

SB

74

Board of Game
PO Box 25526
Juneau, AK 99802

MAR 29 1999

FYI
*Distributed by:
Rep. Beverly Masek*

Honorable Beverly Masek, Vice Chair
House Resources Committee
State Capitol Building, Room 432
Juneau, AK 99801-1182

March 24, 1999

Dear Representative Masek:

In official action at the March meeting of the Alaska Board of Game, the board has endorsed SB-74, same-day airborne for wolves by Department agents, and HB-114, eliminating the annual requirement for reauthorization of antlerless moose hunts.

The board recognizes the importance of predator control in managing Alaska's resources, and feels that the passage of Ballot Measure 3 in 1996 severely restricted the board's and the Department's ability to implement such action. By allowing Department personnel and agents to use same-day-airborne, and eliminating the "irreversible decline" clause, we feel that management of the state's wolves will be more readily attainable.

Regarding the reauthorization of antlerless moose hunts, the board agrees that the requirement to do so annually is a burden on the system. With our regional 2-year meeting cycle, the Department must have personnel travel long distances to address these reauthorizations. In cases where the hunt may not occur due to population estimates or bull:cow ratios, the hunt is reauthorized anyway, so that it is not lost in the future. By eliminating the annual reauthorization requirement, the board and Department will have more flexibility in using antlerless hunts in managing moose populations.

We encourage passage of both bills, and encourage distribution of this letter to other concerned legislators.

Sincerely,



Michael Fleagle,
Member, Board of Game

Alaska State Legislature

SENATOR

PETER KELLY

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Senate

While in Juneau

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99801-1182

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Senate District P

March 10, 1999

Representative Scott Ogan
Co-Chairman
Resources Committee
State Capitol, Room 128
Juneau, AK 99801

Dear Rep. Ogan,

I request that Senate Bill 74, "An Act Relating to Hunting on the Same Day Airborne", be scheduled for a hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Kelly".

Senator Pete Kelly

Attachment: Sponsor statement.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

No. 1
Bill Version: SB74
(S) Publish Date: 2/25/99

Revision Date: _____ Dept. Affected: Fish and Game
Title: Same Day Airborne Hunting BRU: Wildlife Conservation
Component: Wildlife Conservation
Sponsor: Senator Pete Kelly
Requester: Senate Resources COMPONENT SERIAL NO. 473

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY00	FY 01	FY 02	FY 03	FY 04	FY 05
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
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CHANGE IN REVENUES (1024)	0.0	0.0	0.0	0.0	0.0	0.0
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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 (FY99) 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: Wayne Regelein, Director
Division: Wildlife Conservation
Approved by Commissioner: Dean Bruce Van
Agency: Department of Fish and Game

Phone: 464-4190
Date: 2/22/99
Date: 2/22/99

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Senator Pete Kelly

Sponsor Statement

Senate Bill 74

An Act Relating to Hunting on the Same Day Airborne

Sound Wildlife management dictates that predation pressure on a low or declining prey population is reduced far before the situation becomes an emergency. The current statutory language precludes this option. This means that the Board of Game and Department of Fish and Game cannot respond quickly to precipitous declines or to long-term declines in important prey populations, caused by weather or any other reason, even if consequences for thousands of Alaskans would be severe.

The current statute would preclude taking immediate action without board approval of a control program. In 1994 the department had to take immediate action to medicate or remove two louse-infected wolves that left the Kenai Peninsula in order to prevent the spread of lice to other parts of the state. While uncommon, such situations do occur and aerial shooting should remain a clear option.

The current wording of AS 16.05.783 has the appearance of allowing the Board of Game to authorize a wolf control program using aerial shooting, but the language chosen would make that nearly impossible without legal challenge. The use of the terms "adequate data", "no feasible solution" and "biological emergency" in AS 16.05.783(a)(1) are problematic from both biological and legal points of view. Rather than establishing workable standards for determining when predation control is appropriate, the language creates ambiguity in that regard, which will lead to endless legal challenges.

This bill would preserve the original stated intent of the 1996 ballot measure, but would more clearly provide the board and department the latitude to employ aerial shooting for management purposes. Management actions should not be considered "hunting" when performed by department personnel or persons acting as agents of the state.

History and analysis.

I.

From 1959 through the early 1970's it was legal for the general public to take wolves the same day airborne, either by shooting from the air or from the ground immediately after landing. From the early 1970's through about 1990, it was legal for persons with a valid trapping license to shoot wolves only after landing. In the early 1990's, a regulation was adopted requiring a person to be more than 300 feet from an aircraft before shooting at a wolf.

For decades, public wolf harvests alone were sufficient to keep wolf predation on moose and caribou in many areas within reasonable limits. This was particularly true in open terrain such as on the North Slope, Western Alaska and in Game Management Unit 13, the Nelchina and copper river area.

In more heavily wooded areas like GMU 20A and 20B near Fairbanks and 20E in the Fortymile Country, public wolf harvests by same day airborne proved insufficient to control wolf predation. In these areas state wolf control programs using aerial shooting were authorized by the Board of Game and conducted by state personnel.

II.

As mentioned, in areas of open tundra public same day airborne wolf shooting effectively controlled wolf numbers for the benefit of moose and caribou but in no way threatened the viability of wolf populations.

During state wolf control programs using aerial shooting, wolf numbers were efficiently controlled for a set number of years, usually 3 to 5 years. Moose, caribou and Dall sheep populations were allowed to recover and wolf control efforts were terminated.

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Moose have increased and remained abundant in Units 20A, 20B and 20E following wolf control programs conducted from 1976 to 1986 in several of those areas. The Delta and Fortymile caribou herds also increased to useable abundance from historic population lows in the mid 1970's.

III.

The primary flaw in the initiative is that the sponsors purported to make an allowance for necessary state wolf control programs employing same day airborne shooting, but in reality established criteria subject to endless legal challenges.

For example, the initiative requires the Commissioner to make written finding based on adequate data demonstrating that a biological emergency exists. No biologist ever considers their data to be adequate because fiscal constraints restrict sampling efforts. Seldom would a biologist conclude a cause and effect relationship between wolf predation and the beginnings of ungulate population declines. Their professionalism would be challenged.

The written findings require that there be no feasible solution other than airborne (wolf) control. There are always alternatives (sterilization, ground snaring, translocation, heavier bear and wolf harvests by the public, etc.) Whether they would be feasible or not could always be challenged in court.

*Note: To be effective at halting and reversing a prey population decline, predation control needs to be timely applied. Endless court delays would condemn many management actions to failure if prey populations were allowed to decline too low.

The very definition of "Biological emergency" in the initiative is extremely problematic. It means that a wolf population is causing the irreversible decline of a prey population. Usually wolves are only part of the cause of decline along with weather, food availability and bear predation. Proving wolves to be solely responsible in court could be nearly impossible.]

Also, technically there is no such thing as an irreversible decline in a prey population. For instance, moose numbers may decline 90% in an area partially as a result of wolf predation. If, at extremely low levels, moose numbers increase by only a few animals, then the decline was not

irreversible, even though the population may never again be capable of supporting but a small fraction of former annual harvests without significant predation reduction to restore abundance.

- The given definition of a "biological emergency" does not include the current problem of dog lice investation spreading from wolves on the Kenai Peninsula to the thousands of wolves in the rest of Alaska. Aerial shooting may well be needed to halt the infestation, but the current law makes no such provision.

IV.

Given the current wording of the law, ADF&G would never be able to use aerial shooting to control wolf predation or to halt a disease or parasite infestation. Such actions must be applied in a timely fashion, over a sufficiently large area (about 3000 square miles) and remove enough wolves to reduce a population quickly (70 to 80% initial reduction) and then maintain the remaining wolf population at a low enough level to allow for prey recovery. Harvest exeeding 40% annually are needed to prevent a wolf population from increasing.

- The Knowles administration, like the Cowper administration, has exercised executive branch powers to prevent same day airborne shooting as a management technique so far (since 1994). Even if they were to change their policy in response to declining game numbers and constituent pressures, the current law would prohibit effective action.

V.

SB74 deletes the problematic language that purports to allow, but actually prevents, the use of same day airborne shooting authorized by the Board of Game or the Commissioner. There would be less ambiguity and chance for successful litigation should the board and/or the commissioner authorize a same day airborne management action.

The amendments allowing a state management action are straightforward; not ambiguous and contorted like the initiative language and definitions.

Sec (b)(2) even provides the latitude for the board and commissioner to use qualified Alaskans in an approved control action even if they are not ADF&G employees. Qualified Alaskans, under permit, could act as "agents" of the State in compliance with the Federal Airborne Hunting Act. This is an

important fiscal consideration in situations where qualified permittees could provide considerable assistance in an approved management action.

Other Information

Many game populations in Alaska have suffered by neglect during the Knowles administration. Heavy predation has caused a widespread moose decline in the upper Kuskokwim drainage, and reduced calf recruitment is causing the Board of Game to consider moose hunting restrictions in Unit 13 important to thousands of Alaskan hunters. Moose have declined in the Brooks Range and on the North Slope and remain low in the Upper Yukon drainage.

These declines are impacting both rural and urban Alaskans. Subsistence preference is little solace when deadlines reach low levels.