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Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-586-2345

SB 397 Hunter Harassment

SB 397 Hunter Harassment and a companion bill, SB 398 Confidentiality of Records, represents another attempt to give preferential treatment to consumptive users of wildlife. The bills are intended to "protect" those individuals engaged in the lawful pursuit of hunting, fishing and trapping from so-called "intentional harassment" from animal protection groups.

SB 397 would establish statutes making it illegal to interfere, either directly or indirectly, with individuals involved in lawful hunting, fishing or trapping. While the Alaska Environmental Lobby does not condone the use of illegal harassment tactics, we feel that this bill is unnecessary for several reasons.

- THERE IS NO PRECEDENT FOR THIS BILL. TO DATE THERE HAVE BEEN NO DOCUMENTED INCIDENTS OF HUNTER HARASSMENT IN ALASKA.
- THERE ARE EXISTING LAWS WHICH PROTECT HUNTERS FROM THIS TYPE OF HARASSMENT, SPECIFICALLY ASSAULT, CRIMINAL MISCHIEF AND GENERAL HARASSMENT STATUTES.
- THE LANGUAGE OF THE BILL IS VAGUE, OFFERING NO CLEAR DEFINITION OF WHAT CONSTITUTES EITHER OBSTRUCTION OR INTENT TO HARASS.
- THE BILL FAILS TO ADDRESS THE QUESTION OF EQUAL RIGHTS FOR ALL USERS OF PUBLIC RESOURCES.

SB 397 would actually encourage the type of confrontation it seeks to prevent. Citizens involved in recreational activities such as bird watching, hiking, and camping would be vulnerable to citizen arrest and/or fines if their activities overlapped with those engaged in hunting or fishing. SB 397 fails to acknowledge these legitimate non-consumptive uses of our natural resources.

Variations of SB 397 were introduced in previous legislatures (1983 and 1986) and were vetoed by then-Governor Sheffield due to constitutional problems. AEL believes that these problems still exist with SB 397. AEL strongly opposes this legislation.

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • JUNEAU GROUP, SIERRA CLUB • SITKA GROUP, SIERRA CLUB
 KNIK GROUP, SIERRA CLUB • DENALI GROUP, SIERRA CLUB • ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY
 DENALI CITIZENS' COUNCIL • ALASKA FRIENDS OF THE EARTH • JUNEAU AUDUBON SOCIETY • KACHEMAK BAY CONSERVATION SOCIETY
 KENAI PENINSULA AUDUBON SOCIETY • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • ALASKA WILDLIFE ALLIANCE
 SITKA CONSERVATION SOCIETY • NORTHERN ALASKA ENVIRONMENTAL CENTER • SOUTHEAST ALASKA CONSERVATION COUNCIL
 KNIK KANOERS AND KAYAKERS

Alaska State Legislature

SENATOR KEN FANNING
P.O. BOX 80929
COLLEGE, ALASKA 99708




P.O. BOX V—STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3880

March 1, 1988

Senate

MEMORANDUM

To: Senate Resources
Committee Members

From: Senator Ken Fanning 

Subject: SB 397 - Obstruction of hunting, fishing & trapping

MAR 10 1988

This bill is designed to prevent intentional harassment or obstruction of persons engaged in lawful hunting, fishing or trapping in Alaska. It was passed by the Legislature in this form in 1984, and in an earlier version in 1983. Both times it was vetoed by then-Governor Bill Sheffield, who explained his actions by saying no real need existed because few incidents of hunter harassment had taken place, and that in his view current criminal statutes covered the issue.

It is true that Alaska has not experienced a great number of hunting and trapping harassment incidents, but this is primarily due to the state's remote location and vast expanse.

The bill is patterned after legislation adopted by other states, and has similar penalty provisions. It also provides a liberal defense clause to protect those who mistakenly believed it was not unlawful to disturb hunting, fishing and trapping activities.

As the legislative body of the State of Alaska, we have a responsibility to protect Alaskan citizens, as well as those who visit from Outside, in their pursuit of outdoor recreation. This bill does this, and it reduces the potential for violence in the field by providing judicial relief for those aggrieved by intentional harassment.

I urge your support of SB 397.

SPONSOR STATEMENT

SYNOPSIS AND ANALYSIS

OF

SB 397 - "An Act relating to the obstruction or hindrance of lawful hunting, fishing or trapping."

This is a one section bill that would amend Title 16 by adding a new section 16.05.926 to preclude intentional obstruction or hindrance of lawful hunting, fishing and trapping activities.

Subsection (a) contains the prohibition.

Subsection (b) provides a definition of "lawfully" to mean in compliance with applicable state and federal statutes and regulations, and with the permission of a private landowner, if that is where it occurs.

Subsection (c) provides that a peace officer can order a person to desist from the harassment, and to cite the person if he or she persists.

Subsection (d) provides that it is an affirmative defense that a person believed it was alright to harass sportsmen.

Subsection (e) provides punishment of up to 30 days in jail or up to \$500 fine.

The second portion of the bill provides for civil remedies. Subsection (a) allows an aggrieved party to obtain a court order to enjoin the obstructor from the activities.

Subsection (b) allows an aggrieved party to recover damages, including license and tag fees, travel costs, guide fees, etc.

Subsection (c) allows the court to award punitive damages in addition to general and special damages allowed under subsection (b).

SYNOPSIS

NRA
Position Paper
SB 397 and SB 411

SB 397

NRA's field representative, Rupe Andrews, is out of town and would like to have NRA's position into the record. We support SB 397. This legislation has passed the legislature twice already. This area of concern is not a large problem but the problem is growing.

SB 411

The NRA supports this bill. ANILCA took away significant hunting opportunities away from Alaskans. The National Park Service continues to work towards curtailing even existing hunting opportunities. The hunters of this state need not be restricted even further by our own state parks system.
Thank-you!

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Fish and Game
 Title: An Act relating to Obstruction or BRU: Game
Hindrance of Hunting, Fishing or Trapping
 Sponsor: Senator Coghill
 Requestor: _____ Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

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: Don E. McKnight Phone: 465-4190
 Division: Game Date: 3/2/88
 Approved by Commissioner: *Norman Olsen* Date: 3/2/88
 Agency: _____

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Game	BILL NUMBER SB 397	SPONSOR Senator Coghill
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DEPARTMENT POSITION

Support

PREPARED BY Don E. McKnight	DATE 3/1/88	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 3/2/88
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SUMMARY

AGENCIES AFFECTED BY BILL Public Safety	CONSTITUENT GROUP(S) AFFECTED BY BILL Hunters, trappers and fishers
ORGANIZATIONAL SUPPORT FOR BILL Alaska Outdoor Council and other organized sportsmen groups	ORGANIZATIONAL OPPOSITION TO BILL Anti hunting, fishing, trapping groups Animal rights activists

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

In the past 10 to 15 years individuals who oppose hunting and trapping have become well organized and very aggressive in their efforts to impede those who hunt and trap. There have been a number of well-publicized instances in which hunters were harassed or game they were stalking harassed. The intent of this bill is to serve notice that such obstruction of hunting, fishing or trapping is not acceptable to Alaskans. Similar laws have recently been enacted in a number of states.

ANALYSIS OF BILL/PROGRAM EFFECTS

Passage of this bill into law would make obstruction or harassment of an individual legally hunting, fishing or trapping a misdemeanor punishable by a fine or imprisonment. This law would provide legal protection from this form of hooliganism to the thousands of Alaskans who legally hunt, fish and trap in Alaska each year. It would also provide these individuals an alternative to violence in protecting themselves from harassment by these well-meaning, but overzealous, opponents of hunting, trapping and fishing. Certainly for most Alaskans, hunting, fishing and trapping constitute recreational experiences which the state should help ensure not being disrupted by unpleasant or unsafe intrusions by individuals opposed to these particular activities.

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

JAN 16 1985

June 19, 1984

The Honorable Joe L. Hayes
Speaker of the House
Alaska State House of Representatives
Pouch V
Juneau, Alaska . 99811

Re: CSHB 546(Res) am S
(An Act relating to the
obstruction or
hindrance of lawful
hunting, fishing, or
trapping.)

Dear Representative Hayes:

Under the authority granted in art. II, sec. 15, of the Alaska Constitution, I have vetoed CSHB 546(Res) am S -- a bill that would have made it a misdemeanor for a person "to perform an act with the intent to obstruct or hinder hunting, fishing, or trapping engaged in lawfully by another person." As you may recall, I vetoed a similar bill (2d SCS CSHB 163(Jud)) last year.

I have decided to veto this legislation for the following reasons:

First, an amendment to the bill made on the House floor (the insertion of the language "possessing a valid State of Alaska license or permit" which appears on page 1, lines 13 -- 14, of the final bill) creates both a potential constitutional problem and a public policy problem.

The amendment was made to ensure that a person who obstructs the capture of orca whales in Alaskan waters by Sea World could not be prosecuted under this law. The overall result of this amendment is that if a person obstructs a hunter holding a valid state license or permit, that person can be prosecuted under this law, whereas, if a person obstructs a hunter who is lawfully hunting with only a federal permit, (this includes orca capture, as well as any other kind of hunting, fishing, or trapping requiring a federal permit only) that person is

SHEFFIELD VETO MSG

exempt from prosecution. Such disparate treatment of similar offenders, with no apparent rational basis for the distinction, raises an equal protection question under the constitution.

On a policy basis, I question the wisdom of granting -- just because we want to specifically exempt from prosecution those who might attempt to obstruct the capture of orca whales -- blanket immunity to persons who obstruct hunters, fishermen, and trappers who are hunting, fishing, or trapping lawfully without a state license or permit. This provision should be given more thoughtful consideration.

Secondly, it may be difficult to effectively prosecute an offender under the bill. The new law would not apply to obstruction or hindrance that is "incidental" to a person's lawful use of public or private land or water. This exception was included so that hunting activities would not be given a clear priority over other lawful outdoor activities such as camping, hiking, birdwatching, etc. Although adding this provision serves a laudable purpose, especially since last year's bill included no recognition of the validity of such competing uses, this language is likely to make it more difficult to prosecute some cases. That is, it may be difficult to prove that obstructive acts were deliberate as opposed to being the incidental result of another person's lawful use of the land.

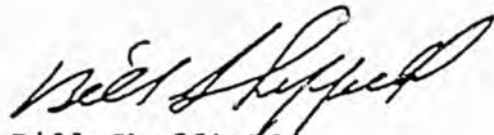
Thirdly, there have apparently been no verified reports in Alaska of the types of "sabotage" tactics that the proponents of this bill seek to prohibit. I am not convinced of the need to establish a new crime prohibiting conduct that has yet to occur in this state.

Fourthly, as I stated in last year's veto letter, existing criminal statutes provide adequate coverage for physical interference with lawful hunting and fishing. In particular, the crimes of assault, criminal mischief, and harassment provide criminal penalties similar to those imposed under this bill.

Finally, creating such a crime in the Alaska statutes gives the impression that Alaska seeks to give hunting, fishing and trapping of wildlife, (whether it be for sport, commercial purposes, or subsistence use) priority over efforts to protect and preserve wildlife. Despite the fact that I myself have participated in sport hunting and fishing, I do not believe that it is appropriate to make such a strong statement in our laws.

For these reasons, I have vetoed this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of _____ 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER Judiciary

**FISCAL NOTE(S) ATTACHED _____ **
IN ACCORDANCE WITH AS 24.08.035
(see below)

2/5/88 DATE TURNED INTO OFFICE _____
Mr. President:

Resources _____ Committee considered _____ SB 397

relating to the obstruction or hindrance of lawful hunting, fishing,
or trapping.

and recommended:

[] replace with CS _____ [] same title
[] new title

[] attached amendment(s) and

Property
[X] do pass

[] do not pass

[] no recommendation

[X] individual recommendations

DFM

[] further referral to _____

[] letter of intent adopted and attached

** Committee [X] attached or [] adopted fiscal note(s)
[X] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

1
1

2 *J. Duncan - NO Rec*
2 *Paul V. Gifford No Rec*

[] Committee Backup Attached

Paul Fische Do Pass
Chairman signature and recommendation
Viv Chauna

PUBLIC OPINION MESSAGE

PUBLIC OPINION MESSAGE

DEAR: SENATOR FANNING

DEAR: SENATOR FANNING

NAME: ANDY GIFFORD
TITLE:
ADDRESS: 18827 TWENTY GRAND ROAD
CITY: EAGLE RIVER ZIP: 99577
PHONE: 694-2469
BILL NO: SB 397
SUBJECT: OBSTRUCTING OR HINDERING HUNTING/FISHING
MESSAGE: I WHOLE-HEARTEDLY APPROVE OF THESE BILLS AND RECOMMEND
THEIR PASSAGE.

NAME: JIM TALLERICO
TITLE:
ADDRESS: 2925 SEAWIND
CITY: ANCHORAGE ZIP: 99516
PHONE: 345-5709
BILL NO:
SUBJECT: GAME AND RECREATION
MESSAGE: STRONGLY SUPPORT SB 397, SB 398, AND HB 93. URGE PASSAGE OF THIS
IMPORTANT LEGISLATION.

POMID: 03124128
DATE: 03/04/88
TIME: 12:41:28
LOCATION: ANCHORAGE LIO

POMID: 03104543
DATE: 03/04/88
TIME: 10:45:43
LOCATION: ANCHORAGE LIO

PUBLIC OPINION MESSAGE

PUBLIC OPINION MESSAGE

DEAR: SENATOR FANNING

DEAR: SENATOR FANNING

NAME: GARVAN BUCARIA
TITLE:
ADDRESS: P.O. BOX 870298
CITY: WASILLA, ALASKA ZIP: 99687
PHONE: 373-4974
BILL NO: SB 397
SUBJECT: OBSTRUCTING OR HINDERING HUNTING/FISHING
MESSAGE: SB 398 - CONFIDENTIALITY OF TRAPPING/HUNTING INFO - I FULLY SUPPORT
THESE TWO PROPOSED SENATE BILLS AND URGE THEIR PASSAGE WITH SUFFICIENT
PENALTIES TO MAKE THEM SUFFICIENT APPROPRIATE LAWS. IF ENACTED PLEASE SEND
ME COPIES OF THE BILLS.

NAME: BOB GREEN
TITLE:
ADDRESS: 951 BUNKERHILL
CITY: WASILLA, ALASKA ZIP: 99687
PHONE: 271-2514
BILL NO: SB 397
SUBJECT: OBSTRUCTING OR HINDERING HUNTING/FISHING
MESSAGE: SB 398 - CONFIDENTIALITY OF TRAPPING/HUNTING INFO - I SUPPORT SB 397
AND SB 398.

POMID: 03104934
DATE: 03/04/88
TIME: 10:49:34
LOCATION: ANCHORAGE LIO

POMID: 03104443
DATE: 03/04/88
TIME: 10:44:43
LOCATION: ANCHORAGE LIO

COPIES: SENATORS

COPIES: SENATORS

KERTTULA
COGHILL
DUNCAN
ELIASON
FISCHER
STURGULEWSKI
ZHAROFF

COGHILL
DUNCAN
ELIASON
FISCHER
STURGULEWSKI
ZHAROFF
KERTTULA



INTERIOR REGIONAL FISH & GAME COUNCIL

c/o ADF&G, DIVISION OF BOARDS, P.O. BOX 3-2000, JUNEAU, ALASKA 99802 PHONE: (907) 465-4110

ADVISORY COMMITTEES

Clear/Healy
Delta
Eagle
Fairbanks
Galena
Grayling/Anvik/Shageluk/Holy Cross
Koyukuk
McGrath
Ruby
Tanana
Upper Tanana/40-Mile
Yukon Flats
Lake Minchumina

March 2, 1988

The Hon. Sen. Kenneth Fanning
P.O. Box V, Mail Stop 3100
Juneau, AK 99811

Re: SB 115, SB 188, SB 233, SB 397, SB 398

Dear Sir:

The Koyukuk River Fish and Game Advisory Committee met in Allakaket February 16, 1988. With a quorum present the Committee discussed some currently pending legislation and voted to make the following written comments to legislators.

SB 115. The Koyukuk River Advisory Committee unanimously opposes the opening of the Dalton Highway to the public. During hearings held before the road was built, local people granted the road right-of-way only so the pipeline could be built; not to grant public access to this area. Non-local people should only be allowed in restricted areas. The committee opposes development that will hurt our livelihood and our way of life.

SB 188. The Koyukuk River Advisory Committee would not like to see legal qualifications and requirements that would make it necessary to have a formal education in order to be a Board member. Also, the committee agreed there are already paid professional advisors to the Board of Fisheries. The committee would like to see local hearings required so the Board would be more responsive to this area.

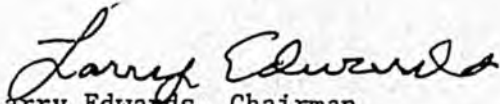
SB 233. The Koyukuk River Advisory Committee would be willing to pay an amount of money for a hunting and fishing license equal to the amount of money it costs the State of Alaska to issue the license. The committee would not like to see the tag fees raised. The committee did not feel a comment on general hunting and fishing license fees was appropriate as most hunt with the .25 license. The committee does not support raising of tag fees.

SB 397. The Koyukuk River Advisory Committee would like to see a law passed that would prevent harassment of hunters and trappers.

SB 398. The Koyukuk River Advisory Committee would like to see a law passed that would make fur sealing certificates confidential as specified in this proposed legislation.

Thank you for your attention to these matters.

Sincerely,



Larry Edwards, Chairman
Koyukuk River Advisory Committee
21300 College Rd.
Fairbanks, AK 99701

cc: Sen. John Binkley
Sen. John B. Coghill
Sen. Willie Hensley
Rep. Richard Shultz
Rep. Kay F. Wallis