

HB

75

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/26/05

FURTHER:

REPORTED OUT

MAY 2 2005

SENATE FINANCE
COMMITTEE

DATE TURNED IN TO OFFICE: 3 May 2005

Finance Committee considered CS FOR HOUSE BILL NO. 75(FIN)

HB 75 HUNTING, FISHING, TRAPPING

"An Act relating to the powers and duties of the commissioner of fish and game, Board of Fisheries, and Board of Game in promoting and preserving fishing, hunting, and trapping in the state."

and recommends:

- be replaced with S CS CS HB 75 (FIN)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Fish & Game	3/1/05			✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

REPORTED OUT

MAY 2 2005

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 75(RES)
(H) Publish Date: 3/15/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title: An Act Relating to Promoting RDU
and Preserving Sport Hunting Component: _____
Sponsor: Representative Kelly
Requester: House Resources Committee Component No.: _____

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						
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						
----------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
1002 Federal Receipts						
1003 GF Match						
1004 GF						
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 (FY2005) cost: 00
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
Passage of this legislation would have no fiscal impact

Prepared by: Sarah Gilbertson Phone: 465-6137
Division: Legislative Liaison Date/Time: 3/14/05 8:50 AM
Approved by: Acting Commissioner Wayne Regelin Date: 3/14/2005
Agency: Alaska Department of Fish & Game

COMMITTEE COPY

Amendment #1

adopted 5/2/05

24-LS0359/L

Sponsored by
Sen. Hoffman

SENATE CS FOR CS FOR HOUSE BILL NO. 75(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/26/05

Referred: Finance

Sponsor(s): REPRESENTATIVES KELLY, Ramras, Stoltze, Holm, Foster, Meyer, Croft

* retain title of CS HB 75 (FIN) \ I

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the powers and duties of the commissioner of fish and game, Board
 2 of Fisheries, and Board of Game in promoting and preserving fishing, hunting, and
 3 trapping in the state ~~and repealing the power and duty of the commissioner of fish and~~ <
 4 ~~game to assist the United States Fish and Wildlife Service in the enforcement of federal~~
 5 ~~laws regarding fish and game."~~ delete

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

7 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
 8 to read:

9 LEGISLATIVE INTENT. It is the intent of the Alaska State Legislature that the
 10 commissioner of fish and game, the Board of Fisheries, and the Board of Game implement
 11 their authority to promote fishing, hunting, and trapping and to preserve the heritage of
 12 fishing, hunting, and trapping in the state in a manner consistent with scientific fish and
 13 wildlife management principles and the Alaska constitutional principles of common use and

1 sustained yield.

2 * Sec. 2. AS 16.05.050(a) is amended to read:

3 (a) The commissioner has, but not by way of limitation, the following powers
4 and duties:

5 (1) [TO ASSIST THE UNITED STATES FISH AND WILDLIFE
6 SERVICE IN THE ENFORCEMENT OF FEDERAL LAWS AND REGULATIONS
7 PERTAINING TO FISH AND GAME;

8 (2) through the appropriate state agency and under the provisions of
9 AS 36.30 (State Procurement Code), to acquire by gift, purchase, or lease, or other
10 lawful means, land, buildings, water, rights-of-way, or other necessary or proper real
11 or personal property when the acquisition is in the interest of furthering an objective or
12 purpose of the department and the state;

13 (2) [(3)] under the provisions of AS 36.30, to design and construct
14 hatcheries, pipelines, rearing ponds, fishways, and other projects beneficial for the fish
15 and game resources of the state;

16 (3) [(4)] to accept money from any person under conditions requiring
17 the use of the money for specific purposes in the furtherance of the protection,
18 rehabilitation, propagation, preservation, or investigation of the fish and game
19 resources of the state or in settlement of claims for damages to fish or game resources;

20 (4) [(5)] to collect, classify, and disseminate statistics, data and
21 information that, in the commissioner's discretion, will tend to promote the purposes
22 of this title except AS 16.51 and AS 16.52;

23 (5) [(6)] to take, capture, propagate, transport, buy, sell, or exchange
24 fish or game or eggs for propagating, scientific, public safety, or stocking purposes;

25 (6) [(7)] under the provisions of AS 36.30, to provide public facilities
26 where necessary or proper to facilitate the taking of fish or game, and to enter into
27 cooperative agreements with any person to effect them;

28 (7) [(8)] to exercise administrative, budgeting, and fiscal powers;

29 (8) [(9)] under the provisions of AS 36.30, to construct, operate,
30 supervise, and maintain vessels used by the department;

31 (9) [(10)] to authorize the holder of an interim-use permit under

SENATE CS FOR CS FOR HOUSE BILL NO. 75(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KELLY, Ramras, Stoltze, Holm, Foster, Meyer, Croft

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the powers and duties of the commissioner of fish and game, Board
2 of Fisheries, and Board of Game in promoting and preserving fishing, hunting, and
3 trapping in the state." [deleted title language]

Amendment #1

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

5 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 LEGISLATIVE INTENT. It is the intent of the Alaska State Legislature that the
8 commissioner of fish and game, the Board of Fisheries, and the Board of Game implement
9 their authority to promote fishing, hunting, and trapping and to preserve the heritage of
10 fishing, hunting, and trapping in the state in a manner consistent with scientific fish and
11 wildlife management principles and the Alaska constitutional principles of common use and
12 sustained yield.

13 * Sec. 2. AS 16.05.050(a) is amended to read:

14 (a) The commissioner has, but not by way of limitation, the following powers

1 and duties:

2 (1) [TO ASSIST THE UNITED STATES FISH AND WILDLIFE
3 SERVICE IN THE ENFORCEMENT OF FEDERAL LAWS AND REGULATIONS
4 PERTAINING TO FISH AND GAME;

5 (2)] through the appropriate state agency and under the provisions of
6 AS 36.30 (State Procurement Code), to acquire by gift, purchase, or lease, or other
7 lawful means, land, buildings, water, rights-of-way, or other necessary or proper real
8 or personal property when the acquisition is in the interest of furthering an objective or
9 purpose of the department and the state;

10 (2) [(3)] under the provisions of AS 36.30, to design and construct
11 hatcheries, pipelines, rearing ponds, fishways, and other projects beneficial for the fish
12 and game resources of the state;

13 (3) [(4)] to accept money from any person under conditions requiring
14 the use of the money for specific purposes in the furtherance of the protection,
15 rehabilitation, propagation, preservation, or investigation of the fish and game
16 resources of the state or in settlement of claims for damages to fish or game resources;

17 (4) [(5)] to collect, classify, and disseminate statistics, data and
18 information that, in the commissioner's discretion, will tend to promote the purposes
19 of this title except AS 16.51 and AS 16.52;

20 (5) [(6)] to take, capture, propagate, transport, buy, sell, or exchange
21 fish or game or eggs for propagating, scientific, public safety, or stocking purposes;

22 (6) [(7)] under the provisions of AS 36.30, to provide public facilities
23 where necessary or proper to facilitate the taking of fish or game, and to enter into
24 cooperative agreements with any person to effect them;

25 (7) [(8)] to exercise administrative, budgeting, and fiscal powers;

26 (8) [(9)] under the provisions of AS 36.30, to construct, operate,
27 supervise, and maintain vessels used by the department;

28 (9) [(10)] to authorize the holder of an interim-use permit under
29 AS 16.43 to engage on an experimental basis in commercial taking of a fishery
30 resource with vessel, gear, and techniques not presently qualifying for licensing under
31 this chapter in conformity with standards established by the Alaska Commercial

1 Fisheries Entry Commission;

2 (10) [(11)] not later than January 31 of each year, to provide to the
3 commissioner of revenue the names of those fish and shellfish species that the
4 commissioner of fish and game designates as developing commercial fish species for
5 that calendar year; a fish or shellfish species is a developing commercial fish species
6 if, within a specified geographical region,

7 (A) the optimum yield from the harvest of the species has not
8 been reached;

9 (B) a substantial portion of the allowable harvest of the species
10 has been allocated to fishing vessels of a foreign nation; or

11 (C) a commercial harvest of the fish species has recently
12 developed;

13 (11) [(12)] to initiate or conduct research necessary or advisable to
14 carry out the purposes of this title except AS 16.51 and AS 16.52;

15 (12) [(13)] to enter into cooperative agreements with agencies of the
16 federal government, educational institutions, or other agencies or organizations, when
17 in the public interest, to carry out the purposes of this title except AS 16.51 and
18 AS 16.52;

19 (13) [(14)] to implement an on-board observer program authorized by
20 the Board of Fisheries under AS 16.05.251(a)(13); implementation

21 (A) must be as unintrusive to vessel operations as practicable;
22 and

23 (B) must make scheduling and scope of observers' activities as
24 predictable as practicable;

25 (14) [(15)] to sell fish caught during commercial fisheries test fishing
26 operations;

27 (15) [(16)] to establish and charge fees equal to the cost of services
28 provided by the department, including provision of public shooting ranges, broodstock
29 and eggs for private nonprofit hatcheries, department publications, and other direct
30 services, and reasonable fees for the use of state facilities managed by the department;
31 fees established under this paragraph for tours of hatchery facilities, commercial use of

1 sport fishing access sites, and for operation of state hatchery facilities by private
2 aquaculture associations are not subject to the cost limit under AS 37.10.050(a);

3 (16) [(17)] to permit and regulate aquatic farming in the state in a
4 manner that ensures the protection of the state's fish and game resources and improves
5 the economy, health, and well-being of the citizens of the state;

6 (17) [(18)] to operate state housing and facilities for employees,
7 contractors, and others in support of the department's responsibilities and to charge
8 rent that is consistent with applicable collective bargaining agreements, or, if no
9 collective bargaining agreement is applicable, competitive with market conditions;
10 rent received from tenants shall be deposited in the general fund;

11 (18) [(19)] to petition the Alaska Commercial Fisheries Entry
12 Commission, unless the Board of Fisheries disapproves the petition under
13 AS 16.05.251(g), to establish a moratorium on new entrants into commercial fisheries

14 (A) that have experienced recent increases in fishing effort that
15 are beyond a low, sporadic level of effort;

16 (B) that have achieved a level of harvest that may be
17 approaching or exceeding the maximum sustainable level for the fishery; and

18 (C) for which there is insufficient biological and resource
19 management information necessary to promote the conservation and sustained
20 yield management of the fishery;

21 (19) to promote fishing, hunting, and trapping and preserve the
22 heritage of fishing, hunting, and trapping in the state.

23 * Sec. 3. AS 16.05.251(a) is amended to read:

24 (a) The Board of Fisheries may adopt regulations it considers advisable in
25 accordance with AS 44.62 (Administrative Procedure Act) for

26 (1) setting apart fish reserve areas, refuges, and sanctuaries in the
27 waters of the state over which it has jurisdiction, subject to the approval of the
28 legislature;

29 (2) establishing open and closed seasons and areas for the taking of
30 fish; if consistent with resource conservation and development goals, the board may
31 adopt regulations establishing restricted seasons and areas necessary for

1 (A) persons 60 years of age and older to participate in sport.
2 personal use, or subsistence fishing; or

3 (B) persons under 16 years of age to participate in sport
4 fishing;

5 (3) setting quotas, bag limits, harvest levels, and sex and size
6 limitations on the taking of fish;

7 (4) establishing the means and methods employed in the pursuit,
8 capture, and transport of fish;

9 (5) establishing marking and identification requirements for means
10 used in pursuit, capture, and transport of fish;

11 (6) classifying as commercial fish, sport fish, guided sport fish,
12 personal use fish, subsistence fish, or predators or other categories essential for
13 regulatory purposes;

14 (7) watershed and habitat improvement, and management,
15 conservation, protection, use, disposal, propagation, and stocking of fish;

16 (8) investigating and determining the extent and effect of disease,
17 predation, and competition among fish in the state, exercising control measures
18 considered necessary to the resources of the state;

19 (9) prohibiting and regulating the live capture, possession, transport, or
20 release of native or exotic fish or their eggs;

21 (10) establishing seasons, areas, quotas, and methods of harvest for
22 aquatic plants;

23 (11) establishing the times and dates during which the issuance of
24 fishing licenses, permits, and registrations and the transfer of permits and registrations
25 between registration areas is allowed; however, this paragraph does not apply to
26 permits issued or transferred under AS 16.43;

27 (12) regulating commercial, sport, guided sport, subsistence, and
28 personal use fishing as needed for the conservation, development, and utilization of
29 fisheries;

30 (13) requiring, in a fishery, observers on board fishing vessels, as
31 defined in AS 16.05.475(d), that are registered under the laws of the state, as defined

1 in AS 16.05.475(c), after making a written determination that an on-board observer
2 program

3 (A) is the only practical data-gathering or enforcement
4 mechanism for that fishery;

5 (B) will not unduly disrupt the fishery;

6 (C) can be conducted at a reasonable cost; and

7 (D) can be coordinated with observer programs of other
8 agencies, including the National Marine Fisheries Service, North Pacific
9 Fishery Management Council, and the International Pacific Halibut
10 Commission;

11 (14) establishing nonexclusive, exclusive, and superexclusive
12 registration and use areas for regulating commercial fishing;

13 (15) regulating resident or nonresident sport fishermen as needed for
14 the conservation, development, and utilization of fishery resources;

15 (16) requiring unlicensed fishing vessels present in or transiting the
16 waters of the state to report to the department the quantity, species, and origin of fish
17 on board; in this paragraph, "unlicensed fishing vessel" means a fishing vessel that is
18 not licensed under AS 16.05.490 - 16.05.530;

19 (17) promoting fishing and preserving the heritage of fishing in the
20 state.

21 * Sec. 4. AS 16.05.255(a) is amended to read:

22 (a) The Board of Game may adopt regulations it considers advisable in
23 accordance with AS 44.62 (Administrative Procedure Act) for

24 (1) setting apart game reserve areas, refuges, and sanctuaries in the
25 water or on the land of the state over which it has jurisdiction, subject to the approval
26 of the legislature;

27 (2) establishing open and closed seasons and areas for the taking of
28 game;

29 (3) establishing the means and methods employed in the pursuit,
30 capture, taking, and transport of game, including regulations, consistent with resource
31 conservation and development goals, establishing means and methods that may be

1 employed by persons with physical disabilities;

2 (4) setting quotas, bag limits, harvest levels, and sex, age, and size
3 limitations on the taking of game;

4 (5) classifying game as game birds, song birds, big game animals, fur
5 bearing animals, predators, or other categories;

6 (6) methods, means, and harvest levels necessary to control predation
7 and competition among game in the state;

8 (7) watershed and habitat improvement, and management,
9 conservation, protection, use, disposal, propagation, and stocking of game;

10 (8) prohibiting the live capture, possession, transport, or release of
11 native or exotic game or their eggs;

12 (9) establishing the times and dates during which the issuance of game
13 licenses, permits, and registrations and the transfer of permits and registrations
14 between registration areas and game management units or subunits is allowed;

15 (10) regulating sport hunting and subsistence hunting as needed for the
16 conservation, development, and utilization of game;

17 (11) taking game to ensure public safety;

18 (12) regulating the activities of persons licensed to control nuisance
19 wild birds and nuisance wild small mammals;

20 (13) promoting hunting and trapping and preserving the heritage
21 of hunting and trapping in the state.

22 * Sec. 5. AS 16.43.210(c) is amended to read:

23 (c) To the extent that the commissioner of fish and game authorizes it under
24 AS 16.05.050(a)(9) [AS 16.05.050(a)(10)], the commission may grant an interim-use
25 permit to a person to engage in the commercial taking from a fishery on an
26 experimental basis.

27 * Sec. 6. AS 37.05.146(c)(21) is amended to read:

28 (21) commercial fisheries test fishing operations
29 (AS 16.05.050(a)(14)) [(AS 16.05.050(a)(15))];

30 * Sec. 7. AS 43.75.290(1) is amended to read:

31 (1) "developing commercial fish species" means those species of fish

1
2

and shellfish annually designated by the commissioner of fish and game under
AS 16.05.050(a)(10) [AS 16.05.050(a)(11)];



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 2 May 2005 TIME: 3:20pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 2

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please
SCS CS HB 75 (FIN) 24-LS0359\L
Plus 1 amendment - attached

Thx
Mindy

Alaska State Legislature

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Representative Mike Kelly
House District 7

Sponsor Statement **CSHB 75(FIN)** (24-LS0359\Y)

"An Act relating to the duties of the commissioner of fish and game, Board of Fisheries, and Board of Game in promoting and preserving fishing, hunting, and trapping in the state."

House Bill 75 clearly expresses the Legislature's desire to protect hunting as an integral part of Alaska's cultural heritage.

This bill was brought to the sponsor by a constituent and is modeled after a bill considered by the Michigan State Legislature in 2004. In addition, in recent years there have been moves in other states to include similar language in their respective constitutions. Similar language was added in Minnesota in 1998 and Montana in 2004.

Hunting, fishing, and trapping have always been a core component of our heritage and livelihood in Alaska and this sentiment is expressed in our Constitution in Article 8, sec. 4. HB 75 creates greater statutory clarity in directing the Commissioner of Fish and Game and the Boards of Fish and Game to adopt regulations and enforce existing statutes in a manner consistent with protecting Alaskans' rights to utilize our state's fish and game resources.

HB 75 will provide an additional protection from outside encroachment on our ability to responsibly harvest our fish and game.

Alaska State Legislature

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Representative Mike Kelly
House District 7

EXPLANATION OF CHANGES
CSHB 75(FIN) v. SCS CSHB 75(RES)
(24-LS0359F) (24-LS0359L)

Sec. 2

(Pg. 2, lines 5-7)

Existing statutory language pertaining to powers and duties of the commissioner of Fish and Game relating to enforcement of all federal laws and regulations was removed and the remaining sections of the statute were appropriately renumbered.

Secs. 5, 6, 7

(Pg 7, lines 25-31; Pg. 8, lines . 5)

Conforming amendments were made to existing sections of statute, which cross-referenced the section of statute that was amended in sec. 2 of the bill (see above).

SCR 11 – A title change resolution accompanies HB 75 as a result of the amendment made in the Senate Resources Committee.

Alaska State Legislature

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Representative Mike Kelly
House District 7

EXPLANATION OF CHANGES

CSHB 75(RES) v. CSHB 75(FIN)
(24-LS0359F) (24-LS0359N)

Sec. 1

(Pg. 1, Lines 5-12)

The sponsor has included a legislative intent statement plainly stating the ongoing commitment to constitutional provisions for common use and sustained yield principles found in Article 8, secs. 3 & 4. The following sections have been appropriately renumbered to reflect this inclusion.

Sec. 2

(Pg. 1-4)

This section has been changed in two significant ways. First the sponsor has changed the structure of the section by placing the new language in the "Powers and duties of the commissioner" (AS 16.05.05C (a)) rather than in "Functions of the commissioner" (AS 16.05.020) as it appeared in the original version. Secondly, the phrase "In conjunction with" (Pg. 4, Line 19) has been removed from the original language at the request of the Department of Fish and Game.

Sec. 3

(Pg. 4-6)

Like the previous section, there have again been two significant changes: one structural revision within the statute and one language revision. First, the "preserve and promote" language has been restructured within the regulation making authority of the Board of Fisheries. Like the previous section, it removes the phrase "In conjunction with" (Pg. 6, Line 17) at the request of the Department of Fish and Game.

Sec. 4

(Pg. 6-7)

This section has been redrafted to conform with the changes as they apply to the Board of Fisheries. This section makes the same changes as the previous section, only they apply to the Board of Game in AS 16.05.255(a).

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 4, 2005

SUBJECT: Questions relating to CSHB 75(FIN)
(Work Order No. 24-LS0359\I)

TO: Representative Mike Kelly
Attn: Heath Hilyard

FROM: George Utermohle *GU*
Legislative Counsel

You have asked whether CSHB 75(FIN) establishes a priority for consumptive uses of fish and game over nonconsumptive uses of fish and game or implicates the common use and sustained yield sections of the Alaska Constitution.

The short answer to your questions is no.

CSHB 75(FIN) amends the powers and duties of the commissioner of fish and game, the Board of Fisheries, and the Board of Game by adding authority to promote fishing, hunting, and trapping and to preserve the heritage of fishing, hunting, and trapping in the state. The commissioner and the boards are already responsible for the management of fish and game and the management of fishing, hunting, and trapping in the state. HB 75 would add responsibility for a related function, the promotion of fishing, hunting, and trapping and the preservation of the heritage of those activities in the state. Under HB 75, promoting and preserving fishing, hunting, and trapping would be neither the sole function of the commissioner and the boards nor the primary duty of the commissioner and the boards. Promoting and preserving fishing, hunting, and trapping would be only of the many powers and duties that the commissioner and the boards are responsible for under AS 16.05.050, 16.05.251, 16.05.255, and other statutes.

Nothing on the face of the bill creates a priority for fishing, hunting, or trapping or requires the commissioner and the boards to assign a priority to fishing, hunting, or trapping over other uses of fish and game. Furthermore, there is nothing in the language of the bill that diminishes, limits, or alters the existing authority of the commissioner and the boards in regard to consumptive and nonconsumptive uses of fish and game.

Thus, it is my conclusion that CSHB 75(FIN) does not establish a priority or even a preference for hunting, fishing, and trapping over other consumptive or nonconsumptive uses of fish and game.

Representative Mike Kelly

April 4, 2005

Page 2

CSHB 75(FIN) does not implicate the common use or sustained yield sections of the Alaska Constitution. The bill does not limit or otherwise affect entry into a fish or game user group, so common use is not an issue in regard to the bill. Also, the bill does not affect the responsibility of the commissioner and the boards to manage fish and game for sustained yield, so the sustained yield provision of the Alaska Constitution is not an issue. To the extent that the commissioner or the boards take action under the additional powers and duties conferred in regard to promotion and preservation of hunting, fishing, and trapping of fish and game, those actions will be subject to, and must be consistent with, all provisions of the Alaska Constitution, including the common use and sustained yield sections.

If I may be of further assistance, please advise.

GU:jad

05-185.jad

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STATE OF ALASKA

DEPARTMENT OF LAW
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March 18, 2005

Honorable Paul Seaton
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Re: HB 75

Dear Representative Seaton:

During hearings on HB 75, the Department of Law was asked to address, in writing, the effect, if any, that the bill's language would have on issues relating to brown bear hunting at McNeil River. Assuming that the current language remains unchanged, it is our opinion that the bill would have no effect on brown bear hunting at McNeil river State Game Sanctuary or McNeil River State Game Refuge, for the following reasons.

The relevant language in HB 75 requires the commissioner of ADF&G and the Board of Game to, "promote...hunting...and preserve the heritage of...hunting...in the state." HB 75, Sec.s 1 and 3. This language does not purport to override any other statutory language. Instead, it simply adds to the existing duties of the commissioner and board.

All hunting, including brown bear hunting, within McNeil River State Game Sanctuary is prohibited by statute. AS 16.20.162(b). Nothing in the bill alters this prohibition.

The hunting of brown bears within McNeil River State Game Refuge is expressly left to the Board of Game's discretion. AS 16.20.041(c). Any such hunting must be consistent with the refuge purposes, which include permanent protection of brown bear populations and maintaining and enhancing brown bear viewing opportunities in the area. AS 16.20.041(b). Because the Board is given discretion to prohibit or allow brown bear hunting, and it is required to foster the refuge purposes in its decision making, it follows that the Board retains the authority to completely ban brown bear hunting in order to accommodate viewing, as it has done. 5 AAC 92.520(d). Nothing in HB 75 purports to affect this discretion. While the bill requires the Board to promote hunting and preserve Alaska's hunting heritage, it contains no specific mandate to promote a certain type of

C R
- / Commissioner
- Deputy Fish
- Deputy Game
- Spec Asst Fish
- Spec Asst PSC
X Legis Liaison
- Info Officer
- Admn
X Boards
- CF
- SF
- Sub
X WC
- CFEC
- EVOS
X File

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MAR 18 2005

DEPT OF FISH & GAME

Honorable Paul Seaton
Alaska State Legislature

March 18, 2005
Page 2

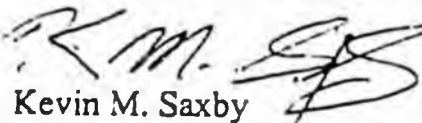
hunting, or preserve hunting in a certain area. Moreover, it is worth noting that hunting other than brown bear hunting has always been allowed within McNeil River State Game Refuge. AS 16.20.041 and 5 AAC 92.520(d). The bill gives no indication that the current situation is at issue.

For all of the above reasons, we conclude that the generalized mandate to promote and preserve hunting in HB 75 would not override the specific statutory provisions discussed above.

Sincerely,

SCOTT J. NORDSTRAND
ACTING ATTORNEY GENERAL

By



Kevin M. Saxby
Assistant Attorney General

cc: Kevin Jardell
David Marquez
Wayne Regelin

Sec. 10. **SEAT OF GOVERNMENT.** The seat of government of the state is in the city of St. Paul. The legislature may provide by law for a change of the seat of government by a vote of the people, or may locate the same upon the land granted by Congress for a seat of government. If the seat of government is changed, the capitol building and grounds shall be dedicated to an institution for the promotion of science, literature and the arts to be organized by the legislature of the state. The Minnesota Historical Society shall always be a department of this institution.

Sec. 11. **STATE SEAL.** A seal of the state shall be kept by the secretary of state and be used by him officially. It shall be called the great seal of the state of Minnesota.

Sec. 12. **PRESERVATION OF HUNTING AND FISHING.** Hunting and fishing and the taking of game and fish are a valued part of our heritage that shall be forever preserved for the people and shall be managed by law and regulation for the public good. [Adopted, November 3, 1998]

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webmaster@house.leg.state.mn.us

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Montana Code Annotated 2003

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Montana Constitution, Article IX

Section 7. Preservation of harvest heritage. The opportunity to harvest wild fish and wild game animals is a heritage that shall forever be preserved to the individual citizens of the state and does not create a right to trespass on private property or diminution of other private rights.

History: En. Sec. 1, Const. Amend. No. 41, approved Nov. 2, 2004.

Effective Nov. 2, 2004--Sec. 2, Const. Amend. No. 41.

Provided by Montana Legislative Services

State of Illinois
91st General Assembly
Legislation

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[[Introduced](#)]

[[Engrossed](#)]

[[House Amendment 001](#)]

91_SB0163enr

SB163 Enrolled

LRB9102634DHmg

1 AN ACT concerning recreational hunting and trapping.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Department of Natural Resources Act is
5 amended by changing Section 1-15 as follows:

6 (20 ILCS 801/1-15)

7 Sec. 1-15. General powers and duties.

8 (a) It shall be the duty of the Department to
9 investigate practical problems, implement studies, conduct
10 research and provide assistance, information and data
11 relating to the technology and administration of the natural
12 history, entomology, zoology, and botany of this State; the
13 geology and natural resources of this State; the water and
14 atmospheric resources of this State; and the archeological
15 and cultural history of this State.

16 (b) The Department shall obtain, store, and process
17 relevant data; recommend technological, administrative, and
18 legislative changes and developments; cooperate with other
19 federal, state, and local governmental research agencies,
20 facilities, or institutes in the selection of projects for
21 study; cooperate with the Board of Higher Education and with
22 the public and private colleges and universities in this
23 State in developing relevant interdisciplinary approaches to
24 problems; evaluate curricula at all levels of education and
25 provide assistance to instructors; and sponsor an annual
26 conference of leaders in government, industry, health, and
27 education to evaluate the state of this State's environment
28 and natural resources.

29 (c) The Director, in accordance with the Personnel Code,
30 shall employ such personnel, provide such facilities, and
31 contract for such outside services as may be necessary to

SB163 Enrolled

-2-

LRB9102634DHmg

1 carry out the purposes of the Department. Maximum use shall
2 be made of existing federal and state agencies, facilities,
3 and personnel in conducting research under this Act.

4 (d) In addition to its other powers, the Department has
5 the following powers:

6 (1) To obtain, store, process, and provide data and
7 information related to the powers and duties of the
8 Department under this Act. This subdivision (d)(1) does
9 not give authority to the Department to require reports
10 from nongovernmental sources or entities.

11 (2) To cooperate with and support the Illinois
12 Governor's Science and Technology Advisory Committee and
13 the Illinois Coalition for the purpose of facilitating
14 the effective operations and activities of such entities.
15 Support may include, but need not be limited to,
16 providing space for the operations of the Committee and
17 the Illinois Coalition.

18 (e) The Department is authorized to make grants to local
19 not-for-profit organizations for the purposes of development,
20 maintenance and study of wetland areas.

21 (f) The Department has the authority to accept, receive
22 and administer on behalf of the State any gifts, bequests,
23 donations, income from property rental and endowments. Any
24 such funds received by the Department shall be deposited into
25 the Natural Resources Fund, a special fund which is hereby
26 created in the State treasury, and used for the purposes of
27 this Act or, when appropriate, for such purposes and under
28 such restrictions, terms and conditions as are predetermined
29 by the donor or grantor of such funds or property. Any
30 accrued interest from money deposited into the Natural
31 Resources Fund shall be reinvested into the Fund and used in
32 the same manner as the principal. The Director shall maintain
33 records which account for and assure that restricted funds or
34 property are disbursed or used pursuant to the restrictions,

SB163 Enrolled

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LRB9102634DHmg

1 terms or conditions of the donor.

2 (g) The Department shall recognize, preserve, and
3 promote our special heritage of recreational hunting and
4 trapping by providing opportunities to hunt and trap in
5 accordance with the Wildlife Code.

6 (Source: P.A. 89-445, eff. 2-7-96; revised 12-2-98.)

7 Section 10. The Wildlife Code is amended by changing
8 Section 3.8 as follows:

9 (520 ILCS 5/3.8) (from Ch. 61, par. 3.8)

10 Sec. 3.8. Migratory waterfowl areas; geese.

11 (a) On any property operated under a Migratory Waterfowl
12 Hunting Area Permit (Commercial) where the principal use is
13 to take wild geese, it is the permit holder's duty to ensure
14 all of the following but only during Canada goose season:

15 (1) That no person takes wild geese except from a
16 blind or pit.

17 (2) That no person establishes or uses any blind or
18 pit for the taking of wild geese within 200 yards of any
19 other blind or pit or within 100 yards of the boundary of
20 the property on which the blind or pit is located.

21 (3) That no person establishes or uses any blind or
22 pit for the taking of wild geese within 200 yards of any
23 wildlife refuge boundary or public road right-of-way
24 adjacent to any State or Federal waterfowl refuge. If a
25 blind or pit has been established for more than 10 years
26 and it was believed by both the landowner and the
27 Department during that time to meet the minimum yardage



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March 14, 2005



Honorable Mike Kelly
Honorable Jay Ramras
Alaska State Legislature
Juneau, AK 99811
By FAX 465-2070 to House Resources Committee

Dear Representatives Kelly and Ramras:

Thank you for introducing HB 75, Rep. Kelly, and for your support, Rep. Ramras.

I applaud your work draft proposal of 2/24/05 and committee substitute for HB 75. Promoting and preserving the various legal forms of hunting and trapping in Alaska is properly a function of the State, through the Department of Fish & Game (ADF&G) and the Board of Game.

When I have in the past urged the ADF&G to advocate hunting and trapping, I have been told that the Department of Law advised ADF&G not to, because there was no clear statutory direction to do so.

The importance of hunting and trapping to Alaskan values and lifestyles and to sound, scientific sustained yield management demands clear direction, to help ensure that the State is able to fulfill its constitutional responsibilities.

Your bill provides that direction. Thank you for introducing it and, in the proposed Committee Substitute, broadening its scope to include all hunting and trapping. I respectfully ask the Committee and the Legislature to pass this proposed Committee substitute for HB 75.

Please include my letter in the House Resources Committee record.

Sincerely,

Richard H. Bishop
President

cc: The Honorable Governor Frank Murkowski

SENATE COMMITTEE REPORT

DATE: 4/11/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4/26/05

Resources Committee considered CS FOR HOUSE BILL NO. 75(FIN)

HB 75 HUNTING, FISHING, TRAPPING

"An Act relating to the powers and duties of the commissioner of fish and game, Board of Fisheries, and Board of Game in promoting and preserving fishing, hunting, and trapping in the state."

and recommends:

- be replaced with S CS CS HB 75 (RES)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by Committee
- further referral to Committee

CS Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
SCS House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input checked="" type="checkbox"/>	New Title w/ SCR # <u>11</u>

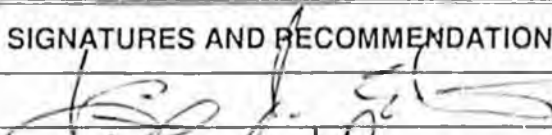



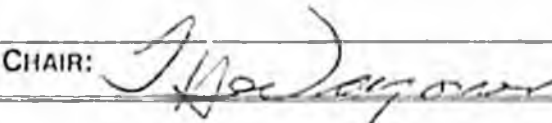
NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

Department	Date	Fiscal	Indet.	Zero	FN#
<u>ANF&G</u>	<u>3/19</u>			<input checked="" type="checkbox"/>	<u>1</u>

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
Elton 			<input checked="" type="checkbox"/>	
Dyson 	<input checked="" type="checkbox"/>			
Seekins 	<input checked="" type="checkbox"/>			
Steelman 	<input checked="" type="checkbox"/>			
CHAIR: 	<input checked="" type="checkbox"/>			
Wagoner				