

HOUSE CS FOR CS FOR SENATE BILL NO. 38 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/17/91

Referred: Finance

Sponsor(s): SENATORS FRANK, Sturgulewski, Pearce, Shultz,

REPRESENTATIVES Sharp, Taylor, M.W.Miller, Zawacki

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the obstruction or hindrance of lawful hunting, fishing, trapping, or
2 viewing of fish or game."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 16.05 is amended by adding new sections to read:

5 Sec. 16.05.790. OBSTRUCTION OR HINDRANCE OF LAWFUL HUNTING,
6 FISHING, TRAPPING, OR VIEWING OF FISH OR GAME. (a) Except as provided in (e) of
7 this section, a person may not intentionally obstruct or hinder another person's lawful hunting,
8 fishing, trapping, or viewing of fish or game by

9 (1) placing one's self in a location in which human presence may alter the

10 (A) behavior of the fish or game that another person is attempting to take
11 or view; or

12 (B) feasibility of taking or viewing fish or game by another person; or

13 (2) creating a visual, aural, olfactory, or physical stimulus in order to alter the
14 behavior of the fish or game that another person is attempting to take or view.

1 (b) For purposes of (a) of this section, "lawful" means

2 (1) in compliance with

3 (A) this title, regulations adopted under this title, or applicable federal
4 statutes and regulations;

5 (B) the Marine Mammal Protection Act (P.L. 92-522) or the Endangered
6 Species Act (P.L. 93-205); or

7 (C) federal regulations adopted under 16 U.S.C. 3111 - 3126 relating to
8 subsistence hunting, fishing, or trapping on federal land; and

9 (2) with the permission of the private landowner if the hunting, fishing, trapping,
10 or viewing of fish or game occurs on private land.

11 (c) Notwithstanding AS 12.25, only a peace officer may arrest a person for violating this
12 section. A peace officer who has probable cause to believe that a person has violated this section
13 may arrest or cite the person or order the person to desist.

14 (d) In a prosecution under this section, it is an affirmative defense that the person was
15 lawfully entitled to obstruct or hinder the hunting, fishing, trapping, or viewing of fish or game.

16 (e) This section does not apply to

17 (1) lawful competitive practices among persons engaged in lawful hunting, fishing,
18 or trapping;

19 (2) actions taken on private property with the consent of the owner; or

20 (3) the obstruction or hindrance of the viewing of fish or game by a person
21 actively engaged in lawful fishing, hunting, or trapping.

22 (f) A person who violates this section is guilty of a misdemeanor and is punishable by
23 a fine of not more than \$500 or imprisonment for not more than 30 days, or both.

24 Sec. 16.05.791. CIVIL REMEDIES. (a) A person aggrieved by conduct or threatened
25 conduct in violation of AS 16.05.790 may petition a superior court to enjoin the respondent from
26 engaging in the conduct.

27 (b) A person aggrieved by a violation of AS 16.05.790 is entitled to recover general
28 damages and special damages, including license and permit fees, travel costs, guide-outfitting
29 fees, costs for special equipment and supplies, and other related expenses.

30 (c) A court may award punitive damages in addition to the damages set out in (b) of this
31 section.