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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 398

certain reports and records concerning game animals

and recommended:

[] replace with CS _____ [] same title

[] attached amendment(s) and [] new title

[] do pass

[] do not pass

[] no recommendation

[X] individual recommendations

[] 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

Do Pass
Arthur Stimpert / if amended.
Tom Tashiro

OTHER RECOMMENDATIONS

Jim Duncan - No Rec
Paul F. Smith - No Rec

Paul Smith (Do Pass)
Chairman signature and recommendation

[] Committee Backup Attached

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An act relating to certain reports and records concerning game animals."

Agency Affected: Public Safety
BRU: Fish & Wildlife Protection

Sponsor: Fanning, Faiks, et al
Requestor: Senate Resources

Components: Enforcement

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						
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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.

JAR
2/2/88

Prepared by: Captain Conrad G. Seibel Phone: 269-5509
Division: Fish & Wildlife Protection Date: 2/10/88

Approved by Commissioner: Walter H. ... Date: 2-29-88
Agency: Department of Public Safety

Distribution (by preparer) :

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

Sue Entsminger
Position Paper
SB 398

SB 398

I am a trapper, hunter, and fur skin sewer. As soon as this bill was vetoed by the governor last time, Greenpeace requested all the trapping records. Their reputation against trappers proves to me that their use of these records are not in the best interest of trappers. I do not feel this possible misuse of data against the user is fair or warranted. I favor this legislation and hope you will again support it asd in the past. Thank-you.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Game	BILL NUMBER SB 398	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

OFFER AGENCIES AFFECTED BY BILL None	CONSTITUENT GROUP(S) AFFECTED BY BILL State trappers and hunters
ORGANIZATIONAL SUPPORT FOR BILL Alaska Trappers Association Alaska Outdoor Council	ORGANIZATIONAL OPPOSITION TO BILL Anti hunting and trapping organizations

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

SB 398 provides that identifying information in a hunting or trapping document is confidential. Similar legislation (HB 407) was passed by the 14th Legislature and vetoed by the Governor. In addition to providing confidentiality, however, HB 407 would have legalized the use of parts of big game animals for trapping bait.

ANALYSIS OF BILL PROGRAM EFFECTS Opponents of this measure argue that confidentiality of identifying information in hunting/trapping harvest documents would abridge the public's right to information and deprive the public of a vital tool in monitoring the use of public resources. (This bill would not limit full disclosure of biological harvest data.) Proponents of the measure argue that adoption would ensure the individual hunter's or trapper's reasonable expectation of privacy, including specific trapping areas, financial interests, and protection from possible harassment by anti-trappers. The department's primary concern is that we obtain accurate and complete harvest reporting. We believe a lack of confidentiality can jeopardize accurate harvest reporting.

In debating confidentiality provisions of HB 407, opponents argued that the public right to know supercedes the individual rights to privacy, and that the law, if passed, could hide illegal or unethical behavior from the public--specifically, commercial trapping activities of Department of Fish and Game employees. SB 398 provides for the release of information, however, as necessary to prosecute criminal actions or comply with a court order. Opponents also maintain that financial information is not reported on sealing certificates. Financial interests, however, include marketing information as well as numbers and species of furs sealed or exported (from which a dollar value can be easily determined).

AMENDMENTS PROPOSED

Line 28(f)(1) that identifies individual trappers or hunters, and specifically identifies their individual take or activity.

Our main concern is that we receive as accurate and complete reporting of harvests as possible.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to certain reports and records concerning game animals
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		
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0		

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Don F. McKnight
Division: Game

Phone: 465-4190
Date: 3/1/88

Approved by Commissioner: *Don McKnight*
Agency: _____

Date: 3/2/88

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

5-1802B ✓

Hein

3/4/88

Original sponsors: Fanning, Faiks,
Coghill, et al.

Not Adopted
3/4/88

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 398 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certain reports and records
7 concerning game animals and to the confidentiality of
8 shellfish stock abundance surveys conducted by the
9 Department of Fish and Game; and providing for an
10 effective date."

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

12 * Section 1. AS 16.05.815 is amended to read:

13 Sec. 16.05.815. CONFIDENTIAL NATURE OF CERTAIN REPORTS AND
14 RECORDS. (a) Except as provided in (b) and (c) of this section,
15 records required by regulations of the department concerning the
16 landings of fish, shellfish or fishery products, and annual statis-
17 tical reports of buyers and processors required by regulation of the
18 department are confidential and may not be released by the department
19 except that the department may release

20 (1) any of its records and reports to the National Marine
21 Fisheries Service as required for preparation and implementation of
22 the fishery management plans of the North Pacific Fishery Management
23 Council within the fishery conservation zone; however, information
24 released to the National Marine Fisheries Service under this paragraph
25 may not disclose the identity of individual fishermen or their ves-
26 sels;

27 (2) any of its records and reports to the Department of
28 Revenue and to the Commercial Fisheries Entry Commission to assist
29 them in carrying out their statutory responsibilities;

1 (3) records or reports of the total value purchased by each
2 buyer to a municipality that levies and collects a tax on fish, shell-
3 fish, or fishery products if the municipality

4 (A) requires records of the landings of fish, shell-
5 fish, or fishery products to be submitted to it for purposes of
6 verification of taxes payable; and

7 (B) maintains the confidentiality of reports and
8 records that it receives under this paragraph;

9 (4) such records and reports as necessary to be in confor-
10 mity with a court order;

11 (5) on request, the report of a person to the person whose
12 fishing activity is the subject of the report; and

13 (6) fish tickets and fish ticket information to the divi-
14 sion of fish and wildlife protection, Department of Public Safety.

15 (b) Except as provided in (c) of this section, records [RECORDS]
16 or reports described in (a) of this section that are received by the
17 department and that [WHICH] do not identify individual fishermen,
18 buyers, or processors or the specific locations where fish have been
19 taken are public information.

20 * Sec. 2. AS 16.05.815 is amended by adding new subsections to read:

21 (c) Information contained in a shellfish stock abundance survey
22 that reveals the location of shellfish harvests is confidential and is
23 not subject to inspection or copying under AS 09.25.110 - 09.25.120
24 until the close of the fishing season during which the survey is
25 conducted.

26 (d) Identifying information in a trapping or hunting document is
27 confidential and may be released by the department only

28 (1) to the Department of Revenue to assist that department
29 in carrying out its statutory responsibilities;

1 (2) as necessary to comply with a court order; and

2 (3) to the division of fish and wildlife protection of the
3 Department of Public Safety to assist that department in carrying out
4 its statutory responsibilities.

5 (e) Except to the extent necessary to prosecute a criminal
6 action based on a trapping or hunting document, a department that
7 receives a trapping or hunting document from the department under (d)
8 of this section shall also maintain the confidentiality of the identi-
9 fying information in the document.

10 (f) Before releasing to the public a trapping or hunting docu-
11 ment received by the department, the department shall remove identify-
12 ing information from the document.

13 (g) In this section

14 (1) "identifying information" means names, addresses, or
15 other information that identifies individual trappers or hunters;

16 (2) "trapping or hunting document" means a report or record
17 that is required by regulations of the department concerning the
18 taking, sealing, acquisition of the untanned skin, or exportation from
19 the state of the fur, of a game animal taken by trapping or hunting;
20 in this paragraph "sealing" means the placement of a seal by the
21 department on a portion of the carcass of a game animal taken by
22 trapping or hunting.

23 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature

SENATOR KEN FANNING
PO. BOX 80929
COLLEGE, ALASKA 99708




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

March 2, 1988

MEMORANDUM

Senate

To: Senate Resources
Committee Members

From: Senator Ken Fanning 

Subject: SB 398 - Reports and records of game animals

The purpose of SB 398 is to keep confidential certain identifying information submitted to the department of fish and game on trapping and hunting documents, and thereby protect proprietary information pertaining to the livelihood of those providing the information. It is based upon the same reasoning employed in keeping commercial fish ticket identifying information confidential.

Legislation identical to this was passed in 1986 by the Legislature, but was subsequently vetoed by then-Governor Bill Sheffield on the basis that it was not needed. Within a short time after his veto, animal protectionist groups used the courts to force the department of fish and game to release the information to them. The sort of harassment this information enabled the anti-trapping groups to conduct clearly indicates the need to protect personal information on these documents.

I urge you to support SB 398, and protect valuable information that hunters and trappers provide in good faith to the department of fish and game. Proper wildlife management would be difficult without these records.

6

SYNOPSIS AND ANALYSIS

OF

SB 398 - "An Act relating to certain reports and records concerning game animals."

It is the purpose of this legislation to keep certain identifying information submitted on trapping and hunting documents confidential, for the protection of the persons providing the information.

This is a single-section bill that amends Title 16 by adding new subsections to AS 16.05.815 (Confidential nature of certain reports and records).

Subsection (c) provides that the identifying information is confidential and gives only three circumstances under which the information can be released by fish and game: to the department of revenue; to comply with court order; or to fish and wildlife protection.

Subsection (d) requires other departments receiving the confidential information to keep it confidential.

Subsection (e) requires the department to remove identifying information from a document before releasing it to the public.

Subsection (f) provides definitions for "identifying information," "sealing," and "trapping or hunting document."

Secs. 16.05.792 — 16.05.798. Master guides. [Repealed, § 2 ch 32 SLA 1968. For current law, see AS 08.54.]

Sec. 16.05.800. Public nuisances. A net, seine, lantern, snare, device, contrivance, and material while in use, had and maintained for the purpose of catching, taking, killing, attracting, or decoying fish or game, contrary to law or regulation of a board or the commissioner, is a public nuisance and is subject to abatement. (§ 25 art I ch 94 SLA 1959; am § 5 ch 131 SLA 1960; am § 13 ch 206 SLA 1975)

Opinions of attorney general. — Since there exists no statutory justification for destroying unmarked king crab pots pursuant to exercise of the power of summary abatement, such pots should not be destroyed without judicial approval. 1980 Op. Att'y Gen. No. 18.
 crab pots should be abated by instituting forfeiture proceedings rather than by summarily destroying the pots. 1980 Op. Att'y Gen. No. 18.
 The abatement procedures described in AS 09.45.230 do not apply to the fish and game abatement law (this section). 1980 Op. Att'y Gen. No. 18.

Sec. 16.05.810. Burden of proof. The possession of fish or game or a part of fish or game, or a nest or egg of a bird during the time the taking of it is prohibited is prima facie evidence that it was taken, possessed, bought, or sold or transported in violation of this chapter. The burden of proof is upon the possessor or claimant of it to overcome the presumption of illegal possession and to establish the fact that it was obtained and is possessed lawfully. This section does not apply

- (1) during the first full 10 days after the time when a taking is prohibited, except as provided in (3) of this section,
- (2) if the fish or game or part of fish or game is in a preserved condition whether frozen, smoked, canned, salted, pickled or otherwise preserved, or
- (3) with respect to crab aboard a commercial crab fishing vessel, during the first full three days after the time when a taking is prohibited. (§ 26 art I ch 94 SLA 1959; am § 1 ch 42 SLA 1974)

Sec. 16.05.815. Confidential nature of certain reports and records. (a) Except as provided in (b) of this section, records required by regulations of the department concerning the landings of fish, shellfish or fishery products, and annual statistical reports of buyers and processors required by regulation of the department are confidential and may not be released by the department except that the department may release

- (1) any of its records and reports to the National Marine Fisheries Service as required for preparation and implementation of the fishery management plans of the North Pacific Fishery Management Council within the fishery conservation zone; however, information released to the National Marine Fisheries Service under this paragraph may not disclose the identity of individual fishermen or their vessels;

(2) any of its records and reports to the Department of Revenue and to the Commercial Fisheries Entry Commission to assist them in carrying out their statutory responsibilities;

(3) records or reports of the total value purchased by each buyer to a municipality that levies and collects a tax on fish, shellfish, or fishery products if the municipality

(A) requires records of the landings of fish, shellfish, or fishery products to be submitted to it for purposes of verification of taxes payable; and

(B) maintains the confidentiality of reports and records that it receives under this paragraph;

(4) such records and reports as necessary to be in conformity with a court order;

(5) on request, the report of a person to the person whose fishing activity is the subject of the report; and

(6) fish tickets and fish ticket information to the division of fish and wildlife protection, Department of Public Safety.

(b) Records or reports received by the department which do not identify individual fishermen, buyers, or processors or the specific locations where fish have been taken are public information. (§ 1 ch 117 SLA 1970; am § 1 ch 117 SLA 1974; am § 1 ch 66 SLA 1980; am §§ 1, 2 ch 72 SLA 1982; am § 1 ch 84 SLA 1985)

Cross references. — For reporting of wholesale canned salmon prices, see AS 43.80.050 — 43.80.100.

Effect of amendments. — The 1985 amendment in subsection (a) substituted "that" for "which" in two places, added paragraph (6), and made related stylistic changes.

Sec. 16.05.820. Research by the federal government. The Secretary of the Interior, the Secretary of Commerce or the Secretary of Agriculture of the United States and their authorized agents or other appropriate federal agencies may conduct fish cultural operations and scientific investigations in the state in the manner and at the times jointly considered necessary or proper by the Board of Fisheries and the secretary and their authorized agents. (§ 29 art I ch 94 SLA 1959; am § 14 ch 206 SLA 1975; am § 10 ch 208 SLA 1975)

Sec. 16.05.825. State upland game bird release program. (a) In addition to any other program for the stocking or propagation of game birds that the department has as of July 23, 1974, the department shall establish a special program for the raising, maintenance, and release of upland game birds in the state. Birds raised under this program may be released in an appropriate area of the state, at any time, but may be harvested only during regular hunting seasons, as specified by the board under AS 16.05.255(u)(2). The board shall adopt regulations necessary to implement this section.

* Anti-Hunting Group Seeking Names of New Jersey Trappers



Rodger Iverson, chairman of the Coalition of New Jersey Sportsmen

Having campaigned successfully to ban the steel leghold trap in New Jersey, the antis now are apparently taking aim at the trappers themselves.

An attorney for Friends of Animals and the Humane Society of the United States has asked the New Jersey Division of Fish and Game for a list of persons who have been licensed to trap in New Jersey.

The New Jersey attorney general's office has instructed the division to make the names and addresses available.

Attorney General Irwin Kimmelmann informed the antis in mid-January that the only listing of licensed trappers available is for 1984. He said the division does have license stubs or receipts available from the 1980 to 1984 period and that these may be inspected at the Clinton office. The 1985 stubs have not

yet been audited and won't be available until mid-1986. The ban went into effect last October.

The Coalition of New Jersey Sportsmen does not want any of these names and addresses released. Their attorney, James Seeley, of Bridgeton, has asked the Appellate Court in Salem County to stay the release of the list. That same court is scheduled to take up a number of issues involved in the trapping ban in a case set to begin on May 19.

Rodger Iverson, chairman of the coalition, said the antis already are harassing trappers and sportsmen and that there is no reason for them to have the list. They claim they need it for the court case.

"There is no logical reason for them to have that list," Iverson insisted. "If they're simply concerned about the elimination of the trap, that can clearly be accomplished without abolishing the trapper himself."

"Having been harassed myself, I know it can become rather upsetting. I'm concerned it could lead to some kind of altercation."

Iverson is also very concerned about the precedent the release of the trapping list could set.

"Will they next want a list of all licensed hunters in the state? What about gun owners?" he asked.

Iverson and other sportsmen worry about the list being distributed to members of anti-trapping organizations so that trappers can be placed under surveillance—as some apparently have been in the past.

Although no one is questioning that the use of the steel leghold trap has been banned in New Jersey, some very important issues remain to be decided in the May case in Salem County. Among the questions to be considered are:

- May trappers keep their steel leghold traps? (The law passed by the New Jersey Legislature bans even the possession of leghold traps but provides no compensation for their confiscation.)

- Can the state ban the interstate transportation of leghold traps? (The law seeks to make it illegal to even drive through the state with a leghold trap in a vehicle.)

- Is the padded-jaw, soft-catch trap a viable alternative to the steel leghold trap?

A New Jersey court earlier ruled that trappers may keep their traps until the courts reach a final decision in the case.

One fact that has emerged during the legal debates is the connection between banning traps and banning guns.

The New Jersey attorney general's office has argued that traps can be banned without compensation and has cited gun bans to support its case.

After mentioning a number of court cases, a brief filed by the attorney general's office declared, "Similarly, in the instant case the Legislature has, in the exercise of its police power, banned the use of the steel-jawed leghold trap. As a means to accomplish that end, it has banned possession of the trap itself.

"If it is constitutional to take away without compensation the right to possess firearms which had previously

been lawfully acquired, to save human life, then, in the legitimate exercise of police power it is constitutional to take away, without compensation, the right to possess leghold traps, to save animals from a cruel and barbarous fate."

Iverson pointed out, "So as some of us previously thought, the confiscation of leghold traps can involve firearms. Indeed, there is a direct intention to involve firearms."

He urged other sportsmen to rally to the support of the trappers.

"It's time that people get involved. The precedent of confiscation, the precedent of names and addresses being distributed—these are things that threaten all sportsmen.

"The hunters, the trappers and the fishermen have to stand together because we're really all in the same boat. If we don't stand together, we're all going to be on the endangered species list."

Another threat to New Jersey trappers and sportsmen is the tremendous expense of fighting the antis in the Legislature and, now in the courts.

Iverson estimated that \$33,000 already had been spent and that another \$10,000 would be needed just to bring in the expert witnesses for the May trial.

He urged sportsmen to send their contributions to the Sportsmen's Defense Fund, Coalition of New Jersey Sportsmen, c/o Irwin, Post and Rosen, 65 Livingston Avenue, Roseland, N.J. 07068.

"United we can beat the antis. Divided, we're all going to lose. The trappers just happen to be in the greatest danger right now," Iverson concluded.