

H B

402

15. 109



BILL ANALYSIS

Department Public Safety	Sponsor (Principal) Hurlbert, Zharoff & Grussendorf	Bill Number HB 409
Department Position Support with amendment.		
Division Director Colonel Robert J. Stickles <i>RJS</i>	Date 2/22/81	Commissioner William R. Nix <i>WRN</i> Date 2-25-82

Comments:

---

Position Noted      By \_\_\_\_\_      Date \_\_\_\_\_

SUMMARY

1. a) Related Bills (Similar or Conflicting) SB 302    HB 199	1. b) Other Agencies Affected by Bill Unknown
2. a) Organizational Support for Bill Unknown	2. b) Organizational Opposition to Bill Unknown

3. Program Effects of Bill  
 Would require non-residents to have a guide or be guided by a relative for specific species. Would require non-resident aliens to have a guide or be guided by a resident for specific species.

4. Fiscal Impact:     None                       Fiscal Note Attached

5. Amendments Proposed:  
 Amend HB 409 by adding black bear, (including the cinnamon and blue color phases) deer and mountain goat to the following: AS 16.05.407(d) line 24 or 25; Amend HB 409 by adding Class A guide to the following: AS 16.05.407(a) line 18 or 19; AS 16.05.407(d), line 26 or 27.

6. Comments:  
 The above amendments are offered to clean up the bill in perceived enforcement problem areas. Under 16.05.407(a) and (d), non-residents or non-resident alien hunters would be required to have a guide's services to hunt or pursue the big game species mentioned under these specific sections. Without the inclusion of Class A guides there would be a legal question as to whether a non-resident or non-resident alien could legally hunt with a Class A guide under this bill.

Big game species requiring a guide for non-resident aliens should also include black bear (including the cinnamon and blue color phases), deer and mountain goat under 16.05.407(d) of this bill.

(Continued)

HB 409 Bill Analysis  
2/22/82

Large numbers of German, Swedish and Belgium non-resident alien hunters are being placed in camps in areas such as Prince William Sound, the Brooks Range and the Alaska Peninsula by booking agents for the specific purpose of hunting black bear and other species that presently do not require a guide. This places the unsupervised alien hunter in habitat of other big game species covered under HB 409. Inclusion of black bear, deer and mountain goats under this bill would be advantageous to the Division of Fish and Wildlife Protection from an enforcement standpoint.

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. HB 409  
 Title An Act Relating to Guiding and Providing and Effective Date  
 Requested by Hurlbert, Zharoff and Grussendorf Date 2/19/82

II. FISCAL DETAIL  
 Agency Affected Department of Public Safety  
 Program Category Affected NNRMEC  
 BRU, 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)

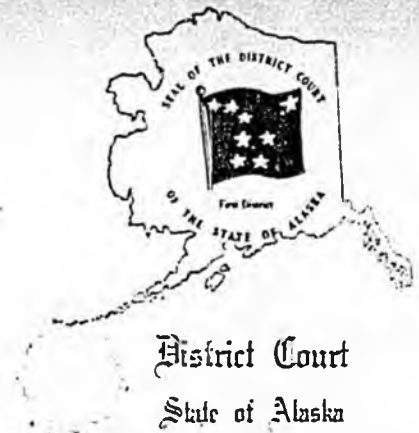
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0	0	0	0

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY	0	0	0	0	0	0

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

IV. DATE 2/19/82 PREPARED BY Colonel Robert J. Stickles  
 AGENCY Department of Public Safety  
 Original: Legislative Finance PHONE 269-5532  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named) (M)  
 33-001 (Rev. 12/81)



District Court

State of Alaska

JUNEAU COURT and OFFICE BUILDING

POUCH U

JUNEAU, ALASKA

99811

CHAMBERS OF  
GERALDO O. WILLIAMS, JUDGE

February 4, 1982

Resources Committee  
Alaska State Legislature  
Juneau, Alaska

In re: AS 16.05.180 "Intent to Search"

Gentlemen:

Colonel Tetzlaff indicated to me that your Committee has expressed some interest in the above section, it's history, and it's present impact and effect upon Fish and Wildlife Enforcement operations. I am please to provide the following information.

I am familiar with the statute when it was originally drafted by the Legislative Affairs Agency in 1959 as a part of the basic legislative program for the re-organization of the State Government programs following Statehood. As a Staff Officer of the Department of Territorial Police at the time, I worked with the Legislative Affairs Agency in the original drafting of the Fish and Game Law Enforcement Provisions.

It was the intent of the Legislative Affairs Agency to draft a statutory authority which would provide a basic legal framework for wildlife law enforcement which was at least analagous to the statutory authority provided to the U.S. Fish and Wildlife Service which provided these services before Statehood. The USD&WS had broad powers in conducting searches and seizures incidental to woldlife enforcement and used this authority regularly during their operations in Alaska.

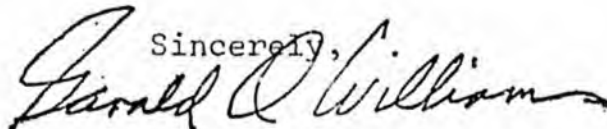
We incorporated substantially the same statutory language. However, the Legislative Committee was prevailed upon by their attorney members, particularly Mr. Wendell Kay, as I recall to seriously dilute the search and seizure authority which the bill was intended to provide. Some members of the Legislature felt that a broader search and seizure should be allowed for fish and game enforcement, and a compromise was suggested by Mr. Kay wherein the present language was incorporated. This language did not

Resources Committee  
Page Two  
February 4, 1982

broaden their authority, it has the opposite effect, but restricts it even more than the common-law authority which peace officers have to conduct search and seizures in every other area of criminal law enforcement.

This provision serves no legal purpose, is confusing and at the very least imposes a constricting effect on Fish and Wildlife Enforcement Officers. I say it has no legal effect, because if the issue were ever reviewed by the Alaska Supreme Court, I am convinced in my own mind that they would rule that it is merely "administrative" and should be dispensed with. Unfortunately, it is confusing to the officers themselves, to the public, and provides a touchstone for argument to defense attorneys and a confusing requirement which legally untrained Magistrate's frequently feel is fundamental to the entire issue of the search and seizure involved. I would suggest that from what Col. Tetzlaff has relayed to me concerning the Committee's own review of this section, that you too wonder what the hell it is supposed to mean. I would submit, that it represents nothing other than a well known defense attorneys ploy to confuse his fellow legislators and confound the law and law enforcement.

Sincerely,



Gerald O. Williams  
District Court Judge

GOW/kw

## Analysis of SSHB 409 (Hurlbert)

Provides that the board of game may designate areas of the state wherein it is illegal for a non-resident to hunt brown bear, grizzly bear, polar bear, sheep, caribou or moose, unaccompanied by a guide or a person who is within the second degree of kindred.

Provides that non-resident aliens must have a guide or be accompanied by a person within the second degree of kindred to hunt brown bear, grizzly bear, polar bear, sheep, caribou or moose anywhere in the state.

Provides that non-resident hunters must furnish an affidavit showing that he will be accompanied by qualified person under the terms of this section.

Defines non-resident alien.

Repeals 16.05.340(e), which provides a tag fee schedule for guides for animals taken on guided hunts, and 16.05.407(c), the misdemeanor penalty of not more than 1 year in jail or \$2,500 fine or both for violation or 16.05.407(a).

Provides effective date.

Introduced: 2/8/82  
Referred: Resources

BY HURLBERT, ZHAROFF AND  
GRUSSENDORF

1 IN THE HOUSE

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 409

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 guiding; and providing for an  
7 effective date."

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

9 \* Section 1. AS 16.05.255(a) is amended by adding a new paragraph to  
10 read:

11 (11) designating areas of the state to which AS 16.05.407(a)  
12 applies.

13 \* Sec. 2. AS 16.05.407(a) is repealed and reenacted to read:

14 (a) It is a class A misdemeanor for a nonresident, except a non-  
15 resident subject to (d) of this section, to take brown bear, grizzly  
16 bear, polar bear, sheep, caribou, or moose in areas of this state desig-  
17 nated in regulations adopted by the Board of Game, unless personally  
18 accompanied by a person who is licensed as a master guide, registered  
19 guide or assistant guide under AS 08.54 or by a resident Alaskan over 19  
20 years of age who is the spouse of or is related by blood within and  
21 including the second degree of kindred to the nonresident.

22 \* Sec. 3. AS 16.05.407 is amended by adding new subsections to read:

23 (d) It is a class A misdemeanor for a nonresident alien to [hunt,  
24 pursue or] take [brown bear, grizzly bear, <sup>Big Game</sup> polar bear, sheep, caribou, or  
25 moose] in this state unless personally accompanied by a person who is  
26 licensed as a master guide, registered guide, or assistant guide under  
27 AS 08.54 or by a resident Alaskan over 19 years of age who is the spouse  
28 of or is related by blood within and including the second degree of  
29 kindred to the alien.

1 (e) A person who applies for a nonresident big game tag for the  
2 taking of an animal specified in this section shall first furnish to the  
3 state, on a form provided by the state, an affidavit showing that he  
4 will be accompanied in his hunt by a person who is qualified under the  
5 terms of this section. A person who falsifies the required affidavit is  
6 guilty of perjury under AS 11.56.200.

7 (f) In this section, "nonresident alien" means a person who is not  
8 a citizen of the United States and whose permanent place of abode is not  
9 in the United States.

10 \* Sec. 4. AS 16.05.340(e) and 16.05.407(c) are repealed.

11 \* Sec. 5. This Act takes effect July 1, 1982.

# MEMORANDUM

# State of Alaska


TO: Harry Treager, Director  
Division of Occupational Licensing

DATE: January 27, 1982

FILE NO:

TELEPHONE NO:

SUBJECT: Alien Hunters

  
FROM: Margie Odland  
Regulations Specialist  
Division of Occupational Licensing

Earlier today, I spoke with Kathleen McGuire from the Attorney General's office in Anchorage, in regards to research or opinions rendered concerning alien hunters in Alaska.

Ms. McGuire informed me that she and Liza McCracken had collected some data from 1978 on the number of alien hunters in Alaska and violations by alien hunters. (Violations occurred with and without licensed guides on these hunts). There were alien hunters from 22 countries in 1978. The outstanding number of violations by these hunters fell in the category of unguided bear hunts as follows:

Sweden - 55 unguided black bear hunts

W. Germany - 129 unguided black bear hunts  
18 unguided brown bear hunts

Austria - 22 unguided black bear hunts

Ms. McGuire stated that the statistics compiled may be inaccurate since not all violations in 1978 were able to be investigated and, at the time, were not coded into the computer system. (This is now being done).

In 1979, the State collected \$340,000 in tag fees from alien hunters.

There has been no opinion rendered by the Attorney General's office concerning alien hunters. The statistics from the data collected by Ms. McGuire and Ms. McCracken were put in the form of an in-house memorandum only, due to their likelihood of inaccuracy.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 402  
 Title An Act Relating to Late Applications for Limited Entry Permits  
 Requested by Zharoff, Clocksin, Cato and Chuckwuk Date May 20, 1981

II. FISCAL DETAIL

Agency Affected Fish and Game  
 Program Category Affected NRMEC  
 BRU, Program, or Subprogram(s) Affected Commercial Fisheries Entry Commission  
 (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 81	FY 82	FY 83	FY 84	FY 85	FY 86
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)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

IV. DATE May 20, 1981 PREPARED BY Cathy Brown  
 AGENCY Department of Fish and Game  
 PHONE 465-4100  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

*C. Brown*

APR 13 1981

FREDERICK TORRISI

Attorney

Box 10047  
Dillingham, Alaska 99576  
842-5608

April 10, 1981

Fred F. Zharoff, CO-Chairperson  
House Resources Committee  
Pouch V (MS 3100)  
Juneau, Alaska 99811

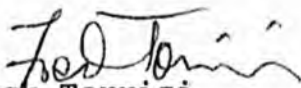
re: HB 402

Dear Representative Zharoff:

Because we discussed the problem of late filers for limited entry permits at length last year, I will not raise all the same arguments now. I am sure you recall the teleconference last year, at which 50 rural residents testified in favor of the bill and none testified against it. In behalf of those people, I thank you for reintroducing the bill. If there is anything I can do to assist you in securing passage, please do not hesitate to call me.

Thank you for your efforts in behalf of Alaska's disenfranchised fishermen and women.

Sincerely,

  
Frederick Torrison  
Attorney

FT/lm

cc: Bette Cato  
Don Clocksin  
Joseph Chuckwuk

10

MSG 81-00013706 PRTY 1 04/23/81 11:59:45 ORIG: LA02 IN= 0002 OUT= 0118  
FROM: ROBERTA TO: JUNI INFO  
TARGET: LJH2 SUBJ: POMS PAGE 0002

---

TO: SENR JRS HOHMAN, STURGULEWSKI, BRADLEY; REPRESENTATIVES ZHAROFF, CATO,  
PHILLIPS, MALONE, COTTEN, HALFORD  
FROM: LAURA CARPENTER, 106 STEWART, ANC 99504; 333-7138  
VOTE "NO" ON HB 402. THERE ARE TOO MANY PERMITS NOW. I AM AN EXAMPLE,  
SET NET PERMIT, AND NOWHERE TO FISH.

*File*

*col*

MSG 81-00013458 PRTY 1 04/22/81 10:37:33 ORIG: LA02 IN= 0002 OUT= 0077  
FROM: ROBERTA TO: JUND INFO  
TARGET: LJH2 SUBJ: POMS

PAGE 0001

TO: ALL MEMBERS OF THE HOUSE, ALL MEMBERS OF THE SENATE  
FROM: FRANCIS M COLLINS, 1350 W 27TH, APT A5, ANC 99503; 277-7359

THOUGH WE ARE A VERY SMALL MINORITY THERE ARE STILL SOME FISHERMEN  
IN THIS STATE WHO WOULD LIKE TO HAVE LEGISLATION PASSED TO AMEND AND EXTEND  
A LATE DATE FILING DATE FOR THOSE WHO WERE MISGUIDED AND MISUNDERSTOOD RE  
THE LIMITED ENTRY PERMIT REGULATIONS.