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Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POLICH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

April 9, 1984
3:05 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Ziegler, Vice Chairman
Senator Eliason
Senator Paul Fischer
Senator Vic Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

SB 379, An Act establishing a fisheries business tax credit.

SB 391, An Act relating to fees for, sales of and collection of fees for sport fishing and hunting licenses and commercial fishing crewmember licenses.

SB 399, An Act relating to trespassing and posting of land.

SCR 44, Relating to management of state construction materials.

SB 379

Senator Mulcahy stated that this bill was heard in Fisheries Subcommittee and reported back to full Committee with all members recommending do pass. He explained that SB 379 was suggested by the Governor's Task Force on Fisheries and has the support of fishermen and processors. It would allow a tax credit of up to 50% for shore based processors and is intended to help the development of a bottomfish industry.

Senator Sturgulewski asked for clarification that local communities would still receive their full share of fisheries taxes.

Norman Staton, Special Assistant to the Commissioner of the Department of Revenue, explained that the tax credit would apply only to the down payment portion of capital expenditures.

SB 391

Senator Mulcahy reviewed the major provisions of the bill and reported that the Subcommittee on Fisheries recommended do pass.

Martin Richard, Division of Public Services, Department of Revenue, answered questions on Section 1 of the bill, which would allow residents of group homes to qualify for 25¢ licenses, and Section 3, which makes falsification of information on license applications a crime of perjury.

SB 399

Sandra Schubert, Aide to Senator Fahrenkamp explained that the Committee Substitute would require that property owners who choose to post their land place notices at each roadway or apparent way of access onto the property, and that the notices contain the name and address of the property owner.

Senator Ziegler moved CSSB 399 from Committee with individual recommendations. There was no objection.

SCR 44

Senator Vic Fischer explained that SCR 44 requests that the Department of Natural Resources inventory and set aside reserves of sand and gravel on a statewide basis, and establish a program of managing sand and gravel resources.

Ned Farquhar, Special Assistant to the Commissioner of Natural Resources, testified that the Department supports the resolution.

Ross G. Schaff, State Geologist, spoke in support of the resolution as it provides a focus to the State Geological Survey to initiate a statewide inventory of sand and gravel resources.

Randall G. Updike, State Geological Survey, reviewed the timeline and methodology for implementing the proposed program.

Senator Vic Fischer moved SCR 45 from Committee with individual recommendations. There was no objection.

The meeting adjourned at 3:50 pm.

Alaska State Legislature

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POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

April 11, 1984
3:08 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chairman
Senator Eliason
Senator Vic Fischer
Senator Mulcahy
Senator Sturgulewski
Senator Gilman

CALENDAR

SB 379, An Act establishing a fisheries business tax credit.

SB 391, An Act relating to fees for, sales of, and collection of fees for sport fishing and hunting licenses and commercial fishing crewmember licenses.

CSHB 589 (Finance)am, An Act relating to the Alaska Power Authority authorizing the construction of the Watana and Bradley Lake hydroelectric projects.

SCS CSHB 684 (Resources), An Act making special appropriations to the Alaska Power Authority.

SB 379
SB 391

Senator Mulcahy moved SB 379 and SB 391 from Committee with individual recommendations. There was no objection.

CSHB 589 (Fin)am

Larry Crawford, Executive Director, Alaska Power Authority, spoke in support of the bill, assuring the committee that the APA would not spend money for detailed design work on either Watana or Bradley until power sales agreements have been signed, and a plan of finance has been approved.

Pete McDowell, Director, Office of Management and Budget, testified that the Governor supports the bill and agreed to a proposed letter of intent that would assure that OMB's existing project review process will continue.

Dave Hutchens, Alaska Rural Electric Cooperative Association, spoke in support of the bill and submitted an amendment that would authorize Bradley and Watana at a specified funding level and keep interest earned from the appropriations in the Power Development Fund.

Martha Fox, Assistant Attorney General, testified that the Attorney General's office would defend the dedication of interest to the Power Development Fund.

Representative Ron Wendte urged that the development of these projects be done with full knowledge of the costs and impacts to those people affected. With the assurances given by the Administration that the existing process of review would continue, he is in support of the bill.

Jay Nelson, Alaska Environmental Lobby, did not support HB 589, testifying that the bill provides no assurance that the four dam pool problems will not be repeated on Bradley and Susitna. He also objected to the incorrect figures for projected costs of the projects.

CSHB 684 (Fin)am

Larry Crawford, Alaska Power Authority, answered questions on sections of the bill dealing with rate stabilization, system increment, and funds for design work on the Bradley Lake and Susitna projects. He agreed that a letter of intent outlining when funds would be spent should accompany this bill.

Dave Hutchens, Alaska Rural Electric Cooperative Association, proposed amendments to the bill that would clarify when appropriations to the Susitna project would be made and establish a deposit schedule for the appropriations.

The committee adjourned at 4:20 pm.

(b) When obtaining the appropriate license or tag in (a) of this section, an applicant who asserts residency in the state shall provide the license vendor with the proof of residence that the department requires by regulation. (§ 1 art II ch 94 SLA 1959; am § 1 ch 61 SLA 1962; am § 1 ch 42 SLA 1968; am § 1 ch 140 SLA 1968)

Opinions of attorney general. — Alaska's fish and game laws are applicable as federal law on military reservations. 1964 Op. Att'y Gen., No. 2.

Hunting or fishing at a military reservation must be in accord with Alaska laws regulating seasons bag limits, methods of taking, etc. 1964 Op. Att'y Gen., No. 2.

But military personnel are not required to comply with licensing requirements while on reservation. 1964 Op. Att'y Gen., No. 2.

Since AS 16.05.940(14) does not grant special resident privileges to military personnel, which is a requisite for requiring them to purchase licenses for use on military reservations under 10 U.S.C. 2671(a) (2), they cannot be required to do so. 1964 Op. Att'y Gen., No. 2.

Sec. 16.05.335. Complimentary licenses. The commissioner of revenue shall annually, at the request of the governor, provide the governor with not more than 50 complimentary fishing and hunting licenses and appropriate big game tags which the governor may distribute to distinguished visitors to Alaska for their use in any one season during their visits to the state. The complimentary license for sport fishing or hunting or both shall be inscribed by the governor with the inclusive dates for its authorized use. The governor shall advise the Department of Fish and Game on any complimentary issuances, which information shall be available to the public. (§ 1 art II ch 94 SLA 1959; am § 1 ch 61 SLA 1962; am § 1 ch 31 SLA 1963; am § 1 ch 6 SLA 1965)

Sec. 16.05.340. License and tag fees. (a) Fees for licenses and tags are as follows:

- (1) Resident sport fishing license \$10
- (2) Resident hunting license 12
- (3) Resident hunting and trapping license 15
- (4) Resident trapping license 3
- (5) Resident hunting and sport fishing license 22
- (6) Resident hunting, trapping, and sport fishing license 25

However, the fee is 25 cents for a resident who is blind.

Construing this section and AS 16.05.340 against federal law (10 U.S.C. § 2671(a)), a member of the military who does not qualify as a resident under AS 16.05.940(20) is not required to obtain an Alaska trapping license to trap on military lands. 1977 Op. Att'y Gen., No. 21.

Collateral references. — 35 Am. Jur. 2d, Fish & Game, § 45. 38 C.J.S., Game, § 15.

Applicability of state fishing license laws or other public regulations to fishing in private lake or pond, 15 ALR2d 754.

Right to kill game in defense of person or property, 93 ALR2d 1366.

Public rights of recreational boating, fishing, wading, or the like in inland stream the bed of which is privately owned, 6 ALR4th 1030.

(A) is obtaining or has obtained assistance during the preceding six months under any state or federal welfare program to aid the indigent, or

(B) has an annual family gross income of less than \$5,600 for the year preceding application.

(7) Visitor's special sport fishing license — valid for the period inscribed on the license

- (A) For 14-day license \$20
- (B) For three-day license 10
- (8) Nonresident sport fishing license 36
- (9) Nonresident hunting license 60
- (10) Nonresident hunting and sport fishing license 96

A nonresident may not take a big game animal without previously purchasing a numbered, nontransferable, appropriate tag, issued to the nonresident as provided in (15) of this subsection. The tag shall be affixed to the animal immediately upon capture and shall remain affixed until the animal is prepared for storage, consumed, or exported. A tag issued but not used for an animal may be used to satisfy the tagging requirement for any other animal of the species named for which the tag fee is of equal or less value.

- (11) Nonresident hunting and trapping license \$200
- (12) Fur dealers:
 - (A) Resident fur dealer license 50
 - (B) Nonresident fur dealer license 200
- (13) Taxidermists:
 - (A) Resident taxidermy license 75
 - (B) Nonresident taxidermy license 200
- (14) Fish or game farming license 100
- (15) Nonresident big game tags:
 - (A) Bear, black, each 200
 - (B) ~~Repealed, § 1 ch 268 SLA 1976.~~
 - (C) Bear, brown or grizzly, each 350
 - (D) Bear, polar, each 500
 - (E) Bison, each 350
 - (F) Caribou, each 300
 - (G) Deer, each 135
 - (H) Elk, each 250
 - (I) Goat, each 250
 - (J) Moose, each 300
 - (K) Sheep, each 400
 - (L) Walrus, each 500
 - (M) Wolf, each 150
 - (N) Wolverine, each 150
 - (O) Musk oxen, each 1,100

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(A) Bear, brown or grizzly, each \$25
The Board of Game may, by regulation effective for not more than one year, eliminate the resident brown or grizzly bear tag and fee for all or a portion of a game management unit.

(B) Musk oxen, each 500
However, the Board of Game may by regulation reduce or eliminate the fee for a resident big game tag for musk oxen for an open season.

(b) The commissioner of fish and game may issue without cost a permit to collect fish and game, including fur animals, subject to limitations and provisions that are appropriate, for a scientific, propagative, or educational purpose. In addition, the commissioner shall issue a permit for the collecting of wild fur animals for improving the genetic stock of fur farm animals. Permits issued under this subsection shall be in accordance with current sustained yield management practices for the species of wild game for which the permit is requested. The annual permit fee for an Alaska resident to collect wild fur animals for fur farming purposes is the same as the fee for resident trappers.

(c) The commissioner of revenue may issue a duplicate license or a duplicate tag as a replacement for a license or tag issued under (a) of this section. A fee of \$2 shall be charged for each duplicate license or tag and the duplicate shall not be issued unless the commissioner of revenue or a delegate is satisfied that the original has been lost or destroyed. This subsection does not apply to a 25-cent license issued under (a)(6) of this section.

(d) Members of the military service on active duty who are permanently stationed in the state, and their dependents, who do not qualify as residents under AS 16.05.940(20), may obtain special nonresident military small game and sport fishing licenses at the rates for resident hunting and sport fishing licenses, but may not take a big game animal without previously purchasing a regular nonresident hunting license and a numbered, nontransferable appropriate tag, issued at one-half of the nonresident rate, under (a)(15) of this section.

(e) Each master guide licensed under AS 08.54.100 and each registered guide licensed under AS 08.54.110 shall pay a fee in the following amount for each caribou, sheep, moose, brown or grizzly bear and polar bear taken on a hunt guided by or under the active supervision of the guide:

- (1) polar, brown or grizzly bear:
 - (A) for each polar, brown or grizzly bear taken over a total of 5 polar, brown or grizzly bear per season and up to a total of 10 polar, brown or grizzly bear — \$20;
 - (B) for each polar, brown or grizzly bear taken over a total of 10 polar, brown or grizzly bear per season and up to a total of 25 polar, brown or grizzly bear — \$100;
 - (C) for each polar, brown or grizzly bear taken over a total of 25

S.2

- (2) moose:
 - (A) for each moose taken over a total of 5 and up to a total of 10 per season — \$20;
 - (B) for each moose taken over 10 and up to a total of 25 per season — \$100;
 - (C) for each moose taken over 25 per season — \$500;
- (3) sheep:
 - (A) for each sheep taken over a total of 5 and up to a total of 10 per season — \$20;
 - (B) for each sheep taken over 10 and up to a total of 25 per season — \$100;
 - (C) for each sheep taken over 25 per season — \$500;
- (4) caribou:
 - (A) for each caribou taken over 5 and up to a total of 10 per season — \$20;
 - (B) for each caribou taken over 10 and up to a total of 25 per season — \$100;
 - (C) for each caribou taken over 25 per season — \$500. (§ 2 art II ch 94 SLA 1959; am § 1 ch 96 SLA 1959; am §§ 7 — 13 ch 131 SLA 1960; am § 1 ch 16 SLA 1963; am § 1 ch 29 SLA 1963; am § 2 ch 31 SLA 1963; am §§ 2, 3 ch 75 SLA 1964; am § 1 ch 83 SLA 1966; am § 2 ch 32 SLA 1968; am § 1 ch 4 SLA 1972; am §§ 1, 2 ch 180 SLA 1972; am §§ 2, 3 ch 82 SLA 1974; am § 1 ch 198 SLA 1976; am §§ 1, 2 ch 268 SLA 1976; am §§ 1, 2 ch 73 SLA 1979; am § 2 ch 19 SLA 1980; am §§ 1, 2, 4 ch 57 SLA 1980; am §§ 16, 17 ch 94 SLA 1980; am §§ 1—6 ch 40 SLA 1982; am §§ 2, 3 ch 23 SLA 1983; am § 1 ch 35 SLA 1983)

Revisor's notes. — Paragraph designations in subsection (a) were renumbered in 1983. Redrafted in 1982 to remove personal pronouns in conformity with AS 01.05.031(c).

Effect of amendments. — The 1979 amendment, in subsection (a), substituted "\$5,600" for "\$3,600" in subparagraph (B) of present paragraph (6) and added former paragraph (20).

The first 1980 amendment deleted "(permit required north of Yakutat only)" following "sport fishing permit" near the beginning of former paragraph (20) in subsection (a).

The second 1980 amendment added subparagraph (O) of present paragraph (a)(15), inserted "big game" at the beginning of present paragraph (a)(16), substituted a colon for "for bear, brown or grizzly, each . . . 25" near the beginning of present paragraph (a)(16), and added subparagraphs (A) and (B) and the last sentence in present paragraph (a)(16) and

The third 1980 amendment transferred the former last sentence of subsection (b) to the end of present paragraph (10) of subsection (a).

The 1982 amendment in present subsection (a)(7) substituted "14-day" for "10-day" in paragraph (A) and substituted "three-day" for "one-day" in paragraph (B). The amendment also increased the fees in present paragraphs (7), (8), (10) and (15) of subsection (a) and repealed former paragraph (a)(20), which read: "(20) King salmon (*Oncorhynchus tshawytscha*) and steelhead trout (*Salmo gairdneri*) sport fishing permit 5

A person who possesses a 25-cent license under (1) or (5) of this subsection may receive a king salmon and steelhead trout sport fishing permit without charge. A king salmon and steelhead trout sport fishing permit is nontransferable and must be signed by the bearer before use. The permit shall be used in conjunction with an appropriate sport fishing license. A person who receives a permit under (1) or (5) of this subsection shall

and steelhead trout sport fishing permit without charge." Further, the amendment, in subsection (d), inserted "one-half of" preceding "the nonresident rate."

The first 1983 amendment deleted ", fur" following "fish" in present paragraph (a)(14) and rewrote subsection (b).

The second 1983 amendment added the language to present (a)(16)(A) regarding the board's power to eliminate the tag and fee for a game management unit.

Editor's notes. — As enacted, § 1, ch. 21, SLA 1982, added a second sentence to present paragraph (a)(5) of this section. This new material, however, was renumbered as AS 16.05.341 by the revisor of statutes pursuant to AS 01.95.031.

Opinions of attorney general. — Construing subsection (d) with federal law

(10 U.S.C. § 2671(a)), a member of the military who does not qualify as a resident under AS 16.05.940(20) is required to obtain an Alaska sport fishing license to engage in sport fishing on military lands. 1977 Op. Att'y Gen. No. 21.

Construing AS 16.05.330 and this section, with federal law (10 U.S.C. § 2671(a)), a member of the military who does not qualify as a resident under AS 16.05.940(20) is not required to obtain an Alaska trapping license to trap on military lands. 1977 Op. Att'y Gen. No. 21.

The special small game hunting license for military personnel authorized by subsection (d) may not be used for hunting all game (including big game) once the holder achieves resident status. 1977 Op. Att'y Gen. No. 21.

Sec. 16.05.341. Free license for disabled veterans. A person may receive a resident hunting and sport fishing license (AS 16.05.340(a)(5)) without charge if the person

(1) has been discharged from military service under honorable conditions;

(2) is eligible for a loan under AS 18.56.101; and

(3) is certified by the United States Veterans' Administration as having incurred a 50 percent or greater disability during military service. (§ 1 ch 21 SLA 1982)

Revisor's notes. — Enacted as the second sentence of AS 16.05.340(a)(4). Renumbered in 1982.

Sec. 16.05.345. Musk oxen. [Repealed, § 4 ch 57 SLA 1980. For current law see AS 16.05.346.]

Sec. 16.05.346. Permit applications. (a) If the Board of Game declares an open season for musk oxen and has not reduced or eliminated the \$500 resident tag fee under AS 16.05.340(a)(16), the department shall conduct a drawing for permits to take the musk oxen. If the Board of Game declares an open season for musk oxen for which the Board of Game has reduced or eliminated the resident tag fee, the department shall issue permits to take the musk oxen in the order in which applications are received by the department. A person is not eligible for more than one musk oxen permit a year. The department may not charge a fee for an application for a musk oxen permit for an open season in which the Board of Game has reduced or eliminated the resident tag fee under AS 16.05.340(a)(16). In all other cases the application fee for a musk oxen permit is \$10.

(b) Except as provided in (a) of this section, the permit application

Revisor's notes. — Formerly AS 16.05.345. Renumbered in 1980.

Sec. 16.05.350. Expiration of licenses and tags. Licenses and tags required under AS 16.05.330 — 16.05.430, except the visitor's special sport fishing license and the resident trapping license, expire at the close of December 31 following issuance. The resident trapping license expires at the close of September 30 of the year following the year in which the license is issued. (§ 3 art II ch 94 SLA 1959; am § 1 ch 13 SLA 1964; am § 13 ch 71 SLA 1972)

Sec. 16.05.360. Commissioner of revenue charged with license issuance. The commissioner of revenue or an authorized deputy shall issue each license and tag to a qualified person under written application containing such reasonable information as required by the commissioner. The commissioner shall designate the license and tag form or type. The form or type shall be sufficient to identify and locate the applicant and establish the applicant's status as to residency and citizenship. Each application shall be subscribed and sworn to by the applicant before an officer authorized to administer oaths in the state. (§ 4 art II ch 94 SLA 1959; am § 3 ch 31 SLA 1963) S.3

Sec. 16.05.370. Reports by licensees. The commissioner of fish and game may require a report to be made by each licensee concerning the time, manner, and place of taking fish and game, the kinds and quantity taken, and other information helpful in administering the fish and game resources of the state. (§ 4 art II ch 94 SLA 1959; am § 4 ch 31 SLA 1963)

Sec. 16.05.380. Commissioner of revenue may appoint agents. The commissioner of revenue may appoint state employees or other persons to take applications, issue licenses and tags, and collect fees. The commissioner is not liable for defalcation or failure to account for the fees collected by any person so appointed, but the commissioner shall require a bond in an adequate sum, conditioned upon faithfully accounting for all money collected. However, the commissioner may waive the bond requirements of an instrumentality of the United States or its agents and employees, when the instrumentality or its agents or employees sell licenses primarily to persons in the armed forces. Each person, upon appointment by the commissioner, may administer oaths on applications for licenses and tags. (§ 5 art II ch 94 SLA 1959; am § 14 ch 131 SLA 1960; am § 5 ch 31 SLA 1963) S.4

Sec. 16.05.390. Fees and compensation for issuance of licenses and tags. (a) Except as provided in (e) of this section, an agent appointed and authorized by the commissioner of revenue under AS 16.05.380 to sell licenses and tags is entitled to

(1) retain five percent of the fee that is charged for a license or tag

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Revisor's notes. — Formerly AS
43.85.035. Renumbered in 1969.

Sec. 43.08.040. Sale of notes. Notes authorized to be issued under this chapter shall be sold by the commissioner of revenue in the manner and at the price or prices as the commissioner shall determine, at either public or private sale; however, no note shall be sold at less than par and accrued interest. (§ 1 ch 53 SLA 1964; am § 1 ch 31 SLA 1975)

Revisor's notes. — Formerly AS
43.85.040. Renumbered in 1969.

Sec. 43.08.050. Execution of notes. Notes for money borrowed in anticipation of revenues shall be signed by the governor and countersigned by the lieutenant governor. The governor's signature may be a facsimile signature. (§ 1 ch 53 SLA 1964)

Revisor's notes. — Formerly AS 43.85.050. Renumbered in 1969. "Secretary of state" was changed to "lieutenant governor" in 1971 in conformity with the 1970 Alaska constitutional amendment (SJR 2) changing the designation of that office.

Sec. 43.08.060. Decision. The commissioner of revenue shall have discretion to determine the necessity for time, amount, and terms of such borrowing. The reasonable exercise of such discretion shall be final and conclusive. (§ 4 ch 112 SLA 1964)

Revisor's notes. — Formerly AS
43.85.060. Renumbered in 1969.

Chapter 10. Enforcement and Collection of Taxes.

Article

1. Legal Actions and Liens (§§ 43.10.010 — 43.10.060)
2. Reciprocity (§§ 43.10.070 — 43.10.080)
3. Uniform Federal Tax Lien Registration Act (§§ 43.10.090 — 43.10.150)
4. Nonresident Businesses (§§ 43.10.160 — 43.10.200)

Article 1. Legal Actions and Liens.

Section	Section
10. Attorney general to prosecute violation of revenue laws	32. Enforcement
15. Bad checks	35. Lien
20. Disposition of money collected from actions	42. Recording lien and certificate of discharge
30. Distraint on property extended to all state revenue statutes	45. Suspension of licenses
	60. Use as evidence

§ 43.10.015

applicable to AS 1324. Property for unpaid taxes of property by AS 593. is subject of AS 127 SLA

operation of civil and costs of the Department

Commissioner of collection collection state. The direct fee considers fair Commissioner variation for AS 127 SLA

to complain of assessment of and local tax-

presented paid when the person and by the equal to one whichever is led by law nted to the dering the n does not th reason- SLA 1970)

§ 43.10.020

REVENUE AND TAXATION

§ 43.10.032

Sec. 43.10.020. Disposition of money collected from actions. All money derived from civil and criminal actions growing out of state revenue laws shall be deposited in the general fund. (§ 2 ch 36 SLA 1955; am § 2 ch 127 SLA 1960)

Sec. 43.10.030. Distraint on property extended to all state revenue statutes. The remedy of distraint on property, set out in AS 43.20.270, applies to all state revenue statutes existing or hereafter enacted for the collection of taxes and license fees. (§ 1 ch 43 SLA 1955; am § 2 ch 94 SLA 1976)

NOTES TO DECISIONS

Qualifying as taxpayer under duress. — One need not incur the risk of penalties, while the validity of the tax is being ascertained judicially, in order to qualify as a taxpayer under duress. State v. Wakefield Fisheries, Inc., Sup. Ct. Op. No. 779 (File Nos. 1397, 1398), 495 P.2d 166 (1972).

Collateral references. — Inadequacy of price as basis for setting aside execution or sheriff's sale — modern cases, 5 ALR4th 794.

Sec. 43.10.032. Enforcement. (a) Each of the following is a debt to the state:

- (1) a tax levied under this title which is due and unpaid;
- (2) the interest, penalty, additional amount, or addition to a tax under (1) of this subsection;
- (3) a tax levied under this title which has been erroneously refunded; and
- (4) the interest, penalty, additional amount or addition to a tax which has been erroneously refunded.

(b) A debt under (a) of this section may be (1) collected by lien foreclosure; or (2) recovered in a civil action brought by the state. (§ 6 ch 113 SLA 1980)

NOTES TO DECISIONS

Payment of income tax not condition precedent to carrying on business. — Former AS 43.20.220, concerning enforcement of income tax provisions, was not reasonably susceptible of a construction that it made payment of the tax a condition precedent to carry on any business, including that in interstate commerce, since forfeiture of the license is made one of the consequences of nonpayment of the tax, not a condition to engaging in business in the first instance. Alaska S.S. Co. v. Mullaney, 12 Alaska 433, 84 F. Supp. 561 (D. Alaska 1949), aff'd, 12 Alaska 594, 180 F.2d 805 (9th Cir. 1950).

Sec. 43.10.035. Lien. (a) If any person who is liable to pay a tax or license fee under this title neglects or refuses to pay the tax or license fee after demand, the amount, including interest, additional amount, or assessable penalty, together with costs, is a lien in favor of the state upon all property and right to property, real or personal, belonging to that person.

(b) Unless specifically provided otherwise by law, the lien imposed by this section arises at the time the assessment is made and continues until the amount assessed is paid or a judgment against the taxpayer arising out of the liability is satisfied. (§ 3 ch 94 SLA 1976)

NOTES TO DECISIONS

For cases construing former statute relating to tax liens, see *Territory of Alaska v. Arctic Maid*, 16 Alaska 126, 140 F. Supp. 190 (D. Alaska 1956), *aff'd*, 366 U.S. 199, 81 S. Ct. 929, 6 L. Ed. 2d 227 (1961); *Schlothan v. Einstross*, 17 Alaska 253 (1957), *aff'd*, 276 F.2d 806 (9th Cir.), *cert. denied*, 362 U.S. 990, 80 S. Ct. 1079,

4 L. Ed. 2d 1022 (1960); *Schlothan v. Territory of Alaska*, 276 F. 2d 806 (9th Cir.), *cert. denied*, 362 U.S. 990, 80 S. Ct. 1079, 4 L. Ed. 2d 1022 (1960).

Cited in *Fairbanks N. Star Borough v. Howard*, 29 Ct. Op. No. 2036 (File No. 4575), 608 P.2d 32 (1980).

Collateral references. — Special or local assessment lien as superior over earlier private lien or mortgage, where statute creating such special lien is silent as to superiority, 75 ALR2d 1121.

Duty to pay real-property taxes as

affected by time of commencement or termination of life estate, 8 ALR4th 643.

Special bank deposits as subject of attachment or garnishment to satisfy depositor's general obligations, 8 ALR4th 998.

Sec. 43.10.040. Recording and filing of state tax liens. [Repealed, § 45 ch 113 SLA 1980. For current law, see AS 43.10.042.]

Sec. 43.10.042. Recording lien and certificate of discharge. (a) A lien imposed under this title is not valid as against a mortgagee or other lien holder, pledgee, purchaser, or judgment creditor until notice of it is filed in the office of the recorder of the recording district where the property subject to the lien is situated. However, regardless of the date the liens are recorded, a lien arising out of a tax due under AS 43.56 and AS 43.75, including the penalties and interest on the tax, is a lien prior, paramount, and superior to all other liens, mortgages, hypothecations, conveyances, and assignments, upon all the real and personal property of the person liable for the tax, and upon all the real and personal property used with the permission of the owner to carry on the business which is subject to the tax.

(b) When a notice of a lien is filed, the recorder shall immediately enter the notice in an alphabetical state tax lien index, showing on one line the name and residence of the taxpayer named in the notice, the department's serial number of the notice, the date and hour of filing,

Alaska Statutes

Title 43. Revenue and Taxation.

Part

1. Administration (§§ 43.05.010 — 43.19.050)
2. Taxes (§§ 43.20.010 — 43.99.010)

Revisor's notes. — The provisions of this title were redrafted in 1983 to remove personal pronouns, pursuant to § 4, ch. 58, SLA 1982, and to make other minor changes.

Part 1. Administration.

Chapter

05. Administration of Revenue Laws (§§ 43.05.010 — 43.05.290)
08. Borrowing in Anticipation of Revenues (§§ 43.08.010 — 43.08.060)
10. Enforcement and Collection of Taxes (§§ 43.10.010 — 43.10.200)
15. Refunds of Taxes and Licenses (§ 43.15.010)
19. Multistate Tax Compact (§§ 43.19.010 — 43.19.050)

Chapter 05. Administration of Revenue Laws.

Article

1. Department of Revenue (§§ 43.05.130 — 43.05.130)
2. Fiscal Responsibilities (§§ 43.05.140 — 43.05.210)
3. Miscellaneous Provisions (§§ 43.05.220 — 43.05.290)

Article 1. Department of Revenue.

Section

10. Duties of commissioner of revenue
20. Collection agencies
25. Audit agents
30. Branch offices
40. Inspection of records or premises and issuance of summons
50. Return by department upon failure to make return or making false or fraudulent return
60. Agreements with department respecting liability

Section

70. Compromise of tax or penalty
80. Adoption of regulations
85. List of contributors
90. Preparation and publication of statistics
100. Disposition of money
110. Property in possession of deceased employee
120. Concealing property or evidence
130. Misdemeanor

Collateral references. — 71 Am. Jur. 21, State and Local Taxation, §§ 144 -- 149.

84 C.J.S. Taxation "§ 489, 501.

NOTES TO DECISIONS

Department of Revenue's failure to affix the seal of the commissioner of revenue to a summons issued under AS 43.05.040 was harmless error. State, Dep't of Revenue v. Oliver, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981).
Cited in Wien Air Alaska, Inc. v. Department of Revenue, Sup. Ct. Op. No. 2527 (File No. 5594), P.2d (1982).

Sec. 43.05.020. Collection agencies. The commissioner of revenue may employ a collection agency outside the state to assist in the collection of revenue owed to the state. The commissioner may pay for these services by entering into contingent fee agreements the commissioner considers reasonable, or by the payment of amounts out of the proper appropriation for the department the commissioner considers reasonable. (§ 48-2-9(y) 1949; § 1 ch 100 SLA 1960)

Sec. 43.05.025. Audit agents. The commissioner of revenue may employ agents outside the state to assist in the audit of books and records located outside the state. Agents employed under this section are subject to the restrictions of AS 43.05.230. (§ 1 ch 166 SLA 1976)

Sec. 43.05.030. Branch offices. The department may establish branch offices essential for the efficient administration of its duties. (§ 48-2-8 ACLA 1949)

Sec. 43.05.040. Inspection of records or premises and issuance of summons. (a) The department may examine the books, papers, records, or memoranda of any person to ascertain the correctness of a return filed or to determine whether a tax or a payment for oil or gas royalty or net profits shares under a contract, agreement, or lease under AS 38.05 is due, or in an investigation or inspection in connection with tax matters or matters relating to oil and gas royalty or net profits under contracts, agreements, or leases under AS 38.05. The records and the premises where a business is conducted shall be open at all reasonable times for official inspection, and the department may summon any person to appear and produce books, records, papers, or memoranda bearing upon tax matters or matters relating to oil and gas royalty or net profits under contracts, agreements, or leases under AS 38.05, and to give testimony or answer interrogatories under oath respecting tax matters or matters related to oil and gas royalty or net profits under contracts, agreements, or leases under AS 38.05, and the department may administer oaths to persons who are so summoned.

(b) A summons may be served by the commissioner of public safety or a peace officer designated by the commissioner or by a person designated by the Department of Revenue. If a person who is summoned neglects or refuses to obey the summons issued as provided in this section, the department may report the fact to the superior court and the court may compel obedience to the summons to the same extent as witnesses may be compelled to obey the subpoenas of the court. (§ 48-2-12(a) (b) ACLA 1949; am § 4 ch 61 SLA 1980)

Effect of amendments. — The 1980 amendment in subsection (a), inserted "or a payment for oil or gas royalty or net profits shares under a contract, agreement, or lease under AS 38.05" in the

first sentence, and inserted "or matters related to oil and gas royalty or net profits under contracts, agreements, or leases under AS 38.05" in three places in that subsection.

NOTES TO DECISIONS

For a discussion of the proper scope of summons issued by the Department of Revenue under this section, see *State, Dep't of Revenue v. Oliver*, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981).

Constitutionality of summons. — Department of Revenue's summons which was reasonably specific, asked only for material relevant to a legitimate tax inquiry, and was enforceable only by court order did not violate taxpayer's right

against unreasonable searches and seizures. *State, Dep't of Revenue v. Oliver*, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981).

Harmless error. — Department of Revenue's failure to affix the seal of the commissioner of revenue to a summons issued under this section was harmless error. *State, Dep't of Revenue v. Oliver*, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981).

Sec. 43.05.050. Return by department upon failure to make return or making false or fraudulent return. If a person fails to file a return at the time prescribed by law or by regulation, or makes, wilfully or otherwise, a false or fraudulent return, the department shall make the return from the information it obtains. A return made by the department is prima facie good and sufficient for all legal purposes. (§ 48-2-13 ACLA 1949)

NOTES TO DECISIONS

Application of privilege against self-incrimination. — The privilege against self-incrimination does not extend to the right to refuse to file a tax return. *State, Dep't of Revenue v. Oliver*, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981); *Cogan v. State, Dep't of Revenue*, Sup. Ct. Op. No. 2597 (File No. 6528), 657 P.2d 396 (1983).

A blanket refusal to disclose any financial information on a tax return based on the privilege against self-incrimination is equivalent to filing no return at all. *State, Dep't of Revenue v. Oliver*, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981); *Cogan v. State, Dep't of Revenue*, Sup. Ct. Op. No. 2597 (File No. 6528), 657 P.2d 396 (1983).

The privilege against self-incrimination

may be validly claimed in a prosecution for failure to file to avoid answering particular questions on a tax return if the answers to those questions would tend to incriminate an individual. *State, Dep't of Revenue v. Oliver*, Sup. Ct. Op. No. 2441 (File Nos. 4755, 5049), 636 P.2d 1156 (1981).

Computation of tax based on W-2 forms. — An individual's privacy rights were not violated by the state's computation of tax liability based on W-2 forms after that person failed to file a tax return because the state did not ask the person anything but rather simply imposed a tax based on available information. *Cogan v. State, Dep't of Revenue*, Sup. Ct. Op. No. 2597 (File No. 6528), 657 P.2d 396 (1983).

Sec. 43.05.060. Agreements with department respecting liability. The department may enter into an agreement with a person relating to the liability of the person, or of a person or estate the person

Opinions of attorney general. — Permitting authority over live game, that is, nondomestic animals, rests with the Board of Game as implemented by the Department of Fish and Game. August 29, 1979, Op. Att'y Gen.

Neither the Board of Game nor the Department of Fish and Game has jurisdiction over domestic animals. August 29, 1979, Op. Att'y Gen.

NOTES TO DECISIONS

State may regulate extraterritorial fishing. — Paramount rights in the seabed and subsil beyond the three-mile limit were vested in the federal government. However, that principle of federal exclusivity does not preclude state regulation of fishery resources in the waters over that seabed. State v. Sieminski, Sup. Ct. Op. No. 1339 (File No. 2544), 556 P.2d 929 (1976).

Enforcement of the state's regulatory scheme in a case involving scallop fishing activities in extraterritorial waters was within the sphere of the state's prerogative to regulate extraterritorial fishing. State v. Sieminski, Sup. Ct. Op. No. 1339 (File No. 2544), 556 P.2d 929 (1976).

As to constraints on state regulation of extraterritorial fishing efforts, see State v. Sieminski, Sup. Ct. Op. No. 1339 (File No. 2544), 556 P.2d 929 (1976).

Citing this section in an information

instead of former AS 16.05.250 was not reversible error. — See Theodore v. State, Sup. Ct. Op. No. 305 (File No. 550), 407 P.2d 182 (1965), cert. denied, 384 U.S. 951, 86 S. Ct. 1570, 16 L. Ed. 2d 547 (1966).

Applied in Biele v. State, Sup. Ct. Op. No. 87 (File No. 152), 371 P.2d 811 (1962); Graybill v. State, Sup. Ct. Op. No. 1045 (File No. 1939), 522 P.2d 539 (1974); State v. Bundrant, Sup. Ct. Op. No. 1232 (File Nos. 2295, 2435, 2444), 546 P.2d 530, rehearing denied, 547 P.2d 838 (Alaska 1976); Graybill v. State, Sup. Ct. Op. No. 1234 (File No. 2386), 545 P.2d 629 (1976); Schuster v. State, Sup. Ct. Op. No. 1305 (File No. 2911), 553 P.2d 925 (1976); Nathanson v. State, Sup. Ct. Op. No. 1310 (File No. 2541), 554 P.2d 456 (1976).

Cited in United States v. Sylvester, 605 F.2d 474 (9th Cir. 1979); Wamsler v. State, Sup. Ct. Op. No. 1953 (File No. 3645), 600 P.2d 1359 (1979).

Collateral references. — Possession of game, or of specified hunting equipment,

prima facie evidence of violation, 81 ALR2d 1093.

Sec. 16.05.930. Exempted activities. (a) This chapter does not prevent the collection or exportation of fish and game, a part of fish or game or a nest or egg of a bird for scientific or educational purposes, or for propagation or exhibition purposes under a permit which the department may issue and prescribe the terms thereof.

(b) This chapter does not prohibit a person from taking fish or game during the closed season, in case of dire emergency, as defined by regulation adopted by the appropriate board.

(c) AS 16.05.920 does not prohibit rearing and sale of fish from private ponds, the raising of wild animals in captivity for food or the raising of game birds for the purpose of recreational hunting or game hunting preserves, under regulations adopted by the appropriate board.

(d) Nondomestic animals of any species may not be transferred or transported from the state under (a) of this section unless approved by the Board of Game in regular or special meeting. Animals transferred

certified by the department to be surplus and unnecessary to the sustained yield management of the resource. Each application for a permit under (a) of this section shall be accompanied by a statement prepared by the Department of Fish and Game examining the probable environmental impact of the action.

(e) This chapter does not prevent the traditional barter of fish and game taken by subsistence hunting or fishing, except that the commissioner may prohibit the barter of subsistence-taken fish and game by regulation, emergency or otherwise, if a determination on the record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.

(f) A permit may not be required for possessing, importing or exporting mink and fox for fur farming purposes. (§ 28 art I ch 94 SLA 1959; am § 1 ch 7 SLA 1972; am § 2 ch 104 SLA 1972; am § 4 ch 82 SLA 1974; am §§ 16, 17 ch 206 SLA 1975; am § 1 ch 20 SLA 1976; am § 13 ch 151 SLA 1978; am § 4 ch 23 SLA 1983)

Effect of amendments. — The 1983 amendment added subsection (f).

Legislative history reports. — For report on ch. 151, SLA 1978 (HB 960), see 1978 House Journal, p. 1154.

Editor's notes. — For legislative intent, see § 1, ch. 151, SLA 1978, in the 1978 Temporary and Special Acts and Resolves.

NOTES TO DECISIONS

Quoted in State v. Semaken, Ct. App. Op. No. 107 (File No. 6384), 648 P.2d 114 (1982).

Sec. 16.05.940. Definitions. In this chapter

(1) "aquatic plant" means any species of plant, excluding the rushes, sedges and true grasses, growing in a marine aquatic or intertidal habitat;

(2) "barter" means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature;

(3) "a board" means either the Board of Fisheries or the Board of Game;

(4) "commercial fisherman" means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this

definition does not apply to anyone aboard a licensed vessel as a US shore

or guest who does not directly or indirectly participate in the taking; and the term "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish;

(5) "commercial fishing" means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit, or by sale, barter, trade, or in commercial channels; the failure to have a valid subsistence permit in possession, if required by statute or regulation, is considered prima facie evidence of commercial fishing if commercial fishing gear as specified by regulation is involved in the taking, fishing for, or possession of fish, shellfish or other fish resources;

(6) "commissioner" means the commissioner of fish and game unless specifically provided otherwise;

(7) "department" means the Department of Fish and Game unless specifically provided otherwise;

(8) "domestic mammals" include musk oxen, bison and reindeer, if they are lawfully owned;

(9) "fish" means any species of aquatic finfish, invertebrates and amphibians, in any stage of their life cycle, found in or introduced into the state;

(10) "fish derby" means a contest in which prizes are awarded for catching fish;

(11) "fishing derby association" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

(12) "fish or game farming" means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and "captivity" means having the fish or game under positive control, as in a pen, pond, or an area of land or water which is completely enclosed by a generally escape-proof barrier;

(13) "fur dealing" means engaging in the business of buying, selling, or trading in animal skins; the term does not apply to a hunter or trapper selling the animal skins the trapper or hunter has legally taken, or to a person, other than a fur dealer, purchasing animal skins for the person's own use;

(14) "game" means any species of bird and mammal, including a feral domestic animal, found or introduced in the state, except domestic birds and mammals; and game may be classified by regulation as big game, small game, fur bearers or other categories considered essential for carrying out the intention and purposes of this chapter;

(15) "hunting" means the taking of game under this chapter and the regulations adopted under it;

(16) "nonresident" means a person who is not a resident of the state;

(17) "nonresident alien" means a person who is not a citizen of the United States and whose permanent place of abode is not in the United States;

(18) "operator" means the individual by law made responsible for the operation of the vessel;

(19) "resident" means a person who for 12 consecutive months has maintained a permanent place of abode in the state and who has continually maintained a voting residence in the state; and in the case of a partnership, association, joint stock company, trust, or corporation, "resident" means one that has its main office or headquarters in the state; however, a member of the military service who has been stationed in the state for the preceding 12 consecutive months is a resident for the purposes of this chapter, and the dependent of a resident member of the military service, who has been living in the state for the preceding year is a resident for the purposes of this chapter, and a person who is an alien but who for one year has maintained a permanent place of abode in the state is a resident for the purposes of this chapter;

(20) "seizure" means the actual or constructive taking or possession of real or personal property subject to seizure under this chapter by an enforcement or investigative officer charged with enforcement of the fish and game laws of the state;

(21) "sport fishing" means the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries;

(22) "subsistence fishing" means the taking, fishing for, or possession of fish, shellfish, or other fisheries resources for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(23) "subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the household on a permanent basis;

(24) "take" means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game;

(25) "taxidermy" means tanning, mounting, processing, or other treatment or preparation of fish or game, or any part of fish or game;

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as a trophy, for monetary gain, including the receiving of the fish or game or parts of fish or game for such purposes;

(26) "trapping" means the taking of mammals declared by regulation to be fur bearers;

(27) "vessel" means a floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the state, but for the purposes of this chapter does not include aircraft;

(28) "visitor" means a nonresident or alien temporarily sojourning in the state as a visitor or tourist. (§ 2 art I ch 95 SLA 1959; am §§ 1 — 4 ch 131 SLA 1960; am § 1 ch 21 SLA 1961; am §§ 1, 2 ch 102 SLA 1961; § 9 art III ch 94 SLA 1959; am § 23 ch 131 SLA 1960; am § 1 ch 160 SLA 1962; am §§ 13, 14 ch 31 SLA 1963; am § 2 ch 32 SLA 1968; am § 3 ch 73 SLA 1970; am § 1 ch 91 SLA 1970; am § 4 ch 110 SLA 1970; am § 1 ch 90 SLA 1972; am § 5 ch 82 SLA 1974; am §§ 26, 82 ch 127 SLA 1974; am §§ 18 — 20 ch 206 SLA 1975; am § 12 ch 105 SLA 1977; am §§ 14, 15 ch 151 SLA 1978; am § 1 ch 78 SLA 1979; am § 1 ch 24 SLA 1980; § 4 ch 74 SLA 1982)

Revisor's note. — Reorganized in 1983 to alphabetize the defined terms.

Effect of amendments. — The 1979 amendment added "but for the purposes of this chapter does not include aircraft" to the end of present paragraph (27).

The 1980 amendment added present paragraph (8).

The 1982 amendment added present paragraph (17).

Legislative history reports. — For report on ch. 32, SLA 1968 (HCSCSSB 50 am), see 1968 House Journal, p. 169. For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Opinions of attorney general. — Paragraph (14) does not grant special resident privileges to military personnel. 1964 Op. Att'y Gen., No. 2.

Term "customary trade" as used in definition of "subsistence uses" allows for limited exchanges for cash other than for purely personal or family consumption. 1981 Op. Att'y Gen., No. 11.

Definition of "subsistence uses" in terms of "customary and traditional uses" of wild, renewable resources reflects the equating of "subsistence use" with use by rural residents. 1981 Op. Att'y Gen., No. 11.

NOTES TO DECISIONS

For construction of "commercial fisherman" under former law, see *Martinsen v. Mullaney*, 12 Alaska 455, 85 F. Supp. 76 (D. Alaska 1949).

Cited in *Starry v. Horace Mann Ins. Co.*, Sup. Ct. Op. No. 2548 (File No. 6472), 649 P.2d 937 (1982).

Sec. 16.05.950. Title of the chapter. This chapter may be cited as the Fish and Game Code. (§ 1 art I ch 94 SLA 1959)

NOTES TO DECISIONS

Chapter supersedes federal law. — When the various articles of the state law providing for the administration,

wildlife became effective, acts of Congress on the same subject were no longer of any force. *Metlakatla Indian Community v.*

23), 362 P.2d 901 (1961), vacated and remanded on other grounds, 369 U.S. 45, 82 S. Ct. 552, 7 L. Ed. 2d 562 (1962).

There is no intimation in the Alaska Statehood Act of an intent that any United States administration under the commercial fishery laws be carried out after the state had been certified as capable of its own management. *Metlakatla Indian Community, Annette Island Reserve v. Egan*, Sup. Ct. Op. No. 42 (File Nos. 21—23), 362 P.2d 901 (1961), vacated and remanded on other grounds, 369 U.S. 45, 82 S. Ct. 552, 7 L. Ed. 2d 562 (1962).

Upon Alaska's admission on January 3, 1959, the Alaska game laws and acts regulating commercial fisheries as "territorial laws," continued in force, but were modified by Ordinance No. 3 of the state constitution prohibiting the use of fish

traps for the taking of salmon for commercial purposes and by the Alaska Constitution, art. VIII, § 15, providing that "no exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the state." They were further modified by the enactment by the first state legislature of a law making it unlawful to erect, moor or maintain fish traps (SLA 1959, ch. 17), and by a later enactment (SLA 1959, ch. 95) making it unlawful to operate fish traps and prescribing penalties therefor. (See AS 16.10.070 — 16.10.110). *Metlakatla Indian Community, Annette Island Reserve v. Egan*, Sup. Ct. Op. No. 42 (File Nos. 21—23), 362 P.2d 901 (1961), vacated and remanded on other grounds, 369 U.S. 45, 82 S. Ct. 552, 7 L. Ed. 2d 562 (1962).

Chapter 10. Fisheries and Fishing Regulations.

Article

- 1. Interference with Streams and Waters (§§ 16.10.010 — 16.10.055)
- 2. Fish Traps and Other Illegal Fishing Devices (§§ 16.10.070 — 16.10.130)
- 3. Herring Spawn (§§ 16.10.172 — 16.10.175)
- 4. Migratory Fish and Shellfish (§§ 16.10.180 — 16.10.230)
- 5. Transportation of Fish and Shellfish (§§ 16.10.240 — 16.10.250)
- 6. Purchase of Fish (§§ 16.10.265 — 16.10.296)
- 7. Commercial Fishing Loan Act (§§ 16.10.300 — 16.10.370)
- 8. Salmon Hatcheries (§§ 16.10.375 — 16.10.475)
- 9. Fisheries Enhancement Loan Program (§§ 16.10.500 — 16.10.620)

NOTES TO DECISIONS

Cited in *State, N.S.E. Regional Aquaculture Ass'n v. Alex*, Sup. Ct. Op. No. 2488 (File Nos. 5065, 5086, 5142), 646 P.2d 203 (1982).

Collateral references. — 36 C.J.S., Fish, §§ 13 et seq., 26 et seq.

Article 1. Interference with Streams and Waters.

Section

- 10. Interference with salmon spawning streams and waters
- 20. Grounds for permit or license
- 30. Violation of AS 16.10.010 — 16.10.055
- 40. Disposition of money received for fines and penalties

Section

- 50. Construction of AS 16.10.010 — 16.10.050
- 55. Interference with commercial fishing gear

SB 391 - AN ACT RELATING TO FEES FOR, SALES OF, AND COLLECTION OF FEES FOR
SPORT FISHING AND HUNTING LICENSES AND COMMERCIAL FISHING CREWMEMBER LICENSES.

Sponsor: Governor

In broad terms, SB 391 provides the Department of Revenue with greater enforcement authority in collecting hunting and fishing licenses and permit fees by registered selling agents (ie sporting good stores, etc.). Presently, enforcement powers are not well defined by statute.

Section 1: Provides residents of group homes with the same 25 cent reduced fee for sport fishing licenses as blind Alaska residents.

Section 2: Clarifies that non-resident military personnel must pay an initial non-resident big game license fee before becoming eligible for tags.

Section 3: Under statute, an applicant to sell licenses and permits need only have their applications notarized. SB 391 would require that the information on the application be signed under the penalty of perjury" clause.

Section 4: Presently, the Commissioner of DOR is required to mandate bonding for all agents. The rewrite relieves the mandate responsibility and makes it a discretionary one by the Commissioner.

Sections 5 & 9:

Section 6: Specifies that State employees selling licenses and permits are not entitled to compensation for sales unless it is not connected with their state employment.

Section 7: Requires that agents who fail to report and transmit collected fees are not eligible for compensation and are subject to civil penalty.

Section 8: Makes failure to report and transmit fees a misdemeanor.

Section 10: Gives the Department the authority to subpoena and audit records of agents.

Section 11 & 13 & 14:

Section 12: Makes failure to transmit license fees a debt to the state in addition to civil penalty.

SECTIONAL FOR PROPOSED CS FOR SB 391

sec. 1: This section makes residents of group homes and other similar facilities eligible for sport fishing licenses at the same 25¢ reduced rate that applies to blind Alaska residents.

sec. 2: Clarifies that military personnel in Alaska who are not Alaska residents must purchase a non-resident big game license at the regular rate before they are eligible for reduced military rates on tags, which are $\frac{1}{2}$ the non-resident rates.

sec. 3: Makes technical changes and adds that application forms for licenses and tags be simple in form and the information put on them by the applicant be truthful, under penalty of perjury. This replaces that the information be sworn to by the applicant.

sec. 4: [b] changes the requirement of a bond for agents from a mandatory to a discretionary duty of the commissioner of Revenue and prohibits requirement of a bond if the agent is employed by the Federal government and makes sales mainly to people in the armed forces. [c] gives the commissioner the authority to suspend or revoke the appointment of an agent who does not report all sales and transmit all of the fees collected except for the portion the agent is allowed to keep.

sec. 5: Adds that agents who collect fees for commercial fishing crew-member licenses must also transmit proceeds, except the portion they are allowed to retain, together with a report of sales to the commissioner just as sport fish and game and hunting guides license agents already do.

sec. 6: Specifies that state employees that sell licenses and tags as part of their duties are not entitled to retain portions of the fees as are agents not employed by the state, but a state employee would be entitled to retain a portion of the fees if issuing licenses and tags is not part of his/her duties as a state employee.

sec. 7: This is a new subsection that says that an agent who does not report and transmit fees forfeits the portion of fees otherwise allowed to be retained, is subject to civil and criminal penalties and enforcement action by the Department of Revenue and the Attorney General.

sec. 8: This section adds a subsection that makes failure to report to and transmit fees to the commissioner a violation of the statutes that detail the fees and compensations for issuances of licenses or tags for sport fish and game and commercial fisheries, also interim-use or entry permits. Failure to report or transmit fees is a misdemeanor which is punishable by a fine of not more than \$1,000 or by imprisonment for not more than 6 months or both.

sec. 9: This adds that violating the statute concerning the transmittal of fees to the commissioner that were collected by issuing an entry or interim-use permit is a class B misdemeanor. Violating the sport fish and game or commercial fishing crewmember license fee transmittal statutes is already a misdemeanor by law.

sec. 10: Extends present audit and subpoena powers of the Department of Revenue to the agents who are appointed to sell licenses to determine the proceeds due from the sales of licenses and tags, either sport fish and game, commercial fish crew-member, or entry or interim-use permits.

sec. 11: Extends Department of Revenue enforcement powers to collection of license fees including distraint of property.

sec. 12: Makes license fees not transmitted by agents a debt to the state along with a civil penalty assessed by the commissioner of Revenue.

sec. 13: Also extends Department of Revenue enforcement powers to collection of license fees, including imposition of a lien.

sec. 14: This section says the lien imposed in section 13 arises at the time the assessment is made or the time the fee is required to be transmitted to the commissioner, and continues until the amount assessed or the amount to be transmitted is paid or a judgement against the person with the liability is satisfied.

AMENDMENT TO CSSB 391 (Res):

Delete Section 1.

[Section 1. AS 16.05.340(a)(1) is amended to read:

(1) Resident sport fishing license\$10

However, the fee is 25 cents for a resident

(A) who is blind; or

(B) who is a resident of a group home, institution, or other facility other than a prison facility, operated by the state, a political subdivision of the state, or a nonprofit corporation that provides regular care and services to the persons residing there.]

RATIONALE:

As drafted, this section is quite broad and could apply to 971 licensed facilities with a total bed capacity of 2,265 persons. The provision was intended to allow administrators of group homes to take residents on outings. The Department will pursue a form of a group license at a later date.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 1/5/84

REQUEST
Bill/Resolution No: 391
Title: Fees/sales/collection of fees for sport fishing/hunting/commercial fishing crewmember licenses
Requestor: _____
Date of Request: _____
Sponsor Governor

FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected: Public Services
BRU, Program or Subprogram(s) Affected: Public Services BRU
Public Services Component

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 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
REVENUE	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

analysis only

ANALYSIS: Attach a separate page for analysis

Prepared By: Martin J. Richard
Division: Public Services Division

Phone: 465-2392
Date: 1/5/84

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 1/9/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

ANALYSIS

"An act relating to fees for, sales of,
and collection of fees for sport fishing
and hunting licenses and commercial
fishing crewmember licenses."

PUBLIC SERVICES DIVISION BRU
PUBLIC SERVICES DIVISION COMPONENT

The passage of this bill would allow the Department of Revenue to charge those residents of group homes and other similar facilities the same 25 cent reduced fee for sport fishing licenses as blind Alaska residents. It would also allow the Department more authority over enforcement and collection of license fees not reported or transmitted by the agents to the Commissioner of Revenue.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 30, 1984

The Honorable Jalmar Kerttula
President of the Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to fees for sport fishing and hunting licenses, to sales by the agents of those licenses and of tags and commercial fishing crewmember licenses, and to transmission of license fees by agents to the Department of Revenue. The department has experienced a number of problems in recent years with agents who fail to account properly for fees collected from sales of licenses. The enforcement powers of the department in regard to these fees are not now well-defined by statute, and most of the bill is designed to both strengthen and clarify those powers.

Section 1 of the bill makes residents of group homes and other similar facilities eligible for sport fishing licenses at the same reduced 25-cent rate that applies to blind Alaska residents. Section 2 clarifies that military personnel in the state who are not Alaska residents must purchase a nonresident big game license at the regular rate before they are eligible for reduced rates on tags.

Section 3 of the bill substitutes a requirement that an individual who applies to be an agent must execute the application under "penalty of perjury" for the current requirement of notarization. Section 4 changes the requirement of a bond for agents from a mandatory duty of

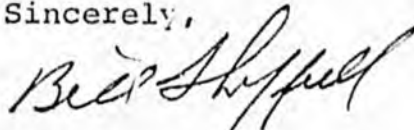
the commissioner of revenue to a discretionary power, and prohibits requirement of a bond if the agent is a federal employee who makes sales primarily to military personnel. Section 4 also authorizes the commissioner to suspend or revoke the appointment of an agent who does not comply with the requirements for agents established by law.

Agents are now required by AS 16.05.390 and 16.05.470 to report all sales and to transmit all but a small portion of the fees they collect to the department. Sections 5 and 9 of the bill add a cross-reference in those statutes for clarity and for uniformity between sport license agents and commercial license agents. Section 7 of the bill adds a provision that an agent who fails to report and transmit fees forfeits the compensation otherwise due and is subject to a civil penalty and enforcement action by the department and the attorney general. Section 6 of the bill specifies that state employees who sell licenses and tags as part of their duties are not entitled to the additional compensation for sales provided by AS 16.05.-390(a) for agents. On the other hand, state employees would be entitled to that extra compensation if the sale of licenses and tags is not connected with their state employment.

Section 8 of the bill makes failure to report to and transmit fees to the commissioner a violation of AS 16.05.390 or 16.05.470 which is a misdemeanor under AS 16.05.430.

Section 10 of the bill extends the present audit and subpoena powers of the department to the records of agents who are appointed to sell licenses. Sections 11, 13, and 14 extend other Department of Revenue enforcement powers to collection of license fees including distraint on property and imposition of a lien. Section 12 of the bill makes license fees not transmitted by agents, along with a civil penalty assessed by the commissioner, a debt to the state.

To improve the efficiency and decrease the cost of our distribution system for these licenses, I urge you to enact this bill.

Sincerely,

Bill Sheffield
Governor

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate Committee on Resources

TO: Senator Mulcahy, Chairman
Resources Subcommittee on Fisheries

FROM: Senator Fahrenkamp, Chairman *Bettye*
Senate Resources Committee

RE: SB 379; SB 391

The following bills have been referred to the Resources Committee. I am assigning them to the Subcommittee on Fisheries for consideration by the Subcommittee.

SB 379 - An Act establishing a fisheries business tax credit.

SB -391 - An Act relating to fees for, sales of, and collection of fees for sport fishing and hunting licenses and commercial fishing crewmember licenses.

cc: Senate Resources Committeemembers