, and they're using it to heat their home, then this would apply."

REPRESENTATIVE PARISH suggested the aforementioned language also excludes homes heated by mixed sources of fuel, such as pellets or wood, in addition to heating oil.

MS. RYAN opined a mixed fuel situation was not contemplated [during the drafting of the bill].

REPRESENTATIVE LINCOLN agreed with Representative Parish that the bill would exclude a home with a wood stove and a diesel-fired water heater.

MS. RYAN said DEC would define "home" to include a water tank used for residential purposes. She deferred to legal counsel.

REPRESENTATIVE LINCOLN directed attention to the bill on page 2, line 6, and read, "solely to provide space heat or electrical power."

[1:38:10 PM](#)

MS. RYAN remarked:

From our experience, the spills are occurring at ... people have tanks, large tanks, that are providing heating for their home as their primary use of, of diesel fuel. So that's, that was our intent is to provide some relief in those scenarios. I'm not aware of the nuances you guys are mentioning, we're, isn't something that I'm aware of happening to this date, it probably has, but I don't necessarily think it would be excluded from the exemption, again, if it's related to the home ...

REPRESENTATIVE PARISH suggested deletion of the word "space", on page 2, line 6.

MS. RYAN indicated the deletion suggested by Representative Parish would not change the intent of the bill.

REPRESENTATIVE PARISH questioned whether the aforementioned deletion would also address a home with water and space heating systems powered from mixed sources of fuel.

MS. RYAN said, "Yes, I think that would be more clear that those scenarios would also be exempt."

MS. CURRIE agreed that elimination of the word "space" would maintain the intent of the regulations as written.

[1:41:11 PM](#)

REPRESENTATIVE PARISH moved Conceptual Amendment 1, to on page 2, line 6, following the word "provide," delete the word "space." He explained the amendment would [allow the language of the bill to] accommodate homes where the space heat is provided by a source other than fuel oil, or homes with a separate fuel oil source to provide water heating.

CO-CHAIR JOSEPHSON clarified the term heat is used to address either water or space heat. There being no objection, Conceptual Amendment 1 was adopted.

REPRESENTATIVE LINCOLN restated Representative Talerico's question as to whether the bill covers small business owners who operate stores out of their homes.

MS. CURRIE advised on page 2, [beginning on line 5], the bill states piping, tankage, or other equipment must be solely for private purposes and not for commercial purposes.

CO-CHAIR JOSEPHSON surmised if a spill occurs in a domestic situation there would be no liability as to [customers visiting a business], which is another distinct difference; for example, if a spill occurs at a commercial enterprise there would be obligations to the general public, however, the intent of the bill is to help single-family residences with four or fewer housing units.

MS. CURRIE said correct.

REPRESENTATIVE DRUMMOND observed many single-family homes contain small businesses and have offices, but the building is still used as a home. She disagreed with DEC's interpretation of the bill and asked for clarification.

REPRESENTATIVE RAUSCHER pointed out some businesses in his district contain living space.

[1:47:15 PM](#)

REPRESENTATIVE LINCOLN suggested on page 2, line 6, replacing the word "solely" with the word "primarily."

MS. RYAN stated DEC designed criteria to focus the [benefit] of exemption on homeowners as the primary recipients of relief; however, she said she was not opposed to the concept that the exemption would apply to a facility that is primarily a home. Ms. Ryan opined a commercial operation utilizing fuel [from the home] as part of a business would be "too far." She agreed Representative Lincoln's suggestion would achieve his purpose, provided the home is the main recipient of the fuel and the business does not drive up the volume of fuel used.

CO-CHAIR JOSEPHSON said - if amended - on page 2, line 6, the sentence would read, "the release was from piping, tankage, or other equipment used primarily to provide heat or electrical power, et cetera."

MS. CURRIE opined the change would expand the number of households that were exempt and therefore, reduce the revenue collected by DEC. Further, the change could be accomplished by a definition of "single-family home" in regulation, which would provide a more comprehensive description of a commercial business in a home. She deferred to DEC.

REPRESENTATIVE DRUMMOND said the modifying term should be placed before single-family home.

CO-CHAIR JOSEPHSON and Representative Rauscher agreed.

REPRESENTATIVE PARISH further explained the confusion created by the misplaced modifier.

[1:55:05 PM](#)

REPRESENTATIVE LINCOLN moved to adopt Conceptual Amendment 2, to on page 2, line 6, delete the word "solely" and insert the word "primarily."

CO-CHAIR JOSEPHSON objected for discussion purposes.

REPRESENTATIVE LINCOLN asked whether DEC can subsequently better define, through regulation, questions raised by the committee.

MS. CURRIE advised DEC would define single-family home and residential building to ensure it can consider the effect of a commercial business within a single-family home; to solve the problem she urged for the committee to focus on the definition of a single-family home.

CO-CHAIR JOSEPHSON surmised "the Alaska code" now has definitions for single-family and residential.

MS. CURRIE related [executive branch departments] are allowed to codify different definitions of terms for different purposes.

CO-CHAIR JOSEPHSON, as an aside, noted executive branch departments send legislators notifications of rulemaking regulations.

REPRESENTATIVE TALERICO expressed his confidence in DEC's ability to craft regulations; he reminded the committee small businesses within what is primarily a single-family home typically do not operate 24 hours per day, therefore, most of the fuel used for heat or power generation would not be dominated by the business, but by the living quarters, and he gave an example. He said regulations could address this issue.

[1:59:46 PM](#)

REPRESENTATIVE DRUMMOND directed attention to a supporting document provided in the committee packet from the Office of the Commissioner, DEC, which indicated currently 150 active sites would be eligible as the bill is written. She expressed interest in "how the homes are being used" at the 150 active sites. The Anchorage Municipal [Code of Ordinances] has a definition of single-family homes that prohibits small businesses in a home if the business violates restrictions such as generating traffic, or signage. She urged Legislative Legal Services to craft an amendment and spoke against Conceptual Amendment 2.

[2:01:43 PM](#)

CO-CHAIR JOSEPHSON observed single-family home is constrained by "four or fewer housing units."

MS. RYAN, in response to Representative Drummond, said the aforementioned active sites are primarily houses, and she was unsure as to whether the houses contained businesses. Obvious commercial operations become known during site inspections, and she stated her preference to craft a definition in regulation, so DEC can make any necessary adjustments. When DEC inspects a spill, families are overwhelmed and in need of help; businesses have expertise and resources a homeowner does not.

CO-CHAIR JOSEPHSON opined between the intent of the bill, and court interpretation, each term may not need to be defined.

REPRESENTATIVE LINCOLN spoke in favor of the bill except, according to the Department of Law, a small business in a single-family home may not be eligible; he said he seeks to ensure small business owners and entrepreneurs in villages are not penalized.

CO-CHAIR JOSEPHSON acknowledged small businesses exist in homes without question, but cautioned businesses have different standards than homes due to issues such as liability, civil rights laws, and wage and hour laws.

REPRESENTATIVE TALERICO expressed his support for Conceptual Amendment 2.

[2:08:15 PM](#)

CO-CHAIR JOSEPHSON expressed his support for Conceptual Amendment 2. [The committee treated Co-Chair Josephson's objection as withdrawn.]

[2:08:49 PM](#)

REPRESENTATIVE DRUMMOND objected and restated the modifier is misplaced. In response to Representative Lincoln, she said the word "primarily" is not needed because DEC knows what it considers to be a single-family home. She further discussed how the intent of the amendment is affected by the construction of the sentence.

There followed a short general discussion.

[2:11:06 PM](#)

REPRESENTATIVE DRUMMOND warned further amendments may affect local zoning rules because "it could be a primarily residential unit if it had four housing units in it and a store that was operated by somebody who didn't necessarily live there. Now you're getting into how a municipality or borough defines its structures ... instead of leaving it up to the department, then you're ... going to get into more trouble ...."

CO-CHAIR JOSEPHSON pointed out the amendment deadline has passed - although one conceptual amendment was accepted - and suggested the committee attach to the bill a letter to the House Finance Committee [committee of next referral] reflecting its concerns.

REPRESENTATIVE PARISH, in response to Representative Drummond's earlier example, opined Conceptual Amendment 2 would not affect her example.

REPRESENTATIVE LINCOLN urged for an opportunity to work with DEC and improve the bill. He withdrew Conceptual Amendment 2.

CO-CHAIR JOSEPHSON restated his caution about the differences between a home and a business, and set an amendment deadline of 12:00 p.m. [2/26/18].

HB 305 was held over.

[2:18:50 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:18 p.m.