

SB

262

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 1/27/98

FURTHER:

Date of 5-Day Notice: 2/19/98
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 2/24/98

Resources Committee considered SENATE BILL NO. 262

"An Act relating to regulation of hunting and trapping and to the definition of 'sustained yield.'"

and recommends:

- be replaced with _____ CS SB 262 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
same title
new title
House Bill:
 same title
 technical title
 new: SCR# _____

| SIGNING DO PASS | DP | OTHER RECOMMENDATIONS | NR | DNP | AM |
|-------------------------------|----|-----------------------|----|-----|----|
| <i>Robin Taylor</i> | ✓ | <i>Donna ...</i> | | ✓ | |
| <i>Bob ...</i> | ✓ | | | | |
| <i>Linda ...</i> | ✓ | | | | |
| <i>...</i> | ✓ | | | | |
| CHAIR: <i>Rich ...</i> | ✓ | CHAIR: | | | |

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

APPLIES TO C.S. F0219

| | | | |
|--------|------|---|--|
| ADF: 6 | 2/20 | X | |
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PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

| | | | |
|--|--|--|--|
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APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 262

Revision Date: _____ Dept. Affected Fish and Game
 Title: Management of Hunting BRU: Wildlife Conservation
 Component: Wildlife Conservation
 Sponsor: Senator Taylor
 Requester: Senate Resources COMPONENT SERIAL NO. 473

Expenditures/Revenues

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|------------|------------|------------|------------|------------|------------|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-----------------------------|------------|------------|------------|------------|------------|------------|

| | | | | | | |
|------------------------------------|------------|------------|------------|------------|------------|------------|
| CHANGE IN REVENUES (1024) | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|------------------------------------|------------|------------|------------|------------|------------|------------|

FUND SOURCE

(Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY97) cost: \$ 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 |

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Ken Taylor, Deputy Director
 Division: Wildlife Conservation
 Approved by Commissioner: Geo. Bunn
 Agency: Department of Fish and Game

Phone: 464-4190
 Date: 2/20/98
 Date: 2/23/98

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PROPOSED AMENDMENT

OFFERED IN THE SENATE

BY SENATOR TAYLOR

TO: SB 262

Page 2, line 19:

Delete: "conservation"

Insert: "management"

This change in existing law was inadvertently missed when the bill was put together. The purpose of the bill is twofold... first to allow the Board of Game the authority to adopt regulations it deems necessary for the biological management of game and then sets forth the methods the Board may use to accomplish this task. This amendment is necessary to conform to the remainder of the bill.

Page 2, line 24:

Delete: "fish or"

This amendment deletes a reference to fish as the bill does not affect fish at this time.

Page 3, line 2:

Delete: "stock or"

Again, this amendment deletes a reference to fish.

Page 3, line 7 following the word "including":

Insert: "but not limited to motor vehicles,"

This language was inadvertently omitted from the original bill, the intent of which is to prohibit the department from restricting access that is not for the achievement of biological management goals.

Page 3, following line 13:

Insert new bill section to read:

"*Sec.5. Controlled Use Areas existing at the time of this Act will be continued as deemed necessary by the Board. Additional controlled use areas may only be established to achieve biological management goals."

The Board has previously used controlled use areas as a method and means of controlling harvest. This amendment will grandfather in existing controlled use areas. Future controlled use areas will only be allowed if they are necessary for achieving biological management goals.

Alaska State Legislature

Chairman,
Judiciary Committee

Member,
Resources Committee
Rules Committee
Committee on Committees



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Senator Robin L. Taylor
Senate Majority Leader

SPONSOR STATEMENT

SENATE BILL 262

Alaska license holders are outraged by the department's adoption of a preservationist philosophy which opposes consumptive uses by restricting access. At the fall 1995 Board of Game meeting, the Department of Fish and Game urged the Board of Game to close 236 square miles to Alaska's hunters. The department's own biologists testified that there was no biological problem, no justification, nor actual conflict among user groups in the area. The department's director admitted that the only issue was one based solely on a misperception resulting from purposeful misinformation and disinformation promulgated by animal rights extremists.

Senate Bill 262 restricts the department from curtailing traditional access for hunting and trapping unless the specific means of access is causing biological harm to a game population in the area where the restriction is to apply; and, the recovery of the wildlife population requires the access restriction.

The Board of Game is now politically compromised and has developed a pattern of establishing "controlled use areas" which deny user group access without any biological justification. To get politics out of wildlife management, the legislature must require that all wildlife regulations be necessary and biologically justified.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

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DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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MEMORANDUM

February 23, 1998

SUBJECT: Sectional Summary of SB 262: Regulation of hunting and trapping;
definition of "sustained yield"

TO: Senator Robin Taylor
Attn: Mel Krogseng

FROM: George Utermohle *GU*
Legislative Counsel

This memorandum is a sectional summary of SB 262, which you requested.

Section 1 of the bill makes changes to AS 16.05.255(a) relating to the power of the board to adopt regulations for the biological management of game.

Section 2 of the bill adds a new section (AS 16.05.799) relating to regulation of means of access by the Board of Game and the Department of Fish and Game.

Section 3 of the bill amends AS 16.05.940 by adding a definition of "sustained yield."

Section 4 of the bill annuls 5 AAC 92.004(a)(4), relating to off-road vehicle use and quality of the outdoor experience.

GU:lmb
98-022.lmb

Enclosure

Hunting Areas With Access Restrictions

| Controlled Use Area | Eff. Date* | Restriction |
|--|------------|---|
| Chichagof CUA (4) 5 AAC 92.540(1) | 1989 | closed to use of any motorized vehicle for brown bear hunting |
| Delta CUA (13B & 20A) 5 AAC 92.540(2)(A) | 1971 | closed to use of any motorized vehicle or pack animal for hunting from 8/5-25 |
| Sourdough CUA (13B) 5 AAC 92.540(2)(B) | 1971 | closed to use of any motorized vehicle for hunting (except designated highways) |
| Clearwater Creek CUA (13B) 5 AAC 92.540(2)(C) | 1971 | closed to use of any motorized vehicle for hunting (except designated highways) |
| Tonsina CUA (13D) 5 AAC 92.540(2)(D) | 1975 | closed to use of any motorized vehicle or pack animal for hunting from 7/26-9/30 |
| Glacier Mountain CUA (20E) 5 AAC 92.540(2)(E) | 1971 | closed to use of any motorized vehicle for hunting from 8/5-9/20 (except designated highways) |
| Wood River CUA (20A) 5 AAC 92.540(2)(F) | 1976 | closed to use of any motorized vehicle except aircraft for big game hunting and transportation of game |
| Macomb Plateau CUA (20D) 5 AAC 92.540(2)(G) | 1974 | closed to use of any motorized vehicle for hunting or transportation of game from 8/10-9/30 (except some aircraft) |
| Yanert CUA (20A) 5 AAC 92.540(2)(H) | 1973 | closed to use of any motorized vehicle except aircraft for big game hunting and transportation of game |
| Ladue River CUA (20E) 5 AAC 92.540(2)(I) | 1994 | closed to use of any motorized vehicle except aircraft for big game hunting and transportation of game (except designated highways) |
| Nenana CUA (20A & C) 5 AAC 92.540(2)(J) | 1996 | closed to use of airboats for hunting moose, transporting moose hunters or their gear |
| Kenai CUA (15A) 5 AAC 92.540(3)(A) | 1982 | closed to use of aircraft during moose season until 9/11 (except at airports) |
| Lower Kenai CUA (15C) 5 AAC 92.540(3)(B) | 1985 | closed to use of any motorized vehicle except aircraft or boat for hunting 9/11-14 and 9/17-20 (except designated highways) |
| Kalskag CUA (18) 5 AAC 92.540(4) | 1977 | closed to use of aircraft for hunting big game, transporting hunters or game (except from public airport) |

*effective date of access restriction, not when the area was established

| Controlled Use Area | Eff. Date* | Restricted on |
|--|------------|--|
| Upper Kuskokwim CUA (19D) 5 AAC 92.540(5)(A) | 1981 | closed to use of aircraft for hunting moose, transporting moose hunters or moose parts (except from public airport) |
| Hoholtna-Hoholitna CUA (19A & B) 5 AAC 92.540(5)(B) | 1992 | closed to use of boats equipped with motors over 40hp for big game hunting, transporting hunters and game from 8/1-11/1 |
| Koyukuk CUA (21 & 24) 5 AAC 92.540(6)(A) | 1978 | closed to use of aircraft for hunting moose, transporting moose hunters or moose parts (except from public airport) |
| Kanuti CUA (24) 5 AAC 92.540(6)(B) | 1979 | closed to use of aircraft for hunting moose, transporting moose hunters or moose parts (except from public airport) |
| Paradise CUA (21) 5 AAC 92.540(6)(C) | 1977 | closed to use of aircraft for hunting moose, transporting moose hunters or moose parts (except from public airport) |
| Noatak CUA (23) 5 AAC 92.540(7) | 1988 | closed to use of aircraft for hunting big game, transporting hunters or game (except from public airport) |
| Upper Mulchatna CUA (17B) 5 AAC 92.540(8) | 1990 | closed to use of any motorized vehicle except aircraft or boat for hunting big game (except vehicle in camp) |
| GMU 26A CUA 5 AAC 92.540(9) | 1990 | closed to use of aircraft for hunting moose, transporting moose hunters or moose parts from 8/1-31 and 1/1-3/31 (except from public airport) |
| Naknek CUA (9C) 5 AAC 92.540(10)(A) | 1991 | closed to use of any motorized vehicle except aircraft, boat or snowmobile for hunting from 8/1-11/30 (except designated areas) |
| Izembek CUA (9E) 5 AAC 92.540(10)(B) | 1993 | closed to use of any motorized vehicle except boats for hunting, transporting hunters or game |

*effective date of access restriction, not when the area was established

| Management Area | Eff. Date | Restriction |
|--|-----------------------|---|
| Dalton Highway Corridor MA 5 AAC 92.530(7) | 1987 | no motorized vehicles, except aircraft, boats and licensed highway vehicles may be used to transport game or hunters |
| Minto Flats MA (20B) 5 AAC 92.530(8) | 1995 | aircraft and airboats may not be used for moose hunting or to transport moose, moose hunters or their equipment |
| Northwest Alaska Brown Bear MA 5 AAC 92.530(16) | 1992 | aircraft (except regularly scheduled flights) may not be used in any manner for brown bear <i>registration permit</i> hunts |
| Lake Louise MA (13A)** | 1971 Repealed 1979 | closed to use of any motorized vehicle for hunting and transportation of game (except designated roads) |
| Alaska Peninsula MA (9)** | 1973 Repealed 1986 | closed to use of any motorized vehicle for big game hunting (except boats and aircraft) |
| Lime Village MA (19A) | 1985 Repealed 1986 | closed to use of aircraft during moose season (except at airports) |
| West Chugach MA (14)** | 1968 Repealed 1979 | closed to motorized transport (except boats) for hunting (except established roads and public airports) from 8/1-11/30 |

*effective date of access restriction, not when the area was established

**although designated as "management areas" when they were established, if created now, these areas would be "controlled use areas."

FISCAL NOTE

**STATE OF ALASKA
1998 LEGISLATIVE SESSION**

BILL NO. CSSB 262 (RES)

| | |
|---|---|
| Revision Date (Note if correction) <u>4/17/98</u> | Dept. Affected <u>Law</u> |
| Title <u>An Act relating to regulation of hunting and</u> | BRU <u>Criminal Division/Civil Division</u> |
| <u>trapping, to the definition of 'sustained yield,' ... controlled use areas</u> | Component <u>OSPA/Natural Resources</u> |
| Sponsor <u>Senator Taylor</u> | |
| Requester <u>House Resources Committee</u> | Component Serial No. <u>2203/2212</u> |

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 | FY 04 |
|------------------------|--------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 56.6 | 56.6 | 56.6 | 56.6 | 56.6 | 56.6 |
| Travel | 5.3 | 5.3 | 5.3 | 5.3 | 5.3 | 5.3 |
| Contractual | 84.1 | 9.1 | 9.1 | 9.1 | 9.1 | 9.1 |
| Supplies | 0.9 | 0.9 | 0.9 | 0.9 | 0.9 | 0.9 |
| Equipment | 6.5 | 6.5 | 6.5 | 6.5 | 6.5 | 6.5 |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 153.4 | 78.4 | 78.4 | 78.4 | 78.4 | 78.4 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| FUND SOURCE | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 | FY 04 |
|--------------------------|--------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 153.4 | 78.4 | 78.4 | 78.4 | 78.4 | 78.4 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | 153.4 | 78.4 | 78.4 | 78.4 | 78.4 | 78.4 |

Estimate of any current year (FY98) cost: _____

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | | | | | | |
| Part-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

Section 1 of CSSB 262 (RES), among other things, sets a new legal standard by which the validity of most Board of Game regulations would be judged; that is whether they are necessary for the biological management of game. Many current regulations would probably not meet this narrow test and a consistency review of almost all regulations would be necessitated by this language. Based on prior experience, the Department of Law anticipates that the consistency review would require the hiring of outside counsel to work with the Board of Game and ADF&G exclusively on game regulations for the period of 6 to 8 months, as current Civil Division staff could not take on such a massive project and maintain their current caseloads. In addition, a new half-time attorney position within the Natural Resources section would be required for the increased complexity of the workload associated within on-going regulations development to ensure new regulations meet the new legal standard.

Prepared by Joan M. Kasson *Joan M. Kasson*
 Division Attorney General's Office

Approved by Commissioner Bruce M. Botelho, Attorney General
 Agency Department of Law

Phone 465-5370
 Date 4/17/98
 Date 4/17/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 262 (RES)

ANALYSIS CONTINUATION

Until the regulations consistency review can be completed, and new regulations promulgated, prosecution of hunting violations will be complicated by having to prove the biological necessity of each regulation behind the prohibited activity(s) in each case. This will add to the time and effort required to successfully prosecute these cases. It is also likely, however, that the department simply will be unable to prosecute at all in many cases, offsetting the increased workload in others. For example, same day airborne hunting is prohibited under current regulation, yet the state may be hard-pressed to prove it is "biologically necessary", or whether it merely permits fairness between hunters who have access to airplanes and those who do not. The net impact on the Criminal Division is unknown.

Section 2 contains restrictive language limiting the Board of Game's ability to control means and methods used for taking game. This section will complicate the Board's ability to meet allocation concerns and comply with various statutory allocation mandates, like the requirement to provide a reasonable opportunity for subsistence uses, but it is difficult to assess how this complication will affect the relevant agencies' costs.

Section 3 defines "sustained yield". Over time, we expect this definition would be litigated and would also increase the complexity of issues the Board and ADF&G must deal with, but this is difficult to accurately assess.

Section 4 annuls part of a regulation, and will probably have no cost to the Department of Law.

We have determined it is too speculative to predict costs at this time for the impact of Section 1 on criminal prosecutions, and the amount of litigation that may result from the bill. However, should extensive litigation result and the cost of criminal prosecutions rise sharply, the department would reassess its budget situation.

The department anticipates the cost for outside counsel to work exclusively on the regulations consistency review project would be \$75,000. In-house costs are based on the FY98/99 standard attorney cost allocation schedule and estimated at \$66,758 for one half-time attorney position (FTE \$133,517/2). The standard cost schedule includes clerical support, communication, copies, lease space, and other standard overhead costs. Not included in the schedule are direct case costs, such as the travel to Board of Game meetings around the state that the new position will be required to incur, and one-time new position costs for equipment.

On average, the board meets three times per year for ten days. The department estimates travel costs to be approximately \$5,160 per year. \$6,500 is included in FY99 only for one-time new equipment purchases.