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COMMITTEE REPORT

SENATE

4/26/82

FURTHER: None

Date: May 7, 1982

Mr. President:

The Committee on JUDICIARY has had CSIB 47 (Jud) and
prohibition against waste of the meat of big game animals and wild fowl

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for H.R. 47 same title
- new title
- and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

[Signature]
DO PASS

Original sponsors: Grussendorf, Bettisworth,
Fanning, et al

Offered: 3/1/82
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 47 (Judiciary) am
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 AS 16.30.010 is repealed and reenacted to read: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 ^{SENTEN} (1) a definite term of imprisonment of not less than [160
19 ~~FIVE~~ ^{DAYS} consecutive hours]; and

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

21 (c) The ~~execution of a~~ ^{minimum} sentence imposed under (b) of this section
22 may not be suspended nor may probation be granted [until the minimum
23 imprisonment provided in this section has been served, and any [such]
24 (suspension) ^{OF FINE} or probation must require as a condition the payment of the
25 fine required by this section.]

26 (d) In a sentence imposed under (b) of this section, imposition of
27 sentence may not be suspended.

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

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

1 A person convicted of violating AS 16.30.010

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

4 (2) forfeits his hunting license;

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

6 (A) the year in which the conviction is entered and the
7 year following the year in which the conviction is entered;

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

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

15 (1) theft of the animal or fowl;

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

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

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

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

21 (4) "criminal negligence" means criminal negligence as
22 defined in AS 11.81.900(a)(4);

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

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(A) meat of the head;

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

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

(D) viscera;

(6) "intentionally" means intentionally as defined in AS 11.81.900(a)(1);

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

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

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

TAKE OUT

* Sec. 4. AS 16.30.020 is amended to read:

Sec. 16.30.020. ANIMALS EXCEPTED. The provisions of AS 16.30.010-16.30.012 do not apply to walrus if [ANIMALS WHICH] the board exempts them by regulation.

Hein:
5/6/82

Original sponsors: Grussendorf, Bettisworth,
Fanning, et al

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 47 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

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1 (a) It is a class A misdemeanor for a person who kills a big game
2 animal or a species of wild fowl to fail intentionally, knowingly,
3 recklessly, or with criminal negligence to salvage for human consumption
4 the edible meat of the animal or fowl.

5 (b) If a person is convicted of violating this section and in the
6 course of that violation failed to salvage from a big game animal at
7 least the hindquarters as far as the distal joint of the tibia-fibula
8 (stifle joint), the court shall impose a sentence of (1) imprisonment of
9 not less than seven consecutive days and (2) a fine of not less than
0 \$2,500.

1 (c) The imposition or execution of the minimum sentence prescribed
2 in (b) of this section may not be suspended under AS 12.55.080 or 12.55.-
3 085. The minimum sentence prescribed in (b) of this section may not be
4 reduced.

5 * Sec. 2. AS 16.30.012 is repealed and reenacted to read:

6 Sec. 16.30.012. POSSESSION OF HORNS OR ANTLERS. It is a class A
7 misdemeanor for a person to possess the horns or antlers of a big game
8 animal that was killed after the opening of the current or most recent
9 lawful hunting season for that animal unless the person also possesses

1 the edible meat of the animal.

2 * Sec. 3. AS 16.30 is amended by adding new sections to read:

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

4 A person convicted of violating AS 16.30.010

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

7 (2) forfeits his hunting license;

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

9 (A) the year in which the conviction is entered and the
0 year following the year in which the conviction is entered;

1 (B) a period of five years from the date of the conviction
2 if the person has failed to salvage from a big game animal at
3 least the hindquarters as far as the distal joint of the tibia-
4 fibula (stifle joint).

5 Sec. 16.30.017. DEFENSES. (a) It is a defense to a criminal
6 charge under AS 16.30.010 or 16.30.012 that the failure to salvage or
7 possess the edible meat was due to circumstances beyond the control of
8 the person charged, including

9 (1) theft of the animal or fowl;

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

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

12 (b) It is a defense to a criminal charge under AS 16.30.012 that

13 (1) the defendant acquired the horns or antlers as a gift
14 after the edible meat of the big game animal was salvaged;

15 (2) the defendant does not possess the edible meat of the big
16 game animal ^{IF} [because] the meat has been [consumed by human beings].

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

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

(A) salvaged in accordance with law;

(B) consumed by human beings; ^{OR}

(C) delivered to another person [or].

(1) "delivered" means given, sold, or bartered in a manner that does not violate state or federal law;

(2) "possess the edible meat" includes possessing portions of the edible meat in more than one location while the meat is being transported from the place where it was salvaged.

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

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

(A) meat of the head;

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

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

(D) viscera;

(6) "intentionally" means intentionally as defined in AS 11.81.900(a)(1);

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

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

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

* Sec. 5. AS 16.30.020 is amended to read:

Sec. 16.30.020. ~~WALRUS EXEMPTION~~ ^{EXEMPTED} [ANIMALS EXCEPTED]. The provisions of AS 16.30.010 - 16.30.012 do not apply to ~~walrus if~~ [ANIMALS WHICH] the board exempts ~~them~~ by regulation.

* Sec. 6. AS 16.30.030(2) is repealed.

Merrill v. State, Sup. Ct. Op. No. 392 (File No. 688), 423 P.2d 686, cert. denied, 386 U.S. 1040, 87 S. Ct. 1497, 18 L. Ed. 2d 607 (1957).

A valid arrest without a warrant may be effected where the arresting officer acted upon probable cause, or, in the case of a misdemeanor, was present at the commission of the offense. *Drahosh v. State*, Sup. Ct. Op. No. 485 (File No. 849), 442 P.2d 44 (1968).

Under paragraph (3) of subsection (a), a peace officer, without a warrant, may arrest a person for a felony when the officer has probable cause to believe that a felony has been committed and probable cause to believe that the person committed it. *McCoy v. State*, Sup. Ct. Op. No. 750 (File No. 1316), 491 P.2d 127 (1971); *City of Nome v. Ailak*, Sup. Ct. Op. No. 1498 (File No. 3137), 570 P.2d 162 (1977).

"Probable cause". — Probable cause exists where the facts and circumstances within the officers' knowledge, and of which they had reasonably trustworthy information, are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed. *McCoy v. State*, Sup. Ct. Op. No. 750 (File No. 1316), 491 P.2d 127 (1971); *Pistro v. State*, Sup. Ct. Op. No. 1799 (File No. 3474), 590 P.2d 884 (1979).

In dealing with probable cause, as the very name implies, a court deals with probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act. The standard of proof is accordingly correlative to what must be proved. The substance of all the definitions of probable cause is a reasonable ground for belief of guilt. And this means less than evidence which would justify condemnation or conviction. *McCoy v. State*, Sup. Ct. Op. No. 750 (File No. 1316), 491 P.2d 127 (1971).

For evidence showing probable cause for the belief that person using credit card was guilty of forgery or uttering a forged instrument, see *McCoy v. State*, Sup. Ct. Op. No. 750 (File No. 1316), 491 P.2d 127 (1971).

Facts and circumstances necessary to establish probable cause. — Probable cause cannot be established solely on the basis of a good faith belief on the part of the officer that there is probable cause to arrest. In order to establish probable cause, there must exist facts and circumstances known to the officer which would warrant a prudent person in

believing that an offense has been or is being committed. *City of Nome v. Ailak*, Sup. Ct. Op. No. 1498 (File No. 3137), 570 P.2d 162 (1977).

Probable cause may rest on reasonably trustworthy information from an informant. *City of Nome v. Ailak*, Sup. Ct. Op. No. 1498 (File No. 3137), 570 P.2d 162 (1977); *Pistro v. State*, Sup. Ct. Op. No. 1799 (File No. 3474), 590 P.2d 884 (1979).

However, some of the details of the information given by the informant must be verified before an arrest. *Pistro v. State*, Sup. Ct. Op. No. 1799 (File No. 3474), 590 P.2d 884 (1979).

If the informant is a cooperative citizen rather than informant from the criminal milieu, his or her reliability need not be established before the arrest. However, some of the details of the information given by the informant must be verified before the arrest. *City of Nome v. Ailak*, Sup. Ct. Op. No. 1498 (File No. 3137), 570 P.2d 162 (1977).

Information from the informant was sufficiently corroborated by the police officer's own observations to establish probable cause for arrest. *Pistro v. State*, Sup. Ct. Op. No. 1799 (File No. 3474), 590 P.2d 884 (1979).

Where there were no disputes of fact relevant to the determination of whether the officers had probable cause to arrest, the trial court should have made that determination as a legal matter. *City of Nome v. Ailak*, Sup. Ct. Op. No. 1498 (File No. 3137), 570 P.2d 162 (1977).

Officer could constitutionally observe what was in plain view. — Where the driveway involved was a normal means of ingress and egress, impliedly open to public use by one desiring to speak to occupants of the garage, or to park off the street while visiting occupants of the house, there was no invasion of rights to privacy when the police officer moved up the driveway, and the officer could constitutionally observe what was in plain view in the garage. *Pistro v. State*, Sup. Ct. Op. No. 1799 (File No. 3474), 590 P.2d 884 (1979).

Arrest held lawful. — Where the facts which were observed by a police officer, together with his prior knowledge of the physical characteristics of a certain package and its illegal contents, were sufficient to lead a reasonable person to believe that the defendants had committed an offense in his presence, arrest was lawful. *Howes v. State*, Sup. Ct. Op. No.

846 (File No. 1443), 503 P.2d

Search incident to an arrest. *McCoy v. State*, Sup. Ct. Op. No. 1316, 491 P.2d 127 (1971).

Scope of search and seizure. Officers may search and seize things physically on the premises but those within his immediate control. *McCoy v. State*, Sup. Ct. Op. No. 750 (File No. 1316), 491 P.2d 127 (1971).

A search which is reasonable in inception may violate the Fourth Amendment by virtue of its intolerable breadth. The scope of the search is strictly tied to and justified by the circumstances which prompted its initiation. *McCoy v. State*, Sup. Ct. Op. No. 750 (File No. 1316), 491 P.2d 127 (1971).

When a search goes beyond the defendant's person and the area he could reach to obtain a weapon, the officer or escape or evasion might conceal or destroy evidence. *McCoy v. State*, Sup. Ct. Op. No. 750 (File No. 1316), 491 P.2d 127 (1971).

It is reasonable for the police to search the person arrested to remove any weapons that he might use in order to resist his escape. Otherwise, the search might well be endangering the officer himself. In addition, it is reasonable for the police to search for, and seize an arrestee's person in or on the premises of concealment or destruction into which an arrestee might attempt to grab a weapon or other items must, or course, be searched. There is a difference, therefore, for a search of the person and the area within his immediate control. There is no justification, however, for searching any room or area in which an arrest occurs. *McCoy v. State*, Sup. Ct. Op. No. 750 (File No. 1316), 491 P.2d 127 (1971).

Once warrantless searches of a person or the arrestee's person are allowed, the 4th Amendment's "reasonableness" requirement has no rational limits to its application. Searches of the person, on the other hand, have physical limitations. The danger that this excessive requirement will be violated. *McCoy v. State*, Sup. Ct. Op. No. 750 (File No. 1316), 491 P.2d 127 (1971).

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITO.
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 28, 1982

SUBJECT: Wanton waste of big game animals and wild fowl (CSHB 47 (Judiciary) am)

TO: Senator Patrick M. Rodey
Attn: Kevin Bruce

FROM: Edward H. Hein *EH*
Legislative Counsel

As we discussed on the phone today, CSHB 47 (Judiciary) am is deficient in certain respects. Chiefly, it fails to amend AS 16.30.012, possession of raw horns and antlers.

Eugene Cyrus, who handles fish and game violations for the Attorney General's office in Anchorage, told me that there has never been a prosecution under this section because no penalty is provided for its violation. It appears to me that this is a matter which could be dealt with appropriately in this bill, since the rest of AS 16.30 is being amended by the bill. AS 16.30.012 apparently was intended to operate in conjunction with the other sections of AS 16.30 by covering situations where persons are found with raw antlers, but the rest of the animal cannot be located by enforcement officials. Note also that this section, if unamended, will continue to use the term "wild food animal", although that term has been replaced in the bill with the term "big game animal" in the other sections of AS 16.30. At page 2, line 19, "big game animal" is defined differently from "wild food animal". The definition of "wild food animal" appears overly broad. For example, I am not sure why the state needs to prohibit the possession of the raw horns or antlers of duck, goose, ptarmigan, grouse, etc.

EHH:ljb

AMENDMENT TO SCS CSHB 47(JUD)

On Line 26, Page 2:

After the word "because" begin a new subparagraph:

(A) The meat has been consumed by human beings ;or

(B) the defendant delivered the edible meat to another person.

(C) as used in the section "deliver" means to give, sell, or barter in a manner that does not violate state or federal law.

Proposed Amendment to SCSCSHB 47 (Judiciary)

Page 1, line 26

Delete Section 2 in its entirety

Insert in its place:

* Sec. 2. AS 16.30.012 is amended to read:

Sec. 16.30.012. Possession of raw horns and antlers. (a) It is a class A misdemeanor [UNLAWFUL] to possess the raw horns or antlers of a wild food animal without its being accompanied by most of its edible meat unless

- (1) most of its edible meat was salvaged in accordance with law;
- (2) the horns or antlers were acquired by gift from another person after the associated meat was salvaged;
- (3) the meat was lost due to circumstances beyond the possessor's control, including loss in the field to another animal, weather or other acts of God, or theft.

(b) If a person who possesses raw horns or antlers without its being accompanied by most of its edible meat raises a justification specified in (a) (1) - (3) of this section, additional corroborating evidence of that justification may be required by the department. In this section,

(1) "being accompanied" means having most of the meat in actual possession with the horns or antlers unless the person is engaging in the act of transporting most of the meat from the same animal in portions at different times but in a continuous manner without unnecessary interruption, from the place of taking to its destination for human consumption;

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

Page 2, line 22

Delete subsection (b) in its entirety



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

DATE: May 17, 1982

TO: Senator Rodey

FROM: Kevin K. Bruce 

RE: HB 47

Please find attached:

- 1.) Copy of the Senate version
- 2.) Memo from Legislative Counsel addressing Senate changes to 16.30.012.
- 3.) Proposed amendment to Senate version to allow possession of horns/antlers if the meat has been given away.
- 4.) Proposed language by Representative Fanning for 16.30.012.

I believe the memo adequately reflects the problems associated with retaining the present language in 16.30.012 as suggested by Representative Fanning.

If the proposed Senate amendment is adopted, I believe the final issue to resolve is that of the defenses that appear in 16.30.017. Representative Fanning would like these to be incorporated into the elements of the offense, rather than allowing them to be offered as a defense after arrest.

The Senate version, of course, would bring 16.30.012 into conformity with the defenses to 16.30.010 that passed the House. It seems rational to structure similar defenses for both of these offenses.

Original sponsors: Grussendorf, Bettisworth,
Fanning, et al

Offered: 5/8/82
Referred: Rules

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12 animal or a species of wild fowl to fail intentionally, knowingly,
13 recklessly, or with criminal negligence to salvage for human consumption
14 the edible meat of the animal or fowl.

15 (b) If a person is convicted of violating this section and in the
16 course of that violation failed to salvage from a big game animal at
17 least the hindquarters as far as the distal joint of the tibia-fibula
18 (stifle joint), the court shall impose a sentence of (1) imprisonment of
19 not less than seven consecutive days and (2) a fine of not less than
20 \$2,500.

21 (c) The imposition or execution of the minimum sentence prescribed
22 in (b) of this section may not be suspended under AS 12.55.080 or 12.55.-
23 085. The minimum sentence prescribed in (b) of this section may not be
24 reduced.

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27 misdemeanor for a person to possess the horns or antlers of a big game
28 animal that was killed after the opening of the current or most recent
29 lawful hunting season for that animal unless the person also possesses

1 the edible meat of the animal.]

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

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9 (A) the year in which the conviction is entered and the
10 year following the year in which the conviction is entered;

11 (B) a period of five years from the date of the convic-
12 tion if the person has failed to salvage from a big game animal at
13 least the hindquarters as far as the distal joint of the tibia-
14 fibula (stifle joint).

15 Sec. 16.30.017. DEFENSES. (a) It is a defense to a criminal
16 charge under AS 16.30.010 [or 16.30.012] that the failure to salvage or
17 possess the edible meat was due to circumstances beyond the control of
18 the person charged, including

19 (1) theft of the animal or fowl;

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

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

22 (b) It is a defense to a criminal charge under AS 16.30.012 that

23 (1) the defendant acquired the horns or antlers as a gift
24 after the edible meat of the big game animal was salvaged;

25 (2) the defendant does not possess the edible meat of the big
26 game animal because the meat has been consumed by human beings.]

27 * Sec. 4. AS 16.30.020 is amended to read:

28 Sec. 16.30.020. ANIMALS EXEMPTED [EXCEPTED]. The provisions of
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~~Insert in its place:~~

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Sec. 16.30.012. Possession of raw horns and antlers. (a) It is a class A misdemeanor [UNLAWFUL] to possess the raw horns or antlers of a Big Game ~~wild food~~ animal without its being accompanied by ^{THE?} ~~(most of its)~~ edible meat unless

- (1) ~~(most of its)~~ ^{THE} edible meat ^(A) was salvaged in accordance with law; ~~OR~~ ^{(B) HAS BEEN CONSUMED BY HUMAN BEINGS; OR} ^{(C) WAS DELIVERED TO ANOTHER PERSON;}
- (2) the horns or antlers were acquired by gift from another person

after the ^{EDIBLE} ~~(associated)~~ meat was salvaged;

(3) the meat was lost due to circumstances beyond the possessor's control, including ^{UNAVOIDABLE} loss in the field to another animal, weather ^{CONDITIONS} or other acts of God, or theft OF THE ANIMAL.

(b) If a person who possesses raw horns or antlers without its being accompanied by ~~(most of its)~~ ^{THE} edible meat raises a justification specified in (a) (1) - (3) of this section, additional corroborating evidence of that justification may be required by the department. In this section,

(1) "being accompanied" means having ~~(most of)~~ ^{EDIBLE} the meat in actual possession with the horns or antlers unless the person is engaging in the act of transporting ~~(most of)~~ ^{EDIBLE} the meat from the same animal in portions at different times but in a continuous manner without unnecessary interruption, from the place of taking to its destination for human consumption; ^{OR DELIVERED TO ANOTHER PERSON}

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

~~Page 2, line 22~~ (3) "DELIVER", AS USED IN THIS SECTION, MEANS TO GIVE, SELL OR BARTER IN A MANNER THAT DOES NOT VIOLATE STATE OR FEDERAL LAW

1 by regulation.

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

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

5 (4) "criminal negligence" means criminal negligence as
6 defined in AS 11.81.900(a)(4);

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8 meat of the ribs, neck, brisket, front quarters as far as the juncture
9 of the humerus and the radius-ulna (knee), hindquarters as far as the
10 distal joint of the tibia-fibula (stifle joint), and that portion of the
11 animal between the front and hindquarters; in the case of wild fowl, the
12 meat of the breast; however, "edible meat" of big game or wild fowl does
13 not include

14 (A) meat of the head;

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

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

19 (D) viscera;

20 (6) "intentionally" means intentionally as defined in AS 11.-
21 81.900(a)(1);

22 (7) "knowingly" means knowingly as defined in AS 11.81.900-
23 (a)(2);

24 (8) "recklessly" means recklessly as defined in AS 11.81.900-
25 (a)(3);

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

28 * Sec. 6. AS 16.30.030(2) is repealed.

29

* Sec. 2. AS 16.30.012 is repealed and reenacted to read:

Sec. 16.30.012. POSSESSION OF HORNS OR ANTLERS.^(a) / It is a class A misdemeanor for a person to possess the horns or antlers of a big game animal that was killed after the opening of the current or most recent lawful hunting season for that animal if

(1) the person does not possess the edible meat of the animal; and

(2) the edible meat of the animal has not been

(A) salvaged in accordance with law;

(B) consumed by human beings;

(C) delivered to another person; or

(D) lost due to circumstances beyond the person's control, including

(i) theft of the animal;

(ii) unanticipated weather conditions or other acts of God; or

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

(b) in this section,

(1) "delivered" means given, sold, or bartered in a manner that does not violate state or federal law;

(2) "possess the edible meat" includes possessing portions of the edible meat in more than one location while the meat is being transported from the place where it was salvaged.



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

May 7, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

- HB 210 - "An Act relating to child custody."
- HB 47 - "An Act relating to the prohibition against waste of the meat of wild food animals."
- HB 74 - "An Act relating to the rights of debtors and creditors."
- HB 339 - "An Act relating to the judicial review of administrative regulations."
- HB 591 - "An Act making corrective amendments in the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 P.M. Committee members present were: Senators Rodey, Anderson, Parr, and Ray. Senator Bennett was absent.

- 001 - Call to order.
- 005 - HB 210 was brought before the committee.
- 008 - Mr. Bruce goes over the changes in the committee substitute.
- 531 - After discussion, Chairman Rodey laid HB 210 on the table.
- 535 - Chairman Rodey next brought HB 47 before the committee.
- 537 - Mr. Bruce goes over the committee substitute.
- 556 - Ed Hein, Legal Services, testified, explaining the committee substitute.

705 - Senator Anderson moved the following: On Page 3, Line 25, delete [WALRUS] and delete [EXCEPTED]. Also on Page 3, Line 25, invert EXEMPTION and ANIMALS, so that it would read ANIMAL EXEMPTION. On Line 26, Page 3, delete [walrus i] and insert animals which. On Line 27, Page 3, delete [them]. There was no objection.

721 - Senator Ray moved to adopt the Senate committee substitute. There was no objection.

724 - Senator Rodey moved to pass SCSHB 47 from committee. There was no objection and the bill was passed.

733 - The next item on the agenda was HB 339.

740 - Diane Colvin, Department of Law, testified explaining the new draft.

870 - Senator Parr stated that his intent was not being met by this bill. He wanted statutes listed by specific sections, not titles and chapters which was not being set out by this legislation.

149 - Senator Parr moved to pass HB 339 with language in Diane Colvin's memo + sec. 2 of the draft committee substitute with individual recommendations. See attached.

221 - Next, Chairman Rodey brought HB 74 before the committee.

223 - Dickerson Regan, Code Revision Commission, testified, suggesting that the committee pass the bill as is because changes can be made by the revisor of statutes next year.

327 - Senator Anderson moved to pass the bill with individual recommendations.

336 - The last item on the agenda was HB 591.

340 - Mr. Walker testified in favor of this bill.

440 - Senator Anderson moved to pass HB 591 with individual recommendations. There was no objection.

444 - The meeting adjourned at 3:00 P.M.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUC STATE CAPITOL
ALASKA 99811
907-465-2800

MEMORANDUM

April 30, 1982

SUBJECT: Statutory authority for regulations
(SCS HB 339)

TO: Senator Patrick M. Rodey
Chairman, Senate Judiciary Committee

FROM: Diane T. Colvin
Legislative Counsel

In connection with committee work on HB 339, you asked me to prepare a proposal in response to Senator Parr's suggestion on the need for specific, rather than general, statutory authority for administrative regulations. I had previously proposed an amendment to AS 44.62.020; suggested language for that amendment is contained in my memorandum to Senator Nels Anderson of April 28th.

Another possibility would be to amend AS 24.30, relating to the enactment of statutes, to require that all bills contain express language on the adoption of regulations. I believe this may be closer to meeting Senator Parr's intent. A new section could be added to this chapter to read:

Sec. 24.30.032. REGULATIONS STATEMENT ON BILLS. Each bill shall contain a statement regarding the adoption of regulations by the agency affected by the bill. The statement shall grant the express authority to adopt regulations to implement the provisions of the bill. If a bill does not contain this statement of authority an agency may not adopt regulations to implement the statutes affected by the bill.

It is the opinion of this office that this proposal, if enacted, would have a detrimental effect on the operations of all state departments and agencies. There would be a great deal of confusion resulting from any bills enacted which did not contain this statement but which affected

Senator Rodey
Page 2
April 30, 1982

statutes which are part of a broad statutory scheme or part of an integrated title.

In our opinion, there is no single approach which would cure this problem. The only solution would be to go through the statutes and remove, title by title or chapter by chapter, the general authority of departments and agencies to adopt regulations.

If we can be of further assistance, please do not hesitate to contact us.

DTC:ljb



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

MINUTES OF THE SENATE JUDICIARY COMMITTEE

OF

MAY 3, 1982

Butrovich Committee Room, State Capitol Juneau, Alaska

Legislation Before Committee:

HB 668 - "An Act relating to the release of records by the Department of Fish and Game to the Department of Public Safety; and providing for an effective date."

HB 47 - "An Act relating to the prohibition against waste of the meat of wild food animals."

HB 74 - "An Act relating to the rights of debtors and creditors."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:35 P.M. Committee members present were: Senators Rodey, Ray, Anderson, and Parr. Senator Bennett was absent.

003 - Call to order.

008 - Chairman Rodey brought HB 668 before the committee.

086 - Bob Stickles, Fish & Wildlife, testified in favor of HB 668.

191 - Roger Painter, representing United Fisherman of Alaska, testified in favor of this legislation also. He stated that the January 1, 1984 effective date does not leave time for positive action by the legislature.

240 - Senator Rodey suggested changing the effective date to July 1, 1984. There was no objection.

265 - Chairman Rodey laid HB 668 on the table.

276 - The next item of business was HB 47.

287 - Representative Grussendorf, representing himself, testified in favor of HB 47. He stated that something definitely has to be done to avoid the waste of game meat that is taking place.

501 - Representative Fanning, representing himself, testified in favor also.

- 762 - After discussion, Chairman Rodey directed Mr. Bruce to have language drafted to meet the committee's concerns.
- 856 - Bob Hinman, Department of Fish & Game, testified in favor of HB 47.
- 142 - Bob Stickles, Fish & Wildlife, testified in favor of this legislation also.
- 162 - Chairman Rodey laid HB 47 on the table.
- 170 - The last item on the agenda was HB 74.
- 196 - Dickerson Regan, Code Revision Commission, and Mr. Baldwin, Code Revision Commission, testified in favor of this bill.
- 457 - Marilla Gemmer, Department of Revenue, testified in favor of HB 74. She referred to the amendments in the memo which she distributed. See attached.
- 474 - Chris Miller, Department of Labor, testified in favor and referenced Judy Knights letter to Senator Mulcahy. See attached.
- 490 - After discussion, Chairman Rodey left HB 74 with committee members for their review.
- 503 - The meeting was adjourned at 2:55 P.M.

(3) the bones, sinew, and incidental meat reasonably lost as a result of boning or a close trimming of the bones. (§ 39-8-1 ACLA 1949; am § 1 ch 111 SLA 1957; am § 2 ch 73 SLA 1968; am § 1 ch 11 SLA 1974; am § 1 ch 34 SLA 1976)

Effect of amendments. — The 1974 amendment added subsection (d). The 1976 amendment rewrote subsections (a) and (b).

Sec. 16.30.012. Possession of raw horns or antlers. (a) It is unlawful to possess the raw horns or antlers of a wild food animal without its being accompanied by most of its edible meat unless

- (1) most of its edible meat was salvaged in accordance with law;
- (2) the horns or antlers were acquired by gift from another person after the associated meat was salvaged;
- (3) the meat was lost due to circumstances beyond the possessor's control, including loss in the field to another animal, weather or other acts of God, or theft.

(b) If a person who possesses raw horns or antlers without its being accompanied by most of its edible meat raises a justification specified in (a)(1) — (3) of this section, additional corroborating evidence of that justification may be required by the Department. In this section,

(1) "being accompanied" means having most of the meat in actual possession with the horns or antlers unless the person is engaging in the act of transporting most of the meat from the same animal in portions at different times but in a continuous manner without unnecessary interruption, from the place of taking to its destination for human consumption;

(2) "raw" means an appearance, by reasonable observation, that indicates its having been taken from a wild food animal during the current or most recent lawful hunting season for that animal. (§ 2 ch 34 SLA 1976)

Sec. 16.30.020. Animals excepted. The provisions of §§ 10 — 12 of this chapter do not apply to animals which the board exempts by regulation. (§ 3 ch 73 SLA 1968; am § 3 ch 34 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "§§ 10 — 12 of this chapter" for "§ 10 of this chapter."

Sec. 16.30.030. Definitions. In this chapter

- (1) "department" means the Department of Fish and Game;
- (2) "wild food animal" includes a moose, caribou, mountain sheep, mountain goat, feral reindeer, deer, elk, bison, musk ox, duck, goose, brant, wilson or jack snipe, grouse and ptarmigan. (§ 3 ch 73 SLA 1968)

- Article
- 1. Employment of — 16.35.040)
 - 2. Bounties on Wo
 - 3. Bounty on Hair
 - 4. Miscellaneous P

Article

- Section
- 10. Commissioner employ hunt
 - 20. Duties of lead
 - 30. Leaders' com skins

Sec. 16.35.010 and trappers. state, and may hereafter refer training by the of predatory a experts in that

Revisor's note gives the power animals to the Department of Agr to suppress predat ch. 64 SLA 1959, power as one belo Section 16, ch. 64 powers of the D Resources, to whic powers of the Dep also says "but fisheries, sport fish animals in their na art. I, ch. 94, SLA and Game (now I Game) may make r

Sec. 16.35.020 to interested pe otherwise destr from time to tir the purpose of

(b) Upon rec not more than hunters and tr

LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. CSHB 47 (Jud) am
 Title An Act Establishing mandatory imprisonment/fines for hunting violations
 Requested by _____ Date _____ of hunting law.

II. FISCAL DETAIL
 Agency Affected Dept. of Public Safety
 Program Category Affected NRMEC
 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 3/30/82 PREPARED BY Colonel Robert J. Stickles
 AGENCY Dept. of Public Safety
 Original: Legislative Finance PHONE 269-5532
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

AB668

See EIS from HEAVENBIRD E.I.D. → DEATHING

Col. STICKLES: IN FAVOR OF LEGISLATION -- LACK OF ACCESS
HINDERS ENFORCEMENT - HURTS HONEST FISHERMEN.

ROBERT PRINCE: IN FAVOR - SUGGESTS AMENDMENT TO
LINE 24, PAGE 1 CHANGE TO ~~SECRET~~
SOME LATER DATE TO RECORD
LEGISLATURE TO ACT TO EXTEND

HB47

CRUICKSHANK: IN FAVOR, EXPURNS PROVISIONS OF BILL.

LINE 17, PAGE 1 - FIX LANGUAGE

FANNING: SUPPORTED BY HUNTING COOP

RODNEY: 160 HRS - DAY FRAME

RAY: PAGE 1 (PARAGRAPH C) DENINITE LANGUAGE IN
(C).

RAY: SUGGESTS LANGUAGE OF SEC. 4

BOB HINMAN: DEPARTMENT STRONGLY SUPPORTS.
CONCEPTS.

STICKLES: DPS SUPPORTS LEGISLATION

DRAFT

SENATE AMENDMENT

POT DEFENSES INTO ELEMENT SECTION

DEFINE "POSSESSION" WITH TRANSPORTATION OF MEAT

"Accompanied by"

Ca. Sticks }
John Lawrence }

TOM KOESTER - A.G.