

S B

101

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 1, 1984

SUBJECT: Sectional analysis of CSSB 101 (Resources)

TO: Representative Charlie Bussell  
Chairman House Judiciary Committee

FROM: Edward H. Hein *EHA*  
Legislative Counsel

Section 1 adds a new section, AS 16.05.165, to the fish and game code that provides that a peace officer investigating a misdemeanor violation of the code or a regulation adopted under it may issue a citation as provided in AS 12.25.180, notwithstanding the provisions of AS 16.05.160, which requires a peace officer to arrest any person committing a code violation in the officer's presence. Note that SSHB 404 would amend AS 16.05.160 to make such arrests discretionary, but would expand the arrest authority to include violations of all of AS 16 except AS 16.51 and 16.52. Section 1 also directs the supreme court to establish a bail schedule for fish and game misdemeanor violations and provides for paying fines by mail, similar to what is done with traffic tickets.

Section 2 amends AS 16.05.410, which provides for revocation of licenses for conviction of sport fishing and hunting license violations. The amendment provides that the existing revocation provisions do not apply to violations for which a forfeitable bail amount is established under AS 16.05.165. Two convictions of such an offense, however, could result in a peace officer filing a civil action to have the person's license revoked. A non-jury court hearing is required. If the court finds that the person's actions demonstrate a disregard for the preservation of the state's fish or wildlife resources, the license may be revoked for a mandatory one-to-three year period.

Section 3 amends AS 12.25.190(c) to provide that a person receiving a citation under AS 16.05.165 is not required to

Representative Charlie Bussell  
Page 2  
February 1, 1984

give a written promise that he or she will appear in court  
in response to the citation.

EHH:ojb  
J3/037



POUCH V  
JUNEAU, ALASKA 99811  
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Alaska State Legislature  
HOUSE OF REPRESENTATIVES

REPRESENTATIVE  
CHARLIE BUSSELL  
CHAIRMAN

# Committee on Judiciary

CSSB 101 (RES)  
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MEMBERS:  
REP. JOHN LISKA, VICE CHAIRMAN; REP. RAMONA BARNES, EMERITUS;  
REP. JOE HAYES; REP. HUGH MALONE; REP. DON CLOCKSIN; REP. RON WENDTE

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No.: CSSB 101 (Res)  
 Title: "Act relating to issuance of ..."  
 Sponsor: Senate Resource Committee  
 Requestor: Senate Judiciary

II. FISCAL DETAIL

Agency Affected: Public Safety  
 Program Category Affected: F&WP  
 BRU, Program of Subprogram(s) Affected: Fish & Wildlife Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis No fiscal impact anticipated

Prepared By: Col. Robert J. Stickles, Director Phone: 269-5532  
 Division: Fish & Wildlife Protection Date: 3-22-83  
 Approved by Commissioner: [Signature] Date: 3/25/83  
 Department: Public Safety

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

SENATE RESOURCES COMMITTEE

LETTER OF INTENT

CSSB 101

It is the intent of the Resources Committee in passing out this bill that the Supreme Court shall specify certain fish and game violations for which bail amounts can be set and for which citations could be issued which would not require court appearances. It is intended that this procedure be similar to that currently employed under the motor vehicle code for traffic citations. Through implementation of this procedure it is intended that savings to the court system, enforcement agencies and violators in time would be realized.

However, the Committee recognizes that only some fish and game misdemeanors would be identified under this new statute because of their "minor" nature. Other misdemeanors would continue to require court appearances by the cited violators. In testimony before the Committee and in statements to the Committee the following misdemeanors were mentioned as examples of those violations for which the provisions of this bill might in all likelihood apply:

- 1) snagging or attempting to snag fish
- 2) failure to punch harvest tickets
- 3) failure to submit hunting permit reports
- 4) license not in possession

The following misdemeanors were mentioned as examples of those violations for which the provisions of this bill should probably not apply:

- 1) commercial fish
- 2) limited entry
- 3) guide-related
- 4) closed season
- 5) same-day airborne
- 6) waste

It is the intention of the Committee that the Supreme Court, in consultation with the Department of Public Safety, would identify misdemeanors under this bill consistent with the above lists.

CSSB 101 (Res) RELATING TO THE ISSUANCE OF CITATIONS FOR FISH  
AND GAME VIOLATIONS.

ASK FOR UNANIMOUS CONSENT FOR ADOPTION OF THE RESOURCES COMMITTEE  
SUBSTITUTE.

(SMALL CHANGES WERE MADE IN THE C.S : (ALL RECOMMENDED BY THE COURT SYSTEM)

.. REMOVED REFERENCES TO "MINOR MISDEMEANOR" AS IT HAS NO  
LEGAL DEFINITION

.. ALLOWS THE DEFENDANT TO PAY BAIL IN THE COURT WHERE THE  
OFFICER FILES THE CITATION RATHER THAN IN THE COURT OF  
JURISDICTION

... MAKES AN ALLOWANCE FOR A PERSON WHO FORGETS TO SIGN HIS/HER  
CITATION

.. AND SOME TECHNICAL CHANGES IN LINE WITH RECOMMENDATIONS FROM  
THE ATTORNEY GENERAL'S OFFICE

LETTER OF INTENT

IN THIRD READING, PRIOR TO PASSAGE, ASK FOR UNANIMOUS CONSENT FOR  
ADOPTION OF THE LETTER OF INTENT.

.. ASSURES THAT ONLY MINOR OFFENSES WOULD BE COVERED BY THIS  
BILL

IN GENERAL

THIS BILL WOULD GIVE PEACE OFFICERS THE AUTHORITY TO ISSUE CITATIONS  
FOR FISH AND GAME MISDEMEANORS UNDER A PROCEDURE SIMILAR TO THE ISSUANCE  
OF TRAFFIC CITATIONS. THE INTENT IS TO EXPEDITE THE ENFORCEMENT  
PROCEDURE BY REDUCING COURT LOADS. THE SUPREME COURT IS TO IDENTIFY  
THE MISDEMEANORS APPROPRIATE FOR DISPOSITION WITHOUT COURT APPEARANCE -  
CONSIDERABLE WORK WAS DONE IN COMMITTEE TO ASSURE THAT ONLY MINOR  
OFFENSES WOULD BE COVERED BY THE TRAFFIC TICKETING SYSTEM. WE  
ANTICIPATE A REDUCTION OF ABOUT 1,000 CASES A YEAR THAT WOULD NORMALLY  
GO BEFORE THE COURTS.

FISCAL NOTE IS ZERO.

PROPOSED TITLE: CS05 101 (RES)

AN ACT RELATING TO THE ISSUANCE OF CITATIONS FOR FISH AND GAME VIOLATIONS

PRIME SPONSOR: SENATE RULES COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 5/19/83 IN (H) JUDICIARY

B 101 SENATE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
12/01/83	01	0109	FIRST READING -- COMMITTEE REPORTS
12/01/83	02	0109	F/NOTE EQUALS ZERO
12/01/83	03	0109	GOV TRANSMITTAL LETTER
03/18/83	04	0430	RES -- CS05, NR01
03/18/83	05	0430	RES LETTER OF INTENT
04/14/83	06	0693	JUD -- RES CS05
04/14/83	07	0693	JUD F/NOTE EQUALS ZERO
04/22/83	08	0785	RLS -- RES CS04, OTHER04 TAKEN UP IMMEDIATELY
04/22/83	09	0787	SECOND READING
04/22/83	10	0787	RES CS ADOPTED BY UNAN CONSENT
04/22/83	11	0787	SENATE LETTER OF INTENT ADOPTED
04/22/83	12	0787	ADVANCED TO 3RD READING BY UNAN CONSENT
04/22/83	13	0787	THIRD READING
04/22/83	14	0787	PASSED BY DIV 20-00-00

\*\*\*\* \*\* \*\* \*\*\* \*\*

B 101 HOUSE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/25/83	15	1015	FIRST READING -- COMMITTEE REPORTS
05/19/83	16	1425	RES -- DP06 JUDICIARY RULES

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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 1, 1983

The Honorable Jalmar Kerttula  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. President:

Under authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that will establish an expeditious procedure to dispose of minor uncontested misdemeanor fish and game violations.

Under existing law (AS 12.25.180), peace officers have the authority to issue citations for misdemeanors instead of arresting the offender. Once a citation is issued, however, the offender must ordinarily appear in court, even if he does not wish to contest the charge. Section 1 of the attached bill adopts a procedure similar to that found in the motor vehicle code (AS 28.05.151) which allows the offender to post and forfeit bail if he does not wish to contest the charge. The bill also authorizes the supreme court to establish a bail schedule for those minor misdemeanor offenses which are appropriate for disposition without court appearance.

As in the comparable motor vehicle code provision, this bill provides that when a person is convicted of a minor misdemeanor which is included in the bail schedule, the fine imposed may not exceed the bail amount, even though statutes or regulations may allow a higher maximum penalty level. This bail amount "ceiling" on fines is necessary to ensure that a person who contests a citation and goes to trial will not receive a more severe penalty upon conviction than the person who enters a no contest plea and forfeits the bail amount without appearance. To expose the person who contests a citation to a higher maximum possible sentence would penalize the exercise of the right to a trial, constituting a denial of equal protection of the law.

Section 2 of this bill generally exempts persons who have been convicted of two or more minor fish and game violations from the mandatory license forfeiture required by AS

16.05.410(a) -- (c). However, the bill also provides that, in specific appropriate situations the hunting or fishing licenses of frequent repeat minor offenders may be revoked following a district court hearing.

Passage of this bill will benefit law enforcement, the person cited for a relatively minor offense, and the judicial system. The person will avoid the time and expense associated with a court appearance, while law enforcement will be able to concentrate its resources on more serious offenses. We anticipate a reduction of approximately 1,000 cases per year that would normally go before the courts.

Sincerely,



Bill Sheffield  
Governor

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

ROBERT J. SUNDBERG  
COMMISSIONER

## DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FISH & WILDLIFE PROTECTION

P. O. BOX 6188, ANNEX  
ANCHORAGE, ALASKA 99502

March 9, 1983

Representative Mitch Abood  
Pouch V  
Juneau, Alaska - 99801

Dear Representative Abood:

During the budget hearings on March 7th involving the Division of Fish and Wildlife Protection we discussed Senate Bill 101 and it's potential impact on the Division. Senate Bill 101 was introduced on February 1st, 1983 and is a bill entitled "An Act relating to the Issuance of Citations for Fish and Game Violations."

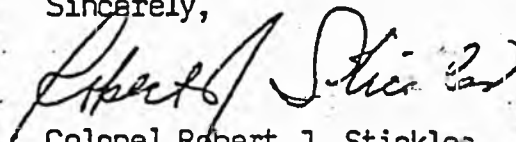
Should this Bill pass it will allow the Alaska Supreme Court to establish a bail system for minor fish and wildlife offenses. If that occurs we anticipate approximately twenty (20) of the most common and minor violations being placed on this bail system. A fine will be established by the Court System for the offenses and if an individual is caught in a violation he will have the option of mailing in a fine or appearing in court. We anticipate that this will have a significant impact on the Court System, the Division of Fish and Wildlife Protection and the District Attorneys Office and it will be a positive impact because we feel an overwhelming majority of people will elect to use the bail system.

In an era when the State's treasury is going down and operating funds for the Division are not going to be as great as they have been in the past this type of legislation will assist the Division in maintaining it's current posture while decreasing expenditures at the same time. Last year the Division spent nearly 6,000 hours in court in the prosecution of the violations that we apprehended in the field. We believe that at a minimum, one half of this time can be eliminated if this particular piece of legislation passes. I would like to note also that we believe this will be of tremendous benefit to the sportsmen of the State of Alaska. I say sportsmen because right now we do not envision commercial type violations being placed on the bail system. In many cases persons are traveling, for example from Anchorage to Kenai to participate in the sport fishery and are cited for a violation. In order to go to court the individual has to take at least one day off from work, go to court, plead guilty or innocent, pay his fine, and it's an inconvenience to the general public as well as a burden on the court system, my officer's time, and the District Attorney's time. We feel the passage of this Bill will help not only us, but also the citizen.

MARCH 9, 1983

Should this Bill come before the House State Affairs Committee of which you are the Chairman, I urge your support for this piece of legislation. If we can be of further assistance in explaining the benefits of this legislation or in answering any questions, please feel free to contact us.

Sincerely,



Colonel Robert J. Stickles  
Director

RJS/rt

cc: Commissioner Robert J. Sundberg, Department of Public Safety

M E M O R A N D U M

TO: Senator Bettye Fahrenkamp, Chair, Senate Resources Committee

INFORMATION: Senator Robert H. Zielger, Sr., Vice-Chair  
Senator Bob Mulcahy  
Senator Richard I. Eliason  
Senator Paul Fischer  
Senator Arliss Sturgulewski  
Senator Vic Fischer

FROM: Stephanie J. Cole  
Deputy Director for Services  
Alaska Court System

SUBJECT: SB 101

DATE: March 16, 1983

The Alaska Court System supports the passage of legislation enabling the development and adoption of a bail forfeiture schedule for minor fish and game offenses. Such a bail schedule could both reduce the court's workload and promote public convenience.

The following comments are offered about SB 101:

1. Section I, AS 16.05.165(a): We would suggest the addition of the phrase "as provided in AS 12.25.180" at the end of the sentence.

AS 12.25.180 (When peace officer has option to take person before judge or magistrate) sets forth the parameters of a peace officer's discretionary power to issue a citation to a defendant. It should be as applicable to fish and game misdemeanors as to other types of misdemeanors. The reference to AS 12.25.180 will make the incorporation clear.

2. Section I, AS 16.05.165(b): We would suggest the deletion of the word "minor" in the first sentence.

This first sentence refers to "minor misdemeanors." This term does not have any legal definition. The legislative intent that only minor types of cases be included in the bail schedule is already addressed by the language in this same sentence, "...misdemeanors that are appropriate for disposition without court appearance." More serious misdemeanors would not be appropriate for inclusion in the bail schedule. The inclusion of the term "minor misdemeanors" could be unnecessarily confusing.

3. Section I, AS 16.05.165(c): In the first sentence, we would delete "...having jurisdiction over the place where the violation occurred," and would substitute "...in which the citation is filed by the peace officer."

The defendant may have no knowledge about which court has jurisdiction over the place where the violation occurred. He must deal with the court where the peace officer files the citation. This court address would be indicated on the citation.

4. Section I, AS 16.05.165(c)(2): We would suggest that a final sentence be added to this subsection: "Bail shall be forfeited if the person cited returns the bail amount but fails to sign the citation."

Clerical problems will develop if (as frequently occurs with the traffic bail schedule receipts) persons mail in their bail money and omit, inadvertently or otherwise, to sign their citations. This provision would allow the court to treat the matter as if the person had signed the citation, thus expediting case processing.

5. Section I, AS 16.05.165(f): We would change the provision in the first sentence of "after trial" to "after plea or trial."

It sometimes happens that a person wants to plead guilty to this sort of offense while still wanting to go to court to tell the judge about the particular circumstances of his case. This minor addition will insure that he or she would not be penalized for doing so.

6. Section I, AS 16.05.410(g): This subsection raises the possibility of a number of problems and leaves a number of questions unanswered.

Among the issues raised are the following. Is this a criminal or civil proceeding? What standard of proof does the court use? If the license to be revoked is considered to be a "valuable license" by the court, the defendant has the right to a trial by jury. [See Baker v. City of Fairbanks, 471 P.2d 386 (Alaska 1970).] Then, how does the court treat the underlying prior misdemeanor offenses which support the case before the court, for which the defendant did not have the right to trial by jury? Is the defendant allowed to raise issues relating to his or her guilt in these closed cases before the jury? Different courts will probably decide these and other questions in varying ways.

• Senator Bettye Fahrenkamp  
March 16, 1983  
Page 3.

As an alternative method, the legislature may want to consider the implementation of an administrative point system as is presently in use in traffic matters. See AS 28.15.221 et. seq. Such a point system would avoid many of the procedural pitfalls created by the present subsection.

Thank you for the opportunity to comment on this proposed legislation.

SJC:jm

*Stephanie J. Cole*