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JUSE COMMITTEE REPORT

(7)

Date Referred: May 13, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 5-16-91

The JUDICIARY Committee considered:

CSSB 38(JUD)am

CS FOR SENATE BILL NO. 38 (JUDICIARY) am

INTERFERENCE WITH HUNTING/FISHING

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

RECOMMENDATIONS:

be replaced with HCS CSSB 38 (Jud) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) Fish & Game 2/11/91

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Terry Masten</i>					
<i>Kevin P. ...</i>	✓				
<i>Mark ...</i>	X				
<i>...</i>	✓				
<i>...</i>	✓	<i>[Signature]</i>		✓	
<i>...</i>	✓				

[Signature]
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 1

Bill Version: SB 38

(S) Publish Date: 2/11/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: 1/30/91

Department Affected: Fish and Game

Title: Obstruction or hindrance of lawful hunting, fishing, trapping

BRU: Division of Wildlife Conservation

Component: Wildlife Conservation

Sponsor: Senator Frank

Requestor: _____

COMPONENT SERIAL NO.

	4	7	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: No FY 91 impact

ANALYSIS: (Attach)	Changes in <u>CS SB 38</u> <u>Frank</u> have no fiscal impact. This fiscal note is appropriate. date <u>3/1/91</u> Comte Aide (initial) <u>DF</u>	Changes in <u>CS SB 38</u> <u>(RES)</u> have no fiscal impact. This fiscal note is appropriate. date <u>2/8/91</u> Comte Aide (initial) <u>PT</u>
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Prepared By: Warren W. Wiley

Phone: 465-4100

Division: Commissioner's Office

Date: 1/30/91

Approved by Commissioner: Warren W. Wiley

Agency: Fish and Game

Date: 1/30/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Wildlife Conservation	BILL NUMBER SB 38	SPONSOR Senator Frank
SHORT TITLE OF BILL Obstruction or hindrance of lawful hunting, fishing, or trapping			
DEPARTMENT POSITION Support			
PREPARED BY Warren W. Wiley	DATE 1/30/91	COMMISSIONER'S SIGNATURE <i>Warren W. Wiley</i>	DATE 1/30/91

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Public Safety	CONSTITUENT GROUP(S) AFFECTED BY BILL Hunters
ORGANIZATIONAL SUPPORT FOR BILL Unknown	ORGANIZATIONAL OPPOSITION TO BILL Unknown

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

SB 38 would prohibit the harassment of persons legally engaged in hunting, fishing, or trapping, and by inference, the disturbance of equipment used in hunting, fishing, and trapping. Similar legislation was vetoed by Governor Sheffield in 1983 and 1984.

ANALYSIS OF BILL/PROGRAM EFFECTS

This legislation would have no fiscal impact on the Division of Wildlife Conservation. With the increased activity of anti-trapping and hunting advocate in Alaska, this law could be helpful in protecting the privileges of those legally pursuing consumptive use of wildlife resource. 35 other states have such laws.

AMENDMENTS PROPOSED

None

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 38

Revision Date: 1/30/91 Department Affected: Fish and Game
 Title: Obstruction or hindrance of BRU: Division of Wildlife Conservation
lawful hunting, fishing, trapping Component: Wildlife Conservation
 Sponsor: Senator Frank
 Requestor: _____ COMPONENT SERIAL NO.

	4	7	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: No FY 91 impact

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Warren W. Wiley Phone: 465-4100
 Division: Commissioner's Office Date: 1/30/91
 Approved by Commissioner: *Warren W. Wiley*
 Agency: Fish and Game Date: 1/30/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 38

Revision Date: _____ Department Affected: Public Safety
 Title: An Act relating to the obstruction or hindrance of lawful hunting BRU: Fish & Wildlife Protection
 Sponsor: Senator Frank, et. al. Component: Enforcement
 Requestor: Senate Resources

COMPONENT SERIAL NO.

	4	9	0
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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact 0

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact is anticipated.

Prepared by: Captain Conrad G. Seibel Phone: 269-5509
 Division: Fish & Wildlife Protection Date: 1-31-91
 Approved by Commissioner: *Richard L. Burton* Richard L. Burton
 Agency: Department of Public Safety Date: 2/5/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

STEVE FRANK
DISTRICT K
SEAT A

119 N. Cushman, Rm. 213
Fairbanks, Alaska 99701

While in Juneau
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Juneau, Alaska 99811
(907) 465-3709
Capitol Rm. 514

Alaska State Legislature



Senate

MEMBER
Finance Committee
Resources Committee
Legislative Council
Special Committee on Banking &
Economic Development

VICE-CHAIR
Community & Regional
Affairs Committee

TO: Representative Dave Donley, Chairman
House Judiciary Committee

FROM:  Senator Steve Frank

RE: SB 38 - Obstruction or hindrance of hunting, fishing, trapping.

DATE: May 13, 1991

SB 38, known as the "hunter harassment" bill, would prohibit the **intentional** obstruction or hindrance of lawful hunting, fishing or trapping. Similar legislation has already been enacted in 39 of the 50 states with Wyoming being the most recent to join the ranks.

Anti-hunting and animal rights groups have a clear record of intentional obstruction of hunting including literature which encourages such action and gives specific examples of harassment methods. While not yet a rampant problem in Alaska, there **are** reported cases in this state including an organized disruption of seal harvests on the Pribilof Islands. At their 1989 Subsistence Conference sponsored by the Alaska Federation of Natives and RurAICAP, hunter harassment was specifically identified as a threat to subsistence that can no longer be overlooked and so it is critical that we act now to prevent further obstruction efforts.

SB 38 will not provide a preference for hunting, fishing or trapping over other outdoor uses, as has been previously argued. On the contrary, a photographer, hiker, camper, or any other person in the field will not be subject to prosecution just by virtue of being in the same area as a hunter and causing some sort of unintentional disruption. It has also been argued that this bill duplicates existing statute. As is indicated in the attached memorandum from Legal Services, "There does not seem to be any existing crime that prohibits or addresses acts intended to alter the feasibility of taking fish or game by another person."

This proposal enjoys the support of the NRA, the AFN, the Eskimo Walrus Commission, the Alaska Outdoor Council, the Alaska Bowhunters Association, and the Alaska Trappers Association. I would appreciate your support as well for the passage of Senate Bill 38.

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

WALTER J. HICKEL, GOVERNOR

REPLY TO:

- CRIMINAL DIVISION CENTRAL OFFICE
P.O. BOX KC
JUNEAU, ALASKA 99811-0510
PHONE: (907) 465-3428
- OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

May 14, 1991

The Honorable Dave Donley, Chair
House Judiciary Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Re: HCS CSSB 38 (Res)

Dear Representative Donley:

Following our testimony before the House Judiciary Committee on May 13, 1991, you have inquired whether any of the provisions of HCS CSSB 38 (Res) violate the "common use" clause of the Alaska Constitution (Article VIII, section 3). HCS CSSB 38 (Res) makes it a misdemeanor offense for a person to intentionally obstruct or hinder another's lawful hunting, fishing, or trapping by either altering the feasibility of that person taking the fish or game or by creating a visual, aural, olfactory, or physical stimulus to alter the behavior of the fish or game that the other person is attempting to take.

Article VIII, section 3, of the Alaska Constitution provides that "Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." As the Alaska Supreme Court noted in *Owsichek v. State*, 763 P.2d 488, 493 (Alaska 1988), this constitutional provision is unique to Alaska, and was not modeled on any other state constitution.

The natural resources committee of the Alaska Constitutional Convention discussed article VIII, section 3, as follows:

Game fish, wildlife, fisheries and water are recognized as belonging to the state so long as in a natural state. These resources are subject to a private right only when they have been acquired or utilized as provided by law.... [O]nce an animal is taken in compliance with law, it becomes the property of the taker, subject to use or disposition within the law.

Report of the Constitutional Convention Committee on Resources (Committee Proposal No. 8), Commentary on Article on State Lands and Natural Resources, section 3, December 16, 1955, reported in 6 Alaska Constitutional Convention Proceedings, Appendix 5 at 83.

In accordance with the commentary set out above, once the wildlife has been taken "in compliance with law," it is the property of the hunter or fisherman. Any interference at that point would be prohibited by existing law. See AS 11.46.484 et seq. (criminal mischief). These same laws prohibit a person from interfering with the property of a hunter or fisherman. Other laws prohibit assaultive-type conduct. See, e.g., AS 11.41.200 -.230. Finally, there would be no constitutional issue raised by a law that made it a crime for a person to "intentionally obstruct or hinder another person's lawful hunting, fishing, or trapping" by conduct directed at the person engaged in the hunting, fishing, or trapping activity.

The issue raised by HCS CSSB 38 (Res) is whether it violates the common use provision of the constitution to prohibit a person from interacting with fish or wildlife still in its natural state when that interaction interferes with another person's hunting, fishing, or trapping (e.g., scaring a deer about to be shot by a hunter). A litigant could argue that, until the wildlife has been taken by the hunter or fisherman, and thus becomes private property, the wildlife belongs to the state or, in essence, to all persons. As such, the person who wants to frighten the animal is as entitled to do so as the person who wants to hunt or trap the animal.

The Alaska Supreme Court, however, has not addressed the common use clause in this context. Instead, it has ruled that the clause prohibits monopolies, exclusive grants, and special privileges, with respect to these resources. See, e.g., *McDowell v. State*, 785 P.2d 1 (Alaska 1989); *Owsichek v. State*, 713 P.2d 488 (Alaska 1988). The court has observed that, "in guaranteeing people 'common use' of fish, wildlife and water resources, the framers of the constitution clearly did not intend to prohibit all regulation of the use of these resources." *Owsichek v. State*, 763 P.2d at 492. Indeed, article VIII, section 4, of the Alaska Constitution specifically provides that fish and wildlife "shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses."

Under these circumstances, it does not appear to us that HCS CSSB 38 (Res.) violates the common use clause of article VIII, section 3, of the Alaska Constitution.

The Honorable Dave Donley

May 14, 1991
Page 3

If you have any further questions that we may be able to answer, please do not hesitate to call upon us.

Very truly yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: Margot O. Knuth
Margot O. Knuth
Assistant Attorney General

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

May 15, 1991

SUBJECT: Allocations between consumptive and nonconsumptive uses of fish and wildlife and the common use section (HCS CSSB 38(Resources))

TO: Representative Dave Donley, Chair
House Judiciary Committee

FROM: George Utermohle, *GU*
Legislative Counsel

This memorandum is in response to the query of Laurie Otto of your staff as to whether the common use section of the Constitution of the State of Alaska permits the state to protect consumptive uses of fish and wildlife at the expense of nonconsumptive uses.

The common use section states:

COMMON USE. Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use. (Article VIII, sec. 3.)

The purpose of the common use section is to exclude any privileged status for any person in the use of natural resources subject to the control of the state. 6 Proceedings of the Alaska Constitutional Convention 84 (Dec. 16, 1955). The common use section imposes on the state a trust duty to manage fish, wildlife, and water for the benefit of all of the people. Owsichek v. State, 763 P.2d 488, 495 (Alaska 1988). The common use section together with other provisions of Article VIII reflect anti-monopoly and anti-exclusionist values. State v. Ostrosky, 667 P.2d 1184, 1191 (Alaska 1983).

The common use section protects the right of the people to use the fish and wildlife resources of the state by prohibiting restrictions on the people's ability to use those resources as a member of a user group. The common use section has been applied to prohibit the creation of exclusive rights that limited or barred access to particular user groups: common use section prohibits exclusive guiding areas which were used

to exclude other guides from those areas and to limit competition among guides (Owsichek); common use section prohibited a rural resident preference for subsistence uses that excluded urban residents from participating in subsistence activities (McDowell v. State, 785 P.2d 1 (Alaska 1989)).

The common use section does not prevent allocation of resources between user groups. The allocation of fish and wildlife resources is authorized under the sustained yield section^{1/} of the Alaska Constitution. McDowell, 758 P.2d at 7-8. The state may divide the available resources among competing user groups and subuser groups; this would include allocations between consumptive and nonconsumptive users. State v. Hebert, 803 P.2d 863 (Alaska 1990). The state may provide for differential treatment of separate user groups. Kenai Peninsula Fisherman's Cooperative Association, Inc. v. State, 628 P.2d 897, 904 (Alaska 1981). The state does not have to provide a user group access to a particular fish or wildlife resource just because a competing user group is allowed to utilize that resource. Id. Thus the state may prefer one user group over another.

In the context of HCS CSSB 38 (Resources), the common use section of the constitution does not prevent the state from enacting a law that protects consumptive users of fish and wildlife resources even though such protection is not extended to nonconsumptive users of those resources. The issue posed here is a matter of equal protection. Under equal protection analysis the weight of the constitutional interest at stake must be determined, the purposes served by the challenged statute must be determined, and the state's interest in the particular means chosen to further its goals must be evaluated. The interest of a nonconsumptive user of fish and wildlife to be free from obstruction or hindrance in their use of fish and wildlife on the same basis as a consumptive user is not a fundamental right and probably is an interest entitled to a lower level of protection under Alaska's constitutional analysis, though article VIII, sec. 17 may require more stringent review of statutes affecting a person's use of natural resources. The purposes served by the statute must be at least an important state purpose in cases involving the use of the state's natural resources. The protection of hunters, fishermen, and trappers from obstruction or hindrance of their lawful activities is at least an important state interest given the importance that the state constitution gives to the use of state resources. The final step in the analysis involves a consideration of the closeness of the relationship between the state purpose and the means chosen to achieve the purpose. The means chosen by the state to protect consumptive users from obstruction or hindrance of their activities bears a reasonable relationship to the purpose and thus is probably constitutional.

^{1/} Article VIII, sec. 4, Constitution of the State of Alaska

SUSTAINED YIELD. Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

Representative Dave Donley

May 15, 1991

Page 3

Because the interest of the nonconsumptive users does not rise to the level of fundamental right the closeness of the fit between the purpose and the means chosen to achieve the purpose does not have to be precise. There may be some over- or under-inclusiveness. In this case the state has some latitude to address the problems facing consumptive users without addressing the problems of nonconsumptive users. The state does not have to address the whole problem of harassment of all users of natural resources at one time. The state may address the problem one part at a time. Because the state does not have to address the whole issue at once, the provisions of HCS CSSB 38 (Resources) probably are not violative of the equal protection rights of nonconsumptive users of fish and wildlife to be free from harassment on the same basis as consumptive users.

If I may be of further assistance, please advise.

GU:mi

91-103.mai

DIVISION OF LEGAL SERVICES

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MEMORANDUM

May 15, 1991

SUBJECT: Is HCS CSSB 38 (Resources) overbroad?

TO: Representative Dave Donley, Chair
House Judiciary Committee

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is in response to the query of Laurie Otto of your staff, as to whether, under the holding of Fardig v. Municipality of Anchorage, 803 P.2d 879 (Alaska App. 1990), HCS CSSB 38 (Resources) is overbroad.

In Fardig, the Alaska Court of Appeals struck down a municipal trespass ordinance because the ordinance did not state with specificity under what circumstances a person could be ordered to leave public property.^{1/} Fardig challenged the constitutionality of the trespass ordinance on the ground that it was overbroad and as a consequence infringed upon her First Amendment freedoms. In reaching its decision the court relied on two cases: Grody v. State, 278 N.E.2d 280 (Ind. 1972) and Perry Education v. Perry Local Educators' Association, 74 L.Ed.2d 794 (1983).

In Grody, the Indiana court struck down a trespass statute that allowed a school official to ask any person to leave school grounds for any reason or for no reason. The statute was not confined to suppressing activities that interfered with the orderly use of school grounds. Since the school official could ask a person to leave solely because the person was engaging in expressive conduct even though the conduct may be clearly protected by the First Amendment, the court found the statute overbroad and a prior restraint of First Amendment activities.

^{1/} The municipal ordinance at issue before the court provided that it was unlawful for a person to commit a trespass upon public or private property without consent of the owner of the property. For the purposes of the ordinance, the "failure or refusal to depart from the premises of another, including publicly owned property, upon request to do so orally or in writing by any owner or occupant thereof" constituted trespass.

Representative Dave Donley

May 15, 1991

Page 2

In Perry Education, the United States Supreme Court summarized the standards applicable to statutes limiting access to public property. The actual standards applied varied with the character of the public property at issue. Where the property was traditionally devoted to or was dedicated for public assembly and debate (such as public streets and parks and universities), the state may not prohibit all expressive activity. The state can only regulate the content of speech if the regulation is necessary to serve a compelling state interest and the regulation was narrowly tailored to achieve that objective. The state can enforce content-neutral regulations as to the time, place, and manner of expressive activity provided that the regulations are narrowly tailored to serve a significant state interest and that ample alternative channels of communication were available.

Where the public property at issue is not a traditional or designated forum for expressive activities, the state may in addition to reasonable time, place, and manner regulations reserve the property for its intended public purposes, communicative or otherwise, as long as the regulation of expressive conduct was reasonable and not merely an effort to suppress expression merely because public officials oppose the speaker's views. The state just as any other property owner, has the power to preserve the property under its control for the use for which it was dedicated.

Following the guidance of these two cases the court of appeals struck down the municipal ordinance at issue in Fardig because it impermissibly allowed individuals to be ordered off public premises solely because the person expresses opinions which those in charge of the property disapproved. The flaw of the ordinance was that it applied to public property without stating with specificity under what circumstances a person may be asked to leave public property.

Though Fardig concerned regulation of trespass on public property and thus not directly applicable to HCS CSSB 38 (Resources) (bill) which relates to obstruction or hinderance of lawful hunting and regulates the conduct between individuals, the principles underlying Fardig can be applied to the bill for the purpose of determining whether the bill might be overbroad and thus infringe on First Amendment activities.

The bill regulates the conduct of individuals and makes it a crime to obstruct or hinder the lawful hunting, fishing, or trapping of another person on private and public property. The bill does not stop at prohibiting obstruction or hinderance. The bill sets out criteria defining what constitutes obstruction or hindrance. A person commits the crime of obstruction or hinderance of lawful hunting, fishing, or trapping by engaging in specific conduct (i.e. altering the feasibility of taking fish or game or creating a stimulus to alter the behavior of fish or game that another person is attempting to take) and by engaging in that conduct with the specific intent of obstructing or hindering the lawful activities of another person. The bill does not authorize a public official to arrest a person on public land for no reason at all or because the public official disagrees with the person's conduct or expressive activity.

Representative Dave Donley

May 15, 1991

Page 3

A public official may arrest a person only for engaging in the conduct prohibited in the bill and for intentionally engaging in that conduct to accomplish a unlawful goal. In my opinion, there is no unbridled discretion or standardless authority conveyed on a public official under the bill. The bill on its face is not overbroad under the standards utilized by the court of appeals in Fardig.

Unlike the trespass statute at issue in Grody which did not serve a narrowly defined public purpose, the bill provides a reasonable means for suppressing activities that interfere with the orderly use of public land for hunting, fishing, and trapping as authorized under article VIII of the Constitution of the State of Alaska. By their very nature, the places where hunting, fishing, and trapping occur are not traditional or designated forums for expressive activities. Thus under the standards set out in Perry Education, the state may impose reasonable time, place, and manner restrictions on expressive conduct in those places and may even preserve those places for their intended purposes by limiting expressive activities. To the extent that the bill provides for the regulation of expressive activities in these places, it is reasonable and is not an effort to suppress expression based on its content.

If I may be of further assistance, please advise.

GU:lmb:mi

91-189.lmb

HOUSE COMMITTEE REPORT

(9)

Date Referred: March 15, 1991

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: _____

The RESOURCES Committee considered:

CSSB 38(JUD)am

CS FOR SENATE BILL NO. 38 (JUDICIARY) am

INTERFERENCE WITH HUNTING/FISHING

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

RECOMMENDATIONS:

be replaced with _____

HCS CSSB 38 (RES)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____ SENATE ADP+g

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i> LEMAN	<input checked="" type="checkbox"/>	<i>[Signature]</i> DAVIDSON		<input checked="" type="checkbox"/>	
<i>[Signature]</i> HUDSON	<input checked="" type="checkbox"/>	<i>[Signature]</i> LINCOLN			
<i>[Signature]</i> CARNEY	<input checked="" type="checkbox"/>	<i>[Signature]</i> MOYER		<input checked="" type="checkbox"/>	

[Signature]
CHAIRMAN'S SIGNATURE

SB-38, "HUNTER HARASSMENT"-----CONSIDERATIONS

1. Hunters, fishermen, and trappers are not being harassed in Alaska, and no new law is needed to protect them.
2. Existing laws, particularly the assault, criminal mischief, and general harassment statutes protect all wildlife user groups from the malicious behavior of others.
3. Since most conflicts occur within a particular user group, this proposed law would primarily be used to prosecute hunters, trappers, and fishermen. The attempt to overcome this in SB 38, Section 1, (e) by exempting those engaged in "lawful competitive practices" is either meaningless or unconstitutional. It is meaningless if the intent is to exempt those who are not committing the described offense. It is unconstitutional if the intent is to prevent only hunters, fishermen, and trappers from being prosecuted for engaging in hindrance or obstruction.
4. Any property owner or village official who attempts to prevent someone from hunting, fishing, or trapping on private lands would be in clear violation of the law unless he could prove that trespass has occurred.
5. If someone set traps near a homeowners property endangering pets or children, and the homeowner springs those traps he would be in violation of this proposed law. Justice is certainly better served under current law where the criminal mischief or general harassment standard would be applied.
6. If the legislature decides that wildlife user groups in Alaska need protection from harassment certainly all user groups including viewers, photographers, etc. deserve the same protection under the law.

RICHARD HELLARD, ALASKA WILDLIFE ALLIANCE, 789-2255

DIVISION OF LEGAL SERVICES

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Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

February 7, 1991

SUBJECT: Comparison of SB 38 with existing crimes

TO: Senator Steve Frank

FROM: George Utermohle *GU*
Legislative Counsel

You have asked for a comparison of SB 38, which creates a new crime of obstruction or hindrance of lawful hunting, fishing, or trapping, with certain existing crimes, including assault and harassment.

The crime of obstruction or hindrance of lawful hunting, fishing, or trapping prohibits a person from obstructing or hindering another person's lawful hunting, fishing, or trapping by intentionally (1) altering the feasibility of taking fish or game by another person; (2) creating a visual, aural, olfactory, or physical stimulus in order to alter the behavior of the fish or game another person is attempting to take; or (3) tampering with personal property of another intended for use in the taking of fish or game. Customary commercial fishing practices are exempted from the coverage of the bill. A violation of this crime is an unclassified misdemeanor and is punishable by a fine of not more than \$500 or imprisonment for not more than 30 days or both. This punishment is intermediate between that prescribed for violations and class B misdemeanors.

The following is a summary of the relevant elements of certain existing crimes in order to provide a basis for comparing them with the elements of the crime of obstruction or hindrance of lawful hunting, fishing, or trapping.

Assault, Harassment, and Related Crimes

Assault in the First Degree - AS 11.46.200

A person commits the crime of assault in the first degree if

- (1) that person recklessly causes serious physical injury to another by means of a dangerous instrument;
- (2) with intent to cause serious physical injury to another, the person causes serious physical injury to any person; or

(3) the person knowingly engages in conduct that results in serious physical injury to another under circumstances manifesting extreme indifference to the value of human life.

Assault in the first degree is a class A felony and is punishable by a fine of not more than \$50,000 or imprisonment for not more than 20 years or both.

Assault in the Second Degree - AS 11.41.210

A person commits the crime of assault in the second degree if

(1) with intent to cause physical injury to another person, that person causes physical injury to another person by means of a dangerous instrument;
or

(2) that person recklessly causes serious physical injury to another person.

Assault in the second degree is a class B felony and is punishable by a fine of not more than \$50,000 or imprisonment for not more than 10 years or both.

Assault in the Third Degree - AS 11.41.220

A person commits the crime of assault in the third degree if that person recklessly

(1) places another person in fear of imminent serious physical injury by means of a dangerous instrument; or

(2) causes physical injury to another person by means of a dangerous instrument.

Assault in the third degree is a class C felony and is punishable by a fine of not more than \$50,000 or imprisonment for not more than five years or both.

Assault in the Fourth Degree - AS 11.41.230

A person commits the crime of assault in the fourth degree if

(1) that person recklessly causes physical injury to another person;

(2) with criminal negligence that person causes physical injury to another person by means of a dangerous instrument; or

(3) by words or other conduct that person recklessly places another person in fear of imminent physical injury.

Assault in the fourth degree is a class A misdemeanor and is punishable by a fine of not more than \$5,000 or imprisonment for not more than 1 year or both.

Reckless Endangerment - AS 11.41.250

Closely related to the crimes of assault is the crime of reckless endangerment which does not require actual injury or fear of injury but only the substantial risk of injury to another person. A person commits the crime of reckless endangerment if the person recklessly engages in conduct which creates a substantial risk of serious physical injury to another person. Reckless endangerment is a class A misdemeanor.

Senator Steve Frank

February 7, 1991

Page 3

Harassment - AS 11.61.120

A person commits the crime of harassment if, with intent to harass or annoy another person, that person insults, taunts, or challenges another person in a manner likely to provoke an immediate violent response; or subjects another person to offensive physical contact. Harassment may also include certain acts involving the misuse of telephones and violations of court orders in domestic relations cases which are not relevant to obstruction or hindrance of hunting, fishing, or trapping. Harassment is a class B misdemeanor and is punishable by a fine of not more than \$1,000 or imprisonment for not more than 90 days or both.

Other Relevant Crimes

In the content of obstruction or hindrance of hunting, fishing, or trapping, the crimes of criminal mischief and disorderly conduct, among others, may be relevant.

Criminal Mischief in the Second Degree - AS 11.46.482

A person commits the crime of criminal mischief in the second degree if, having no right to do so or any reasonable ground to believe the person has such a right, with intent to damage property of another, the person damages property of another in an amount of \$500 or more; or the person recklessly creates a risk of damage in an amount exceeding \$100,000 to property of another by the use of widely dangerous means. The crime of criminal mischief in the second degree may also include acts involving oil or gas pipelines and aircraft and motor vehicles that are not relevant to obstruction or hindrance of hunting, fishing, or trapping. Criminal mischief in the second degree is a class C felony.

Criminal Mischief in the Third Degree - AS 11.46.484

A person commits the crime of criminal mischief in the third degree if, having no right to do so or any reasonable ground to believe the person has such a right, with intent to damage property of another, the person damages property of another in an amount of \$50 or more but less than \$500. The crime of criminal mischief in the third degree may also cover several acts involving motor vehicles, computers, fire protection devices, and traffic control devices that are not relevant to obstruction and hindrance of hunting, fishing, or trapping. Criminal mischief in the third degree involving damage to property of another is a class A misdemeanor.

Criminal Mischief in the Fourth Degree - AS 11.46.486

A person commits the crime of criminal mischief in the fourth degree if, having no right to do so or any reasonable ground to believe the person has such a right, with reckless disregard for the risk of harm to or loss of the property or with intent to cause substantial inconvenience to another, the person tampers with property of another; or with intent to damage property of another, the person damages property of another in an amount less than \$50. Criminal mischief in the fourth degree may

also include acts involving motor vehicles that are not relevant to obstructing or hindering hunting, fishing, or trapping. Criminal mischief in the fourth degree is a class B misdemeanor.

Disorderly Conduct - AS 11.61.110

A person commits the crime of disorderly conduct if,

(1) with intent to disturb the peace and privacy of another not physically on the same premises or with reckless disregard that the conduct is having that effect after being informed that it is having that effect, the person makes unreasonably loud noise;

(2) in a public place or in a private place of another without consent, and with intent to disturb the peace and privacy of another or with reckless disregard that the conduct is having that effect after being informed that it is having that effect, the person makes unreasonably loud noise;

(3) in a public or private place, the person challenges another to fight or engages in fighting other than in self-defense; or

(4) the person recklessly creates a hazardous condition for others by an act which has no legal justification or excuse.

Certain other acts that are not relevant to obstructing or hindering hunting, fishing, or trapping are not listed here. For purposes of this crime "noise" is "unreasonably loud" if, considering the nature and purpose of the defendant's conduct and the circumstances known to the defendant, including the nature of the location and the time of day or night, the conduct involves a gross deviation from the standard of conduct that a reasonable person would follow in the same situation. "Noise" does not include speech that is constitutionally protected. Disorderly conduct is a class B misdemeanor and is punishable as authorized in AS 12.55 except that a sentence of imprisonment, if imposed, shall be for a definite term of not more than 10 days.

There does not appear to be a gross duplication between the crime of obstruction or hindrance of lawful hunting, fishing, or trapping and the existing crimes summarized above. In particular, the crimes of assault, reckless endangerment, and harassment protect interests, right to not be subjected to personal injury or the threat of injury, that are distinctly different from those protected by the crime of obstruction or hindrance of lawful hunting, fishing, or trapping, right to engage in a lawful activity without malicious interference. The crimes of assault and the related crimes involve grave interference with significant personal interests and the penalties for those crimes reflect the seriousness with which society views those crimes.

The greatest extent of overlap between the proposed crime of obstruction or hindrance with lawful hunting, fishing, or trapping and existing crimes involves the various degrees of criminal mischief relating to damage to or tampering with the personal property of another person. However the overlap is far from complete.

Senator Steve Frank

February 7, 1991

Page 5

In certain circumstances the crime of disorderly conduct may include some acts that would constitute an aural stimulus that would alter the behavior of fish or game that another person is attempting to take. But the degree of overlap is not substantial because disorderly conduct alone would not result in liability under the crime of obstruction or hindrance of lawful hunting, fishing, or trapping; the act constituting the aural stimulus must be committed specifically to alter the behavior of fish or game that another person is attempting to take.

There does not seem to be any existing crime that prohibits or addresses acts intended to alter the feasibility of taking fish or game by another person.

If I may be of further assistance, please advise.

GU:pl

91-069.plm

THE ALASKA WILDLIFE ALLIANCE

P.O. Box 202022
Anchorage, Alaska 99520
907-277-0897

May 1, 1991

House Resources Committee
P.O. Box V
Juneau, Ak, 99811

Dear Committee Members:

The Alaska Wildlife Alliance urges you to reject SB 38 because it is unnecessary, unfair, and it sends a hostile message to many wildlife user groups.

Hunters, fishermen, and trappers are not being harassed in Alaska, and no new law is needed to protect them. Existing laws, particularly the assault, criminal mischief, and general harassment statutes protect all wildlife user groups from the malicious behavior of others.

Since most conflicts occur within a particular user group, this proposed law would primarily be used to prosecute hunters, trappers, and fishermen. The attempt to overcome this by exempting those engaged in "lawful competitive practices" is either meaningless or unconstitutional. It is meaningless if the intent is to exempt those who are not committing the described offense. It is unconstitutional if the intent is to prevent only hunters, fishermen, and trappers from being prosecuted for engaging in hinderance or obstruction.

Another problem with this proposal is that any property owner who attempts to prevent someone from hunting fishing or trapping on private land would be in clear violation of the law unless he or she could prove that trespass has occurred.

This law could be used in other strange and unfortunate ways. Consider a case where someone legally sets traps near a homeowners property endangering pets or children. If the homeowner disarms these traps he would be in clear violation of the law. Justice is certainly better served under current law where the criminal mischief or general harassment standard would be applied.

Why single out hunters, fishermen, and trappers for special protection. If you are convinced that harassment is a real problem, why not protect all user groups including photographers and others. According to the April issue of Alaska's Wildlife, published by the Department of Fish and Game, wildlife watching [including viewing, photography, and feeding] is the fastest growing segment of wildlife recreation. "We have the opportunity



Alaska Reform
P.O. Box 116
Gustavus, Alaska 99826
(907) 697-2371

3/16/91

To: Senator Frank
Senator Pierce
Sen. Sturgelewski
Rep. Davidson

Dear Legislators,

We appreciate your involvement in passage of the hunter harassment bill (SB38). We strongly support the current language.

In light of the growing national anti-hunting movement, we urge the House to promptly adopt this legislation also. Perhaps more important than potential inconvenience to individual hunters is the even greater potential for the anti movement to capture the national media attention by legally harrassing outdoorsmen.

We actively opposed last years version of this bill because it would have broadly denied public access to harvest information, rather than simply allowing penalties for abuse of that information.

Alaska Reform is currently surveying hunters, guides, outdoor groups as well as public officials in an effort to form a concensus on the principles of "Fair Chase" in hunting. We intend to introduce legislation next year to direct the Board of Game to act within these guidelines.

Unfortunately, the biggest threat to hunters is slobhunting.

We appreciate hearing from you on any proposed changes to the bill.

Sincerely,

Charles Rice
President

ALASKA FEDERATION OF NATIVES, INC.

411 W. 4th Avenue, Suite 301 • Anchorage, Alaska 99501 • Phone (907) 274-3611



April 24, 1990

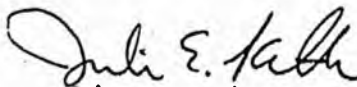
The Honorable Steve Frank
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Frank:

Please be informed that the Alaska Federation of Natives is on record as supporting Senate Bill 469 as introduced.

You are correct your assessment that "hunter harassment" presents a potential threat to subsistence lifestyles in Alaska. SB469 will serve to protect lawful hunting rights and the special degree of dependence Alaska residents have on hunting and fishing resources.

Sincerely,


Julie E. Kitka
President

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

THE ALASKA WILDLIFE ALLIANCE

P.O. Box 202022
Anchorage, Alaska 99520
907-277-0897

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Why single out hunters, fishermen, and trappers for special protection. If you are convinced that harassment is a real problem, why not protect all user groups including photographers and others. According to the April issue of Alaska's Wildlife, published by the Department of Fish and Game, wildlife watching [including viewing, photography, and feeding] is the fastest growing segment of wildlife recreation. "We have the opportunity

in Alaska for developing a wildlife recreation and conservation program that could stand as a model for the world."

SB 38 does not help us create that model. It is purely an ideological statement that singles out one group for special treatment. That would be less offensive if you were voting on a resolution rather than a law.

The lawyers will love this law. By passing this bill you will be elevating another inevitable social conflict to the level of the court system.

Please reject SB 38.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard Hellard". The signature is fluid and somewhat stylized, with a large loop at the end.

Richard Hellard
Representative



Alaska Reform
P.O. Box 116
Gustavus, Alaska 99826
(907) 697-2371

3/16/91

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Senator Pierce
Sen. Sturgelewski
Rep. Davidson

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411 W. 4th Avenue, Suite 301 • Anchorage, Alaska 99501 • Phone (907) 274-3611



April 24, 1990

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Alaska State Legislature
P.O. Box V
Juneau, AK 99811

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Sincerely,

A handwritten signature in cursive script that reads 'Julie E. Kitka'.

Julie E. Kitka
President



ALASKA OUTDOOR COUNCIL, INC.

3780 MCGINNIS DR JUNEAU AK 99801
(907) 789-3460

P.O. Box 34097
Juneau, Ak. 99803

MEMORANDUM

DATE: March 13, 1990
TO: Senator Steve Frank
FROM: Ed Grasser, Director Legislative Affairs
RE: SB 469 Hunter Harassment

The Alaska Outdoor Council has continually supported the passage of legislation which will protect individuals engaged in lawful harvesting of fish and wildlife from undue harassment by those persons who believe such practices should be banned.

There are increasing incidents of unprovoked attacks by individuals opposed to the harvest of wildlife nationwide. These types of activities were not in evidence here in Alaska until recently; therefore, past efforts to protect an individual's legal harvest activities were denied by Governor Sheffield, who vetoed two different pieces of legislation which would have accomplished this vital goal.

This past year, Native peoples in remote areas of Alaska were harassed during their attempts to harvest marine mammals which they depend upon for a livelihood. These types of activities will no doubt increase as individuals opposed to the harvest of wildlife become bolder in their attempts to physically harass or prevent legal harvests from taking place.

The problems posed by the increasingly blatant attempts of anti-hunters for lawful outdoorsmen will continue to grow if we do nothing. We feel SB 469 is a step in the right direction to protect the rights of persons legally engaged in wildlife harvests. In our opinion it will go a long way toward solving any future potential conflicts between user groups and will help protect America's outdoor heritage.

ALASKA TRAPPERS ASSOCIATION

P.O. Box 82177

Fairbanks, Alaska 99708

Feb. 1, 1991

Sen. Steve Frank
Box V
Juneau, AK 99811

Dear Steve,

The Alaska Trappers Association gives its whole hearted support to Senate Bill 38.

As a statewide trappers organization we have seen a need for an anti harassment law and have always supported the concept. Any help we can give you in the passage of this bill will be rendered if at all possible.

Sincerely,

A. Roy Wilbur
Vice Pres. Alaska
Trappers Ass.



NATIONAL RIFLE ASSOCIATION OF AMERICA
INCORPORATED 1871

1600 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20036

RUPE ANDREWS
FIELD REPRESENTATIVE
ALASKA

9416 LONGRUN DRIVE
JUNEAU AK 99801
907/789-7422

January 30, 1991

Hon. Steve Frank
Alaska State Senate
Capitol Building
Juneau, AK 99801

Dear Senator Frank:

This letter is to affirm support of the National Rifle Association for Senate Bill No. 38, " An Act relating to the obstruction or hindrance of lawful hunting, fishing, or trapping." The Alaska membership of NRA has long sought a statutory solution to this problem. Alaskan hunters, fishermen and trappers need lawful means to protect them from the harassment of those that have personal objections to these activities.

Our review of SB 38 indicates agreement with similar legislation approved by Legislatures in other States and could be model legislation for others. Legislation of this type has proved valuable to wildlife resource users by providing a legal redress for loss of hunting opportunities and preventing violent attacks on lawful hunters and trappers.

Sincerely.

Rupe Andrews, Field Representative Alaska

ESKIMO WALRUS COMMISSION
P.O. Box 948
Nome, Alaska 99762

March 13, 1990

Senator Steve Frank
P.O. Box V
Juneau, AK 99811

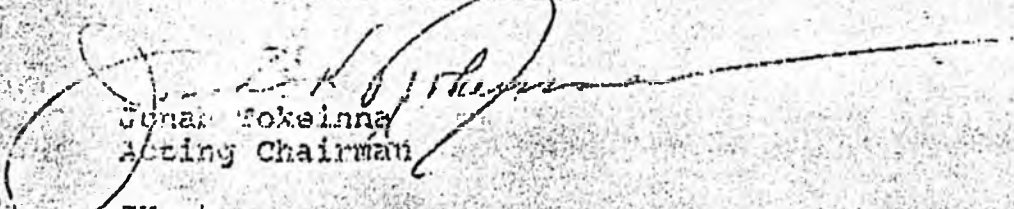
FAX # 463-3378

Dear Senator Frank:

The Eskimo Walrus Commission is supporting Senate Bill 469
adoption by the State Legislature.

I believe that adopting this Senate Bill would not
bring on those people that have a legitimate right to
trap and fish.

ESKIMO WALRUS COMMISSION



Jonas Tokelina
Acting Chairman

JK:ct

friends of animals, inc. 11 West 60th Street, New York, N.Y. 10019

NRA/ILA

LIBRARY (212) 247-8120

AUG 30 1983

TIPS FOR HUNT SABOTEURS

DATE _____

2

Fourteen million Americans will be shouldering their rifles and shotguns within the next few months, marching off to their annual offensive against our wildlife. These legions, which are more numerous, and generally better equipped than the entire Nazi armies of the Second World War, will take a bloody toll before the season ends. They will kill deer and rabbits, ducks, dogs, cats, a few children, and even a few hunters.

It is time for friends of animals to start organizing a defense that will serve to at least temper the wanton destruction. There are many ways that a friend of animals can become a forest partisan on behalf of our wildlife, and we offer here a few suggestions that range in effort, depending upon a person's abilities and commitment:

1. Deny the hunter the land to hunt on. Much hunting is done on private lands. To protect these animals, encourage your neighbors, especially those who own large tracts such as farms and ranches, to post their land and forbid hunting. Try to convince them that hunters invariably cause more damage to agriculture than the wild animals do.
2. Many areas have hunting restricted to a specified number of hunters who have special permits. Commonly, these permits allow the hunter to use a particular blind or hunt less common species, such as bear. Apply for these permits yourself. The permits are usually awarded by a simple lottery selection. If you're lucky, you'll win a permit and deny a hunter his kill.
3. Get into the woods yourself the day before the hunting season. If you're familiar with the most commonly hunted areas, try to drive wildlife away. A stroll through the forest with a nice loud radio and a dog on a leash, will serve to make wildlife more wary of humans. This is particularly important for younger animals that have not yet had the traumatizing experience of being hunted.
4. Certain substances, such as rotten eggs, when rubbed into hunting blinds, make these enclosures even more uncomfortable for the hunters. Uncomfortable hunters are irritable, and are also poorer shots. Plastering the floor of a hunting blind with cow dung is another good idea.
5. If you're familiar with wildlife habits in your neighborhood, try to encourage them to break these habits shortly before hunting season. For instance, many hunters like to stalk along deer tracks which are pretty well defined to a good woodsman. Placing deer repellent (available at many feed and hardware stores) along these tracks will encourage the deer to move away and leave the hunter with a route devoid of the species. If you want to save money, just scoop up a bag of human hair from a local barber shop and hang handfuls of it in little bags about two or three feet from the ground, along the deer track. The deer will soon get the message that there are humans in the area and will drift away.
6. If there is much hunting with dogs in your area, try to get hold of a female dog in heat and lead her, on a leash, through an area that is heavily hunted. Male dogs in the hunter's pack will "get wind" of the female and lose their enthusiasm for chasing rabbits or deer.

HUNTING SEASON IS HERE

Get Out Your Hip Boots and Make Life Difficult For the Weekend Woodsman

American hunters will be shouldering their rifles and shotguns within the next few months, marching off to their annual offensive against wildlife. This legion, which is generally better equipped than the entire German armies of the Second World War, will take a bloody toll before the season ends. They will kill deer and rabbits, ducks, dogs, cats, a few children, and even a few of themselves. How about calling a meeting of a few friends to plan for this hunting season? Here are a few ways you can strike out against the hunt:

1. Encourage neighbors with acreage to post their land. Let them know that hunters cause more damage than wild animals.
2. Many areas have hunting restricted to a specified number of hunters with permits. The permits are usually awarded by a simple lottery selection. Apply for these permits yourself; you may win one and deny a hunter his kill.
3. Get into the woods the day before hunting season. Try to drive wildlife away. Stroll about with a loud radio or a dog on a leash to make wildlife wary of humans.
4. Rotten eggs or cow dung can be rubbed into the floor and walls of hunting blinds to make hunters uncomfortable. Uncomfortable hunters are irritable, and are more likely to miss.
5. Placing deer repellent (available at many feed and hardware stores) along deer routes will encourage the deer to move away and leave the hunter with a route devoid of the species. Scoop up a bag of human hair from a local barber shop and put handfuls of it in little bags about 2 or 3 feet from the ground, along the deer track. The deer will soon get the message that there are humans in the area and will drift away.
6. If hunters use dogs in your area, try to get hold of a female dog in heat and lead her, on a leash, through



"Okay! Now don't move, Andy! Here comes Mom!"

an area that is heavily hunted. Male dogs in the hunter's pack will "get wind" of the female and lose their enthusiasm for chasing rabbits or other hunted animals.

7. If you have a portable tape recorder, buy a cassette recording of wolf howls. Play this in the woods a few times in the days before hunting season.
8. Buy large, old stuffed animal toys at a local thrift shop or make your own. Set these around commonly hunted areas. Hunters often don't take the time to check if an animal is real! Better to have a hole in a cotton rabbit than a real one—and the noise of the gun going off may scare away other wildlife. ■

Excerpted from Friends of Animals "Tips for Hunt Saboteurs"

COMMITTEE TO ABOLISH SPORT HUNTING

Called "One of the Most Dangerous and Aggressive Organizations in the U.S." by the National Rifle Association

C.A.S.H. has

- ★ Won an epic battle to keep hunters out of 52,000 acre Harriman State Park in New York
- ★ Filed a lawsuit to stop hunting at Riley Creek State Park in Pennsylvania
- ★ Defeated the U.S. Department of Interior's ban on anti-hunting demonstrations at Great Swamp Refuge, New Jersey

Specializing only in the fight against "sport" hunting, C.A.S.H. can continue working for wildlife only because people like you care.

\$20 provides a 1-year membership. Contributions of any size are gratefully accepted and immediately put to use. Write us:

The Committee to Abolish Sport Hunting
Box 43, White Plains, New York 10605
or call: 212/428-7523

Humane Group To Seize Animal Leghold Traps

By STEVE GRANT

Friends of Animals Inc. said Friday it is going to trip up trappers by setting off their leghold traps when the season opens next week.

The organization said it will ask its 4,500 members in Connecticut to look for the traps, touch them off with a stick and remove them, because it believes the traps are inhumane.

"We can't as an organization advise people to remove legally set leghold traps. It wouldn't be a smart thing to do. What we're asking them to do is remove illegally set traps. Our guess is most of them are illegal," said Priscilla Feral, the organization's Connecticut director.

Game laws require all leghold traps to have the owner's name on them and they must be placed underwater or in an animal's burrow.

A spokesman for trappers questioned the new campaign, which will begin next Saturday, when the season opens.

"They're setting up a vigilante group. Vigilantes in any situation are not good. They don't know enough and they tend to break the law themselves," said Robert Crook of Madison, a member and former president of the Connecticut Trappers Association, which has about 800 members.

"I wouldn't object to anybody coming out and checking my traps, as long as they had the permission of the landowner, and as long as they didn't steal them, set them off or take animals out. But I really don't think that's their responsibility," Crook added.

He said the state Department of Environmental Protection is responsible

for seeing that trapping is conducted legally and that he understood the group was told by DEP not to remove illegal traps but instead to report them to a game warden.

Ms. Feral said a trapper's name legally can be placed anywhere on a trap, so members would have to trip them to check. She said members would not be advised to reset legal traps.

"DEP can read the riot act to me if it wishes. But no way will we aid the trapper. Our object is to get rid of the leghold trap," she said.

The organization has argued that the trap, which has two steel jaws that slam shut when an animal touches a piece of bait, is barbaric because some animals die slowly or are left crippled. Ms. Feral said domestic animals also have been caught in the traps. There are other traps available that are more humane, she said.

Crook estimated that there are 8,000 trappers in Connecticut, with the average trapper placing 50 or 100 traps in the wild.

The most commonly trapped animal in the state is the muskrat, which can yield a pelt that will fetch up to \$8. Raccoon, fox, mink, opossum, weasel, skunk and beaver also can be trapped legally, though the season for some of those animals does not begin until later.

Friends of Animals, which is based in New York, has waged other campaigns against hunters. Some members went into the Connecticut woods recently to play recorded wolf howls to alert animals of danger when the deer hunting season opened.

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1989

Subsistence Conference Summary



“Subsistence Is Survival”



Photo by David Hardenbergh

Co-Sponsored by the Alaska Federation of Natives, Inc.
and the Rural Alaska Community Action Program, Inc.

October 16-17, 1989

Egan Convention Center, Anchorage

1989 Subsistence Conference

Migratory Birds in Western Alaska

The topic of migratory birds was the focus of the next speaker, Jack U. Williams, Sr. of Mekoryuk. Chuck Hunt interpreted for him. As Mr. Williams was growing up, there were very many ducks and geese. He never heard of waterfowl sport hunting at that time, nor were there shotguns. They used bows and arrows when hunting waterfowl.

The Waterfowl Conservation Commission, chaired by Mr. Williams, originated in 1984. The main purpose of the WCC is to work with the USFWS and others to help people in the villages of the Y-K Delta deal with the issue of waterfowl population declines.

Animal Rights Groups Threaten Subsistence Lifestyles

The panel on "Threats to Our Way of Life - The Animal Rights Agenda" was next. Larry Mercurieff, Commissioner of the Alaska Department of Commerce and Economic Development, and Dave Monture of Indigenous Survival International in Canada were the speakers.

Mr. Mercurieff showed a video depicting animal rights protectionists harassing Natives on the Pribilof Islands, because of their use of fur seals for subsistence. His focus was on strategies and tactics used by the animal rights groups, their effect on aboriginal people, and what can be done about it. "What happened in the Pribilofs are exactly the same things that will be focused on throughout Alaska, throughout the entire Northern Hemisphere, and throughout the whole world," due to the activities of the animal rights groups.

Dave Monture described Indigenous Survival International as an organization born in 1984 as a direct result of the Dené people in Canada's Northwest Territories becoming very concerned about a new wave of a "colonial attitude from the South," -- people organizing with tremendous resources in a manner which would prove to be a great threat to Dené plans for self-determination and land claim settlements in the Northwest Territories.

"We're not dealing with people with the same sense of ethics or fairness, but we're dealing with people with a new zeal, a new religion for urban Western man," Monture said. ISI-Canada has joined with the British Museum to produce "The Living Arctic," a highly successful major exhibition in London, England designed to educate the public on aboriginal lifestyles.

In Conclusion

The afternoon session commenced with workshops on "Marine Mammals," "Title VIII of ANILCA," and the "Animal Rights Movement." The facilitators of these sessions reported back to the general assembly following the workshops.

The Animal Rights Movement workshop participants first viewed a film on strategies and the lack of ethics in the animal rights community, specifically in the Native seal campaign. It was concluded that animal rights groups pose a life-threatening situation to our people, not only in their methods of fire-bombs, but in actual cases of teenagers committing suicide in communities where seal subsistence is being cut off, thereby drastically altering traditional lifestyles.

The Marine Mammals workshop addressed the five species of seals in Alaska, sea otter, walrus, beluga whale, and polar bear. The participants learned that there are 900,000 fur seals today, and the population may have leveled off. The Fish & Wildlife program on walrus includes a management plan for walrus, monitoring populations, monitoring harvest, and habitat protection.

The Alaska Sea Otter Commission was formed in 1988. The Commission is very concerned about a proposed rule by the Fish & Wildlife Service to restrict cottage industry practices involving sea otter by Alaska Natives. The Commission has recently initiated a Memorandum of Agreement with FWS which, along with a Management Plan, would address problems FWS is trying to answer in its proposed rule.



Dave Monture of ISI-Canada (left) led a workshop on the threats that animal rights groups are posing to subsistence lifestyles. Rural CAP attorney Eric Smith (below) explaining how villages can write their own fish and game regulations.



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Alaska's wildlands provide a rich variety of recreational and educational experiences found nowhere else in the world. This issue of *Alaska's Wildlife* focuses on wildlife watching opportunities in Alaska and their relationship to economics and conservation.

According to the National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, more than 167 million Americans (about 75 percent) participated in hunting, fishing or wildlife watching during 1985. The survey also identified wildlife watching (including viewing, photography, and feeding) as the fastest growing segment of wildlife recreation, with 135 million participants age 16 years old or older accounting for \$14 billion in annual expenditures. The same survey estimated that 288,000 Alaskans participated in wildlife watching in 1985. Clearly, wildlife watching has become a significant and growing recreational pursuit in Alaska and across the nation.

Wildlife managers throughout the United States are being challenged by diverse and increasing demands for wildlife recreation while, concurrently, wildlife habitat is shrinking and becoming fragmented. Revenues to support management and conservation programs are also declining. In recognition of this dilemma and the burgeoning public interest in wildlife, state and federal wildlife agencies are embracing the national "Watchable Wildlife" initiative. The central focus of this initiative, which is endorsed by national conservation groups (including Defenders of Wildlife, Izaak Walton League, National Audubon Society, and National Wildlife Federation), federal land management agencies, and the International Association of Fish and Wildlife Agencies, is to promote and expand wildlife recreation and education. This, in turn, is expected to broaden public support and funding for the conservation of all wildlife species and their habitats.

Like our counterparts in Colorado, Montana, Oregon, and Wyoming, the Division of Wildlife Conservation recognizes the opportunity the "Watchable

Wildlife" initiative represents for enhancing wildlife recreation and conservation in Alaska. This should not be interpreted as abandoning our traditional hunting constituency, nor decreasing our efforts to provide for sustained yield of game resources. Rather, we are acknowledging an expanding public interest in wildlife conservation and management and we will begin broadening our programs to reflect that change. All wildlife users (including hunters, wildlife watchers, and tour operators) must recognize that the conservation of wildlife habitat is the common ground they share in their pursuit of wildlife opportunities throughout this remarkable state.

We have the opportunity in Alaska for developing a wildlife recreation and conservation program that could stand as a model for the world. There are few areas on earth that capture people's enthusiasm for experiencing wildlife and wildlands more than Alaska. Tourism has become a billion dollar industry in Alaska and our spectacular wildlife resources are one of the state's primary attractions. A brief glance at Alaska travel brochures lends credence to this point. Where else can you walk on an ocean beach and watch mountain goats, brown bears, bald eagles, and humpback whales; or hike a tundra ridge and observe caribou, Dall sheep, snowy owls, muskoxen, wolves, and hundreds of thousands of migratory birds? In east Africa where wildlife viewing and photography have become a major industry, they say, "If wildlife pays, wildlife stays!"

This issue of *Alaska's Wildlife* highlights some of the world's premiere viewing areas, explains how and when to find several of the most sought-after species, and how we manage for wildlife viewing. You will also learn more about the importance of wildlife to the tourism industry and its potential economic significance to the state.

Although Alaska has outstanding potential for wildlife watching, we are at an early stage in our development of these new programs. One of our new projects, in cooperation with other resource agen-



John V. Schoen

cies, will be a revision of the department's *Guide to Wildlife Viewing in Alaska* as part of a new national series. A key to successfully broadening the division's wildlife program will be finding new alternative funding sources. Currently, over 80 percent of our division budget comes from hunters through the sale of hunting licenses and excise taxes on firearms and ammunition.

Successful conservation of Alaska's unique wildlife heritage will require broad-based public support and interagency cooperation. We believe that expanding wildlife recreational and educational opportunities in Alaska will increase the public's enjoyment of their wildlife resources, promote long-term conservation, and benefit the Alaskan economy. We welcome your ideas and comments as we begin our new and exciting journey toward expanding wildlife management on the last frontier.

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