

SJR

16

Alaska State Legislature

SENATOR
GENE THERRIAULT

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Senate

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SJR 16

Sponsor Statement

The right of states to manage wildlife is based on the premise that all wealth, and subsequent revenue, depends to a large degree on natural resources. States were formed, and ultimately admitted into the union, in large part on their ability to generate the wealth needed for public services within their boundaries. Proper stewardship of our wildlife resources is certainly more critical to our state than the nation, and therefore we should have primary management authority.

Unfortunately, as more and more acreage has come under federal management in Alaska and other western states, wildlife management has become the object of national groups who intend the resources to be unavailable for certain state uses. Federal policies have also hampered our state wildlife manager's abilities to meet constitutionally mandated "sustained yield" principles.

SJR -16 encourages a shift in policy from federal oversight back to state management. It is consistent with our constitution, laws, and the statehood act and is in the best interest of Alaskans, Americans, and the long-term health of our wildlife resources.



Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Senator Gene Therriault
Current Version: SJR 16
Contact: Dave Stancliff, 465-4861

Fact Sheet for: Senate Joint Resolution 16

Short Title: STATES' RIGHT TO REGULATE HUNTING/FISHING

Summary:

- Supports legislation in the United States Congress that reaffirms the right of the states to regulate hunting and fishing.

Benefits:

- Ensures local control over fish and game issues.
- Recognizes that fact that the states are best situated to address local concerns regarding fish and game issues.

Background:

- Hunting and fishing issues should be left to the individual states to regulate as much as possible. SJR 16 recognizes that fact and urges the United States Congress to pass pending legislation that reaffirms the right of states to regulate hunting and fishing. Copies of the resolution will be distributed to Alaska's congressional delegation and other congressional leaders.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SJR 16
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
 Title: "Supporting legislation before the United BRU: Legislative Council
States Congress that reaffirms the right of the states..." Component: Council and Subcommittees
 Sponsor: Senator Theriault Session Expenses
 Requestor: Senate Resources Component No. 783

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
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 ()	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	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director
 Division: Administrative Services
 Approved by: Pamela Varni, Executive Director
 Agency: Legislative Affairs Agency

Phone 465-6626
 Date/Time 4/1/05 9:04 AM
 Date 4/1/2005

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BIRCH, HORTON, BITTNER AND CHEROT

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FOR A LIST OF OUR ATTORNEYS

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- ALL OTHER ALABAMA BAR

MEMORANDUM

TO: Ted Popely

FROM: Bill Horn
Donna Beth Lagow

DATE: April 25, 2005

RE: Senate Passes Bill To Protect State Rights to Regulate Hunting And Fishing

VIA TELEFAX

Legislation to protect the rights of states to regulate hunting and fishing within their borders and treat residents and non-residents differently has been approved by the Senate.

Based on S. 339 introduced by Senators Harry Reid (D-NV), John Ensign (R-NV), Ted Stevens (R-AK) and Ben Nelson (D-NE), the measure was incorporated as an amendment to the Supplemental Appropriations Act. The House must still vote on the amendment. From there, the Supplemental Appropriations Act will go to a joint Senate/House Conference Committee where that decision will be made.

The legislation will allow states to continue to distinguish between residents and non-residents when issuing hunting and fishing licenses. That right was at risk because of a recent ruling by the U.S. Court of Appeals for the Ninth Circuit which equated hunting and fishing to interstate commerce and diminished the authority of the states to discriminate between residents and non-residents when issuing licenses.

SUPPORT

FED. LEG. INFO. - 3-31-05

RESOLUTION REGARDING H.R. 731 AND S. 339

This resolution provides support for the consideration and passage of H.R. 731 and S. 339 in Congress regarding the reaffirmation of the authority of the State to regulate certain hunting and fishing activities. S. 339 was introduced by Senator Reid and is cosponsored by Senator Ted Stevens.

These bills were introduced to correct rulings by both the Arizona District Court and the Ninth Circuit Court of Appeals regarding the disproportional distribution of permits between residents and non-residents. The District Court ruled that the State of Arizona unconstitutionally discriminated against non-residents by issuing only a small portion of available hunting permits to out-of-state residents. The ruling apparently relied on the fact that Congress had not exercised its authority under the Commerce Clause allowing the states to discriminate in issuing hunting permits.

The ruling was appealed to the Ninth Circuit Court of Appeals. The ruling was upheld and remanded back to the District court. As of this date, Arizona has not appealed this case to the U.S. Supreme Court.

The passage of either H.R. 731 or S.339 would clarify that Congress, under its Commerce Clause authorities, is recognizing this traditional authority of the states and granting the states the ability to continue issuing hunting permits to residents and non-residents on a priority and case-by-case basis. There have been a number of federal cases where the courts have ruled that the states can discriminate to some degree against non-residents in hunting fees and proportional permitting while not eliminating their participation. This legislation would allow for this practice to continue.

Alaska could be seriously affected by this court ruling without some guidance from Congress as is being proposed. A major portion of the license fees brought into the State Fish and Game Fund comes from the sale of licenses and tags to non-residents. Thus, the maintenance of a reasonable and strong presence of non-resident hunters is critical to the state. However, Alaska also has an established subsistence law requiring a priority for residents for those species taken for human consumption. In order to provide for this priority, it has been advisable, in some cases where ungulate species are dangerously low, to eliminate non-resident hunting all together. Management of many Alaskan wildlife species that are taken for food would be much more difficult if we had to strictly abide by this recent Arizona ruling.

The obvious solution is to ask Congress to clarify its intentions under their Commerce Clause authorities.

109TH CONGRESS
1ST SESSION

S. 339

To reaffirm the authority of States to regulate certain hunting and fishing activities.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 2006

Mr. REID (for himself, Mr. BAUCUS, Mr. STEVENS, Mr. NELSON of Nebraska, and Mr. BENEEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reaffirm the authority of States to regulate certain hunting and fishing activities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Reaffirmation of State
5 Regulation of Resident and Nonresident Hunting and
6 Fishing Act of 2005".

7 **SEC. 2. DECLARATION OF POLICY AND CONSTRUCTION OF**
8 **CONGRESSIONAL SILENCE.**

9 (a) **IN GENERAL.**—It is the policy of Congress that
10 it is in the public interest for each State to continue to

1 regulate the taking for any purpose of fish and wildlife
2 within its boundaries, including by means of laws or regu-
3 lations that differentiate between residents and non-
4 residents of such State with respect to the availability of
5 licenses or permits for taking of particular species of fish
6 or wildlife, the kind and numbers of fish and wildlife that
7 may be taken, or the fees charged in connection with
8 issuance of licenses or permits for hunting or fishing.

9 (b) CONSTRUCTION OF CONGRESSIONAL SILENCE.—
10 Silence on the part of Congress shall not be construed to
11 impose any barrier under clause 3 of Section 8 of Article
12 I of the Constitution (commonly referred to as the “com-
13 merce clause”) to the regulation of hunting or fishing by
14 a State or Indian tribe.

15 **SEC. 2. LIMITATIONS.**

16 Nothing in this Act shall be construed—

17 (1) to limit the applicability or effect of any
18 Federal law related to the protection or management
19 of fish or wildlife or to the regulation of commerce;

20 (2) to limit the authority of the United States
21 to prohibit hunting or fishing on any portion of the
22 lands owned by the United States; or

23 (3) to abrogate, abridge, affect, modify, super-
24 sede or alter any treaty-reserved right or other right
25 of any Indian tribe as recognized by any other

1 means, including, but not limited to, agreements
2 with the United States, Executive Orders, statutes,
3 and judicial decrees, and by Federal law.

4 **SEC. 4. STATE DEFINED.**

5 For purposes of this Act, the term "State" includes
6 the several States, the District of Columbia, the Common-
7 wealth of Puerto Rico, Guam, the Virgin Islands, Amer-
8 ican Samoa, and the Commonwealth of the Northern Mar-
9 iana Islands.

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109TH CONGRESS
1ST SESSION

H. R. 731

To reaffirm the authority of States to regulate certain hunting and fishing activities.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2005

Mr. UDALL of Colorado (for himself and Mr. OTTER) introduced the following bill; which was referred to the Committee on Resources

A BILL

To reaffirm the authority of States to regulate certain hunting and fishing activities.

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