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Alaska State Legislature

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POUCH V
JUNEAU, ALASKA. 99811
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Senate Committee on Resources

MEMORANDUM

January 30, 1985

TO: Senator Arliss Sturgulewski

FROM: McKie Campbell *McK*

RE: SB 66 An Act relating to fees for, sales of, and collection of fees for sport fishing and hunting licenses and commercial fishing crewmember licenses.

The main thrust of SB 66 is to increase the ability of the Department of Revenue to collect license fees from private vendors. At present there is no mechanism, short of criminal prosecution, to ensure that vendors are passing through to Revenue, the proper amounts of money from sale of hunting, sport fishing, or commercial fishing crewmember licenses.

I have highlighted the bill and the sectional analysis for you. There are several side issues in the bill that you should take note of.

1) Sect. 1 deals with nonresident military (must purchase nonresident big game license at full price, then eligible for reduced rate on big game tags). This section simply clarifies the law and does not change either the existing legal requirement or the current practice.

2) Sect. 5 would allow state employees to sell licenses and retain the vendors fees if it is not in connection with their employment. This is a departure from current practice. A number of state employees have been lobbying for this change for some time.

Relevant questions:

The extent of the existing problem, the amount of lost revenue? *b/c*

Are these losses due to criminal intent or poor accounting? *b/c*

Will this legislation impose accounting requirements on rural vendors that they will have trouble complying with? ✓
ok

Will the change in Section 5, allowing state employees to sell licenses and retain the vendor's fees, put state employees in competition with existing private businesses? ✓
ok

Will these requirements make it more difficult to convince people to act as agents or vendors for license? ✓
ok

This bill was before the Senate last year in a similar form but died in Finance Committee for lack of interest. DOR indicates that that they are not aware of anyone who was or is opposed to the bill.

I have notified DOR, Fish and Game, and Ron Sommerville, representing the Ak. Fish and Wildlife Conservation Fund and the Ak. Fish and Wildlife Federation and Outdoor Council. None of these parties were aware of anyone else that would be interested in the bill. ✓



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 21, 1985

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

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 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 it clear 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 2 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 3 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 3 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 both 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 4 and 8 of the bill add a reference to AS 16.05.470 in AS 16.05.390 and 16.05.430 for clarity and for uniformity in

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requirements for sport license agents and commercial license agents. Section 8 also makes violation of AS 16.05.430 a class B misdemeanor for uniformity with the criminal code. Section 6 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 5 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 extra compensation if the sale of licenses and tags is not connected with their state employment.

Section 7 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 9 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 10, 12, and 13 extend other Department of Revenue enforcement powers to collection of license fees including distraint on property and imposition of a lien. Section 11 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 passage of this bill.

Sincerely,



Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 10/22/84

REQUEST

Bill/Resolution No: 66
 Title: An act relating to fees for sales of and collection of fees for sport
 Sponsor: _____
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: Revenue Collection and Management
 BRU, Program or Subprogram(s) Affected: Public Services Division BRU

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 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	-	-	-	-	-	-
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: No fiscal impact.

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

Phone: 465-2392
 Date: October 22, 1984

Approved by Commissioner: _____
 Agency: Department of Revenue

Date: _____

Distribution (by Agency preparing fiscal note):

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

Introduced: 1/21/85
Referred: Resources, Judiciary
and Finance



BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

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2 SENATE BILL NO. 66

2

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 fees for, sales of, and col-
7 lection of fees for sport fishing and hunting li-
8 censes and commercial fishing crewmember licenses."

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

10 * Section 1. AS 16.05.340(d) is amended to read:

11 (d) Members of the military service on active duty who are
12 permanently stationed in the state, and their dependents, who do not
13 qualify as residents under AS 16.05.940(19) [16.05.940(20)], may
14 obtain special nonresident military small game and sport fishing
15 licenses at the rates for resident hunting and sport fishing licenses,
16 but may not take a big game animal without previously purchasing a
17 regular nonresident hunting license for the full fee prescribed for
18 the nonresident license in (a)(9) of this section and a numbered,
19 nontransferable appropriate tag[,] issued at one-half of the
20 nonresident rate prescribed in [, UNDER] (a)(15) of this section.

21 * Sec. 2. AS 16.05.360 is amended to read:

22 Sec. 16.05.360. COMMISSIONER OF REVENUE CHARGED WITH LICENSE
23 ISSUANCE. The commissioner of revenue or an authorized agent [DEPUTY]
24 shall issue a [EACH] license and tag to each [A] qualified person who
25 files a [UNDER] written application containing the [SUCH] reasonable
26 information [AS] required by the commissioner together with the re-
27 quired fee. The commissioner shall designate the license and tag form
28 or type. The form or type must [SHALL] be sufficient to identify and
29 locate the applicant and establish the applicant's status as to

1 residency and citizenship. The application must be simple in form and
2 must be executed by the applicant under the penalty of perjury. [EACH
3 APPLICATION SHALL BE SUBSCRIBED AND SWORN TO BY THE APPLICANT BEFORE
4 AN OFFICER AUTHORIZED TO ADMINISTER OATHS IN THE STATE.]

5 * Sec. 3. AS 16.05.380 is amended to read:

6 Sec. 16.05.380. COMMISSIONER OF REVENUE MAY APPOINT AGENTS. (a)
7 The commissioner of revenue may appoint state employees or other
8 persons to take applications, issue licenses and tags, and collect
9 fees.

10 (b) The commissioner is not liable for defalcation or failure to
11 account for the fees collected by any person so appointed, but the
12 commissioner may [SHALL] require a bond in an adequate sum, condi-
13 tioned upon faithfully accounting for all money collected. However,
14 the commissioner may not require a [WAIVE THE] bond [REQUIREMENTS] of
15 an instrumentality of the United States or its agents and employees,
16 when the instrumentality or its agents or employees sell licenses
17 primarily to persons in the armed forces.

18 (c) If a person appointed under (a) of this section fails to
19 comply with the requirements of AS 16.05.330 -- 16.05.430 and regula-
20 tions adopted by the commissioner of revenue under AS 16.05.330 --
21 16.05.430, the commissioner of revenue may, after notice to the per-
22 son, suspend or revoke the person's appointment. [EACH PERSON, UPON
23 APPOINTMENT BY THE COMMISSIONER, MAY ADMINISTER OATHS ON APPLICATIONS
24 FOR LICENSES AND TAGS.]

25 * Sec. 4. AS 16.05.390(b) is amended to read:

26 (b) Each agent authorized to sell licenses or tags under AS 16.-
27 05.380 shall, as directed by the commissioner of revenue, transmit the
28 proceeds from the sales of licenses and tags, except the amount au-
29 thorized to be retained, together with a report of the sales, to the

1 commissioner for deposit in the fish and game fund or the general
2 fund. Fees imposed under AS 16.05.340(e) or AS 16.05.440 -- 16.05.480
3 must [SHALL] be collected and transmitted in the same manner.

4
5 *delete*
6
7 *set*
8 *8*

* Sec. 5. AS 16.05.390(e) is amended to read:

(e) The provisions of (a) of this section do not apply to a state employee appointed by the commissioner of revenue under AS 16.-05.380 to sell licenses and tags if the sale of licenses and tags is one of the employee's duties as a state employee. The provisions of (a) of this section do apply to a state employee who sells licenses and tags other than in connection with that employee's state position.

* Sec. 6. AS 16.05.390 is amended by adding a new subsection to read:

(f) If an agent fails to comply with the requirements of (b) of this section, the agent is not entitled to compensation under (a) of this section or under AS 16.05.470 and is subject to a civil penalty of not more than \$500 and the criminal penalties set out in AS 16.05.-430. In addition, the commissioner of revenue and the attorney general may take action under AS 43.05.010 -- 43.05.290 and AS 43.10.010 -- 43.10.200 against the agent to collect all amounts due to the commissioner.

* Sec. 7. AS 16.05.420 is amended by adding a new subsection to read:

(e) An agent who knowingly fails to transmit the proceeds from the sales of licenses and tags and a report of the sales to the commissioner of revenue violates AS 16.05.390 or AS 16.05.470.

* Sec. 8. AS 16.05.430(a) is amended to read:

(a) A person who violates AS 16.05.330 -- 16.05.420 or 16.05.470 is guilty of a class B misdemeanor [AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY BOTH].

* Sec. 9. AS 43.05.040(a) is amended to read:

notice provision

1 (a) The department may examine the books, papers, records, or
2 memoranda of any person to ascertain the correctness of a return
3 filed, to determine the proceeds due from the sales of licenses and
4 tags under AS 16.05.330 -- 16.05.430 and the sales of licenses under
5 AS 16.05.440 -- 16.05.480, or to determine whether a tax or a payment
6 for oil or gas royalty or net profits shares under a contract, agree-
7 ment, or lease under AS 38.05 is due, or in an investigation or in-
8 spection in connection with tax matters or matters relating to oil and
9 gas royalty or net profits under contracts, agreements, or leases
10 under AS 38.05. The records and the premises where a business is
11 conducted must [SHALL] be open at all reasonable times for official
12 inspection. The [, AND THE] department may summon any person to
13 appear and produce books, records, papers, or memoranda bearing upon
14 tax matters or matters relating to sales of licenses under AS 16.05.-
15 330 -- 16.05.430 and AS 16.05.440 -- 16.05.480 and oil and gas royalty
16 or net profits under contracts, agreements, or leases under AS 38.05,
17 and to give testimony or answer interrogatories under oath respecting
18 tax matters or matters related to sales of licenses under AS 16.05.-
19 330 -- 16.05.430 and AS 16.05.440 -- 16.05.480 and oil and gas royalty
20 or net profits under contracts, agreements, or leases under AS 38.05.
21 The [, AND THE] department may administer oaths to persons who are so
22 summoned.

23 * Sec. 10. AS 43.10.030 is amended to read:

24 Sec. 43.10.030. DISTRAINT ON PROPERTY EXTENDED TO ALL STATE
25 REVENUE STATUTES. The remedy of distraint on property, set out in
26 AS 43.20.270, applies to all state revenue statutes existing or here-
27 after enacted for the collection of taxes and license fees, including
28 fees required to be transmitted to the commissioner of revenue under
29 AS 16.05.340 -- 16.05.430 and AS 16.05.440 -- 16.05.480.

1 * Sec. 11. AS 43.10.032(a) is amended to read:

2 (a) Each of the following is a debt to the state:

3 (1) a tax levied under this title which is due and unpaid;

4 (2) the interest, penalty, additional amount, or addition
5 to a tax under (1) of this subsection;

6 (3) a tax levied under this title which has been erroneous-
7 ly refunded; [AND]

8 (4) the interest, penalty, additional amount or addition to
9 a tax which has been erroneously refunded; and

10 (5) the fees required to be transmitted to the commissioner
11 of revenue under AS 16.05.340 -- 16.05.430 and AS 16.05.440 -- 16.05.-
12 480 and the penalty that may be assessed by the commissioner under
13 AS 16.05.390(f).

~~14~~ * Sec. 12. AS 43.10.035 is amended to read:

15 Sec. 43.10.035. LIEN. (a) If any person who is liable to pay a
16 tax or license fee under this title or is required to transmit a
17 license or tag fee to the commissioner under AS 16.05.340 -- 16.05.430
18 and AS 16.05.440 -- 16.05.480 neglects or refuses to pay the tax or
19 license fee or to transmit the license or tag fee after demand, the
20 amount, including interest, additional amount, or assessable penalty,
21 together with costs, is a lien in favor of the state upon all property
22 and right to property, real or personal, belonging to that person.

23 (b) Unless specifically provided otherwise by law, the lien
24 imposed by this section arises at the time the assessment is made or
25 the fee is required to be transmitted to the commissioner and contin-
26 ues until the amount assessed or to be transmitted is paid or a judg-
27 ment against the taxpayer arising out of the liability is satisfied.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

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

SENATE RESOURCES COMMITTEE, 1/30/85, 1:35pm