

HB

137

REPRESENTATIVE PAUL SEATON

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ALASKA STATE LEGISLATURE
House District 35

MEMORANDUM

TO: Representative Johnson, Co-chair
House Resources Committee

FROM: Representative Seaton, Chair
House Fisheries Committee

DATE: Thursday, March 8, 2007

RE: Request for a hearing, HB 137

A handwritten signature in cursive script that reads "Paul".

I respectfully request a hearing on HB 137 before the House Resources Committee.

In summary, HB 137 changes the Permanent Identification Card (PID), a permanent free fishing/hunting/trapping license for seniors over 60 to a temporary card renewed every 3 years and ties it to Permanent Fund Dividend eligibility.

Attached please find: blank CS HB 137, sponsor statement, fiscal note, fact sheet on PID from Fish and Game, definition of resident for current PID, copy of the current PID application and card, anecdotal experience of Wildlife Troopers enforcing the PID, PFD eligibility statute AS 43.23.005, legal opinion, and testimony.

Staff contact: Katie Shows, ext. 2028

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ALASKA STATE LEGISLATURE
House District 35

HB 137 Temporary Senior Hunting/Trapping/Fishing License

The Permanent Identification Card (PID) is a permanent license that allows Alaskan seniors to enjoy the natural resources of this great state through hunting, fishing and trapping free of charge. However, as the program is currently structured there are few safeguards to prevent abuse. Because the license is permanent, someone can get the card when they live in Alaska, move out of state and never have to pay for a license in Alaska on subsequent return visits. Also, because there is no easily enforceable determination of Alaskan resident, non-residents can fraudulently apply for a card. This is not fair to Alaskan seniors who live here year round and have the right to fish without the financial burden of a yearly license fee.

HB 137 changes current statute from a permanent identification card to a temporary identification card (TID). The license holder is required to renew the card every three years and must be eligible for the permanent fund dividend to qualify for the free hunting/fishing/trapping card. Fish and Game will have a list of individuals who received the PFD to cross reference before issuing a free senior license. The temporary identification card will take effect January 1, 2008 to place the new program on a calendar year. All seniors who currently have a PID or obtain one by the end of 2007 will be grandfathered into the program. The TID program will be easier for Fish and Game to administer because they have a simple way to check for suspected fraud instead of enlisting the help of the overextended Wildlife Troopers. HB 137 will result in an increase of funds as out-of-state individuals will have to purchase their license.

More people have been issued a PID in the last 20 years than there are eligible residents in Alaska who receive the PFD. Anecdotal stories of abuse of this benefit include a Fish and Game clerk on the Kenai Peninsula who issued a PID to a senior who claimed he was a resident but that he did not own a drivers license to prove it. He then proceeded to get into the drivers seat of a car with out-of-state license plates. The Fish and Game officer faxed the individual's information to the Wildlife Troopers, however they do not have the resources to persecute minor offenses such as fraudulent license applications, leaving the program with little means for checks and balances.

HB 137 ensures the integrity of a program designed to award resident Alaskan seniors the well deserved benefit of a free fishing, hunting and trapping licenses.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB137-DFG-DAS-02-16-07
 Bill Version: HB 137
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Senior Fishing/Hunting/Trapping Licenses RDU Administration and Support
 Component Administrative Services
 Sponsor House Special Committee on Fisheries
 Requester House Special Committee on Fisheries Component No. 470

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual	0.0	0.0	2.0	2.0	2.0	2.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	2.0	2.0	2.0	2.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	2.0	2.0	2.0	2.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	2.0	2.0	2.0	2.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Department of Fish and Game will notify licensees that it is time to renew their license. Costs included above are postage and supplies for the notification process.

Prepared by: Tom Lawson
 Division: Administrative Services
 Approved by: Denby Lloyd
 Agency: Department of Fish and Game

Phone 465-5999
 Date/Time 02/16/07 8:30 a.m.
 Date 2/16/2007

State of Alaska Permanent Identification Card (PID) program for resident seniors 60 years of age or older to receive a free sport fishing, hunting and trapping license:

Information about Program:

- Total PID licenses issued during past 10 years: 43,662.
- Average distribution of PID licenses each year over the past 10 years: 4,366.
- Lost revenue to Fish and Game Fund for new licenses issued each year, not total PID licensees: \$137,827. Difficult to estimate how many licensees are still residing in Alaska, living, or would purchase a sport license/king salmon stamp if they were required to.

Qualifications for obtaining a PID license:

- Resident:
 - Physically present in Alaska
 - Intent to remain indefinitely and make a home in Alaska
 - Maintained their domicile in Alaska for the 12 consecutive months immediately preceding the application for a license
 - Not claiming residency or obtaining benefits under a claim of residency in another state, territory, or country.
 - This past year, the Attorney General's office, Criminal Justice Planner for ADF&G, and Licensing Supervisor put together the attached "What Constitutes a Resident" information sheet basically for PID applicants. Location of household goods, where other immediate family members live, and how many months you are away from the state are discussed.
- 60 years of age or older

Problems:

- Identifying active/inactive PID holders.
- People who live part-time other than in Alaska but consider Alaska their home. It is hard to determine if they are still a resident; regulations are not clear.
- Nonresident seniors obtaining PID.
- Two problems during past year with PID licensees in Ninilchik and Hyder. DPS/Bureau of Wildlife Enforcement was the entity involved in both cases.
- Licensing has to send back 10% of the applications received each year because of incomplete information or because additional information is needed, i.e. out-of-state address used on application.

STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPARTMENT OF FISH AND GAME
DIVISION OF ADMINISTRATIVE SERVICES

P.O. BOX 115525
JUNEAU, AK 99802-5526
PHONE: (907) 465-3276
FAX: (907) 465-2440
E Mail: license_help@fishgame.state.ak.us

Below are some guidelines to help determine whether or not you meet the residency requirements to purchase/receive a State of Alaska resident sport fishing, hunting, trapping, or commercial crewmember license:

Per Alaska Statute 16.05.940(27), resident means, "a person who for the 12 consecutive months immediately preceding the time when the assertion of residence is made has maintained the person's domicile in the state and who is neither claiming residency in another state, territory, or country nor obtaining benefits under a claim of residency in another state, territory, or country..."

"Residency" is further defined and explained in Alaska Statute 16.05.415(a) &(b). "(a) a person ... is a resident if the person,

(1) is physically present in the state with the intent to remain in the state indefinitely and to make a home in the state; [Note:

a. you must be physically present in Alaska in order to obtain a resident license.
b. you must intend to remain in the state indefinitely and to make your true and permanent home in Alaska. Living in Alaska for a short period of time, 6 months or less, and spending the majority of the year somewhere else probably does not constitute the intent to remain indefinitely. Consideration is given to other factors. See below.]

(2) has maintained the person's domicile in the state for the 12 consecutive months immediately preceding the application for a license;

[Note: for the previous 12 consecutive months you must have maintained a livable dwelling in Alaska. Consideration is given to the type of dwelling maintained here vs. the type of dwelling maintained somewhere else.]

(3) is not claiming residency in another state, territory, or country; and

[Note: you cannot have voted as a resident in another state, registered your car or have a driver's license in another state unless required by that state's laws to do so; Alaska law requires that a person who resides in the state and is not employed must register their vehicles in Alaska within 60 days of entering the state in accordance with AS 28.10.212; additionally a person who is employed in Alaska or takes an action that indicates an intention to acquire residence in the state must register their vehicles within 10 days. A person establishing residency in Alaska must obtain an Alaskan drivers license within 90 days and must surrender any out of state drivers license in accordance with AS 28.15.011 & 021. You may not hold a "resident" hunting or fishing license in another state, and may not have held one during the past 12 months.]

(4) is not obtaining benefits under a claim of residency in another state, territory, or country.

[Note: you cannot be claiming residency for COLA retirement benefits in another state, paying resident vs. nonresident taxes in another state, receiving subsidized or free benefits available only to a resident of another state, or gaining any advantage provided to residents of another state, etc.]

(b) A person who establishes residency in the state under (a) of this section remains a resident during an absence from the state unless during the absence the person

(1) establishes or claims residency in another state, territory, or country; or

(2) performs an act, or is absent under circumstances, that are inconsistent with the intent required under (a) of this section. [N Note: You may not have made any public or private declaration that indicates an intent to maintain a domicile anywhere but Alaska.]

“Domicile” is defined in Alaska Statute 16.05.940 as “the true and permanent home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away;”

[Note: the purchase of round trip tickets or the making of return plans each time a person travels to Alaska would probably constitute evidence that the person’s true and permanent home was elsewhere than Alaska. The location of household goods, the location where the spouse or family members of the household live and work, the location where children attend school, and other factors will also aid in determining where the true and permanent home is.]

Per Alaska Administrative Code 5 AAC 39.975(30) and 5 AAC 92.990(14), evidence of domicile includes, but is not limited to, the following:

(A) statements made to obtain a license to drive, hunt, fish, or engage in an activity regulated by a government entity;

(B) affidavit of a person who may know an applicant’s domicile;

(C) place of voter registration;

[Note: see (3) under “Residency” above.]

(D) location of residence owned, rented, or leased;

[Note: see (1&2) under “Residency” above. The courts also look at the number of months you spend at a domicile located in another state vs. the number of months you spend in Alaska. For example, if you spend 9 months in another state and 3 months in Alaska, your residency in Alaska could be in question and will be taken into consideration along with other factors.]

(E) location of storage of household goods;

[Note: if your household goods are located in another state, it appears that you have not made your home here.]

(F) location of business owned or operated;

[Note: if your business is located in another state, you may need to explain to enforcement how your business is operated. On the other hand, you will not qualify as a resident merely by virtue of an interest in, or employment or contractual association with and Alaska-based business, see AS 16.05.415(g).]

(G) residence of spouse and minor children or dependents;

[Note: You are unlikely to be considered a resident of Alaska if your immediate family is living in another state or claiming another state as their residence while you consider Alaska your home.]

(H) governments to which taxes are paid;

[Note: see (4) under "Residency" above.]

(I) whether the person has claimed residence in another location for the purpose of obtaining benefits provided by the governments in that location."

[Note: see (4) under "Residency" above.]

If you are a member, or a dependent of a member, of the military or U.S. Coast Guard stationed in Alaska, you should also review the provisions of AS 16.05.415(c)-(d) and AS 16.05.940(27(C)-(D).

If you have any questions about whether or not you meet the residency definition to obtain a sport or commercial crewmember license, please contact your local Department of Public Safety/Bureau of Wildlife Enforcement office.

APPLICATION FOR PERMANENT IDENTIFICATION CARD FOR RESIDENT SPORT FISHING, HUNTING AND TRAPPING

Statutory Authority: AS 16.05.400(b)

A sport fishing, hunting, or trapping license is not required of a resident who is 60 years of age or older and meets the residency definition below. A Permanent Identification Card will be issued without charge to persons who qualify by age and residence and who complete this application.

Instructions: Fill out form completely. Keep the yellow copy of the application until you receive the Permanent Identification Card in the mail. Send the white copy to: Department of Fish and Game Licensing section, Box 25525, Juneau, Alaska 99802-5525.

You will then receive a Permanent Identification Card within 4-6 weeks. The yellow copy of the application or the Permanent Identification Card must be in your possession while sport fishing, hunting, or trapping.

PLEASE NOTE: The yellow copy is valid as a temporary license for 60 days from date of signature.

The number printed on your Identification Card should be used in lieu of a sport fishing, hunting and trapping license number in all instances which require a license number, e.g. resident big game tags, harvest tickets, fur export permits, sale of furs, trophy export, transfer of legally taken fish and game to others, etc. A Permanent Identification Card licensee does not have to purchase a state conservation stamp to hunt waterfowl or a king salmon stamp to fish for king salmon.

PLEASE PRINT CLEARLY

Name (First, Middle, Last)			Physical Location of Residence				
Mailing Address			City, State, Zip Code				
City, State, Zip Code			I am a resident of Alaska in accordance with the definition shown below			Length of Residency	
Drivers License Number						Years	Months
State _____ Number _____							
Daytime Telephone	Date of Birth mm/dd/yy	Sex	Height FT/IN	Weight	Color Eyes	Color Hair	

ALASKA RESIDENT AS 16.05.940(26): "resident" means, a person (including an alien) who is physically present in Alaska with the intent to remain indefinitely and make a home here, has maintained that person's domicile in Alaska for the 12 consecutive months immediately preceding this application for a license, and is not claiming residency or obtaining benefits under a claim of residency in another state, territory, or country; a member of the military service or U.S. Coast Guard who has been stationed in Alaska for the 12 consecutive months immediately preceding this application for a license; or a dependent of a resident member of the military service or U.S. Coast Guard who has lived in Alaska for the 12 consecutive months immediately preceding this application for a license. A person who does not otherwise qualify as a resident may not qualify by virtue of an interest in an Alaska business.

I have personally reviewed the information on this application and hereby certify that all of the information on this application is true and correct and that I understand this information is subject to public disclosure. My right to obtain or exercise the privilege granted by a sport fishing, hunting, or trapping license is not suspended or revoked in another state. (NOTE: Making a false statement, or omitting a material fact, is subject to a maximum penalty of \$5,000 or 1 year imprisonment, or both, per AS 11.56.210 and AS 16.05.420.)

Signature of Applicant _____ Date _____

PLEASE ALLOW 4-6 WEEKS FOR PROCESSING.

FOR DEPARTMENT USE ONLY

I.D. Number _____ Date Issued _____ Issued By _____

PID - Fishing/Hunting/Trapping

P93867

Name: [REDACTED]

Town/Zip Code: HOMER 99603

The person named above has certified that he/she is 60 years of age or older and has been a resident of Alaska for one year or more. The bearer's personal description is:

Date of Birth 10-01-1945	Drivers License AK [REDACTED]	Date Issued 08-15-2006	
Height 6 ft 1 in	Color Eyes Hazel	Color Hair Brown	Sex M

State of Alaska

Department of Fish & Game

I hereby certify that all of the information on the reverse side is true and correct. I further certify that I meet the provisions of the applicable Alaska Statutes, AS 16.05.400(b) or AS 16.05.341. I understand this information is subject to public disclosure.

Signature: _____

This card must be in your possession while engaging in the authorized activities as described on the front. This card is not valid if residency requirements per AS 16.05.940 and AS 16.05.415, and veteran requirements, if applicable, per AS 16.05.341 are not maintained.

Al Cain, State Wide Enforcement Specialist for the Department of Fish and Game forwarded to Rep. Seaton's office comments from the Wildlife Troopers on PID enforcement. In January Mr. Cain asked for comments from all the Wildlife Troopers statewide. Below are the comments received. Out of about 75 Wildlife Troopers 8 trooper commented. Each paragraph below is one comment from one trooper. Names have been omitted for privacy.

YES.....FORMER.....Registered Big Game Guide J _____ residency conviction was based upon falsifying his Alaska resident permanent identification card: 04-63900.

Yakutat Case: 03-75426, initiated by USPS.....V _____ for several years was sport fishing in Yakutat, partial owner of a sport fishing lodge. V _____ unlawfully obtained a permanent ID and used it for several years until caught. V _____'s ID was seized and I issued him a citation for sport fishing without a valid license!

Craig.....R _____ is a wealthy retired lawyer that owns a house at Sakar Cove, Prince of Wales Island. R _____ has a Summer home in Wisconsin, travels to Arizona and lives there in the winter and vacations at Prince of Wales for a couple weeks in the Summer. R _____ lawfully obtained a permanent ID card in the mid 1990's and has been using every since for sport/personal use fishing! No citations have been issued yet in this case!

I know of two cases in the last couple of years dealing with misuse of PID's in Kodiak. Both were retired folks, one a longtime resident of Kodiak who retired down south, the other a retired down south'er who spent his summers up here. We were informed of both by locals who knew the status of each and suspected foul play. I don't really see how requiring the PID to be renewable would solve the problem as the bad deed doers may just fib on the renewal applications, if they felt strong enough about deserving the benefit. That and it would put that much more of a burden on the sourdoughs that plan on being buried in Alaska, causing them a need to renew their permanent ID. Not to mention we'd have to change the name to TID, for Temporary Identification card. All and all, I'd say leaving it as is and having the trooper investigate suspects, contacted, seems to be a logical course.

I have had problems with the PID program in the past. On Prince of Wales Island there were / are folks that at one time were Alaska residents and received there PID. The individuals then left Alaska, but retained there PID and come up every summer to fish and possibly hunt deer in August / September before returning to their homes down South.

The PID program requires an individual to be an Alaska resident to receive the PID, but it doesn't mention what happens after you receive it and then move out of State. "The commissioner shall issue a permanent identification card without charge to persons who qualify by age (60+) and residence and who complete the forms required by the commissioner for implementation of this subsection". Perhaps we could add a section in the statute that reads something like: If the holder of a permanent identification card (PID) no longer qualifies as an Alaska resident (as defined by AS 16.05.415) they MUST surrender their permanent identification card to the Department of Fish and Game. Failure to do so could have the same penalties as established under AS 16.05.420.

The Permanent License abuse has been a problem since I started as a Trooper in Soldotna. The Dept. policy of no crime unless a person claims residency in another State, is really hard to prove. After a person gets the license and is eligible to get it, he hasn't made a False Statement, even if he does take a resident right in another State. My solution would be to have another box on the paper license for the free license and have them get it every year. If they claim residency and are not residents we at least can cite them. I have worked very few cases, but know of at least two who have the PID and do not live in AK, yet are here every year for fishing and or hunting. I have checked their resident States and they do not get resident licenses or pay taxes on property, I know one has a home but it is in his mothers name.

I have not seen much of that myself other than one instance last fall. A non-resident assistant guide had previously acquired a PID, but then moved to Idaho. When he returned to guide last fall he failed to get a non-resident hunting license (as required to act as a big game guide). He really didn't try to pass off the old PID, but kind of meekly threw it out there to see if it would fly. It didn't. What I would really like to see is a closer look at the military disabled hunter licenses. I checked two guys last year that had been sheep and mt. goat hunting! Half the able bodied men in this state can't do that.

We recently followed up on a tip for a non resident with resident license (PID). Upon contact they provided a current non resident license that they had bought this year. They still had their PID cards with them and said they didn't know what to do with them. They indicated they planned to hang onto them in case they became residents again. There isn't any direction in statute or regulation that I can find that addresses the PIDs. The application form also does not give any notice as to any requirements to forfeit or return them to ADF&G if you no longer maintain your residency. It would be nice to see something in writing that addresses what the requirement is for the PID upon leaving state. As it's issued now, I'm not sure we could charge them with anything that would hold up in court as long as they were residents when they obtained it.

I would say this is not abused out here. Furthermore, I'd hope they don't paint with too broad a brush and impose an unnecessary limitation on the residents of AK that qualify and don't abuse it. I've heard they have problems in the Kenai Peninsula area so it's likely a good topic for discussion and looks as if they may currently have the support to get something done.

I haven't worked any cases involving misuse of a permanent license.

Yes, we work several of these each year. Generally we just tell the person that they no longer qualify as a resident and ask them to stop taking privileges. They usually comply. Most don't know that they must continue to maintain resident status, they just think it's a bonus for living here so long. A longevity bonus of sorts. Most of the time I can't see us taking the case to the DAO unless grossly abused. Just imagine the press on this, so poor old timer who just barely makes it into the court house with his walker and goes in front of the local magistrate. The guy can't hear anymore, barely able to read, confused by the whole thing. Tells the judge that he is just there to visit his grandchildren and thought that he would take them out fishing and along comes the fish cop. Spoils the whole day, all the little kids cried, the parents swore that they would never go fishing again. On and on. Yes, an expiration date would be a great help. The application could just have an additional box for the person to check if it is a renewal. They sign at the bottom again just like before. Very good idea.

Permanent Fund Dividend Eligibility Statute

Sec. 43.23.005. Eligibility.

(a) An individual is eligible to receive one permanent fund dividend each year in an amount to be determined under AS 43.23.025 if the individual

(1) applies to the department;

(2) is a state resident on the date of application;

(3) was a state resident during the entire qualifying year;

(4) has been physically present in the state for at least 72 consecutive hours at some time during the prior two years before the current dividend year;

(5) is

(A) a citizen of the United States;

(B) an alien lawfully admitted for permanent residence in the United States;

(C) an alien with refugee status under federal law; or

(D) an alien that has been granted asylum under federal law;

(6) was, at all times during the qualifying year, physically present in the state or, if absent, was absent only as allowed in AS 43.23.008; and

(7) was in compliance during the qualifying year with the military selective service registration requirements imposed under 50 U.S.C. App. 453 (Military Selective Service Act), if those requirements were applicable to the individual, or has come into compliance after being notified of the lack of compliance.

(b) [Repealed, Sec. 18 ch 4 SLA 1992].

(c) A parent, guardian, or other authorized representative may claim a permanent fund dividend on behalf of an unemancipated minor or on behalf of a disabled or an incompetent individual who is eligible to receive a payment under this section. Notwithstanding (a)(2) - (4) of this section, a minor is eligible for a dividend if, during the two calendar years immediately preceding the current dividend year, the minor was born to or adopted by an individual who is eligible for a dividend for the current dividend year.

(d) Notwithstanding the provisions of (a) - (c) of this section, an individual is not eligible for a permanent fund dividend for a dividend year when

(1) during the qualifying year, the individual was sentenced as a result of conviction in this state of a felony;

(2) during all or part of the qualifying year, the individual was incarcerated as a result of the conviction in this state of a

(A) felony; or

(B) misdemeanor if the individual has been convicted of

(i) a prior felony as defined in AS 11.81.900; or

(ii) two or more prior misdemeanors as defined in AS 11.81.900.

(e) [Repealed, Sec. 64 ch 21 SLA 1991].

(f) The commissioner may waive the requirement of (a)(4) of this section for an individual absent from the state

(1) in a time of national military emergency under military orders while serving in the armed forces of the United States, or for the spouse and dependents of that individual; or

(2) while in the custody of the Department of Health and Social Services in accordance with a court order under AS 47.10 or AS 47.12 and placed outside of the state by the Department of Health and Social Services for purposes of medical or behavioral treatment.

(g) For purposes of applying (d)(1) of this section, the date the court imposes a sentence or suspends the imposition of sentence shall be treated as the date of conviction. For purposes of applying (d)(2)(B) of this section, multiple convictions arising out of a single criminal episode shall be treated as a single conviction.

(h) If an individual who would otherwise have been eligible for a permanent fund dividend dies after applying for the dividend but before the dividend is paid, the department shall pay the dividend to a personal representative of the estate or to a successor claiming personal property under AS 13.16.680. If an individual who would otherwise have been eligible for a dividend and who did not apply for the dividend dies during the application period, a personal representative of the estate or a successor claiming personal property under AS 13.16.680 may apply for and receive the dividend. Notwithstanding AS 43.23.011, the application for the dividend may be filed by the personal representative or the successor at any time before the end of the application period for the next dividend year.

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

February 27, 2007

SUBJECT: Equal protection relating to the permanent identification card (CSHB 137(); Work Order No. 25-LS0118K)

TO: Representative Paul Seaton
Attn: Katie Shows

FROM: Brian J. Kane
Legislative Counsel

I have drafted a committee substitute version of HB 137, as you requested, which allows persons who already have a permanent identification card to not be required to obtain a temporary identification card. I would like to note that there is a constitutional issue regarding equal protection lurking in the background.

Article 1, section 1 of the Constitution of the State of Alaska says:

This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

Whenever the court considers constitutional issues it uses a balancing test to weigh the state's interest against the interest of the person or persons affected by the state's proposed action. The test used depends on the constitutional provision at issue.

[T]he Alaska Constitution's equal protection clause affords greater protection to individual rights than the United States Constitution's Fourteenth Amendment. To implement Alaska's more stringent equal protection standard, we have adopted a three-step, sliding-scale test that places a progressively greater or lesser burden on the state, depending on the importance of the individual right affected by the disputed classification and the nature of the governmental interests at stake: first, we determine the weight of the individual interest impaired by the classification; second, we examine the importance of the purposes underlying the government's action; and third, we evaluate the means employed to further those goals to determine the closeness of the means-to-end fit.

Malabed v. North Slope Borough, 70 P.3d 416, 420 - 421 (Alaska 2003).

Representative Paul Seaton
February 27, 2007
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While a distinction between different groups is created by this bill draft (one group who retains a permanent identification card that does not need to be renewed versus another group that must obtain a temporary identification card that must be renewed every three years), the burden to overcome using the court's sliding-scale analysis might be not that difficult.

There are no fundamental rights involved in these identification cards used for fishing, hunting and trapping. There is no monetary cost attached to the cards. There is no fee involved in obtaining a permanent identification card or a temporary identification card and subsequent renewals.

The two biggest differences between the cards are (1) convenience and (2) criteria.

It is clearly a more convenient option to already have a permanent identification card which does not need to be renewed at any point, whereas having to renew the temporary card every three years will clearly take more effort on the part of the cardholder. However, this is a minor factor, at best.

The bigger issue will likely revolve around the fact that the criteria will be different for a temporary identification cardholder than for a permanent identification cardholder. Throughout the three-year life of the card, the cardholder must either have received a permanent fund dividend or have been eligible to have received one in the previous year. Each time the card is renewed, the holder of the temporary identification card needs to either have received the dividend or be able to prove that the requirements for receiving the dividend were met in the previous year. However, the permanent card is just that: permanent. If a person currently has a permanent identification card, then this person does not need to meet the permanent fund dividend requirements, so long as that person is in possession of the permanent identification card.

The first step in the sliding-scale test likely would put this infringement on the less burdensome end of the scale. With this right carrying less weight, then the governmental interest at stake does not need to be extremely high. However, I cannot comment on the reasoning behind the amending of this statute regarding permanent identification cards, but the reason for making this change would not need to be a compelling one. "Grandfathering" is usually justified as protecting a reliance interest. You may want the legislative history to reflect your justification for the distinction made by this bill.

Third, the means of employing this change seem to be reasonable. Having a person meet basic permanent fund dividend criteria in order to renew this temporary identification card does not appear to be an irrational requirement for keeping this card valid.

If I may be of further assistance, please advise

BJK:ljw
07-104.ljw

Enclosure

Katie Shows

From: Rep. Paul Seaton
Sent: Monday, February 19, 2007 2:24 PM
To: katie.shows@legis.state.ak.us
Subject: FW: Article from KINY RADIO report 2/2007

From: Danny Lakip [mailto:fveureka@gci.net]
Sent: Friday, February 16, 2007 9:59 PM
To: Rep. John Harris; Rep. Paul Seaton
Subject: Article from KINY RADIO report 2/2007

Out of state couple cited in Hoonah for unlawful sport fishing

Alaska Bureau of Wildlife Troopers in Hoonah have cited a couple for claiming to be Alaska residents on their sport fishing licenses when they aren't.

Mark C. Warner, 67, and 66 year old Linda H. Warner, both of Bountiful, Utah, face five counts each of unsworn falsification.

Investigation determined they've been doing this since 2000.

Arraignment is scheduled in Hoonah District Court on March 7.

According to Fishing and Game Licensing Statistics there are 4,000 to 6,000 people applying for their free part-time/non-resident senior licenses EACH YEAR!!!. Do the math the State is losing hundreds of thousands of dollars due to greedy geezer. Oh, lets not forget the longevity bogus program.

From: Henry T Munson [mailto:henryt@seward.net]
Sent: Monday, February 19, 2007 2:40 PM
To: Rep. Paul Seaton
Subject: Re: *Spam?* February 19, 2007 Newsletter

Senator Seaton

I am an Alaskan Senior and have a PID. I believe your bill HB 137 is misguided. Personally, I find it annoying and somewhat degrading.

First, I don't believe any great number of Seniors in Alaska are going to leave the state and return to take advantage of "free fishing". If they do, they will more than likely spend enough money in the economy here to make the "cheating" worth the state's while. I have personally lived in Alaska for more than 35 years and have purchased hunting and fishing and trapping licenses for 32 of those years, not to mention all the money I spent for permit applications I never got.

Second, if such Alaska Seniors earned the privilege of a PID by their presence and work in the state, they probably deserve to keep it even if they do go somewhere else where they can afford to buy groceries.

Third, if you are comparing the AKPFD to a list of PIDs that is a computer-performed job that requires little input. Simply check the PFD application against PID holders or PID holders against the PFD application list. If a PID holder does not appear on the PFD list, find out why.

I think there are a lot of things better to spend your time on than harassing Seniors about their PIDs.

Henry T Munson
henryt@seward.net

REPRESENTATIVE PAUL SEATON

SESSION ADDRESS

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(907) 465-2689
Fax: (907) 465-3472
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(907) 235-2921
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1-800-665-2689

ALASKA STATE LEGISLATURE
House District 35

MEMORANDUM

TO: Representative Johnson, Co-chair
House Resources Committee

FROM: Representative Seaton, Chair
House Fisheries Committee *Paul*

DATE: Thursday, March 8, 2007

RE: Request for a hearing, HB 137

I respectfully request a hearing on HB 137 before the House Resources Committee.

In summary, HB 137 changes the Permanent Identification Card (PID), a permanent free fishing/hunting/trapping license for seniors over 60 to a temporary card renewed every 3 years and ties it to Permanent Fund Dividend eligibility.

Attached please find: blank CS HB 137, sponsor statement, fiscal note, fact sheet on PID from Fish and Game, definition of resident for current PID, copy of the current PID application and card, anecdotal experience of Wildlife Troopers enforcing the PID, PFD eligibility statute AS 43.23.005, legal opinion, and testimony.

Staff contact: Katie Shows, ext. 2028

REPRESENTATIVE PAUL SEATON

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ALASKA STATE LEGISLATURE

House District 35

HB 137 Temporary Senior Hunting/Trapping/Fishing License

The Permanent Identification Card (PID) is a permanent license that allows Alaskan seniors to enjoy the natural resources of this great state through hunting, fishing and trapping free of charge. However, as the program is currently structured there are few safeguards to prevent abuse. Because the license is permanent, someone can get the card when they live in Alaska, move out of state and never have to pay for a license in Alaska on subsequent return visits. Also, because there is no easily enforceable determination of Alaskan resident, non-residents can fraudulently apply for a card. This is not fair to Alaskan seniors who live here year round and have the right to fish without the financial burden of a yearly license fee.

HB 137 changes current statute from a permanent identification card to a temporary identification card (TID). The license holder is required to renew the card every three years and must be eligible for the permanent fund dividend to qualify for the free hunting/fishing/trapping card. Fish and Game will have a list of individuals who received the PFD to cross reference before issuing a free senior license. The temporary identification card will take effect January 1, 2008 to place the new program on a calendar year. All seniors who currently have a PID or obtain one by the end of 2007 will be grandfathered into the program. The TID program will be easier for Fish and Game to administer because they have a simple way to check for suspected fraud instead of enlisting the help of the overextended Wildlife Troopers. HB 137 will result in an increase of funds as out-of-state individuals will have to purchase their license.

More people have been issued a PID in the last 20 years than there are eligible residents in Alaska who receive the PFD. Anecdotal stories of abuse of this benefit include a Fish and Game clerk on the Kenai Peninsula who issued a PID to a senior who claimed he was a resident but that he did not own a drivers license to prove it. He then proceeded to get into the drivers seat of a car with out-of-state license plates. The Fish and Game officer faxed the individual's information to the Wildlife Troopers, however they do not have the resources to persecute minor offenses such as fraudulent license applications, leaving the program with little means for checks and balances.

HB 137 ensures the integrity of a program designed to award resident Alaskan seniors the well deserved benefit of a free fishing, hunting and trapping licenses.

25-LS0118\O
Kane
3/7/07

CS FOR HOUSE BILL NO. 137()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON FISHERIES

A BILL

FOR AN ACT ENTITLED

1 **"An Act amending the requirements for the identification card needed for sport fishing,**
2 **hunting, and trapping without a license by residents who are 60 years of age or more."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1. AS 16.05.400(b) is amended to read:**

5 (b) A sport fishing, hunting, or trapping license is not required of a resident
6 who is 60 years of age or more. A resident who is 60 years of age or more is
7 required to possess a valid identification card to engage in sport fishing, hunting,
8 or trapping without a license, as follows:

9 (1) the [THE] commissioner shall issue a permanent identification
10 card without charge to a person [PERSONS] who, on or before December 31, 2007,
11 qualifies [QUALIFY] by age and residence and who completes [COMPLETE] the
12 forms required by the commissioner for implementation of this paragraph: a
13 [SUBSECTION. A] person who is issued a permanent identification card under this
14 paragraph [SUBSECTION] shall have it in possession while sport fishing, hunting,

1 or trapping;

2 (2) the commissioner shall issue a temporary identification card
3 without charge to a person who, on or after January 1, 2008, qualifies by age and
4 residence and who completes the forms required by the commissioner for
5 implementation of this paragraph; to obtain or renew a valid temporary
6 identification card issued under this paragraph, the person must have lawfully
7 received a permanent fund dividend during the most recent dividend disbursement or
8 must present evidence satisfactory to the department that the person was in the
9 state for at least 185 days during the previous calendar year; a person who is
10 issued a temporary identification card under this paragraph shall have it in
11 possession while sport fishing, hunting, or trapping; the temporary identification
12 card must be renewed every three years.

13 * Sec. 2. AS 16.05.405(b) is amended to read:

14 (b) Notwithstanding AS 16.05.420(c), a resident holding a valid resident
15 hunting license may take game on behalf of a person who is blind, a person with
16 physical disabilities, or a person who is 65 years of age or older if the resident
17 possesses on the resident's person

18 (1) a document signed by the person on whose behalf the game is
19 taken, stating that the resident possesses the person's hunting license or valid
20 [PERMANENT] identification card in order to take game on behalf of that person; and

21 (2) the person's

22 (A) resident hunting license issued under AS 16.05.403 or
23 valid [PERMANENT] identification card issued under AS 16.05.400(b); and

24 (B) harvest ticket, tag, stamp, or other document required by
25 law as a condition of taking the game being hunted.

26 * Sec. 3. AS 16.05.405(c) is amended to read:

27 (c) Notwithstanding AS 16.05.420(c), a resident holding a valid
28 noncommercial fishing license may take fish on behalf of a person who is blind, a
29 person with physical disabilities, or a person who is 65 years of age or older if the
30 resident possesses on the resident's person

31 (1) a document signed by the person on whose behalf the fish is taken,

1 stating that the resident possesses the person's sport fishing license, subsistence fishing
2 permit, personal use fishing permit, or valid [PERMANENT] identification card in
3 order to take fish on behalf of that person;

4 (2) the person's

5 (A) resident sport fishing license issued under AS 16.05.403 or
6 valid [PERMANENT] identification card issued under AS 16.05.400(b);

7 (B) resident subsistence fishing permit issued under
8 AS 16.05.403; or

9 (C) resident personal use fishing permit issued under
10 AS 16.05.403; and

11 (3) all other documents issued to the person that are required by law as
12 a condition of taking the fish being pursued.

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

February 27, 2007

SUBJECT: Equal protection relating to the permanent identification card
(CSHB 137()); Work Order No. 25-LS0118\K)

TO: Representative Paul Seaton
Attn: Katie Hows

FROM: Brian J. Kane
Legislative Counsel

I have drafted a committee substitute version of HB 137, as you requested, which allows persons who already have a permanent identification card to not be required to obtain a temporary identification card. I would like to note that there is a constitutional issue regarding equal protection lurking in the background.

Article 1, section 1 of the Constitution of the State of Alaska says:

This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

Whenever the court considers constitutional issues it uses a balancing test to weigh the state's interest against the interest of the person or persons affected by the state's proposed action. The test used depends on the constitutional provision at issue.

[T]he Alaska Constitution's equal protection clause affords greater protection to individual rights than the United States Constitution's Fourteenth Amendment. To implement Alaska's more stringent equal protection standard, we have adopted a three-step, sliding-scale test that places a progressively greater or lesser burden on the state, depending on the importance of the individual right affected by the disputed classification and the nature of the governmental interests at stake: first, we determine the weight of the individual interest impaired by the classification; second, we examine the importance of the purposes underlying the government's action; and third, we evaluate the means employed to further those goals to determine the closeness of the means-to-end fit.

Malabed v. North Slope Borough, 70 P.3d 416, 420 - 421 (Alaska 2003).

Representative Paul Seaton
February 27, 2007
Page 2

While a distinction between different groups is created by this bill draft (one group who retains a permanent identification card that does not need to be renewed versus another group that must obtain a temporary identification card that must be renewed every three years), the burden to overcome using the court's sliding-scale analysis might be not that difficult.

There are no fundamental rights involved in these identification cards used for fishing, hunting and trapping. There is no monetary cost attached to the cards. There is no fee involved in obtaining a permanent identification card or a temporary identification card and subsequent renewals.

The two biggest differences between the cards are (1) convenience and (2) criteria.

It is clearly a more convenient option to already have a permanent identification card which does not need to be renewed at any point, whereas having to renew the temporary card every three years will clearly take more effort on the part of the cardholder. However, this is a minor factor, at best.

The bigger issue will likely revolve around the fact that the criteria will be different for a temporary identification cardholder than for a permanent identification cardholder. Throughout the three-year life of the card, the cardholder must either have received a permanent fund dividend or have been eligible to have received one in the previous year. Each time the card is renewed, the holder of the temporary identification card needs to either have received the dividend or be able to prove that the requirements for receiving the dividend were met in the previous year. However, the permanent card is just that: permanent. If a person currently has a permanent identification card, then this person does not need to meet the permanent fund dividend requirements, so long as that person is in possession of the permanent identification card.

The first step in the sliding-scale test likely would put this infringement on the less burdensome end of the scale. With this right carrying less weight, then the governmental interest at stake does not need to be extremely high. However, I cannot comment on the reasoning behind the amending of this statute regarding permanent identification cards, but the reason for making this change would not need to be a compelling one. "Grandfathering" is usually justified as protecting a reliance interest. You may want the legislative history to reflect your justification for the distinction made by this bill.

Third, the means of employing this change seem to be reasonable. Having a person meet basic permanent fund dividend criteria in order to renew this temporary identification card does not appear to be an irrational requirement for keeping this card valid.

If I may be of further assistance, please advise.

BJK:ljw
07-104.ljw

Enclosure

#1

25-LS0118\C.1
Kane
2/22/07

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: HB 137

1 Page 1, line 12, following "resident":

2 Insert "must have lawfully received a permanent fund dividend in the previous
3 year or"

4

5 Page 1, line 13:

6 Delete "AS 43.23.005"

7 Insert "AS 43.23.005(a)(3) - (7)"

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB137-DFG-DAS-02-16-07
 Bill Version: HB 137
 () Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Fish and Game

Title Senior Fishing/Hunting/Trapping Licenses

RDU Administration and Support

Component Administrative Services

Sponsor House Special Committee on Fisheries

Requester House Special Committee on Fisheries

Component No. 470

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual	0.0	0.0	2.0	2.0	2.0	2.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	2.0	2.0	2.0	2.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	2.0	2.0	2.0	2.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	2.0	2.0	2.0	2.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Department of Fish and Game will notify licensees that it is time to renew their license. Costs included above are postage and supplies for the notification process.

Prepared by: Tom Lawson
 Division: Administrative Services
 Approved by: Denby Lloyd
 Agency: Department of Fish and Game

Phone 465-5999
 Date/Time 02/16/07 8:30 a.m.
 Date 2/16/2007

LEGAL SERVICES

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

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Mail Stop 3101

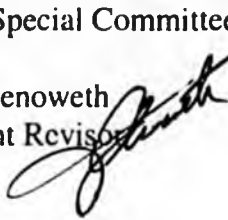
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. J29

MEMORANDUM

February 24, 2007

SUBJECT: CSHB 137(FSH), amending the requirements for the identification card for residents 60 years of age or older to fish, hunt, or trap without the appropriate license (Work Order No. 25-LS0118\E)

TO: Representative Paul Seaton, Chair
House Special Committee on Fisheries

FROM: Jack Chenoweth
Assistant Revisor 

The measure transmitted with this memo makes the changes specifically requested by incorporating the C.1 amendment.

Either before the measure is reported from your committee or when the measure is addressed in the next committee of referral, you may want to address the ambiguity inherent in the phrase "to retain eligibility for the temporary identification card" beginning on the last line of the bill's first page. Do the two elements of the "retain eligibility" requirement -- lawfully receiving a permanent fund dividend in the previous year or . . . maintain[ing] permanent fund dividend eligibility [under] AS 43.23.005(a)(3) - (7) -- operate so that, once the card has been issued, for the three-year life of the issued card, the continuing validity of the issued card is conditioned on the person's meeting one or the other of these requirements? Or, instead, do these two elements operate only so as to apply to obtain renewal of the card at the end of its three-year life? It's the use of the word "retain" that introduces the question, for "retain," in its dictionary definition, infers a continuing or continuity. Do you have a sense of how the committee intends the provision to operate so that we could substitute more definite language?

JBC:lmb
07-031.lmb

Enclosure

43.23.005. Eligibility. (a) An individual is eligible to receive one permanent dividend each year in an amount to be determined under AS 43.23.025 if the individual

- applies to the department;
- is a state resident on the date of application;
- was a state resident during the entire qualifying year;
- has been physically present in the state for at least 72 consecutive hours at some time during the prior two years before the current dividend year;

- is a citizen of the United States;
- is an alien lawfully admitted for permanent residence in the United States;
- is an alien with refugee status under federal law; or
- is an alien that has been granted asylum under federal law;

and was, at all times during the qualifying year, physically present in the state or, if absent, was absent only as allowed in AS 43.23.008; and

was in compliance during the qualifying year with the military selective service registration requirements imposed under 50 U.S.C. App. 453 (Military Selective Service Act) if those requirements were applicable to the individual, or has come into compliance having been notified of the lack of compliance.

[Repealed, § 18 ch 4 SLA 1992.]

A parent, guardian, or other authorized representative may claim a permanent dividend on behalf of an unemancipated minor or on behalf of a disabled or incompetent individual who is eligible to receive a payment under this section. Notwithstanding (a)(2) — (4) of this section, a minor is eligible for a dividend if, during the two calendar years immediately preceding the current dividend year, the minor was born to and adopted by an individual who is eligible for a dividend for the current dividend year. Notwithstanding the provisions of (a) — (c) of this section, an individual is not eligible for a permanent fund dividend for a dividend year when

- during the qualifying year, the individual was sentenced as a result of conviction in this state of a felony;
- during all or part of the qualifying year, the individual was incarcerated as a result of conviction in this state of a felony; or
- a misdemeanor if the individual has been convicted of a prior felony as defined in AS 11.81.900; or
- two or more prior misdemeanors as defined in AS 11.81.900.

[Repealed, § 64 ch 21 SLA 1991.]

The commissioner may waive the requirement of (a)(4) of this section for an individual absent from the state

- in a time of national military emergency under military orders while serving in the armed forces of the United States, or for the spouse and dependents of that individual; or
- while in the custody of the Department of Health and Social Services in accordance with a court order under AS 47.10 or AS 47.12 and placed outside of the state by the Department of Health and Social Services for purposes of medical or behavioral treatment.

For purposes of applying (d)(1) of this section, the date the court imposes a sentence suspends the imposition of sentence shall be treated as the date of conviction. For purposes of applying (d)(2)(B) of this section, multiple convictions arising out of a single criminal episode shall be treated as a single conviction.

If an individual who would otherwise have been eligible for a permanent fund dividend dies after applying for the dividend but before the dividend is paid, the department shall pay the dividend to a personal representative of the estate or to a possessor claiming personal property under AS 13.16.680. If an individual who would

otherwise have been eligible for a dividend and who did not apply for the dividend during the application period, a personal representative of the estate or a successor claiming personal property under AS 13.16.680 may apply for and receive the dividend. Notwithstanding AS 43.23.011, the application for the dividend may be filed by the personal representative or the successor at any time before the end of the application period for the next dividend year. (§ 1 ch 102 SLA 1982; am § 1 ch 57 SLA 1987; am § 1 ch 54 SLA 1988; am § 1 ch 159 SLA 1988; am §§ 2, 3 ch 107 SLA 1989; am § 1 ch 68 SLA 1990; am §§ 46, 62 ch 21 SLA 1991; am § 1 ch 68 SLA 1991; am §§ 4 — 8, 18 ch 4 SLA 1992; am §§ 2, 3 ch 46 SLA 1996; am §§ 2 — 4 ch 44 SLA 1998; am § 1 ch 91 SLA 1999; am § 25 ch 92 SLA 2001; am § 5 ch 89 SLA 2002; am § 5 ch 64 SLA 2005)

Cross references. — For legislative findings in connection with the 1989 amendment to (a) of this section, see § 1(a), ch. 107, SLA 1989 in the Temporary and Special Acts; for the application deadlines for minors who qualified for a dividend for 1992 because of the 1992 amendment to (c) of this section, see § 19, ch. 4, SLA 1992 in the Temporary and Special Acts; for legislative purpose relating to the 1996 amendments amending subsection (d) and adding subsection (g), see § 1, ch. 46, SLA 1996 in the Temporary and Special Acts.

Effect of amendments. — The first 1998 amendment, effective January 1, 1999, rewrote subsection (a); in subsection (d) substituted "qualifying year" for "calendar year immediately preceding that dividend year" in paragraphs (1) and (2); and, effective January 1, 2000, inserted "for at least 72 consecutive hours" in paragraph (a)(4).

The second 1998 amendment, effective June 13, 1998, added subsection (h).

The 2001 amendment, effective July 6, 2001, in subparagraph (d)(2)(B), added item (i) and the item (ii) designation, and, in item (ii), substituted "misdemeanors" for "crimes."

The 2002 amendment, effective January 1, 2004, added paragraph (a)(7) and made related stylistic changes.

The 2005 amendment, effective July 1, 2006, in subsection (f), deleted "In a time of national military emergency" from the beginning of the introductory language, added the paragraph (1) designation and added that language at the beginning of paragraph (1), and added paragraph (2).

Editor's notes. — Section 6, ch. 46, SLA 1996 provides that the 1996 amendments that amended subsection (d) and added (g) "apply only to individuals convicted of crimes committed after December 31, 1996" and that "[c]onvictions for crimes committed before January 1, 1997, may not be considered in determining the number of prior convictions for purposes of applying AS 43.23.005(d)(2)(B)."

Under § 6, ch. 89, SLA 2002, paragraph (a)(7) applies to a person who applies for a permanent fund dividend on or after January 1, 2004.

Legislative history reports. — For legislative letter of intent relating to the enactment of subsection (f) by § 1 ch. 68, SLA 1991 (HCSB 98(FIN)), see 1991 Senate Journal, page: 256, 257.

NOTES TO DECISIONS

Constitutionality. — The 1989 amendment to paragraph (a)(2) of this section, imposing a two-year residency requirement for applicants, was unconstitutional; the one year requirement in subsection (e) is the applicable period, since no appeal is pending. *Lindly, et al. v. Malone*, Superior Court, 3rd Jud. Dist. 3AN-90-02586 CI (1990) (The 1991 amendment codified this decision).

Subsection (d) does not violate the equal protection clause of the United States Constitution and/or the Alaska Constitution. *State v. Anthony*, 810 P.2d 155 (Alaska 1991).

Subsection (d), which makes incarcerated felons ineligible for permanent fund dividends, does not violate the ex post facto clause of either the United States or the Alaska Constitutions. *State v. Anthony*, 816 P.2d 1377 (Alaska 1991).

Denial of a permanent fund dividend to an incarcerated felon was not separate punishment in addition to his sentence for murder for purposes of double jeopardy. *Hertz v. Storer*, 943 P.2d 725 (Alaska 1997), cert. denied, 522 U.S. 1059, 118 S. Ct. 717, 139 L. Ed. 2d 657 (1998).

The alien eligibility requirement of subparagraph (a)(5)(B) is constitutional because the department has the authority to interpret the statutory language in a manner that meets the purposes of the permanent fund dividend program and that comports with federal law. *State v. Andrade*, 23 P.3d 58 (Alaska 2001).

No constitutional protection of permanent fund dividend. — Changes in the qualifying date for a permanent fund dividend (pfd) do not violate the constitutional rights of new residents. Plaintiffs, as new residents, had only an inchoate expectancy of a pfd which is not afforded constitutional protection. *Underwood v. State*, 881 P.2d 322 (Alaska 1994), cert. denied, 514 U.S. 1064, 115 S. Ct. 1694, 131 L. Ed. 2d 558 (1995).

Dividends received on behalf of minors. — Where a divorced mother borrowed money from her children's permanent fund dividends, it was not error on the part of the court to deny the former husband's request that the mother be ordered to repay the amount taken. *Hayes v. Hayes*, 922 P.2d 896 (Alaska 1996).

Dividends properly withheld. — The state department of revenue properly withheld appellant's permanent fund dividends (PFDs) for 1992, 1993, and 1994 because the absences he reported from his primary Alaska residence exceeded the 180-day period allowed under former AS 43.23.005(a), 43.23.095(b), and their implementing regulations. *Schikora v. State*, 7 P.3d 938 (Alaska 2000).

Applied in Dept of Revenue v. Cosio, 858 P.2d 621 (Alaska 1993); *State, Dept of Revenue v. Wilder*, 929 P.2d 1280 (Alaska 1997).

Stated in Alaska Oil Co. v. Alaska, 45 Bankr. 358 (D. Alaska 1985).

Cited in: Standard Alas F.2d 624 (9th Cir. 1989); (Alaska 1990); *Morgan v.*

Sec. 43.23.008. *f* otherwise eligible *i* remains eligible for (1) receiving seco (2) receiving voca which, as determin- rable program is no (3) serving on ac accompanying, as tl individual who is

(A) serving on ac (B) eligible for a (4) serving unde vessel of the Unitec (5) receiving con'

convalescing as rec or convalescence is (6) providing ca life-threatening illr

cian, requires trav (7) providing ca (8) settling the stepchild, provided

(9) serving as a (10) serving on (11) serving as (12) accompany (13) accompany

under (1), (2), (5) disabled dependen (14) serving as (15) because of (16) for any re

provided the abs (A) 180 days in this subsection if t this subsection;

(B) 120 days in (3) of this subsect subsection but is (C) 45 days in

of this subsectio subsection. (b) An individ section unless th months immediat

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STATE OF ALASKA

DEPARTMENT OF FISH AND GAME DIVISION OF ADMINISTRATIVE SERVICES

SARAH PALIN, GOVERNOR

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Below are some guidelines to help determine whether or not you meet the residency requirements to purchase/receive a State of Alas' a resident sport fishing, hunting, trapping, or commercial crewmember license:

Per Alaska Statute 16.05.940(27), resident means, "a person who for the 12 consecutive months immediately preceding the time when the assertion of residence is made has maintained the person's domicile in the state and who is neither claiming residency in another state, territory, or country nor obtaining benefits under a claim of residency in another state, territory, or country..."

"Residency" is further defined and explained in Alaska Statute 16.05.415(a) &(b). "(a) a person ... is a resident if the person,

(1) is physically present in the state with the intent to remain in the state indefinitely and to make a home in the state; [Note:

a. you must be physically present in Alaska in order to obtain a resident license.
b. you must intend to remain in the state indefinitely and to make your true and permanent home in Alaska. Living in Alaska for a short period of time, 6 months or less, and spending the majority of the year somewhere else probably does not constitute the intent to remain indefinitely. Consideration is given to other factors. See below.]

(2) has maintained the person's domicile in the state for the 12 consecutive months immediately preceding the application for a license;

[Note: for the previous 12 consecutive months you must have maintained a livable dwelling in Alaska. Consideration is given to the type of dwelling maintained here vs. the type of dwelling maintained somewhere else.]

(3) is not claiming residency in another state, territory, or country; and

[Note: you cannot have voted as a resident in another state, registered your car or have a driver's license in another state unless required by that state's laws to do so; Alaska law requires that a person who resides in the state and is not employed must register their vehicles in Alaska within 60 days of entering the state in accordance with AS 28.10.212; additionally a person who is employed in Alaska or takes an action that indicates an intention to acquire residence in the state must register their vehicles within 10 days. A person establishing residency in Alaska must obtain an Alaskan drivers license within 90 days and must surrender any out of state drivers license in accordance with AS 28.15.011 & 021. You may not hold a "resident" hunting or fishing license in another state, and may not have held one during the past 12 months.]

(4) is not obtaining benefits under a claim of residency in another state, territory, or country.

[Note: you cannot be claiming residency for COLA retirement benefits in another state, paying resident vs. nonresident taxes in another state, receiving subsidized or free benefits available only to a resident of another state, or gaining any advantage provided to residents of another state, etc.]

(b) A person who establishes residency in the state under (a) of this section remains a resident during an absence from the state unless during the absence the person

(1) establishes or claims residency in another state, territory, or country; or

(2) performs an act, or is absent under circumstances, that are inconsistent with the intent required under (a) of this section. [N Note: You may not have made any public or private declaration that indicates an intent to maintain a domicile anywhere but Alaska.]

“Domicile” is defined in Alaska Statute 16.05.940 as “the true and permanent home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away;”

[Note: the purchase of round trip tickets or the making of return plans each time a person travels to Alaska would probably constitute evidence that the person’s true and permanent home was elsewhere than Alaska. The location of household goods, the location where the spouse or family members of the household live and work, the location where children attend school, and other factors will also aide in determining where the true and permanent home is.]

Per Alaska Administrative Code 5 AAC 39.975(30) and 5 AAC 92.990(14), evidence of domicile includes, but is not limited to, the following:

(A) statements made to obtain a license to drive, hunt, fish, or engage in an activity regulated by a government entity;

(B) affidavit of a person who may know an applicant’s domicile;

(C) place of voter registration;

[Note: see (3) under “Residency” above.]

(D) location of residence owned, rented, or leased;

[Note: see (1&2) under “Residency” above. The courts also look at the number of months you spend at a domicile located in another state vs. the number of months you spend in Alaska. For example, if you spend 9 months in another state and 3 months in Alaska, your residency in Alaska could be in question and will be taken into consideration along with other factors.]

(E) location of storage of household goods;

[Note: if your household goods are located in another state, it appears that you have not made your home here.]

(F) location of business owned or operated;

[Note: if your business is located in another state, you may need to explain to enforcement how your business is operated. On the other hand, you will not qualify as a resident merely by virtue of an interest in, or employment or contractual association with and Alaska-based business, see AS 16.05.415(g).]

(G) residence of spouse and minor children or dependents;

[Note: You are unlikely to be considered a resident of Alaska if your immediate family is living in another state or claiming another state as their residence while you consider Alaska your home.]

(H) governments to which taxes are paid;

[Note: see (4) under "Residency" above.]

(I) whether the person has claimed residence in another location for the purpose of obtaining benefits provided by the governments in that location."

[Note: see (4) under "Residency" above.]

If you are a member, or a dependent of a member, of the military or U.S. Coast Guard stationed in Alaska, you should also review the provisions of AS 16.05.415(c)-(d) and AS 16.05.940(27(C)-(D)).

If you have any questions about whether or not you meet the residency definition to obtain a sport or commercial crewmember license, please contact your local Department of Public Safety/Bureau of Wildlife Enforcement office.

State of Alaska Permanent Identification Card (PID) program for resident seniors 60 years of age or older to receive a free sport fishing, hunting and trapping license:

Information about Program:

- Total PID licenses issued during past 10 years: 43,662.
- Average distribution of PID licenses each year over the past 10 years: 4,366.
- Lost revenue to Fish and Game Fund for new licenses issued each year, not total PID licensees: \$137,827. Difficult to estimate how many licensees are still residing in Alaska, living, or would purchase a sport license/king salmon stamp if they were required to.

Qualifications for obtaining a PID license:

- Resident:
 - Physically present in Alaska
 - Intent to remain indefinitely and make a home in Alaska
 - Maintained their domicile in Alaska for the 12 consecutive months immediately preceding the application for a license
 - Not claiming residency or obtaining benefits under a claim of residency in another state, territory, or country.
 - This past year, the Attorney General's office, Criminal Justice Planner for ADF&G, and Licensing Supervisor put together the attached "What Constitutes a Resident" information sheet basically for PID applicants. Location of household goods, where other immediate family members live, and how many months you are away from the state are discussed.
- 60 years of age or older

Problems:

- Identifying active/inactive PID holders.
- People who live part-time other than in Alaska but consider Alaska their home. It is hard to determine if they are still a resident; regulations are not clear.
- Nonresident seniors obtaining PID.
- Two problems during past year with PID licensees in Ninilchik and Hyder. DPS/Bureau of Wildlife Enforcement was the entity involved in both cases.
- Licensing has to send back 10% of the applications received each year because of incomplete information or because additional information is needed, i.e. out-of-state address used on application.

Katie Shows

From: Rep. Paul Seaton
Sent: Monday, February 19, 2007 2:24 PM
To: katie.shows@legis.state.ak.us
Subject: FW: Article from KINY RADIO report 2/2007

From: Danny Lakip [mailto:fveureka@gci.net]
Sent: Friday, February 16, 2007 9:59 PM
To: Rep. John Harris; Rep. Paul Seaton
Subject: Article from KINY RADIO report 2/2007

Out of state couple cited in Hoonah for unlawful sport fishing

Alaska Bureau of Wildlife Troopers in Hoonah have cited a couple for claiming to be Alaska residents on their sport fishing licenses when they aren't.

Mark C. Warner, 67, and 66 year old Linda H. Warner, both of Bountiful, Utah, face five counts each of unsworn falsification.

Investigation determined they've been doing this since 2000.

Arraignment is scheduled in Hoonah District Court on March 7.

According to Fishing and Game Licensing Statistics there are 4,000 to 6,000 people applying for their free part-time/non-resident senior licenses EACH YEAR!!!. Do the math the State is losing hundreds of thousands of dollars due to greedy geezer. Oh, lets not forget the longevity bogus program.

From: Henry T Munson [mailto:henryt@seward.net]
Sent: Monday, February 19, 2007 2:40 PM
To: Rep. Paul Seaton
Subject: Re: *Spam?* February 19, 2007 Newsletter

Senator Seaton

I am an Alaskan Senior and have a PID. I believe your bill HB 137 is misguided. Personally, I find it annoying and somewhat degrading.

First, I don't believe any great number of Seniors in Alaska are going to leave the state and return to take advantage of "free fishing". If they do, they will more than likely spend enough money in the economy here to make the "cheating" worth the state's while. I have personally lived in Alaska for more than 35 years and have purchased hunting and fishing and trapping licenses for 32 of those years, not to mention all the money I spent for permit applications I never got.

Second, if such Alaska Seniors earned the privilege of a PID by their presence and work in the state, they probably deserve to keep it even if they do go somewhere else where they can afford to buy groceries.

Third, if you are comparing the AKPFD to a list of PIDs that is a computer-performed job that requires little input. Simply check the PFD application against PID holders or PID holders against the PFD application list. If a PID holder does not appear on the PFD list, find out why.

I think there are a lot of things better to spend your time on than harassing Seniors about their PIDs.

Henry T Munson
henryt@seward.net