

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

February 27, 2017

3:30 p.m.

MEMBERS PRESENT

Senator Cathy Giessel, Chair
Senator Natasha von Imhof
Senator Bert Stedman
Senator Shelley Hughes
Senator Kevin Meyer
Senator Bill Wielechowski

MEMBERS ABSENT

Senator John Coghill, Vice Chair

COMMITTEE CALENDAR

SENATE BILL NO. 60

"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: SB 60

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

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/15/17	(S)	READ THE FIRST TIME - REFERRALS
02/15/17	(S)	RES, JUD, FIN
02/27/17	(S)	RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

MAJOR BERNARD CHASTAIN, Deputy Director
Division of Alaska Wildlife Troopers (AWT)
Department of Public Safety
Anchorage, Alaska
POSITION STATEMENT: Supported on SB 60.

BRUCE DALE, Director
Division of Wildlife Conservation
Department of Fish and Game
Palmer, Alaska
POSITION STATEMENT: Answered questions on SB 60.

AARON PETERSON, Assistant Attorney General
Department of Law
Anchorage, Alaska
POSITION STATEMENT: Answered questions on SB 60.

ACTION NARRATIVE

[3:30:14 PM](#)

CHAIR CATHY GIESSEL called the Senate Resources Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Stedman, Meyer, Hughes, Von Imhof, Wielechowski, and Chair Giessel.

SB 60-FISH & GAME: OFFENSES;LICENSES;PENALTIES

[3:30:41 PM](#)

CHAIR GIESSEL announced consideration of SB 60, sponsored by the Rules Committee at the request of the Governor. Alaska's fish and game laws are the focus of this bill. When a person is found guilty of seriously violating the law of hunting or fishing in addition to the criminal fine another amount of money can be levied. That levy is the restitution the judge can impose on the guilty person for depriving Alaska's people of a resource that is held in common.

The principle is simple: other Alaskans in the present and future will not get the opportunity to benefit from Alaska's constitutionally protected game if it's illegally taken from us. The restitution laws attempt to assign a monetary value and capture that lost opportunity.

In addition, when a non-resident illegally claims a resident fish or game license, they are not only depriving Alaskans of the non-resident revenue they would have paid, Alaskans also do not see the matching federal funds that those higher license fees would have leveraged.

SB 50 was introduced last year as SB 164. It was during deliberations with the administration and members of this committee and the Judiciary Committee that several important provisions were considered regarding proper restitution and due process. That bill did not become law, which is why the committee has SB 60 before it today.

CHAIR GIESSEL welcomed Major Chastain to the committee.

[3:32:23 PM](#)

MAJOR BERNARD CHASTAIN, Deputy Director, Division of Alaska Wildlife Troopers (AWT), Department of Public Safety, Anchorage, Alaska, commented on SB 60. He said AWT is the primary enforcement agency for all fish and wildlife laws in the state. Last year this bill moved through both houses and some well-thought-out amendments were adopted, and it is being introduced this year because it died in the last session.

[3:34:11 PM](#)

He said SB 60 has a couple of main concepts. It allows a person who receives a citation for not having the appropriate sport fishing, hunting, or trapping license in their actual possession to correct that citation if they had a previously purchased license by bringing into any Department of Public Safety (DPS) office just like a correctable citation for a traffic ticket.

It also makes it unlawful for a person to obtain a sportfishing, hunting or trapping license if the person has had their rights to engage in those activities revoked or suspended in this or another state.

It increases some restitution amounts for unlawfully taking big game animals and increases strict liability commercial fishing fines for first, second, and third offenses. It also creates an option of charging with a violation or a misdemeanor offense for most statutes contained in Title 16, 16.05 and 16.10 depending on the culpability of the offender.

It also standardizes the penalties contained in these statutes.

[3:36:20 PM](#)

Sectional analysis:

Section 1 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 3.

Section 2 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 this or another state.

Currently this statute directs that a person who applies for a sport fishing, hunting, or trapping license or permit or tag issued under this section shall sign a statement that their right to obtain or exercise the privilege of this is not suspended or revoked in another state. Surprisingly, this statute does not include Alaska. This will change that and align this statute with the intent of the law.

[3:37:17 PM](#)

Section 3 amends AS 16.05.330 by adding three subsections:

Subsection (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. He said trooper realized that people sometimes forget their license at home in their car or other locations and for many years have given unofficial correctable citations to them. This section will give a trooper the ability to cite a person for not having a license in possession and give them a period of 30 days to bring it to any office and it will be dismissed.

[3:38:37 PM](#)

SENATOR STEDMAN said over the last couple of years they have talked about this electronic format so people could take a picture of a license with a cell phone or iPad and he wanted to know if any thought had been given to putting tags in electronic format. In switching hunting clothes, he has personally found challenges to always remember to have the tags.

MAJOR CHASTAIN replied the law requires tags to be validated and one of the problems for enforcement is how a person can do that electronically without being able to delete it.

[3:40:07 PM](#)

BRUCE DALE, Director, Division of Wildlife Conservation, Department of Fish and Game (ADF&G), Palmer, Alaska, said they have been looking at ways to provide applications for phones and devices that can be used for validating licenses and reporting. So, they have a survey to ask what kinds of things users want and an IT project to explore what kinds of things can be done with not having it in written form and having it be validated some way.

[3:41:28 PM](#)

SENATOR HUGHES asked what happens if fish or game is caught? Does the hunter or fisherman get to take it during the 30-day grace period and what happens right now if they don't have the license on their person?

MAJOR CHASTAIN answered currently if a person doesn't have a license the trooper asks a series of questions to determine whether or not he does or does not have a license. Most of the time it can be figured out. If the trooper determines the person doesn't have a license he will issue a citation. The person also will have the option to bring the license in and allowing those citations to be corrected. If they have game or fish at the time, if he determines the person is not telling the truth, the trooper will seize it, but if he can prove having a license he gets to keep it as long as it was legally taken.

SENATOR HUGHES said it sounds like it's going to be handled the same way it is handled now: based on the officer's best judgement at the time.

MAJOR CHASTAIN said that was correct.

[3:43:10 PM](#)

SENATOR WIELECHOWSKI asked if a picture of the license or tag can be taken on a phone and shown to the officer, of a dip netting permit for example.

MAJOR CHASTAIN replied that this bill would make it lawful to present a license in electronic form. The ADF&G is developing a digital licensing program now, because currently there is no mechanism to display an electronic license. So, if this passed and ADF&G implemented an electronic license that would be acceptable.

SENATOR WIELECHOWSKI said you can't take a picture of it, in other words.

MAJOR CHASTAIN answered no not right now. With his example of a dip net permit, for instance, it has requirements to record on it and there is no electronic mechanism for that right now.

SENATOR WIELECHOWSKI asked if you're out hunting in the Bethel area and don't have your license, do you have to return to Bethel to show your license or can you show it the ADF&G office in Anchorage where your home is.

[3:44:56 PM](#)

MAJOR CHASTAIN answered you can bring it to any office where it can get emailed or scanned to the trooper in the location where the citation was issued.

SENATOR VON IMHOF asked how much time this will save troopers over the long run.

MAJOR CHASTAIN replied that he didn't know, but probably not much. This just allows for an official way to correct a citation and make it incumbent upon the person who doesn't have their license to produce it. Often people say they have a license and they really don't, although some truly have forgotten them and this provides a way to deal with both of those situations.

[3:46:51 PM](#)

MAJOR CHASTAIN said section 3 has two additional subsections: (g) and (h). Section (g) allows that a license or permit may be in actual possession in paper or electronic form (when it is implemented). Section (h) states any peace officer presented with an electronic device under this section shall be immune from any liability resulting from damage to the device. He explained that fishing and trapping licenses are often inspected in adverse conditions, aboard boats in violent seas, while hands

are contaminated with fish or game parts, or in remote locations. If this section is implemented these resource users will have the ability to decide whether they want to present an electronic copy or a paper copy.

SENATOR WIELECHOWSKI said he imagined that the paper documents troopers get are not in the greatest shape and asked what they do in that situation.

MAJOR CHASTAIN replied there is no fine. If they are able to determine it is the right license in the right year they will go with that.

[3:49:28 PM](#)

He continued explained that section 4 under AS 16.05.430 removes a specific fine of \$1000 and penalties associated with the unclassified misdemeanor and replaces it with a class A misdemeanor established under AS 12.55. The goal of this and subsequent sections is to standardize penalties within Title 16 and create two separate options for charging. The first option for serious offenses will be charged with a class A misdemeanor and the second option for less serious offenses will be charged with a violation offense. These penalties will be aligned throughout AS 16 and follow the penalties outlined in AS 12.55. This is important, because by regulation charges can be reduced to violations, but in statute they currently can't. This gives the Alaska Wildlife Troopers and the Department of Law (DOL) the ability to decide what is most appropriate for this offense.

[3:50:48 PM](#)

Section 5 is related to section 4. 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 5 creates two new subsections within AS 16.05.430: subsection (c) establishes that a person may be charged with a 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, it will be instructed to deposit the restitution into the Fish and Game Fund.

MAJOR CHASTAIN explained when someone is not a resident of Alaska and purchases a resident hunting license and moose tag across the counter when they should have purchased a non-resident hunting license and a non-resident locking tag, that money that is lost is not the only money that is lost, but it is also a loss of federal matching funds to the state. So, occasionally judges can impose that federal matching dollars to the defendant and that money can be deposited into the Fish and Game Fund, making the state whole.

[3:52:58 PM](#)

SENATOR STEDMAN asked him to explain the difference between the classes of misdemeanors so folks can get an idea of the severity going up from a citation to different classes of misdemeanors to more expensive and serious violations.

MAJOR CHASTAIN explained that a violation offense is a maximum \$500 fine and doesn't have restrictions. A class A misdemeanor is a maximum \$10,000 fine and all kinds of restrictions can be imposed like jail time, forfeitures, revocation of licenses, probations, and other penalties.

AARON PETERSON, Assistant Attorney General, Department of Law, Anchorage, Alaska, added that the maximum fine under Title 12 is \$500 and no jail time or other restrictions because the court refers to it as a "quasi-criminal offense." The bill has several non-classified misdemeanors that have their own unique penalty ranges and they will be changed to class A misdemeanors, which have a maximum penalty in Title 12 (that was recently modified under the Omnibus Crime Bill) of \$25,000 and a year in jail.

He said some Title 16 offenses have their own violation financial penalties in the next section.

[3:56:18 PM](#)

SENATOR WIELECHOWSKI asked how these are handled now.

MR. PETERSON answered that many of these offenses that the bill seeks to change into a class A misdemeanor are currently non-classified misdemeanors. A section 4 offense is punishable by a fine of not more than \$1,000 and imprisonment for not more than six months, which is a defined range in prison sentence range

that doesn't correspond to a class A or class B misdemeanor. Currently, the DOL and the DPS don't have the ability to reduce to a violation if there is no culpable mental state, which is often certainly sometimes appropriate to do, and obviously this bill would remedy that.

SENATOR WIELECHOWSKI asked if SB 60 passes is "culpable mental" state defined as "knowing."

MR. PETERSON replied that the current culpable mental state of Title 16 is a modified negligence standard set by the Court of Appeals in State v. Rice and it is "knew or should have known." That is the current mental state for a misdemeanor. This bill would remedy that by giving the judge the discretion to reduce a violation if circumstances warrant it.

3:59:26 PM

SENATOR WIELECHOWSKI said it looks like he is just saying a person who violates AS 16.05.330 (licenses) for example, is guilty of a class A misdemeanor punishable as provided in AS 12.55, and asked if AS 12.55 provides the ability to treat it as a jail time offense, as a violation, or is he just saying that prosecutorial discretion allows you to do that.

MR. PETERSON answered currently an unclassified misdemeanor is if the state can prove the person knew or should have known; that would establish the mental state for a misdemeanor. It would be a class A misdemeanor under this bill. The bill would provide the ability to reduce it to a violation if the range of offenses contemplated in the bill have no culpable mental state. Obviously, that does lend itself somewhat to prosecutorial discretion. Absent the discretion, every offense would have to go trial with the highest possible charge and let a jury decide, then let a judge sentence, and that is terribly inefficient. In seeking out some efficiencies this bill would give the ability to reduce a charge below that which it would currently be charged.

MAJOR CHASTAIN added that Superior Court has created a bail schedule, so it is a bail citation and not a misdemeanor.

SENATOR WIELECHOWSKI pointed out that section 4 says they are creating a class A misdemeanor, but section 5 gives prosecutorial discretion and he has always been reluctant to give prosecutors that much leeway to decide the fate of a person: whether they are going to jail for a year or pay a \$50

fine. He was sure this would be taken up in the Judiciary Committee, which he serves on.

[4:02:36 PM](#)

SENATOR VON IMHOF reviewed: right now if someone is caught without a fishing license, it is an unclassified misdemeanor with a current fine of up to \$1000, imprisonment for no more than six months, or both. She asked based on what criteria, this bill will either lessen to a violation of no more than \$500 or elevate to class A misdemeanor that has all sorts of things attached to it.

MAJOR CHASTAIN said the first answer to her question is that not having your license in possession is a bail offense. Not having a sport fishing license in possession is a \$200 citation, found in the court rules section. A series of bail violations have been removed from statute so that they are not misdemeanors. The court and the bail schedule committees have decided it's more appropriate for these offenses to be listed as bail offenses than to make them a misdemeanor offense. There are probably a couple hundred of those bailable tickets throughout statute and regulation.

[4:04:39 PM](#)

SENATOR HUGHES asked for a range of matching federal dollars for restitution the state has lost.

MAJOR CHASTAIN replied that lost amounts of money can be as simple as somebody who decides they are going to come up to Alaska and purchase a resident fishing license and get a dip net permit that they don't qualify for. The difference could be the cost of the resident license versus the non-resident license. But annually, DPS investigates major residency cases where people have been defrauding the state for many years. In addition to dip net permits and King salmon stamps, and bag limits for all kinds of stuff, they have shot sheep, brown bear, and goats over time. Those tend to add up. In fact, several cases people have defrauded just the state of \$30,000-\$40,000 dollars; the matching dollars would be three times that. "It is very lucrative for people to cheat on residency." Residents are able to get a lot of these tags and permits without cost or for very low cost. On the contrary, non-residents pay quite a bit more for them and are restricted in a lot of the hunting and can't even participate in certain things like dipnetting. The state loses a substantial amount of money on them claiming residency.

SENATOR HUGHES asked how many people do a series of fraudulent actions.

MAJOR CHASTAIN answered this may be one person doing it for years. They look at whether this person has been claiming residency and how many animals they have taken over a period of time allowed by the statute of limitations. Typically, they find that these people are not only violating residency laws, but also getting PFDs and a lot of other stuff. These things tend to get lumped together in larger cases and end up getting prosecuted through various means.

SENATOR STEDMAN asked if the intent is to give troopers and prosecutors more flexibility to deal with out-of-state violators with multiple offenses for multiple years versus an Alaska resident that maybe forgot to buy his fishing license or did a very minor technical error.

[4:08:11 PM](#)

MAJOR CHASTAIN answered yes, that is exactly the intent.

CHAIR GIESSEL asked how often out-of-state folks dip net (since they can't do that at all).

MAJOR CHASTAIN replied that it's pretty frequent. Troopers come in contact with that during dip net season and often they don't catch up to non-residents until winter when they have more time to start investigating these cases. Sometimes they lead to bigger things. They have no reason to believe someone is not a resident when talking to them on the river bank while they are dip netting. So, it's pretty rare to catch them at that point, but often it's after the fact.

[4:10:06 PM](#)

MAJOR CHASTAIN said section 6 addresses strict liability commercial fishing violations; they are not criminal offenses. This statute establishes a monetary value for first, second, and third time strict liability commercial fishing offenses within a 10-year period. These amounts are maximum amounts that a judge may impose; they are not the fine. Often the fines are well below those maximums.

This section raises the strict liability commercial fishing violation fines from amounts established in 1988 when this section was enacted to the same amount adjusted for inflation in 2016 dollars. For instance, number one goes from \$3,000 to \$6,050. The only one that is different is section 3 that went

from \$9,000 to \$15,000, because section 3 was added at a later date.

[4:11:24 PM](#)

Section 7 amends AS 16.05 and 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. It is important that points applied to commercial fishing convictions be conveyed to the agency that is responsible for keeping track of the points that are applied to that individual.

SENATOR STEDMAN asked why section 6 needs to escalate the fines so much. Do they have a range of first conviction fines?

MAJOR CHASTAIN answered that the fines vary depending on how competitive the fisheries are. In certain areas of the state a typical fine might be \$3,000 with \$1,500 suspended for the first offense. If that person is convicted, any fish that they have caught illegally belongs to the State of Alaska, so it is forfeited to the state. In other areas of the state where a fishery is more competitive, the fines have stayed pretty close to \$3,000 and goes up with each subsequent offense. In addition, since these are not criminal offenses, they have the ability of charging a class A misdemeanor for serious commercial fishing violations and those can be applied as needed. It's pretty rare to charge a class A misdemeanor for a commercial fishing offense. Most of the time it is because they have done something pretty wrong.

SENATOR STEDMAN said he doubted that changing the fine from \$3,000 to \$6,000 would change anybody's behavior, because of all the other issues they face - loss of fish, potential other violations adding to their points, which hit them pretty hard. It's a different situation when someone intentionally goes into Red Bay on the south end of Baranof Island into a closed fishery and actually hinders the fishery, because they aggressively fished it when it was closed and closed for a reason. In those cases, he wasn't so sure that raising the fine by a few thousand dollars would prevent that. Not only that, all the other penalties and costs imposed on the person are such a severe deterrent that they have a good chance of even losing their boat. In many years of being around the commercial fishing industry he never got the impression that fishermen thought the penalties were light or so light that they could be ignored. He

asked if getting the rings up late in seining would fall under this category.

[4:15:53 PM](#)

MAJOR CHASTAIN answered that this is another complicated question and has a complicated answer. There is a variety and unlimited number of violations that can occur out there, with commercial fishing specifically. In the Sitka area, there is the herring fishery that is a substantial commercial fishing opportunity. In that setting, they typically cite people for seconds early or seconds late, because it is a significant economic advantage to drop a net early by a couple seconds. Those fisheries are highly economic and highly competitive. Other fisheries are not that competitive.

SENATOR STEDMAN agreed that seconds in the sac roe fishery is a substantial economic advantage. But getting the rings up late on deck can be complicated by a hang up, a tide, or a slow crew. The timing is watched very closely not only by the officers involved but also by the other fishermen - to say nothing of the Coast Guard. He recognizes the dollar increase to the treasury, but he didn't think raising the fine would deter the activity. He said one fellow's boat even went up to auction for fishing illegally in Red Bay on South Baranof Island. That impacted the fishing there for multiple seasons.

[4:20:13 PM](#)

MAJOR CHASTAIN said section 8 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 9 and 10.

Section 9 relates to section 8. 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 a brown bear taken within a half mile of a solid waste disposal facility.

[4:20:51 PM](#)

Section 10 amends AS 16.05.782 and adds two new subsections that establish the penalties as a class A misdemeanor for a criminal offense and also provide the additional option of charging a person with a violation offense when appropriate.

[4:21:17 PM](#)

Section 11, under AS 16.05.783, "Same day airborne hunting" statutes, this section removes the specific fines and penalties associated with an unclassified misdemeanor and replaces it with a class A misdemeanor for consistency in penalties.

[4:21:24 PM](#)

Section 12, under the "Prohibition of hunting adjacent to highway between Yukon River and Arctic ocean" statute, this section amends (b) and adds that the penalty for violation of this section is a class A misdemeanor punishable as provided in AS 12.55.

Section 13, related to section 12, adds a new subsection under AS 16.05.789 (c). This section provides the additional option of charging a person with a violation offense when appropriate.

[4:21:48 PM](#)

Section 14, under AS 16.05.790 "Obstruction or hindrance of lawful fishing, hunting or trapping" statutes, adds a new subsection to allow for charging some offenses of this section as a violation offense when there is no culpable mental state.

Section 15, under AS 16.05.831(c) "Waste of salmon" statute, removes the specific fines and penalties associated with an unclassified misdemeanor and replaces it with a class A misdemeanor.

[4:22:13 PM](#)

Section 16, under AS 16.05.901, adds a new subsection to provide for charging offenses committed under AS 16.05.871-AS 16.05.896 as a violation offense punishable as provided in AS 12.55.

[4:22:28 PM](#)

SENATOR STEDMAN asked if using salmon to bait halibut is considered wanton waste under section 15.

MAJOR CHASTAIN answered that waste of salmon could be charged as that, but most of the time it's charged when large amounts of fish are wasted like stripping roe from fish and when processors let fish rot on the docks. Usually they find a lesser offense to charge for that type of thing making it a bailable offense.

[4:23:35 PM](#)

Section 17, under AS 16.05.925 "Penalty for violations", amends subsection (a) 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 percent that a person convicted of unlawfully taking big game may have to pay to the state if the court chooses to implement restitution.

Alaska's game belongs to all of us collectively, Major Chastain explained and 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.

He said the original bill submitted in the 2016 legislature increased restitution amounts by 50 percent from the base amounts in statute. Some of these amounts were changed as the bill moved through committees last year and this version of the bill reflects those changes. Some animals, like moose, went up by 150 percent.

[4:25:26 PM](#)

SENATOR WIELECHOWSKI asked if someone takes a moose and then realizes it's three inches short from a legal moose, do they pack it out 50 miles and turn it over to the ADF&G and still have to pay a fine under subsection (c).

MAJOR CHASTAIN replied that the court would not be able to charge the restitution amount under (c). Currently, if someone turns himself in voluntarily and brings everything in in good condition he is charged with a violation offense with a typical fine of \$300 and loss of the animal.

SENATOR WIELECHOWSKI asked if that is what is done under current law since it is a new section.

MAJOR CHASTAIN answered that occasionally magistrates impose restitution in those cases. In fact, last year magistrates imposed restitution in four cases. If SB 60 passes, it tells

magistrates and judges they can't impose restitution for people who voluntarily turn themselves in.

SENATOR WIELECHOWSKI said language says "the defendant 'may' not be ordered" and asked if that is discretionary.

[4:27:45 PM](#)

MR. PETERSON answered that would not be read as a permissive "may." The "may" in this case is tantamount to the legislature telling the court they shall not do it. He added that the Court of Appeals recently reversed a judge's interpretation of similar language to mean that since it said "may" it can also mean "may not." It should probably read "shall not be ordered."

SENATOR WIELECHOWSKI said he thought that language could save a court challenge.

SENATOR VON IMHOF asked if someone volunteers to return their animal because they realize they did it illegally, is there a way to evaluate whether it was an honest mistake. Section 11 on same day airborne hunting came to her mind here.

MAJOR CHASTAIN answered that typically an average of 130 cases are self-turn-in animals each year. It's almost always moose and sheep. They do the right thing: salvage the animal and bring it from the field and make the very difficult phone call to enforcement to tell them what they did. It's their belief they are rewarded in that scenario for calling up. Same day airborne is a whole separate crime.

[4:30:58 PM](#)

He said section 18 was an amendment that Senator Coghill helped craft last year and they fully support it.

SENATOR WIELECHOWSKI said he thought section 18 was a good section and asked if he ever has issues with a person shooting the wrong size moose multiple times.

MAJOR CHASTAIN answered yes, occasionally, and they discuss how to handle it with the DOL, but that self-turn-in will cease because they can't continue to do it each year.

SENATOR WIELECHOWSKI said as he reads the statute there is no limitation.

MAJOR CHASTAIN responded that the way this section reads is that someone who does this and turns in the animal would not be

charged restitution. They still have the ability to charge them as a violation or as a misdemeanor. So, if a person accidentally took a small moose three years in a row he could be charged with a misdemeanor.

[4:33:24 PM](#)

Section 19, under AS 16.05.940 (38), adds a new definition defining "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.

[4:34:01 PM](#)

MAJOR CHASTAIN said sections 20-27 are in one block and are all standardized penalties; they create the ability to charge either a misdemeanor or a violation.

[4:34:08 PM](#)

Section 28 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 29 provides an effective date of July 1, 2017.

SENATOR HUGHES asked if there were particular problems with not getting this issue through last year.

MAJOR CHASTAIN answered that it was a combination of not having enough time to make all the amendments before time ran out.

SENATOR HUGHES asked if sportsmen's groups had expressed concerns or opposition.

MAJOR CHASTAIN explained that last year a few people called in that had some concerns but those were taken care of.

[4:35:35 PM](#)

SENATOR STEDMAN asked him to provide a feeling for some of the field challenges hunters face in identification of moose in the Thomas Bay area outside of Petersburg.

MAJOR CHASTAIN said his background included being stationed in Ketchikan as a Sergeant in charge of the Petersburg, Wrangell, Petersburg area and each year they get a wide range of moose that are shot with different antler configurations that don't comply with the rest of the state, because they are a different subspecies of moose. These antlers are a lot different than the

typical moose antlers and have strange projections and different configurations that make it tough to determine sometimes what is legal and what is not.

SENATOR STEDMAN asked if he found that hunters are pretty responsive to working with troopers in identifying and trying to comply with the regulations.

MAJOR CHASTAIN answered that hunters in that area are pretty responsive to helping out. At one point a lot of illegal animals were being taken by breaking a spike or a fork. After the regulations were created about broken antlered moose, cases went from 30 to 1.

SENATOR STEDMAN said the vast majority of hunters he knows get teased and ridiculed by their buddies when they inadvertently shoot a moose that is out of compliance, particularly if they do it more than once. They are not proud of it and it's a lot of work to get a game animal out of the woods and deliver it to the community.

CHAIR GIESSEL finding no other questions thanked everyone for their participation and Major Chastain for his service.

[4:40:53 PM](#)

CHAIR GIESSEL adjourned the Senate Resources Committee meeting at 4:40 p.m.