

HB

419

Alaska State Legislature House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE, CHAIRMAN
MILITARY & VETERANS AFFAIRS, CHAIRMAN
COMMUNITY & REGIONAL AFFAIRS
RESOURCES
INTERNATIONAL TRADE / TOURISM
LEGISLATIVE COUNCIL



INTERIM:
10928 EAGLE RIVER ROAD, SUITE 141
EAGLE RIVER, AK 99577
PHONE (907) 694-8944
FAX 694-8949

SESSION:
STATE CAPITOL
JUNEAU, AK 99801-1102
PHONE (907) 465-3777
FAX (907) 465-2819

SPONSOR STATEMENT HB 419

It has long been the practice of the Department of Administration's State and Federal Property Management program to sell excess service revolvers, confiscated firearms, and ammunition. This activity has been a source of revenue for the program in the past, and has also been a means by which gun collectors could obtain collectible items.

In a 1995 change in Administration policy, only hunting rifles and shotguns should be sold at public auction, but handguns would be destroyed. Therefore, on October 25, 1995, the state destroyed some 50 weapons, with an estimated market value of \$13,925. There is concern that collectible guns were included in this destruction. In less than a year's time, from August of 1994 to June of 1995, it appears that the State's Property Management section had accumulated some 600 firearms. If these remaining guns were sold at the same level as the 50 that were destroyed, the estimated revenue loss to the state in less than a year's time would be a considerable \$153,175.

Aside from revenue loss and loss to the public of collectible items, both the Administration and the Bill Sponsor are concerned with the issue of public safety. This bill would deal with this concern in two ways. First, the Department could only dispose of firearms and ammunition it deemed to be serviceable and safe. Second, the Department could only dispose of them to a federally licensed firearms dealer, rather than revert to selling them at auction. By doing a background check on any purchaser before sale, the licensed dealer would ensure that these items would not be sold to someone with a felony record. Thus, public safety is protected, a state revenue source can continue to be maintained, and collectibles can still be obtained by the public.



Representative Pete Kott



Wayne
Anthony
Ross

Law Offices of

ROSS & MINER

A Professional Corporation

327 East Fireweed Lane, Suite 201

Anchorage, Alaska 99503

Wayne Anthony Ross
Edward L. Miner

(907) 276-5307

(907) 276-6672 - FAX

January 4, 1996

QUICK SUMMARY

To the members of the Alaska Legislature:

Re: Wilful destruction of valuable State property by State officials;
Lawsuit filed by AK Gun Collectors Association to attempt to end
such practice

June 20, 1995 - Boyer writes memo to Ayers regarding the disposal of the State's "surplus firearms" proposing destruction of handguns. Excerpts: "Receipts received from the disposal of these firearms contribute to the funding of the Property Management Program". The "Property Management section has sold excess service revolvers and confiscated firearms for the past decade". "There is no evidence that firearms disposed of by the Surplus Property Program have ever been involved in a crime". Proposes that: "only hunting rifles and shotguns (should) be sold at public auction" and that "(h)andguns would be destroyed".

Ayers approves saying "This is clearly in the public interest and better government".

The Administration sets about implementing the destruction of these firearms.

September 13, 1995 - Alaska Gun Collectors Association (AGCA) files complaint in Superior Court seeking an injunction. Baldwin tells court that the State was only going to destroy "Saturday Night Specials, sawed-off shotguns, and assault weapons". TRO denied.

September 14, 1995 - Fifty surplus firearms, including desirable collectors items, destroyed by cutting torch. State estimates the firearms destroyed had a market value of \$13,925.00.

September 26, 1995 - AGCA files amended complaint again seeking an injunction and personal damages against the Governor, his COS, the Commissioner of Administration, and the Commissioner of Public Safety.

October 25, 1995 - Defendants file answer admitting destruction and stating new State policy of destruction. transferred to the Department of Administration as surplus state property".

December, 1995 - Defendants file Motion to Dismiss plaintiff's Complaint, alleging, among other things, immunity and plaintiff lack of standing to bring the suit.

The Legislature has responsibility to protect the property of the State against an Administration bent on destroying valuable, revenue producing, state assets to further its own political agenda especially in view of the current revenue shortfall.

Wayne
Anthony
Ross

Law Offices of
ROSS & MINER

A Professional Corporation
327 East Fireweed Lane, Suite 201
Anchorage, Alaska 99503

Wayne Anthony Ross
Edward L. Miner

(907) 276-5307
(907) 276-6672 - FAX

January 4, 1996

To the members of the Alaska Legislature:

Re: Wilful destruction of valuable State property by State officials;
Lawsuit filed by AK Gun Collectors Association to attempt to end
such practice

Dear Legislator:

On June 20, 1995, Mark Boyer, Commissioner of the Alaska Department of Administration, wrote a memo to Jim Ayers, the Governor's Chief of Staff, regarding the disposal of the State's "surplus firearms".

The memo said that the State's Property Management section had accumulated "approximately 600 firearms since the last disposal of firearms in August (1994)" and that "(r)eceip[s] received from the disposal of these firearms contribute to the funding of the Property Management Program". The memo stated that, in the past, the disposal process "recirculates legal firearms", and the "Property Management section has sold excess service revolvers and confiscated firearms for the past decade". The memo further stated that "(t)here is no evidence that firearms disposed of by the Surplus Property Program have ever been involved in a crime". (Emphasis mine.) Despite this fact, the memo recommended that "only hunting rifles and shotguns (should) be sold at public auction" and that "(h)andguns would be destroyed".

Mr. Ayers, the Governor's COS, penned a note to the memo which stated: "Mark - This is clearly in the public interest and better government. Thank you." Without notice to the public, the Administration then set about implementing the destruction of these firearms.

On 13 September 1995, after learning of the proposed, and imminent, destruction of these firearms which are, among other things, an important source of revenue for the State, the Alaska Gun Collectors Association (AGCA) filed a complaint in Superior Court seeking an injunction against the State, the Department of Public Safety, and the Department of Administration, to prevent the destruction of these firearms.

Plaintiff's Motion for Temporary Restraining Order was denied when Assistant Attorney General James Baldwin told the court that the State was only going to destroy "Saturday Night Specials, sawed-off shotguns, and assault weapons". Mr. Baldwin later advised a concerned citizen that Sgt. Michael Marrs and LT Skip Coile, AST, "reviewed the firearms and determined there were no antique or collectible firearms on the list to be

January 4, 1996

Page - 2 -

destroyed".

Fifty surplus firearms were destroyed by a cutting torch on 14 September 1995. Most of these firearms were not "Saturday Night Specials, sawed-off shotguns, and assault weapons". Many of these firearms were, in fact, collectors items. By the State's own estimate, the fifty firearms that were destroyed had a market value of \$13,925.00.

On or about the 26th of September 1995, the AGCA filed an amended complaint again seeking an injunction and seeking, among other things, damages against the Governor, his COS (Mr. Ayers), the Commissioner of Administration (Mr. Boyer), and the Commissioner of Public Safety (Mr. Otte), "personally, in favor of... the State of Alaska, for the total value of each and every firearm they have destroyed or will destroy in the future...".

The defendants filed an answer, on or about 25 October 1995, admitting that "before September of 1995 surplus firearms were disposed of by sale" but stating that "the policy of the defendant State of Alaska is to refrain from selling surplus and forfeited handguns directly to the public". Defendants admitted "that on September 14, 1995 approximately 50 deadly weapons were destroyed" but denied any conspiracy, denied that public notice was required before destruction, and denied that the "weapons belonged to anyone other than the defendant Department of Administration". For affirmative defenses, the defendants claimed, among other things, that the plaintiffs lack standing to bring the suit, that the defendants are immune from suit, and that the defendants "were authorized by law to destroy deadly weapons transferred to the Department of Administration as surplus state property".

Plaintiff has been furnished with a list of the firearms that were destroyed, as well as a list of firearms that are proposed for future destruction.

Defendants have recently filed a Motion to Dismiss plaintiff's Complaint, alleging, among other things, immunity and that plaintiff lacks standing to bring the suit in question. The plaintiff has not yet responded to that Motion.

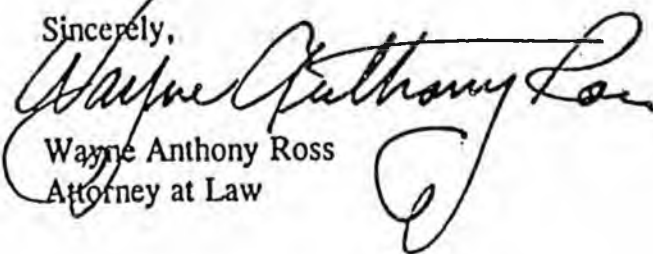
While the AGCA, and its more than 300 members, believes it has standing to bring such a suit, the Legislature is really the body who has the responsibility to protect the property of the State, and thus the people of Alaska, against an Administration bent on destroying valuable, revenue producing, state assets to further its own political agenda. This is particularly true in view of the current revenue shortfall that the State is experiencing.

It is respectfully requested that the Legislature intervene in this suit, against the Administration, on behalf of the people of the State. It is also requested that the Legislature adopt legislation this session that will prevent such destruction of State assets in the future.

Should you have any questions, please feel free to contact me.

January 4, 1996
Page - 3 -

Sincerely,

A handwritten signature in cursive script, reading "Wayne Anthony Ross". The signature is written in black ink and is positioned to the right of the typed name and title.

Wayne Anthony Ross
Attorney at Law

cc
AGCA