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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
- attached amendment(s) and new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____
- letter of intent adopted and attached

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

MEMBERS SIGNING DO PASS

[Signature]

[Signature]

OTHER RECOMMENDATIONS

[Signature] - NO Rec

[Signature] No Rec

Paul Frick Do Pass
Chairman signature and recommendation

Committee Backup Attached

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: "An act relating to the obstruction or hindrance of lawful hunting, fishing, ..." BRU: Fish & Wildlife Protection
 Sponsor: Fanning, Faiks, et al Components: Enforcement
 Requestor: House Transportation

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	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact is anticipated.

JKS
Jan
2/2/88

Prepared by: Captain Conrad G. Seibel Phone: 269-5509
 Division: Fish & Wildlife Protection Date: 2/10/88
 Approved by Commissioner: [Signature] Date: 2-18-88
 Agency: Department of Public Safety

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

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!



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Game	BILL NUMBER SB 397	SPONSOR Senator Coghill
DEPARTMENT POSITION Support			
PREPARED BY Don E. McKnight	DATE 3/1/88	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 3/2/88

SUMMARY

OTHER 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.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to Obstruction or Hindrance of Hunting, Fishing or Trapping
Sponsor: Senator Coghill
Requestor: _____

Agency Affected: Fish and Game
BRU: Game
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
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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
Division: Game

Phone: 465-4190
Date: 3/2/88

Approved by Commissioner: *Norman Old*
Agency: _____

Date: 3/2/88

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

The following are the official comments of The Alaska Wildlife Alliance. We are against (SB411). We do not think hunting activities are compatible with other public uses in state parks. . The phrase that possession and use of a firearm may be necessary to personal safety is just an excuse to allow hunting in areas where it does not belong and is a threat to personal safety. People are encouraged to recreate in state parks. Hikers, cross country skiers, photographers, canoers- the majority of outdoor recreationists are put at risk when state parks are opened to hunting. Because such a policy would be too capricious we do not think that the commissioner of DNR should regulate the use of a firearm or other weapon within one-quarter mile of posted areas such as a trail head, visitor center, or highway wayside. . Current law forbids use of a firearm within one-half mile of posted areas and it includes roads. Roads are not included in SB411. We are emphatically against liberalizing the law to 1/4 mile, especially in the populated parks of southeast and south central. Currently, parks are closed except where specifically open and The Division of Parks may close parks for reasons of public safety. Chugach Park may be closed by the Division of Parks for wildlife observation. The Division of Parks needs to maintain this power for the safety of non-consumptive users and the benefit of wildlife whom they have a duty to protect.

We oppose (SB398) ("An Act relating to certain reports and records concerning game animals") for all the reasons we have opposed similar bills in the past. The bill is unconstitutional and denies a citizen's right to freedom of information. Public access is the standard in Alaska and this was confirmed by an AG's opinion two year's ago. It cannot be argued that sealing certificates give financial information or interfere with anyone's livelihood since sealing certificates don't deal with pelt prices or give the specific trapping area.

(There is no priority information on sealing certificates) We, the public, have a right to know who and how public resources are used. As a practical matter, sealing certificates and hunting permits are not public record, how would graduate students, economic researchers, statisticians, or any others be able to get the facts and figures needed in their studies? These records have been made available to organizations like ours who perform a watchdog roll. There have been no ill effects of this information having been provided.

We oppose SB397 ("An Act relating to the obstruction or hindrance of lawful hunting, fishing, or trapping.") Rather than protecting the activities of consumptive users, this bill endangers the rights of non-consumptive users. In fact, this bill could create a real safety problem if a hunter perceived harassment and wanted an excuse to attack a non-consumptive user. The bill will promote the very kind of conflict it seeks to prevent. The majority of non-consumptive users are already virtually "second class citizens" in the field of wildlife management, and this bill will further deprive them of anything approaching equal rights. Even the proponents of this bill admit no such harassment has occurred in Alaska to date. If it were to occur, it can be addressed by existing statutes without further affecting the right of all non-consumptive users. This bill, in slightly different forms has been vetoed before by Governor Sheffield for these same reasons.

Jimmy DeVRIES
Alaska Wildlife Alliance
Box 190953
Anchorage, AK 99519

Jimmy DeVries
Alaska Wildlife Alliance
P.O. Box 190953
Anchorage, Ak 99519

Bill No. 398 relates to certain reports and records concerning game animals and again resurrects the case of the public's right to know how public resources are being used vs. individual trappers and hunters rights to privacy. As you may know, I submitted a Freedom of Information request to the Alaska Dept. of Fish & Game in 1986 asking for wolf sealing certificates including the names and addresses of individual trappers.

Subsequently, the Attorney General provided an opinion which stated that the information I requested was "subject to the open records provisions of AS 09.25.110."

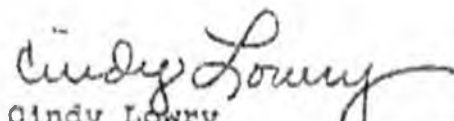
He further stated "the department has in the past been concerned that public disclosure of fur sealing information would reduce the detail and accuracy of information submitted by trappers regarding where fur animals are taken, and that failure to receive accurate data would in turn diminish the department's ability to formulate appropriate conservation and management strategies. Although this could theoretically occur, we believe that a reviewing court would find that the risk of trappers failing to submit information required by law is minimal compared to the strong public interest in knowing how public resources are being used."

We wholeheartedly agree with this opinion and to my knowledge, it has not changed. In addition, the Alaska Trappers Association brought a lawsuit against the State regarding this issue in the Alaska Superior Court which failed.

Bill No. 397 relates to the obstruction or hindrance of lawful hunting, fishing, or trapping. We have commented on this concept many times in the past in various forms of bills. In essence, this bill promotes the very conflict it purportedly seeks to prevent. It is also my understanding that a theoretical harassment situation implied in the bill has never occurred in the State of Alaska. We remain opposed to this type of adversarial legislation.

Again, we oppose all three aforementioned Senate bills and do not believe they are in the best interest of the public or wildlife species in Alaska. Thank you for this opportunity to provide comments.

Respectfully submitted,


Cindy Lowry
Alaska Field Representative
Greenpeace

A
X DELIVER TO: LIOCRG X
X
X
X ORIGINAL X
X SENT: 03/02/88 TIME: 14:10 X
X FROM: LIOCRG X
X SUBJECT: TESTIMONY X
X PRINT DATE: 03/02/88 TIME: 14:10 X
X

ROGER

I HAVE SOMEONE HERE (MORE THAN ONE) UPSET ABOUT THE CONFUSION AND
WOULD LIKE TO KNOW IF THERE IS ANY WAY FOR THEM AT ALL TO GIVE
PUBLIC TESTIMONY TO NOW SINCE THERE WAS A MESS UP OR AT A LATER
TIME
THEY ARE PREPARING HARDCOPY TO BE FAXED DOWN BUT WOULD STILL LIKE
TO SAY SOMETHING NOW

WHAT ARE THE BILLS RECEIVING TESTIMONY NOW SR 443 AND SR 222
YOU COULD BE TO 122 BUT I DON'T SHOW THAT BILL SCHEDULED.

END

 *
 * DELIVER TO: LIDCROG *
 *
 * ORIGINAL *
 * SENT: 03/02/88 TIME: 14:01 *
 * FROM: LIDCMAT *
 * SUBJECT: TC PARTICIP #2 *
 * PRINT DATE: 03/02/88 TIME: 14:01 *
 *

HERE IN MARYS FOR SRES TELE:

TESTIFY RE ALL 4 BILLS:
 1. J. OTDYCKSON, FISH AND GAME

TESTIFY RE BILLS 411, 397, 398:
 1. R H PARKIRSON, PALMER

TESTIFY RE HB 443:

X
 1. KEN RIVARD WASTILLA
 2. LINDA DELINGER
 3.

+ Hope - Mr. Twait

MAYBE TESTIFY:

1. JOHN RIVARD
 2. KEN ROBINSON
 3.

OBSERVE:

1. JOHN DELINGER
 2. STAN BILSON
 3.

 *
 * DELIVER TO: LITEROG *
 *
 * ORIGINAL *
 * SENT: 03/02/88 TIME: 13:59 *
 * FROM: LITEROG *
 * SUBJECT: S RES, P1 #1 - SB443, 397, 398, 411 *
 * PRINT DATE: 03/02/88 TIME: 13:59 *
 *

DATE: MARCH 2, 1988 _____
 SITE: FAIRBANKS _____
 SPONSOR: SENATE RESOURCES _____
 SUBJECT: LEG. PUBLIC HEARING: SB 443, SB 397, SB 398, SB 411 _____
 MODERATOR: BELBA _____

 TESTIFY:
 NAME REPRESENTING ADDRESS PHONE #
 1.) ***** FAIRBANKS HAS NO PARTICIPANTS AT THIS TIME *****
 2.)
 3.)
 4.)
 5.)

 OBSERVE:
 NAME REPRESENTING ADDRESS PHONE #
 1.)
 2.)
 3.)
 4.)
 5.)

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*
* DELIVER TO: L10CROG
*
*
* ORIGINAL
* SENT: 03/02/88 TIME: 13:58
* FROM: L10CROG
* SUBJECT: SSTAFF; PL#4 -SCR35; 3-2-88
* PRINT DATE: 03/02/88 TIME: 13:58
*
*****

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3-2-88
BARROW
SENATE STAFF AFFAIRS
SCR 35
MFG

#1 PARTICIPANT LIST

TESTIFY:
NAME/REPRESENTING ADDRESS PHONE #
1 NO ONE

OBSERVE:
NAME/REPRESENTING ADDRESS PHONE #
1 NO ONE

0- TESTIFIED
0- UNABLE TO TESTIFY
0- OBSERVED
0- TOTAL
START/END TIMES:

Alaska State Legislature

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



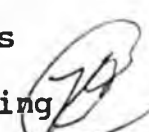
P.O. BOX V—STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 485-3880

March 1, 1988

Senate

MEMORANDUM

To: Senate Resources
Committee Members

From: Senator Ken Fanning 

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

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.

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).

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

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.

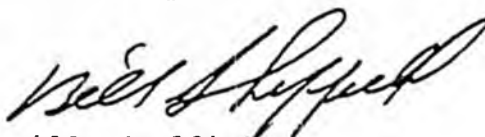
Thirdly, there have apparently been no verified reports in Alaska of the types of "sabotage" tactics that the proponents of this bill seek to prohibit. I am not convinced of the need to establish a new crime prohibiting conduct that has yet to occur in this state.

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