

S

B

101

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.

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.

SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER: SB 101

BILL NAME: *Relating to issuance of citations for fish
+ game violations.*

SPONSOR(S): *Rules/Governor*

RELATED BILLS PENDING:

DATE INTRODUCED: 2-1-83

REFERRALS: *Resources
Judiciary*

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE: *Public Safety*

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR
REPS. NOTIFIED:

+ Gov's transmittal letter

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

will call
 Karla Forsythe, General Counsel.
Alaska Court System (264-0634)

Ray Gillespie, Governor

Dept Public Safety - Colonel Stickle will testify

ADF+G - Paddy

will testify:
Stephanie Cole
Deputy Administrative Director
for Services
AK Court System
Wants to testify
early - has plans
to catch.

Introduced: 2/1/83
Referred: Resources and
Judiciary

Handwritten signatures and initials at the top right of the page.

changes highlighted

1 IN THE SENATE

Resources CS FOR

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 101

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the issuance of citations for

7

fish and game violations."

8

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

9

* Section 1. AS 16.05 is amended by adding a new section to read:

10

Sec. 16.05.165. FORM AND ISSUANCE OF CITATION. (a) Notwith-

11

standing AS 16.05.160, when a peace officer stops or contacts a person

12

concerning a violation[,] of this chapter or of a regulation adopted un-

13

der this chapter[,] that is a misdemeanor, the peace officer may, in his

14

discretion, issue a citation to the person[,] as provided in AS 12.25.180.

15

(b) After consultation with the division of fish and wildlife

16

protection of the Department of Public Safety, the supreme court shall

17

specify by rule or order those [minor] misdemeanors that are appropriate

18

for disposition without court appearance, and shall establish a sched-

19

ule of bail amounts. The maximum bail amount for an offense may not

20

exceed the maximum fine specified by law for that offense. If the

21

misdemeanor for which the citation is issued may be disposed of with-

22

out court appearance, the issuing peace officer shall write on the

23

citation the amount of bail applicable to the violation.

24

(c) A person cited for a misdemeanor for which a bail amount has

25

been established under (b) of this section may, within 15 days after

26

the date of the citation, mail or personally deliver to the clerk of

27

the court [having jurisdiction over the place where the violation oc-

28

curred,] in which the citation is filed by the peace officer:

29

(1) the amount of bail indicated on the citation for that

1 offense; and

2 (2) a copy of the citation [signed by the person] indicating
3 that the right to an appearance is waived, a plea of no contest is en-
4 tered and the bail is forfeited.

5 (d) When bail has been forfeited under (c) of this section, a
6 judgment of conviction shall be entered. Forfeiture of bail and all
7 seized items is a complete satisfaction for the misdemeanor. The
8 clerk of the court accepting the bail shall provide the offender with
9 a receipt stating that fact.

10 (e) If the person cited fails to pay the bail amount established
11 under (b) of this section or to appear in court as required, the
12 citation is considered a summons for a misdemeanor.

13 (f) Notwithstanding other provisions of law, if a person cited
14 for a misdemeanor for which a bail amount has been established under
15 (b) of this section appears in court and is found guilty [after trial],
16 the penalty that is imposed for the offense may not exceed the bail
17 amount for that offense established under (b) of this section.

18 * Sec. 2. AS 16.05.410 is amended by adding new subsections to read:

19 (f) Except as provided in (g) of this section, the provisions of
20 (a) -- (c) of this section do not apply when the offense for which the
21 person is convicted is a [minor] misdemeanor for which a forfeitable
22 bail amount has been set under AS 16.05.165.

23 (g) When a person has been convicted during a two year period of
24 two or more [minor] misdemeanor offenses for which a forfeitable bail
25 amount has been set under AS 16.05.165, a peace officer may file a civil ac-
26 tion in the district court to revoke the person's license. Once an action
27 has been filed, the court shall set a time and date for a hearing on
28 the proposed license revocation, and shall send notice of the hearing
29 to the person. The hearing shall be before the court without a jury; at
the hearing the court shall hear evidence regarding

1 the nature and seriousness of the offenses for which the person was
2 convicted, the time period involved, the potential impact of the per-
3 son's actions upon the preservation of the resource, and other rele-
4 vant circumstances. If the court finds ^{by a preponderance of the evidence} ~~that the person's actions~~
5 demonstrate a disregard for the preservation of the state's fish or
6 wildlife resources, the court may revoke the person's license for a
7 period of not less than one year nor more than three years from the
8 date of revocation.

*Section 3. AS 12.25.190(c) is amended to read:

(c) The person cited for the crime shall give his written promise to appear in court by signing at least one copy of the written citation prepared by the peace officer and the officer shall deliver a copy of the citation to the person. The written promise requirement of this subsection does not apply to motor vehicle and traffic citations under AS 28.05.151 . and fish and game citations for which a bail schedule has been established under AS 16.05.165.

Offered: 3/18/83
Referred: Judiciary

Original sponsor: Rules/Governor

1 IN THE SENATE BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 101 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the issuance of citations for
7 fish and game violations."

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

9 * Section 1. AS 16.05 is amended by adding a new section to read:

10 Sec. 16.05.165. FORM AND ISSUANCE OF CITATION. (a) Notwith-
11 standing AS 16.05.160, when a peace officer stops or contacts a person
12 concerning a violation of this chapter or of a regulation adopted un-
13 der this chapter that is a misdemeanor, the peace officer may, in the
14 officer's discretion, issue a citation to the person as provided in
15 AS 12.25.180.

16 (b) After consultation with the division of fish and wildlife
17 protection of the Department of Public Safety, the supreme court shall
18 specify by rule or order those misdemeanors that are appropriate for
19 disposition without court appearance, and shall establish a schedule
20 of bail amounts. The maximum bail amount for an offense may not ex-
21 ceed the maximum fine specified by law for that offense. If the mis-
22 demeanor for which the citation is issued may be disposed of without
23 court appearance, the issuing peace officer shall write on the cita-
24 tion the amount of bail applicable to the violation.

25 (c) A person cited for a misdemeanor for which a bail amount has
26 been established under (b) of this section may, within 15 days after
27 the date of the citation, mail or personally deliver to the clerk of
28 the court in which the citation is filed by the peace officer

29 (1) the amount of bail indicated on the citation for that

1 offense; and

2 (2) a copy of the citation indicating that the right to an
3 appearance is waived, a plea of no contest is entered and the bail is
4 forfeited.

5 (d) When bail has been forfeited under (c) of this section, a
6 judgment of conviction shall be entered. Forfeiture of bail and all
7 seized items is a complete satisfaction for the misdemeanor. The
8 clerk of the court accepting the bail shall provide the offender with
9 a receipt stating that fact.

10 (e) If the person cited fails to pay the bail amount established
11 under (b) of this section or to appear in court as required, the
12 citation is considered a summons for a misdemeanor.

13 (f) Notwithstanding other provisions of law, if a person cited
14 for a misdemeanor for which a bail amount has been established under
15 (b) of this section appears in court and is found guilty, the penalty
16 that is imposed for the offense may not exceed the bail amount for
17 that offense established under (b) of this section.

18 * Sec. 2. AS 16.05.410 is amended by adding new subsections to read:

19 (f) Except as provided in (g) of this section, the provisions of
20 (a) - (c) of this section do not apply when the offense for which the
21 person is convicted is a misdemeanor for which a forfeitable bail
22 amount has been set under AS 16.05.165.

(g) When a person has been convicted during a two year period of
24 two or more misdemeanor offenses for which a forfeitable bail amount
25 has been set under AS 16.05.165, a peace officer may file a civil
26 action in the district court to revoke the person's license. Once a
27 an action has been filed, the court shall set a time and date for a
28 hearing on the proposed license revocation, and shall send notice of
29 the hearing to the person. The hearing shall be before the court

1 without a jury; at the hearing the court shall hear evidence regarding
2 the nature and seriousness of the offenses for which the person was
3 convicted, the time period involved, the potential impact of the per-
4 son's actions upon the preservation of the resource, and other rele-
5 vant circumstances. If the court finds by a preponderance of the evi-
6 dence that the person's actions demonstrate a disregard for the pres-
7 ervation of the state's fish or wildlife resources, the court may re-
8 voke the person's license for a period of not less than one year nor
9 more than three years from the date of revocation.

10 * Sec. 3. AS 12.25.190(c) is amended to read:

11 (c) The person cited for the crime shall give [HIS] written
12 promise to appear in court by signing at least one copy of the written
13 citation prepared by the peace officer and the officer shall deliver a
14 copy of the citation to the person. The written promise requirement
15 of this subsection does not apply to motor vehicle and traffic cita-
16 tions under AS 28.05.151 and fish and game citations for which a bail
17 schedule has been established under AS 16.05.165.

BILL SHEFFIELD
GOVERNOR



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.

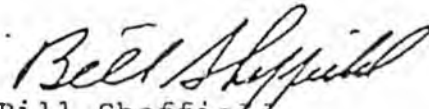
As in the comparable motor vehicle code provision, this bill provides that when a person is convicted of a minor misdemeanor which is included in the bail schedule, the fine imposed may not exceed the bail amount, even though statutes or regulations may allow a higher maximum penalty level. This bail 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,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 101 Date on Bill: 2/1/83
 Title: An Act relating to issuance of citations for fish & game violations
 Sponsor: Rules Committee by Request of the Governor
 Requestor: Senate Resources

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue	FY 83	FY 84	FY 85	FY 86

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No fiscal impact.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conger Phone: 465-4338
 Division: Administrative Services Date: 2/16/83
 Approved by Commissioner: *Robert S. Lewis* Date: 2-22-83
 Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

COMMITTEE REPORT
SENATE

2/1/83

FURTHER: Judiciary

Date: 3-16-83

Mr. President:

The Committee on Resources has had SB 101

An Act 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 SB 101 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

Paul Fischer _____
Stuzgalski _____
Eli on _____
Ziegler _____

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Paul Stuzgalski _____

Patricia Johnson _____ *Do Pass with Letter of Intent*
 CHAIRMAN

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."

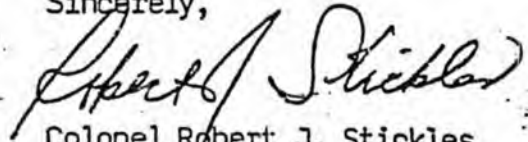
Should this Bill pass it will allow the Alaska Supreme Court to establish a bail system for minor fish and wildlife offenses. If that occurs we anticipate approximately twenty (20) of the most common and minor violations being placed on this bail system. A fine will be established by the Court System 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

Applied in *Eben v. State*, Sup. Ct. Op. No. 1920 (File No. 3525), 599 P.2d 700 (1979). C.I.S. reference. — 22 C.J.S. Criminal Law §§ 331 to 346.

Sec. 12.25.160. Arrest defined. Arrest is the taking of a person into custody in order that he may be held to answer for the commission of a crime. (§ 2.01 ch 34 SLA 1962)

Applied in *Goss v. State*, Sup. Ct. Op. No. 193 (File No. 235), 390 P.2d 220, cert. denied, 379 U.S. 859, 85 S. Ct. 118, 13 L. Ed. 2d 62 (1964); *Aldridge v. State*, Sup. Ct. Op. No. 1971 (File No. 3413), 602 P.2d 798 (1979).

Sec. 12.25.180. When peace officer has option to take person before judge or magistrate. (a) When a person is stopped or contacted by a peace officer for the commission of a misdemeanor or the violation of a municipal ordinance, he may, in the discretion of the contacting peace officer, be issued a citation instead of being taken before a judge or magistrate under AS 12.25.150, unless

- (1) the person does not furnish satisfactory evidence of identity;
- (2) the contacting officer has reasonable and probable cause to believe the person is a danger to himself or others;
- (3) the crime for which the person is contacted is one involving violence or harm to another person or to property; or
- (4) the person asks to be taken before a judge or magistrate under AS 12.25.150.

(b) When a person is stopped or contacted by a peace officer for the commission of an infraction or a violation, he shall be issued a citation instead of being taken before a judge or magistrate under AS 12.25.150, unless

- (1) the person does not furnish satisfactory evidence of identity; or
- (2) the person refuses to accept the citation or to give his written promise to appear as provided for under AS 12.25.190(c). (§ 1 ch 31 SLA 1973; am § 19 ch 127 SLA 1974; am § 3 ch 144 SLA 1977; am § 34 ch 102 SLA 1980)

Effect of amendments. — The 1977 amendment, in present subsection (a), inserted "or an infraction" in the introductory paragraph and deleted "or the contacting officer has reasonable and probable cause to believe the person will disregard a written promise to appear in court" from the end of paragraph (1).

The 1980 amendment designated the provisions of this section as subsection (a), deleted "or an infraction" following "of a misdemeanor" near the beginning of subsection (a), and added subsection (b).

Legislative history reports. — For report on ch. 31, SLA 1973 (SB 25), see 1973 Senate Journal Supplement No. 7, p. 2. For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657. For report on ch. 102, SLA 1980 (HCS CSSB 511), see 1980 Senate Journal Supplement, No. 44 (May 29, 1980) or 1980 House Journal Supplement, No. 79 (May 29, 1980).

Applied in *Ahmaogak v. State*, Sup. Ct. Op. No. 1657 (File No. 4171), 595 P.2d 985 (1979).

C.J.S. Criminal

of a person
the commission

State v. State, Sup.
No. 3413, 602 P.2d

take person
is stopped or
manner or the
cretion of the
being taken
of identity;
able cause to

one involving

istrate under

officer for the
ued a citation
e under AS

f identity; or
e his written
e). (§ 1 ch 31
1977; am § 34

reports. — For
73 (SB 25), see
ement No. 7, p.
A 1974 (SCSHB
Journal, p. 657,
LA 1980 (HCS
enate Journal
9, 1980) or 1980
No. 79 (May

State, Sup. Ct.
, 595 P.2d 985

Sec. 12.25.190. When person to be given five-day notice to appear in court. (a) When a person is contacted by a peace officer and the peace officer exercises the option provided for in AS 12.25.180, the officer shall prepare a written citation and issue it to the person.

(b) The time specified in the notice to appear shall be at least five days after the alleged violation or the issuance of the citation, whichever is later, unless the person cited requests an earlier hearing.

(c) The person cited for the crime shall give his written promise to appear in court by signing at least one copy of the written citation prepared by the peace officer and the officer shall deliver a copy of the citation to the person. The written promise requirement of this subsection does not apply to motor vehicle and traffic citations under AS 28.05.151. (§ 1 ch 31 SLA 1973; am § 20 ch 127 SLA 1974; am § 4 ch 144 SLA 1977; am § 20 ch 178 SLA 1978)

Effect of amendments. — The 1977 amendment added the second sentence of subsection (c).

The 1978 amendment substituted "AS 28.05.151" for "AS 28.05.080" at the end of subsection (c).

Legislative history report. — For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Applied in Ahmaogak v. State, Sup. Ct. Op. No. 1857 (File No. 4171), 595 P.2d 985 (1979).

Sec. 12.25.200. Form for citations. The chief administrative officer of each law enforcement agency in the state is responsible for the issuance of books containing appropriate citations, and shall maintain a record of each book and each citation contained in it and shall require and retain a receipt for every book issued to a peace officer. (§ 1 ch 31 SLA 1973)

Sec. 12.25.210. Disposition and records of citations. (a) A peace officer, upon issuing a citation to an alleged violator under AS 12.25.180, shall deposit the original or a copy of the citation with a court having jurisdiction over the alleged offense.

(b) Upon the deposit of the original or a copy of the citation with a court having jurisdiction over the alleged offense, the original or copy of the citation may be disposed of only by trial in the court or other official action by a magistrate or judge of the court.

(c) It is unlawful and official misconduct for a peace officer or other officer or public employee to dispose of a citation or copies of it or of the record of the issuance of the citation in a manner other than as required in this section.

(d) The chief administrative officer of each law enforcement agency shall require the return to him of a copy of every citation issued by an officer under his supervision to an alleged violator of a law or ordinance and of all copies of every citation which has been spoiled or upon which any entry has been made and not issued to an alleged violator.

(e) The chief administrative officer shall also maintain in connection with every citation issued by an officer under his supervision a record

of the disposition of the charge by the court in which the original or copy of the citation was deposited. (§ 1 ch 31 SLA 1973)

Sec. 12.25.220. When copy of citation considered a lawful complaint. If the form of citation provided under AS 12.25.200 includes information and is sworn to as required under the laws of this state in respect to a complaint charging commission of the offense alleged in the citation, then the citation when filed with a court having jurisdiction is considered to be a lawful complaint for the purpose of prosecution. (§ 1 ch 31 SLA 1973)

When citation is a charge within meaning of Cr. R. 45(c)(1). — When a citation is served which gives a person official notice that he or she is accused of a crime and is summoned to appear in court to answer for such crime upon penalty of fine and or imprisonment, the citation is a charge within the meaning of Cr. R. 45(c)(1) which triggers the 120-day period.

Ahmaogak v State, Sup. Ct. Op. No. 1857 (File No. 4171), 595 P.2d 985 (1979).

Service of a Uniform Summons and Complaint triggers the 120-day period in which trial must be commenced under Cr. R. 45(b). Ahmaogak v. State, Sup. Ct. Op. No. 1857 (File No. 4171), 595 P.2d 985 (1979).

Sec. 12.25.230. Failure to obey citation. A person who fails to appear in court to answer the citation, regardless of the disposition of the charge for which the citation was issued, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both. (§ 1 ch 31 SLA 1973; am § 5 ch 144 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "fails to appear in court to answer the citation" for "violates his written promise to appear given to a peace officer upon the issuance of a

citation under AS 12.25.180 — 12.25.220."

Applied in Ahmaogak v. State, Sup. Ct. Op. No. 1857 (File No. 4171), 595 P.2d 985 (1979).

Chapter 30. Bail.

Section	Section
10. Bail before conviction is matter of right	40. Release after conviction
20. Release before trial	50. Release of material witnesses
25. Release before trial in cases involving domestic violence	60. Violation of conditions
30. Appeal from conditions of release	70. Contempt
	80. Definitions

Repeal of former chapter. — Section 1, ch. 20, SLA 1966, repealed former chapter 30. The former chapter derived from §§ 3.01 — 3.04, ch. 34, SLA 1962.

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 16.05.110(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



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 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: November 30, 1983

I. REQUEST

Bill/Resolution No.: CSSB 101
 Title: Citations for Fish and Game Violations
 Sponsor: Senate Resources Committee
 Requestor: _____
 Date of Request: _____

II. FISCAL DETAIL

Agency Affected: Fish and Game
 Program Category Affected: NRMEC
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
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	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
TOTAL						

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

OFFICE OF
MANAGEMENT & BUDGET

NOV 30 1983

IV. ANALYSIS: Attach a separate page for any Analysis

BUDGET REVIEW

Prepared By: Beverly Roaume Phone: 465-4120
 Division: Administration Date: _____

Approved by Commissioner: [Signature] Date: 11/29/83
 Department: Fish and Game

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)

9/14/83

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)

3/8/83

TO: Senate Resources Committee
FROM: Senate Resources Committee Staff
RE: March 16, 1983 Committee Hearing
DATE: March 14, 1983

On Wednesday, March 16 at 3:00 p.m. in the Seitz Room the Resources Committee will hear the following four bills:

SB 191 RELATING TO THE ISSUANCE OF CITATIONS FOR FISH AND GAME VIOLATIONS.

Sec. 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.

Sec. 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 191 is to expedite the enforcement procedure by reducing court loads. Among the attachments is a list of recommended changes to SB 191 given to us by the Alaska Court System. These recommendations will be discussed at the hearing.

SB 198 CONTINUING THE GUIDE LICENSING AND CONTROL BOARD, AND AUTHORIZING THE BOARD TO LICENSE MARINE MAMMAL GUIDES.

Sec. 1 would extend the life of the Guide Licensing and Control Board through FY 86. The Guide Board is currently scheduled to sunset June 30, 1983. An extension was recommended by the Budget



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

March 16, 1983

Memo

To: Bettye

From: Pat

Subject: Hearing on SB 101 (Fish and Game Citations), SB 138 (Guide Board Extension), SB 139 (Delete "Transporter" Licensing), and CSHB 118 (Bear tag fees), March 16, 3:00pm, Beltz Rm.

General

This is going to be a fairly big hearing and involve several different agencies and interest groups. We should probably think about order of presentation. I would suggest that we take the Members (Shultz will be there at 3 pm) first, then all the Administration witnesses first regardless of bill because some like ADF&G will be offering testimony on several bills. Then we might want to bunch up the interest groups by bill, namely have all the guides testify together on SB 138.

The Administration has indicated support for all of the four bills. Two of the bills, SB 101 and CSHB 118 are their bills.

I think it would be possible to move out all the bills today if no serious or complicated issues or amendments are raised beyond what we know now. However, I see no problem at all in moving out CSHB 118 or SB 139. If the guides can live with a stripped down simple extension of SB 138, I think we should move it also, but there is considerable controversy and possible add-ons, we shouldn't rush it. The non-guide and would-be guides out there are very paranoid about the Board perpetuating its own nest-feathering.

The only amendments we have received are from the Court system on SB 101. I have reviewed all of them and found all but one very logical and do-able. I have attached a possible CS for the bill incorporating these changes. The one change which I didn't make; there was no language submitted for and substituting a petitioning process with a "point" system for revoking licenses after several "minor" offenses as suggested. Would require more work and review and is not critical to the purpose of the bill.

SPECIFIC QUESTIONS

CSHB 118--Gives authority to Game Board to reduce or delete bear tag fee to help increase bear harvests in overpopulated areas incidental to other hunting.

- 1) I understand that this fee removal would only be implemented in certain select areas with large bear populations, not statewide. Is this correct?

- 2) Do the words in the bill, "for a game management unit", require the Board to take actions on tags for an entire unit or could actions be taken on portions of large units? (possible amendment might read: "for a game management unit or portion thereof".)

SB 138, Extend the Guide Board three years and authorize regulation of marine mammals.

- 1) Criticism has been made of the Board in the past for not allowing sufficient opportunities for new or young guides through the assignment of exclusive areas to "old-time" established guides. What has the Board been doing to provide increased opportunities for more guides?

---"taking back" areas no longer used. How are they being reassigned?

---study of guide areas to see if portions unused and could be used by others?

- 2) There have been questions raised as to the transfer policies by the Board. Specifically, complaints have been raised about selling guide areas like limited entry fishing permits. What is the Board's policies regarding guide area transfers and its thoughts on the selling of areas?

- 3) Problems have also apparently occurred in the Board's procedural actions resulting in court cases and overturning of Board decisions based on failures to follow the administrative procedure code. What technical assistance or staff support does the Board currently receive and what changes might be necessary to improve the decision processes?

(The Budget and Audit Committee recommended that the Board be transferred from under the Occupational Licensing Div. of Dept. of Commerce to the Div. of Fish and Wildlife Protection within Dept. of Public Safety to improve staff support and efficiency)

SB 139, Repeal licensing provisions for "transporters" of hunters

- 1) If this provision is repealed will there be any increased danger to wildlife resources or hunter safety? (Budget and Audit found no)

SB 101, Authorizing the issuance of citations not requiring court appearance for "minor" fish and game violations, like traffic tickets.

- 1) I understand that this would relieve a considerable number of court appearances yearly (1,000 estimated) and state manhours spent in court (6,000 manhours) as well as a benefit to offenders in not taking time off from work, etc; would this in anyway adversely affect management and enforcement of our fish and wildlife resources or laws?
- 2) The court system has recommended that the word "minor" be removed from the bill as not being clear in intent, but we obviously are thinking about certain kinds of misdemeanor offenses for the setting of a bail program. What specific kinds of offenses would be envisioned as covered by a bail program? What specific kinds of offenses would most likely not be covered (court appearances would still be required)?

I would suggest that we take this partial list of offenses and put them into the attached Letter of Intent to guide the courts in setting the offenses for which bail could be paid and forfeited rather than using the word "minor".

3) A question for the Courts woman: What specific statute should be added to Section 1 in line 11 in the "notwithstanding" clause? (They recommended a range of statute parts: AS 12.25.180-230) We can, however, correct this "technical" citation when it goes to Legal.

Report calls for fish and game law reform

Judiciary Committee SB 101

By GREG GADBERRY
Daily News reporter

Sentences for violation of state fish and game laws fluctuate wildly and depend more on the bias of the presiding judge than on an offender's prior record or the severity of the offense, according to a two-year study released Tuesday.

An Alaska Judicial Council

report, based on a study of more than 1,500 fish and game cases across the state, found that the attitude of individual judges toward fish and game laws was the biggest factor in how harsh a sentence was handed down. The result is an unfair disparity in sentences received by different offenders for the same crimes.

To eliminate that disparity

and to solve other problems in Alaska fish and game laws, the state should consider a major reorganization of game codes and a tightening of judicial leeway in sentencing violators, the study concluded.

The findings were unveiled Tuesday before the judicial council on the first day of a two-day meeting in Anchorage. The council also will

screen applicants for two Anchorage District Court judgeships and decide on a list of qualified finalists to be forwarded to Gov. Bill Sheffield.

Commissioned in 1982 by the Alaska Legislature, the fish and game sentencing study analyzed more than 1,500 cases logged in 1980 and 1981.

Briefly, the study found

that:

- On the average, a "strict judge" fined commercial fishermen about \$1,154 for a single violation. That fine is more than twice the amount demanded from a similar offender by a judge considered neutral by the researchers.

- The two worst places to face a judge on a commercial fishing violation are Naknek

and Cold Bay. Fines handed down by Naknek and Cold Bay judges averaged about \$600 higher than elsewhere. Kodiak courts handled the largest number of commercial fishing violators.

- Alaska courts were less merciful with non-resident fish and game offenders than

See Back Page, JUDICIAL

Judicial report finds disparity in sentences for fish and game violations

Continued from Page A-1

they were with Alaskans. Fines levied against non-resident commercial fishermen averaged \$901. For a similar offense, an Alaskan was fined an average of \$413. Non-residents also were more likely to be required to post a bond.

- Guides were hard hit by judges when hauled to court for violations. When convicted, guides and assistant guides paid fines that averaged \$625 higher than those paid by non-professional

hunters.

- Offenders who pleaded guilty or no contest to charges paid less than those who were convicted by a jury. Persons convicted after a jury trial paid fines that averaged \$626 higher than those paid by offenders who did not go to trial.

- Killing a game animal illegally is more likely to land you in jail than the illegal killing of a fish. About 17 percent of persons convicted of game violations received a jail sentence. Only

about two percent of those convicted of commercial fishing violations went to jail.

The study also concluded that Alaska fish and game laws and regulations are confusing, badly organized and often unintelligible. The rules hunters and fishermen have to follow often overlap and result in duplication and confusion when violators are charged.

Col. Robert Stickles, the director of the state division of Fish and Wildlife Protection, agreed Tuesday that many game laws are confus-

ing and in need of repair. Stickles said citizens are often unsure about particular game laws because codes are not consolidated in an easy-to-understand package.

Mandatory minimum sentences for game violations may narrow the now-wide range of sentences given by state judges for such cases, Stickles suggested.

Buddy Troxell, the judicial council's former director and head of the study team, told council members that Legislators expect the council to come up with proposed solu-

tions based on the study.

Troxell said some legislators are already considering creating new mandatory sentences for fish and game offenses as a way of cutting out the broad disparity in sentences.

Council staffers also should urge that fish and game regulations be rewritten to eliminate existing contradictions and duplication, Troxell said.

The final draft of the study, along with preliminary recommendations, will be given to the legislature in early April.