

**HB**

**292**

9-LS0866G

Utermohle

4/26/95

CS FOR HOUSE BILL NO. 292( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE OGAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to searches by peace officers who enforce fish and game laws,  
2 to false statements and omissions in regard to application for fish and game  
3 licenses, tags, and permits, and to nonresident hunters."

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

5 \* Section 1. AS 16.05.180 is amended to read:

6 Sec. 16.05 '80. POWER TO SEARCH WITHOUT WARRANT. Each peace  
7 officer designated in AS 16.05.150 may without a warrant search any thing or place  
8 if the search is reasonable or is not protected from searches and seizures without  
9 warrant within the meaning of art. I, sec. 14, Alaska State Constitution, which  
10 specifically enumerates "persons, houses and other property, papers and effects.  
11 [HOWEVER, BEFORE A SEARCH WITHOUT WARRANT IS MADE A SIGNED  
12 WRITTEN STATEMENT BY THE PERSON MAKING THE SEARCH SHALL BE  
13 SUBMITTED TO THE PERSON IN CONTROL OF THE PROPERTY OR OBJECT  
14 TO BE SEARCHED, STATING THE REASON THE SEARCH IS BEING

1 CONDUCTED.] A written receipt shall be given by the person conducting the search  
2 for property that [WHICH] is taken as a result of the search. The enumeration of  
3 specific things does not limit the meaning of words of a general nature.

4 \* Sec. 2. AS 16.05.420(b) is repealed and reenacted to read:

5 (b) A person may not make a false statement, or omit a material fact, in an  
6 application for a license, tag, or permit issued under AS 16.05.330 - 16.05.430. A  
7 person who without any culpable mental state violates this subsection is guilty of a  
8 violation and upon conviction is punishable by a fine of not more than \$1,000. A  
9 person who knowingly violates this subsection is guilty of unsworn falsification under  
10 AS 11.56.210.

11 \* Sec. 3. AS 16.05.430(a) is amended to read:

12 (a) Except as provided in AS 16.05.407(b) and (d), 16.05.408(b), and  
13 16.05.420(b) [AS 16.05.420(b)], a person who violates AS 16.05.330 - 16.05.420 or  
14 a regulation adopted under AS 16.05.330 - 16.05.420 is guilty of a misdemeanor and  
15 upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment  
16 for not more than six months, or by both.

12-504

STATE OF ALASKA  
DEPARTMENT OF PUBLIC SAFETY  
STATEMENT OF INTENTION TO SEARCH PROPERTY

IN ACCORDANCE WITH PROVISIONS OF SEC. 16.05.190 ALASKA  
STATUTES, NOTICE IS HEREBY GIVEN OF INTENTION TO SEARCH  
THE FOLLOWING DESCRIBED PROPERTY:

WHICH AT THE TIME OF THE SEARCH WILL BE LOCATED AT

AND WILL AT THAT TIME BE UNDER THE CONTROL

OF \_\_\_\_\_  
NAME

OF \_\_\_\_\_  
WHO HAS STATED THAT (HE) (SHE) IS THE OWNER OR LESSEE OR  
LEGAL OPERATOR OF SUCH PROPERTY. SEARCH OF THE ABOVE  
DESCRIBED PROPERTY IS CONDUCTED FOR THE PURPOSE OF DIS-  
COVERING OR ATTEMPTING TO DISCOVER,

WHICH MAY BE USED, POSSESSED OR MAINTAINED IN VIOLATION  
OF STATE LAW OR REGULATIONS OF THE ALASKA BOARD OF  
FISH AND GAME.

THE SEARCH WILL COMMENCE AT APPROXIMATELY \_\_\_\_\_  
HOURS ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 19 \_\_\_\_\_

NAME OF OFFICER

TITLE

WITNESSES

NAME

ADDRESS

NAME

ADDRESS

(8/80)

## Sponsor Statement HB 292 Amendments to Title 16

This bill would clarify Title 16 and assist Alaska Fish & Wildlife protection officers with their enforcement responsibilities. These proposed changes would enable Fish & Wildlife protection to:

- (A) more effectively enforce the residency requirements for licenses, tags, and permits, and to reduce court dismissals, by clarifying that false residency statements are strict liability violations that can result in a misdemeanor conviction and require a bail set by the bail schedule; and
- (B) reduce the officers' paperwork burden so that they can devote more time to enforcement duties.

AS 16.05.180. The current requirement of issuing a statement of intent to search is unique to fish and game law enforcement. The modern day trooper enforcing fish and game law is not allowed to conduct a consent search without completing an "intent to search" form (12-504). This unnecessarily burdens the fish and wildlife officer. Failure to complete this required form may invalidate an otherwise legal search.

AS 16.05.420. Another area of concern when prosecuting residency cases deals with the culpable mental standard of "knowingly" currently used in AS 16.05.420 (b). HB 292 removes this requirement, as it is extremely difficult for a prosecutor to prove that an offender actually knew he or she provided false information. The offense of making a false residency statement for a license, tag, or permit would be a strict liability offense.

AS 16.05.430. Knowing falsification of residency information when applying for a license, tag, or permit is currently categorized under AS 16.05.020(b) as "unsworn

falsification". HB 292 updates the penalty to reflect the new strict liability nature of the offense. AS 16.05.430(a) classifies ordinary residency falsifications as criminal misdemeanors. (There are exceptions for falsification of the special guide affidavits required under AS 16.05.407 and 16.05.407, as these carry their own penalty.) However, a new subsection AS 16.05.430(c) is also added, stating that a falsification will be treated as a violation rather than a misdemeanor if the offender made a false residency statement with no culpable mental state. The result of these penalty provision refinements is that a prosecutor would no longer have to prove actual knowledge to obtain a criminal conviction for false residency statements made when obtaining most hunting and fishing licenses, permits and tags. However, a defendant could have the charges reduced to a violation if he could prove that he had no culpable or guilty mental state. This is to avoid possible constitutional challenges to the statute for imposing criminal punishment where there was no criminal mental state.

The changes made to Title 16 through HB 292 will greatly improve the ability of our Fish & Wildlife officers to enforce the residency requirements imposed by this legislature. This bill is long overdue, and with recent cuts in public safety appropriations it is needed now more than ever.

Your support for this bill would be greatly appreciated, both by myself and by the dedicated officers in the field who are working hard to enforce the laws passed by this body.

HOUSE COMMITTEE REPORT

4/13/95

Judiciary

(5)

Date Referred: April 5, 1995

FURTHER REFERRALS:

Date of Committee Action: 4/12/95

The HOUSE SPECIAL COMMITTEE ON FISHERIES Committee considered:

HB 292

HOUSE BILL NO. 292

FISH & GAME ENFORCEMENT

"An Act relating to searches by peace officers who enforce fish and game laws and to false statements and omissions in regard to application for fish and game licenses, tags, and permits."

recommends it be replaced with the following committee substitute \_\_\_\_\_  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

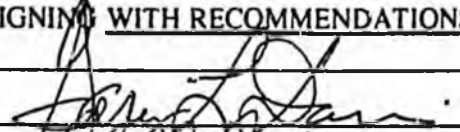
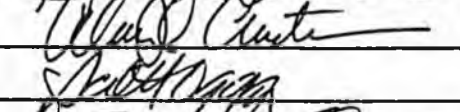
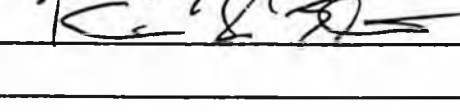

APPROVES PREVIOUS: (Dept/Dat.) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

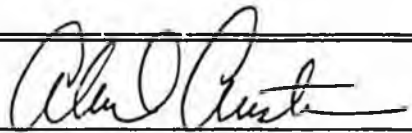
fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DPS

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
 G. DAVIS			✓	
 Auserman			✓	
 Ogan	✓			
 Elton			✓	
	(1)		(3)	

CHAIR'S SIGNATURE

  
Auserman

4/12/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

FISCAL NOTE

Bill Version: HB 292  
(H) Publish Date: 4/13/95

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Fish and Game Enforcement BRU: Fish and Wildlife Protection  
 Component: Enforcement & I.S.U.  
 Sponsor: Representative Ogan  
 Requestor: (H) Special Committee of Fisheries COMPONENT SERIAL NO. 490 & 493

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ( ) Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ -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

ANALYSIS: (Attach a separate page if necessary.)

This bill will remove a particularly cumbersome requirement that a peace officer issue a statement of intent to search when conducting a warrantless search currently permitted by State law. State law now permits a consent search. Fish and Wildlife Troopers are uniquely required by AS 16.05.180 to issue a signed written statement to the person in control of the property even when the person has given consent. Failure to complete this required form may invalidate otherwise legal searches.

This housekeeping measure, if enacted, will help to achieve program efficiencies for the Division of Fish and Wildlife Protection. No fiscal impact is anticipated.

Prepared By: Captain Teri L. Ruddell Phone: (907) 269-5509  
 Division: Fish and Wildlife Protection Date: April 7, 1995  
 Approved by Commissioner: [Signature] Date: 4/11/95  
 Agency: 900 L. One Dept. of Public Safety

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18-504

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1 Proposed amendment to HB 292 (version F)

2 Amend sections 2 through 4 to read:

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