

HB

267

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 267
 () Publish Date: _____

Identifier (file name): HB267-DPS-AWT-01-10-08 Dept. Affected: Public Safety
 Title: "An Act relating to . . . Wildlife Violator Compact . . ." RDU: Alaska State Troopers
 Component: Alaska Wildlife Troopers
 Sponsor: Representative Johnson
 Requester: House Resources Committee Component Number: 2746

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0	0
Part-time	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)
 Research of other compact member states estimates that the time needed to administer the program will be between 5 and 30 hours per month, depending upon how many new entries are required into the data base. The Division of Alaska Wildlife Troopers can administer this program with existing personnel.

Prepared by: Captain Burke Waldron
 Division: Division of Alaska Wildlife Troopers
 Approved by: Walt Monegan, Commissioner
Department of Public Safety

Phone (907)269-5509
 Date/Time 01/08/08 3:15pm
 Date 1/10/2008

FISCAL NOTE

**STATE OF ALASKA
2008 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: HB 267
 () Publish Date: _____

Identifier (file name): HB257-DFG-DWC-01-11-08 Dept. Affected: Fish and Game
 Title: Wildlife Violator Compact RDU: Wildlife Conservation
 Component: Wildlife Conservation
 Sponsor: Representative Johnson
 Requester: House Resources Committee Component Number: 473

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	0.0	0.0

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

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

Passage of this bill will not have any fiscal impact on the Department of Fish and Game.

Prepared by: Doug Larsen, Director
 Division: Wildlife Conservation
 Approved by: Denby Lloyd, Commissioner
Department of Fish and Game

Phone 465-4191
 Date/Time 1/11/08 4:00 PM
 Date 1/11/2008

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 25, 2008

SUBJECT: Sectional summary of CSHB 267(RES)
(Work Order No. 25-LS0864\O)

TO: Representative Craig Johnson
Co-chair of the House Resources Committee
Attn: Jeanne Ostnes

FROM: Brian J. Kane *BJK*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill sets out the provisions of the Wildlife Violator Compact.

- Article I of the compact states the policy and purpose behind the compact and what member states aim to achieve by joining the compact.
- Article II sets out the definitions of terms used in the compact.
- Article III states the procedures to be followed by a state issuing a citation to a person for a wildlife violation.
- Article IV states the procedures for the home state of the person who is issued a wildlife violation in another state in the compact.
- Article V declares that all states that are parties to the compact will recognize a suspension of license privileges as if it happened in their states.
- Article VI states that nothing in the compact shall be construed to affect the right of a party state to apply its own local laws or practices in wildlife enforcement.
- Article VII describes the board of compact administrators and the role of the board.
- Article VIII provides for entry into and withdrawal from the compact.
- Article IX states that amendments may be made to the compact.
- Article X states that the compact should be liberally construed to carry out its purpose, and that the provisions of the compact are severable in order to keep remaining provisions in effect.
- Article XI states the title of the compact.

Representative Craig Johnson
January 25, 2008
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Section 2 of the bill states that the compact does not apply to violations for commercial fishing or commercial activities of providers of services to big game hunters.

Section 3 of the bill provides the procedure for peace officers in the state of Alaska to file an action for revocation of a fishing or hunting license to comply with the terms of the compact.

BJK:med
08-050.med

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MEMORANDUM

January 22, 2008

SUBJECT: HB 267 in light of art. I, sec. 10 of the United States Constitution
(Work Order No. 25-LS0864\M)

TO: Representative Craig Johnson
Attn: Jeanne Ostnes

FROM: Brian J. Kane *BJK*
Legislative Counsel

You have forwarded to me a question sent to you by Mr. Dennis Olson regarding a possible violation of the United States Constitution by HB 267. In particular, Mr. Olson asserts that art. I, sec. 10 of the U.S. Constitution¹ has restrictions on a state's ability to enter into a compact with another state.

The third clause of this Constitutional provision contains the phrase "without the consent of Congress." Hence, Congress can consent to a state entering into an agreement or compact with another state. In the context of criminal activity, such as the Wildlife Violator Compact, Congress has offered its consent. This consent can be found at 4 U.S.C. 112(a), which states:

¹ Section 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No state shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay. (emphasis added)

Representative Craig Johnson
January 22, 2008
Page 2

The consent of Congress is hereby given to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts.

It is under the provision of this provision of the U.S. Code that the Wildlife Violator Compact began and is currently allowed. Hence, Congress has offered its consent to this type of compact between states and allows the compact to not be in violation of the U.S. Constitution.

If I may be of further assistance, please advise.

BJK:med
08-034.med

On Jan 20, 2008 10:06 PM, dennis <dennisolys@gmail.com> wrote:

Dear Representative Johnson,

Upon reading HB 267 and reflecting on its impact to this State, it gives me great pause to consider that the Resources Committee is in much haste to give their approbation to such a damaging and unconstitutional act. Certain members suggest that this bill would not place the sovereignty of this State at risk. I could not more strongly disagree.

Article I, Section 10, Part 3, of the US Constitution states:

"No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, **enter into any Agreement or Compact with another State, or with a foreign Power**, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay."

The plain language of HB 267 describes itself as a "compact to supersede existing statutes by approving standards, rules, or other action under terms of compact." Article II(k)(1), of HB 267 defines the "state" as "any state, territory, or possession of the United States, District of Columbia, Common wealth of Puerto Rico, Provinces of Canada, or **any other countries.**" (emphasis added).

This compact would require the State of Alaska to enforce citations or judgments of foreign states, which may or may not provide the same level of protection guaranteed the accused by our Constitutions. Article I, Section 2(b) states that Alaska must:

"Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a party state and treat the suspension as if it occurred in their own state."

To me, this seems the most odious part of the bill. Assume my son should commit some offense in my home, and though I punish him, I enter into some agreement with my neighbors that they should punish my child as well, though my son has done no wrong to them. Would my family and friends consider that wise and just? If a man commits a theft at a local grocery store, is arrested, found guilty, punished for the crime, and prohibited from entering the store for a period of time, should he be expelled from every store?

This bill doesn't punish a man once for his offense, but many times. Additionally, he is subject to the punishment of those to whom he has done no wrong. How can such a scheme be even considered in a republican form of government?

There are many other parts of this bill that may be considered odious as well, however, consideration for your time will not allow me to deliberate further. My only request is that each member of the Resources Committee dedicate himself to an exhaustive examination of the bill, and if haste must be made in consideration of some other important work, may he hastily reject this dangerous bill.

Sincerely yours, Dennis Olson – Big Lake, Alaska

CS FOR HOUSE BILL NO. 267(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES JOHNSON, Dahlstrom, Wilson, Buch, Chenault, Ramras

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to authorizing the state to join with other states entering into the**
 2 **Wildlife Violator Compact and authorizing the compact to supersede existing statutes**
 3 **by approving standards, rules, or other action under the terms of the compact;**
 4 **excluding commercial fishing and big game commercial hunting services from the**
 5 **provisions of the compact; and directing the initiation of civil actions to revoke**
 6 **appropriate licenses in this state based on a licensee's violation of or failure to comply**
 7 **with the terms of a wildlife resource citation issued in another state that is a party to the**
 8 **compact."**

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

10 *** Section 1. AS 16.05 is amended by adding a new section to read:**

11 **Sec. 16.05.332. Wildlife Violator Compact. The Wildlife Violator Compact**
 12 **as contained in this section is enacted into law and entered into on behalf of the State**

1 of Alaska with any other states legally joining it in a form substantially as follows:

2 ARTICLE I

3 FINDINGS, DECLARATION OF POLICY, AND PURPOSES

4 Section 1. Findings. The party states find that

5 (a) Wildlife resources are managed in trust by the respective states for the
6 benefit of all residents and visitors.

7 (b) The protection of their respective wildlife resources are materially affected
8 by the degree of compliance with state statute, regulation, ordinance, or administrative
9 rule relating to the management of those resources.

10 (c) The preservation, protection, management, and restoration of wildlife
11 contributes immeasurably to the aesthetic, recreational, and economic aspects of those
12 natural resources.

13 (d) Wildlife resources are valuable without regard to political boundaries and,
14 therefore, all persons must be required to comply with wildlife preservation,
15 protection, management, and restoration statutes, ordinances, and administrative rules
16 and regulations of all party states as a condition precedent to the continuance or
17 issuance of any license to hunt, fish, trap, or possess wildlife.

18 (e) The violation of wildlife laws interferes with the management of wildlife
19 resources and may endanger the safety of persons and property.

20 (f) The mobility of many wildlife law violators necessitates the maintenance
21 of channels of communications among the various states.

22 (g) In most instances, a person who is cited for a wildlife violation in a state
23 other than the person's home state

24 (1) must post collateral or a bond to secure the person's appearance for
25 a trial at a later date;

26 (2) if unable to post collateral or a bond, is taken into custody until the
27 collateral or bond posted; or

28 (3) is taken directly to court for an immediate appearance.

29 (h) The purpose of the enforcement practices described in (g) of this section is
30 to ensure compliance with the terms of a wildlife citation by the person who, if
31 permitted to continue on the person's way after receiving the citation, could return to

1 the person's home state and disregard the person's duty under the terms of the citation.

2 (i) In most instances, a person receiving a wildlife citation in the person's
3 home state is permitted to accept the citation from the officer at the scene of the
4 violation and continue immediately on the person's way after agreeing to comply with
5 the terms of the citation.

6 (j) The practice described in (g) of this section causes unnecessary
7 inconvenience and, at times, a hardship for the person who is unable at the time to post
8 collateral, furnish a bond, stand trial, or pay a fine and, therefore, is compelled to
9 remain in custody until another arrangement is made.

10 (k) The enforcement practices described in (g) of this section consume an
11 undue amount of law enforcement time.

12 Sec. 2. Policies. The policies of the party states are to

13 (a) Promote compliance with the statutes, ordinances, regulations and
14 administrative rules relating to management of wildlife resources in their respective
15 states.

16 (b) Recognize the suspension of wildlife license privileges of any person
17 whose license privileges have been suspended by a party state and treat the suspension
18 as if it had occurred in their state.

19 (c) Allow a violator to accept a wildlife citation, except as provided in
20 subsection (b) of article III, and proceed on the person's way without delay whether or
21 not the person is a resident in the state in which the citation was issued if the person's
22 home state is a party to this compact.

23 (d) Report to the appropriate party state, as provided in the compact manual,
24 any conviction recorded against any person whose home state was not the issuing
25 state.

26 (e) Allow the home state to recognize and treat convictions recorded for its
27 residents which occurred in another party state as if they had occurred in the home
28 state.

29 (f) Extend cooperation to its fullest extent among the party states for obtaining
30 compliance with the terms of a wildlife citation issued in one party state to a resident
31 of another party state.

1 (g) Maximize the effective use of law enforcement personnel and information.

2 (h) Assist court systems in the efficient disposition of wildlife violations.

3 Sec. 3. Purposes. The purposes of this compact are to:

4 (a) Provide a means by which the party states may participate in a reciprocal
5 program to carry out the policies set forth in section 2 of this article in a uniform and
6 orderly manner.

7 (b) Provide for the fair and impartial treatment of wildlife violators operating
8 within party states in recognition of the persons' right of due process in the sovereign
9 status of a party state.

10 ARTICLE II

11 DEFINITIONS

12 As used in this compact, unless the context otherwise requires,

13 (a) "Citation" means any summons, complaint, summons and complaint, ticket,
14 penalty assessment or other official document issued by a wildlife officer or other
15 peace officer for a wildlife violation containing an order that requires the person to
16 respond.

17 (b) "Collateral" means any cash or other security deposited to secure an
18 appearance for trial in connection with the issuance by a wildlife officer or other peace
19 officer of a citation for a wildlife violation.

20 (c) "Compliance" means the act of answering a citation by appearing in a court
21 or tribunal or the payment of fines, costs, or surcharges, if any.

22 (d) "Conviction" means a conviction, including any court conviction, of any
23 offense related to the preservation, protection, management, or restoration of wildlife
24 which is prohibited by state statute, regulation, ordinance, or administrative rule, or a
25 forfeiture of bail, bond, or other security deposited to secure the appearance of a
26 person charged with any such offense, or the payment of a penalty assessment or a
27 plea of nolo contendere, or the imposition of a deferred or suspended sentence by the
28 court.

29 (e) "Court" means a court of law, including magistrate's court and the justice of
30 the peace court.

31 (f) "Home state" means the state of primary residence of a person.

1 (g) "Issuing state" means the party state that issues a wildlife citation.

2 (h) "License" means any license, permit, or other public document that
3 conveys to the person to whom it is issued the privilege of pursuing, possessing, or
4 taking any wildlife regulated by statute, regulation, ordinance, or administrative rule
5 of a party state.

6 (i) "Licensing authority" means

7 (1) in each other party state, the department or division within the party
8 state that is authorized by law to issue or approve licenses or permits to hunt, fish,
9 trap, or possess wildlife; and

10 (2) in this state, the Department of Public Safety.

11 (j) "Party state" means any state that enacts legislation to become a member of
12 this compact.

13 (k) "Personal recognizance" means an agreement by a person made at the time
14 of the issuance of the wildlife citation that the person will comply with the terms of
15 that citation.

16 (l) "State" means any state, territory, or possession of the United States, the
17 District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada, or any
18 other countries.

19 (m) "Suspension" means any revocation, denial, or withdrawal of any license
20 privileges, including the privilege to apply for, purchase, or exercise the benefits
21 conferred by any license.

22 (n) "Terms of the citation" means those conditions and options expressly stated
23 in the citation.

24 (o) "Wildlife" means all species of animals, including, but not limited to,
25 mammals, birds, fish, reptiles, amphibians, mollusks and crustaceans, that are defined
26 as wildlife and are protected or otherwise regulated by statute, regulation, ordinance,
27 or administrative rule in a party state. Species included in the definition of wildlife
28 vary from state to state and a determination of whether a species is wildlife for the
29 purposes of this compact must be based on local law. In this state, "wildlife" means all
30 species of fish and game as these terms are defined in AS 16.05.940.

31 (p) "Wildlife law" means any statute, regulation, ordinance, or administrative

1 rule enacted to manage wildlife resources and the use thereof.

2 (q) "Wildlife officer" means any person authorized by a party state to issue a
3 citation for a wildlife violation.

4 (r) "Wildlife violation" means any cited violation of statute, regulation,
5 ordinance, or administrative rule enacted to manage wildlife resources and the use
6 thereof.

7 ARTICLE III

8 PROCEDURES FOR ISSUING STATE

9 Issuing state procedures are as follows:

10 (a) When issuing a citation for a wildlife violation, a wildlife officer shall issue
11 a citation to any person whose primary residence is in a party state in the same manner
12 as if the person were a resident of the home state. The wildlife officer may not require
13 the person to post collateral to secure that person's appearance, subject to the
14 exceptions set forth in paragraph (b) of this article, if the officer receives the person's
15 personal recognizance that the person will comply with the terms of the citation.

16 (b) Personal recognizance is permissible if

17 (1) it is not prohibited by local law or the compact manual; and

18 (2) the violator provides adequate proof of the violator's identity to the
19 wildlife officer.

20 (c) Upon conviction or failure of a person to comply with the terms of a
21 wildlife citation, the appropriate officer shall report the conviction or the failure to
22 comply to the licensing authority of the party state in which the wildlife citation was
23 issued. The report must be made in accordance with the procedures specified by the
24 issuing state and contain information as specified in the compact manual as minimum
25 requirements for effective processing by the home state.

26 (d) Upon the receipt of the report of conviction or noncompliance required by
27 (c) of this article, the licensing authority of the issuing state shall transmit to the
28 licensing authority in the home state of the violator the information in the manner
29 prescribed in the compact manual.

30 ARTICLE IV

31 PROCEDURES FOR HOME STATE

1 Home state procedures are as follows:

2 (a) Upon the receipt of a report of failure to comply with the terms of a citation
3 from the licensing authority of the issuing state, the licensing authority of the home
4 state shall notify the violator and begin a suspension action in accordance with the
5 home state's suspension procedures. The licensing authority of the home state shall
6 suspend the violator's license privileges until satisfactory evidence of compliance with
7 the terms of the wildlife citation has been furnished by the issuing state to the home
8 state licensing authority. Due process rights must be accorded to the violator.

9 (b) Upon the receipt of a report of conviction from the licensing authority of
10 the issuing state, the licensing authority of the home state shall enter the conviction in
11 its records and consider the conviction as if it had occurred in the home state for the
12 purposes of the suspension of license privileges.

13 (c) The licensing authority of the home state shall maintain a record of actions
14 taken and make reports to the issuing states as provided in the compact manual.

15 ARTICLE V

16 RECIPROCAL RECOGNITION OF SUSPENSION

17 The party states agree that

18 (a) all party states shall recognize the suspension of license privileges of any
19 person by any state as if the violation on which the suspension is based had occurred
20 in their state and would have been the basis for suspension of license privileges in
21 their state.

22 (b) each party state shall communicate information concerning the suspension
23 of license privileges to the other party states in the manner prescribed in the compact
24 manual.

25 ARTICLE VI

26 APPLICABILITY OF OTHER LAWS

27 The party states agree that, except as expressly required by the provisions of this
28 compact, nothing included in this compact shall be construed to affect the right of any
29 party state to apply any of its laws relating to license privileges to any person or
30 circumstance or to invalidate or prevent any agreement or other cooperative
31 arrangements between a party state and a nonparty state concerning wildlife law

1 enforcement.

2 ARTICLE VII

3 COMPACT ADMINISTRATOR PROCEDURES

4 The party states agree that

5 (a) For the purpose of administering the provisions of this compact and to
 6 serve as a governing body for the resolution of all matters relating to the operation of
 7 this compact, a board of compact administrators is hereby established. The board must
 8 be composed of one representative from each of the party states to be known as the
 9 compact administrator. The compact administrator shall be appointed by the head of
 10 the licensing authority of each party state and shall serve and be subject to removal in
 11 accordance with the laws of the state that the compact administrator represents. A
 12 compact administrator may provide for the discharge of the compact administrator's
 13 duties and the performance of the compact administrator's functions as a board
 14 member by an alternate. An alternate may not serve unless written notification of the
 15 alternate's identity has been given to the board.

16 (b) Each member of the board of compact administrators is entitled to one
 17 vote. No action of the board is binding unless taken at a meeting at which a majority
 18 of the total number of votes on the board are cast in favor thereof. Action by the board
 19 must be only at a meeting at which a majority of the party states are represented.

20 (c) The board shall elect annually, from its membership, a chair and vice chair.

21 (d) The board shall adopt bylaws, not inconsistent with the provisions of this
 22 compact or the laws of a party state, for the conduct of its business and may amend or
 23 rescind its bylaws.

24 (e) The board may accept for any of its purposes and functions under this
 25 compact any donations and grants of money, equipment, supplies, materials, and
 26 services, conditional or otherwise, from any state, the United States, or any
 27 governmental agency and may receive, use, and dispose of them as it deems
 28 appropriate.

29 (f) The board may contract with, or accept services or personnel from, any
 30 governmental or intergovernmental agency, person, firm, corporation, or private
 31 nonprofit organization or institution.

1 (g) The board shall establish all necessary procedures and develop uniform
2 forms and documents for administering the provisions of this compact. All procedures
3 and forms adopted pursuant to board action must be included in the compact manual.

4 ARTICLE VIII

5 ENTRY INTO AND WITHDRAWAL FROM COMPACT

6 The party states agree that

7 (a) This compact becomes effective upon adoption by at least two states.

8 (b) Entry into the compact must be made by a resolution of ratification
9 executed by the authorized officers of the applying state and submitted to the chairman
10 of the board of compact administrators.

11 (c) The resolution must be in a form and content as provided in the compact
12 manual and include

13 (1) a citation of the authority by which the state is authorized to become
14 a party to this compact;

15 (2) an agreement to comply with the terms and provisions of the
16 compact; and

17 (3) a statement that entry into the compact is with all states then party
18 to the compact and with any state that legally becomes a party to the compact.

19 (d) The effective date of entry must be specified by the applying state, except
20 that the effective date must not be less than 60 days after notice has been given by

21 (1) the chair of the board of the compact administrators; or

22 (2) the secretary of the board of compact administrators to each party
23 state that the resolution from the applying state has been received.

24 (e) A party state may withdraw from the compact by giving official written
25 notice to the other party states. A withdrawal does not take effect until 90 days after
26 the notice of withdrawal is given. The notice must be directed to the compact
27 administrator of each party state. The withdrawal of a party state does not affect the
28 validity of the compact as to the remaining party states.

29 ARTICLE IX

30 AMENDMENTS TO THE COMPACT

31 The party states agree that

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(a) This compact may be amended from time to time. Amendments must be presented in resolution form to the chair of the board of compact administrators and may be proposed by one or more party states.

(b) The adoption of an amendment must be endorsed by all party states and becomes effective 30 days after the date the last party state endorses the amendment.

(c) The failure of a party state to respond to the chair of the board of compact administrators within 120 days after the receipt of the proposed amendment constitutes an endorsement.

ARTICLE X

CONSTRUCTION AND SEVERABILITY

The party states agree that this compact must be liberally construed so as to carry out the purposes stated in the compact. The provisions of this compact are severable and if any phrase, clause, sentence or provision of the compact is declared to be contrary to the constitution of any party state or the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of the compact is not affected thereby. If this compact is held contrary to the constitution of any party state thereto, the compact remains in effect as to the remaining states and to the state affected as to all severable matters.

ARTICLE XI

TITLE

The party states agree that this compact will be known as the Wildlife Violator Compact.

* Sec. 2. AS 16.05 is amended by adding a new section to read:

Sec. 16.05.334. Application of Wildlife Violator Compact. The provisions of AS 16.05.332 do not apply to violations involving

(1) commercial fishing; or

(2) commercial activities of providers of services to big game hunters;

for purposes of this section, "services to big game hunters" has the meaning given to "big game hunting services" under AS 08.54.790.

* Sec. 3. AS 16.05.410 is amended by adding a new subsection to read:

(h) For purposes of enforcement of the provisions of the Wildlife Violator

1 Compact entered into under AS 16.05.332, upon the receipt of a report that a violator
2 has failed to comply with the terms of a citation for a wildlife violation issued by an
3 issuing state other than this state or of the violator's conviction of a wildlife violation
4 in an issuing state other than this state, a peace officer may file a civil action in the
5 district court to revoke the comparable license or licenses that the violator holds in this
6 state. Once an action has been filed, the court shall set a time and date for a hearing on
7 the proposed license revocation or revocations and shall send notice of the hearing to
8 the violator. The hearing shall be before the court without a jury. At the hearing, the
9 court shall hear evidence regarding the nature and seriousness of the offense for which
10 the violator was convicted or the nature and seriousness of the failure to comply with
11 the citation, the time period involved, the potential effect of the violator's actions on
12 the preservation of the resource, and other relevant circumstances. If the court finds by
13 a preponderance of the evidence that the violator's actions demonstrate a disregard for
14 the preservation of wildlife resources, the court may revoke the violator's license or
15 licenses for a period of not less than one year or more than three years from the date of
16 revocation. In this subsection, the terms "issuing state," "wildlife," and "wildlife
17 violation" have the meanings given in AS 16.05.332.

LEGAL SERVICES

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Juneau, Alaska 99801-1182
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MEMORANDUM

January 21, 2008

SUBJECT: Draft CSHB 267(RES) -- notes concerning the bill draft
(Work Order No. 25-LS0864\K)

TO: Representative Craig Johnson
Co-Chair of the House Resources Committee

FROM: Brian J. Kane *BJK*
Legislative Counsel

and

Jack Chenoweth
Assistant Revisor

1. On page 3, at line 19, in inserting the language of the first of the two committee-adopted amendments, "this paragraph" was changed to "this subsection." Elsewhere in the text of the compact, it is clear that the first subordinate part of the text, headed by a letter in parentheses, is regarded as a "subsection."

2. Page 3, lines 19 - 21: Inclusion of the last four words of the second sentence, added as part of the same committee-adopted amendment, squarely raises the question as to whether or not the Wildlife Violator Compact would be applicable to violations of state fisheries law. The text of the compact itself refers to "wildlife," defined in article II, subsection (o), as

... all species of animals, including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks and crustaceans, that are defined as wildlife and are protected or otherwise regulated by statute, regulation, ordinance, or administrative rule in a party state. *Species included in the definition of wildlife vary from state to state and a determination of whether a species is wildlife for the purposes of this compact must be based on local law.*

While the definition in the compact allows for the possible coverage of fish, the language emphasized above cautions the reader to look to the definition of "wildlife" as set out in state law. The Fish and Game Code (AS 16.05) has no definition of "wildlife." Arguably, the comparable term in this jurisdiction is of the word "game" under AS 16.05.940(19), a definition that is not inclusive of "fish":

Representative Craig Johnson
January 21, 2008
Page 2

(19) "game" means any species of bird, reptile, and mammal, including a feral domestic animal, found or introduced in the state, except domestic birds and mammals; and game may be classified by regulation as big game, small game, fur bearers or other categories considered essential for carrying out the intention and purposes of AS 16.05 - AS 16.40[.]

Alternatively, while the Fish and Game Code makes a distinction, a broader reading of "wildlife" might be understood to include "fish." AS 16.05.940(12).

Inclusion or exclusion of "fish" from the definition of "wildlife" appears to present a significant ambiguity. Before reporting the bill, the committee may want to assure itself that the compact lends itself to administration in a way that it is clear that "wildlife" violations will include those involving the taking of "fish."

JBC:ljw
08-022.ljw

25-LS0864\K

Kane

1/21/08

CS FOR HOUSE BILL NO. 267(RES)**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-FIFTH LEGISLATURE - SECOND SESSION****BY THE HOUSE RESOURCES COMMITTEE****Offered:****Referred:****Sponsor(s): REPRESENTATIVES JOHNSON, Dahlstrom, Wilson, Buch, Chenault, Ramras****A BILL****FOR AN ACT ENTITLED**

1 **"An Act relating to authorizing the state to join with other states entering into the**
2 **Wildlife Violator Compact and authorizing the compact to supersede existing statutes**
3 **by approving standards, rules, or other action under the terms of the compact; and**
4 **directing the initiation of civil actions to revoke appropriate licenses in this state based**
5 **on a licensee's violation of or failure to comply with the terms of a wildlife resource**
6 **citation issued in another state that is a party to the compact."**

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

8 *** Section 1. AS 16.05 is amended by adding a new section to read:**

9 **Sec. 16.05.332. Wildlife Violator Compact. The Wildlife Violator Compact**
10 **as contained in this section is enacted into law and entered into on behalf of the State**
11 **of Alaska with any other states legally joining it in a form substantially as follows:**

ARTICLE I

12 **FINDINGS, DECLARATION OF POLICY, AND PURPOSES**
13

1 Section 1. Findings. The party states find that

2 (a) Wildlife resources are managed in trust by the respective states for the
3 benefit of all residents and visitors.

4 (b) The protection of their respective wildlife resources are materially affected
5 by the degree of compliance with state statute, regulation, ordinance, or administrative
6 rule relating to the management of those resources.

7 (c) The preservation, protection, management, and restoration of wildlife
8 contributes immeasurably to the aesthetic, recreational, and economic aspects of those
9 natural resources.

10 (d) Wildlife resources are valuable without regard to political boundaries and,
11 therefore, all persons must be required to comply with wildlife preservation,
12 protection, management, and restoration statutes, ordinances, and administrative rules
13 and regulations of all party states as a condition precedent to the continuance or
14 issuance of any license to hunt, fish, trap, or possess wildlife.

15 (e) The violation of wildlife laws interferes with the management of wildlife
16 resources and may endanger the safety of persons and property.

17 (f) The mobility of many wildlife law violators necessitates the maintenance
18 of channels of communications among the various states.

19 (g) In most instances, a person who is cited for a wildlife violation in a state
20 other than the person's home state

21 (1) must post collateral or a bond to secure the person's appearance for
22 a trial at a later date;

23 (2) if unable to post collateral or a bond, is taken into custody until the
24 collateral or bond is posted; or

25 (3) is taken directly to court for an immediate appearance.

26 (h) The purpose of the enforcement practices described in (g) of this section is
27 to ensure compliance with the terms of a wildlife citation by the person who, if
28 permitted to continue on the person's way after receiving the citation, could return to
29 the person's home state and disregard the person's duty under the terms of the citation.

30 (i) In most instances a person receiving a wildlife citation in the person's
31 home state is permitted to accept the citation from the officer at the scene of the

1 violation and continue immediately on the person's way after agreeing to comply with
2 the terms of the citation.

3 (j) The practice described in (g) of this section causes unnecessary
4 inconvenience and, at times, a hardship for the person who is unable at the time to post
5 collateral, furnish a bond, stand trial, or pay a fine and, therefore, is compelled to
6 remain in custody until another arrangement is made.

7 (k) The enforcement practices described in (g) of this section consume an
8 undue amount of law enforcement time.

9 Sec. 2. Policies. The policies of the party states are to

10 (a) Promote compliance with the statutes, ordinances, regulations and
11 administrative rules relating to management of wildlife resources in their respective
12 states.

13 (b) Recognize the suspension of wildlife license privileges of any person
14 whose license privileges have been suspended by a party state and treat the suspension
15 as if it had occurred in their state.

16 (c) Allow a violator to accept a wildlife citation, except as provided in
17 subsection (b) of article III, and proceed on the person's way without delay whether or
18 not the person is a resident in the state in which the citation was issued if the person's
19 home state is a party to this compact. However, nothing in this subsection prevents the
20 state from requiring bonds, confiscation of equipment, or similar restraints as
21 determined necessary in commercial fishing cases.

22 (d) Report to the appropriate party state, as provided in the compact manual,
23 any conviction recorded against any person whose home state was not the issuing
24 state.

25 (e) Allow the home state to recognize and treat convictions recorded for its
26 residents which occurred in another party state as if they had occurred in the home
27 state.

28 (f) Extend cooperation to its fullest extent among the party states for obtaining
29 compliance with the terms of a wildlife citation issued in one party state to a resident
30 of another party state.

31 (g) Maximize the effective use of law enforcement personnel and information.

1 (h) Assist court systems in the efficient disposition of wildlife violations.

2 Sec. 3. Purposes. The purposes of this compact are to:

3 (a) Provide a means by which the party states may participate in a reciprocal
4 program to carry out the policies set forth in section 2 of this article in a uniform and
5 orderly manner.

6 (b) Provide for the fair and impartial treatment of wildlife violators operating
7 within party states in recognition of the persons' right of due process in the sovereign
8 status of a party state.

9 ARTICLE II

10 DEFINITIONS

11 As used in this compact, unless the context otherwise requires,

12 (a) "Citation" means any summons, complaint, summons and complaint, ticket,
13 penalty assessment or other official document issued by a wildlife officer or other
14 peace officer for a wildlife violation containing an order that requires the person to
15 respond.

16 (b) "Collateral" means any cash or other security deposited to secure an
17 appearance for trial in connection with the issuance by a wildlife officer or other peace
18 officer of a citation for a wildlife violation.

19 (c) "Compliance" means the act of answering a citation by appearing in a court
20 or tribunal or the payment of fines, costs, or surcharges, if any.

21 (d) "Conviction" means a conviction, including any court conviction, of any
22 offense related to the preservation, protection, management, or restoration of wildlife
23 which is prohibited by state statute, regulation, ordinance, or administrative rule, or a
24 forfeiture of bail, bond, or other security deposited to secure the appearance of a
25 person charged with any such offense, or the payment of a penalty assessment or a
26 plea of nolo contendere, or the imposition of a deferred or suspended sentence by the
27 court.

28 (e) "Court" means a court of law, including magistrate's court and the justice of
29 the peace court.

30 (f) "Home state" means the state of primary residence of a person.

31 (g) "Issuing state" means the party state that issues a wildlife citation.

1 (h) "License" means any license, permit, or other public document that
2 conveys to the person to whom it is issued the privilege of pursuing, possessing, or
3 taking any wildlife regulated by statute, regulation, ordinance, or administrative rule
4 of a party state.

5 (i) "Licensing authority" means

6 (1) in each other party state, the department or division within the party
7 state that is authorized by law to issue or approve licenses or permits to hunt, fish,
8 trap, or possess wildlife; and

9 (2) in this state, the Department of Public Safety.

10 (j) "Party state" means any state that enacts legislation to become a member of
11 this compact.

12 (k) "Personal recognizance" means an agreement by a person made at the time
13 of the issuance of the wildlife citation that the person will comply with the terms of
14 that citation.

15 (l) "State" means any state, territory, or possession of the United States, the
16 District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada, or any
17 other countries.

18 (m) "Suspension" means any revocation, denial, or withdrawal of any license
19 privileges, including the privilege to apply for, purchase, or exercise the benefits
20 conferred by any license.

21 (n) "Terms of the citation" means those conditions and options expressly stated
22 in the citation.

23 (o) "Wildlife" means all species of animals, including, but not limited to,
24 mammals, birds, fish, reptiles, amphibians, mollusks and crustaceans, that are defined
25 as wildlife and are protected or otherwise regulated by statute, regulation, ordinance,
26 or administrative rule in a party state. Species included in the definition of wildlife
27 vary from state to state and a determination of whether a species is wildlife for the
28 purposes of this compact must be based on local law.

29 (p) "Wildlife law" means any statute, regulation, ordinance, or administrative
30 rule enacted to manage wildlife resources and the use thereof.

31 (q) "Wildlife officer" means any person authorized by a party state to issue a

1 citation for a wildlife violation.

2 (r) "Wildlife violation" means any cited violation of statute, regulation,
3 ordinance, or administrative rule enacted to manage wildlife resources and the use
4 thereof.

5 ARTICLE III

6 PROCEDURES FOR ISSUING STATE

7 Issuing state procedures are as follows:

8 (a) When issuing a citation for a wildlife violation, a wildlife officer shall issue
9 a citation to any person whose primary residence is in a party state in the same manner
10 as if the person were a resident of the home state. The wildlife officer may not require
11 the person to post collateral to secure that person's appearance, subject to the
12 exceptions set forth in paragraph (b) of this article, if the officer receives the person's
13 personal recognizance that the person will comply with the terms of the citation.

14 (b) Personal recognizance is permissible if

15 (1) it is not prohibited by local law or the compact manual; and

16 (2) the violator provides adequate proof of the violator's identity to the
17 wildlife officer.

18 (c) Upon conviction or failure of a person to comply with the terms of a
19 wildlife citation, the appropriate officer shall report the conviction or the failure to
20 comply to the licensing authority of the party state in which the wildlife citation was
21 issued. The report must be made in accordance with the procedures specified by the
22 issuing state and contain information as specified in the compact manual as minimum
23 requirements for effective processing by the home state.

24 (d) Upon the receipt of the report of conviction or noncompliance required by
25 (c) of this article, the licensing authority of the issuing state shall transmit to the
26 licensing authority in the home state of the violator the information in the manner
27 prescribed in the compact manual.

28 ARTICLE IV

29 PROCEDURES FOR HOME STATE

30 Home state procedures are as follows:

31 (a) Upon the receipt of a report of failure to comply with the terms of a citation

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from the licensing authority of the issuing state, the licensing authority of the home state shall notify the violator and begin a suspension action in accordance with the home state's suspension procedures. The licensing authority of the home state shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process rights must be accorded to the violator.

(b) Upon the receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter the conviction in its records and consider the conviction as if it had occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and make reports to the issuing states as provided in the compact manual.

ARTICLE V

RECIPROCAL RECOGNITION OF SUSPENSION

The party states agree that

(a) all party states shall recognize the suspension of license privileges of any person by any state as if the violation on which the suspension is based had occurred in their state and would have been the basis for suspension of license privileges in their state.

(b) each party state shall communicate information concerning the suspension of license privileges to the other party states in the manner prescribed in the compact manual.

ARTICLE VI

APPLICABILITY OF OTHER LAWS

The party states agree that, except as expressly required by the provisions of this compact, nothing included in this compact shall be construed to affect the right of any party state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangements between a party state and a nonparty state concerning wildlife law enforcement.

ARTICLE VII

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COMPACT ADMINISTRATOR PROCEDURES

The party states agree that

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is hereby established. The board must be composed of one representative from each of the party states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each party state and shall serve and be subject to removal in accordance with the laws of the state that the compact administrator represents. A compact administrator may provide for the discharge of the compact administrator's duties and the performance of the compact administrator's functions as a board member by an alternate. An alternate may not serve unless written notification of the alternate's identity has been given to the board.

(b) Each member of the board of compact administrators is entitled to one vote. No action of the board is binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor thereof. Action by the board must be only at a meeting at which a majority of the party states are represented.

(c) The board shall elect annually, from its membership, a chair and vice chair.

(d) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party state, for the conduct of its business and may amend or rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency and may receive, use, and dispose of them as it deems appropriate.

(f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, person, firm, corporation, or private nonprofit organization or institution.

(g) The board shall establish all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures

1 and forms adopted pursuant to board action must be included in the compact manual.

2 ARTICLE VIII

3 ENTRY INTO AND WITHDRAWAL FROM COMPACT

4 The party states agree that

5 (a) This compact becomes effective upon adoption by at least two states.

6 (b) Entry into the compact must be made by a resolution of ratification
7 executed by the authorized officers of the applying state and submitted to the chairman
8 of the board of compact administrators.

9 (c) The resolution must be in a form and content as provided in the compact
10 manual and include

11 (1) a citation of the authority by which the state is authorized to become
12 a party to this compact;

13 (2) an agreement to comply with the terms and provisions of the
14 compact; and

15 (3) a statement that entry into the compact is with all states then party
16 to the compact and with any state that legally becomes a party to the compact.

17 (d) The effective date of entry must be specified by the applying state, except
18 that the effective date must not be less than 60 days after notice has been given by

19 (1) the chair of the board of the compact administrators; or

20 (2) the secretary of the board of compact administrators to each party
21 state that the resolution from the applying state has been received.

22 (e) A party state may withdraw from the compact by giving official written
23 notice to the other party states. A withdrawal does not take effect until 90 days after
24 the notice of withdrawal is given. The notice must be directed to the compact
25 administrator of each party state. The withdrawal of a party state does not affect the
26 validity of the compact as to the remaining party states.

27 ARTICLE IX

28 AMENDMENTS TO THE COMPACT

29 The party states agree that

30 (a) This compact may be amended from time to time. Amendments must be
31 presented in resolution form to the chair of the board of compact administrators and

1 may be proposed by one or more party states.

2 (b) The adoption of an amendment must be endorsed by all party states and
3 becomes effective 30 days after the date the last party state endorses the amendment.

4 (c) The failure of a party state to respond to the chair of the board of compact
5 administrators within 120 days after the receipt of the proposed amendment constitutes
6 an endorsement.

7 ARTICLE X

8 CONSTRUCTION AND SEVERABILITY

9 The party states agree that this compact must be liberally construed so as to carry out
10 the purposes stated in the compact. The provisions of this compact are severable and if
11 any phrase, clause, sentence or provision of the compact is declared to be contrary to
12 the constitution of any party state or the United States or the applicability thereof to
13 any government, agency, person, or circumstance is held invalid, the validity of the
14 remainder of the compact is not affected thereby. If this compact is held contrary to
15 the constitution of any party state thereto, the compact remains in effect as to the
16 remaining states and to the state affected as to all severable matters.

17 ARTICLE XI

18 TITLE

19 The party states agree that this compact will be known as the Wildlife Violator
20 Compact.

21 * Sec. 2. AS 16.05.410 is amended by adding a new subsection to read:

22 (h) For purposes of enforcement of the provisions of the Wildlife Violator
23 Compact entered into under AS 16.05.332, upon the receipt of a report that a violator
24 has failed to comply with the terms of a citation for a wildlife violation issued by an
25 issuing state other than this state or of the violator's conviction of a wildlife violation
26 in an issuing state other than this state, a peace officer may file a civil action in the
27 district court to revoke the comparable license or licenses that the violator holds in this
28 state. Once an action has been filed, the court shall set a time and date for a hearing on
29 the proposed license revocation or revocations and shall send notice of the hearing to
30 the violator. The hearing shall be before the court without a jury. At the hearing, the
31 court shall hear evidence regarding the nature and seriousness of the offense for which

1 the violator was convicted or the nature and seriousness of the failure to comply with
2 the citation, the time period involved, the potential effect of the violator's actions on
3 the preservation of the resource, and other relevant circumstances. If the court finds by
4 a preponderance of the evidence that the violator's actions demonstrate a disregard for
5 the preservation of wildlife resources, the court may revoke the violator's license or
6 licenses for a period of not less than one year or more than three years from the date of
7 revocation. In this subsection, the terms "issuing state," "wildlife," and "wildlife
8 violation" have the meanings given in AS 16.05.332.

Conceptual #1
AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

Page 3, line 19 insert:

"However, nothing in this paragraph prevents the state from requiring bonds, confiscation of equipment or similar restraints as determined necessary in commercial fishing cases."

AMENDMENT #2

OFFERED IN THE HOUSE
TO: HB 267

BY REPRESENTATIVE JOHNSON

- 1 Page 1, line 5:
- 2 Delete "resident"
- 3
- 4 Page 10, line 22:
- 5 Delete "who is a resident"

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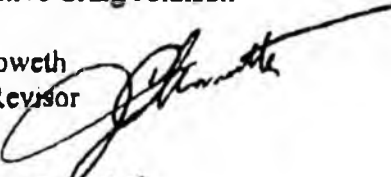

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 328

MEMORANDUM

November 10, 2007

SUBJECT: Draft bill for an Act relating to the Wildlife Violator Compact and related enforcement mechanisms -- a note on the definition of the term "resident" (Work Order No 25-LS0864\M)

TO: Representative Craig Johnson

FROM: Jack Chenoweth
Assistant Revisor 
and
Brian Kane 
Legislative Counsel

The "M" version revises material in bill section 2 and inserts reference to a "violator who is a resident. . ." The material is proposed to be part of a new subsection, (h), within AS 16.05.410.

For purposes of the state Fish and Game Code, AS 16.05, of which the material in the accompanying draft would be a part, the determination of who is a "resident" is made in two places. In effect, the chapter contains two tests or definitions. For purposes of AS 16.05.330 - 16.05.430, the test of AS 16.05.415 has applicability; in that section, several subsections have particular relevance:

Determination of residency. (a) In AS 16.05.330 - 16.05.430, a person, except as provided in (c) - (f) of this section, 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;

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

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

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

...

(c) A person who is a member of the military service or the United States Coast Guard is a resident for the purposes of AS 16.05.330 -

16.05.430 if the person has been stationed in the state for the 12 consecutive months immediately preceding the application for a license. This subsection does not apply to a person who establishes and maintains residency in the state under (a) and (b) of this section.

(d) A person who is the dependent of a resident member of the military service or the United States Coast Guard under (a) or (c) of this section is a resident for the purposes of AS 16.05.330 - 16.05.430 if the person has lived in the state for the 12 consecutive months immediately preceding the application for a license. This subsection does not apply to a person who establishes and maintains residency in the state under (a) and (b) of this section.

(e) A person who is an alien is a resident for the purposes of AS 16.05.330 - 16.05.430 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;

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

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

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

(f) In AS 16.05.330 - 16.05.430, a person who is not a natural person, other than a sole proprietorship, establishes residency by maintaining its main office or headquarters in the state and providing proof, satisfactory to the commissioner, of that fact to the department or an agent of the department upon demand. A sole proprietorship has the same residency as the person, whether natural or otherwise, who is the proprietor of the entity. The commissioner may adopt regulations as necessary to implement this subsection.

(g) A natural person who does not qualify as a resident under (a) - (e) of this section does not qualify as a resident by virtue of an interest in a resident business entity under (f) of this section.

If AS 16.05.415 is inapplicable, then the general definition of "resident" applicable to the entirety of the chapter, as set out in AS 16.05.940(27), will apply:

(27) "resident" means

(A) 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.

(B) a partnership, association, joint stock company, trust, or corporation that has its main office or headquarters in the state; a natural person who does not otherwise qualify as a resident under this paragraph may not qualify as a resident by virtue of an interest in a partnership, association, joint stock company, trust, or corporation;

(C) a member of the military service, or United States Coast Guard, who has been stationed in the state for the 12 consecutive months immediately preceding the time when the assertion of residence is made;

(D) a person who is the dependent of a resident member of the military service, or the United States Coast Guard, and who has lived in the state for the 12 consecutive months immediately preceding the time when the assertion of residence is made; or

(E) an alien 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[.]

By virtue of this office's decision to place the new material in this bill in AS 16.05.332 and 16.05.410(h), the first of these two definitions appears to have application. If that is not satisfactory to you, we can renumber the material in the bill to fall outside AS 16.05.330 - 16.05.430 so that the definition of AS 16.05.940(27) would apply. The differences between the two tests or definitions may not be significant, but the introduction of "resident" into the draft requires that I flag it for your attention.

JBC:med
07-420.med

Enclosure

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Letters of Support and Various Alaska News Articles

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REPRESENTATIVE CRAIG JOHNSON
HOUSE DISTRICT 28

Sponsor Statement Wildlife Violator Compact HB 267

This legislation would allow Alaska to join other states in entering into a Wildlife Violator Compact. The Wildlife Compact (WVC) was created in 1989 when passed into law in Colorado, Utah and Oregon and currently there are 26 states participating in the compact. Ohio will be the 27th state joining in January of 2008. The WVC is an interstate agreement to enhance compliance with the hunting, fishing and other wildlife laws, ordinances and regulations of participating states, while providing for the fair and impartial treatment of wildlife violators.

Compact Benefits for the Consumer:

- Delays and or the inconvenience involved with the processing of a violation are comparable for residents and non-residents of participating states.
- Personal recognizance is permitted in many cases involving wildlife violations. Certain violations and circumstances still require an immediate appearance or bonding.

Compact Benefits for the Agency:

- Wildlife law enforcement officers are able to devote more time to patrol, surveillance and apprehension of violators since they are not burdened with violator processing procedures.
- The burden on courts and jail facilities is reduced because of the decreased case load involving immediate appearances, bonding and incarceration.
- Public relations are improved by not having to subject as many violators to the inconveniences of immediate appearance, bonding or incarceration.
- The numbers of "Failure to Appear" cases are reduced because non-residents cannot ignore a citation from participating states without facing the suspension of their wildlife license privileges in their home state.
- Wildlife law violators are put on notice that their activities in one state can affect their privilege to recreate in all participating states.

Johnson 11/11/07

Inter-state poacher watch extends Alaska's reach

By REP. CRAIG JOHNSON

Recent news coverage of Alaska's big game hunting, some good and some bad, highlights the need for better communication and cooperation with other states to ensure poachers do not go unpunished.

I read with both pride and dismay a story from Anchorage about poachers being brought to justice for illegally taking our big game. Pride because our Alaska wildlife troopers did their job and did it well, but with dismay at the fact that the two men involved will undoubtedly be viewed as hunters. They are not, and for once the *Anchorage Daily News* got it right in the headline by calling them poachers.



Johnson

This calculated criminal act and others like it, unfortunately, are all too common here, and all the harder to enforce, thanks to the sheer size of our state. However, there is one valuable way we can change the dynamic and start bringing forces to bear on those who illegally take and waste our fish and game: The Wildlife Violator Compact, or WVC. I am working on a bill that would bring our state into the WVC fold and allow greater effectiveness and efficiency in the state's wildlife enforcement efforts.

Colorado, Nevada, and Oregon initiated the Wildlife Violator Compact in 1989 to give their wildlife enforcement officers a way to cross-reference violators from other states. It allows license revocations associated with the crimes committed in any compact-member state to be enforced in all compact-member states including the violator's home state. Previously, the risk of hunting illegally was simply getting caught.

The out-of-state violator could return home and fail to appear at arraignment, adding a burden to law enforcement and the court system in tracking violators down for extradition. With the WVC, if an out-of-state poacher fails to appear in court for a violation committed in Alaska, state wildlife agents could enter the violation into the WVC database, which would revoke the violator's hunting or fishing license in all compact-member states until the violator appeared to face the charges.

In addition to greatly increasing the communication between enforcement agencies, the WVC allows for hunting or fishing license revocations in member states to be transferred, meaning violators from out of state who commit serious wildlife crimes in Alaska would also have their home state licenses revoked. This change alone brings more offenders to justice by bringing the same sanctions on their home state hunting and fishing privileges as those in the state where the violation occurred.

The significant deterrent is that violators won't be able to ignore the citation or summons. The license revocations will cross state lines, forcing them to cooperate to ensure their home state status won't be compromised.

Currently, 26 states are members. Fifteen more are in the process of approving legislation or are awaiting enrollment in the WVC. At present a database of more than 4,100 violators exists that Alaska wildlife troopers can search through when processing citations or when an applicant

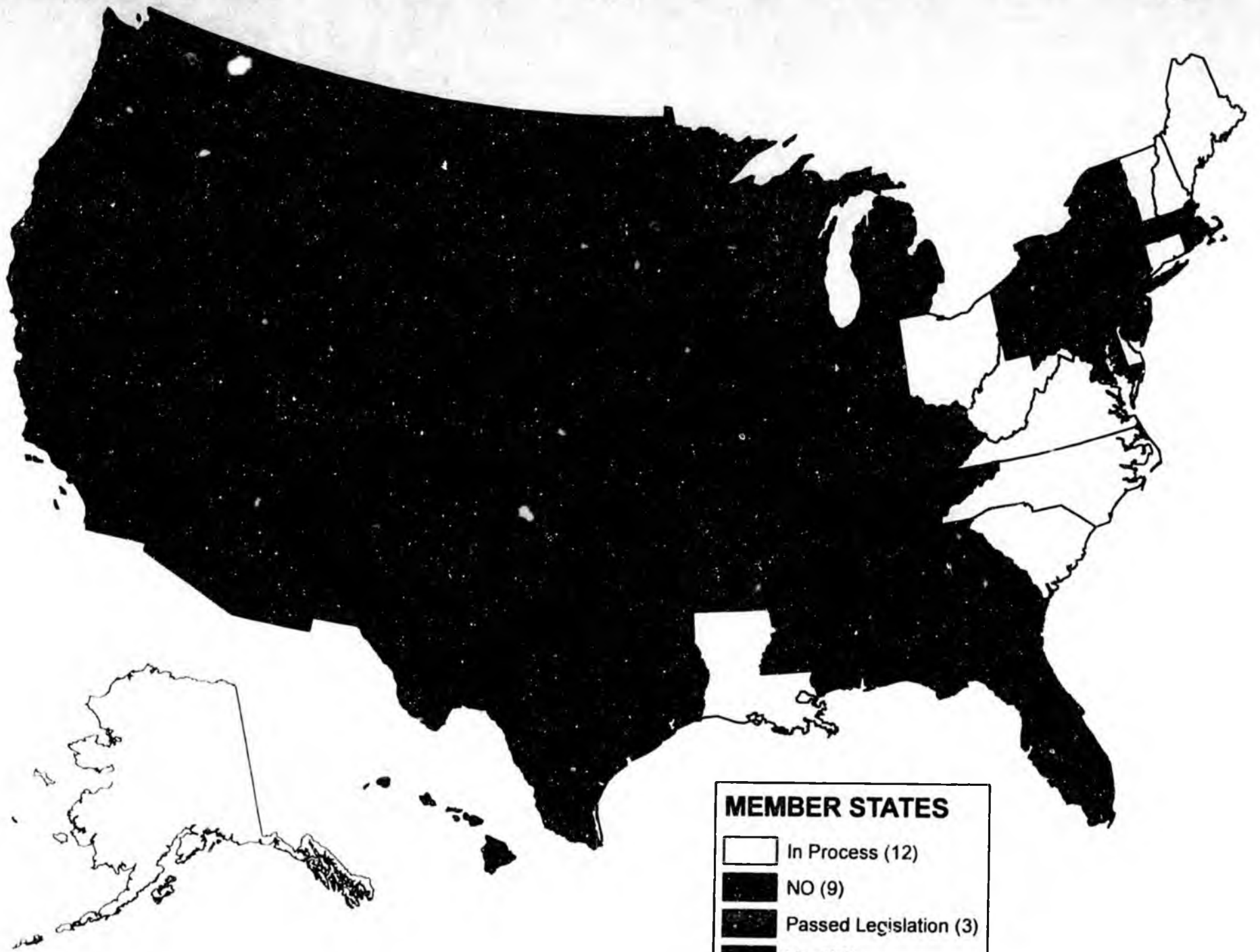
applies for a hunting or fishing license in Alaska. Information sharing also means that instead of tracking down poachers who fail to appear, or working on extradition proceedings, enforcement officers can spend more time in the field patrolling and making arrests, thus minimizing unnecessary paperwork.

The respective chairmen of the boards of Fish and Game support this legislation, saying: "The WVC sends a clear message that we value our fish and wildlife resources, and are serious about protecting them." Chairmen Cliff Judkins of the Board of Game and Mel Morris of the Board of Fish also wrote that: "Passage of this legislation will provide a strong deterrence for the commission of serious fish and wildlife crimes in Alaska, and will remain a priority of the two boards."





I believe that vigilance, state-of-the-art tools, and inter-governmental cooperation are highly effective measures that will keep our state as a world-class destination for big game hunting and wildlife viewing. By Alaska's participation in the WVC, poachers who disregard our laws will no longer return home and ignore our legal system.

Craig Johnson is a Republic member of the Alaska House representing District 28 (Southwest Anchorage).

<http://www.voiceofthetimes.net>



MEMBER STATES

	In Process (12)
	NO (9)
	Passed Legislation (3)
	Yes (26)

TWENTY-SIX STATES



MEMBER STATES

NO
 Yes

WILDLIFE VIOLATOR COMPACT STATES
OCTOBER 20, 2005

ARIZONA
CALIFORNIA
COLORADO
GEORGIA
IDAHO
INDIANA
IOWA
KANSAS
MARYLAND
MICHIGAN
MINNESOTA
MISSOURI

MONTANA
NEVADA
NEW MEXICO
NORTH DAKOTA
OREGON
SOUTH DAKOTA
UTAH
WASHINGTON
WYOMING

2006 AND 2007 ADDITIONS

MISSISSIPPI
ILLINOIS
TENNESSEE
FLORIDA
NEW YORK

WILDLIFE VIOLATOR COMPACT



Why should Alaska join?

PRESENTED BY

*Alan G. Cain
Statewide Law Enforcement Specialist
Alaska Dept. of Fish & Game*



①

HISTORY

- PATTERNED AFTER THE DRIVERS LICENSE COMPACT
- LEGISLATION DRAFTED BY NEVADA & COLORADO IN 1985
- LEGISLATION PASSED IN 1989 IN COLORADO, NEVADA, & OREGON
- OFFICIALLY STARTED 1991 BETWEEN COLORADO, NEVADA, & OREGON



②

WHY?

- Two poachers from Missouri convicted of taking two bighorn sheep w/o licenses in Wyoming . Both fined \$19,800 and loss of hunting privileges for 10 years



③

WYOMING

- Two habitual wildlife violators convicted of taking two bighorn rams out of season on Christmas eve in Wyoming



④

IDAHO

- A spike bull elk killed during closed season in Idaho and hauled back into Montana with Montana elk tag
- Group consisted of eight Montana residences that had been illegally killing 5-10 bulls in Idaho during closed season for 10-15 years having a significant impact on the bull population in the area



5

COLORADO

- This individual was convicted in Arizona. He was then convicted of illegal guiding in Colorado



6

MISSOURI

- Shooting deer illegally in Iowa and bringing them to the Missouri to be checked as legal kills may have seemed like a slick idea to three Missouri men, but the scheme cost them more than \$20,000



(7)

ARIZONA

- This poacher is posing with 4 deer and 3 javelina. All were taken on one hunting trip. This guy had been poaching for years, until an informant told officials about him



(8)

This nonresident poacher from Alabama is posing with an illegal cow caribou. He and his hunting companions took a total of 11 illegal caribou and entirely wasted the meat of 9. If Alaska were a compact member, their hunting licenses would have been revoked in 21 states instead of Alaska only.

ALASKA



(9)

FOUNDATION

- PREVENT POACHERS REVOKED IN ONE STATE FROM HUNTING OR FISHING IN OTHER STATES
- PROVIDE FOR ISSUANCE OF CITATION TO NON-RESIDENTS VERSUS ARREST
- PROVIDE STRONG DETERRANCE FOR SERIOUS FISH & WILDLIFE CRIMES

(10)

CURRENT PROVISIONS

- ANYONE REVOKED IN ONE COMPACT STATE IS REVOKED IN ALL OTHER COMPACT STATES IF THE CONVICTION IS A BASIS FOR REVOCATION IN THAT STATE
- EACH STATE WILL TREAT THE CONVICTION AS IF IT OCCURRED IN THEIR STATE
- A VIOLATOR OF A COMPACT STATE SHALL BE TREATED AS A RESIDENT IF HE VIOLATES IN ANY OTHER COMPACT STATE
- IF THE VIOLATOR FTA's THEN THE STATE ISSUING THE CITATION MAY NOTIFY THE HOME STATE

(11)

CURRENT PROVISIONS (cont'd)

- THE HOME STATE NOTIFIES THE VIOLATOR THAT HE WILL BE SUSPENDED UNTIL THE TERMS OF THE CITATION ARE COMPLIED WITH
- REVOCATION INFORMATION IS ENTERED INTO UTAH'S DATA BASE
- EACH COMPACT STATE ENTERS & CONTROLS THEIR OWN INFORMATION. EACH STATE CAN ACCESS INFORMATION ON ALL THE REVOKEES IN THE DATABASE AND SORT BY VIOLATION IF THEY WISH
- THIS ALLOWS FOR VIEWING ONLY THOSE VIOLATIONS WHICH ARE REVOCABLE IN YOUR STATE

(12)

TECHNICAL ASPECTS

- BASIC VIOLATOR INFORMATION STORED ON A MAINFRAME COMPUTER HOSTED BY THE UTAH DEPARTMENT OF PUBLIC SAFETY
- ACCESS TO MAINFRAME IS GRANTED TO COMPACT ADMINISTRATORS AND LAW ENFORCEMENT PERSONNEL IN MEMBER STATES
- PERIODIC AND ON-DEMAND DOWNLOADS OF CURRENT REVOKEE INFORMATION ARE PROVIDED TO MEMBER STATES

13

TECHNICAL ASPECTS (cont'd)

- DOWNLOADS OF VIOLATOR INFORMATION MAY BE INCORPORATED IN TO DRAWING AND AUTOMATED LICENSING SYSTEMS TO PREVENT REVOKEES FROM OBTAINING LICENSES IN MEMBER STATES



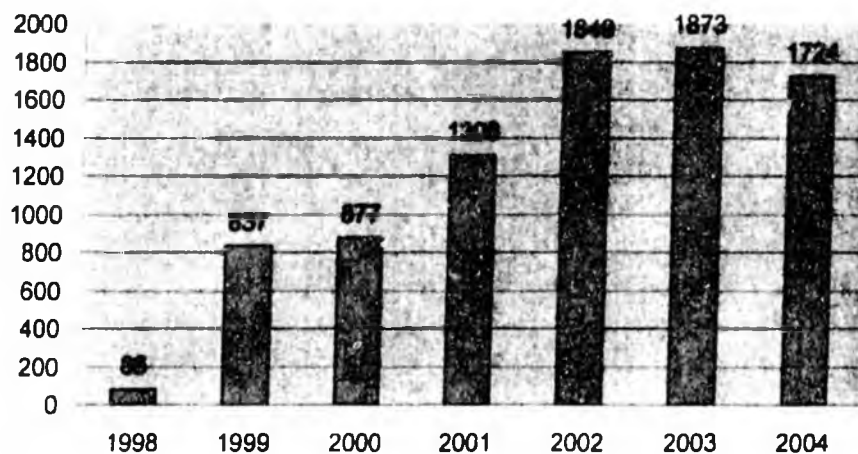
14

STATUS

- APPROXIMATELY 4,100 NAMES CURRENTLY EXIST IN THE DATABASE
- A TOTAL OF 9,788 INDIVIDUALS HAVE BEEN REVOKED THROUGH THE COMPACT (as of June 2005)
- APPROXIMATELY 50 PERCENT ARE REVOKED DUE TO BIG GAME VIOLATIONS
- 25 STATES CURRENTLY PARTICIPATE IN VIOLATOR COMPACT
- 3 MINUTE AVERAGE PER ENTRY

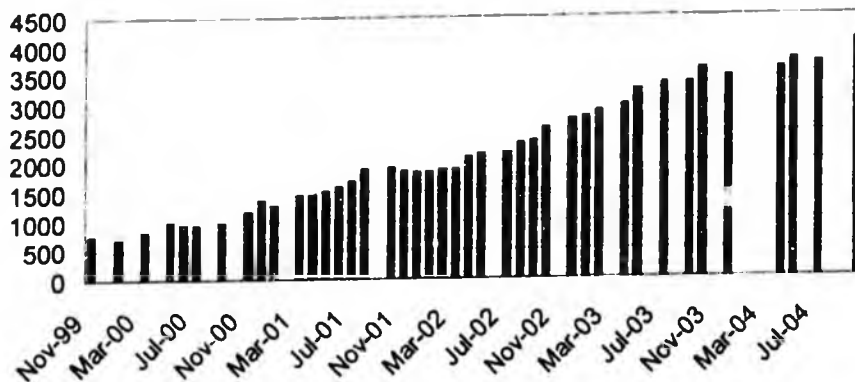
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Interstate Wildlife Violator Compact Database 10-26-98 to 07-16-2004 Suspensions Added Per Year



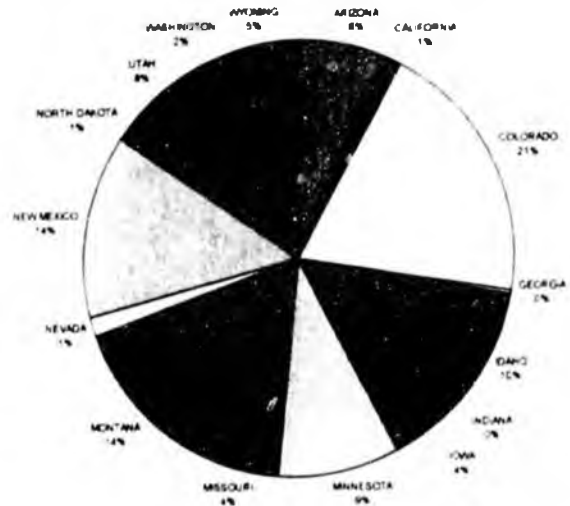
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INTERSTATE WILDLIFE VIOLATOR COMPACT "CURRENT"
SUSPENSIONS AS OF DATE LISTED

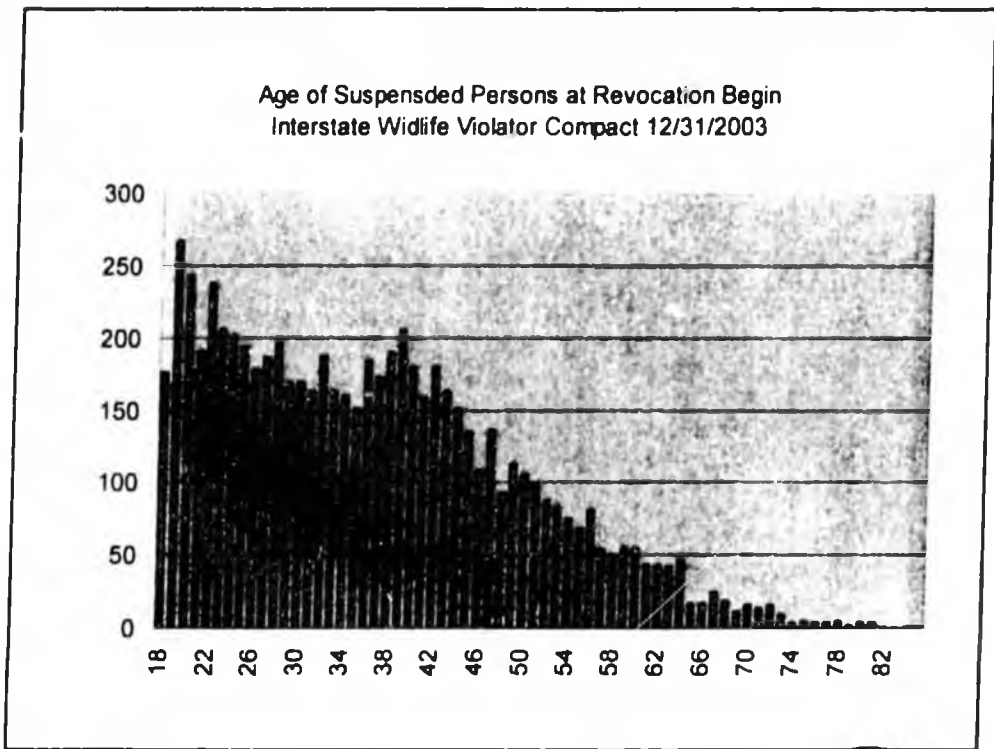
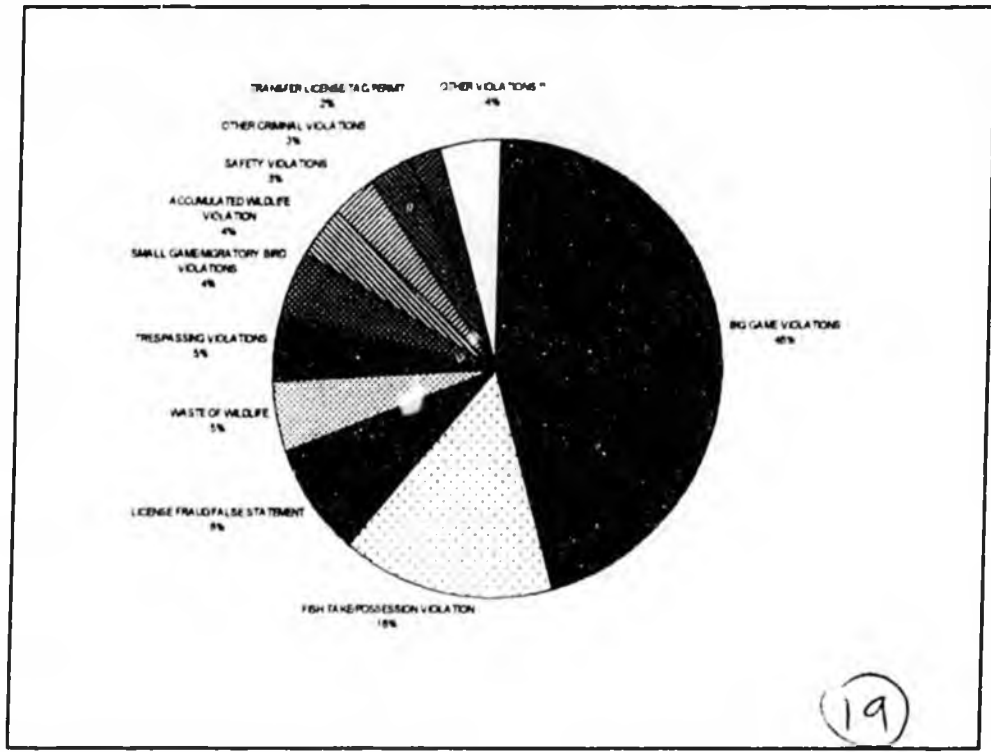


(17)

Interstate Wildlife Violator Compact Suspension Record Contributions to Database 10/1998
through 10/27/2004



(18)



COMPACT MEETINGS

- EACH STATE'S CHIEF OR LICENSING AUTHORITY SHALL APPOINT A COMPACT ADMINISTRATOR
- IWVC MEETING IS HELD ANNUALLY DURING THE AFWA CONFERENCE



21

COMPACT MEMBERS

- Arizona
- California
- Colorado
- Florida
- Georgia
- Idaho
- Illinois
- Indiana
- Iowa
- Kansas
- Maryland
- Michigan
- Minnesota
- Missouri
- Montana
- Nevada
- New Mexico
- New York
- North Dakota
- Oregon
- South Dakota
- Tennessee
- Utah
- Washington
- Wyoming

22

Wildlife Compact Member States



MEMBER STATES	
In Process	101
No	111
Passed Legislation	41
Yes	251

23

REASONS ALASKA SHOULD JOIN

- Greatly increase deterrence of serious fish & wildlife crimes in Alaska by individuals who hunt or fish in other states
- Increase compliance in paying fines by nonresidents
- Greater protection of valuable game animals throughout the United States

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**WILDLIFE VIOLATOR COMPACT
OPERATIONS MANUAL
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SECTION I BACKGROUND

I. Historical Information

The concept of a wildlife violator compact was first advanced in the early 1980s by member states in the Western Association of Fish and Wildlife Agencies. Law enforcement administrators and Wildlife Commissioners from several states began discussing the idea of a compact based on the format of the existing Drivers License Compact and Non-Resident Violator Compact, both of these related to motor vehicle operator licensing and enforcement.

In 1985 draft compacts were developed independently in Colorado and Nevada. Subsequently, these drafts were merged and the Wildlife Violator Compact (WVC) was presented for discussion at the 1986 Law Enforcement Technical Committee Workshop of the Western Association.

During the 1989 Legislative session compact legislation was passed into law in Colorado, Nevada and Oregon. These three states formed the nucleus for the development of the operational procedures of the WVC.

I. Compact Benefits

A. For the consumer

1. Delays, and/or the inconvenience involved with the processing of a violation are comparable for residents and non-residents of participating states.
2. Personal recognizance is permitted in many cases involving wildlife violations. Certain violations and circumstances still require an immediate appearance or bonding.

B. For the agency

1. Wildlife law enforcement officers are able to devote more time to patrol, surveillance and apprehension of violators since they are not burdened with violator processing procedures.
2. The burden on courts and jail facilities is reduced because of the decreased caseload involving immediate appearances, bonding and incarceration.

3. Public relations are improved by not having to subject as many violators to the inconveniences of immediate appearance, bonding, or incarceration.
4. The number of "Failure to Appear" cases is reduced because non-residents cannot ignore a citation from participating states without facing the suspension of their wildlife license privileges in their home states.
5. Wildlife law violators are put on notice that their activities in one state can affect their privilege to recreate in all participating states.

SECTION II WILDLIFE VIOLATOR COMPACT

NOTE: This section contains the text of the Wildlife Violator Compact as passed by the Colorado Legislature in 1989. Details may differ from Wildlife Violator Compact language enacted by other participating states, but the substantive language remains intact.

ARTICLE I Findings, Declaration of Policy, and Purpose

- (a) The participating states find that:
- (1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.
 - (2) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, laws, regulations, ordinances, and administrative rules relating to the management of such resources.
 - (3) The preservation, protection, management, and restoration of wildlife contribute immeasurably to the aesthetic, recreational, and economic aspects of such natural resources.
 - (4) Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.
 - (5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.
 - (6) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.
 - (7) In most instances, a person who is cited for a wildlife violation in a state other than his home state:
 - (i) Is required to post collateral or a bond to secure appearance for a trial at a later date; or
 - (ii) Is taken into custody until the collateral or bond is posted; or

(iii) Is taken directly to court for an immediate appearance.

- (8) The purpose of the enforcement practices set forth in paragraph (7) of this article is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to continue on his way after receiving the citation, could return to his home state and disregard his duty under the terms of the citation.
- (9) In most instances, a person receiving a wildlife citation in his home state is permitted to accept the citation from the officer at the scene of the violation and immediately continue on his way after agreeing or being instructed to comply with the terms of the citation.
- (10) The practices described in paragraph (7) of this article cause unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay a fine, and thus is compelled to remain in custody until some alternative arrangement is made.
- (11) The enforcement practices described in paragraph (7) of this article consume an undue amount of law enforcement time.

(b) It is the policy of the participating states to:

- (1) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to management of wildlife resources in their respective states.
- (2) Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a participating state and treat such suspension as if it had occurred in their state.
- (3) Allow a violator, except as provided in paragraph (b) of Article III, to accept a wildlife citation and, without delay, proceed on his way, whether or not a resident of the state in which the citation was issued, provided that the violator's home state is party to this compact.
- (4) Report to the appropriate participating state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.
- (5) Allow the home state to recognize and treat convictions recorded against its residents, which convictions occurred in a participating state, as though they had occurred in the home state.

- (6) Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another participating state.
 - (7) Maximize effective use of law enforcement personnel and information.
 - (8) Assist court systems in the efficient disposition of wildlife violations.
- (c) The purpose of this compact is to:
- (1) Provide a means through which participating states may join in a reciprocal program to effectuate the policies enumerated in paragraph (b) of this article in a uniform and orderly manner.
 - (2) Provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of the violator's right to due process and the sovereign status of a participating state.

ARTICLE II Definitions

As used in this compact, unless the context requires otherwise:

- (a) "Citation" means any summons, complaint, summons and complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other peace officer for a wildlife violation which contains an order requiring the person to respond.
- (b) "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.
- (c) "Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, costs, and surcharges, if any.
- (d) "Conviction" means a conviction, including any court conviction, for any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule, and such conviction shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere and the imposition of a deferred or suspended sentence by the court.
- (e) "Court" means a court of law, including magistrate's court and the justice of the peace court.

- (f) "Home state" means the state of primary residence of a person.
- (g) "Issuing state" means the participating state which issues a wildlife citation to the violator.
- (h) "License" means any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state.
- (i) "Licensing authority" means the department or division within each participating state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.
- (j) "Participating state" means any state which enacts legislation to become a member of this wildlife compact.
- (k) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that such person will comply with the terms of the citation.
- (l) "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada, and other countries.
- (m) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.
- (n) "Terms of the citation" means those conditions and options expressly stated upon the citation.
- (o) "Wildlife" means all species of animals including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a participating state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.
- (p) "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.
- (q) "Wildlife officer" means any individual authorized by a participating state to issue a citation for a wildlife violation.
- (r) "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance, or

administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

ARTICLE III Procedures for Issuing State

- (a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state and shall not require such person to post collateral to secure appearance, subject to the exceptions noted in paragraph (b) of this article, if the officer receives the recognizance of such person that he will comply with the terms of the citation.
- (b) Personal recognizance is acceptable (1) if not prohibited by local law, issuing agency policy, procedure or regulation, or by the compact manual and (2) if the violator provides adequate proof of identification to the wildlife officer.
- (c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state and shall contain information as specified in the compact manual as minimum requirements for effective processing by the home state.
- (d) Upon receipt of the report of conviction or noncompliance pursuant to paragraph (c) of this article, the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in form and content as prescribed in the compact manual.

ARTICLE IV Procedure for Home State

- (a) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify the violator and shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. All member states may honor a suspension based on failure to comply. Due process safeguards will be accorded.
- (b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the

licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as though it occurred in the home state for the purposes of the suspension of license privileges.

- (c) The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

ARTICLE V Reciprocal Recognition of Suspension

- (a) All participating states shall recognize the suspension of license privileges of any person by any participating state as though the violation resulting in the suspension had occurred in their state and could have been the basis for suspension of license privileges in their state.
- (b) Each participating state shall communicate suspension information to other participating states in form and content as contained in the compact manual.

ARTICLE VI Applicability of Other Laws

- (a) Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.

ARTICLE VII Compact Administrator Procedures

- (a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each of the participating states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each participating state and shall serve and be subject to removal in accordance with the laws of the state he represents. A compact administrator may provide for the discharge of his duties and the performance of his functions as a board member by an alternate. An alternate shall not be entitled to serve unless written notification of his identity has been given to the board.

- (b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor thereof. Action by the board shall be only at a meeting at which a majority of the participating states are represented.
- (c) The board shall elect annually from its membership a chairman and vice-chairman.
- (d) The board shall adopt bylaws not inconsistent with the provisions of this compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.
- (e) The board may accept for any of its purposes and functions under this compact any and all donations and grants of moneys, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize and dispose of same.
- (f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, or corporation, or any private nonprofit organization or institution.
- (g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in a compact manual.

ARTICLE VIII
Entry into Compact and Withdrawal

- (a) This compact shall become effective at such time as it is adopted in substantially similar form by two or more states.
- (b) (1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairman of the board.
- (2) The resolution shall substantially be in the form and content as provided in the compact manual and shall include the following:
 - (i) A citation of the authority from which the state is empowered to become a party to this compact;
 - (ii) An agreement of compliance with the terms and provisions of this compact; and

- (iii) An agreement that compact entry is with all states participating in the compact and with all additional states legally becoming a party to the compact.
- (3) The effective date of entry shall be specified by the applying state but shall not be less than sixty days after notice has been given (a) by the chairman of the board of the compact administrators or (b) by the secretariat of the board to each participating state that the resolution from the applying state has been received.
- (c) A participating state may withdraw from participation in this compact by official written notice to each participating state, but withdrawal shall not become effective until ninety days after the notice of withdrawal is given. The notice shall be directed to the compact administrator of each member state. No withdrawal of any state shall affect the validity of this compact as to the remaining participating states.

ARTICLE IX **Amendments to the Compact**

- (a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the board of compact administrators and shall be initiated by one or more participating states.
- (b) Adoption of an amendment shall require endorsement by all participating states and shall become effective thirty days after the date of the last endorsement.
- (c) Failure of a participating state to respond to the compact chairman within sixty days after receipt of a proposed amendment shall constitute endorsement thereof.

ARTICLE X **Construction and Severability**

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States, or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the validity of the remainder of this compact shall not be affected thereby. If this Compact shall be held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the participating state affected as to all severable matters.

ARTICLE XI
Title

This compact shall be known as the "Wildlife Violator Compact".

SECTION III
PROCEDURAL MATTERS

I. The Wildlife Violator Compact

A. What is it?

The Wildlife Violator Compact (WVC) assures non-resident violators receiving citations for certain wildlife violations in participating states the same treatment accorded residents who are in violation. Procedures are established in Section IV of this manual which cause a non-resident violator who fails to comply with the terms of a citation issued in a participating state to face the possibility of the suspension of his wildlife license privileges in his home state until the terms of the citation are met. Safeguards are built into the WVC to assure that a non-resident violator is afforded all due process protection.

In addition, the WVC provides for the reciprocal recognition of the suspension of license privileges by participating states, subject to limitations again intended to provide due process protection. The reciprocal recognition of suspensions is intended to address the problems associated with the mobility of many violators.

Finally, the WVC provides that information on convictions in participating states shall be forwarded to the home state of the violator. The home state shall treat such convictions as if they had occurred in that state for the purposes of license suspension actions.

The WVC not only assures equal treatment of residents and non-residents of participating states, but also enhances the law enforcement services and deterrent value of time spent patrolling by uniformed officers.

B. What it is not.

The WVC is not a device to secure court appearance if a defendant has previously delivered himself into the court's jurisdiction and trial has been postponed to a later date. It is not a device for collecting unpaid portions of fines allowed to be paid in installments by the courts. It is not a punitive device.

II. Release on Personal Recognizance

A. Violations covered

1. Any violation subject to the provisions of a "Penalty Assessment", which allows a violator to comply with a citation by mailing a fine payment to the issuing agency or a court, thereby admitting guilt without a formal appearance.
2. Any violation written as a summons requiring a violator to deal directly with the court, either in person, by mail or through an attorney. Unless there are other restrictions in this document or in the laws, policies or procedures of the issuing state or the court of jurisdiction.
3. In order for a violation to be subject to these provisions the person to whom the citation is issued must be a resident of a Compact state, other than the issuing state, at the time the citation is issued.

B. Types of Violations Not Covered

1. Any violations that mandate a personal appearance.
2. Any petty offense or misdemeanor violation that has a jail term as a mandatory penalty.
3. Any felony violation.
4. Any violation that the issuing officer deems serious enough to arrest a resident violator.
5. Any violation or situation which the laws, policies or procedures of the issuing state dictate shall be handled otherwise.

III. Compliance With a Citation

A. Methods of Compliance

1. Payment by mail where provided for.
2. Responding to the citation in person.

3. Submission of a plea by mail where allowed.
4. Responding through an attorney where allowed.

P. Evidence of Compliance (in response to a notice of suspension for non-compliance).

1. Certificate from the court.
2. Copy of the court judgment.

NOTE: personal representations, check stubs, money order receipts, etc. are not acceptable.

3. The violator copy of a Notice of Compliance sent by the issuing state.

SECTION IV COMPACT PROCESS

The following are the general procedures to be followed by enforcement agencies and courts in States which are participants in the Wildlife Violator Compact (WVC). Specific procedures which are developed to comply with the legal and administrative requirements of the various States shall be acceptable so long as they comply with the intent of this manual.

The following procedures make the assumption that the violation in question meets the general requirements of Paragraph II A. of Section III of this Manual.

I. Procedures for the Issuing State

- A. The officer issues a citation to the violator on the standard form used in that state.
 - 1. When a non-resident is issued a citation and released on personal recognizance under the provisions of this compact, it is advisable that the signature of the recipient is contained on the citation, regardless of specific requirements on that issue.
 - 2. The citation is returnable to the court at a future date specified on the document, in accordance with the laws, regulations, policies, or procedures of the Agency and/or the Court of jurisdiction
- B. If the violator pays the fine or resolves the case with the court, as appropriate, the matter is closed and no further action is taken under the provisions of Paragraphs I and II of this section of the WVC.
- C. If the violator does not resolve the case by payment of the fine or with the court, action under the provisions of the WVC will be initiated.
 - 1. The "Notice of Failure to Comply" form will be completed and the original delivered to the violator by certified mail, return receipt requested, or in person. The remaining copies are held in a suspense file pending a response from the violator.

Any "Notice of Failure to Comply" shall be processed by the issuing state and reported to the home state within six months of issuance of the citation.

- a. Sufficient time will be allowed for the defendant to respond to the Notice of Failure to Comply Form prior to initiating further action under the WVC. This will normally be not less than 14 days and not more than 28 days.

- b. If the defendant complies with the terms of the citation within the grace period allowed, no further action is taken under the provisions of this section of the WVC. Final action in a court case is not a prerequisite.
2. If the defendant fails to respond within the time allowed, copy 2 of the Notice of Failure to Comply will be sent to the home state of the defendant. The home state will proceed as outlined in Section II.

Procedures for Home State

- a. If at any time beyond this point in the WVC process the defendant resolves the case with the court, it is imperative that copies 3 and 4 of the Notice of failure to comply (Defendant's and Home State Acknowledgment of Compliance) be mailed immediately so that any pending or ongoing suspension of license privileges which are the result of the action at hand may be canceled.
- b. At any time subsequent to the mailing of the Notice of Failure to Comply that the violator complies with the citation as specified in Section B or Section C.1.b, above, no further actions under this section of the WVC will take place.

II. Procedures for the Home State

- A. Upon receipt of the "Notice of Failure to Comply" from the issuing state, the licensing authority of the home state of the violator will review the form for the following:
 1. Is it legible?
 2. Is it complete?
 3. Is it timely, within the six month limit of the compact?
 4. Is the violation covered under the compact?
 5. Are all other aspects of the case proper under applicable state laws, policies, and procedures?
- B. If for any reason the case cannot be acted on, it will be returned to the issuing state within 14 days with an explanation of the problem. If all

problems are resolved and the case is returned to the home state it will be reinstated.

- C. If the case is accepted, it will be entered into the suspension process of the home state.
- D. A Notice of Suspension will be prepared and sent to the violator. If it is a provision of the laws, policies or procedures of the home state, an advance warning letter to the violator is acceptable.
 - 1. The Notice of Suspension should have a delayed effective date to permit the violator to contact the court in the issuing state and resolve the case. The length of this delay is subject to the laws, policies or procedures of the home state, but should be at least 14 days in length.
 - 2. The Notice of Suspension must inform the violator of the facts behind the suspension with special emphasis on the procedures to be followed in resolving the matter with the court in the issuing state. Accurate information on the court (name, address, phone number) must be provided in the Notice of Suspension. This will help eliminate inquiries of the home state which are costly, time consuming and nonproductive as the home state can do nothing to resolve the case.
- E. Should the defendant request a hearing on the suspension, it will follow the form appropriate to the laws, policies or procedures of the home state.
 - 1. Such hearings will normally be restricted to challenging the right of the home state to suspend under the provisions of the WVC; to deny receiving the original citation (thus the importance of the violator's signature on the citation); or to claim that the case has been resolved.
 - 2. The question of guilt or innocence regarding the original charge will not be a subject of hearings held under the provisions of this section.
 - 3. If needed, assistance can be requested from the issuing state. This is normally limited to obtaining certified documentation.
 - 4. **NOTE: Suspensions levied for failure to comply with the terms of a citation are enforced in the home state of the violator and honored by all compact states.** These administrative suspensions are not to be confused with suspensions which are the result of convictions of wildlife violations in one or

more states which are participants in the WVC.

- F. If the suspension is upheld, the defendant must then proceed to resolve the court case with the suspension remaining in effect.
- G. If the suspension is denied for any reason, the case is terminated and the suspension order vacated. In such cases the issuing state will be informed of the reason for denial.
- H. Appeals from suspension orders will be handled in accordance with the laws, policies and procedures of the home state.
 - I. Should a suspension order be overturned on appeal, the issuing state shall be notified.
- I. When a violator resolves a case with the court in the issuing state, an acknowledgement of compliance will be issued directly to that person. It is the responsibility of the violator to present this document to the licensing authority in the home state in order to terminate the suspension. The acknowledgement of compliance may take any form acceptable to the home state and the Court.
 - 1. If the acknowledgement of compliance is presented prior to the effective date of the suspension, the suspension is cleared immediately.
 - 2. If the acknowledgement of compliance is presented after the effective date of the suspension, reinstatement will be handled in accordance with the laws, policies and procedures of the home state.
- J. Any reinstatement or restoration fees shall be established and assessed in accordance with the laws, policies and procedures of the home state.

III. Reciprocal Recognition of Suspensions

- A. States participating in the WVC shall recognize the suspension for cause of the license privileges of any person by any other participating state under the following circumstances:
 - I. The suspension is the result a conviction for one or more of the following violations types or a failure to appear on a wildlife citation:
 - a) Priority will be placed on the following violation types:

VIOLATION	WVC CODE FOR IWVC Database
Illegal take or possession of big game	BGV
Illegal take or possession of threatened or endangered species	TEV
Felony wildlife violations	FEV
License violations, fraud, false statement	LIV
Waste of wildlife	WAV
Accumulated wildlife violations	ACV
Violations while on revocation	REV
Sale/purchase of wildlife	SPV
Failure to Appear	FTA

- b) The following violation types will also be subject to reciprocal revocation by member states depending on member state laws:

VIOLATION	WVC CODE FOR IWVC Database
Illegal take or possession of small game or migratory birds	SGV
Illegal take or possession of fish	FIV
Illegal take or possession of other wildlife	OWV
Tag/permit/license transfer	TRV
Federal Wildlife Violations	FDV
Other criminal violations	OTV
Guide/outfitter violations	GUV
Safety Violations	SAV
Trespass Violations	TPV
Littering Violations	LPV
Interfering With an Officer	IWO

2. And, such recognition of suspension is not contrary to the laws of that state.

B. Recognition of suspensions which do not meet the criteria of section III. A. 1 and 2 above will be up to the laws, policies and procedures of that state.

C. Each state participating in the WVC shall communicate suspension information to other participating states, using the secure Interstate Wildlife Violator Compact database. Participating states will use the guidelines prescribed by the board of compact administrators. The following information will be included but not limited to:

1. Positive identification of the subject of the suspension. Including:

- a. Name
- b. Date of birth
- c. Physical description
- d. Last known address

2. The basis of the suspension including:

- a. Violation(s) and convictions upon which the suspension is based.
- b. The scope of the suspension (ie. fishing, hunting, trapping, all privileges).
- c. Effective dates of the suspension.

D. In the event documentation of a violation and subsequent license suspension is needed by a member state for license suspension hearings or other purposes, the issuing state shall provide certified copies of the citation or other charging instrument, any arrest or investigation reports, suspension orders and the disposition of the matter.

IV. Transmittal of Conviction Information to the Home State of the Violator

A. Upon a conviction, the issuing state shall forward to the home state of the violator the following information:

1. Personal Information

- a. Name

- b. Date of birth
- c. Sex
- d. Physical description (height, weight, hair, eyes)
- e. Last known address

2. Violation Information

- a. Citation number
- b. Violation description
- c. Revocation begin & end date
- d. Fine assessed

- B. For the purpose of consideration for license suspension, the home state shall treat such convictions in other participating states as if they had occurred in the home state.
- C. In the event detailed information on a violation is needed by the home state, for license suspension hearings or other purposes, the issuing state shall provide certified copies of the citation or other charging instrument, any arrest or investigation reports and the disposition of the matter.

**SECTION V
ADMINISTRATIVE MATTERS**

I. Entry into the Compact

- A. Entry into the WVC may be accomplished by the following methods.
 - 1. A state legislature may accomplish WVC joinder by adopting the full compact as a statute.
 - 2. A state legislature may authorize and direct that state's wildlife agency to enter into the compact.
- B. Upon legislative action as specified above, entry into the WVC shall be finalized by the submission of a resolution of ratification and an informational application submitted to the chairman of the board of compact administrators. The resolution of ratification shall be signed by the chief administrator of the wildlife agency or

licensing authority and shall include the items found in section (b),2 of Article VIII of the WVC.

- C. The effective date of entry shall be specified by the applying state but shall be at least sixty days after notice has been given to each member state by the chairman of the board of compact administrators.
- D. Only violations which are committed on or after the effective date of entry, and resulting suspensions, shall be subject to the provisions of the Compact

II. Withdrawal from the Compact

- A. A member state may withdraw from the WVC by submitting official written notice to the other member states. Such withdrawal shall not be effective until ninety (90) days after such notice is mailed.
- B. Such notice must be directed to the compact administrator of each member state.
- C. The withdrawal of one or more member states shall have no effect on the validity of the WVC as to the remaining member states.

Sec. 16.05.410. Revocation of license. (a) Upon conviction of a person of a first violation of AS 16.05.330 — 16.05.430 or of a federal or state law or regulation for the protection of the sport fish and game of the state, the court may, in addition to the penalty imposed by law, revoke the person's license.

(b) Upon subsequent conviction of a person for a violation of AS 16.05.330 — 16.05.430 or of a federal or state law or regulation for the protection of the sport fish and game of the state, the court shall revoke the person's license.

(c) A person whose license has been revoked as provided in (b) of this section may not purchase another license of the same type for a period of not less than two years nor more than three years from the date of revocation as determined by the court.

(d) *[Repealed, § 2 ch 32 SLA 1968.]*

(e) *[Repealed, § 2 ch 32 SLA 1968.]*

(f) Except as provided in (g) of this section, the provisions of (a) — (c) of this section do not apply when the offense for which the person is convicted is a misdemeanor for which a forfeitable bail amount has been set under AS 16.05.165.

(g) When a person has been convicted during a two year period of two or more misdemeanor offenses for which a forfeitable bail amount has been set under AS 16.05.165, a peace officer may file a civil action in the district court to revoke the person's license. Once an action has been filed, the court shall set a time and date for a hearing on the proposed license revocation, and shall send notice of the hearing to the person. The hearing shall be before the court without a jury. At the hearing the court shall hear evidence regarding the nature and seriousness of the offenses for which the person was convicted, the time period involved, the potential effect of the person's actions upon the preservation of the resource, and other relevant circumstances. If the court finds by a preponderance of the evidence that the person's actions demonstrate a disregard for the preservation of the state's fish or wildlife resources, the court may revoke the person's license for a period of not less than one year nor more than three years from the date of revocation. (§ 8 art II ch 94 SLA 1959; am § 17 ch 131 SLA 1960; am § 1 ch 56 SLA 1962; am §§ 4, 5 ch 75 SLA 1964; am § 2 ch 32 SLA 1968; am § 15 ch 132 SLA 1984)

NOTES TO DECISIONS

Stated in *Baum v. State*, 24 P.3d 577 (Alaska Ct. App. 2001).

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME BOARD OF GAME

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January 30, 2008

Representative Craig Johnson
Alaska State Legislature
State Capitol, Room # 126
Juneau, AK 99801-1182

Dear Representative Johnson:

The Alaska Board of Game supports House Bill 267, Wildlife Violator Compact. The board appreciates your efforts to make it possible for Alaska to join the 26 participating states of the Wildlife Violators Compact.

The Board of Game supports the main premise of the Compact which provides for a convicted wildlife violator whose license has been revoked in one member state, to be revoked in all member states. The Board feels strongly that passage of this bill by the legislature will provide a strong deterrence to violators, knowing that their activities in one state can affect their privilege to recreate in all participating states. Without this bill and the sanctions that it provides through the Wildlife Violators Compact, "non Alaska residents" have no incentive to comply with the sanctions levied by the criminal justice system.

Law enforcement efforts directed at compliance with wildlife regulations remains a high priority with the Board of Game. Joining the interstate Wildlife Violator Compact will send a strong message that the State of Alaska does not tolerate serious wildlife violations.

Thank you for your work on this important piece of legislation. Please let us know how we can assist you with this effort.

Sincerely,



Cliff Judkins, Chairman
Board of Game

Subject: Wildlife Violator Compact opinion letter from 1-21-08 Fairbanks News-Miner

A helpful compact: It's time Alaska joined wildlife violator network

Staff Report
Published January 21, 2008

Upon learning about the Interstate Wildlife Violator Compact, most Alaskans likely would be surprised that Alaska — with such a large annual influx of non-resident hunters and anglers — is not already a member state.

At its most basic, the compact extends penalties against people who violate wildlife regulations to all member states. Lose hunting, trapping or fishing privileges in Alaska and you've lost those privileges in all the other compact states as well.

House Bill 267, currently before the House Resources Committee, would add Alaska to the list of 27 member states that have joined the compact since Colorado, Nevada and Oregon formed the first agreement in 1989. Ohio was the most recent to join, just this month.

The compact adds teeth to wildlife violation penalties. Even more than fines and surrendering equipment, revocation of licenses and losing the privilege to hunt, fish or trap is a penalty that really hurts — and one that serves as a strong deterrent.

Pulling a person's privileges in Alaska may not matter so much to someone who lives 3,000 miles away and may not plan to hunt or fish here again anyway. They could just take up their activities elsewhere. But if Alaska joins the compact, then hunting and fishing in more than half the United States becomes off-limits, including most of the fish- and game-rich western states.

Some states in the compact also have tapped into an IWVC database that assists enforcement. The compact also serves as leverage to force violators to comply with tickets issued in a member state. The issuing state can request a violator's home state to suspend the violator's hunting, fishing and trapping privileges until they comply. Compact cooperation also can save participating states — and respective violators — the need to assign large cash bonds or to take people to jail. That is an administrative time- and cost-saver for law enforcement. Not that those measures can't be taken in cases of the most serious violations.

Legislators will need to take care with passage of HB 267. Few things are as important to Alaskans as wildlife regulations and enforcement, but the state has plenty of examples to follow across the U.S. This is one example of a bill that should expeditiously find its way through the 90-day session and into law.