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101

COMMITTEE REPORT
SENATE

FURTHER:

3/15/33

Date: _____

Mr. President:

The Committee on JUDICIARY has had SB 101

relating to the issuance of citations for fish and game violations

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 _____ same title
- new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

While in Juneau
POUCH V
JUNEAU, ALASKA 99811



Senate

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE

MEMBER
SENATE JUDICIARY COMMITTEE

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

March 29, 1983

Senator Bill Ray,
Chairman - Senate Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: SB 101

Dear Senator Ray:

The captioned bill pertains to the issuance of citations for fish and game violations.

I have attached Mr. Van Doren's analysis of the bill, which though perhaps not concisely grammatical, nevertheless adequately covers the subject matter and compares the original bill with the Resources' Committee Substitute.

The issuance of citations for fish and game misdemeanors is quite similar to the existing system regarding the issuance of traffic citations. The bill is unobjectionable, in my opinion, in its present form.

All testimony in the Resources Committee was favorable.

Very truly yours,

Robert H. Ziegler, Sr.

RHZ:lk

Attachment

RELATING TO THE ISSUANCE OF CITATIONS FOR FISH AND GAME VIOLATIONS.

- Section 1. 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 supreme court is to identify the minor misdemeanors that are appropriate for disposition without court appearance and establish a schedule of bail amounts.
- Section 2. Generally exempts persons who have been convicted of two or more fish and game misdemeanors from the mandatory license forfeiture required by current statute. However, it allows a peace officer to petition the district court to seek an offender's license revocation.

The intent of SB 101 is to expedite the enforcement procedure by reducing court loads.

ORIGINAL VS. CSSB 101

- Section 1. (a) The CS removes a gender pronoun and adds the Alaska Statute number under which a peace officer may issue a citation.
- (b) No changes
- (c) Clean-up language relating to where an offender must mail or deliver bail and citation "indicating" [signed by the person] that the right to an appearance is waived....."
- (f) the words [after trial] have been deleted. "...appear in court and found guilty [after trial] the penalty is"

Section 2. 16.05.410

In the original bill, subsection (f), the words "minor misdemeanor" are used. In the CS [minor] has been deleted.

In sub-section (g) [minor] has also been deleted.

Also in sub-section (g) the original language read " a peace officer may petition the district court to revoke the person's license Once a petition has been filed...."

The CS changes 'petition' to "civil action" and provides that the hearing will be without a jury and also cleans up some of the language.

- Section 3. The committee substitute adds this new section which amends AS 17.25.190 (c) to include "fish and game citations for which a bail schedule has been established under AS 16.05.165."

This sub-section (c) deals with a person signing the ticket and promising to appear. The new language exempts citations issued under 16.05.165 in this bill.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

POUCH N
JUNEAU, ALASKA 99811
PHONE:

March 24, 1983

465-4322

The Honorable Bill Ray
Chairman, Senate Judiciary Committee
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Bill Ray:

I would like to present the following position which the Division of Fish and Wildlife Protection, Department of Public Safety holds with regard to the CSSB 101 (Res) under proposal:

CSSB 101 (Res) - Support

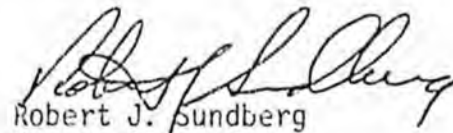
Authorizes the Supreme Court to establish a bail schedule for specific misdemeanor offenses.

Under existing law, peace officers have the authority to issue citations for misdemeanors instead of arrest under AS 12.25.180, however, once a citation is issued, the offender must ordinarily appear in court, even if he does not wish to contest the charge. The 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.

Passage of this will benefit both law enforcement and the person cited for relatively minor offenses. The person will avoid the time and expense associated with a court appearance, while law enforcement will be able to concentrate its' resources on serious resource offenses.

An added benefit will be a reduction in offenses requiring action by the Department of Law and a correspondence reduction in the court calendars.

Sincerely,


Robert J. Sundberg
Commissioner

cc: Representative Bettye Fahrenkamp

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
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

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)

RECOMMENDATIONS

These recommendations have been developed by the Judicial Council based on the statistical findings as well as testimony from the public hearings held during the past year.

1. It is recommended that the Legislature create a Code Revision Commission to rewrite and codify laws and administrative regulations pertaining to the regulation of fish and game resources. Also, offense classifications similar to those in Alaska's new Criminal Code should be developed.
2. (a) It is recommended that the Legislature consider a fish and game sentencing scheme, similar to presumptive sentencing, for major fish and game violation convictions and/or;
(b) the Supreme Court adopt experimental sentencing guidelines for major fish and game offense convictions to determine whether or not the desired uniformity and deterrent aspects of sentencing can be achieved by this approach.
3. It is recommended that the Supreme Court and Legislature create a mail-in bail schedule for administrative and de minimis offenses, which would

allow the court to focus its time and resources on major offenses.

4. It is recommended that the Legislature consider legislation which would allow limited entry and/or interim use permit suspension as a sanction for repeat major commercial fishing offense violators.
5. It is recommended that Court System Administration develop an ongoing educational program for magistrates and judges in the area of fish and game law. This program is necessary to insure that the complex and technical aspects of major fish and game violations are easily understandable by the sentencing authority.
6. It is recommended that the Court System Administration develop a procedure to provide more information about the defendant for use by judges in major fish and game offense sentencings. This will insure that the judges have adequate pertinent information at their disposal at the time of sentencing.

CONCLUSION

The Judicial Council's sentencing study on major fish and game offense convictions identified disparity in sentencing, and also strongly indicated that many sentences have been far too lenient to serve as a deterrent.

The most significant factor contributing to these problems lies with the Statutes and Administrative Code. The laws governing fish and game regulation are unorganized and are often incomprehensible. A good example of this is that commercial fishing laws, as presently structured, make few distinctions between serious violations which threaten direct and immediate damage to the fishery resources and minor offenses of an entirely different nature. In order for judges to impose sanctions which fit the crime, they must be able to understand the crime and have adequate information at hand before sentencing.

The Judicial Council's recommendations not only address disparity in sentencing, but also address deterrence to enhance the maintenance of Alaska's fishery resources on the sustained yield principal. This principal is the goal embodied in the State Constitution (Article VIII, § 4). The protection of fish and game resources for the people of this state is at least as important as the elimination of disparity in sentencing. In order to achieve the ultimate goal of protection, the profit motive must be taken away from offenders.