

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

February 28, 2020

3:29 p.m.

MEMBERS PRESENT

Senator Peter Micciche, Chair
Senator John Coghill, Vice Chair
Senator Cathy Giessel
Senator Jesse Kiehl

MEMBERS ABSENT

Senator Click Bishop
Senator Joshua Revak
Senator Scott Kawasaki

COMMITTEE CALENDAR

SENATE BILL NO. 159

"An Act relating to salt water sport fishing operators and salt water sport fishing guides; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 189

"An Act relating to the fish and game fund; establishing the sport fishing enhancement surcharge; relating to the repeal of the sport fishing facility surcharge; providing for an effective date by amending the effective date of sec. 21, ch. 18, SLA 2016; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 159

SHORT TITLE: SALT WATER FISHING: OPERATORS/GUIDES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/22/20	(S)	READ THE FIRST TIME - REFERRALS
01/22/20	(S)	RES, FIN
01/22/20	(S)	RES RPT RECD W/CS AWAIT TRANSMITTAL NXT

02/28/20 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 189

SHORT TITLE: SPORT FISHING ENHANCEMENT SURCHARGE

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/12/20 (S) READ THE FIRST TIME - REFERRALS

02/12/20 (S) RES, FIN

02/28/20 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

DAVID RUTZ, Director
Division of Sport Fisheries
Alaska Department of Fish and Game
Palmer, Alaska

POSITION STATEMENT: Provided an overview of SB 159.

RACHEL HANKE, Legislative Liaison
Alaska Department of Fish and Game
Juneau, Alaska

POSITION STATEMENT: Provided a sectional analysis of SB 159 and answered questions.

TOM TAUBE, Deputy Director
Division of Sport Fisheries
Alaska Department of Fish and Game
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding SB 159.

CHERYL BROOKING, Assistant Attorney General
Alaska Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding SB 189.

BRIAN FRENETTE, Assistant Director
Division of Sport Fisheries
Alaska Department of Fish and Game
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding SB 189.

ACTION NARRATIVE

[3:29:55 PM](#)

CHAIR PETER MICCICHE called the Senate Resources Standing Committee meeting to order at 3:29 p.m. Present at the call to order were Senators Kiehl, Coghill, Giessel, and Chair Micciche.

SB 159-SALT WATER FISHING: OPERATORS/GUIDES

[3:30:31 PM](#)

CHAIR MICCICHE announced that the first order of business would be Senate Bill 159, "An Act relating to salt water sport fishing operators and salt water sport fishing guides; and providing for an effective date."

[3:31:36 PM](#)

DAVID RUTZ, Director, Division of Sport Fisheries, Alaska Department of Fish and Game, Palmer, Alaska, explained that SB 159 would reinstate sport fishing guide and operator licensing standards and fees for salt water guides and operators. The legislature adopted the sport fish guide and operator licenses that took effect in 2005 and sunsetted on December 31, 2014. The legislature reinstated the legislation and it sunsetted in 2018. The department would like to see the operator licensing standards and fees in statute in perpetuity. The license fees pay the cost of collecting logbook data which is the reporting section of SB 159.

He detailed that the department has collected logbook data from salt water sport fishing businesses and guides since 1998. Logbook data is critical to upholding the state's obligations for the United States and Canadian Pacific Salmon Treaty as well as providing crucial data to the International Pacific Halibut Commission. Logbook data is also critical for the North Pacific Fisheries Management Council for managing federal fisheries and avoiding duplicative reporting mechanisms that place undue burden on the charter fishing industry.

MR. RUTZ noted that committee members received a logbook use summary that lays out all the needs and obligations the program provides.

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RACHEL HANKE, Legislative Liaison, Alaska Department of Fish and Game, Juneau, Alaska, provided the following sectional analysis for SB 159, version A:

Section 1

Establishes license fees for salt water guides and operators.

- Guide license - \$200
- Operator license - \$400
- Operator and guide combined license - \$400

Section 2

Adds new Article to AS 16.40

- AS 16.40.262 - provides stipulations for the salt water operator license and defines the license type.
- AS 16.40.272 - provides stipulations for the salt water guides and combined license and defines both license types.
- AS 16.40.282 - establishes reporting requirements for salt water guides and operators.
- AS 16.40.292 - establishes penalties for violations the chapter.
- AS 16.40.301 - defines "salt water sport fishing guide" and "salt water sport fishing guide services."

Section 3

Adds salt water sport fishing operator and guide license to AS 25.27.244(s)(2) which defines "license."

Section 4

Effective date of January 1, 2021.

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CHAIR MICCICHE asked what the fees were when the program expired in 2018.

MR. RUTZ answered that they were \$200 for the guide and operator fee and \$100 for the guide fee, which is half of what SB 159 asks for.

CHAIR MICCICHE asked if the combined fee has always been the same as the salt water fishing operator license.

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TOM TAUBE, Deputy Director, Division of Sport Fisheries, Alaska Department of Fish and Game, Juneau, Alaska, explained that the combined fee has been the same as the operator license. The combined fee in SB 159 is \$400 and previously the fee was \$200. An operator who is also a guide would pay the full amount as a business does.

SENATOR COGHILL noted that the amended legislation adds a new section. He asked if the new section adds new verbiage to the legislation.

MS. HANKE answered that the new section is mostly the same, but the bill reinstates the reporting requirement from the original legislation.

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SENATOR KIEHL asked for the number of salt water guides and the total number of guides in the state.

MR. TAUBE answered that there are approximately 1,200 to 1,300 salt water guides. The approximate total of both fresh water and salt water guides is 2,200 to 2,400.

SENATOR KIEHL pointed out that logbooks are important to the Board of Game and advisory committees. He asked why the bill only requires logbook data from salt water guides.

MR. TAUBE answered that the department specifically submitted salt water guides because the salt water guide industry supports the legislation. The department dropped fresh water logbooks at the beginning of 2019 partly due to not having sufficient funding to continue the program and a lack of support from the fresh water guide industry to complete the logbooks. The fresh water guiding industry felt that the division was not using their logbook data for management purposes.

He explained that after in-season logbook data collection, the department releases data during the post season. However, the department is converting to an electronic logbook (e-logbook) system for the 2021 season. The department will mandate all salt water guides to complete their e-logbooks. The logbook conversion should expedite data processing and information compilation.

MR. TAUBE detailed that the department releases king salmon data by mid-July to determine where the state is with regards to Pacific Salmon Treaty obligations. They start generating halibut harvest reports at the same time for the North Pacific Fishery Management Council for the fall.

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SENATOR KIEHL remarked that all the listed logbook data benefits were in-season management benefits. He opined that providing more data would seem to help the Board of Game and biologists to

do a better job, especially with the e-logbook implementation providing in-season information for just about everybody.

MR. TAUBE replied in-season is a relative term, but preliminary data access would occur within weeks of the e-logbook compilation. However, data analysis during the in-season would take some time.

CHAIR MICCICHE asked why the legislation sunsetted twice in the last six years.

MR. TAUBE replied he does not know the rationale for the sunset clauses. The initial legislation adopted in 2005 had a five-year sunset with two-year sunsets afterwards.

CHAIR MICCICHE remarked that this is obviously a priority for the department. He asked why the legislation was not a priority during the previous times when it sunsetted and then expired.

MR. TAUBE answered that he believes it was a priority for the department, but he isn't certain why the sunset provisions were inserted.

SENATOR COGHILL pointed out that the fiscal note indicated concerns over the fresh water guide licensing logbook. He recalled that the fresh water logbook discussion related to whether the process provided value.

SENATOR COGHILL asked how the department records individual licensing and boat labeling [registration].

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MR. TAUBE explained that the department requires licensed guide businesses to register their vessel and get logbooks for their staff. Within the logbook there is a vessel registration form that identifies the vessel utilized by the business during the season. The guide business can contact the department to add a replacement vessel if their registered vessel goes down during the season.

He explained that vessel registration allows the department to track vessels used for guiding. Each vessel receives a large gold and green decal, often called "the watermelon." The guide businesses receive annual renewal tags that go on each side of their registered vessel.

SENATOR COGHILL asked how the department holds licensed individuals accountable for logbook data.

MR. TAUBE explained that logbook instructions require logbook entries to be completed before offloading passengers and fish. The department can issue citations to individuals that do not comply. Licensed guide businesses must submit completed logbooks to the department within a two-week timeframe when reports are due.

He noted that the department has been lenient on reporting provisions if someone operates in a remote location and requires an end of season waiver. However, the department has cited individuals for incorrectly completing logbooks, falsely completing them, or not turning them in within the required timeframe.

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SENATOR COGHILL asked if using e-logbooks will allow faster data downloading and cleaner accountability.

MR. TAUBE answered yes. He detailed that a guide or business will upload logbook information after a fishing trip once they have connectivity. The department will allow a guide or business up to two days to make corrections to the logbook but after that the data is uploaded and changes are no longer allowed. Citations or violations will be the same for failure to correctly complete e-logbooks. It's just a more efficient means of collecting information.

MR. TAUBE detailed that the e-logbook process will be efficient for guides taking clientele out multiple days. Guides will be able to repeat clientele information in future days to record e-logbook entries. Guides will also be able to scan licenses to automatically upload client information. The idea behind the e-logbooks was to make things more efficient for guides and acquisition of the data easier for the department.

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SENATOR COGHILL asked how many licensed operators can be on a tagged boat.

MR. TAUBE explained that each vessel has one logbook and generally there is one guide per vessel. There could be multiple guides on a single vessel, but guides would be recording into the same logbook. Usually the second guide acts as a deckhand and the lead guide records logbook trip information.

SENATOR COGHILL inquired if logbook accountability is an economic or legal relationship.

MR. TAUBE answered it's a legal relationship.

SENATOR COGHILL recapped that there is one boat and one guide.

MR. TAUBE added that there is one logbook in that circumstance.

CHAIR MICCICHE asked if a deckhand has licensing requirements.

MR. TAUBE answered that the definition of sport fishing guide services excludes a deckhand from licensing requirements. He explained that deckhands fall under the guide's license.

CHAIR MICCICHE asked if the department requires a deckhand to have a current sport fishing license.

MR. TAUBE answered yes.

[3:50:37 PM](#)

CHAIR MICCICHE asked if insurance, first aid, holding a driver's license and other requirements are the same as they have been in the past.

MR. TAUBE answered yes.

CHAIR MICCICHE read the following provision on page 4, line 28:

A person who is required to complete reports under this section may not provide false information or omit material facts in a report.

He asked if he agrees that in the State of Alaska a person who is under 16 years of age does not require a sport fishing license.

MR. TAUBE clarified that an Alaskan resident under the age of 18 and a nonresident under the age of 16 does not require a license.

CHAIR MICCICHE asked what protects a guide from the charge of filing a false report if the parents of a nonresident 17-year-old claim their child is under age 16 and the truth comes out when the boat is boarded and IDs are checked.

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MR. TAUBE answered that the determination is up to the investigating enforcement officer. If the guide made every effort to get the correct information, the clients would be responsible. He said the department does not require guides to ask for birth certificates.

CHAIR MICCICHE noted that the guide in the referenced case was a very uncomfortable winner. He said he brought it up to bring clarity to the case to ensure that the incident does not happen again.

MR. TAUBE the committee to support SB 159 without a sunset clause, if possible.

CHAIR MICCICHE noted his concern about the rollercoaster management of the guidebook program and the unfair requirements it places on salt water operators who have a lot of other things worry about.

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CHAIR MICCICHE opened public testimony; finding none, he stated he would keep it open. He encouraged written testimony be submitted to sres@akleg.gov.

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CHAIR MICCICHE held SB 159 in committee.

SB 189-SPORT FISHING ENHANCEMENT SURCHARGE

[3:55:00 PM](#)

CHAIR MICCICHE announced that the final order of business would be Senate Bill 189 (SB 189), "An Act relating to the fish and game fund; establishing the sport fishing enhancement surcharge; relating to the repeal of the sport fishing facility surcharge; providing for an effective date by amending the effective date of sec. 21, ch. 18, SLA 2016; and providing for an effective date."

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DAVE RUTZ, Director, Division of Sport Fisheries, Alaska Department of Fish and Game (ADF&G), Palmer, Alaska, explained that the legislature approved a bond measure in 2005 to construct two sport fish hatcheries: the William Jack Hernandez Sport Fish Hatchery in Anchorage and the Ruth Burnett Sport Fish Hatchery in Fairbanks.

He detailed that ADF&G crafted a bond repayment plan that added a \$9 sportfish license surcharge for residents and a bit higher surcharge for nonresidents. The surcharge goes directly to bond repayment, except for an annual \$500,000 payment for hatchery production in Southeast Alaska. The surcharge plan has been so successful, ADF&G will be able to pay off the bond five years early. The final payment is scheduled for December 2020.

He noted that the legislature made a promise initially that the surcharge would be eliminated after the final bond payment. The scheduled repeal of the surcharge and associated statutes is the end of 2020.

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MR. RUTZ said the department remembers the promised repeal but also recognizes the benefit of the surcharge to sport fish enhancement operations. With that in mind, they propose a compromise to reduce the surcharge 34 percent so Alaska residents would pay \$4 and nonresidents would contribute a little more. The department would collect the surcharge funds in a separate ADF&G account that would only be used for sport fish enhancement programs and sport fish hatchery facilities.

He noted that upon repayment of the current bond, there is an immediate \$500,000 funding loss to Southeast Alaska. Targeted sites in Southeast use the surcharge funds to raise and release 1.4 million chinook salmon smolt that mainly benefit Alaskan sport fish anglers.

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MR. RUTZ detailed that the sport fishing enhancement program annually releases 7.2 million fish into 270 locations, most of which are lakes, and 1.4 million chinook salmon in Southeast Alaska. The enhancement efforts generate hundreds of thousands of sport fish angler days which in turn contributes significantly to local economies. The fishing efforts focused on enhanced chinook salmon in Southeast and Southcentral Alaska reduces the harvest of wild chinook salmon stocks that are currently in a state of recovery.

MR. RUTZ noted that the department redirected nearly \$5 million of Dingell-Johnson Act funds to pay for operations and maintenance after the Ruth Burnett and William Jack Hernandez hatcheries came on line. Any needed repairs and maintenance to date have come from existing operating budget funds at the expense of other division needs. Several larger and more expensive needs were deferred. Maintenance needs will grow and

place undue burden on existing programs as facilities age. Having the ability to tap into a funding source will allow the department to cover sport fish enhancement without impacting other needs.

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MR. RUTZ detailed that the surcharge generates an average of \$6.4 million in revenue. The division allocates approximately \$7 million to enhancement related programs and projects with most tied to the Anchorage and Fairbanks hatchery operations and maintenance.

He summarized that establishing the new reduced enhancement surcharge would cover existing enhancement program costs, address deferred maintenance and maintenance needs, and ensure funds are available for unforeseen facility events to avoid supplemental budget requests or facility shutdown.

[4:01:50 PM](#)

RACHEL HANKE, Legislative Liaison, Alaska Department of Fish and Game, Juneau, Alaska, provided the following sectional analysis for SB 189:

Section 1

Amends AS 16.05.130(e) to name the newly created sub-account of the fish and fund the sport fishing enhancement account. This section also restricts the use of the sub-account to maintenance of sport fishing facilities as well as sport fish enhancement programs. This section also removes all language which references the enterprise account and the revenue bond. These amendments will go into effect January 1 the year following the bond being paid and closure of the enterprise account.

Section 2

Amends AS 16.05.340(j) to reference the new enhancement surcharge and new funding purpose, it removes all language referencing the revenue bond, it also reduces all existing license surcharge amounts by \$5. These amendments will go into effect January 1 the year following the bond being paid and closure of the enterprise account.

Section 3

Repeals Section 21, ch. 18, SLA 2016. This section made a conforming amendment which removed reference to

16.05.340(j) because the section would have been repealed once the revenue bond is satisfied.

Section 4

Removes AS 16.05.130(e) and AS 16.05.340(j) from Section 34, ch. 18, SLA 2016, which is the repealing section. This will retain the sections after the revenue bond has been satisfied and allow the amendments from sections 1 and 2 of this legislation to go into effect.

Section 5

Amends uncodified law in Section 35, ch. 18, SLA 2016 to remove reference to Section 21, ch. 18, SLA 2016. This section effectively removed reference to AS 16.05.340(j) upon repayment of the revenue bond. This section will now be retained therefore, the repeal is removed.

Section 6

Adds transition language to uncodified law which transfers the balance of the enterprise account to the new sport fishing enhancement account January 1 following the calendar year that the revenue bond obligation is satisfied.

Section 7

Adds new conditional effect to uncodified law which states that sections 1 and 2 of this legislation will only go into effect once the commissioner of fish and game notifies the revisor of statutes that the principal amount of the bond and any other obligations of the bond have been paid.

Section 8

Amends Section 36, ch. 18, SLA 2016 to remove reference to AS 16.05.340(j).

Section 9

Effective date section which states that January 1 of the calendar year following the commissioner notifying the revisor of statutes as required in section 7, sections 1 and 2 of this legislation go into effect.

Section 10

Establishes an immediate effective date for sections 3-10.

CHAIR MICCICHE asked if the bill was clean enough to not compromise the dedicated fund issues.

4:04:16 PM

CHERYL BROOKING, Assistant Attorney General, Civil Division, Natural Resources Section, Alaska Department of Law, Anchorage, Alaska, answered yes. She said the surcharge program currently has an established account for the bonds and the bill would continue the practice to some extent.

CHAIR MICCICHE asked if she would do additional research and provide the committee with a more thorough answer.

MS. BROOKING answered yes.

SENATOR KIEHL asked for assurance that the proposal does not raise any legal concerns for the Department of Law.

MS. BROOKING replied the bill does not trigger the Privileges and Immunities Clause that the Carlson v. State case impacted. The Privileges and Immunities Clause only applies to commercial operations and not sport fishing. The clause protects the ability of people to work and make a living in different states. Sport fishing fees for residents and nonresidents can be different.

CHAIR MICCICHE asked what the definitions of enhancement and maintenance to make it clear what the expected activities from funding bill be.

4:06:23 PM

TOM TAUBE, Deputy Director, Division of Sport Fisheries, Alaska Department of Fish and Game, Juneau, Alaska, specified that surcharge funding for enhancement and maintenance means supporting sport fish production at the Anchorage and Fairbanks hatcheries. Maintenance would include adding a backup well at the Fairbanks hatchery in addition to addressing corroded pipes, upgrading effluent system, and improving public access at the Anchorage hatchery. Maintenance would also encompass general wear and tear on hatchery equipment.

CHAIR MICCICHE asked if there is a reason the bill does not specify maintenance funding associated to sport fishing facilities.

MR. TAUBE answered that including enhancement would allow for fund dispersement to Southeast Alaska that currently occurs with the bond package. The intent is to maintain the \$500,000 going to Southeast Alaska for king salmon production.

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SENATOR COGHILL said Interior Alaska is grateful that the Fairbanks hatchery provides local king salmon. However, the legislature promised constituents that the surcharge would go away. He conceded that the operational and maintenance expectations for the hatcheries via the bond did not come in the way that people expected.

SENATOR GIESSEL recalled that the Fairbanks hatchery struggled with finding a suitable water source. She imagined that a second backup well in Fairbanks is going to be an expensive endeavor.

MR. TAUBE answered that a second well would cost approximately \$1 million. High iron content in the water would require an elaborate water filtration system as well as heat exchangers to better grow fish. Both hatcheries have been functioning well, but the aging facilities require maintenance.

[4:12:00 PM](#)

SENATOR GIESSEL commented that there is quite a backlog of deferred maintenance on buildings and other facilities. The State risks losing the hatchery facilities due to deferred maintenance and keeping the fund going seems prudent.

SENATOR COGHILL explained that legislators always want to keep their promises. However, hatchery maintenance and enhancement to meet sport fishing expectations is a place that does not allow the legislature to keep a promise of not adding the surcharge into perpetuity.

[4:13:13 PM](#)

CHAIR MICCICHE opened public testimony.

He noted his appreciation that the fiscal note provided clarity for ongoing hatchery maintenance. He said he served on the board for the Cook Inlet Aquaculture Association and confirmed the importance of hatcheries and their requirement for maintenance. The fiscal note clearly states on page 2 that funding provides ongoing hatchery maintenance. He admitted that he is more comfortable with the language in the fiscal note than in the bill.

MR. TAUBE noted that the bill references the hatcheries as sport fishing facilities.

CHAIR MICCICHE said he did not see anyone asking to testify.

[4:15:23 PM](#)

SENATOR KIEHL referred to an estimated nonresident revenue report for one-day sport fishing licenses that showed the revenue going down 65 percent when the surcharge goes down 50 percent. He asked why estimated revenue goes from \$1.2 million to \$550,000 when the surcharge is reduced from \$10 to \$5.

[4:17:00 PM](#)

BRIAN FRENETTE, Assistant Director, Division of Sport Fisheries, Alaska Department of Fish and Game, Juneau, Alaska, explained that the revenues are a function of license sales volume. He noted that there is a significant number of one-day nonresident sales, particularly in Southeast Alaska tied to the cruise ship industry, and that accounts for the big difference in revenue.

SENATOR KIEHL pointed out that Southeast Alaska is expecting increased numbers of cruise ship passengers. He restated his question about the decreased revenue estimate for one-day nonresident license sales.

CHAIR MICCICHE asked the division get back to the committee with an answer to Senator Kiehl's question regarding the decreased revenue estimate.

MR. FRENETTE replied that he would clarify the one-day nonresident license purchase amount.

[4:18:32 PM](#)

CHAIR MICCICHE announced that public testimony would remain open for SB 189.

He said both SB 189 and SB 159 are simple bills, but the legislation may require a bit of clarity. He asked the departments to answer the questions that committee members posed.

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CHAIR MICCICHE held SB 189 in committee.

[4:19:44 PM](#)

There being no further business to come before the committee, Chair Micciche adjourned the Senate Resources Standing Committee meeting at 4:19 p.m.