

SB

214

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/18/08

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered SENATE BILL NO. 214

SB 214 HUNTING BY MEMBERS OF THE MILITARY

"An Act relating to big game hunting by nonresident members of the military service and their dependents; and providing for an effective date."

and recommends:

- be replaced with SCS or CS SB 214 (F/N)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/> Same Title	
<input checked="" type="checkbox"/> New Title	
<hr/>	
HOUSE BILL:	
<input type="checkbox"/> Same Title	
<input type="checkbox"/> Technical Title Change	
<input type="checkbox"/> New Title w/ SCR # _____	

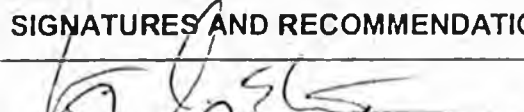

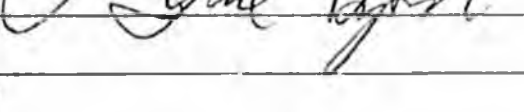

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

Department	Date	Fiscal	Indet.	Zero	FN#
DFG	2/22/08	✓			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	E Thomas	✓			
	Thomas	✓			
	Dyson	✓			
CO-CHAIR:					
	HATMAN	✓			

Adopted
3/24/08

25-LS1261\K
Kane
3/21/08

CS FOR SENATE BILL NO. 214()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR HUGGINS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to hunting licenses and tags for nonresident members of the military
2 service or the United States Coast Guard and their dependents; and providing for an
3 effective date."

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

5 * Section 1. AS 16.05.340(d) is amended to read:

6 (d) Members of the military service or the United States Coast Guard on
7 active duty who are permanently stationed in the state, and their dependents, who do
8 not qualify as residents under AS 16.05.415, may obtain special nonresident military
9 hunting [SMALL GAME] and sport fishing licenses at the rates for resident hunting
10 and sport fishing licenses. A person who obtains a special nonresident military
11 hunting license under this subsection [, BUT] may not take a big game animal for
12 which a tag is required under (a)(16) of this section without previously purchasing
13 a [REGULAR NONRESIDENT HUNTING LICENSE AND A] numbered,
14 nontransferable appropriate tag, issued at the resident [ONE-HALF OF THE

1 NONRESIDENT] rate, under (a)(16) [(a)(15)] of this section.

2 * **Sec. 2.** This Act takes effect January 1, 2009.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 214(RES)
(S) Publish Date: 3/18/08

Identifier (file name): SB214-DFG-DAS-02-22-08 Dept. Affected: Fish and Game
Title Hunting by Members of the Military RDU Administration and Support
Component Commissioner's Office
Sponsor Senator Huggins
Requester Senate Resources Committee Component Number 2175

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		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

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

CHANGE IN REVENUES (1024)	(39.9)		(39.9)	(39.9)	(39.9)	(39.9)	(39.9)
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2008) cost: 00

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

In 2006, ADF&G received \$52,100 in sport license and big game tag sales from military personnel. If all military personnel could purchase licenses and tags at resident rates, the amount brought in would drop to \$20,200, meaning a loss of \$31,900 to the Fish and Game Fund. In addition, since the agency receives federal grants with a 25% matching requirement, this could translate into a \$39,900 total annual loss to ADF&G in federal and nonfederal funds.

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

Phone 465-5999
Date/Time 02/22/08 4:30 p.m.
Date 2/22/2008

ALASKA STATE LEGISLATURE

Senate District II
600 E. Railroad Avenue
Wasilla AK 99654
907-376-4866
907-373-4724 :Fax



State Capitol
Juneau AK 99801-1182
907-465-3878
Fax: 907-465-3265
800-862-3878

Charlie Huggins Senator

January 25, 2008

Sponsor Statement for SB 214

"An Act relating to big game hunting by non-resident members of the military service and their dependents; and providing for an effective date."

Senate Bill 214 allows non-resident active-duty military personnel and their dependents to qualify for resident-rate big game hunting licenses immediately upon report date without having to meet the current 12-month residency requirement.

The vast majority of states have unique licensing statutes for active-duty military personnel. At least 45 states offer resident license rates, without regard to actual residency status, to active-duty personnel or personnel stationed in the state. Eight of those states, including Alaska, require personnel to be stationed in state for a specific period of time. At twelve months, Alaska's waiting period, as provided by AS 16.05.415(c), is by far the longest among the states. Because military personnel are transferred around the world, often without having any real say in where they are stationed, they are not similarly situated to others who choose to move to Alaska voluntarily. The fact that transfers are involuntary and frequent means that they may be unable to establish the qualifications for normal residency and ever be able to take advantage of state resident preferences. SB 214, if enacted, benefits active-duty military members and their dependents by waiving the 12-month waiting period.

Current statute, AS 16.05.340 (d), entitles non-resident military members stationed in Alaska to special military licenses at the resident rate for sport-fishing and small game hunting. This provision does not extend to big game licenses and tags. If military members who have not reached residency status want to go big game hunting, they must now purchase big game licenses at the non-resident rate plus big game tags at one-half the non-resident rate. SB 214, if enacted, would allow them to purchase both big game licenses and tags at resident rates.

The January 1, 2009, effective date allows the Department of Fish and Game time to revise, print, and distribute application forms that reflect accurate information and to work with vendors and applicants to achieve compliance with the new law.

Contact: Jody Simpson
907-465-2661
Version 25-LS1261A
January 25, 2008

STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 115528
JUNEAU, AK 99811-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

January 14, 2008

Senator Charlie Huggins
Chairman, Senate Resources Committee
State Capitol, Room 119
Juneau, Alaska 99801

Dear Senator Huggins,

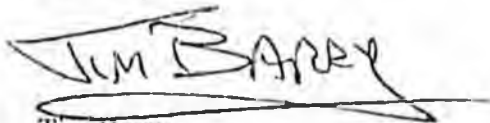
In a recent letter to Commissioner Lloyd, you informed him of your intention to introduce a bill in the 2008 legislative session to allow military personnel in Alaska to qualify for resident hunting and fishing licenses upon their report date, rather than having to be here for twelve months. Since then, the bill has been filed and assigned a number (Senate Bill 214). The Commissioner has asked me to respond to your letter.

Fish and Game staff have had an opportunity to review the legislation, and to consult with the Attorney General's office about it. I believe that the questions you asked in your letter have been answered, in communications between Fish and Game staffers and your aide, Jody Simpson. If you have any more questions or need further information from our agency, please contact me at any time, and I should be able to get you in touch with the right people here.

In your letter, you asked if Fish and Game would support such legislation. As I have informed Jody, our preliminary analysis of the bill indicates that it will have a fiscal impact on the department's budget (our initial estimate is that our fiscal note will be at least \$31,000 dollars a year). While of course we are very supportive of the dedication and service of our men and women in uniform, our only concern with SB 214 would be that we would need the lost revenue replaced. As long as the fiscal note can be covered, I have no reason to think our department would object to the bill as currently written.

It has always been a genuine pleasure and honor to work with you and your staff, and I look forward to a fruitful working relationship again this session. Feel free to contact me any time for any reason.

Sincerely,



Tim Barry
Legislative Liaison

CY2006 Military License and Tags Comparison

CY06 Actuals				Proposed Resident Rate Comparison					
Class	Description	# sold	Cost	Gross	Class	Description	Cost	Gross	
Hunting				Hunting					
13	NR Spcl Military Small Game	169	\$25.00	\$4,225.00	02	Res Hunt	\$25.00	\$4,225.00	
14	NR Spcl Military SF/Small Game	237	\$48.00	\$11,376.00	04	Res SF/Hunt	\$48.00	\$11,376.00	
08	NR Hunt	179	\$85.00	\$15,215.00	02	Res Hunt	\$25.00	\$4,475.00	
BF	Military Bison	1	\$225.00	\$225.00	BF	Res Bison	\$0.00	\$0.00	
BG	Military Brown/Grizzly Bear	3	\$250.00	\$750.00	BG	Res Brown/Grizzly	\$25.00	\$75.00	
BL	Military Black Bear	54	\$112.50	\$6,075.00	BL	Res Black Bear	\$0.00	\$0.00	
CC	Military Caribou	33	\$162.50	\$5,362.50	CC	Res Caribou	\$0.00	\$0.00	
DD	Military Deer	55	\$75.00	\$4,125.00	DD	Res Deer	\$0.00	\$0.00	
EE	Military Elk	1	\$150.00	\$150.00	EE	Res Elk	\$0.00	\$0.00	
MM	Military Moose	22	\$200.00	\$4,400.00	MM	Res Moose	\$0.00	\$0.00	
WF	Military Wolf	10	\$15.00	\$150.00	WF	Res Wolf	\$0.00	\$0.00	
				\$52,053.50					\$20,151.00

Difference	% Diff.
\$0.00	0%
\$0.00	0%
(\$10,740.00)	-71%
(\$225.00)	-100%
(\$675.00)	-90%
(\$6,075.00)	-100%
(\$5,362.50)	-100%
(\$4,125.00)	-100%
(\$150.00)	-100%
(\$4,400.00)	-100%
(\$150.00)	-100%
(\$31,902.50)	-61%

LICENSING SECTION
PO BOX 115525
JUNEAU, AK 99811-5525

STATE OF ALASKA
DEPARTMENT OF FISH AND GAME

AA ALASKA SPORT FISHING, HUNTING, TRAPPING LICENSE			LICENSE NOT VALID IF PUNCHED MORE THAN ONCE			REG-Resident	NR-Nonresident	EXPIRES DECEMBER 31, 2008
RES. CLASS 1 Sport Fishing \$24.00	RES. CLASS 2 Hunting \$15.00	RES. CLASS 3A Hunting/Trapping \$19.00	RES. CLASS 3B Trapping \$15.00	RES. CLASS 4 Hunt/Spt Fish \$48.00	RES. CLASS 6 Hunt/Trap/Spt Fish \$62.00	BLIND RES. CLASS 1A \$8.25 Sport Fishing	BLIND RES. CLASS 2A \$16.50 Hunting	EXCEPT AS NOTED THIS LICENSE IS VALID THROUGH SEPTEMBER 30, 2008, AND NONRESIDENT CLASSES 3A, 4B, 6C, 11, 12, 13, 14 ARE VALID THROUGH THE EXPIRED 18000 ONLY.
APPLICANT'S NAME FIRST M LAST			R/F INFORMATION REQUIRED - PLEASE PRINT CLEARLY					
PERMANENT MAILING ADDRESS			8000051					
CITY			STATE/PROVINCE		ZIP CODE	COUNTRY		PHYSICAL ADDRESS
SEX FM	US CITIZEN YN	BIRTH DATE (MM/DD/YYYY)	DRIVER'S LICENSE NUMBER State Number			TELEPHONE NUMBER OPTIONAL		ALASKA RESIDENT AS 16.05.416 AS 16.05.847. "resident" means a person (including an alien) who
WEIGHT (LBS.)	EYE COLOR	HAIR COLOR	HEIGHT (FT) (IN)	ALASKA RESIDENCY. Annual number of years and months as a resident is required.		Is physically present in Alaska with the intent to remain indefinitely and make a home here, has maintained that person's domicile in Alaska for the 12 consecutive months immediately preceding this application for a license, and is a member of the military service or U.S. Coast Guard who has been stationed in Alaska for the 12 consecutive months immediately preceding this application for a license. A person who does not otherwise qualify as a resident may not qualify by virtue of an interest in an Alaska business. I have personally reviewed the information on the license and I HEREBY CERTIFY THAT ALL OF THE INFORMATION IS TRUE AND CORRECT AND THAT I UNDERSTAND THIS INFORMATION IS SUBJECT TO PUBLIC DISCLOSURE. My right to obtain or exercise the privileges granted by a sportfishing, hunting, or trapping license is not suspended or revoked in another state. (NOTE: Making a false statement, or omitting a material fact, is subject to a maximum penalty of \$10,000 or 1 year imprisonment, or both, per AS 11.56.210 and AS 16.05.420.)		
X SIGNATURE OF LICENSEE								
CLASS ISSUED		DATE ISSUED MM CD YYYY		VENDOR NUMBER	THE APPLICATION IS EFFECTIVE AS A LICENSE UPON THE SIGNATURE OF THE DULY AUTHORIZED FISH AND GAME VENDOR			
NR CLASS 5A 14-DAY Sport Fishing \$40.00	NR CLASS 5B 3-DAY Sport Fishing \$15.00	NR CLASS 6C 1-DAY Sport Fishing \$20.00	NR CLASS 6D 7-DAY Sport Fishing \$55.00	CLASS 5A, 5B, 6C, 6D, AND 6E ONLY. THIS LICENSE IS VALID FOR THE 14/7/3/7 Day period. BEGINNING DATE HOUR		ENDING DATE HOUR		NR CLASS 7 Hunting \$16.00
NR CLASS 9 Hunting \$23.00	NR CLASS 9C Hunting \$19.00	NR CLASS 10 Hunt/Trap \$25.00	NR CLASS 11 Hunting \$30.00	MONTH DAY 2008 AM PM MONTH DAY 2008		NR CLASS 8 Hunting \$15.00		NR CLASS 8A Hunting \$20.00

DEPT. COPY

PRESS DOWN FOR CLEAR COPIES

11-178(7/07)

Please complete Section A for Res Class 5A, Section B for dup. lic., Section C for NR Yukon lic, Section D for Mil. Lic only, and Section E. All applicants.

AFFIDAVIT SUPPORTING LICENSE APPLICATION FOR SPORT FISHING, HUNTING, AND TRAPPING.

A. RESIDENT CLASS 5A-\$5.00 LICENSE The license class applies only to residents of the State of Alaska who are non-military. It is not known if he ever been the intent of the Legislature to include military personnel in the Class 5A Hunting, Sport Fishing, and Trapping License.		B. DUPLICATE LICENSE I hereby report the loss of my current license/tag issued to me in accordance with the Fish and Game Code of Alaska as indicated below:	
<input type="checkbox"/> 1. I am the head of a family, or a dependent member of a family, or <input type="checkbox"/> 2. I am solely dependent on myself for support AND <input type="checkbox"/> 1. I am obtaining or have obtained during the immediately preceding six months, as a state or federal welfare program to aid the indigent, or <input type="checkbox"/> 2. My family's gross annual income has been less than \$8,200 for the year immediately preceding application.		License/Tag Class and Type Number of license/tag if known Date of Issuance Issued by (Name of License Vendor) Place of Issuance	
I authorize the release of information by the Division of Public Assistance to the Department of Fish and Game necessary to verify my participation in any need-based program which qualifies me for this special category license and to the Department of Public Safety as necessary to investigate false claims for the license.		C. NONRESIDENT YUKON RECIPROCAL SPORTFISHING LICENSE CLASS 11 YUKON RESIDENT SPORTFISHING LICENSE NUMBER: _____ YUKON GOVERNMENT ISSUED I.D. NUMBER: _____	
Signature of Licensee Date		D. NONRESIDENT MILITARY CLASSES 12, 13, 14 (MUST BE STATIONED IN ALASKA) I am entitled to the special nonresident Military License for the following reason: <input type="checkbox"/> 1. I am a member of the military service on active duty permanently stationed in Alaska, or <input type="checkbox"/> 2. I am a dependent of a member of the military service on active duty permanently stationed in Alaska. NOTE: Please read definition of resident on reverse side to determine military status.	
Signature of Licensee Date		E. I hereby certify under penalty of perjury that all of the above information is true and correct. (NOTE: Making a false statement, or omitting a material fact, is subject to a maximum penalty of \$10,000 or 1 year imprisonment, or both, per AS 11.56.210 and AS 16.05.420.) SIGNATURE OF LICENSEE Date	
Disclosure of Facility Surcharges per A.S. 16.05.340: The following amounts will provide for sport fishing facilities and have been applied to sport fishing licenses: Class 1: \$9, Class 4: \$9, Class 5: \$9, Class 6A: \$30, Class 6B: \$15, Class 6C: \$10, Class 6D: \$25, Class 7: \$45, Class 9: \$45, Class 11: \$9, Class 12: \$9, Class 14: \$9			

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

DIVISION OF ADMINISTRATIVE SERVICES

SARAH PALIN, GOVERNOR

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

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

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

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

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

[Note:

a. you must be physically present in Alaska in order to obtain a resident license.

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

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

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

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

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

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

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

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

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

(2) performs an act, or is absent under circumstances, that are inconsistent with the intent required under (a) of this section.

[Note: You may not have made any public or private declaration that indicates an intent to maintain a domicile anywhere but Alaska.]

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

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

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

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

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

(C) place of voter registration;

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

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

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

(E) location of storage of household goods;

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

(F) location of business owned or operated;

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

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

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

(H) governments to which taxes are paid;

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

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

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

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

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

LEGISLATIVE RESEARCH REPORT

DECEMBER 7, 2007



REPORT NUMBER 08.064

STATUTORY RESIDENCY REQUIREMENTS FOR DETERMINING HUNTING AND FISHING LICENSE FEES FOR ACTIVE-DUTY MILITARY PERSONNEL

PREPARED FOR SENATOR CHARLIE HUGGINS

BY CHUCK BURNHAM, LEGISLATIVE ANALYST

You asked about residency requirements related to hunting and fishing licenses for active-duty military personnel. Specifically, you wished to know the residency requirements in other states used to determine licensing fees for those personnel.

NON-RESIDENT ACTIVE-DUTY SOLDIERS

The vast majority of states have unique licensing statutes for active-duty military personnel.¹ At least 45 states offer resident license rates, without regard to actual residency status, either to all active-duty personnel (18 states) or to only those personnel stationed in state (27 states).² Eight of these states, including Alaska, require military personnel to be stationed in state for a specific waiting period—most often sixty to ninety days—prior to qualifying for resident rates. At twelve months, Alaska's waiting period, as provided by AS § 16.05.415(c), is by far the longest among the states; however, AS § 16.05.340(d) provides that non-resident military members stationed here are entitled to special military licenses at the resident rate, except for big game licenses and tags, which may be purchased at one-half the regular nonresident rate. Therefore, for typical sport fishing and small game hunting, the waiting period for non-residents stationed in Alaska appears to be moot.

¹ Our research did not generally include states' administrative regulations or policies. Although we believe our research to be thorough, there may be additional laws regarding hunting and fishing licensing residency provisions for active-duty military personnel that were not located by our efforts due to variations in wording and construction. Although our focus was primarily on residency requirements, we included other provisions for military personnel related to hunting and fishing licenses wherever we located them.

² Only two states—Hawaii and Washington—do not address military personnel in their statutory licensing regimes for hunting and fishing. The three additional states that do not provide any special residency considerations for military personnel are Alabama, Oklahoma, and West Virginia.

BENEFITS FOR BONA FIDE RESIDENTS AND OTHER PROVISIONS

Eighteen states offer the following benefits to service members who are *bona fide* state residents but are assigned elsewhere:

- ◆ free licenses (six states);
- ◆ waiver of the requirement for licenses (two states);
- ◆ waiver of the license requirement while home on furlough (ten states).³

Four states offer one or more of these benefits to all active-duty personnel, regardless of residency. Among these, Arkansas may be the most generous with its offer of free licenses to all active-duty personnel.

Other states variously offer military personnel reduced fee licenses, specific benefits for combat service, replacement or transfer of licenses when deployment interferes with hunting or fishing seasons, and/or special hunts, fisheries, or other privileges.⁴ Table 1 summarizes states' statutory requirements on the topics discussed above. Table 2 lists statutory citations and details of the information summarized in Table 1 for all fifty states.

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

³ In addition, at least twelve states variously specify that military personnel who were residents when they entered the service or who maintain the state as their "home of record" are considered residents for licensing purposes even while stationed elsewhere.

⁴ As you may know, Governor Palin recently directed the Alaska Department of Fish and Game, Division of Wildlife Conservation, to reissue or allow transfers of hunting permits obtained through a state lottery and Tier II subsistence permits for soldiers deployed in connection with military operations in Iraq. Additional information on this matter is available through the Division of Wildlife Conservation website at <http://www.wildlife.alaska.gov/index.cfm?adfg=permits.military>.

Table 1: Summary of State Residency Requirements and Related Provisions Regarding Hunting and Fishing Licenses for Active-Duty Military Personnel

Provision ¹	Bona Fide Residents Only		All Active-Duty ²		Notes
	Number of States	States	Number of States	States	
All military personnel pay resident fees			18	AZ, CA, CT, GA, IL, LA, ME, MD, MA, MN, MS, MO, MT, ND, NJ, NY, RI, TX	
Military personnel stationed <i>in state</i> pay resident fees ³		Not Applicable	27	AK, CO, DE, FL, ID, IN, IA, KS, KY, MI, MS, NE, NV, NH, NM, NC, OH, OR, PA, SC, SD, TN, UT, VT, VA, WI, WY	Waiting periods: AZ, ID, MT, NE, PA- 30 days; SC-60 days; WY-90 days; AK-12 months. ⁴
No license required	2	NJ, SD	0	None	NJ-active National Guard only; SD-must be stationed out of state.
No licenses required while on furlough	10	AL, CO, FL, IL, IN, IA, MS, ND, PA, WV	3	NY, OH, TN	
No licenses required in times of war	1	AL	0	None	
Free licenses	6	AR, MD, NH, OK, TX, VT	1	AR	NH, OK, -during furlough only; TX-National Guard only.
Reduced fee licenses or tags offered	7	AK, FL, LA, ME, MI, MO, NV	2	AK, PA	
Special benefit for combat service	5	DE, IL, MN, PA, WI	0	None	
Special hunts/fisheries or privileges offered	2	ND, WI	3	MN, OK, PA	
Replacement or transfer of license for active-duty offered	1	SD	4	NE, NM, UT, WI	

Notes: This table is a summary of states' statutory provisions regarding residency requirements for active-duty military personnel with regard to hunting and fishing licensing. Please review the text of the underlying statutes for specific provisions and requirements, which vary substantially among states. Our research did not include states' administrative regulations or policies. Although we believe our research to be thorough, there may be additional applicable laws that were not located by our efforts due to variations in wording and construction. Although our focus was primarily on residency requirements, we included other provisions for military personnel related to hunting and fishing licenses wherever we located them.

1) Unless otherwise noted, military personnel are required to conform with seasons, bag limits, and other regulations regardless of whether licenses or permits are required for hunting and/or fishing.

2) "Active-duty" refers to military personnel currently serving under federal control.

3) At least twelve states specify that military personnel who were residents when they entered the service or who maintain the state as their "home of record" are considered residents for licensing purposes even while stationed elsewhere.

4) Alaska's, as provided by AS § 16.05.415(c), is by far the longest at twelve months; however, AS § 16.05.340(d) provides that non-resident military members stationed in the state are entitled to special military licenses at the resident rate, except for big game licenses and tags, which must be purchased at one-half the regular nonresident rate. Therefore, for typical sport fishing and small game hunting, the waiting period for non-residents stationed in Alaska appears to be moot.

Sources: LexisNexis and Westlaw databases of state statutes.

Table 2: State Residency Requirements and Related Provisions Regarding Hunting and Fishing Licenses for Active-Duty Military Personnel				
State	Statute	Bona Fide Residency Required?	Fee	Notes
Alabama	Ala. Code §9-11-35	No	None	Active-duty personnel need not obtain licenses during times of war.
	Ala. Code §9-11-35.1	Yes	None	Active-duty AL residents need not obtain licenses when home on furlough.
Alaska	AS §16.05.340 (a)(24)	No	\$20	Active-duty non-residents stationed in state are entitled to a non-resident king salmon stamp at a reduced rate.
	AS §16.05.340(d)	No	\$39 (resident hunting/fishing license) \$15-\$550 (per tag, depending on animal)	Active-duty non-residents stationed in state are entitled to small game and sport fishing licenses at resident rates, but may not take big game a regular nonresident hunting license and tag, issued at one-half of the nonresident rate. Military members also pay the same \$9 license surcharge required of residents.
	AS §16.05.415(d)	No, 12 month waiting period	Same as resident	Applies to all active-duty personnel stationed in the state.
	AS §16.43.180	No	N/A	Active-duty service is recognized as a basis for emergency transfer of commercial fisheries entry and interim-use permits.
Arizona	A.R.S. §17-337	No, 30-day waiting period	Same as resident	Applies to all active-duty personnel.
Arkansas	Ark. Code §15-42-123	No	None	All active duty personnel stationed in Arkansas, and residents of Arkansas home on furlough, receive free licenses. Not applicable to permits for special hunts.
California	Cal. Fish and Game C. §70	No	Same as resident	Applies to all active-duty personnel.
Colorado	C.R.S. §33-1-102	No	Same as resident	Applies to all active-duty personnel stationed in state and residents who retain CO as their home of record while serving out of state.
	C.R.S. §33-4-104	No	None	Applicable to military personnel stationed as a patient at any armed forces or Veterans Administration medical facility. CO residents home on furlough may receive a fishing license free of charge for a maximum of thirty days.

**Table 2: State Residency Requirements and Related Provisions Regarding
Hunting and Fishing Licenses for Active-Duty Military Personnel (cont.)**

State	Statute	Bona Fide Residency Required?	Fee	Notes
Connecticut	Conn. Gen. Stat. § 26-34a, § 26-86a, and § 26-86c	No	Same as resident	Applicable to all active-duty personnel.
Delaware	7 Del. C. §502	No	None	Licenses are free to any member of the armed forces who is a patient in a military hospital and for DE residents who have taken part in the current military operations in Iraq for one year following discharge from service.
	7 Del. C. §505	No	Same as resident	Applies to all active-duty personnel stationed in state.
Florida	Fla. Stat. §372.001	No	Same as resident	Applies to all active-duty personnel stationed in state.
	Fla. Stat. §372.562	Yes	None	Active-duty residents on furlough for 30 days or fewer need not obtain licenses.
	Fla. Stat. §372.57	Yes	\$18.50	"Gold Sportsman's" combined hunting/fishing licenses are available to active and retired military members.
Georgia	O.C.G.A. §27-1-2	No	Same as resident	All active duty personnel in Georgia and residents home on furlough are considered residents.
Hawaii	None in Statute			
Idaho	I. C. §36-202	No, 30-day waiting period	Same as resident	Applies to all active-duty personnel stationed in state.
	I. C. §36-406	Yes	Same as resident	Soldiers who were residents of Idaho upon entering the service who are on furlough may purchase combined hunting/fishing licenses at the resident rate.
Illinois	515 ILCS §5/1-75	No	Same as resident	Applies to all active-duty personnel.
	516 ILCS §5/20-15	Yes	None	Illinois residents home on furlough need not obtain fishing licenses.
	514 ILCS §5/20-47	Yes	None	Illinois residents returning from overseas deployment are entitled to receive one annual fishing license for each year of overseas service.

**Table 2: State Residency Requirements and Related Provisions Regarding
Hunting and Fishing Licenses for Active-Duty Military Personnel (cont.)**

State	Statute	Bona Fide Residency Required?	Fee	Notes
Indiana	Ind. Code Ann. §14-22-11-10	No	Same as resident	Applies to all active-duty personnel stationed in state.
	Ind. Code Ann. §14-22-11-11	Yes	None	Active-duty residents on furlough may hunt and fish without a license for the duration of their leave.
Iowa	Iowa Code §483A.1A	Yes	Same as resident	Active-duty personnel who claim residency that have filed a IA state tax return for the previous year are considered residents.
	Iowa Code §483A.1A	No	Same as resident	Applies to active-duty personnel stationed in state.
	Iowa Code §483A.24	Yes	None	State residents stationed elsewhere but home on furlough need not obtain licenses.
Kansas	Kan. Stat. §32-980	No	Same as resident	All active duty personnel in Kansas and soldiers who were residents of the state upon entering the service who are on furlough are considered residents.
Kentucky	KRS §150.010	No	Same as resident	Applies to all active-duty personnel stationed in state.
Louisiana	La. R.S. §56:643(B)(1)	No	Same as resident	Applies to all active-duty personnel.
	La. R.S. §56:643(B)(2)	Yes	\$50	Members of the Louisiana National Guard are eligible for combined hunting/fishing licenses at a reduced fee.
Maine	12 M.R.S. §10752	No	Same as resident	Applies to all active-duty personnel.
	12 M.R.S. §10853	Yes	\$20	Maine residents stationed outside the state are entitled to a combined hunting/fishing license at a reduced rate.
Maryland	Md. Code, Nat. Res., §4-604 and §10-101	No	Same as resident	Applies to all active-duty personnel.
	Md. Code, Nat. Res., §10-301	Yes	None	Maryland residents are entitled to free hunting licenses while home on furlough.

Table 2: State Residency Requirements and Related Provisions Regarding Hunting and Fishing Licenses for Active-Duty Military Personnel (cont.)				
State	Statute	Bona Fide Residency Required?	Fee	Notes
Massachusetts	M.G.L.A. 131 §11	No	Same as resident	Applies to all active-duty personnel.
Michigan	M.C.L.A. §324.43536a	No	Same as resident	Active duty personnel, stationed in Michigan.
		Yes	\$1	Active-duty personnel who are either stationed outside the state or who were MI residents at the time of their enlistment are entitled to a license valid for two weeks.
Minnesota	M.S.A. §97A.465.1 and 465.4	Yes	None	Active-duty MN residents on furlough and discharged residents who served overseas in the preceding 24 months, are entitled to free licenses.
	M.S.A. §97A.465.2	No	Same as resident	Applies to fishing licenses for all active-duty personnel training at Camp Ripley
	M.S.A. §97A.465.3	No	Same as resident	Applies to all active-duty personnel. Excludes elk and moose hunting.
	M.S.A. §97A.465.5(a)	No	N/A	Anyone who has been on active-duty in the preceding 24 months may receive first preference in obtaining license for special hunts or fisheries.
	M.S.A. §97A.465.6	No	N/A	Special hunts and limits may be made available to active-duty personnel and veterans.
Mississippi	Miss. Code §49-7-3(3)	No	Same as resident	Applies to all active-duty personnel stationed in the state.
	Miss. Code §49-7-3(4)	No	Same as resident	All active-duty personnel not stationed in state are entitled to two 14-day combined hunting/fishing licenses per year.
	Miss. Code §49-7-5 and §49-7-9	Yes	None	Active-duty residents on furlough are not required to obtain licenses.
Missouri	3 C. of State Regs. §10-5.220	No	Same as resident	Applies to residents of Missouri serving in the armed forces and all active-duty personnel stationed in state.
	3 C. of State Regs. §10-5.331	No	\$5	Residents who have served active-duty in the National Guard or Reserves are entitled to a reduced fee small-game hunting permit.
Montana	MT. St. §87-2-102	No 30-day waiting period (waived in time of war)	Same as resident	Active-duty personnel stationed in MT, and those who were residents upon enlistment, are considered residents.

**Table 2: State Residency Requirements and Related Provisions Regarding
Hunting and Fishing Licenses for Active-Duty Military Personnel (cont.)**

State	Statute	Bona Fide Residency Required?	Fee	Notes
Nebraska	R.R.S. Neb. §37-419	No, 30-day waiting period	Same as resident	Applies to all active-duty personnel stationed in the state.
Nebraska	R.R.S. Neb. §37-421.01	No	\$5	Permit holders who have served out of state are entitled to a discounted permit if their service encompassed at least one-half of the time period covered by the original permit.
Nevada	N.R.S. §502.070	No	Same as resident	Applies to all active-duty personnel stationed in the state.
	N.R.S. §502.290	Yes	\$5	Residents home on furlough are entitled to licenses at a reduced rate.
New Hampshire	N.H. Rev. Stat. §214:3	Yes	None	Active-duty residents are entitled to free licenses while home on furlough.
		No	Same as resident	Applies to all active-duty personnel stationed in the state.
New Jersey	N.J.S.A. §23:3-1	No	Same as resident	Applies to all active-duty personnel.
	N.J.S.A. §23:3-1e	No	None	Applies to any active member of the New Jersey National Guard who has completed Initial Active Duty Training.
New Mexico	N.M.S.A. §17-3-4	No	Same as resident	Applies to active-duty members stationed at military facilities that are wholly or partially located within the state.
	N.M.S.A. §17-3-7	No	N/A	Licensees who have been deployed on active-duty such that they are unable to take part in a hunt may have their license fee refunded or transferred to a different hunt.
New York	NY CLS ECL §11-0703(2)	No	None	Applies to all active-duty personnel on furlough not stationed within the state. Furlough period may not exceed 30 days.
	NY CLS ECL §11-0703(a)	No	Same as resident	Applies to all active-duty personnel stationed in the state.
North Carolina	N.C. Gen. Stat. §113-130	No	Same as resident	Military personnel stationed in state are considered residents.

Table 2: State Residency Requirements and Related Provisions Regarding Hunting and Fishing Licenses for Active-Duty Military Personnel (cont.)				
State	Statute	Bona Fide Residency Required?	Fee	Notes
North Dakota	N.D. Cont. Code §20.1-02-05	No	Same as resident	Applies to all active-duty personnel. Residents who are stationed out of state are entitled to a resident deer hunting license without having to take part in the licensing lottery system.
	N.D. Cont. Code §20.1-03-04	Yes	None	Active-duty residents on furlough may fish and hunt small game without a license.
Ohio	ORC Ann. §1533.12(A)(1)	No	Same as resident	Applies to all active-duty personnel stationed in the state.
	ORC Ann. §1533.12(A)(2)	No	None	Applies to all active-duty personnel on furlough; however, permits are required for deer and wild turkey hunts.
Oklahoma	29 Okl. St. §4-110 and §4-112	Yes	None	Applies to state residents stationed elsewhere but home on furlough
	30 Okl. St. §4-112A	No	N/A	Military personnel need not complete a hunter education course.
	29 Okl. St. §4-140	Yes	None	State residents stationed elsewhere but home on furlough need not obtain a "Wildlife Land Stamp."
Oregon	ORS §497.006	No	Same as resident	Applies to all active-duty personnel stationed in state and Oregon residents stationed elsewhere.
Pennsylvania	30 Pa.C.S. §2707.1-.2 and 35 Pa.C.S. §2706(f-g)	Yes	\$1	Members of the PA National Guard or a reserve component who have been deployed overseas for at least 180 days in the past 24 months, or who were injured during such a deployment, are entitled to a reduced fee hunting and fishing licenses.
	30 Pa.C.S. §2709	Yes	None	Resident of PA stationed out of state are not required to obtain fishing licenses while on furlough.
	34 Pa.C.S. §2702(b)	Yes	Same as resident	Active-duty personnel whose "home of record" is PA are considered residents for the purpose of hunting licenses.
	35 Pa.C.S. §2702(c)	No, 30-day waiting period	\$5	Applies to all active-duty personnel stationed in state.
	34 Pa.C.S. §2704	N/A	N/A	Active-duty members or those who have been discharged in the past six months need not complete a hunter's education course.

Table 2: State Residency Requirements and Related Provisions Regarding Hunting and Fishing Licenses for Active-Duty Military Personnel (cont.)				
State	Statute	Bona Fide Residency Required?	Fee	Notes
Pennsylvania	34 Pa.C.S. §2705	No	N/A	Active-duty members shall be issued licenses for certain hunts without regard to quota limitations.
	34 Pa.C.S. §2706(e)	Yes	Same as resident	Resident of PA stationed out of state are considered residents while on furlough.
	35 Pa.C.S. §2706(f-g)	No	\$2	Members of the PA National Guard or a reserve component who have been deployed overseas for at least 180 days in the past 24 months, or who were injured during such a deployment, are entitled to a reduced fee hunting license.
Rhode Island	R.I. ST. §20-2-31	No	Same as resident	Every active-duty member of the armed forces or merchant marine is considered a resident.
South Carolina	S.C. Code §50-9-30	No, 60-day waiting period	Same as resident	Applies to active-duty personnel serving in state.
South Dakota	S.D.C.L. §41-1-1(22)	Yes	Same as resident	Residency for the purpose of licensing cannot be lost due to out of state service in the armed forces.
	S.D.C.L. §41-6-16.2	Yes	None	Active-duty residents stationed out of state may hunt and fish without a license. Does not apply to migratory bird hunts.
	S.D.C.L. §41-6-19.7	Yes	N/A	Any member of the S.D. National Guard or Reserves who holds an elk, bighorn sheep, or mountain goat hunting license at the time of being deployed to active-duty is entitled to a replacement license for the season immediately following his or her return from service.
	S.D.C.L. §41-6-21	Yes	Same as resident	Any resident military personnel who are absent the state during the application period of a hunt due to active-duty service are entitled to deer, turkey, and antelope licenses without regard to limits on the issuance of such licenses.
	S.D.C.L. §41-6-52	No	Same as resident	Applies to all active-duty personnel stationed in state.
Tennessee	T.C.A. §70-1-101	No	Same as resident	Applies to all active-duty personnel stationed in state.
	T.C.A. §70-2-103	No	None	Applies to all active-duty personnel on furlough

Table 2: State Residency Requirements and Related Provisions Regarding Hunting and Fishing Licenses for Active-Duty Military Personnel (cont.)				
State	Statute	Bona Fide Residency Required?	Fee	Notes
Texas	V.T.C.A., Parks & Wildlife Code §42.001 and §50.011	No	Same as resident	Applies to all active-duty personnel.
	V.T.C.A., Parks & Wildlife Code §42.012 and §46.004	Yes	None	Applies to licenses for active-duty members of the TX National Guard.
Utah	Utah Code Ann. §23-13-2(37)(a)	Yes	Same as resident	Active-duty residents who have left the state for military service are maintain their residency so long as they do not claim residency in another state.
	Utah Code Ann. §23-13-2(37)(c)	No	Same as resident	Applies to all active-duty personnel stationed in state so long as they do not claim residency in another state.
	Utah Code Ann. §23-19-38.2	No	N/A	Any active-duty personnel who are unable to use a license or tag due to a military deployment is entitled to a refund or future reinstatement of that license or tag.
Vermont	10 V.S.A. §4258	No	Same as resident	Applies to all active-duty personnel stationed in state.
	10 V.S.A. §4259	Yes	None	Residents serving active-duty for at least 120 days are entitled to free licenses.
Virginia	Va. Code §29.1-319	No	Same as resident	Applies to active-duty personnel stationed in state.
Washington	None in Statute			
West Virginia	W. Va. Code, §20-1-2	Yes	Same as resident	Active-duty personnel who were residents upon entering the service are considered residents.
	W. Va. Code, §20-2-28	Yes	None	Active-duty residents need not obtain licenses while home on furlough.

Table 2. State Residency Requirements and Related Provisions Regarding Hunting and Fishing Licenses for Active-Duty Military Personnel (cont.)

State	Statute	Bona Fide Residency Required?	Fee	Notes
Wisconsin	W.S.A. §29.173	Yes	N/A	Active-duty residents on furlough may hunt both sexes of deer during open season.
	W.S.A. §29.183	No	N/A	Active-duty members who have been chosen by lottery to participate in a hunt may defer the permit until after their out of state service is complete.
	W.S.A. §29.194	No	Same as resident	Applies to all active-duty personnel stationed in state.
Wisconsin	W.S.A. §29.569	N/A	N/A	Active-duty personnel stationed in WI and residents on furlough are not subject to a 3-day waiting period upon issuance of a resident archer hunting license.
	W.S.A. §29.593	No	N/A	Anyone who has completed armed services basic training need not attend a hunter education course.
Wyoming	W.S.1977 §23-1-107(f)	No, 90-day waiting period	Same as resident	Applies to active-duty personnel stationed in state.
	W.S.1977 §23-1-107(f)(i-iii)	No	Same as resident	Active duty residents stationed out of state maintain their residency status as long as their homes of record and voter registrations remain in WY and they have not claimed residency in another state.
	W.S.1977 §23-1-705 and §23-2-201	Yes	None	An active-duty resident on furlough from a combat zone is entitled to elk, deer, bird, small game, or daily fishing licenses free of charge for any area not subject to competitive public issuance.

Notes: The laws listed are those that we located in states' fish and wildlife statutes using the search terms "military," "armed services," "armed forces," and "national guard." Our research did not generally include states' administrative regulations or policies. Although we believe our research to be thorough, there may be additional laws regarding hunting and fishing licensing residency provisions for active-duty military personnel that were not located by our efforts due to variations in wording and construction. Although our focus was primarily on residency requirements, we included other provisions for military personnel related to hunting and fishing licenses wherever we located them.

"Active-duty" refers to military personnel currently serving under federal control.

Unless otherwise noted, military personnel are required to conform with seasons, bag limits, and other regulations regardless of whether licenses or permits are required for hunting and/or fishing.

Sources: LexisNexis and Westlaw databases of state statutes.

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February 7, 2008

Honorable Charlie Huggins
Alaska Senate
State Capitol
Room 119
Juneau, AK 99801

FEB 12 2008

Re: SB 214

Dear Senator Huggins:

On behalf of the Alaska Professional Hunters Association (APHA), we have reviewed SB 214 relating to special nonresident military hunting and sport fishing licenses for members of the military who do not qualify as residents under AS 16.05.415. We conclude that this bill represents a threat to the guide requirement in State law for non-resident hunting of bears and other big game species. This conclusion arises from analysis of the bill and review of applicable case law. However, an amendment to the bill which determined that military personnel (but not their dependents) who have been in the State for some extended period (e.g., one year or longer) might be treated as quasi-residents would redress some of these concerns. In addition, specific findings that military training provides sufficient assurance that these "quasi-residents" do not necessarily require the services of a licensed guide for safety and other purposes could be helpful. Such express findings would in effect recognize qualified military personnel as a special class deserving special treatment. Basing the proposed exception on such special considerations would make it less likely that it could be used to attack the guide requirements for other non-residents.

Alaska's guide requirement is predicated on considerations of hunter welfare and safety, resource management, and enforcement of hunting regulations. AS 16.05.407-408. Federal and state courts have upheld as legitimate and rational similar restrictions concerning nonresident hunters. *See O'Brien v. State*, 711 P.2d 1144, 1151 (Wyo. 1986) (upholding guide requirement for hunting big or trophy game as rational means of ensuring "proper game management, protection of hunter welfare and safety, or better enforcement of the game [and] fish laws"); *Clajon Production Corp. v. Petera*, 854 F.Supp 843 (D. Wyo. 1994) (upholding a resident license preference regulation that reserved a certain percentage of big game hunting licenses for state residents); *DeMasters v. State*, 656 F.Supp. 21 (D. Mont. 1986) (upholding Montana statute limiting the number

Honorable Charlie Huggins

February 7, 2008

Page 2

of yearly nonresident elk hunting licenses as an effective management tool for the purpose of wildlife conservation). The State has consistently maintained that the guide requirement is not motivated by economic protectionism.

Any action that says, in essence, that these considerations of public safety and resource management are not legitimate and compelling (and are waived) with respect to one group of nonresidents (military members and dependents of military members on active duty and permanently stationed in Alaska) but are compelling with regard to all other nonresidents, weakens the rational basis of the requirement. As a result, differential treatment of all non-resident military on active duty and stationed in the State (regardless of how long they have been in the State) and their dependents is likely to expose Alaska's guide requirement to federal constitutional equal protection challenge. While the right of nonresidents to hunt on equal footing with residents is not itself protected by the Privileges and Immunities Clause of the Constitution, *see Baldwin v. Fish and Game Commissioner of Montana*, 436 U.S. 371, 388 (1978), a court may look into the reason behind the distinction. Courts are generally likely to find distinctions related to public safety or resource management to be reasonable but distinctions based on economic protectionism are suspect.

SB 214 would establish such differential treatment. The measure would amend AS 16.05.407 to eliminate the guide requirement for both non-resident military members and their dependents hunting brown bear, grizzly bear, mountain goat, or sheep if those military members are on active duty and permanently stationed in Alaska.

This raises a significant issue. Exempting a specific group of persons from the nonresident guide requirement based on nothing more than their status as members of the military and dependents of military members raises questions about the basis for retaining guide requirements for other nonresidents. If the State intends to argue that the objectives of public safety and resource management related to big game hunting are the purposes of the guide requirement for nonresidents, exempting certain nonresidents for no reason other than their military status, with no particular showing that the exemption furthers resource management and safety, indicates that commercial or economic purposes are the remaining rationales for guide requirements for other nonresidents. Once guide requirements are rendered fundamentally commercial, these requirements become subject to attack under a commerce clause analysis. *See Conservation Force*, 301 F.3d 985 (9th Cir. 2002). The Ninth Circuit has struck down nonresident guide requirements under the Commerce Clause. *See Id.*; *see also O'Brien* at 1152.

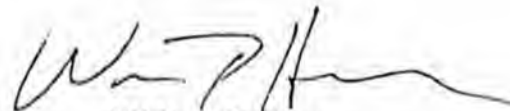
In 2005, Congress passed the Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act ("Reaffirmation Act"), which disclaimed Federal interest in regulating taking of fish and wildlife within individual states, leaving it to the

Honorable Charlie Huggins
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Page 3

states to regulate hunting. As a result, some Courts since have dismissed challenges to measures that are claimed to impose differential burdens on residents and nonresidents with regard to hunting. *See, e.g., Minnesota ex rel. Hatch v. Hoeven*, 456 F.3d 826, 831-32 (8th Cir. 2006) (holding as moot a Commerce Clause challenge to North Dakota regulations imposing a more restrictive hunting regime on nonresidents and finding that, since the Reaffirmation Act, it was no longer the case the Congress had not spoken, which was a requirement for the Commerce Clause to apply). Even with such beneficial precedent on the books, it is far from certain that a Court would find a Commerce Clause challenge to the guide requirement moot or meritless, as the case law interpreting the Reaffirmation Act is not yet highly developed. Furthermore, a Court viewing the guide requirement as an economic measure rather than a resource management and public safety measure would be more likely to strike it down on other grounds than the Commerce Clauses since, as noted above, a Court is generally less likely to find the guide requirement to be justified if it is motivated by economic protectionism rather than public safety or resource management.

We recognize and agree with the desire to avoid imposing undue burdens on our military members, and to acknowledge and honor them for their service. However, to preserve the constitutionality of Alaska's guide requirement for non-resident hunters, we would strongly counsel against authorizing any exception to the guide requirement for both nonresident military and their dependents. If exceptions are warranted, they must be clearly predicated on the unique status of military personnel, their training, and other factors.

Sincerely,



William P. Horn
Counsel to Alaska Professional
Hunters Association

cc: Bobby Fithian
Joe Klutsch

Jody Simpson

From: Jody Simpson
Sent: Tuesday, February 26, 2008 11:36 AM
To: Jody Simpson
Subject: FW: New Legislation - Non-resident Active Military hunting and fishing licenses

-----Original Message-----

From: Wright, Kristin A (DFG)
Sent: Monday, January 07, 2008 8:33 AM
To: Barry, Timothy M (DFG)
Cc: Larsen, Douglas N (DFG); Clarke, Ronald G (DFG); Nelson, Lance B (LAW)
Subject: New Legislation - Non-resident Active Military hunting and fishing licenses

We always ask that any new licensing legislation start with the new calendar year. Licenses and forms are already printed and at the vendors. Trying to educate vendors about a new license is very hard when the stock they have shows they are to charge a certain fee. We are working with Fred Meyer and WalMart employees and to bring them up to speed mid-season doesn't work. Even though we can send new forms for the new license, it means someone in a store has to throw out the old stock. Very difficult. We have over 1600 vendors to deal with. Hope this helps explain the process better.

Kristin Wright
Finance/Licensing Supervisor
Division of Administrative Services
Department of Fish and Game
907-465-6091

-----Original Message-----

From: Jody Simpson [mailto:Jody_Simpson@legis.state.ak.us]
Sent: Thursday, January 03, 2008 10:10 AM
To: Barry, Timothy M (DFG)
Subject: New Legislation - Non-resident Active Military hunting and fishing licenses

Tim,

Senator Huggins has pre-filed a bill that will allow non-resident military personnel to obtain hunting and fishing licenses at a resident rate. Leg Legal included a January 1, 2009, effective date.

Is there a reason why the effective date would need to be delayed a year? Or could the legislation take effect sooner, e.g., July 2008, or even immediately upon adoption? How much lead time would the Department need to implement the legislation, change the text on the applications and in the reg books, etc. ? Are there other departmental issues that would need to be considered when determining an effective date?

Thanks, Tim.

Jody

Jody Simpson

From: Burnett, Jerry D (DOR) [jerry.burnett@alaska.gov]
Sent: Tuesday, December 04, 2007 1:41 PM
To: Sen. Charlie Huggins
Subject: RE: Proposed Legislation regarding Residency Requirements for Hunting/Fishing licenses
Follow Up Flag: Follow up
Flag Status: Yellow

Jody,

The residency requirements for permanent fund dividends are very specific and contained in AS 43.23... They would not be affected by a change to the residency requirements for fish and game licenses found in AS 16.05.415. Potential jurors are selected randomly by a computer from the list of all adults who apply for the Alaska Permanent Fund Dividend. Since the change to fish and game license requirements would not affect the eligibility for PFD's it also would not have any effect on jury pools.

Since the proposed change would not affect any of our programs, the Department of Revenue would have no objection to the legislation.

Thank you very much for asking.

Jerry

From: Sen. Charlie Huggins [mailto:Senator_Charlie_Huggins@legis.state.ak.us]
Sent: Monday, December 03, 2007 11:14 AM
To: Burnett, Jerry D (DOR)
Subject: Proposed Legislation regarding Residency Requirements for Hunting/Fishing licenses

Good morning, Jerry.

Debbie Grundmann suggested I contact you. Senator Huggins is considering sponsoring legislation that would, if passed, allow military personnel to receive a resident hunting and fishing license immediately upon being stationed here in Alaska instead of having to wait out the 12-month residency requirement.

Would you have any concerns about such legislation relative to other residency requirements in statute? For example, could a change in the license for military personnel affect the permanent fund dividend residency requirements? Are the residency requirements for Fish and Game licenses tied to any other residency requirements, e.g., jury duty?

Would your department support such proposed legislation?

Thank you,

Jody Simpson

Staff to Senator Charlie Huggins
600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-4866 / (907) 373-4724 Fax
Jody_Simpson@legis.state.ak.us

2/18/2008

From: Jody Simpson
Sent: Thursday, March 13, 2008 2:28 PM
To: 'Barry, Timothy M (DFG)'; Wright, Kristin A (DFG)
Subject: RE: SB 214

Thank you.

Also, after our conversation, I confirmed with Kevin that Section 3 of the original SB 214 should also be removed.

I have order a blank CS with just Sections 1 and 4.

Thank you very much for your help!

jody

From: Saxby, Kevin M (LAW)
Sent: Thursday, March 13, 2008 12:42 PM
To: Senator Charlie; Barry, Timothy M (DFG); Larsen, Douglas N (DFG)
Subject: SB 214

This is to confirm advice that I have given about the potential impact of SB 214. If the original bill language, **MINUS** section 2, is adopted, then the concerns I have raised about defending Alaska's guide requirement go away. Also, under that original language, there would no longer be any ability for recent (less than 12 months) military arrivals to engage in personal use or subsistence opportunities, as they would still be defined as nonresidents. The advantage in defining them as residents as in the current proposed CS, related to the bill's original intent to exempt this class of people from the guide requirement. If that is no longer a goal, then the original language, minus section 2, seems to me to present fewer problems.

Jody Simpson

From: Vikki and Doug Gross [dvgalaska@gci.net]
Sent: Sunday, January 27, 2008 12:51 PM
To: Sen. Charlie Huggins
Subject: SB 214
Follow Up Flag: Follow up
Flag Status: Yellow

Senator-

While I support the members of our military, I feel that to grant them special priveleges for hunting Alaska big game as residents is going too far. They are volunteers ir the military; they are not there because they were forced to be.

This bill would give them an unfair advantage over other non-resident hunters, and add additional pressure to already limited resources. The military supplies them with housing, and other perks civilians don't get, and this amounts to another giveaway of state resources to a special interest group.

Sincerely,
Vikki Gross

1/28/2008

Jody Simpson

From: Sen. Charlie Huggins
Sent: Friday, January 25, 2008 5:13 PM
To: Jody Simpson
Subject: FW: New Pom:SB 214 Hunting By Members Of The Military

Karen Sawyer, Staff
Office of Senator Charlie Huggins

907-465-3878 Main
907-465-3265 Fax
State Capitol, Room 119
Juneau AK 99801

-----Original Message-----

From: Shay Wilson
Sent: Friday, January 25, 2008 10:08 AM
To: Sen. Charlie Huggins
Subject: New Pom:SB 214 Hunting By Members Of The Military

Arthur Wettanen
Po Box 509

Talkeetna 99676,

733-2801

There should be a 30 day minimum waiting period to qualify for resident hunting rates by military.

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Governor Palin [\(find\)](#)

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State of Alaska > Governor > News > News Archive

Gov. Highlights Big Game Hunting to Troops

07-188 Governor Palin Highlights Hunting Opportunities to Returning Alaska Troops

September 6, 2007, Juneau, Alaska - Governor Sarah Palin today informed Alaska National Guardsmen and women serving in combat that big game hunting opportunities will be available when they return from combat zones this fall.

"I heard from many Alaskans serving overseas during my trip to Kuwait in July," said Governor Palin. "One of the most frequent questions was about the status of hunting seasons upon their return. While I can't grant our troops the chance to hunt in closed areas or in places with species restrictions, I do want to recognize them and help them hunt this late fall or winter when they get home."

Regulations adopted by the Board of Game affect hunters with Tier II subsistence permits and Alaska's drawing hunt permits. In a letter to the commanders of the Alaska Army and Air National Guard, the Governor also explained that service members unable to participate in hunts themselves may transfer Tier II subsistence permits to substitute Alaska hunters. The Alaska Department of Fish and Game will also re-issue permits for service members who were successful in obtaining lottery permit hunts but were unable to use them.

Service members are encouraged to contact their local ADF&G office to learn more about the hunting opportunities that may be available to them. Information may also be found at the ADF&G Division of Wildlife Conservation web site:

<http://www.wildlife.alaska.gov/index.cfm?adfg=hunting.main###>

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Photo archive: Governor Sarah Palin and Lt. Governor Sean Parnell welcome the President of Iceland, H.E. Olafur Ragnar Grímsson, to the Arctic Energy Summit at the Egan Center in Anchorage on Monday. The Summit, presented by the Institute of the North, kicked off a four-day visit to Alaska by the Icelandic head of state and leader in his nation's geothermal and hydroelectric energy industries. [Enlarge >](#)

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Sec. 16.05.415. 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.

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

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

(2) performs an act, or is absent under circumstances, that are inconsistent with the intent required under (a) of this section.

(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.

(h) In AS 16.05.330 - 16.05.430, a nonresident

(1) person is a person who does not qualify as a resident under (a) - (f) of this section; and

(2) alien is an alien person who does not qualify as a resident under (e) of this section.

(i) In this section, "license" means a license, tag, permit, stamp, identification card, or other indicia of permission to engage in an activity subject to AS 16.05.330 - 16.05.430.

*Adopted
3/21/08*

25-LS1261K
Kane
3/21/08

CS FOR SENATE BILL NO. 214()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR HUGGINS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to hunting licenses and tags for nonresident members of the military
2 service or the United States Coast Guard and their dependents; and providing for an
3 effective date."

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

5 * Section 1. AS 16.05.340(d) is amended to read:

6 (d) Members of the military service or the United States Coast Guard on
7 active duty who are permanently stationed in the state, and their dependents, who do
8 not qualify as residents under AS 16.05.415, may obtain special nonresident military
9 hunting [SMALL GAME] and sport fishing licenses at the rates for resident hunting
10 and sport fishing licenses. A person who obtains a special nonresident military
11 hunting license under this subsection [, BUT] may not take a big game animal for
12 which a tag is required under (a)(16) of this section without previously purchasing
13 a [REGULAR NONRESIDENT HUNTING LICENSE AND A] numbered,
14 nontransferable appropriate tag, issued at the resident [ONE-HALF OF THE

1 NONRESIDENT] rate, under (a)(16) [(a)(15)] of this section.

2 * Sec. 2. This Act takes effect January 1, 2009.