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# WORK ORDER REQUEST FORM

**N2 - 2669**

KEYWORDS: fish/game, game  
food  
analysis

ASSIGNED TO Hein

REQUEST FOR: BILL  RESOLUTION  RESEARCH  Analysis  
OTHER  A

SUBJECT HB 47 - Wasting of Meat From Game

REQUESTED FOR House Judiciary BY Barnes EXT. \_\_\_\_\_

\* DELIVER TO Representative Barnes Hein TAKEN BY Hein

INSTRUCTIONS, EXPLANATIONS \_\_\_\_\_

Section by section analysis of CSHB 47 (Judiciary) relating to the prohibition  
against waste of the meat of big game animals and wild fowl.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED

AUTHORIZED TO CONFER WITH \_\_\_\_\_

RETURN \_\_\_\_\_

\_\_\_\_\_ TO REQUESTER

APPROVED: BGB Director, Legal Services

REVIEWED \_\_\_\_\_

IN 3/2 DUE \_\_\_\_\_

TYPED - Draft \_\_\_\_\_ DATE \_\_\_\_\_

Final \_\_\_\_\_ DATE \_\_\_\_\_

PROOFED \_\_\_\_\_ DELIVERED \_\_\_\_\_

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT

FINAL

1201

\*\*\*\*COPY\*\*\*\*  
ALASKA HOUSE OF REPRESENTATIVES  
CSHB 47 JUD 3RD

2ND SESSION 12TH LEG

3/17/82 5:55 PM

		32	YEAS	3	NAYS	2	EXC	3	ABS		
Y	ABOOD	Y		Y	CHUCKWUK	Y		Y	HAUGEN	Y	PHILLIPS
Y	ADAMS	Y		Y	CLOCKSIN	Y		Y	HAYES	Y	RANDOLPH
Y	ANDERSON		N		COTTEN	Y		Y	HURLBERT	E	ROGERS
Y	BARNES	Y		Y	CUDDY	Y		Y	MALONE	E	SMITH
Y	BEIRNE	Y		Y	DUNCAN	Y		Y	MARTIN	Y	SUTCLIFFE
Y	BETTISWORTH	Y		Y	FANNING	Y		Y	MEEKINS	N	VASKA
Y	BROWN		A		FREEMAN	Y		Y	METCALFE	Y	ZHAROFF
Y	BUCHHOLDT		N		FULLER	Y		Y	MILLER		
Y	BYLSMA		A		GARDINER	Y		Y	MONTGOMERY		
Y	CARNEY	Y		Y	GRUSSENDORF		A		MOSS		
Y	CATL	Y		Y	HALFORD	Y		Y	O'CONNELL		

+ VOTED FOR  
\* CHANGED VOTE

Sec. 16.30.010 WANTON WASTE OF WILD FOOD ANIMALS.

(a) It is unlawful for a person to kill a wild food animal and with criminal negligence, fail to salvage for human consumption at least 51% of the required portions of the edible meat, regardless of the removal of any non-edible parts.

(b) A person violating this section shall be guilty of a class C felony. A definite term of one hundred and twenty consecutive hours imprisonment shall be imposed, and a minimum fine of \$2,500 shall be imposed upon conviction. Imprisonment for the definite minimum term and imposition of the \$2,500 minimum fine may not be suspended under AS 12.55.080 or any other law, nor may imposition of that definite minimum term and the minimum fine be suspended under AS 12.55.085.

(c) In addition to any imprisonment and fine imposed under this section, the convicted person's hunting, trapping, and guide licenses, if any, shall be revoked by the court for five years. ~~Any such revocation by the court shall not be dependent of any administrative revocation of the same license.~~ ~~practice~~

(d) It shall be a defense to any criminal charge under this section that the failure to salvage for human consumption, a percentage of the required portion of the edible meat was due to circumstances beyond the control of the person killing the animal, including but not limited to the following:

- (1) theft;
- (2) unanticipated weather conditions or other acts of God;
- (3) unavoidable loss in the field to another wild animal.

Sec. 16.30.011 WASTE OF WILD FOOD ANIMALS

(a) It is unlawful for a person to kill a wild food animal and with criminal negligence, fail to salvage for human consumption all of the required portion of the edible meat, regardless of the removal of any non-edible parts.

(b) A person violating this section shall be guilty of a class ~~B~~ <sup>A</sup> misdemeanor.

(c) In addition to any imprisonment and fine imposed upon conviction under this section, the convicted person's hunting, trapping, and guide licenses, if any, shall be revoked in the court for the remainder of the year.

(d) It shall be a defense to any criminal charge under this section that the failure to salvage for human consumption of a percentage of the required portion of the edible meat was due to circumstances beyond the control of the person killing the animal, including but not limited to the following:

- (1) theft;
- (2) unanticipated weather conditions or other acts of God;

to persons specified at 08.54.240(2).

(3) unavoidable loss in the field to another wild animal.

Sec. 16.30.025 LEGAL ACCOUNTABILITY AND COMPLICITY.

For purposes of this chapter, except for AS 16.30.012, AS 11.16 shall apply ~~to a person who assists another person to take game~~

*with the intent of receiving monetary or material remuneration for the services, by accompanying and directing the client personally or through licensed assistants for the duration of a hunt, and not solely for the purpose of providing transportation services.*

Sec. 16.30.030 DEFINITIONS. For this chapter:

- (1) "department" means the Department of Fish and Game.
- (2) "big game wild food animal" means moose, caribou, mountain sheep, mountain goat, feral reindeer, deer, elk, bison, walrus and musk-ox;
- (3) "criminal negligence" is defined and used as in AS 11.81.
- (4) "required portion of the edible meat" means:

(A) no less than the meat of the ribs, neck, brisket, front quarters as far as the juncture of the humerus and the radius-ulna (knee), hind quarters as far as the distal joint of the tibia-fibula (stifle joint), and that portion of the animal between the front and hind quarters, except the viscera, as to big game wild food animals.

(B) no less than the meat of the breast, as to small game wild food animals.

However, none of the following shall be considered with the "required portion of the edible meat":

- (A) meat of the head; *that has been damaged and made inedible by the method of taking*
- (B) ~~any meat damaged in the killing and consequently inedible;~~
- (C) bones, sinew, and incidental meat reasonable lost as a result of boning or a close trimming of the bones;
- (D) ~~internal organs and glands, such as heart, liver, spleen, lungs, bladder and stomach.~~ (D) viscera

(5) "small game wild food animal" means all species of wild water fowl, snipe, crane, goose and ptarmigan;

(6) "wild food animal" means all species listed under (2) or (3) of this section;

5

# STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

SUPPORT BUILDING  
JUNEAU, ALASKA 99801

PHONE: 465-4190

February 11, 1982

The Honorable Ramona Barnes  
State House of Representatives  
Pouch V, State Capitol  
Juneau, Alaska 99811

Dear Ms. Barnes:

You requested an analysis of the amendments, offered by Rep. Fanning, of CSHB 47, the bill that would amend AS 16.30, the "wanton waste of game" statute. As you know, the Department has several times gone on record as favoring HB 47, especially the concept of cleaning up this statute and providing stiffer penalties for waste of game.

Rep. Fanning's amendments are, in effect, a complete re-write of CSHB 47, and so must be compared to both the existing statute (AS 16.30) and CSHB 47.

HB 47 leaves the existing AS 16.30.010 (a), (b) and (c) intact; the amendment re-writes these sections. There are advantages to this approach; "most" of the edible meat is now qualified as 51 percent or greater. Note, however, two deletions: (b) (2) that now requires a person convicted of waste to turn over to the Department all meat salvaged (perhaps this is not important, since the court could confiscate the meat), and the statement that "The shooting of a wild food animal is prima facie evidence of intent to kill it." Whether the latter statement is important should be decided by competent legal authority.

The amendment also substitutes "criminal negligence" for the existing terms, "intentionally, knowingly, recklessly or negligently;" this seems to be justified, since criminal negligence is defined in AS 11.81.900 (4).

Perhaps the primary thrust of the amendment, as compared to CSHB 47, is to establish different levels of culpability for various degrees of failure to salvage; failure to salvage at least half of the edible meat of a wild animal is a class C felony, while failure to salvage the entire amount of the edible meat (as defined) is a class B misdemeanor. I think this approach is a reasonable one and would strengthen the bill.


A considerable problem still exists with Rep. Fanning's amended version, that CSHB 47 attempted to solve: the differentiation between "big game wild food animals" and "small game wild food animals." The original

February 10, 1982

problem lies in existing statute, where it is required that "most of the edible meat" of a wild food animal includes "meat of the front quarters ---," etc, which obviously was intended to apply to big game, and not to waterfowl, grouse, ptarmigan, etc that are also defined (AS 16.30.030 (2) ) as wild food animals. CSHB 47 attempts to cure this problem by splitting the definition of wild food animal into big game and small game components, and separately defining the amount of edible meat to be salvaged from each (in the case of small game, the meat of the breast only). Rep. Fanning's amendments, however, uses the term "wild food animal" in sections 10 and 11; only in 16.30.030 (2) and (5) are the terms "big game wild food animal" and "small game wild food animal" listed. Therefore, his 16.05.030 (4) "required portion of the edible meat" applies to all wild food animals - the problem existing in present statutes. My suggestion would be to provide that his 16.30.030 (9) apply specifically only to big game wild food animals (as defined in 16.30.030 (2)) and another section be added similar to CSHB 47, page 1 lines 23 and 24.

Two typographical errors are noted: in 16.30.010 (6), line 3, "improved" should presumably be "imposed;" in 16.30.030 (5), line 2, "goose" should be "grouse".

Sincerely,



Robert A. Hinman  
Deputy Director  
Game Division

March 1, 1982

Original sponsors: Grussendorf, Bettisworth,  
Fanning, et al

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 47 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the prohibition against waste of  
7 the meat of big game animals and wild fowl."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 16.30.010 is repealed and reenacted to read:

10 Sec. 16.30.010. WANTON WASTE OF BIG GAME ANIMALS AND WILD FOWL.

11 (a) It is a class A misdemeanor for a person who kills a big game  
12 animal or a species of wild fowl to fail, intentionally, knowingly,  
13 recklessly, or with criminal negligence, to salvage for human consump-  
14 tion the edible meat of the animal or fowl.

15 (b) A person convicted of violating this section who has failed to  
16 salvage from a big game animal at least the hindquarters as far as the  
17 distal joint of the tibia-fibula (stifle joint) shall be sentenced to

18 (1) a definite term of imprisonment of not less than 160  
19 consecutive hours; and

20 (2) a fine of not less than \$2,500.

21 (c) <sup>fine</sup> A sentence imposed under (b) of this section may not be sus-  
22 pended, nor may imposition of the sentence be suspended.

23 \* Sec. 2. AS 16.30 is amended by adding new sections to read:

24 Sec. 16.30.015. SURRENDER OF SALVAGED PORTIONS, LICENSE FORFEITURE.

25 A person convicted of violating AS 16.30.010

26 (1) shall surrender to the department all salvaged portions  
27 of the animal or fowl;

28 (2) forfeits his hunting license;

29 (3) is ineligible to hold a hunting license for

*The word "sentence" is  
1. Term of fine*

1 (A) the year in which the conviction is entered and the  
2 year following the year in which the conviction is entered;

3 (B) a period of five years from the date of the convic-  
4 tion if he has failed to salvage from a big game animal at least  
5 the hindquarters as far as the distal joint of the tibia-fibula  
6 (stifle joint).

7 Sec. 16.30.017. DEFENSES. It is a defense to a criminal charge  
8 under AS 16.30.010 that the failure to salvage the edible meat was due  
9 to circumstances beyond the control of the person charged, including

10 (1) theft of the animal or fowl;

11 (2) unanticipated weather conditions or other acts of God;

12 (3) unavoidable loss in the field to another wild animal.

13 \* Sec. 3. AS 16.30.030 is amended by adding new paragraphs to read:

14 (3) "big game animal" means moose, caribou, mountain sheep,  
15 mountain goat, feral reindeer, deer, elk, bison, walrus, or musk-ox;

16 (4) "criminal negligence" means criminal negligence as  
17 defined in AS 11.81.900(a)(4);

18 (5) "edible meat" means, in the case of big game animals, the  
19 meat of the ribs, neck, brisket, front quarters as far as the juncture  
20 of the humerus and the radius-ulna (knee), hindquarters as far as the  
21 distal joint of the tibia-fibula (stifle joint), and that portion of the  
22 animal between the front and hindquarters; in the case of wild fowl, the  
23 meat of the breast; however, "edible meat" of big game or wild fowl does  
24 not include

25 (A) meat of the head;

26 (B) meat that has been damaged and made inedible by the  
27 method of taking;

28 (C) bones, sinew, and incidental meat reasonably lost as  
29 a result of boning or a close trimming of the bones;

1 (D) viscera;

2 (6) "intentionally" means intentionally as defined in AS 11.-  
3 81.900(a)(1);

4 (7) "knowingly" means knowingly as defined in AS 11.81.900(a)-  
5 (2);

6 (8) "recklessly" means recklessly as defined in AS 11.81.900-  
7 (a)(3);

8 (9) "wild fowl" means species of wild fowl for which seasons  
9 or bag limits have been established by state or federal law.

10 \* Sec. 4. AS 16.30.020 is repealed.

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2/26/82

Original sponsors: Grussendorf, Bettisworth,  
Fanning, et al

1 IN THE HOUSE

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3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the prohibition against waste of  
7 the meat of big game wild food animals and wild fowl."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 16.30.010 is repealed and reenacted to read:

10 Sec. 16.30.010. WANTON WASTE OF BIG GAME WILD FOOD ANIMALS. (a)

11 It is unlawful for a person who kills a big game wild food animal to  
12 fail, with criminal negligence, to salvage for human consumption at  
13 least <sup>most</sup> 51 percent of the edible meat of the animal.

14 (b) A person violating this section is guilty of a class A mis-  
15 demeanor and upon conviction shall be sentenced to 160 consecutive hours  
16 of imprisonment and a fine of not less than \$2,500, nor more than \$5,000.  
17 <sup>Neither</sup> ~~The sentence and the imposition of sentence may not be suspended.~~ ?

18 (c) The court shall order that all salvaged portions of the animal  
19 be surrendered to the department.

20 (d) A person convicted of a violation of this section

21 (1) forfeits all hunting, trapping, and guide licenses; and

22 (2) is ineligible to hold a hunting, trapping, or guide  
23 license for a period of five years from the date of the conviction.

24 (e) Edible meat of a big game wild food animal

25 (1) includes the meat of the ribs, neck, brisket, front  
26 quarters as far as the juncture of the humerus and the radius-ulna  
27 (knee), hindquarters as far as the distal joint of the tibia-fibula  
28 (stifle joint), and that portion of the animal between the front and  
29 hindquarters;

2/26/82

1 (2) does not include meat of the head; meat that has been  
2 damaged and made inedible by the method of taking; bones, sinew, and  
3 incidental meat reasonably lost as a result of boning or a close trim-  
4 ming of the bones; or viscera.

5 \* Sec. 2. AS 16.30 is amended by adding a new section to read:

6 Sec. 16.30.011. WASTE OF WILD FOWL. (a) It is unlawful for a  
7 person who kills a species of wild fowl for which the department has  
8 established seasons and bag limits to fail, with criminal negligence, to  
9 salvage for human consumption all of the edible meat (of the breast) of  
10 the fowl.

11 (b) A person violating this section is guilty of a class A mis-  
12 demeanor.

13 (c) In addition to any imprisonment or fine imposed upon a person  
14 convicted of a violation of this section, the court shall order that all  
15 salvaged portions of the fowl be surrendered to the department.

16 (d) A person convicted of a violation of this section

17 (1) forfeits all hunting, trapping, and guide licenses; and

18 (2) is ineligible to hold a hunting, trapping, or guide  
19 license for the year in which the conviction is entered and the year  
20 following the year in which the conviction is entered.

21 (e) Edible meat of the breast of a species of wild fowl does not  
22 include meat that has been damaged and made inedible by the method of  
23 taking; bones, sinew, and incidental meat reasonably lost as a result of  
24 boning or a close trimming of the bones; or viscera.

25 \* Sec. 3. AS 16.30.012(a) is amended to read:

26 (a) It is unlawful to possess the raw horns or antlers of a big  
27 game wild food animal without its being accompanied by most of its  
28 edible meat unless

29 (1) most of its edible meat was salvaged in accordance with

2/26/82

1 law;

2 (2) the horns or antlers were acquired by gift from another  
3 person after the associated meat was salvaged;

4 (3) the meat was lost due to circumstances beyond the posses-  
5 sor's control, including loss in the field to another animal, weather or  
6 other acts of God, or theft.

7 \* Sec. 4. AS 16.30.012(b)(2) is amended to read:

8 (2) "raw" means an appearance, by reasonable observation,  
9 that indicates its having been taken from a big game wild food animal  
10 during the current or most recent lawful hunting season for that animal.

11 \* Sec. 5. AS 16.30 is amended by adding a new section to read:

12 Sec. 16.30.015. DEFENSES. It is a defense to a criminal charge  
13 under AS 16.30.010 - 16.30.011 that the failure to salvage for human  
14 consumption the required portion of the edible meat was due to circum-  
15 stances beyond the control of the person charged, including

16 (1) theft;

17 (2) unanticipated weather conditions or other acts of God;

18 (3) unavoidable loss in the field to another wild animal.

19 \* Sec. 6. AS 16.30.020 is amended to read:

20 Sec. 16.30.020. ANIMALS EXEMPTED [EXCEPTED]. The provisions of  
21 this chapter [AS 16.30.010 - 16.30.012] do not apply to animals which  
22 the Board of Game [BOARD] exempts by regulation.

23 \* Sec. 7. AS 16.30.030 is amended by adding new paragraphs to read:

24 (3) "big game wild food animal" means moose, caribou, moun-  
25 tain sheep, mountain goat, feral reindeer, deer, elk, bison, walrus and  
26 musk-ox;

27 (4) "criminal negligence" means criminal negligence under  
28 AS 11.81.

29 \* Sec. 8. AS 16.30.030(2) is repealed.

Original sponsors: Grussendorf, Bettisworth,  
Fanning, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 CS FOR HOUSE BILL NO. 47 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 TWELFTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to the prohibition against waste of  
7 the meat of wild food animals."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 16.30.010 is repealed and reenacted to read:

10 Sec. 16.30.010. WANTON WASTE OF WILD FOOD ANIMALS. (a) It is  
11 unlawful for a person to kill a big game wild food animal and, with  
12 criminal negligence, fail to salvage for human consumption <sup>at least</sup> ~~at least 51~~  
13 <sup>of the meat</sup> percent of the required portions <sup>of</sup> of the edible meat, regardless of the  
14 removal of any nonedible parts.

15 (b) A person violating this section is guilty of a class A mis-  
16 demeanor and a <sup>minimum</sup> term of 160 consecutive hours imprisonment shall be  
17 imposed. A minimum fine of \$2,500 shall be imposed upon conviction.  
18 Imprisonment for the definite minimum term and imposition of the minimum  
19 fine may not be suspended under AS 12.55.080 or any other law. Imposi-  
20 tion of sentence may not be suspended under AS 12.55.085 or any other  
21 law.

22 (c) In addition to the imprisonment and fine imposed under this  
23 section, the convicted person's hunting, trapping, and guide licenses,  
24 if any, shall be revoked by the court for five years, and all portions  
25 of the animal that have been salvaged shall be surrendered to the depart-  
26 ment.

27 (d) It is a defense to a criminal charge under this section that  
28 the failure to salvage for human consumption <sup>most</sup> a percentage of the required  
29 portion of the edible meat was due to circumstances beyond the control

1 of the person killing the animal, including but not limited to the  
2 following:

- 3 (1) theft;
- 4 (2) unanticipated weather conditions or other acts of God;
- 5 (3) unavoidable loss in the field to another wild animal.

6 \* Sec. 2. AS 16.30 is amended by adding a new section to read:

7 Sec. 16.30.011. WASTE OF WILD FOOD ANIMALS. (a) It is unlawful  
8 for a person to kill a wild food animal and with criminal negligence  
9 fail to salvage for human consumption all ~~of the required portion~~ of the  
10 edible meat, <sup>of the animal</sup> regardless of the removal of any nonedible parts.

11 (b) A person violating this section is guilty of a class A mis-  
12 demeanor.

13 (c) In addition to any imprisonment or fine imposed upon convic-  
14 tion under this section, the convicted person's hunting, trapping, and  
15 guide licenses, if any, shall be revoked in the court for the remainder  
16 of the year and the following year, and all portions of the animal that  
17 have been salvaged shall be surrendered to the department.

18 (d) It is a defense to a criminal charge under this section that  
19 the failure to salvage for human consumption a <sup>ade</sup> percentage ~~of the required~~  
20 portion of the edible meat was due to circumstances beyond the control  
21 of the person killing the animal, including but not limited to the  
22 following:

- 23 (1) theft;
- 24 (2) unanticipated weather conditions or other acts of God;
- 25 (3) unavoidable loss in the field to another wild animal.

26 \* Sec. 3. AS 16.30 is amended by adding a new section to read:

27 Sec. 16.30.025. LEGAL ACCOUNTABILITY AND COMPLICITY. For purposes  
28 of AS 16.30.010 - 16.30.011, AS 11.16 applies to persons specified in  
29 AS 08.54.240(2).

1 \* Sec. 4. AS 16.30.030(2) is repealed and reenacted to read:

2 (2) "wild food animal" means all species listed under (3) or  
3 (6) of this section;

4 \* Sec. 5. AS 16.30.030 is amended by adding new paragraphs to read:

5 (3) "big game wild food animal" means moose, caribou, mountain  
6 sheep, mountain goat, feral reindeer, deer, elk, bison, walrus and  
7 musk-ox;

8 (4) "criminal negligence" means criminal negligence as defined  
9 and used in AS 11.81;

10 (5) ~~"required portion of the edible meat"~~ means, in the case  
11 of big game wild food animals, no less than the meat of the ribs, neck,  
12 brisket, front quarters as far as the juncture of the humerus and the  
13 radius-ulna (knee), hindquarters as far as the distal joint of the  
14 tibia-fibula (stifle joint), and that portion of the animal between the  
15 front and hindquarters, except the viscera; in the case of small game  
16 wild food animals, no less than the meat of the breast; however, none of  
17 the following shall be considered with the ~~"required portion of the~~  
18 edible meat" of big game or small game wild food animals:

19 (A) meat of the head;

20 (B) meat that has been damaged and made inedible by the  
21 method of taking;

22 (C) bones, sinew, and incidental meat reasonably lost as  
23 a result of boning or a close trimming of the bones;

24 (D) viscera;

25 (6) "small game wild food animal" means all species of wild  
26 fowl, for which there are seasons and bag limits set by the department.  
27  
28  
29

DEFINITIONS - CULPABLE MENTAL STATES

NEW CRIMINAL CODE

Sec. 11.81.900. DEFINITIONS. (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when his conscious objective is to cause that result;

person who is unaware of a risk of which he would have been aware had he not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when he fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

PRIOR CRIMINAL CODE

None.

COMMENTARY

From Senate Journal, 139-143:

As discussed in the Alaska Criminal Code Revision, Tentative Draft, Part 2, Commentary at 8-11 (1977), the important area of culpable mental states is one of great confusion and uncertainty in existing law. The proliferation of culpable mental state terms coupled with their haphazard use hampers the interpretation of individual sections and frustrates one of the principal purposes of the mens rea concept: providing a structure for the classification of offenses according to their degree of blameworthiness. Additionally, some statutes are exposed to constitutional attack by their failure to specify a culpable mental state, or by their specification of an unconstitutional form of culpability.

The Code addresses itself to these three problems by replacing the myriad of existing terms with a four-tiered framework of culpable mental states that clearly establishes levels of blameworthiness. Only four culpable mental states apply throughout the Code: intentionally, knowingly, recklessly and criminal negligence. The terms are defined in § 11.81.900(a)(1)-(4). Use of one or more of these terms, whether specifically included in a statute or implied

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 47

Title "An Act Establishing Mandatory Imprisonment/Fines For Violation of Hunting  
Requested by House Resources Date 1/29/82 Laws....."

II. FISCAL DETAIL

Agency Affected Department of Public Safety

Program Category Affected NRMEC

BRJ, Program, Or Subprogram(s) Affected Fish & Wildlife Protection

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

NO FISCAL IMPACT

IV. DATE 1/29/82

PREPARED BY Col. Robert J. Stickles

AGENCY Fish & Wildlife Protection, DPS

Original: Legislative Finance

PHONE 269-5534

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

WANTON WASTE OF A BIG GAME ANIMAL: Any person who captures, kills, or destroys any of the big game animals of this State and removes from the carcass only the head, claws, teeth, hide, antlers, horns or tusks and fails to salvage the edible meat, or any person who kills a big game animal and fails to attempt to salvage the meat is guilty of a Class C felony. This section does not apply to bear.

WASTE OF A WILDFOOD ANIMAL: Any person who captures, kills, or destroys a big or small game animal and fails to salvage most of the edible meat of an animal is guilty of a Class A misdemeanor.

*Legis.*

February 11, 1982

The Honorable Ramona Barnes  
State House of Representatives  
Pouch V, State Capitol  
Juneau, Alaska 99811

Dear Ms. Barnes:

You requested an analysis of the amendments, offered by Rep. Fanning, of CSHB 47, the bill that would amend AS 16.30, the "wanton waste of game" statute. As you know, the Department has several times gone on record as favoring HB 47, especially the concept of cleaning up this statute and providing stiffer penalties for waste of game.

Rep. Fanning's amendments are, in effect, a complete re-write of CSHB 47, and so must be compared to both the existing statute (AS 16.30) and CSHB 47.

HB 47 leaves the existing AS 16.30.010 (a), (b) and (c) intact; the amendment re-writes these sections. There are advantages to this approach; "most" of the edible meat is now qualified as 51 percent or greater. Note, however, two deletions: (b) (2) that now requires a person convicted of waste to turn over to the Department all meat salvaged (perhaps this is not important, since the court could confiscate the meat), and the statement that "The shooting of a wild food animal is prima facie evidence of intent to kill it." Whether the latter statement is important should be decided by competent legal authority.

The amendment also substitutes "criminal negligence" for the existing terms, "intentionally, knowingly, recklessly or negligently;" this seems to be justified, since criminal negligence is defined in AS 11.81.900 (4).

Perhaps the primary thrust of the amendment, as compared to CSHB 47, is to establish different levels of culpability for various degrees of failure to salvage; failure to salvage at least half of the edible meat of a wild animal is a class C felony, while failure to salvage the entire amount of the edible meat (as defined) is a class B misdemeanor. I think this approach is a reasonable one and would strengthen the bill.

A considerable problem still exists with Rep. Fanning's amended version, that CSHB 47 attempted to solve: the differentiation between "big game wild food animals" and "small game wild food animals." The original

problem lies in existing statute, where it is required that "most of the edible meat" of a wild food animal includes "meat of the front quarters --," etc, which obviously was intended to apply to big game, and not to waterfowl, grouse, ptarmigan, etc that are also defined (AS 16.30.030 (2) ) as wild food animals. CSHB 47 attempts to cure this problem by splitting the definition of wild food animal into big game and small game components, and separately defining the amount of edible meat to be salvaged from each (in the case of small game, the meat of the breast only). Rep. Fanning's amendments, however, uses the term "wild food animal" in sections 10 and 11; only in 16.30.030 (2) and (5) are the terms "big game wild food animal" and "small game wild food animal" listed. Therefore, his 16.05.030 (4) "required portion of the edible meat" applies to all wild food animals - the problem existing in present statutes. My suggestion would be to provide that his 16.30.030 (9) apply specifically only to big game wild food animals (as defined in 16.30.030 (2)) and another section be added similar to CSHB 47, page 1 lines 23 and 24.

Two typographical errors are noted: in 16.30.010 (6), line 3, "improved" should presumably be "imposed;" in 16.30.030 (5), line 2, "goose" should be "grouse".

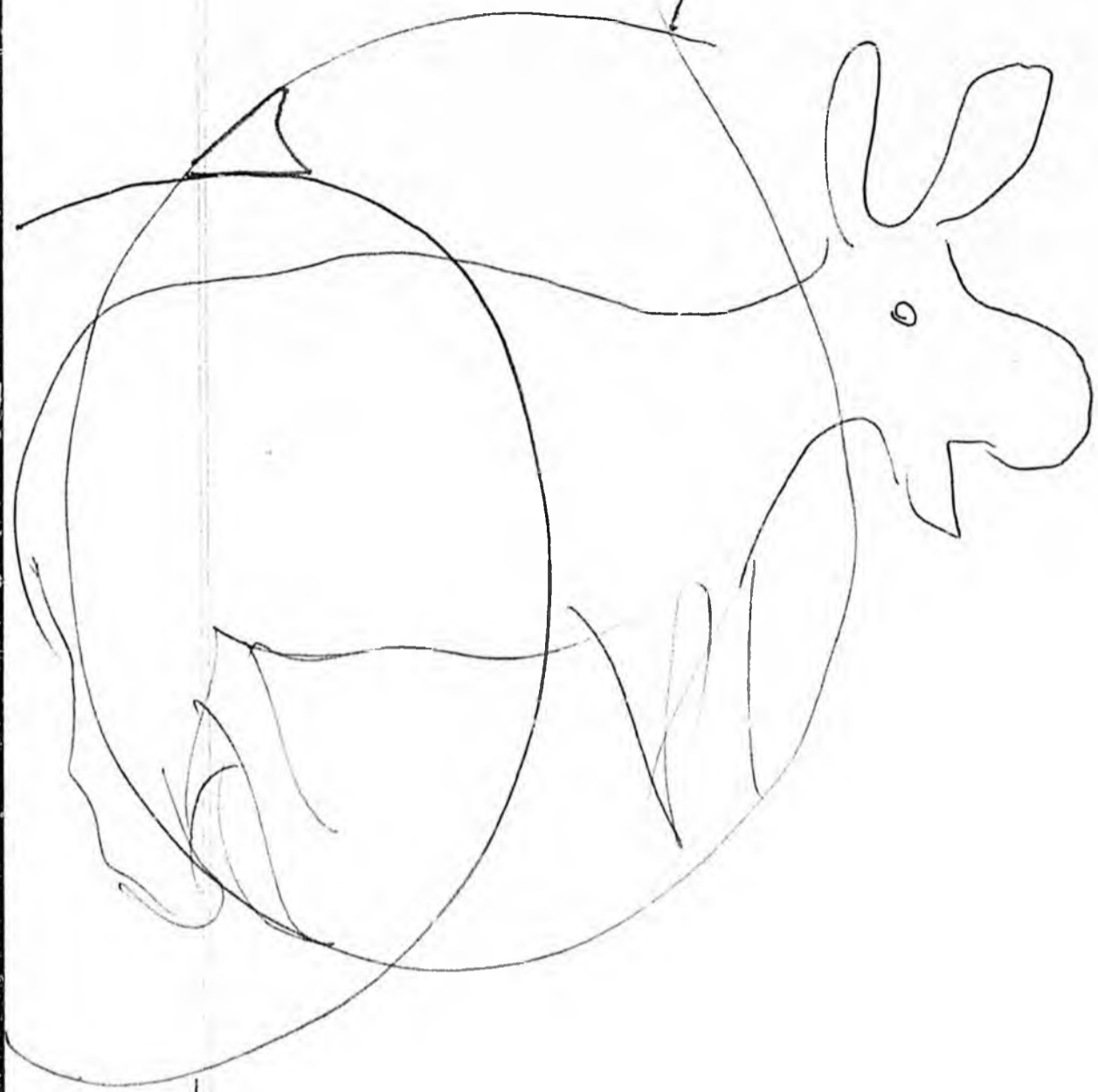
Sincerely,



Robert A. Hinman  
Deputy Director  
Game Division

RAH/es

less than 100% = a misdemeanor



less than 51% = a felony

222-82

Ferris - <sup>A.</sup> OK to be made  
if 5 day, \$2500 fare.

- take small game enroute at  
of felons

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change 16.30.010 - big game  
will find out

SEC. 16.30.010 WASTE OF WILD FOOD ANIMALS.

(a) It is unlawful for a person to kill a wild food animal and with criminal negligence fail to do the following:

(1) salvage for human consumption any of the edible meat, at the same time removing any of the following portions:

- (A) head
- (B) claws
- (C) teeth
- (D) hide
- (E) tusks
- (F) horns
- (G) antlers

if the animal is a big game wild food animal;

(2) salvage for human consumption at least 51% of the required portion of the edible meat of a ~~big game~~ wild food animal, regardless of the removal of any non-edible ~~portion~~ parts;

(3) salvage for human consumption ~~at least~~ ~~51%~~ the required portion of the ~~same~~ required portion of the edible meat of a wild food animal, regardless of the removal of any non-edible parts;

~~For~~

(b) It shall be a defense to any criminal charge under this section that <sup>the</sup> failure to salvage for human consumption ~~if~~ of a percentage of the required portion of the edible meat was due to circumstances beyond the

control of the person killing the animal, including but not limited to the following:

- (1) theft;
- (2) unanticipated weather conditions or other acts of God;
- (3) unavoidable loss in the field to another wild animal.

(c) In this section the term "required portion of the edible meat" is defined as follows:

- (1) no less than the meat of the ribs, neck, breast, front quarters as far as the juncture of the humerus and the radius-ulna (knee), ~~and~~ hind quarters as far as the distal joint of the tibia-fibula (stifle joint), and that portion of the animal between the front and hind quarters, except the viscera, as to big game wild food animals.
- (2) no less than the meat of the breast, ~~of the~~ as to small game wild food animals.

However, none of the following shall be considered within the "required portion of the edible meat":

- (1) meat of the head;
- (2) any meat damaged by the killing and consequently inedible;
- (3) bones, sinew, and incidental meat reasonably lost as a result of boning or a close trimming of the bones;
- (4) internal organs and glands, ~~such~~ such as heart, liver, spleen, lungs, bladder, and stomach.

(d) A person violating (a) (1) or (2) of this section shall be guilty of ~~a~~ a C felony;

(e) A person violating (a) (3) of this section shall be guilty of an ~~A~~ <sup>B</sup> misdemeanor.

~~A definite minimum term of ~~90~~ consecutive days imprisonment and \$~~2500~~ fine shall imposed upon conviction. No portion of the definite minimum term of imprisonment or of the <sup>minimum</sup> fine may be suspended under AS 12.55.080 or any other statute, and no suspended imposition of sentence may be given, under AS 12.55.085 or any other law, until the ~~an~~ definite minimum term of imprisonment ~~and~~ has been served and the ~~minimum~~ <sup>minimum</sup> fine has all been paid. Imposition of sentence under this subsection may not be suspended.~~

(f) In addition to imprisonment and fines imposed under (d) ~~and~~ ~~and~~, the convicted person's hunting license shall be revoked for ~~one~~ <sup>five</sup> years for a conviction under (d) and for the remainder of the year ~~of the year under~~ for a conviction under (e).

SEC. 16.30.030 DEFINITIONS. In this chapter

- (1) "department" means the Department of Fish and Game;
- (2) "big game wild food animal" ~~means~~ <sup>includes</sup> means moose, caribou, mountain sheep, mountain goat, feral reindeer, deer, elk, bison, ~~musk ox, walrus walrus, and musk-ox;~~
- ~~(3) "wild food animal" includes all "big game wild food animals" and all species of wild waterfowl, snipe, crane, grouse, and ptarmigan.~~
- ~~(4)~~
- (3) "small game wild food animal" means ~~includes~~ all species of wild waterfowl, snipe, crane, grouse, and ptarmigan;
- (4) "wild food animal" means all species listed under (2) or (3) of this section;
- (5) "criminal negligence" is defined and used ~~in this~~ as in AS 11.81. ~~section~~

Cheechalco/2-12  
News

# 15 Days Jail for Drunk Driving

Convictions on a first drunk driving charge will bring 15-day jail sentences in the Homer District Court, Judge James Hornaday has warned.

The usual sentence for first offenders in Homer, as in Kenai, has been three days in jail along with a \$150 fine.

Further, if the convicted Homer drivers don't cooperate with the community work program or Cook Inlet Council alcohol screening, "They'll sit in jail 60 days," the Judge is

quoted in the Homer News.

Homer previously had a community work program for convicted drunk drivers, but it was discontinued due to legal liability. Drunk driving cases decreased substantially while it was in effect, according to the judge. Recently the Court system received permission to renew the program.

The tough sentences for drunk driving responds to a 70 percent increase in DWI cases filed in the Homer court in January 1982, as compared to January 1981.

## Drunk drivers. 2-18-82/News

Hurrah for the judge. It was great to read your article on Judge Hornaday and his get-tough attitude on drunken drivers. Let's hope that some of our Anchorage District Judges will follow this lead.

The danger presented by the drunken driver touches all levels of society, whether one is driving the highways, riding the school bus, or simply walking on the sidewalk. With no warning or provocation, the driver who has been drinking may cross the center line, or totally miss the stop sign, or wander onto the sidewalk, causing untold devastation!

While it may be true that certain crimes of passion like murder and assault are not deterred by heavy punishment, I seriously doubt that is true with most drivers who drink and drive. A punishment that is absolutely terrifying may just be sufficient to discourage some drunks from driving and thus make life a little safer for all of us!

— James M. Powell