

HB

80

STATE OF ALASKA
THE LEGISLATURE

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

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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

H. Judiciary 1/30/85 1:30 pm

COMMITTEE REPORT

HOUSE

(7)

1/14/85

FURTHER: Resource

Date: _____

The Committee on Judiciary has had HB 8

"An Act relating to harassment of game."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HR 8 same title
 new title
- and recommends Do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

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MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]
CHAIRMAN

DEPARTMENT OF PUBLIC SAFETY

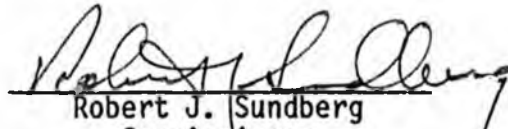
POSITION PAPER - HB 8

Support

January 24, 1985

We do support House Bill 8 with recommendations for change in the present wording. This bill as presently worded, "with the intent to exhaust, frighten or harass the game" could be extremely difficult to enforce. It could also be extremely difficult to prove that the intent of a person was to exhaust, frighten or harass game.

It could well be that the true intent of a person was for reasons other than to exhaust, frighten, or harass game, such as taking pictures of game animals. We have proposed the following wording: It is a class A misdemeanor to intentionally drive, chase, herd or pursue game while using an aircraft, snowmachine, motor driven boat or motorized vehicle.


Robert J. Sundberg
Commissioner

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 8
 Title: Relating to harassment of game
 Sponsor: M.M. Miller, Goll & Grussendorf
 Requestor: House Judiciary
 Date of Request: 1-28-85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: Fish & Wildlife Protection
 BPU, Program or Subprogram(s) Affected: Fish & Wildlife Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
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)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY	0	0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

Prepared By: Captain J. R. Nutgrass *JRN* Phone: 269-5532
 Division: Fish & Wildlife Protection Date: 1/24/85

Approved by Commissioner: *Michael J. Coleman* Date: 1-28-85
 Agency: Department of Public Safety

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

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STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 8
Title: An Act relating to harassment of game
Sponsor: Miller/Goll, Grussendorf
Requestor: _____
Date of Request: _____

FISCAL DATA

Agency Affected: Fish and Game; FWP
Program Category Affected: Natural Resource Management
BRU, Program or Subprogram(s) Affected: Game

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Phil Koehl Phone: 465-4109
Division: Game Date: 1/28/85

Approved by Commissioner: *Donnell* Date: 1-30-85
Agency: Department of Fish and Game

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

7/1/84

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1/28/85✓

Original sponsors: M.M.Miller, Goll,
Grussendorf and Szymanski

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 8 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to harassment of game."

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

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

9 Sec. 16.05.783. HARASSMENT OF GAME. (a) It is a class A misde-
10 meanor for a person to use an aircraft, snowmachine, motor driven boat
11 or other motorized vehicle to drive, chase, herd, pursue, molest, or
12 harass game.

13 (b) The provisions of (a) of this section do not apply to
14 employees or agents of the department in the performance of duties of
15 the department.
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Offered: 2/4/85
Referred: Resources

Original sponsors: M.M. Miller, Goll,
Grussendorf and Szymanski

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 8 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to harassment of game."

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

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

9 Sec. 16.05.783. HARASSMENT OF GAME. (a) It is a class B misde-
10 meanor for a person to recklessly drive, herd, molest or harass game
11 while the person is using an aircraft, snowmachine, motor driven boat
12 or other motorized vehicle.

13 (b) It is an affirmative defense to a criminal charge under (a)
14 of this section that a person was acting to protect life or property.

15 (c) The provisions of (a) of this section do not apply to an
16 employee, agent or permittee of a department or agency of the state or
17 federal government acting in the course of that person's employment,
18 authority or duties, or to a person acting in accordance with regula-
19 tions of the department.

90 date
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Article 5. General Principles of Criminal Liability.

Section

Section

600. General requirements of culpability

630. Intoxication as a defense

610. Construction of statutes with respect to culpability

640. Application of AS 11.81.600 — 11.81.630

615. Offenses defined by age or value

620. Effect of ignorance or mistake upon liability

Sec. 11.81.600. General requirements of culpability. (a) The minimal requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or the omission to perform an act which the person is capable of performing.

(b) A person is not guilty of an offense unless the person acts with a culpable mental state, except that no culpable mental state must be proved

(1) if the description of the offense does not specify a culpable mental state and the offense is

(A) a violation; or

(B) designated as one of "strict liability"; or

(2) if a legislative intent to dispense with the culpable mental state requirement is present. (§ 10 ch 166 SLA 1978; am § 27 ch 102 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote subsection (b).

CSSB 511), see 1980 Senate Journal Supplement, No. 44, May 29, 1980, or 1980 House Journal Supplement, No. 79, May 28, 1980.

Legislative history reports. — For a report on Chapter 102, SLA 1980 (HCS

NOTES TO DECISIONS

For discussion of culpable mental states relating to violation of fish and game laws, see Reynolds v. State, Ct. App. Op. No. 182 (File No. 6432), 655 P.2d 1313 (1982).

Quoted in Neitzel v. State, Ct. App. Op. No. 172 (File No. 6243), 655 P.2d 325 (1982).

Sec. 11.81.610. Construction of statutes with respect to culpability. (a) [Repealed, § 44 ch 102 SLA 1980.]

(b) Except as provided in AS 11.81.600(b), if a provision of law defining an offense does not prescribe a culpable mental state, the culpable mental state that must be proved with respect to

(1) conduct is "knowingly"; and

(2) a circumstance or a result is "recklessly."

(c) When a provision of law provides that criminal negligence suffices to establish an element of an offense, that element is also established if a person acts intentionally, knowingly, or recklessly. If acting recklessly suffices to establish an element, that element also is established if a person acts intentionally or knowingly. If acting knowingly suffices to establish an element, that element is also estab-

lished if a person acts intentionally. (§ 10 ch 166 SLA 1978; am § 44 ch 102 SLA 1980)

Effect of amendments. — The 1980 amendment repealed subsection (a).

NOTES TO DECISIONS

Application of subsection (b) to second-degree murder statute. — Since AS 11.41.110(a)(2) does not specifically establish a mental element for the result ("death") or the surrounding circumstances ("under circumstances manifesting an extreme indifference to the value of human life") involved in second-degree murder, a "reckless" mental state is to be imputed to those two factors

based on application of subsection (b) of this section. *Neitzel v. State*, Ct. App. Op. No. 172 (File No. 6243), 655 P.2d 325 (1982).

For discussion of culpable mental states relating to violation of fish and game laws, see *Reynolds v. State*, Ct. App. Op. No. 182 (File No. 6432), 655 P.2d 1313 (1982).

Sec. 11.81.615. Offenses defined by age or value. Whenever a provision of law defining an offense requires a determination of the age of the victim or the value of property or services, it is not a defense to the lowest class of offense established by the evidence that the age of the victim is less than the age which would make the offense a higher class of offense or that the value of the property or services exceeds the value which would make the offense a higher class of offense, and a person may be charged and convicted accordingly. (§ 10 ch 166 SLA 1978)

NOTES TO DECISIONS

Restitution based on actual loss. — Where a defendant is charged with a lesser offense but the evidence establishes that he committed a greater offense, a restitutionary award based on the actual loss to

the victim is appropriate, even though the loss exceeds the maximum property-value figure which defines the lesser offense. *Fee v. State*, Ct. App. Op. No. 187 (File No. 6951), 656 P.2d 1202 (1982).

Sec. 11.81.620. Effect of ignorance or mistake upon liability.
 (a) Knowledge, recklessness, or criminal negligence as to whether conduct constitutes an offense, or knowledge, recklessness, or criminal negligence as to the existence, meaning, or application of the provision of law defining an offense, is not an element of an offense unless the provision of law clearly so provides. Use of the phrase "intent to commit a crime", "intent to promote or facilitate the commission of a crime", or like terminology in a provision of law does not require that the defendant act with a culpable mental state as to the criminality of the conduct that is the object of the defendant's intent.

(b) A person is not relieved of criminal liability for conduct because the person engages in the conduct under a mistaken belief of fact, unless

Alaska State Legislature



House of Representatives House Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

LETTER OF INTENT

February 2, 1985

In recommending that CS for House Bill No. 8 (Judiciary) do pass, it is the intent of the House Judiciary Committee that the term "recklessly" in subsection (a) be construed in the manner set forth in AS 11.81.610(c), which deals with the construction of statutes with respect to culpability.

M. Mike Miller, Chairman
House Judiciary Committee