

HB

64

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 23, 1991

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 2/14/91

The RESOURCES Committee considered:

HB 64

HOUSE BILL NO. 64

INTERFERENCE WITH HUNTING/FISHING

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

RECOMMENDATIONS:

be replaced with CS HB 64 (Res) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the Judiciary Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note ADFDg + DPS

zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
	DAVIDSON <i>Cliff Davidson</i>		<input checked="" type="checkbox"/>	
	CARNEY <i>John J. Carney</i>		<input type="checkbox"/>	
<i>Armen A. Lemaw</i> LEMAN	FINKELSTEIN <i>David Finkelstein</i>			<input checked="" type="checkbox"/>
<i>Jim Zawacki</i> ZAWACKI	MOYER <i>Tom Moyer</i>		<input checked="" type="checkbox"/>	

Cliff Davidson
Chairman's Signature

BILL NO: HB 64

DATE: February 15, 1991

TITLE: An Act Relating to the
Obstruction or Hindrance of Lawful
Hunting, Fishing, or Trapping.

CONTACT: Gayle A. Horetski
Deputy Commissioner

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Passage of HB 64 would make it illegal to intentionally obstruct or hinder another person's lawful hunting, fishing, or trapping. The new offense is an "A" misdemeanor, which carries penalties of a fine of not more than \$5000 or imprisonment for not more than one year, or both. Civil remedies are also provided for a person who is aggrieved by illegal conduct while lawfully hunting, fishing, or trapping.

Passage of this bill will provide law enforcement agencies with statutory authority to investigate and file charges on persons who intentionally obstruct or hinder trappers, fishermen, and hunters. Existence of an effectively worded statute may keep affected parties from "taking the law into their own hands".

The Department of Public Safety recommends that the word "intentionally" be moved from the end of the line to before "obstruct" on page 1, Line 6. The Department also recommends deleting the language on page 1, Lines 10-11, and the definition of "tamper" on page 2, Line 4, as this offense is already covered under existing criminal mischief laws (see AS 11.46.482 - AS 11.46.486).

The language on page 2, Lines 9-10 is vague, and subject to differing interpretations. The Department recommends deleting this language and also the lead-in language from page 1, Line 5: "Except as provided in (e, of this section,". (Note: Interference with commercial fishing gear is already a crime under AS 16.10.055.)

The Department of Public Safety supports the concept of this bill, but recommends the changes noted above.



Richard L. Burton
Commissioner

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 64

Revision Date: 2/6/91

Department Affected: Fish and Game

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

BRU: Division of Wildlife Conservation

Component: Wildlife Conservation

Sponsor: Representative Taylor

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						
FEDERAL FUNDS						
OTHER						
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. Wilay

Phone: 465-4100

Division: Commissioner's Office

Date: 2/6/91

Approved by Commissioner: 

Agency: Fish and Game

Date: 2/6/91

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 64

Revision Date: _____ Department Affected: Public Safety
 Title: An Act relating to the obstruction or hindrance of lawful hunting . . . BRU: Fish & Wildlife Protection
 Sponsor: Representative Taylor, et.al. Component: Enforcement
 Requestor: House 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: 2-5-91
 Approved by Commissioner: Maude A. Howland for Richard L. Burton
 Agency: Department of Public Safety Date: 2/5/91

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

Not accepted

A M E N D M E N T

BY REPRESENTATIVE LINCOLN
TO: HB 64

Page 1, Line 5, following "(a) Except as provided in (e)"

Insert: "or (f) of this section, a person may not obstruct...."

Page 2, Line 11

Insert new language between (e) and (f) and reletter accordingly:

(f) "This section does not apply to activities undertaken on ANCSA corporation lands."

Failed

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE FINKELSTEIN

TO: HB 64

Page 1, line 1:

Delete "or trapping"

Insert "trapping, or viewing of fish or game"

Page 1, line 5:

Delete "OR TRAPPING"

Insert "TRAPPING, OR VIEWING OF FISH OR GAME"

Page 1, line 5, after "not":

Insert "intentionally"

Page 1, line 6:

Delete "or trapping by intentionally"

Insert "trapping, or viewing of fish or game by"

Page 1, line 7, after "taking":

Insert "or viewing"

Page 1, line 9, after "take":

Insert "or to view"

Page 1, line 10, after "taking":

Insert "or viewing"

Page 2, line 3:

Delete "or trapping"

Insert "trapping, or viewing"

Page 2, line 8:

Delete "or trapping"

Insert "trapping, or viewing of fish or game"

ATTACHMENT B

**Hunter Protection Legislation Being
Considered by the Connecticut State Legislature**

File No. 200

Substitute Senate Bill No. 269



Senate, April 2, 1990. The Committee on Judiciary reported through SEN. AVALLONE, 11th DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING HARASSMENT OF HUNTERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 53a-183a of the general statutes is
2 repealed and the following is substituted in lieu
3 thereof:

4 (a) No person shall [: (1) interfere with the
5 lawful taking of wildlife by another person, or
6 acts in preparation for such taking, with intent
7 to prevent such taking; or (2) harass another
8 person who is engaged in the lawful taking of
9 wildlife or acts in preparation for such taking]
10 OBSTRUCT OR INTERFERE WITH THE LAWFUL TAKING OF
11 WILDLIFE BY ANOTHER PERSON AT THE LOCATION WHERE
12 THE ACTIVITY IS TAKING PLACE WITH INTENT TO
13 PREVENT SUCH TAKING.

14 (b) A PERSON VIOLATES THIS SECTION WHEN HE
15 INTENTIONALLY OR KNOWINGLY:

16 (1) DRIVES OR DISTURBS WILDLIFE FOR THE
17 PURPOSE OF DISRUPTING THE LAWFUL TAKING OF
18 WILDLIFE WHERE ANOTHER PERSON IS ENGAGED IN THE
19 PROCESS OF LAWFULLY TAKING WILDLIFE;

20 (2) BLOCKS, IMPEDES OR OTHERWISE HARASSES
21 ANOTHER PERSON WHO IS ENGAGED IN THE PROCESS OF
22 LAWFULLY TAKING WILDLIFE;

23 (3) USES NATURAL OR ARTIFICIAL VISUAL, AURAL,

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File No. 200

24 OLFATORY OR PHYSICAL STIMULI TO AFFECT WILDLIFE
25 BEHAVIOR IN ORDER TO HINDER OR PREVENT THE LAWFUL
26 TAKING OF WILDLIFE;

27 (4) ERECTS BARRIERS WITH THE INTENT TO DENY
28 INGRESS OR EGRESS TO AREAS WHERE THE LAWFUL TAKING
29 OF WILDLIFE MAY OCCUR;

30 (5) INTERJECTS HIMSELF INTO THE LINE OF FIRE;

31 (6) AFFECTS THE CONDITION OR PLACEMENT OF
32 PERSONAL OR PUBLIC PROPERTY INTENDED FOR USE IN
33 THE LAWFUL TAKING OF WILDLIFE IN ORDER TO IMPAIR
34 ITS USEFULNESS OR PREVENT ITS USE; OR

35 (7) ENTERS OR REMAINS UPON PRIVATE LANDS
36 WITHOUT THE PERMISSION OF THE OWNER OR HIS AGENT,
37 WITH INTENT TO VIOLATE THIS SECTION.

38 [(b)] (c) Any person who violates any
39 provision of this section shall be guilty of a
40 class C misdemeanor.

41 STATEMENT OF LEGISLATIVE COMMISSIONERS: In
42 subdivision (5) of subsection (b), the word
43 "INTENTIONALLY" was deleted as redundant.

44 Committee Vote: Yea 20 Nay 3

File No. 200

3

* * * * *

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

* * * * *

FISCAL IMPACT STATEMENT - BILL NUMBER SSB 269

STATE IMPACT None, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Various State Agencies

EXPLANATION OF ESTIMATES:

STATE IMPACT: Passage of this bill would have no fiscal impact, as it simply redefines existing law.

* * * * *

OLR BILL ANALYSIS

SSB 269

AN ACT CONCERNING HARASSMENT OF HUNTERS

SUMMARY: This bill prohibits obstructing or interfering with someone who is legally hunting, fishing, trapping, or otherwise taking wildlife. To be illegal, the interference or obstruction must be intentional and must occur where the person is taking the wildlife. Neither the bill nor the penal code (Title 53a) define "taking" or "wildlife," but in the fish and game statutes (Title 26) "taking" is shooting, pursuing, hunting, killing, capturing, trapping, snaring, and netting; and "wildlife" includes all invertebrates, fish, amphibians, reptiles, birds, and mammals that are wild by nature.

The bill enumerates seven specific types of obstruction or interference that are prohibited and makes conviction for any of them a class C misdemeanor.

4

File No. 200

Finally, the bill repeals the existing statute regarding the harassment of hunters, trappers, and fishermen, which has been found unconstitutional.

EFFECTIVE DATE: October 1, 1990

FURTHER EXPLANATION

Prohibited Acts and Penalty

The bill prohibits:

1. driving or disturbing wildlife to intentionally disrupt someone who is taking;
2. blocking, impeding, or harassing someone who is taking;
3. using natural or artificial items to affect an animal's sense of sight, hearing, smell, or feeling to hinder or prevent taking;
4. erecting barriers to keep people in or out of taking areas;
5. moving into a hunter's line of fire;
6. affecting someone's property (such as a boat, duck blind, or hunting stand) in a way that limits or prevents its use in taking; and
7. being on private land without permission while intending to violate this law.

Conviction for any of the enumerated violations is a class C misdemeanor, punishable by imprisonment for up to three months, a fine of up to \$500, or both.

BACKGROUND

Court Case

In Francelle Dorman v. C. Robert Satti and Lester J. Forst, the U.S. District Court found Connecticut's harassment of hunters, trappers, and fishermen law unconstitutionally vague and overbroad (Feb. 1, 1988, Civil No. H-86-898). This decision was upheld by the

File No. 200

5

Second Circuit Court of Appeals (Dec. 7, 1988, Docket No. 88-7390). The statute (CGS Sec. 53a-183a, PA 85-351) made it a class C misdemeanor to intentionally try to stop another person from lawfully taking or preparing to take wildlife, or to harass such a person.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 20 Nay 3

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

No. 87

August Term, 1988

(Argued: September 28, 1988

Decided:)

Docket No. 88-7390

FRANCELLE DORMAN,

Plaintiff-Appellee,

-v.-

C. ROBERT SATTI and LESTER J. FORST,

Defendants-Appellants.

BEFORE:

OAKES, MINER, and ALTIMARI,

Circuit Judges.

Appeal from a judgment granting plaintiff-appellee's motion for summary judgment entered in the United States District Court for the District of Connecticut (Alan H. Nevas, Judge) declaring the Connecticut Hunter Harassment Act, Conn. Gen. Stat. § 53a-183a, unconstitutional on its face under the first and fourteenth amendments to the United States Constitution.

Affirmed.

Judge Miner dissents in a separate opinion.

KATHLEEN ELDERGILL, Manchester, Connecticut
(Beck & Eldergill, Manchester,
Connecticut, of counsel), for Plaintiff-
Appellee.

HARRY WELLER, Deputy Assistant State's Attorney, Wallingford, Connecticut (Joseph I. Lieberman, Attorney General, State of Connecticut, L.D. McCallum, Assistant Attorney General, Office of the Chief State's Attorney, Wallingford, Connecticut, of counsel), for Defendants-Appellants.

ALTIMARI, Circuit Judge:

In 1985, the Connecticut legislature enacted, as part of the state's penal code, the Hunter Harassment Act which provides as follows:

No person shall: (1) interfere with the lawful taking of wildlife by another person, or acts in preparation for such taking, with intent to prevent such taking; or (2) harass another person who is engaged in the lawful taking of wildlife or acts in preparation for such taking.

Conn. Gen. Stat. § 53a-183a (emphasis added). The Act, a class C misdemeanor, subjects the offender to a fine and/or imprisonment for up to three months. Id. §§ 53a-28; 53a-36(3).

On this appeal from the United States District Court for the District of Connecticut (Nevas, J.), we are asked to decide 1) as a preliminary matter, whether we should certify the statutory terms "interfere," "harass," and "acts in preparation" to the Connecticut Supreme Court for definitive interpretation under state law, and 2) assuming instead that we reach the merits, whether the district court properly determined that the Act, on its face, is unconstitutionally

vague and overbroad under the freedom of speech clause of the first amendment. For the reasons that follow, we deny defendants-appellants' motion to certify questions of state law to the Connecticut Supreme Court and affirm the judgment of the district court granting plaintiff-appellee's motion for summary judgment declaring the Act unconstitutional on its face.

BACKGROUND

On January 30, 1986, plaintiff-appellee Francelle Dorman, a resident of Niantic, Connecticut, was arrested during the goosehunting season for speaking to several hunters on state forest property located near her home. The adjoining state lands contain marshland inhabited by a variety of waterfowl. Plaintiff is morally opposed to the hunting and killing of animals, and consequently on the day of her arrest, she approached several hunters in the marsh and attempted to dissuade them from their plans to hunt the waterfowl. By her own admission, Dorman "walked with the hunters ..., [and] spoke to them about the violence and cruelty of hunting, of the beauty of the waterfowl and [of] their right to live peacefully and without harm." The hunters regarded her behavior as "antics," advised plaintiff that her actions were unlawful, and when she refused to leave, summoned a state law enforcement officer who arrested her for violating the Hunter Harassment Act, Conn. Gen. Stat. § 53a-183a (the "Act").

Following her arrest, the state prosecutor requested that the court dismiss the criminal charges, apparently conceding that the arrest of Dorman had been premature since she had only been "talking about what she was going to do to interfere with hunting geese." On April 22, 1986, the court granted the state's request and dismissed the criminal charges.

Four months later, Dorman filed the instant action in the district court under 42 U.S.C. § 1983 against defendants-appellants C. Robert Satti, chief prosecutor, and Lester J. Forst, the Commissioner of Public Safety. Plaintiff alleged, inter alia, that the actual arrest and the threat of future enforcement of the Act violated her rights under the first and fourteenth amendments, and she sought a judgment declaring the Act facially invalid and injunctive relief prohibiting the Act's enforcement. On cross-motions for summary judgment, the district court granted plaintiff's motion, holding as a matter of law that the Act, as written, is unconstitutionally vague and overbroad. Dorman v. Satti, 678 F. Supp. 375 (D. Conn. 1988). In May 1988, defendants filed a timely notice of appeal on the merits as well as a motion in this court under Second Circuit rule § 0.27 seeking certification to the Connecticut Supreme Court of the statutory terms "interfere," "harass," and "acts in preparation."

DISCUSSION

I. Certification.

Second Circuit rule 0.27 provides that certification to the highest court of a state is appropriate 1) "[w]here authorized by state law" and 2) in order to resolve an "unsettled and significant question of state law that will control the outcome of a case pending before this Court." The Connecticut certification statute adopted in 1985 provides, inter alia, that a "court of appeals of the United States" may certify "questions of law ... which may be determinative of the cause then pending ... and as to which it appears to the certifying court there is no controlling precedent in the decisions of the supreme court of th[e] state." Conn. Gen. Stat. § 51-199a(b).

The United States Supreme Court has encouraged the use of state certification procedures as an alternative to "the more cumbersome and ... problematic abstention doctrine." See Virginia v. American Booksellers Ass'n, Inc., 108 S. Ct. 636, 644 (1988). The purpose of certification is to obtain the benefit of an authoritative construction from the state's highest court before proceeding to the merits of the dispute. This may further the interests of federal/state comity by providing the state court with the opportunity to rule on an issue of state law before being precluded from doing so by a contrary federal court judgment. The state court's interest in accepting a certified question for

susceptible" to limiting interpretation. The district court found that the statute was "not susceptible to curative construction." 678 F. Supp. at 384. Although we are not bound by the district court's ruling, Boos v. Barry, 108 S. Ct. 1157, 1162-63 (1988); American Booksellers, 108 S. Ct. at 643-44; Elkins v. Moreno, 435 U.S. 647, 662 n.16 (1978), we agree with its determination. As Judge Nevas noted,

[t]he lesson of Williams does not apply to the Hunter Harassment Act. First, because the Act fails to define the nature of the interference it proscribes, its language implicitly sweeps as broadly as that of the Houston ordinance, and it thus cannot be saved by a limiting construction as was Section 53a-167a. Second, in failing -- by virtue of its "acts in preparation" clause -- to limit the proscribed interference as to time and place, the Act carries its effect far beyond the proper scope of government regulation.

678 F. Supp. at 381-82.

Defendants cite language from American Booksellers to suggest that certification is appropriate whenever a state's highest court has not had an opportunity to rule on the pertinent statutory language. 108 S. Ct. at 645. While we agree that American Booksellers counsels in favor of expanded use of state certification procedures, we do not believe that it stands for the proposition that certification should be pursued whenever available. Cf. Houston v. Hill, 107 S. Ct. at 2514; Kidney, 808 F.2d at 957.

The Supreme Court's willingness in American Booksellers to certify the proffered narrowing construction was a consequence of its decision to certify another question to the Virginia Supreme Court. Consequently, the Supreme Court found it unnecessary to decide whether the Virginia statute was subject to curative construction. The Court did not do away with the rule that certification is appropriate only when the statute is susceptible to a narrowing construction that will avoid the constitutional infirmity. See Bellotti, 428 U.S. at 148.

In sum, although the Supreme Court has required certification in cases where the state court could decide between two plausible interpretations of an ambiguous statute, e.g., American Booksellers, 108 S. Ct. at 644; Bellotti, 428 U.S. at 144-48, and the parties in this case do offer conflicting interpretations of key terms in the Act, the Connecticut court would be in no better position than a federal court to decide which interpretation is correct. This is because, unlike the "unusual circumstances" presented in American Booksellers as well as in Bellotti, the statute in this case is so imprecise and indefinite that it is subject to any number of interpretations. The terms "interfere," "harass," and "acts in preparation" do not admit of distinct limiting constructions. They can mean anything. For this court to ask the Connecticut Supreme Court to consider construing the

statute to apply only to "core criminal conduct," as defendants would have it, would be tantamount to asking the Connecticut court "if it would care in effect to rewrite [the] statute." Houston v. Hill, 107 S. Ct. at 2515.

In view of the foregoing, we deny defendants' motion to certify questions of state law to the Connecticut Supreme Court.

II. The Merits.

When considering a facial challenge to the overbreadth and vagueness of a statute as measured against the first amendment, "a court's first task is to determine whether the enactment reaches a substantial amount of constitutionally protected conduct." Hoffman Estates v. Flipside, Hoffman Estates, Inc., 455 U.S. 489, 494 (1982). An act's overbreadth "must not only be real, but substantial as well, judged in relation to the statute's plainly legitimate sweep." Broadrick, 413 U.S. at 615. The purported vagueness must be such that the statute is incapable of "giv[ing] the person of ordinary intelligence a reasonable opportunity to know what is prohibited" by failing to provide "explicit standards" ensuring that it is not arbitrarily enforced. Grayned v. City of Rockford, 408 U.S. 104, 108 (1972). Defendants argue that the statutory terms the district court found overbroad and vague "can and should be read in a manner consistent with the First Amendment." Appellants' Brief at ... Plaintiff contends that because the

Hunter Harassment Act does not define what constitutes interference or harassment and because the "acts in preparation" clause is not limited to any time, place or circumstance, the Act on its face impermissibly regulates protected free speech.

Plaintiff's facial attack on the constitutionality of the Act must be considered in light of the scope of the challenged government regulation. The Supreme Court has determined that statutory language prohibiting acts such as interference or harassment encompasses verbal as well as physical conduct. Houston v. Hill, 107 S. Ct. at 2511-12. Like the city ordinance struck down in Hill, the statute at issue here "deals not with core criminal conduct, but with speech." Id. at 2508. Consequently, the right of the government to prohibit such communicative expression is circumscribed by the first amendment. See Perry Educ. Ass'n v. Perry Local Educ. Ass'n, 460 U.S. 37, 45 (1983). "For the State to enforce a content-based exclusion it must show that its regulation is necessary to serve a compelling state interest and that it is narrowly drawn to achieve that end. The State may also enforce regulations of the time, place, and manner of expression which are content-neutral, are narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication." Id. (citations omitted).

Although the Act would appear by its terms to be content-neutral, cf. Boos v. Barry, 108 S. Ct. at 1162-64 (District of Columbia statute that prohibits display of picket signs critical of foreign government within 500 feet of that country's embassy is a content-based restriction), it clearly is designed to protect hunters from conduct -- whether verbal or otherwise -- by those opposed to hunting. See 678 F. Supp. at 377 & n.2; cf. Renton v. Playtime Theatres, Inc., 475 U.S. 41, 46-48 (1986) (content-neutral statute is one not aimed principally at suppression of speech on the basis of its content). Of course, to the extent that the Hunter Harassment Act can be considered content-based, it cannot withstand strict scrutiny. There is no showing that protecting hunters from harassment constitutes a compelling state interest. Cf. Boos, 108 S. Ct. at 1164 (first amendment protects "insulting, and even outrageous, speech in order to provide 'adequate "breathing space"' for exercise of right of free expression) (quoting Hustler Magazine, Inc. v. Falwell, 108 S. Ct. 876, 882 (1988); NAACP v. Button, 371 U.S. 415, 433 (1963)). Nor is the statute narrowly drawn to serve any putative compelling state interest. Indeed, the Act "criminalizes a substantial amount of constitutionally protected speech." Houston v. Hill, 107 S. Ct. at 2512.

Taking the statutory terms "interfere," "harass," and "acts in preparation" at face value, even as content-neutral

restrictions they cannot be justified as reasonable time, place or manner regulations of speech. See Frisby v. Schultz, 108 S. Ct. 2495, 2500-01 (1988); see also Clark v. Community for Creative Non-Violence, 468 U.S. 288, 293 (1984); Cox v. New Hampshire, 312 U.S. 569, 575-76 (1941). An "act[] in preparation" is nowhere defined in the statute, and thus the Act reaches a wide range of activities confined to no particular time, place or manner. Cf. State v. Williams, 534 A.2d at 238 (upholding state statute proscribing interference with police officer in the performance of his duties). As the district court recognized,

the "acts in preparation" clause can be reasonably read to encompass buying supplies long before the actual hunt takes place ...; consulting a road map ...; making plans during a workplace coffee break; or even getting a good night's sleep before embarking on a hunting trip.

678 F. Supp. at 383. Accordingly, the Hunter Harassment Act is not the type of properly tailored statute, Houston v. Hill, 107 S. Ct. at 2511, that can be interpreted narrowly to avoid constitutional infirmity. Cf. Frisby, 108 S. Ct. at 2501.

CONCLUSION

Because we agree with Judge Nevas that Connecticut's Hunter Harassment Act is not subject to curative construction and as written is substantially overbroad and vague, defendants' motion to certify questions of state law

to the Connecticut Supreme Court is denied, and the judgment of the district court declaring the Act unconstitutional on its face is affirmed.

Dorman v. Batti, No. 88-7390

MINER, Circuit Judge, dissenting:

1
2 Because I believe that we should, if possible, have the
3 benefit of the Connecticut Supreme Court's construction of the
4 statute at issue before we pass on the merits of plaintiff's
5 claim that the legislation does not measure up to federal
6 constitutional requirements, I respectfully dissent.

7 The Hunter Harassment Act, duly enacted by the legislature
8 and approved by the Governor of the State of Connecticut,
9 prohibits interference with and harassment of those engaged in
10 lawfully taking, or preparing to take, wildlife. The majority
11 concludes that the words "interfere," "harass," and "acts in
12 preparation" contained in the Act are not readily susceptible to
13 the limiting construction necessary to preserve the
14 constitutionality of the statute. I think that this
15 determination is unwarranted.

16 The word "interfere" in a statute imposing a criminal
17 penalty for interfering with a police officer easily yielded to
18 an interpretation by the Connecticut Supreme Court that preserved
19 the constitutionality of the statute. State v. Williams, 205
20 Conn. 456, 534 A.2d 230 (1987). The court in Williams confined
21 the prohibited conduct "to meddling in or hampering the
22 activities of the police in the performance of their duties."
23 534 A.2d at 238. A similar interpretation of the Hunter
24 Harassment Act, substituting hunting activities for police
25 duties, could save the Act from overbreadth and vagueness
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concerns. I cannot agree with the district court that the Act sweeps as broadly as the ordinance struck down in Houston v. Hill, 107 S. Ct. 2502 (1987). The prohibition on interrupting a police officer in any manner in the Houston ordinance left no room for any construction that would have saved the ordinance without rewriting it.

Similarly, "harassment" has been afforded a restrictive definition under Connecticut law. A statute prohibiting harassment by written and telephonic communications requires evidence of an intention to annoy or alarm another person. Conn. Gen. Stat. § 53a-183 (1987). New York has a similar statute, which is entitled "Aggravated harassment." N.Y. Penal Law § 240.30 (McKinney Supp. 1988). Indeed, the offense of harassment is described by reference to specific conduct in various penal codes. See, e.g., N.Y. Penal Law § 240.25(1)-(5) (McKinney 1980); see also id. Practice Commentary following (referring to American Law Institute's Model Penal Code). There is therefore no reason why the Connecticut Supreme Court could not define harassment in the context of the Hunter Harassment Act without impinging on first amendment rights.

As to the term "acts in preparation," a narrowing construction might restrict the preparatory acts to those directly, unequivocally and immediately related to the act of taking wildlife. Here again, a construction considerate of first amendment rights could save the statute. Moreover, the Hunter



NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
1800 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20036

TELECOPIER TRANSMITTAL SHEET

TO: Mr. Glen Gray

FROM: Jim Warner

DATE: April 9, 1990 TIME: 1:45

NUMBER OF PAGES FOLLOWING THIS PAGE: 18

IF THERE IS A PROBLEM WITH THIS TRANSMITTAL, PLEASE CALL:

(202) 828-6301

Please call upon receipt of
this fax. Thank you.

Jim Warner

1 Harassment Act is subject to pruning by the Connecticut Supreme
2 Court of any parts found to be contrary to law. The Connecticut
3 severability statute allows for the excision of invalid portions
4 of the Act without effect on the valid remainder. Conn. Gen.
5 Stat. § 1-3 (1987); State v. Goline, 201 Conn. 435, 518 A.2d 57
6 (1986).

7 In Bellotti v. Baird, 428 U.S. 132 (1976), the United States
8 Supreme Court directed certification to the Supreme Judicial
9 Court of Massachusetts of "questions pertaining to construction
10 of a state statute that was susceptible to multiple
11 interpretations, one of which would avoid or substantially modify
12 a federal constitutional challenge," Virginia v. American
13 Booksellers Ass'n., 108 S. Ct. 636, 644 (1988). Similarly, a
14 constitutional infirmity in the Act challenged here might be
15 avoided by a decision of the Connecticut Supreme Court. If the
16 term "harmful to juveniles," as defined in a Virginia statute
17 prohibiting the display of certain visual or written materials,
18 is considered subject to a narrowing construction by the Virginia
19 Supreme Court after certification, American Booksellers, supra,
20 then the objectionable terms in the Connecticut Hunter Harassment
21 Act certainly should be capable of the sort of limiting
22 construction that would meet constitutional challenges.

23 I would certify to the Connecticut Supreme Court questions
24 as to the state law definitions of "interfere," "harass," and
25 "acts in preparation" as used in the Hunter Harassment Act,
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before proceeding to a consideration of the merits of plaintiff's claim. I also would certify a question as to whether the Connecticut Supreme Court would excise any portion of the Act on state law grounds.

review is particularly strong when it has not yet had the opportunity to interpret the pertinent statutory language. Id. at 645. Nevertheless, issues of state law "are not to be routinely certified to the highest courts of New York or Connecticut simply because a certification procedure is available. The procedure must not be a device for shifting the burdens of this Court to those whose burdens are at least as great." Kidney v. Kolmar Laboratories, Inc., 808 F.2d 955, 957 (2d Cir. 1987).

The test for determining the appropriateness of employing the certification procedure is whether the statute in question is "readily susceptible" to the proffered narrowing construction that would render an otherwise unconstitutional statute constitutional. See American Booksellers, 108 S. Ct. at 645; Bellotti v. Baird, 428 U.S. 132, 148 (1976); Erznoznik v. City of Jacksonville, 422 U.S. 205, 216 (1975); Broadrick v. Oklahoma, 413 U.S. 601, 613 (1973). In attempting to satisfy the "readily susceptible" standard, defendants in the instant case rely by analogy on the Connecticut Supreme Court's recent consideration of vagueness and overbreadth challenges to the state's criminal interference with a police officer statute, Conn. Gen. Stat. § 53a-167a. See State v. Williams, 205 Conn. 456, 534 A.2d 230 (1987). That statute provides that it is unlawful to "interfer[e]," i.e., to "obstruct[], resist[], hinder[] or endanger[]," a police officer "in the performance of his

duties." In Williams, the Connecticut Supreme Court held that the statute was not unconstitutionally overbroad or vague because the act defines the term "interfer[e]" and limits its reach to conduct "intended to obstruct the police in the performance of their duties." Id. at 238. According to the Williams court, "a reasonable interpretation of the statute confines its scope to conduct that amounts to meddling in or hampering the activities of the police in the performance of their duties." Id. The court distinguished the Connecticut statute from the ordinance struck down by the United States Supreme Court in Houston v. Hill, 107 S. Ct. 2502 (1987), which prohibited interfering with a police officer "'in any manner ... in the execution of his duty,'" 107 S. Ct. at 2506 (emphasis added), by finding that the Connecticut statute did not contain such a "broad sweep" of language. 534 A.2d at 238.

In construing the Connecticut statute to proscribe only physical conduct and "fighting" words, Chaplinsky v. New Hampshire, 315 U.S. 568, 572 (1942), the court in Williams was able to fit the statute within the constitutional parameters of free speech. Defendant contends that the Connecticut Supreme Court should be given a similar opportunity to narrowly construe the Hunter Harassment Act. We disagree.

For this court to certify a question to the Connecticut Supreme Court, the Hunter Harassment Act must be "readily

**THE FOLLOWING PAGES
WERE TREATED AS A UNIT
IN THE ORIGINAL FILE**

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

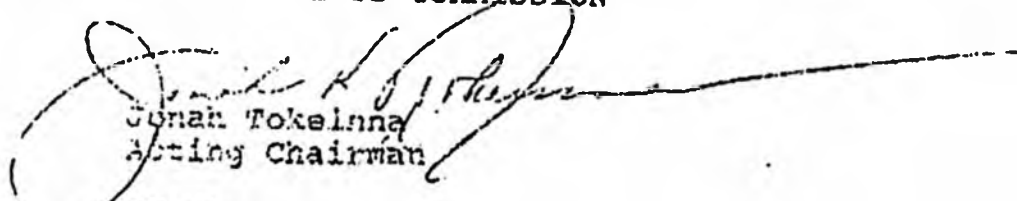
Dear Senator Frank:

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

We believe that adopting this Senate Bill would not
askings on those people that have a legitimate right to hunt,
trap and fish.

Sincerely,

ESKIMO WALRUS COMMISSION


Jonah Tokelina
Acting Chairman

JK:ct

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.



Photos by David Hardenbergh

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.





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



ALASKA OUTDOOR COUNCIL, INC.

ALASKA OUTDOOR COUNCIL, INC.
1000 W. 10th Ave., Suite 100
Juneau, Alaska 99803

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 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



or Yellowstone Elk

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Howard Lee Fox III

a \$3.5 million Congressional appropriation, a \$2 million commitment from the state of Montana, and a \$300,000 challenge grant from the National Fish and Wildlife Foundation.

The acquisition was part of a cooperative effort that aims at providing sufficient forage while minimizing landowner conflicts, and according to RMEF executive director Bob Munson, the North Yellowstone project is 70 percent complete. Also, lands acquired in the project will provide new recreation and access opportunities under the stewardship of the U.S. Forest Service.

\$0,000 of the new region maps to those who applied in 1989. Any nonresident interested in obtaining a 1990 deer ap-

* Hunters React With Restraint

In the face of increasing anti-hunting activity around the country—including incidences where lawful hunts were disrupted by so-called "animal rights" protesters—NRA has received reports that the involved hunters have handled themselves with admirable restraint and patience. In many cases the anti-hunting zealots were breaking the law, yet they got exactly what they were hoping for—publicity in local media. Meanwhile, the behavior and good citizenship of the affected hunters has mostly been ignored by the press.

NRA congratulates American hunters for the way they have handled this violation of their traditional sport, and reminds that such confrontations will likely continue, particularly on public land and opening days and even more so during special, permit-type hunts. With that in mind, NRA makes the following suggestions to sportsmen who find themselves in these situations:

1. Remember that your behavior, either right or wrong, will represent all 18.5 million hunters.
2. Do not attempt to convert anti-

hunters or discuss reason or logic, which will be a waste of time.

3. Keep cool, ignore derogatory comments, and try to distance yourself.

4. Find out if your state is one of the 37 that has a hunter harassment law.

5. If you are unable to get away from the protestors, find a way to contact law enforcement authorities.

6. Remember that law enforcement officers must protect constitutional rights and enforce the laws equally for both hunters and anti-hunters.

7. Remember that your commitment to hunting is stronger than their opposition. There is always another day and place during the season.



Neil Bolton

Virus Hits Some Arizona Javelinas

Hunters heading to Arizona for the upcoming javelina seasons should be aware of an apparent disease outbreak among the desert pigs in a small area south and west of Tucson. According to Ray Lee, big game supervisor for the game and fish department, preliminary examinations of collected animals point to an affliction of the paramyxo virus family, related to canine distemper in dogs and mumps or measles in humans.

Lee warns that sick or dead animals



Howard Lee Fox III

should be left alone and especially should not be handled by persons with open cuts or sores on their hands. Javelinas in poor condition or those that appear dazed or unable to walk properly should be avoided. Hunters should note, however, that the meat of javelina infected with the virus can be safely consumed only if it is cooked thoroughly.

Iowa Studies Ringneck Decline

A research project is underway in northern Iowa to look into declining pheasant numbers in areas where row-crop agriculture predominates. The department of natural resources study will monitor pheasant survival during winter and spring, nesting success, and chick survival over the summer.

Three areas have been targeted for the project. Two of them, one in Kossuth

Restoring Lynx To New York

A cooperative effort between New York and Vermont is restoring lynx in the 1880s. Since then, lynx sightings in the

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The Force Behind 'Friends of Animals'

Alice Herrington Raises the Hackles of Sportsmen in Her War on Hunting

By E. J. NILSSON
Ort Staff Writer

Whether Alice Herrington is right or wrong, he is anything but a bore. As founder and president of Friends of Animals (FOA), Herrington arouses strong feelings among sportsmen and others in her crusade against hunting.

Herrington, who lives with eight cats in Little Silver, N.J., founded FOA in 1957 to try to reduce the numbers of stray dogs and cats. And that is still the major purpose of the organization, she said.

But the group's chief claim to fame is Herrington's verbal bouts with hunters and trappers.

"To call this a sport is just pure nonsense," she said about hunting. "It's a real cruelty. It can't be justified."

IN HERRINGTON'S view, the only people worse than hunters are trappers.

"Deer hunters are not nearly as bad as trappers," she said. "I can't imagine how hunters, who pride themselves on fine shooting, ally themselves with trappers, who practice sadism. Deer hunters are due a little credit for at least the speed of their kill."

Despite the fireworks that FOA ignites with its "full program of hunting and trapping disruption," Herrington wants to convince the public that there "are two cruelties."

Besides the killing of "free animals, which are called wildlife," she explained, she's concerned about man's treatment of all domesticated animals—including pets and livestock.

"It's an American syndrome to love kittens and puppies but then throw out dogs and cats," she said, adding that millions of dogs are killed "in American municipal dog pounds, but they were loved as puppies."

In 1970, Herrington organized low-cost spaying programs for 20,000 animals. By 1980, the number had risen to 80,000.

Last September in Neptune, N.J., she opened a low-cost spaying clinic, said to be "a model of its kind with room for 80 animals and two veterinarians." Across the nation, her group pays for part of the cost of spaying in cooperation with 750 participating veterinarians.

ONE OF the prime targets of Herrington and the FOA is the food business.

"Cruelty to animals is practiced on a larger scale by the food industry than by any other single sector of human activity," an FOA publication asserts.

And Herrington adds:

"If people want to support an industry that is destroying the land, then they can continue to eat these creatures. But if not they can eat vegetables."

Other institutions also are criticized by

FOA, including zoos.

"Zoos must be phased out," said an FOA publication.

Herrington's concern for animals was heightened when she returned to the United States in 1954. Working as a War Department statistician, she had seen relatively few animals running loose in Europe.

In the United States, she said, "I was shocked to find stray animals everywhere."

HERRINGTON, a graduate of the University of Wisconsin in Madison, put her statistical talents to work calculating the rate of increase of dogs and cats. She said she realized that cutting the prolific birthrate was the only long-range solution.

This realization led to the founding of FOA, which worked with volunteers until 1967. Now the group has 12 full-time employees.

Herrington was asked whether she would advise FOA members to take traps that were legally set.

"Yes! Why not? Certainly," she said.

But wouldn't the "solution" be stealing?

"You could say that it's stealing if you like," she replied, "but the Robin Hood approach to life is still a very nice way to go."



Alice Herrington

To All Concerned
OUT
3/25/81
CM

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 Patricia 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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10,000 years. But what we're saying is that the relationship between man and animals has changed dramatically. These hunters are an extension of the Detroit urban-industrial ecosystem. They have no place in Spatsizi. In a park set aside for protecting these animals, we must stop thinking of them as a natural resource and think of them as a national treasure."

Moore's disclaimer notwithstanding, Greenpeace's program would effectively end hunting. It would totally rule out all trophy hunting, even under the rigidly controlled conditions prevailing in Spatsizi. It would prohibit hunting by all outsiders, insisting that only food hunters "that are part of the (local) environment be permitted to hunt." It would, in short, permit only subsistence hunting, and then only if the cessation of hunting would "dramatically affect" the life-style of the hunter, and only if subsistence hunting remained in "balance" with the environment.

Moore repeatedly insisted that the hunters who were assailed by the Greenpeace activists at Spatsizi were unthinking trophy freaks who habitually left the meat of their animals to spoil after removing horns, antlers, and capes. All three hunters heatedly denied the charge, noting that they had painstakingly packed all usable meat back to camp, either for shipment home or for use by the outfitter's crew. The outfitters con-

firmed this. In fact, British Columbia law requires that the meat of game animals be removed and used for food, and in its exhaustive investigation of the incidents, the provincial game department found no violations of the law by the hunters.

For the record, Moore denies any of the Greenpeace activists at Spatsizi committed assault by grabbing anyone's arm. He denies that Mielke's rifle was pushed, but he insists that either Mielke or his companion shoved one of the Greenpeace activists into the icy waters of

"They're crazy—I'm afraid of them," Gary Zechel's wife said. She spent the final days of the hunt in her tent.

Bug Lake. He concedes that they tried to block progress of the hunters' horses, but denies any member of his group seized them by the bridles. "They ran their horses at us," he insisted.

"Our intention is to be there again this year. We intend to shut down trophy hunting in Spatsizi to show that it can be done. They say we are interfering

with them. We deny that. We're competing, as is our right, and they can't stop us."

Perhaps more philosophical than many hunters would be, Richard Mielke warns future hunters of Spatsizi that the Greenpeace anti-hunters "are trying to provoke you into taking a poke at them. And that's the last thing anyone should do. It's exactly what they want."

Unfortunately, however, it isn't the last thing that's likely to happen—unless British Columbia takes a page from Newfoundland's book and contrives a way to keep the Greenpeace people away from the hunters. There are some indications B.C. officialdom, perhaps belatedly, is now working hard to find a way to end the harassment of hunters. In reply to a letter of complaint from Mielke, B.C. Minister of Environment Stephen Rogers wrote:

"I wish to extend my personal apologies for the harassment you suffered (and) I also want to congratulate you and your hunting partner for the restraint you both showed under trying circumstances. The hunters in Spatsizi by their good behavior, as opposed to the conduct of Greenpeace, gained in general public stature while Greenpeace suffered.

"We are working with the Parks Branch to see what can be done to prevent situations such as you experienced from recurring."



**OUTDOOR
LIFE**



WAR IN THE WOODS

nics can be won when Zechel says, "One of those guys had an ice ax he kept waving in my face. I felt more fear than I have felt in a long time."

Zechel's wife seems to have been singled out for particular attention by the Greenpeaceers.

"They ran raving and yelling at her," he reported. "It was like a riot. They came within five or ten feet of her."

Exercising what can only be described as saintly restraint, the Zechels and their guide did their best to ignore the anti-hunters.

"This drove them into a frenzy," Zechel said. "They acted nearly hysterical, obviously looking to cause some action or incident." Not surprisingly, the Greenpeace tactics finally wore down Jo-Carole's emotional reserves. "She was terrified and finally broke down crying and screaming for them to leave us alone. They refused and she ran into the tent, sobbing. 'They're crazy—I'm afraid of them.' She spent the final days of the hunt in her tent."

When the Zechels broke camp and returned to Smithers, he filed an assault charge against the Greenpeace anti-hunters. Although technically the charge is still pending, it has been "stayed" and provincial authorities made it clear they have no plans to prosecute it.

Ralph Aldrich, chief conservation officer of the British Columbia fish and wildlife agency, undertook to explain why.

"From an enforcement point of view we can only follow the law," he said in an interview. "There is no law against yelling. It's just like picketing. Of course, if they threaten assault and take some overt action, that may be assault."

Is it illegal to impede hunters' horses? Aldrich's reply was something less than definitive. "It depends," he said. Thereupon he passed the buck to Peter Ewart, crown counsel (prosecuting attorney) for the Spatsizi district. From Prince George, B.C., Ewart indicated that, while still open, the charges laid by Gary Zechel against the Greenpeaceers would likely never be prosecuted.

"We took a look at the evidence and the probable outcome of a trial and put a 'stay' on the case," Ewart said. But then, plainly choosing his words carefully, Ewart laid out what may be provincial officials' plan to end the threat to one of British Columbia's prime industries. "I would have been much happier," he said, "if the charge had been intimidation instead of assault." British Columbia, he said, has a statute making it illegal to "impede or attempt to impede any person from carrying out

a lawful activity" by threats, harassment, or coercion.

"What he says is a crock," bluntly charged Ray Collingwood, whose firm outfitted both the Zechel and Mielke-Hasting parties. "They didn't prosecute because of the expense of getting witnesses back up here to testify. I've lost all respect for the government."

Collingwood revealed what apparently is not known by provincial authorities—real violence has already broken out.

"One of these, [Greenpeace] guys tried to stop one of our pilots from taking off from an airstrip we maintain in the park," he told *OUTDOOR LIFE*. "He grabbed a wing strut of the Beaver and tried to force our pilot to abort his take-off. The plane got off anyway and later the pilot returned, landed the aircraft, and punched the guy out. He knocked him down and slapped him around some. He just hung a little licking on him."

Despite the degree of restraint exercised by Mielke, Hastings and Zechel, provincial authorities are acutely aware of the potential for violence. Like the hunters themselves, provincial officials see the tactics of Greenpeace as calculated provocations designed to spark violent reaction. All agree that would be counterproductive and, as one put it, "would give Greenpeace 'proof' that all hunters are thugs and violence-prone killers." Chief conservation officer Aldrich pointedly noted that there will be combined Royal Canadian Mounted Police and game department patrols in Spatsizi during the 1981 season.

Greenpeace's Moore airily dismissed the prospect of being prosecuted under the intimidation statute.

"The attorney general (of British Columbia) hired a man last summer especially to research the question," he said. "He concluded there was no law that could stop us. Our activities are as legal as the hunters'. All we're doing is occupying nonconsumptive space, competing for resources with the hunters. They can't say we're interfering with their rights. Those [game] animals don't belong to anyone until they're actually taken into possession."

It is clear that Patrick Moore is the architect, principal voice, and presiding genius of Greenpeace. He conceived and created the organization while a graduate student at the University of British Columbia (he is now a doctor of ecology) five years ago. His title is Canadian director of Greenpeace International, but plainly his sway extends to the worldwide branches of the organization. He is one of 12 salaried, full-time employees of Canadian Greenpeace, and he is paid \$1,200 a month. There are offices in Vancouver,

"We intend to shut down trophy hunting in Spatsizi to show that it can be done."

Victoria, Toronto, and Montreal, as well as branches in the United States, the United Kingdom, the Netherlands, France, New Zealand, and Australia. A Greenpeace "secretariat" in Washington coordinates the activities of the international branches, and it has an annual budget of \$120,000.

"Our forte," Moore said in an interview, "is organizing expeditions into remote areas in order to confront in a nonviolent manner acts that we consider environmentally detrimental. Our funding is entirely private—donations from individuals that are generally less than \$50. We have no foundation or government grants. Our methods are too controversial to attract money from conservative quarters."

Greenpeace's first confrontation took place when Moore and others chartered an 85-foot vessel and sailed to the Aleutian island of Amchitka in an attempt to halt the testing of nuclear bombs. "We lost that battle but we won the war," he said. "They've stopped testing now and Amchitka is a wildlife preserve."

Later Greenpeace made expeditions to the South Seas in an attempt to stop nuclear testing by France (they failed), and they have conducted offensives against whalers and seal hunters.

"But we cut our teeth on nuclear testing," Moore said. "From it we learned how to deal with the media and how to understand international politics. We're fortunate in having people who understand the media—that's how you communicate with people in the modern world, knowing what sort of images appeal to the media."

Although Canadian authorities are tippy-toeing around the Greenpeace campaign of intimidation in Spatsizi, the government ended similar tactics that were attempted against commercial hunters of harp seals in Newfoundland.

"They enacted what they called 'sea protection regulations'," Moore said, "just to keep us out. It's ironic, and very undemocratic."

Moore insists that ending all hunting is not his goal. "Hunting can be part of a harmonious relationship with nature," he said. "Indian bowhunters lived in a balanced state with nature for

couldn't even go to the john without one of them sticking a camera in. It's hard to keep your cool under those circumstances, yet I couldn't give them the satisfaction of bothering me."

Although the Greenpeacers scornfully characterize hunters such as Mielke and Hastings as "jet-set headhunters," both are men of modest means.

"I scrimped and saved and worked at odd jobs for two years to get the money for that hunt," Mielke said. "By the time I'd paid air fares, outfitters' fees, and license and trophy fees it cost me around \$10,000."

Hastings put the cost of his hunt at near \$12,500, and noted it would be a long time, if ever, before he could afford another hunt of that magnitude.

Both hunters report that attempts to reason with the anti-hunters were futile.

"We were after Stone sheep, principally," Hastings said. "But they kept alluding to them as 'bighorns.' I told one of them, 'You're such a phony; you don't even know what species you're talking about.'"

Both men got trophy sheep as well as other trophy specimens, but the Greenpeace activists succeeded in blighting what would otherwise have been an idyllic hunt.

"There were several days when I didn't hunt because of them," Hastings said.

Complaints to provincial wildlife authorities were to no avail. "Early in the hunt a park ranger came into our camp," Hastings said. "We asked him why he wouldn't protect our right to carry on a lawful activity. I'd paid around \$1,000 for licenses and tags, and these people were trying to deprive me of my right to hunt. The ranger replied that there was nothing he could do. 'It's a public park,' he told me. 'They can go anywhere they please.'"

Later, after the anti-hunter fell (Greenpeacer Moore says he was pushed) into the lake, four Royal Canadian Mounted Police officers and two B.C. Fish and Wildlife Department officials arrived at the Mielke-Hastings camp by helicopter. Again the two hunters repeated their plea for protection, again the officials said there was nothing they could do.

"They told us they were trying to figure out how to resolve the issue," Hastings told *OUTDOOR LIFE*. "But all they did was to tell us. 'We want you fellows to be patient and keep the peace.'" (There are indications, however, which we will come to later, that B.C. officials are preparing to abandon

Illustration by Domenick D'Andrea

*Violence against them
would give Greenpeace
"proof" that all hunters
are thugs and violence-
prone killers.*

their policy of noninterference when the 1981 season opens.)

Even after Mielke and Hastings quit their camp to return home, the Greenpeace contingent pursued them. After alerting press and television, the anti-hunters continued their tactics of harassment. They followed the two hunters into the airport at Vancouver, taunting them, haranguing and vilifying them, and waving professionally-made anti-hunting placards for the benefit of news and television cameras. Several wore animal costumes, including horns or antlers. The Greenpeacers drove the two hunters to take refuge in the airport lounge, where the bartender did what the Royal Canadian Mounted Police and game department officials had been unable or unwilling to do. He chased the anti-hunters out of the place.

In the fall of 1980, the Gary Zechel hunting party camped in the Spatsizi wilderness in British Columbia and ran into harassment by eight Greenpeace agitators (left). When Zechel and his wife rode out of their camp for a day of hunting with their guide, the Greenpeacers locked arms across the trail to block their way and screamed abuse. A female Greenpeacer grabbed Zechel's reins to hold him back. The guide broke through the human barrier, and the Zechels pulled away and roared around them. Gary Zechel stated that his greatest fear was that one of the horses would spook and injure or kill someone. The painting is based on a photograph supplied by the Greenpeacer organization! At right, Greenpeacers in animal costumes harass Richard A. Mielke and Darryl Hastings in the Vancouver airport after their successful hunt.



What was possibly an even uglier incident took place during the 1979 season in Spatsizi. Gary Zechel, an engineer with the Ford Motor Company, who lives in the Detroit area, was hunting Ranger Creek with his wife Jo-Carole, who is a hunter, but wasn't hunting on this occasion. Accompanied only by an Indian guide, the Zechels were traversing one of the wildest, most primitive areas in North America.

"We were six or eight hours by horseback from our base camp, staying in a spike camp," Zechel recalled. "when these Greenpeace people showed up. There were seven men and one woman. There was lots of taunting, harassment, and intimidation. They said they would do whatever they could to stop us. They said if they couldn't persuade us to abandon our hunt they would restrain us physically. When we rode out for a day of hunting, they locked arms in front of us. When I tried to go to my wife's aid, one of them grabbed my horse's reins. Eventually our guide broke through, and my wife and I got away from them. They chased us several hundred yards up the trail, and our guide's horse fell into a bog. That was very dangerous. Even a minor injury is serious in that remote wilderness."

Like Mielke and Hastings, Zechel is an experienced hunter and outdoorsman, clearly able to take care of himself. But some insight into the psychological impact of the Greenpeace tac-

ANTI-HUNTERS VS. HUNTERS: WAR IN THE WOODS

Greenpeace fanatics are harassing hunters in the field. It's a vicious and very dangerous movement, and you could be the next victim. Here's what to expect plus some very good advice on what not to do about it.

By Richard Starnes, Editor-at-Large

The lush alpine valleys and rugged highlands of northeastern British Columbia have witnessed the opening skirmishes in what threatens to become all-out war between big-game hunters and anti-hunting zealots who have sought to stop them by harassment, abuse, intimidation and—it is charged—physical violence.

How much violence has occurred to date is in dispute, but there have been several angry confrontations involving hunters and anti-hunting activists, one beating has already taken place, and feeling is running so high that Canadian provincial authorities are alarmed at the prospect of more violence when the big-game season opens this fall.

"It's only a question of time before some hothead loses his composure and someone gets hurt," said one hunter who was victimized by the anti-hunters.

Arrayed against each other in the conflict are the hunters, outfitters, and game-management officials of British Columbia, and a dedicated, well-financed, implacable organization of anti-hunters who call themselves Greenpeace.

Greenpeace is no collection of saloon conspirators content to crank

out mimeographed anti-hunting diatribes and picket sporting-goods stores. It is slick, professional, worldwide, and growing rapidly. Its Vancouver chapter alone budgets nearly \$500,000 a year for anti-hunting activities. Its tools are \$1,000-a-day helicopters, expensive sound cameras, and self-confessed expertise at manipulating the press and television. Its tactics are harassment, confrontation, and attempts physically to restrain hunters. Its leader, Dr. Patrick Moore of Vancouver, made it clear in an interview with *OUTDOOR LIFE* that episodes of harassment and intimidation that took place in the rich hunting grounds of British Columbia in 1979 and 1980 were only the opening salvos in the conflict.

"We'll be back this year," he said. "They can't stop us. We intend to stop trophy hunting, first in British Columbia, ultimately all over the world."

How Greenpeace seeks to frustrate hunters is perhaps best told in the words of Richard A. Mielke, a 50-year-old Pontiac, Michigan, fire fighter who last year took a 21-day hunt-of-a-lifetime in the rugged, 1.6-million-acre Spatsizi Wilderness Park in British Columbia. He and his partner, Darryl Hastings,

40, a computer broker from Rochester, Michigan, encountered the Greenpeaceers on the first day of the hunt.

"They barged right into our camp," Mielke said. "They stuck sound cameras right in our faces. They harangued and abused us. One of them screamed at me, 'Is there something wrong with your sex life? Is that why you're up here killing animals?' When we tried to ride out of camp they locked arms across the trail to stop us. One of them grabbed the bridle of my horse. That was dangerous. That's rough country up there. If the horse had shied and fallen I could have been badly hurt."

Eventually the hunters and their guide broke free and continued the hunt, but on nearly every day of the hunt the harassment continued. On one day Mielke took his rifle—unloaded—to a dock on tiny Bug Lake to scope a wolf that had been howling near the camp.

"One of these Greenpeace guys crowded up against me, bumped me, and yelled, 'You're not going to shoot that animal while I'm here!' He grabbed my rifle, and then he fell into the lake."

"They would taunt you in every way they could," Hastings added. "You

HUNTING IS A DIRTY BUSINESS

Excerpts from an article by Bil Gilbert

Stories about hunters shooting cows, goats, poodles, Volkswagens and people are part of the folklore, but unfortunately they are frequently true. One fall I foolishly ventured out with three small children into our overgrown pasture. Suddenly there was the report of a gun, the zinging of slugs passing through the underbrush a foot or so over our heads. One satisfaction of the whole scary incident was proving that at least a bird watcher was hardy enough to run down a 17-year old hunter. I took the gun away from the boy and took him to his father, who was 'sporting' nearby. The old man mildly admonished the boy and lectured me sternly about letting "unmarked" children wander about our own posted field.

Beyond the fact that sports hunters are, as a rule, disreputable, the most obvious complaint against them is that they are destructive of wildlife. Several species — the passenger pigeon, heath hen, Eskimo curlew — were simply hunted into extinction. Many more — buffalo, anelope, grizzly bear, wolf, mountain lion, eagle, certain waterfowl — now barely survive.

Wildlife officials usually admit that without wardens, the sport gunners would probably come close to wiping out all game and a variety of other species.

The most irksome aspect of all this is that, unlike bridge players, Boy Scouts, pool hustlers or any other sporting group, hunters are more or less public wards. I, you, we are required to subsidize hunters with our taxes and set aside large chunks of our increasingly scarce wild lands and wildlife for their use. Somewhere in the neighborhood of 25,000 public wildlife "conservation" workers, state and federal, consume upwards of a half-billion dollars a year mostly to make it easier and quicker for gunners to kill animals. No other sports comes anywhere close to being so pampered and coddled.

Take, for example, the National Wildlife Refuge system operated by the Department of the Interior. Some 29 million acres of public land (2 million more than are in the National Park system) are set aside for wildlife refuges. Much of this land is managed and maintained for the primary benefit of waterfowl gunners. Hunters point out that they buy duck stamps and assert that this money pays for the refuge system. The truth is that in 1976 the annual refuge budget was about \$30 million, and the annual income from duck stamps was \$5 million. In other words, about 85 percent of the refuge money comes from general tax revenues. Today the situation is even worse. So far as I know, there are no state game agencies that do not need appropriations which issue from people who do not hunt at all.



Hunters attempt to justify this obvious inequity by explaining that the work of state and federal wildlife agencies benefits all wildlife. It is claimed that state and federal hunting lands also serve as a sanctuary for many nongame birds and mammals. They do sometimes, but it is largely accidental. For example, Michigan is contemplating creating about a half-million acres of new deer habitat. This will involve bulldozing the land, turning it into deer-browse scrub. Some other species will find the scrub hospitable, but the variety of wildlife that can use the land will decline. From the standpoint of the nature watcher, these acres will be about as attractive as a housing development in preconstruction stages.

An obvious solution to many of these inconsistencies and inequities is to remove the financial — and thus political — stranglehold that hunters and many public wildlife men believe they have on wildlife agencies. The crucial need is for all the operating funds for wildlife agencies to be appropriated from general revenues. Freed from the bondage of hunters' money, state and federal wildlife agencies should be required to initiate research programs which would benefit all fauna, not just those creatures that hunters shoot. There is no reason why some public refuges could not be left for the pleasure of photographers and those who simply enjoy seeing and contemplating the ways of species not classified as human.

Hunters are so firmly entrenched in our wildlife bureaucracy that only a concerted, aggressive campaign will flush them. A philosophical basis for this campaign might be the realization that despite a lot of pious, self-congratulatory propaganda, hunters are generally a destructive, dangerous lot, who have made a mess of our wildlife. ■

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, Any! 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.

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

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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.

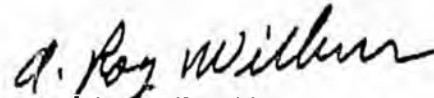
A similar request has been made of Governor Hickel. We hope that you will work together for the best interests of all Alaskans in this very important issue.

Thank you for your consideration.

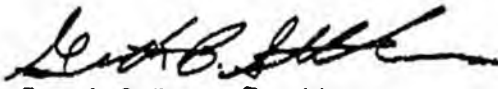
Respectfully,



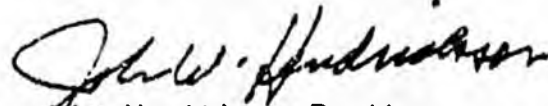
Richard Holmstrom, President
Alaska Falconers Association



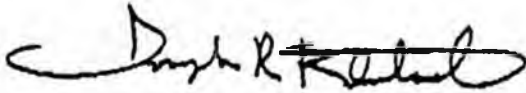
Roy Wilbur, President
Alaska Trappers Association



Gereth Stillman, President
Alaska Gun Collectors Association



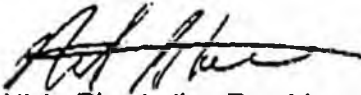
John Hendrickson, President
Alaska Waterfowl Association



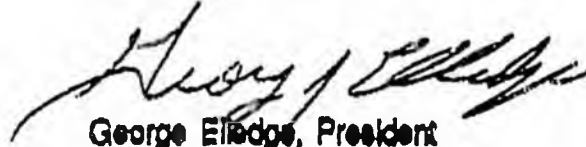
Joe Klutech, President
Alaska Professional Hunters Association



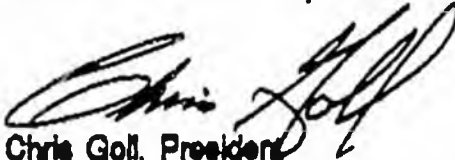
Don Poole, President
Alaskan Bowhunters Association, Inc.



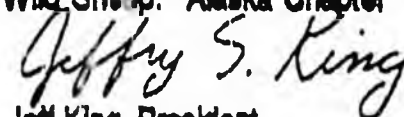
Nick Pierskalla, President
Alaska Professional Sportsman's Association



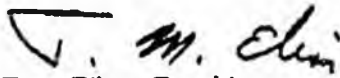
George Eledge, President
Foundation for North American
Wild Sheep: Alaska Chapter



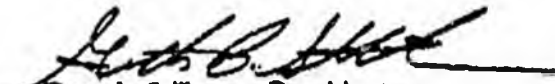
Chris Goll, President
Alaska Professional Sportfishing Association



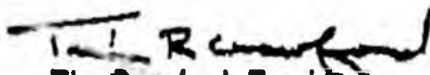
Jeff King, President
Kenai River Sportfishing Association



Tom Elias, President
Alaska Sportfishing Association



Gereth Stillman, President
Safari Club International: Alaska Chapter



Tim Crawford, President
Alaska State Muzzleloading Association

Representative Robin Taylor
P.O. Box 1441
Wrangell, Alaska 99029

December 12, 1990

Dear Representative Taylor:

The personal use of our fish and wildlife resources is critical to most Alaskans' personal lifestyle. We depend on these resources for sustenance as well as the enjoyment of pursuit. Many Alaskans rely almost exclusively on fish and wildlife for food and clothing, and the harvest and use of those resources is vital to their cultural health. For other Alaskans, it is the need to experience the thrill of the chase and the opportunity to supplement our diets with wild fish and game that are important.

A large segment of Alaska's population depends on the harvest of fur bearers as a significant part of their cash economy. Official estimates claim that trapping contributes from twenty to one-hundred percent of the income in some bush households, depending on the location. To these people trapping is not just a "job". It is a way of life and the only source of cash readily available to purchase supplies to support a bush lifestyle.

The commercial use of our fish and wildlife contributes significantly to the state's economy. The big game guiding industry is dependent almost entirely on non-residents who take less than fifteen percent of the big game animals harvested, but recycle guiding fees back into the economy by contracting transportation and field services from rural areas. The guided sport fishing industry makes up at least half of the Kenai Peninsula's summer economy. The commercial fishing industry is second only to the oil industry in generating dollars. In 1988, the most recent year information is available, the commercial fishing industry put \$1.3 billion dollars into the Alaskan economy.

It is important that Alaskans be protected in their methods and means, access to and right to use Alaska's bountiful fish and wildlife resources. We depend on these resources for our personal as well as our economic health. For most Alaskans, we literally would not be here if the opportunities to hunt, fish, and trap were lost.

It is for this reason that we request that you submit two bills to the 1991 Alaska Legislature. One bill would be an amendment to the Constitution of the state of Alaska providing that "The individual right to keep and bear arms shall not be denied or infringed by the state or a political subdivision of the state," which would be placed before the voters at the next general election. The second bill would create an act which would make it "illegal for a person or group to obstruct or hinder hunting, fishing, or trapping engaged in lawfully by another person." We would also request that a person who violates that act be guilty of a Class A misdemeanor punishable by a fine of not more than \$2000 or imprisonment for not more than one year, or both.

Laurence H. Holmes Jr
P.O. Box 454
Girdwood, Alaska 99587
December 20, 1980

Representative Robin Taylor
Alaska State Legislature
P.O. Box V (MS 9100)
Juneau, Alaska 99811

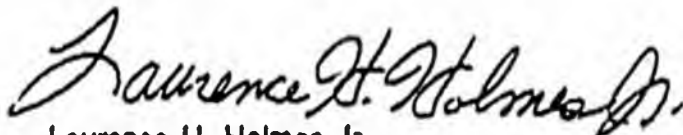
Dear Representative Taylor:

Enclosed is a letter requesting that you sponsor a bill making it a misdemeanor to hinder or obstruct any Alaskan in the normal, legal pursuit of fish or game for commercial or personal use. That piece of correspondence has thirteen signatures representing the leadership of those users of our fish and wildlife resources who most depend on those resources for their personal or commercial needs. The number and variety of user groups represented in that letter are a clear measure of the importance of the issue, and the commitment of those groups to protect Alaskans' opportunities to use our fish and wildlife resources.

Thirty-seven other states already protect to varying degrees their residents in the use of their fish and game. The commercial and personal use of Alaska's fish and wildlife are of vital importance to her residents. There are innumerable Alaskans whose lifestyles and livelihoods depend upon our state's fish and wildlife resources. Consumptive-user groups in other states have come under attack by anti-hunters and/or animal rights groups. It is time we protect ourselves from that kind of disruptive invasion of our rights.

We would appreciate your help in this effort. Thank you.

Sincerely,



Laurence H. Holmes Jr.
Legislative Vice-President
Alaskan Bowhunters Association, Inc.

birdwatching. This language is likely to make it more difficult to prosecute some cases, as it may be difficult to prove that obstructive acts were deliberate as opposed to being the incidental result of another person's lawful use of the land. The bill also allows an alleged offender who had, or reasonably believed that he had, a right to obstruct or hinder the hunting, fishing, or trapping to raise this as an affirmative defense to a prosecution.

The reasons given for your veto of the similar bill last year were: (1) that much of this conduct could be prosecuted under existing criminal laws, particularly the assault, criminal mischief, and general harassment statutes; and (2) that the statute was unconstitutionally vague because of its failure to define what constituted "interference" with the protected activities. This bill differs from last year's bill in several respects. This bill more clearly states that a person's "interference" must be with the specific intent to obstruct or hinder a person's lawful hunting, fishing, or trapping. Secondly, the bill defines "lawful" hunting so as to more clearly identify the class of persons protected. Finally, the "incidental use" provision mentioned above recognizes that there may be legitimate competing uses for the same land or water area, and that hunting, fishing, or trapping activities do not take precedence over other lawful uses.

Ironically, an amendment to the bill (the insertion of the language "possessing a valid State of Alaska license or permit" which appears on page 1, lines 13-14, of the final bill) was made on the House floor. This amendment was made to ensure that a person who obstructs the capture of orca whales in Alaskan waters by Sea World could not be prosecuted under this law. It appears that, while the legislature wishes to prohibit the deliberate interference with hunting or fishing in general, it believes that this specific "interference" should be allowed.

In summary, while we are not convinced that there is a need for this bill, it does not contain some of the legal problems present in the bill last year. Whether the bill is desirable on public policy ground is a decision which we leave to you to decide. As you correctly stated in your veto message last year, much of the conduct covered by this bill could be prosecuted under existing criminal statutes which carry comparable penalties.

Sincerely,

Norman C. Gorsuch
Attorney General

NCG/AHP/LBN/so

June 5, 1984

The Honorable Bill Sheffield
Governor
State of Alaska
Pouch A
Juneau, AK 99811

Re: CSHB 546(Res) am S -- hindrance
of lawful hunting
Our file: 388-096-84

Dear Governor Sheffield:

At Ray Gillespie's request on your behalf, we have reviewed CSHB 546(Res) am S. This bill makes it a misdemeanor (punishable by a fine of up to \$500, up to 30 days in jail, or both), for a person to perform an act with the intent to obstruct hunting, fishing, or trapping lawfully engaged in by another person. As you may recall, you vetoed a similar bill (2d SCS CSHB 163(Jud)) last year.

Proponents of the bill argue that it is needed because "sabotage" tactics are sometimes used by conservationists attempting to prevent the hunting or trapping of game in other parts of the United States or Canada. Although there apparently have not been any verified reports of such incidents in Alaska, the proponents of the bill argue that, considering Alaska's abundant game population and hunting opportunities, it is appropriate to pass such a law, as a precautionary measure.

Under this bill, a person subjected to or threatened by such intentional interference may petition a superior court to enjoin the offender from engaging in such conduct. The person may also be entitled to recover monetary damages for losses suffered, including the license and permit fees, travel costs, guide fees, equipment and supply costs, and other related expenses. In addition to these damages, a court may award punitive damages.

The new law would not apply to obstruction or hindrance that is "incidental" to a person's lawful use of public or private land or water. This exception was included so that hunting activities would not be given a clear priority over other lawful outdoor activities such as camping, hiking, or

July 19, 1983

While we are not convinced of the need for this bill,
there are no apparent constitutional or other legal
difficulties with it.

Sincerely,

Norman C. Gorsuch
Attorney General

NCG:GAH:gb

July 19, 1983

The Honorable Bill Sheffield
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Re: 2d SCS CSHB 163(Jud) -
harassment of hunters
File no: 388-089-83

Dear Governor Sheffield:

As Emil Notti requested on your behalf, we have reviewed 2d SCS CSHB 163(Jud). This bill makes it a misdemeanor criminal offense, punishable by a fine of up to \$500 and up to 30 days in jail, for a person to knowingly interfere with another person lawfully engaged in hunting, fishing, camping, or trapping, with the intent of hindering the person's activity. It also prohibits a person from knowingly disturbing fish or game or their habitat with the intent of hindering a person lawfully engaged in hunting, fishing, camping, or trapping.

A person who has been subjected to or threatened with harassment may petition a superior court to enjoin the other person from behaving in such a manner. The victim may also be entitled to recover damages for losses suffered, including license fees and travel costs, and may also seek punitive damages.

This bill is a version of model legislation supported by the Wildlife Legislative Fund of America, an association of sportsmen. Proponents of the bill argue that it is needed because of "sabotage" tactics sometimes used by conservationists attempting to prevent the hunting or trapping of game in other parts of the United States or Canada. Although there have not been any verified reports of such incidents in Alaska, the sponsor of the bill argued that, considering Alaska's abundant game population and hunting opportunities, it was appropriate to clearly prohibit such behavior.

HISTORY OF HUNTER HARASSMENT LEGISLATION

TO: REP. TAYLOR

FROM: JOE AMBROSE

DATE: JANUARY 31, 1991

1983 HB163 by Shultz Res, Jud
Passed House 24-09-07
Passed Senate 13-05-2
Vetoed by Sheffield 07-25-83 (veto letter attached)

1984 by RESOURCES COMMITTEE Res, Jud, Fin
Passed House 25-14-01
Passed Senate 18-02-00
Vetoed by Sheffield 06-19-84 (veto letter attached)

1985 HB31 by Shultz and Marrou Res, Jud
Passed House 31-08-01
Died in Senate Rules (05-10-86)

1987 HB34 by Shultz and Menard Res, Jud
Died in House Judiciary (04-24-87)

*1987 was the first year that Shultz was not a member of the majority

1988 By Fanning

1990 by Frank
Passed senate (18-1-1)
Died in House Resources

1991 by Frank (Senate) by Taylor (House)

**THE PRECEDING PAGES
WERE TREATED AS A UNIT
IN THE ORIGINAL FILE**

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 163-3991
Fax: (907) 163-3351

April 27, 1990

MEMORANDUM

TO:

FROM: Glenn T. Gray ^{GTG}
Legislative Analyst

RE: Hunter Harassment Law Prosecutions in Other States
Research Request 90.331

You asked for an update to House Research Request 84.081 concerning prosecutions under hunter harassment statutes in other states. You also asked for a sample of hunter harassment statutes. This memorandum provides information about hunter harassment prosecutions in Arizona, Connecticut, Illinois, Maine, Maryland, Michigan, New York, Oregon, Pennsylvania, and Vermont. Legislative Request 90.189, sent to you earlier, contains information about hunter harassment statutes including a list of all states with hunter protection laws and sample legislation from seven western states. Statutes from ten additional states are attached to this memorandum (Attachment A).

Introduction

While most of the ten states we investigated report decreased activity by anti-hunting groups since the passage of hunter protection legislation, a few of the states have experienced recent occurrences of hunter harassment. These incidents are staged by animal rights groups rather than individuals. Groups generally target a specific type of hunt or hunting activity and announce the event ahead of time in an effort to encourage coverage by the media.

At least 33 states have enacted hunter harassment statutes in an attempt to prohibit people from intentionally harassing individuals legally hunting or trapping. State law enforcement personnel in the states surveyed seldom prosecute individuals under the hunter harassment laws for several reasons. Antihunting activists often conduct protests without interfering with hunters. Some enforcement authorities believe that hunter harassment statutes deter many of those who would be inclined to disturb hunters without such a law. Law enforcement personnel sometimes use other statutes to prosecute violators because of cumbersome statutory provisions or the fear that the statute would be found unconstitutional if challenged. Connecticut, however, is the only

Representative Davidson
April 27, 1990
Page 2

state where a hunter harassment statute has been found to be unconstitutional. Prosecutions under the hunter harassment statutes in each of the ten states investigated is summarized below.

Arizona

Arizona experienced some hunter harassment problems prior to the enactment of the nation's first hunter protection statute, but no one has been prosecuted under this law.¹ The statute targets organized antihunting groups rather than individuals. Before the state can implement the law in a specific instance, a formal process must be undertaken. Since most organized efforts to disrupt hunters are well-publicized before the event, the state could theoretically complete the process before the harassment occurs. State officials believe that the law has successfully discouraged incidents of hunter harassment. Antihunting protests, however, continue to occur.

Connecticut

The United States Court of Appeals for the Second Circuit upheld the United States District Court's finding that the state's hunter harassment law was unconstitutional under the first and fourteenth amendments of the United States Constitution. The first prosecution under the law resulted after an individual attempted to dissuade several sportsmen from hunting geese. An animal rights group later encouraged this individual to challenge the constitutionality of the law. The law was found to be unconstitutionally vague and subject to several interpretations. The Connecticut State legislature is currently considering new legislation that would correct deficiencies in the law (Attachment B).

Last fall, several antihunting groups, including Friends of Animals, harassed Connecticut hunters. Members of the groups wore animal costumes and attempted to scare deer away from the hunters. The groups target special hunts scheduled to control overpopulations of deer in specific areas. As well as disturbing hunters and thwarting management of game populations, concentrations of people in an area open to hunting pose a serious safety risk.²

¹Telephone conversation, Don Vance, supervisor, Law Enforcement Branch, Game and Fish Department, Phoenix, April 25, 1990.

²Telephone conversation, Elaine Korenkiewicz, legislative coordinator, Connecticut Department of Environmental Protection, Hartford, April 24, 1990.

Representative Davidson
April 27, 1990
Page 3

Illinois

A district court judge ruled that the hunter harassment statute in Illinois was constitutional in a 1989 challenge. The court case resulted over a conflict between two goose clubs. On the premise that hunting is prohibited within a certain distance of a residence, one club located a trailer on the edge of a parcel of private land to stop hunting in the area. The second club initiated a civil action against the first club, claiming that their attempt to prevent hunting was a type of harassment. The first club claimed that the law was unconstitutional due to its vagueness. The district court judge ruled that the law was not vague and ordered the first club to remove the trailer. The case was not appealed. Data is not available concerning the number of prosecutions under this hunter harassment statute.³

Maine

Colonel Cummings, chief warden of the Maine Department of Inland Fisheries and Wildlife, stated that there have been no prosecutions under the state hunter harassment law.⁴ The state has not experienced any problems with antihunting groups interfering with hunters in recent years.

Maryland

Animal rights activists gained national attention last fall as a result of a concerted attempt to stop hunting. Law enforcement officers responded by issuing ten citations for harassment of hunters. Some of the violators pleaded guilty but appealed the decision in an attempt to find the law unconstitutional. The appeals have not yet been completed and there is no data on the total number of citations issued under the state's hunter protection statute.⁵

Michigan

Two citations have been issued under the state's hunter protection statute but they were not contested. Staff of the Michigan Department of Natural Resources expect the state to be targeted by anti-hunting groups this year. The department believes that the law would be found unconstitutional if contested and law

³Telephone conversation, Jack Price, Attorney, Department of Conservation, Springfield, April 25, 1990.

⁴Telephone conversation, Augusta, April 24, 1990.

⁵Telephone conversation, Steve Shall, chief of field operations, Forests, Parks and Wildlife, Department of Natural Resources, Annapolis, April 25, 1990.

Representative Davidson
April 27, 1990
Page 4

enforcement officers have been directed to use other statutes (e.g., assault or trespass laws) instead of the hunter harassment law.⁶

New York

A concern about possible harassment to hunters led to enactment of a statute in 1986 prohibiting interference with hunting. However, there have been no prosecutions under this law and there are no current organized efforts to disrupt hunts.⁷

Oregon

Although there were some problems with harassment of hunters prior to enactment of Oregon's statute, there has never been a prosecution under the hunter protection statute. The offense is a violation rather than a misdemeanor. Opposition to hunting occurred primarily over hunts opened to control crop damage from wildlife.⁸

Pennsylvania

Pennsylvania has not experienced much of a problem with hunter harassment. There were some incidents before the hunter protection statute was written but there have been no prosecutions. Protests occurred over the decision to open special hunts to control overpopulations of deer in state parks. The protestors, however, stayed outside of park boundaries and did not interfere with the hunters.⁹

⁶Telephone conversation, Bruce Gustafson, supervisor, Recreational Safety Education, Michigan Department of Natural Resources, Lansing, April 24, 1990.

⁷Telephone conversation, James Davis, assistant council, Fish and Wildlife, Department of Environmental Conservation, Albany, April 24, 1990.

⁸Telephone conversation, Lieutenant Kraft, Game Enforcement Bureau, Oregon State Police, Portland, April 25, 1990.

⁹Telephone conversation, Richard Fagan, Director of Enforcement, Harrisburg, April 25, 1990.

Representative Davidson
April 27, 1990
Page 5

Vermont

Although there were incidents of harassment of hunters before the state's hunter protection law was enacted, there have been no prosecutions under the law. Harassment of hunters is currently not a problem in Vermont.¹⁰

*** ** ***

I hope you find this information useful. Please contact this office if we may be of further service.

Attachments

¹⁰Telephone conversation, Norman Brown, state game warden, Department of Fish and Wildlife, Waterbury, April 24, 1990.

ATTACHMENT A

Hunter Protection Statutes in Other States

D FISH

TAKING AND HANDLING OF WILDLIFE

§ 17-316

§ 17-315. Wildlife theft prevention fund; authorized expenditures

A. There shall be a wildlife theft prevention fund which shall consist of:

- 1. Monies received from damage assessments pursuant to § 17-314.
- 2. Money received from donations to the fund.
- 3. Monies appropriated by the legislature for the purposes provided in this article.

B. Funds from the wildlife theft prevention fund shall be expended only for the following purposes:

1. The financing of reward payments to persons, other than peace officers, game and fish department personnel and members of their immediate families, responsible for information leading to the conviction of any person for unlawfully taking, wounding or killing, possessing, transporting or selling wildlife and attendant acts of vandalism. The commission shall establish the schedule of rewards to be paid for information received and payment shall be made from funds available for this purpose.

2. The financing of a statewide telephone reporting system under the name of "operation game thief" which shall be established by the director under the guidance of the commission.

3. The promotion of the public recognition and awareness of the wildlife theft prevention program.

C. The wildlife theft prevention fund shall be expended in conformity with the laws governing state financial operations, except that any balance in excess of fifty thousand dollars shall revert to the game and fish fund. Balances remaining at the end of the fiscal year shall be exempt from the provisions of § 35-190, relating to lapsing of appropriations.

Added by Laws 1978, Ch. 185, § 2.

§ 17-316. Interference with rights of hunters; violation; classification

A. The commission may, by rule, establish designated hunting areas on public lands if it finds that a significant interference or disruption of a hunt is likely to occur on those lands.

B. It is a class 2 misdemeanor for a person while in a designated hunting area to intentionally interfere with the lawful taking of wildlife by another or to intentionally harass, drive or disturb any game animal for the purpose of disrupting a lawful hunt.

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Arizona p 2 of 2

§ 17-316

GAME AND FISH

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C. It is a class 3 misdemeanor for a person to enter or remain in a designated hunting area on any state lands including state trust lands with the intent to interfere with the lawful taking of wildlife.

Law:
Law:

D. The commission or any person properly licensed to take wildlife who is directly affected by a violation of this section may bring an action to restrain conduct declared unlawful in this section and to recover damages.

Fish
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E. A peace officer who reasonably believes that a person has violated this section may order the person to desist or to leave the area or arrest such person upon refusal to desist or leave.

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F. The conduct declared unlawful in this section does not include any incidental interference arising from lawful activity by public land users, including ranchers, miners or recreationists.

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Added by Laws 1981, Ch. 239, § 1.

Library References

Game 371.
C.J.S. Game § 7.

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ARTICLE 2. LICENSES

Article 2, consisting of §§ 17-331 to 17-344, was added by Laws 1958, Ch. 80, § 2, effective July 1, 1958.

Former Article 2, consisting of §§ 17-331 to 17-346, was repealed by Laws 1958, Ch. 80, § 1, effective July 1, 1958.

For disposition of the subject matter of sections repealed or derivation of sections enacted by Laws 1958, Ch. 80, §§ 1 and 2, see Tables preceding § 17-101.

§ 17.

Cross References

Civil liability for unlawful wounding, killing, or possession of wildlife, see § 17-314.

§ 17-331. License required

No person, except as provided by this title, or commission order, shall take any wildlife in this state unless at the time of taking he has a valid license therefor on his person and exhibits it upon request for inspection to any game ranger, wildlife manager or peace officer.

Added by Laws 1958, Ch. 80, § 2.

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Historical Note

Source:
Laws 1929, Ch. 84, § 25.

Code 1939, § 57-125.
Laws 1945, Ch. 52, § 16.

Illinois

WILDLIFE

TAKING

61 ¶ 302

INTERFERENCE WITH TAKING OF WILD ANIMALS

Cross References

Misdemeanors,

Fines, see ch. 38, ¶ 1005-5-1.

Terms of imprisonment, see ch. 38, ¶ 1005-8-3.

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301. Definitions

§ 1. Definitions. As used in this Act:

a. "Wild animal" means any wild creature the taking of which is authorized by the fish and game laws of the State.

b. "Taking", means the capture or killing of a wild animal and includes travel, camping, and other acts preparatory to taking which occur on lands or waters upon which the affected person has the right or privilege to take such wild animal.

P.A. 83-153, § 1, eff. Jan. 1, 1984.

Historical Note

Title of Act:

83-153, approved August 29, 1983, eff.

An Act to prohibit harassment of hunters, trappers and fishermen. P.A.

Jan. 1, 1984.

Library References

Game ¶¶ 2, 4.

C.J.S. Game ¶¶ 1, 8.

Words and Phrases (Perm.Ed.)

302. Interference with lawful taking of wild animal

§ 2. Any person who knowingly performs any of the following is guilty of a Class C misdemeanor:

(a) interferes with the lawful taking of a wild animal by another with intent to prevent the taking.

(b) disturbs or engages in an activity that will tend to disturb wild animals, with intent to prevent their lawful taking.

(c) disturbs another person who is engaged in the lawful taking of a wild animal or who is engaged in the process of taking, with intent to dissuade or otherwise prevent the taking.

(d) enters or remains upon public lands, or upon private lands without permission of the owner or his agent, with intent to violate this Section.

P.A. 83-153, § 2, eff. Jan. 1, 1984.

Library References

Game ¶ 7.

C.J.S. Game § 10 et seq.

Subdiv. (3): Freedom of speech subject to reasonable regulation of place and manner of exercise. Not necessary to limit application of statute to "fighting words." The prohibition is against purposeful harassment by means of device readily susceptible of abuse; trespasser upon our privacy. 34 CS 689, 690, 693, 696, 698.

Sec. 53a-182. Harassment of hunters, trappers and fishermen: Class C Misdemeanor. (a) No person shall: (1) Interfere with the lawful taking of wildlife by another person, or acts in preparation for such taking, with intent to prevent such taking; or (2) harass another person who is engaged in the lawful taking of wildlife or acts in preparation for such taking.

(b) Any person who violates any provision of this section shall be guilty of a class C misdemeanor.

(P.A. 83-351.) (found to be unconstitutional)

PART XV

INTOXICATION

Sec. 53a-184. Intoxication by drug; definition, commitment, treatment, penalty. (a) A person is guilty of intoxication by drug when he is under the influence of a controlled drug or controlled substance, as defined in section 21a-240, to the degree that he may endanger himself or other persons or property, or annoy persons in his vicinity.

(b) The court in its discretion may commit to the custody and control of the executive director of the Connecticut alcohol and drug abuse commission or to any appropriate facility within that commission for not more than twelve months, or until discharged within that period by the executive director, any person found guilty under this section who has been convicted previously, under this section at least twice in the last-preceding six months or four times in the last-preceding year.

(c) Notwithstanding the provisions of subsection (a), in lieu of arrest, a police officer in his discretion may escort a person intoxicated by drug to a civil facility for the care of drug-dependent persons.

(d) Intoxication by drug shall be deemed an unclassified misdemeanor, the sentence for which shall be imprisonment for a period of not more than thirty days or a fine of not more than twenty dollars or both.

(1969, P.A. 828, S. 106; 1971, P.A. 871, S. 45; P.A. 74-280, S. 22, 25; P.A. 75-479, S. 12, 25; P.A. 76-300, S. 2, 3, 4; P.A. 86-371, S. 34, 45.)

History: 1971 act removed narcotic drugs from purview of section, deleted former Subsec. (c) which had required that defendant be advised of his rights under Subsec. (b) before being put in place, renumbering former Subsecs. (d) and (e) accordingly and added reference to facilities for care of drug-dependent persons in Subsec. (c), formerly (d); P.A. 74-280 revised provisions to apply to intoxication by drugs only, deleting reference to alcohol throughout and provisions in Subsec. (b) specifically concerning dismissal of criminal proceedings against person who court believes to be an alcoholic, requiring minimum commitment of thirty days and referring to guilt under Sec. 53-246, effective July 1, 1976; P.A. 75-479 renumbered effective date of section as stated in P.A. 74-280; P.A. 76-300 changed effective date of section to June 1, 1976; P.A. 86-371 substituted reference to the executive director and the Connecticut alcohol and drug abuse commission for reference to the commissioner and department of mental health.

Annotations to former section 53-244:

Omission of word "found" in complaint fatal. 25 C. 9.

Where minor defendant was committed to reformatory for indeterminate term - he a adult could not have been confined more than thirty days, sentence too severe. 26 CS 306, 307.

Cited, 4 Conn. Cr. Ct. 90; id., 536; 5 Conn. Cr. Ct. 311.

Annotations to present section:

Cited. 204 C. 240, 257.

for the purpose only of allowing and bears, providing the dogs are times, for such periods of time as

June 29, 1989.

Civil Procedure. State v. Leonard, 470 A.2d 1262.

of dog which was ordered killed sub- self to personal jurisdiction of district waived any objection to proceeding on at court lacked personal jurisdiction or that case was not properly com- her by complaint and summons or by of "evidence" where owner appeared in district court for evidentiary hear- rticipated fully therein. State v. Leon- Me., 470 A.2d 1262.

tic animal

was sufficient to convict defendant to animals, even though defendant it he was privileged to kill dog be- s attacking his cat; viewing evidence it favorable to State, and con- sidering ween defendant's testimony and his tement, trial court was not con- pelled i any reasonable doubt about killing tified. State v. Libby (1989) Me., 566

domestic animal" in this section provid- ert may order any dog worrying, or killing any domestic animal killed rden includes dogs and other house- State v. Leonard (1984) Me., 470 A.2d

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ent to subsec. 5 of § 7541 of

shall, by rule promulgated in Title 6, chapter 375,¹ establish a ta. The program shall include established by the commissioner

- A. Largest female coyote killed \$1,500;
- B. Largest male coyote killed \$1,000;
- C. Most female coyotes killed \$500;
- D. Most male coyotes killed \$500;
- E. Most total coyotes killed \$1,000; and
- F. Drawing from all entries \$500.

2. Payment. At the conclusion of the program, the commissioner shall pay from the funds derived from the sale of the supersport license to the individual determined by the commissioner to have qualified as the winner in each of the categories set out in subsection 1, paragraphs A to F, an amount equal to the award set out for that category in subsection 1.

3. Rule. The commissioner may establish, by rule promulgated in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, procedures for applications for awards and for certification of the number, sex and size of coyotes killed.

4. Eligibility. Employees of the department, including part-time and seasonal employ- ees, and agents of the animal damage control program, including those who are not compensated, are not eligible to participate in any aspect of this program.

5. Repeal. This subchapter is repealed on September 30, 1990.

1989, c. 277, § 1.

¹ Section 8001 et seq.

CHAPTER 710

HARASSMENT OF HUNTERS, TRAPPERS AND FISHERMEN

Section

- 7541. Harassment prohibited.
- 7542. Injunction; damages.

Chapter 710, Harassment of Hunters, Trappers and Fishermen, was enact- ed by 1983, c. 366.

Cross References

Muzzle-loading hunting season, restrictions, see § 7107-A of this title.

§ 7541. Harassment prohibited

1. Interference with taking. No person may willfully interfere with the lawful hunting, fishing or trapping of a wild animal, wild bird or fish.

2. Disturbing wild animals, wild birds or fish. No person may willfully disturb or attempt to disturb a wild animal, wild bird or fish with the intent to interfere with the hunting, fishing or trapping of them.

3. Violation. A violation of this section is a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

4. Property rights otherwise provided by law. This chapter shall not be construed in any way to limit the ownership use, access or control of property rights otherwise provided by law.

1983, c. 366.

Library References
Fish ← 12(1).
Game ← 7.

C.J.S. Fish § 28 et seq.
C.J.S. Game § 10 et seq.

§ 7542. Injunction; damages

1. Injunction. The District Court or Superior Court may enjoin conduct which would be in violation of section 7541 upon petition by a person affected or who reasonably may be affected by the conduct, upon a showing that the conduct is threatened or that it has occurred on particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.

1983, c. 366.

CHAPTER 711

FISHING

SUBCHAPTER I

GENERAL PROVISIONS

Cross References

Habitual violator,

Definition, see § 7001 of this title.

License revocation, see § 7079 of this title.

Muzzle-loading hunting season, restrictions, see § 7107-A of this title.

Suspension or revocation of license or permit, notification, see § 7077 of this title.

§ 7552. Open and closed seasons

Except as provided in subsection 5, and except as the commissioner may by rule provide, the following shall be the open seasons for fishing in the State. All opening and closing dates are inclusive.

[See main volume for text of 1 to 4]

5. Exceptions. Notwithstanding this section:

[See main volume for text of 5, A to 5, C]

D. The commissioner may issue a rule establishing an annual opening date as the last Saturday of April on waters reclaimed by the removal of rough fish; and E, F. Repealed.

G. There shall be a continued closed season on the dipping of smelts from Merrill Pond and its tributaries in Somerset County.

1983, c. 274, §§ 1 to 3; 1983, c. 440, § 12; 1987, c. 115, §§ 1, 2.

Historical Note

1983 Amendments. Subsection 5, E: Repealed by c. 274 and 440.

Subsection 5, F: Chapter 274 substituted "and" for a period.

Subsection 5, G: Added by c. 274.

1987 Legislation

Laws 1987, c. 115, repealed par. F of subsec. 5, which read:

"The open season in Aroostook County for all fish in rivers, brooks and streams is May 1st to September 15th; and".

§ 7553. Waters closed to fishing

Except as provided in subsection 4, and except as the commissioner may by rule provide, the following waters are closed to fishing.

1. Fishway dams. The area within 150 feet of any dam in which a fishway is located, except:

A. Repealed. Laws 1989, c. 493, § 41, eff. June 29, 1989.

B. At the following places, the fishway and the area within 75 feet of any part of the fishway shall be closed to fishing at all times:

(1) Woodland Dam and Grand Falls Powerhouse Dam on the St. Croix River in the Town of Baileyville;

(2) East Grand Lake Dam, T9 R4; and

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66C, §§ 196, 196A; 1973, 1st
507; 1988, ch. 76.)

re purposes of" at the beginning of
sentence of subsection (a) (1); and
section (a) (3).

or assistants.

ply to any person who:
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he season restricted to hunt-

(b) *In general.* — The following persons shall wear either a cap, vest, jacket, or jacket containing back and front panels of a daylight fluorescent orange color:

- (1) A person who hunts any wildlife; and
- (2) A person who accompanies, aids, or assists another person to hunt any wildlife. (1969, ch. 512.)

Editor's note. — Section 2, ch. 512, Acts 1989, provides that the act shall take effect July 1, 1989. Former § 10-418 was repealed by Acts 1986, ch. 805, effective July 1, 1986.

§ 10-421. Restriction on first day of firearms season for hunting deer.

On the first day of the firearms season for hunting deer, a person may not hunt any animal other than deer in this State except that waterfowl may be hunted from a licensed gunning rig within the seaduck shooting zone and gunning rig zone. (1983, ch. 414; 1988, ch. 180.)

Effect of amendment. — The 1988 amend- ment, effective July 1, 1988, added the excep- tion at the end. Editor's note. — Section 2, ch. 414, Acts 1983, provides that the act shall take effect July 1, 1983.

§ 10-422. Interference with hunters.

(a) *Adoption of rules and regulations prohibiting interference or disruption.* — If the Department determines that a significant interference or disruption of a hunt or hunters is likely to occur on any land managed by the Department, the Department may adopt rules and regulations to prohibit that interference or disruption.

(b) *Prohibited acts.* — While on private land that is owned by another person or in a hunting area on land managed by the Department, a person may not:

- (1) Interfere intentionally with the lawful taking of wildlife by another person; or
- (2) Harass, drive, or disturb any game animal intentionally for the purpose of disrupting a lawful hunt.

(c) *Actions by officers.* — A Natural Resources police officer or other police officer of the State who has probable cause to believe that a person has violated this section may:

- (1) Order the person to desist or to leave the area; or
- (2) Arrest the person on refusal to desist or leave the area.

(d) *Incidental interference.* — The conduct declared unlawful in this section does not include any incidental interference arising from lawful activity by private land users or users of land managed by the Department, including farmers, miners, or persons engaged in recreation. (1985, ch. 754.)

Historical Note

For effective date provisions of P.A.1988, No. 256, see § 300.270 and the note following.

300.260. Transportation of game; identification of species and sex, tagging, application of section

Sec. 10. If game is transported, the sex and species of the game shall be readily identifiable unless the game is game that has been cleaned at a hunting preserve and tagged as required by law. If game is transported, it shall be tagged as required by law or a commission order authorized under section 8.¹ This section shall not apply to skins, pelts, or hides of game that is lawfully taken and legally possessed.

P.A.1988, No. 256, § 10, Eff. March 31, 1989.

¹ Section 300.258.

Historical Note

For effective date provisions of P.A.1988, No. 256, see § 300.270 and the note following.

300.261. Designation of species as game, legislative function; first open season; issuance of orders

Sec. 11. Only the legislature may designate a species as game. If an animal is designated under this section by the legislature as game, then only the legislature may authorize the establishment of the first open season for that animal. After the legislature authorizes the establishment of the first open season for game pursuant to this section, the commission may issue orders pertaining to that animal for each of the purposes listed in section 8.¹

P.A.1988, No. 256, § 11, Eff. Oct. 1.

¹ Section 300.258.

300.262. Taking animals from in or upon a vehicle; transport or possession of bow or firearm; interference in taking of game; discharge of firearms near dwellings

Sec. 12. (1) Except as otherwise provided in this act or in a commission order authorized under section 8,¹ a person shall not take an animal from in or upon a vehicle.

(2) Except as otherwise provided in this act or in a commission order authorized under section 8, a person shall not transport or have in possession a firearm in or upon a vehicle, unless the firearm is unloaded in both barrel and magazine and enclosed in a case, carried in the trunk of a vehicle, or unloaded in a motorized boat.

(3) Except as otherwise provided in this act, a person shall not transport or have in possession a bow in or upon a vehicle, unless the bow is unstrung, enclosed in a case, or carried in the trunk of a vehicle.

(4) A person shall not intentionally interfere in any manner with the lawful taking of game by another person.

(5) A person shall not hunt or discharge a firearm within 150 yards of an occupied building, dwelling, house, residence, or cabin, or any barn or other building used in connection with a farm operation without obtaining the written permission of the owner, renter, or occupant of the property.

P.A.1988, No. 256, § 12, Eff. March 31, 1989.

¹ Section 300.258.

Substantive changes in text indicated by underline; asterisks * * * indicate deletion

Historical Note

For effective date provisions of P.A.1988, No. 256, see § 300.270 and the note following.

300.263. Use of artificial light; use of vehicles

Sec. 13. (1) Except as otherwise provided in section 8¹ for a specified animal, a or in an area frequented by animal other artificial light in a field, wood weapon capable of shooting a projectile control unless otherwise permitted hour before and 1 hour after shoot or bow and traveling afoot to and

(2) Except as otherwise provided person shall not throw, cast, or call from December 1 to October 31 for purpose of locating animals. Except commission, from November 1 to 31 be thrown or cast, the rays of a purpose of locating animals. This

(a) A peace officer while in the

(b) A person operating an emergency

(c) An employee of a public or private employment.

(d) A person operating a vehicle on highway, or roadway.

(e) A person using an artificial

(f) The use of artificial lights on

(g) A person using an artificial light that is owned by that person or

(3) The operator of a vehicle for a clear attempt to locate game shall not be a uniformed peace officer or when a siren from a marked patrol vehicle

P.A.1988, No. 256, § 13, Eff. March 31, 1989.

¹ Section 300.258.

Historical Note

For effective date provisions of P.A.1988, No. 256, see § 300.270 and the note following.

300.264. Permits; purposes; use

Sec. 14. (1) The director or a permit to a person who is unable to hunt being permanently disabled and a permit issued under this subject open season for that game, including that person holds a license to take game under the license act, Act No. 86 of the Public Act of 1987, Michigan Compiled Laws, and a game.

Substantive changes in text indicated by underline; asterisks * * * indicate deletion

CASE NOTES

The possession and rehabilitation of wildlife, as well as the restoration of wildlife to their natural habitat, are governed exclusively by the Environmental Conservation Law. Agents or officers of an incorporated society for the prevention of cruelty

to animals or other humane societies may not engage in such activities, except in accordance with the procedures set forth in that statute. Ops Atty Gen 82-78.

§ 11-0110. Interference with lawful taking of wildlife prohibited

1. As used in this section "wildlife" means wild game and all other animal life existing in a wild state, including fish, shellfish and crustacea, and "process of taking", in addition to any act described in subdivision thirteen of section 11-0103 of this article, includes travel, camping, and other acts preparatory to taking, which occur on lands or waters upon which the affected person has the right or privilege to take such wildlife.

2. A person is guilty of interfering with the lawful taking of wildlife when, with intent to prevent the taking of wildlife, in season, in a place where hunting is lawful, and by a person properly licensed to take such wildlife, he:

(a) strikes, shoves, kicks or otherwise subjects the licensed person to physical contact, or attempts or threatens to do the same; or

(b) follows the licensed person in or about such place and engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such licensed person and which serve no legitimate purpose.

Notwithstanding any other provision of law to the contrary, no one shall be arrested for violation of this section by other than a duly designated peace officer acting pursuant to his special duties, or a police officer.

HISTORY:

Add, L 1986, ch 881, § 1, eff Sept 1, 1986.

CROSS REFERENCES:

This section referred to in § 71-0923.

§ 11-0113. Manner of reference to and amendment of provisions contained in tables [For sub 1, see parent volume]

2. In the tables in sections 11-0905 and 11-0907 each letter of the alphabet in column one identifies and furnishes the citation for the matter in column one following such letter and also identifies and furnishes the citation for the matter appearing in column two and column three opposite the matter so identified in column one.

3. All matter identified by a letter of the alphabet printed in lower-case print and enclosed in parentheses may be referred to as an "item"; all matter identified by a figure printed in arabic numerals and enclosed in parentheses may be referred to as a "sub-item".

4. The headings appearing at the top of the columns are not part of the identification and citation of any part of the table, but the portion of any item or sub-item appearing in a column may be referred to as the portion of that item appearing in that column and "relating to" species, open season, bag limit, area, game and open season, manner of taking, specified waters of the state, or open season, size limits and limits of catch, as the case may be.

5. This section does not make ineffective or affect the construction or operation of any other form or manner of reference used in any act enacted by the legislature.

6. [Renumbered]

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ADMINISTRATION & ENFORCEMENT OF WILDLIFE LAWS 496.994

496.920 [1967 c.604 §4; 1973 c.723 §38; 1979 c.477 §13; renumbered 153.720]

496.925 [1967 c.604 §5; renumbered 153.725]

496.927 [1977 c.350 §2; 1979 c.477 §14; renumbered 153.730]

496.930 [1967 c.604 §6; renumbered 153.745]

496.935 [1967 c.604 §7; renumbered 153.750]

496.940 [1967 c.604 §8; renumbered 153.755]

496.945 [1967 c.604 §9; renumbered 153.760]

496.950 [1967 c.604 §10; renumbered 153.765]

PENALTIES

496.990 [Amended by 1967 c.523 §1; repealed by 1973 c.723 §130]

496.992 Penalties. (1) Except as otherwise provided by law, violation of any provision of the wildlife laws, or any rule promulgated pursuant thereto, is a Class A misdemeanor when the offense is committed with a culpable mental state as defined in ORS 161.085. If the defendant is sentenced to pay a fine, failure to pay the fine, or any portion thereof, shall be treated as provided in ORS 161.685.

(2) Except as otherwise provided by law, violation of any provision of the wildlife laws, or any rule promulgated pursuant thereto is punishable as a violation in the manner prescribed in ORS 161.635 when the

offense is committed with no culpable mental state as defined in ORS 161.085.

(3) The second and each subsequent conviction within a 10-year period for the taking of game fish with a total value of \$200 or more or the taking of antelope, black bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of the wildlife laws or any rule promulgated pursuant thereto which occurs more than one hour prior to or more than one hour subsequent to a season established for the lawful taking of such game mammals or game fish is a Class C felony when the offense is committed with a culpable mental state as defined in ORS 161.085. [1973 c.723 §39; 1975 c.578 §3; 1977 c.350 §3; 1977 c.353 §1; 1983 c.364 §1; 1985 c.372 §1]

496.994 Obstructing the taking of wildlife prohibited. (1) A person commits the offense of obstructing the taking of wildlife if the person, having no right to do so, intentionally interferes with the lawful taking, or the process of taking, of wildlife by another with the intent to prevent the taking.

(2) Obstructing the taking of wildlife is a violation as defined in ORS 161.565, punishable as provided in ORS 161.635 (3). [1987 c.473 §2; 1989 c.171 §67]

**THE FOLLOWING PAGES MAY
NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**

PUBLIC OPINION MESSAGE

DEAR REPRESENTATIVE DAVIDSON

NAME: MARYE EPONSON
 TITLE:
 ADDRESS: P.O. BOX 231
 CITY: DELTA JCT. ZIP: 99737
 PHONE: 895-4762
 BILL NO: HB 64

SUBJECT:
 MESSAGE: BEING ONE WHO HAS BEEN HARASSED WHILE GROUSE HUNTING AND MULE OPERATING TRAPLINES WITHIN THE STATE, I URGE YOUR SUPPORT OF HB 64. HUNTING AND TRAPPING BRINGS MILLIONS OF DOLLARS INTO OUR ECONOMY. LET'S PROTECT THESE PEOPLES AND MONIES.

POPID: 02104940
 DATE: 91/02/05
 TIME: 10:49:40
 LIDNAME: DELTA JUNCTION LIO

COPIES: REPRESENTATIVES

LINCOLN
 IVAN
 MOYER
 FINKELSTEIN
 CANNEY
 HUDSON
 LEMAN
 ZAMACKI
 GONZALES

PUBLIC OPINION MESSAGE

DEAR REPRESENTATIVE DAVIDSON

NAME: MICHAEL O'HARA
 TITLE: CITIZEN
 ADDRESS: BOX 1125
 CITY: HUNTER, AK ZIP: 99603
 PHONE: 235-2635
 BILL NO: HB 64

SUBJECT: INTERFERENCE WITH HUNTING/FISHING
 MESSAGE: I OBJECT TO HB64 AND URGE ITS DEFEAT. THE LANGUAGE CLEARLY DISCRIMINATES AGAINST NON-CONSUMPTIVE USERS, AMONGING SIBBY HUNTERS, FISHERMAN AND TRAPPERS POWER TO HARASS EVERYONE ELSE IN THE WOODS. TO PASS, ANY SUCH LEGISLATION SHOULD EXPLICITLY PROTECT AND EMPWER HILLERS, PHOTOGRAPHERS, BIRD WATCHERS AND ALL OTHER LEGITIMATE USERS.

POPID: 13331006
 DATE: 91/02/05
 TIME: 13:10:06
 LIDNAME: SLDGOTINA LIO

COPIES: REPRESENTATIVES REPRESENTATIVES

LINCOLN	IVAN
MOYER	FINKELSTEIN
CANNEY	HUDSON
LEMAN	ZAMACKI
DOHLEY	GRUENBERG
PARNELL	ELLIS
MARTIN	M.W.HILLER
HANLEY	NAVARO
MACLEAN	BOYER
ULMER	FRONI
JACKO	LARSON
EPONSON	BARKIS
SHAUP	R.MILLIPS

PUBLIC OPINION MESSAGE

DEAR REPRESENTATIVE DAVIDSON

NAME: DON QUARBERG
TITLE:
ADDRESS: P.O. BOX 349
CITY: DELTA JCT. ZIP: 99757
PHONE: 895-4215
BILL NO: HB 84
SUBJECT: INTERFERENCE WITH HUNTING/FISHING
MESSAGE: I URGE YOUR SUPPORT OF THIS BILL! THANK YOU.

POPID: 02110555
DATE: 91/02/01
TIME: 11:05:55
LIONAME: DELTA JUNCTION LIO

COPIES: REPRESENTATIVES REPRESENTATIVES

GONZALES	SHARP
TAYLOR	MAVARRE
MACLEAN	BOYER
ULMER	BROWN
JACKO	LARSON
HOPKIN	BARNES
D. PHILLIPS	CONLEY
ORLEMBERG	PARNELL
ELLIS	MARTIN
R. W. MILLER	HANLEY
LINCOLN	IVAN
MOYER	FIMMELSTEIN
CARNEY	MUSON
LEMAN	ZAWACKI

Alaska State Legislature

COMMITTEES:

MEMBER

RULES

INTERNATIONAL TRADES & TOURISM

LABOR & COMMERCE

ETHICS

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE



P.O. BOX 1441
WRANGELL, ALASKA 99929
(907) 874-2316

While in Juneau
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4905

House of Representatives

ROBIN L. TAYLOR
MINORITY LEADER

MEMORANDUM

TO: Rep. Dave Donley

FROM: Rep. Robin Taylor

REF: HB 64

A handwritten signature in cursive, appearing to read "RLT", written over the "REF:" line.

DATE: March 21, 1991

Please consider this my formal request for a Judiciary Committee hearing on HB 64.

This measure was read across the floor on January 23 and was passed out of Resources on February 20. I realize that much of the past month has been devoted to the budget, but I would appreciate at hearing now that that process is winding down.

GAME AND WILDLIFE

arter or exchange.—Except as otherwise unlawful for any person, acting either for tative of another, at any time to buy, sell, to offer for sale or barter, or to have in arter, or to aid, abet or conspire in the or exchange, or to give away any endancies or subspecies of wild birds or wild f. It is the duty of every officer having title to seize all endangered or threatened ls, or any part thereof. A violation of this anor of the second degree. All wild birds art thereof, found to be in violation of this d. This subsection shall not be construed or agency other than the commission to ame or wildlife or the plumage or parts of n to crops or accidentally killed upon the atraband.

3, § 1, eff. July 1, 1987.

CHAPTER 23

HUNTING AND FURTAKING

SUBCHAPTER A

GENERAL PROVISIONS

- of hunting.
- ful hunting or trapping prohibited.
- rohibited.
- of game or wildlife.
- ation of killed or wounded game or wildlife.
- life by mistake.
- ossession of game or wildlife.
- ' methods.
- game or wildlife from place of refuge.
- s while hunting.
- itional spotlighting.
- me.
- ure of game or wildlife.

Cross References

itle 71, State Government.

Pennsylvania Code References

Pa.Code

HUNTING AND FURTAKING

34 Pa.C.S.A. § 2302

§ 2301. Prima facie evidence of hunting

(a) General rule.—For the purpose of this title, any one of the following acts shall constitute prima facie evidence of hunting:

- (1) Possession of any firearm, bow and arrow, raptor, trap or other device of any description usable for the purpose of hunting or taking game or wildlife.
- (2) Possession of the carcass or any part or parts of any game or wildlife.
- (3) Pursuing game or wildlife in any manner prohibited by this title or commission regulation.

(b) Lawful cooperation or assistance.—Notwithstanding any other provision of this title to the contrary, any person who has lawfully taken the bag or season limit for a particular species of game or wildlife may aid, assist, abet or cooperate in any manner specified by commission regulations with another person who is engaged in any lawful activity permitted by this title or the regulations of the commission.

1986, July 8, P.L. 442, No. 93, § 1, eff. July 1, 1987.

Cross References

Cooperation after lawfully killing big game, see § 2325 of this title.

Notes of Decisions

Possession of firearm 1
Presence of game 2

to overcome the presumption of intent to hunt. Com. v. Phillips, 27 D. & C.2d 549, 1963.

1. Possession of firearm
A defendant charged with hunting without a hunting license was found guilty where he was observed, subsequent to the suspension of his hunting license, carrying a deer rifle on his father's property, where a party of deer hunters was making a drive on deer on adjoining premises, and where he appeared to be watching for deer and in the act of hunting; in such case, defendant's testimony that he was carrying a gun to chase trespassers was insufficient

Where accused with a loaded gun, testified under oath that he was not hunting but target shooting, and he had no game in his possession, he overcame presumption that he had been hunting. Com. v. Davenport, 77 D. & C. 416, 1952.

2. Presence of game
Failure to prove that there was game where defendant was allegedly hunting does not entitle him to an acquittal. Com. v. Spade, 64 D. & C. 121, 1949.

§ 2302. Interference with lawful hunting or trapping prohibited

(a) General rule.—Except as otherwise provided in this title, it is unlawful to:

- (1) Interfere with the lawful hunting, trapping or taking of game or wildlife.

34 Pa.C.S.A. § 2302

GAME AND WILDLIFE

HUNTING AND

(2) Disturb any game or wildlife, or engage in any activity or place any object or substance that may disturb or otherwise affect the behavior of any game or wildlife with the intent to hinder or prevent its lawful taking.

(3) Disturb or interfere with another person who is engaged in the lawful hunting, trapping or taking of game or wildlife or who is engaged in or preparing to hunt, trap or take any game or wildlife or prevent or hinder such person's enjoyment of the outdoors.

(4) Enter or remain upon public lands or upon private lands without permission of the owner or their agent, with intent to violate this section.

(5) Fail to obey the order of any officer whose duty it is to enforce any of the laws of this Commonwealth where such officer observes any conduct which violates this section, or has reasonable grounds to believe that any person intends to engage in such conduct.

(b) Enforcement and recovery of damages.—The commission or any person who is lawfully engaged in the taking, hunting or trapping of game or wildlife who is directly affected by a violation of this section may bring an action to restrain conduct declared unlawful in this section and to recover damages.

(c) Exceptions.—The conduct declared unlawful in this section does not include any activities arising from lawful activity by other land uses, including farming, mining, forestry practices, recreation or any other activities when it is evident that such activities are not intended to violate this section.

(d) Penalties.—A violation of this section is a summary offense of the second degree.

1986, July 8, P.L. 442, No. 93, § 1, eff. July 1, 1987.

§ 2303. Hunting on Sunday prohibited

(a) General rule.—Except as otherwise provided in this title, it is unlawful for any person to hunt for any furbearer or game on Sunday.

(b) Construction of section.—This section shall not be construed to prohibit:

(1) The training of dogs.

(2) The participation in dog trials as provided for in this title.

(3) The removal of lawfully taken game or wildlife from traps or the resetting of the traps on Sunday.

(c) Penalty.—the fifth degree. 1986, July 8, P.L.

§ 2304. Own

(a) General r or taken shall b wound which er

(b) Officer no to enforce this concerning the u ing any such di 1986, July 8, P.L.

§ 2305. Retri or

(a) General r wounds any gar ted by this title retrieve, retain c

(b) Penalty.—the fourth degre 1986, July 8, P.L.

§ 2306. Killi

(a) General r for game or wil mistake kills or bears, elk or th provisions of thi (b) to an officer remove all the e entire carcass, le in which killed f explaining when,

(b) Restitutio by accident or r

(1) Each dec

(2) Each tur

(3) Each oth or an endange.

§ 4706. Snaring animals

A person shall not take an animal by snaring; nor shall he possess a snare with intent to use the same.—Added 1961, No. 119, § 1, eff. May 9, 1961.

HISTORY

Prior law. 10 V.S.A. § 2986.

§ 4707. Traps; notice

A person who intends to set a trap for any animal on the property of another shall, prior to setting the trap, notify the owner of the property of his intention to set the trap and of the prospective location of the trap. The owner of the property may, at any time, refuse to grant permission to set a trap or revoke the permission if previously granted.—Added 1961, No. 119, § 1, eff. May 9, 1961; amended 1973, No. 178 (Adj. Sess.), § 3.

HISTORY

Amendments—1973 (Adj. Sess.). Amended section generally.
Prior law. 10 V.S.A. § 2990.

§ 4708. Interference with hunting, fishing or trapping

(a) A person shall not intentionally interfere with the lawful taking of fish or wild animals by another nor intentionally harass, drive or disturb fish or any wild animal for the purpose of disrupting the lawful taking of the same. Nothing in this subsection shall be construed to prohibit any incidental interference arising from lawful activity by land users including farmers and recreationists.

(b) A person shall not take, injure, destroy or wilfully interfere with

(1) a trap, when lawfully set for the purpose of taking wild animals, or

(2) wilfully interfere with a person in the act of trapping animals.—Added 1961, No. 119, § 1, eff. May 9, 1961; amended 1981, No. 85, § 10; 1981, No. 127 (Adj. Sess.).

HISTORY

Amendments—1981 (Adj. Sess.). Subsection (a): Added.
Subsection (b): Existing provisions of section designated as subsec. (b) and subdiv. (b) (2) added.
—1981. Deleted "game" preceding "trap" and substituted "wild animals" for "game or fur-bearing animals".
Prior law. 10 V.S.A. § 2993.