

H B

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DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

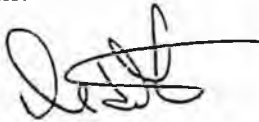
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 27, 1994

SUBJECT: 1994 Revisor's Bill (Work Order No. 8-LS1482\A)

TO: Representative Carl Moses, Chair
House Rules Committee

FROM: David R. Dierdorff 
Revisor of Statutes

The enclosed bill was prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

* * * shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of * * * the statute law of this state.

To assist in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

Sections that delete, repeal, or update obsolete provisions: Sections 17 and 18 delete, update, or repeal provisions that have become obsolete either through other legislative action or the passage of time.

Sections that correct errors or oversights: Sections 3, and 6 - 15 correct errors or oversights that can not be corrected editorially.

Sections that improve the form or substance of the law: Sections 1, 2, 4, and 5 propose amendments to improve the form or substance of the statute law of Alaska.

SECTIONAL ANALYSIS

Section 1. This section proposes a clarifying amendment to AS 09.38.015(a)(10), which includes an individual's permanent fund dividend in the items exempt from execution. Under current language there is some ambiguity, because it exempts "that portion" of a dividend exempted under AS 43.23.065(a). The exemption granted by

(a), however, is subject to certain restrictions set out in subsection (b). The proposed language restates the AS 09.38.015(a)(10) exemption to make it clear that the AS 09.38 exemption for dividends is the same as that granted under AS 43.23.065.

Sec. 2. In a recent decision, the Alaska Court of Appeals held that the definition of "property of another" found in AS 11.46.990 articulates the common law as expressed in a 1970 decision and applied that definition to the phrase as used in AS 11.41.520, establishing the crime of extortion. Woodward v. State, 855 P.2d 423 (Alaska App. 1993). The court noted that in the original draft revision of the criminal code, extortion was placed in the chapter dealing with crimes against property (AS 11.46). When, in a subsequent version, the crime was relocated to the chapter dealing with crimes against persons (AS 11.41), the legislature neither provided a new definition nor expressly made the definition in AS 11.46.990 applicable. The court suggested that this was an oversight rather than a deliberate legislative decision. This section of the revisor's bill codifies the court's decision by duplicating the definition in AS 11.46.990 in the extortion statute, AS 11.41.520.

Sec. 3. This amendment conforms the provisions for resident king salmon tags to the changes made by §§ 44 and 45, ch. 63, SLA 1993 (HCS CSSB 99(FIN) am H). The amendment was requested by the Department of Law.

Secs. 4 and 5. The two amendments simply change commissioner [of natural resources] to department to conform these two provisions to all others in AS 41.23.

Secs. 6 - 15. This series of amendments, made retroactive to August 11, 1993 by sec. 19, corrects drafting oversights in ch. 18, SLA 1993 (HCS CSSB 106(FIN)), that could not be corrected editorially. The need for the amendments was discovered immediately after adjournment of the first session. The amendments have been reviewed by the affected state agencies and the law has been administered as though the amendments were in place.

Sec. 16. In Executive Order No. 84, the powers and duties of the Alaska Women's Commission were transferred to a new Alaska Human Relations Commission and the Women's Commission was abolished. The Executive Order failed to amend or otherwise deal with AS 44.66.010(a)(12), which established the sunset review date for the Women's Commission. In this bill section, an amendment is proposed that changes the entry for the Women's Commission to one for the Human Relations Commission. The sunset date is not changed, and it would not be appropriate to do so in a revisor's bill. If the legislature chooses to make a change in the date, or do anything other than change the name or repeal the provision, this bill section should be deleted and another vehicle selected to accomplish the legislature's goal. The amendment is included in this draft at the request of the Department of Law.

Sec. 17. This amendment replaces an obsolete reference to a former division with a reference to the department.

Sec. 18. The repealers. The first two provisions proposed for repeal, AS 37.05.-140(b) and (c), are obsolete and probably should not have been codified in 1962. The third provision, AS 46.03.825(g)(13), defines a term that is not used in the section. The text of all repealed provisions is set out in an appendix attached to this memo.

Sec. 19. Makes secs. 6 - 15 retroactive to the effective date of ch. 18, SLA 1993.

Sec. 20. Provides an immediate effective date for the bill.

DRD:gc:lmb
94-029.lmb

Enclosure

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
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COPY
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 11, 1994

SUBJECT: 1994 Revisor's Bill (Work Order No. 8-LS1482A)

TO: Representative Eldon Mulder, Chair
Legislative Council

FROM: David R. Dierdorff
Revisor of Statutes

The enclosed work draft was prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

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APPENDIX - TEXT OF PROVISIONS TO BE REPEALED

AS 37.05.140(b) and (c):

(b) Accounting machines not otherwise needed by the agencies as determined by the Department of Administration that can be utilized by the Department of Administration shall be transferred to it on written direction after consultation with the head of the agency concerned, instead of the purchase of new machines.

(c) The calculable savings to the agencies resulting from the transfer of accounting functions to the Department of Administration shall be impounded and deposited in the general fund as part of the unappropriated balance. The calculable savings shall be used to offset those general fund appropriations made to the Department of Administration for purposes of performing centralized accounting, purchasing, and related functions. The calculable savings shall be determined by the department after consultation with the head of the agency concerned and shall be impounded from both general fund appropriations and from money from other funds available to the agencies involved in the transfer.

AS 46.03.825(g)(3):

(3) "registered" means registered under AS 46.04.035;

DRD:gc:lmb
94-029.lmb

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AS 46.03.825(g)(3):

(3) "registered" means registered under AS 46.04.035;

DRD:gc
94-012.glc

Representative Eldon Mulder
January 11, 1994
Page 3

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Sec. 20. Provides an immediate effective date for the bill.

DRD:gc
94-012.glc

Enclosure

cc: Deborah Behr
Department of Law

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

NO. _____
BILL VERSION: HB 415
PUBLISH DATE: _____

Revision Date: _____
Title: "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor..."
Sponsor: House Rules Committee
Requestor: House Rules Committee

Department Affected: Legislative Affairs Agency
BRU: All
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE						
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: _____

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact.

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852
Division: Administrative Services Date: 2/2/94

Approved By: Pamela A. Stoops, Executive Director *Pamela A. Stoops*
Agency: Legislative Affairs Agency Date: 2/2/94

Distribution (by preparer): _____

Gov. , & Impacted Agency(ies).

Alaska State Legislature

Representative Carl E. Moses

CHAIRMAN
HOUSE RULES COMMITTEE

CHAIRMAN
HOUSE SPECIAL COMMITTEE FISHERIES

MEMBER FINANCE SUBCOMMITTEES ON:
DEPT. OF FISH AND GAME
DEPT. OF PUBLIC SAFETY



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SPONSOR STATEMENT

HB 415 is the 1994 Revisor's bill. It makes adjustments to Titles 9, 11, 16, 37, 41, 42, 44, 46, and 47. It would make changes to correct problems discovered internally by the legal staff.

Such problems include, but are not limited to, the deletion, repeal or update of obsolete statutes, corrections of oversights and errors, and improvements to the form or substance of statutes.

The elements of the 1994 Revisor's bill have been reviewed by the Attorney General's office.

CEM/tb/stmt.5

ADAK • AKUTAN • AMCHITKA • ATKA • ATTU • BELKOFSKI • CHERNOFSKI • CHIGNIK • CHIGNIK LAGOON • CHIGNIK LAKE
COLD BAY • DUTCH CREEK • EAGLE CREEK • EAGLE LAKE • EAGLE RIVER • EAGLE VALLEY • EAGLE WATERSHED • EAGLE WATERSHED
NELSON LAGOON • SAND POINT
SHEMYA

SPONSOR STATEMENT

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

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FAX: (907) 278-3897

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FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1588
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P.O. BOX ¹¹⁰³⁰⁰ STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 485-3800
FAX: (907) 482-5295 465-6735

February 2, 1994

David Dierdorff, Revisor of Statutes
Div. of Legal Services
Legislative Affairs Agency
130 Seward Street
Goldstein Bldg., Rm. 414
Juneau, AK 99801

Dear Dave:

We have reviewed HB 415, the 1994 revisor's bill. We find no legal problems. We believe the bill makes important technical changes to improve Alaska statutes.

Thanks again for the opportunity to review this important bill.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: *Deborah E. Behr*
Deborah E. Behr
Assistant Attorney General

DEB:cl

cc: Raga Elim, Legislative Liaison
Office of the Governor

DEPT. OF LAW ANALYSIS

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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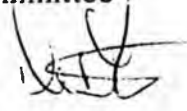
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 11, 1994

SUBJECT: Enclosed Amendment for HB 415 (1994 Revisor's Bill)

TO: Representative Brian Porter, Chair
House Judiciary Committee

FROM: David R. Dierdorff 
Revisor of Statutes

Thank you for scheduling HB 415 for hearing. At that hearing, I will ask that the committee consider adopting the enclosed amendment, which brings the bill up to date.

The first proposed change adds a bill section amending AS 16.05.940(10), the definition of "domestic mammal" for the fish and game laws. A second new bill section would make the amendment retroactive to May 16, 1992. A short explanation is in order.

In sec. 30 of the 1992 revisor's bill, which became ch. 30, SLA 1992, effective May 16, 1992, the definition of "domestic mammal" was amended to include elk. It was believed that this was a technical change required by the fact that elk could now be farmed under AS 16.40.050, enacted in 1987. Our legal opinion in 1992 was that the phrase "lawfully owned" meant that in order for an elk to be considered a domestic mammal, it had to be owned under an elk farming license. There is now some question about whether that is the case. Because revisor's bills should only change substantive law when that change is required to conform provisions and when the legislature is fully informed about the change, I believe that it is incumbent upon me to propose "undoing" the 1992 amendment and make that change retroactive to its effective date. This action was requested by the Department of Fish and Game and is supported by the Department of Law.

Representative Brian Porter, Chair

February 11, 1994

Page 2

The only other addition to HB 415 is the proposed repeal of AS 08.80.030(5). This provision duplicates paragraph (4) of the same statute.^{1/} The redundancy was brought to our attention by the regulations attorney in the Department of Law.

Thank you in advance for your consideration and courtesies.

JBC:pl

94-123.plm

cc: Representative Carl Moses
Deborah Behr

^{1/} AS 08.80.030(5), proposed for repeal, provides:

(5) adopt regulations to carry out the purposes of this chapter;

AS 08.80.030(4), which would remain in effect, provides:

(4) adopt regulations and do whatever else is necessary and advisable to carry out the purposes of this chapter;

A M E N D M E N T

OFFERED IN THE HOUSE JUDICIARY COMMITTEE

TO: HB 415

Page 2, following line 31:

Insert a new bill section to read:

** Sec. 4. AS 16.05.940(10) is amended to read:

(10) "domestic mammals" include musk oxen, bison, [ELK,] and reindeer, if they are lawfully owned;"

Renumber the following bill sections accordingly.

Page 8, line 28, before "AS 37.05.140(b)":

Insert "AS 08.80.030(5);"

Page 8, following line 28:

Insert a new bill section to read:

** Sec. 20. Section 4 of this Act is retroactive to May 16, 1992."

Renumber the following bill sections accordingly.

Page 8, line 29:

Delete "6 - 15"

Insert "7 - 16"