

HB

375

<TARGET><BILL>HB 375</BILL><SUBJECT>HB
375</SUBJECT><COMM>HJUD28</COMM></TARGET>

ALASKA STATE LEGISLATURE HOUSE FINANCE COMMITTEE

Representative Alan Austerman
Co-Chairman
(907) 465-2487

Rep.Alan.Austerman@akleg.gov

State Capitol, Rm 505
Juneau, AK 99801



Representative Bill Stoltze
Co-Chairman
(907) 465-4958


Rep.Bill.Stoltze@akleg.gov

State Capitol, Rm 515
Juneau, AK 99801

State Capitol, Juneau, Alaska 99801-1182

Memorandum

TO: Representative Wes Keller, Chairman
House Judiciary Committee

FROM: Bill Stoltze, House Finance Co-Chair 

DATE: March 13, 2014

RE: Hearing request for House Bill 375 – *"An act relating to the crime of trespass."*
Pending Referral

I request that House Bill 375 be calendared for a hearing before the House Judiciary Committee at the earliest possible time. I appreciate your consideration of this resolution dealing with Alaska's trespass laws.

Attached to this memorandum, you will find:

- HB 375 version 28-LS1599\A
- HB 375 hearing request
- HB 375 sponsor statement
- HB 375 relevant statutes
- HB 375 related news articles

Contact my staff member Darrell Breese (465-4958) for additional information.

28-LS1599A
Strasbaugh
3/12/14

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the crime of trespass."**

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

3 *** Section 1. AS 11.46.350(b) and 11.46.350(c) are repealed.**

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Juneau, AK 99801

State Capitol, Juneau, Alaska 99801-1182

Sponsor Statement

HB 375 – Criminal Trespass on Private Property

As a landowner, you have the right to regulate activities on your property. However, in Alaska, current state law gives a person the privilege to enter and remain on unimproved or apparently unused land that isn't posted with "no trespassing" signs. Furthermore, a sign must be placed at each roadway or access point onto the property.

Many Alaskans own private property in remote locations with inclement weather. No trespassing signs can be blown down, removed by vandals, or covered by snow. The lack of visible signage should not absolve trespassers of guilt.

House Bill 375 would repeal Alaska Statute 11.46.350(b) and (c), thereby removing the requirement that private property be posted in order for criminal trespass laws to be enforced. It should be the responsibility of the individual to know who owns the property that they want to access.

Today's technology allows many options for individuals to identify public and private property boundaries such as topo maps that can be downloaded on a smart phone or GPS. In addition, the public can access maps showing property boundaries from the state Department of Natural Resources, the U.S. Geological Survey, as well as municipal plats available at city hall.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HB 375
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB375-DOC-OC-03-29-14
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY
Sponsor: FINANCE
Requester: House Judiciary

Department: Department of Corrections
Appropriation: Administration and Support
Allocation: Office of the Commissioner
OMB Component Number: 694

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation	Governor's					
OPERATING EXPENDITURES	Requested	FY2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

This is the original version of the bill.

Prepared By:	<u>April Wilkerson, Director</u>	Phone:	<u>(907)465-3460</u>
Division:	<u>Administrative Services - Department of Corrections</u>	Date:	<u>03/29/2014 08:20 AM</u>
Approved By:	<u>Leslie Houston, Deputy Commissioner</u>	Date:	<u>03/29/14</u>
Agency:	<u>Department of Corrections</u>		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HB 375

Analysis

This bill repeals the sections of law which allow a person to enter and remain on apparently unused and unimproved land unless they have notice that they are trespassing. This removes the property owner's responsibility to provide notice of trespass in a reasonably conspicuous manner.

Criminal trespass in the second degree is a class B misdemeanor and is punishable by a term of imprisonment of not more than 90 days. The Department could see a fiscal impact of \$0 (no days served) to \$14,280.30 (90 days served) for each class B misdemeanor conviction under this legislation.

At this time the department does not have information to quantify the number of potential offenders this legislation would create and will continue to monitor for future impacts. The Department of Corrections anticipates minimal to no fiscal impact at this time.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HB 375
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB375-DOA-OPA-03-31-2014
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY
Sponsor: FINANCE
Requester: House Judiciary

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Office of Public Advocacy
OMB Component Number: 43

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? N/A
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Technical edit to analysis.

Prepared By: <u>Richard Allen, Director</u>	Phone: <u>(907)269-3504</u>
Division: <u>Office of Public Advocacy</u>	Date: <u>03/28/2014 12:46 PM</u>
Approved By: <u>Curtis Thayer, Commissioner</u>	Date: <u>03/31/2014</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HB 375

Analysis

This legislation repeals AS 11.46.350(b) and (c). Those provisions prescribe a limited privilege for trespassing upon private property under certain circumstances and also prescribe methods of notice and posting by landowners which negate that limited privilege.

By repealing those provisions, HB 375 would strengthen the criminal trespass law at AS 11.46.300-.330 and eliminate potential or possible defenses to a charge of criminal trespass based upon (b) and (c). The bill would impact the general public, landowners, prosecutors and defendants charged with criminal trespass.

This bill would not likely have any material impact upon OPA operations, administration or budget and therefore, OPA submits a zero fiscal note.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HB 375
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB375-LAW-CRIM-03-27-14
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY
Sponsor: FINANCE
Requester: (H) JUDICIARY

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version, not applicable.

Prepared By:	<u>Loretta Withington, Division Operations Manager</u>	Phone:	<u>(907)465-5427</u>
Division:	<u>Department of Law</u>	Date:	<u>03/27/2014 05:00 PM</u>
Approved By:	<u>Michael C. Geraghty, Attorney General</u>	Date:	<u>03/28/14</u>
Agency:	<u>Department of Law</u>		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HB 375

Analysis

This bill repeals two portions of the definition of "enters or remains unlawful," an element to the crimes of criminal trespass. AS 11.46.350(b) provides that a person who enters upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so lawfully unless notice against trespass is personally communicated to him by the owner of such land or other authorized person, or unless such notice is given by posting in a conspicuous manner.

"This provision is designed to expressly exclude from the scope of the offense of criminal trespass, a person who enters upon unimproved and apparently unused land when there is no indication of apparent prohibition against such intrusion. The innocence of a typical trespass where an individual hiker walks without consent upon the unfenced, unposted land of another, and its frequency in a state dominated by wilderness and public land interspersed with private land, prompts the conclusion that such a minimal intrusion upon the land of another should not be a criminal offense unless reasonable notice is given the trespasser not to enter or remain on such property."

Tentative Draft III page 3, Criminal Code Revision Committee page 54, Representative Terry Gardner, Chair.

This deletion will increase the number of entries onto premises which will be illegal. AS 11.46.350(c) repeals language which set standards of signage for notification against trespass. The number of entries onto land which will become illegal with these sections being repealed is indeterminate and hence the increased cost for prosecuting this new illegal conduct is unknown.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HB 375
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB375-DPS-AWT-03-28-14
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY
Sponsor: FINANCE
Requester: House Judiciary

Department: Department of Public Safety
Appropriation: Alaska State Troopers
Allocation: Alaska Wildlife Troopers
OMB Component Number: 2746

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Captain Burke Waldron	Phone:	(907)761-7139
Division:	Alaska Wildlife Troopers	Date:	03/28/2014 03:00 PM
Approved By:	Gary Folger, Commissioner	Date:	03/28/14
Agency:	Department of Public Safety		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HB 375

Analysis

This bill proposes to repeal subsections (b) and (c) from AS 11.46.350 relating to the definition of terms used in burglary and criminal trespass laws; essentially removing the exception (privilege) that allows a person to remain on private property that is unimproved and apparently unused land unless notice is given. This specifically relates to criminal trespass in the second degree under AS 11.46.330.

Should this bill pass, it is anticipated that the Alaska Wildlife Troopers may spend more time responding to and investigating reported trespass cases on unimproved and apparently unused land, though this is part of the normal job duties of a trooper and would therefore not result in a fiscal impact. Consequently, a zero fiscal note is being submitted.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HB 375
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB375-DPS-DET-03-28-14
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY
Sponsor: FINANCE
Requester: House Judiciary

Department: Department of Public Safety
Appropriation: Alaska State Troopers
Allocation: Alaska State Trooper Detachments
OMB Component Number: 2325

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: <u>Captain Randal Hahn</u>	Phone: <u>(907)269-5648</u>
Division: <u>Alaska State Troopers</u>	Date: <u>03/28/2014 02:00 PM</u>
Approved By: <u>Gary Folger, Commissioner</u>	Date: <u>03/28/14</u>
Agency: <u>Department of Public Safety</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. HB 375

Analysis

This bill proposes to repeal subsections (b) and (c) from AS 11.46.350 relating to the definition of terms used in burglary and criminal trespass laws; essentially removing the exception (privilege) that allows a person to remain on private property that is unimproved and apparently unused land unless notice is given. This specifically relates to criminal trespass in the second degree under AS 11.46.330.

Should this bill pass, it is anticipated that the Alaska State Troopers may spend more time responding to and investigating reported trespass cases on unimproved and apparently unused land, though this is part of the normal job duties of a trooper and would therefore not result in a fiscal impact. Consequently, a zero fiscal note is being submitted.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: HB 375
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB375-DOA-PDA-03-28-14
Title: CRIMINAL TRESPASS ON PRIVATE PROPERTY
Sponsor: FINANCE
Requester: House Judiciary

Department: Department of Administration
Appropriation: Legal and Advocacy Services
Allocation: Public Defender Agency
OMB Component Number: 1631

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2015 Request	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES	FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version

Prepared By: <u>Quinlan Steiner, Public Defender</u>	Phone: <u>(907)334-4414</u>
Division: <u>Public Defender Agency</u>	Date: <u>03/28/2014 03:00 PM</u>
Approved By: <u>Curtis Thayer, Commissioner</u>	Date: <u>03/28/14</u>
Agency: <u>Department of Administration</u>	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. HB 375

Analysis

HB375 repeals the privilege given to parties who trespass on unimproved and unused land with no criminal intention and without notice against trespass.

Repealing this privilege may result in increased charges for trespass. The Public Defender Agency cannot reliably predict the number of new cases this may generate. The agency therefore submits an indeterminate fiscal note.

Alaska Statutes

Title 11 – Criminal Law

Chapter 46 – Offenses Against Property

Sec. 11.46.350. Definition.

(a) As used in AS 11.46.300 - 11.46.350, unless the context requires otherwise, "enter or remain unlawfully" means to

(1) enter or remain in or upon premises or in a propelled vehicle when the premises or propelled vehicle, at the time of the entry or remaining, is not open to the public and when the defendant is not otherwise privileged to do so;

(2) fail to leave premises or a propelled vehicle that is open to the public after being lawfully directed to do so personally by the person in charge; or

(3) enter or remain upon premises or in a propelled vehicle in violation of a provision in an order issued or filed under AS 18.66.100 - 18.66.180 or issued under former AS 25.35.010(b) or 25.35.020.

(b) For purposes of this section, a person who, without intent to commit a crime on the land, enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, is privileged to do so unless

(1) notice against trespass is personally communicated to that person by the owner of the land or some other authorized person; or

(2) notice against trespass is given by posting in a reasonably conspicuous manner under the circumstances.

(c) A notice against trespass is given if the notice

(1) is printed legibly in English;

(2) is at least 144 square inches in size;

(3) contains the name and address of the person under whose authority the property is posted and the name and address of the person who is authorized to grant permission to enter the property;

(4) is placed at each roadway and at each way of access onto the property that is known to the landowner;

(5) in the case of an island, is placed along the perimeter at each cardinal point of the island; and

(6) states any specific prohibition that the posting is directed against, such as "no trespassing," "no hunting," "no fishing," "no digging," or similar prohibitions.

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Lazy Mountain turkey killing raises trespass questions

By ZAZ HOLLANDER

zhollander@adn.com December 14, 2013

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Photo by Sherri Jackson Lazy Mountain resident John Vinduska poses with his nearly tame turkey, Buddy, before a teenage bowhunter killed the bird near Vinduska's driveway. Vinduska, told that the hunter did nothing illegal because he hadn't posted No Trespassing signs, wants trespassing laws changed.

- **Related Stories:**
- Wildlife trooper with traps on private land sued for trespass
- State: Snares legal despite lack of landowner permission

WASILLA -- Buddy the tame turkey loved to eat peanuts and get petted.

So it didn't surprise owner John Vinduska that a trio of teenage bowhunters were able to get within four feet of the bird in August before shooting Buddy in the side with an arrow and finishing him off by stabbing him in the head -- all just a couple feet from Vinduska's driveway on Lazy Mountain.

What did surprise Vinduska is that an Alaska State Trooper who responded to his 911 call that day told him that even though a neighbor spotted the teens on his property earlier, they didn't do anything illegal.

Turkeys are not considered a game animal in Alaska -- they don't occur in the wild here -- and there's no hunting season on them.

And while Vinduska had a "No Trespassing" sign down the road, he hadn't posted one in his driveway.

"He said, 'You don't have your land posted,'" Vinduska recalled this week. "The way the law reads, you have to post all accesses to your property if you don't want someone on your land hunting."

Vinduska said several of his turkeys had already gone missing from his 120-acre property over the summer. He'd found a bloody arrow next to his house.

The day Buddy got shot, a neighbor told Vinduska he'd spotted the teenagers headed toward Vinduska's pole barn, carrying bows. The neighbor yelled at the three to move off, Vinduska said. They said they'd spotted a moose on the property, then got in their car and drove away.

Vinduska said he confronted the trio when he saw the car come back down the road. Buddy was in the trunk.

They admitted to killing the turkey, he said. He told them he was calling the troopers.

The trooper who responded to Vinduska's call wasn't on duty Friday and couldn't be contacted, troopers spokeswoman Megan Peters said. She didn't have additional information about the case.

State law is complicated when it comes to trespass. Criminal statutes define trespass as entering property uninvited but only if every road and access point is posted with signs banning access or a specific activity, as well as contact information for landowners and others authorized to grant entry.

Civil law -- the kind that comes into play when someone files a lawsuit -- defines trespass more broadly. But a property owner has to have the money to file a lawsuit.

The Alaska Department of Fish and Game urges hunters and trappers to get permission before entering private land.

"Use of private lands without the landowner's permission, other than those legally reserved for public access easements, is trespassing," according to Fish and Game's 2013-2014 hunting regulations.

But that language is not quoted verbatim from state law, an ADFG spokesman said in an email. Rather, the state is providing a "general common sense definition of 'trespassing' to help hunters make "ethical, considerate decisions about where they choose to hunt," spokesman Ken Marsh said.

Vinduska joins a growing list of property owners in the Valley who say it's time for the state to change its trespass laws to make landowners shoulder less of the burden.

Mat-Su Borough Assembly member Matthew Beck, who represents Palmer, is also interested in the topic.

"Do you think it should be illegal or legal to hunt and trap on private property without permission when it's not posted? Currently it is legal," Beck wrote on his Assembly campaign Facebook page earlier this week, after hearing about Vinduska's experience.

The question drew 98 comments by Friday afternoon, many siding with "illegal" but some urging people to post their property instead of opening the door to more laws and land-access issues.

Vinduska knows where he stands.

"Alaska law needs to be changed. It shouldn't be the landowner's responsibility to post the land," he said. "It should be the hunter and the trapper that finds out before they go trapping or hunting. In Alaska, there's so many places to hunt where you're not going to be on private property."

He still misses Buddy, one of four turkeys he incubated at home four years ago after receiving a shipment of eggs from his home state of Nebraska. The turkey used to rub up against Vinduska like a cat or a dog. He'd also get bored and chase cars.

"He would run out and bite at their tires," Vinduska said. "You'd see these people go, 'What the heck?' A turkey is biting at their tires. He'd be so proud when they drove off like he ran them off."

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State: Snares legal despite lack of landowner permission

By ZAZ HOLLANDER

zhollander@adn.com November 29, 2013

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Land leaseholders Mark Loomis and Nicolene Jordan posted a no trespassing sign at an access point near Colony High School after they discovered snares on the land. Authorities say setting traps or snares on private land isn't illegal unless access points are posted with signs. November 2013.

PHOTO BY MARK LOOMIS

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- [Link](#)The Alaska Statute pertaining to criminal trespass
- [Link](#)The ADFG Alaska Trapping Regulations

WASILLA -- Nearly 40 snares baited with moose heads turned up earlier this month on land Nicolene Jordan leases for a gravel pit near Colony High School.

Jordan and her husband, Mark Loomis, say they didn't give anyone permission to trap on the land outside Palmer.

Nor did property owner Ralph Kircher, who now lives in Washington state but spent most of his 77 years on the 160-acre family homestead.

The name on a permit posted at the snares was John Cyr -- a longtime Alaska State Trooper who works wildlife cases out of Palmer.

Jordan filed a complaint Nov. 16 with the Department of Public Safety's Office of Professional Standards. That same weekend, the couple got a visit from troopers Sgt. Mark Agnew, following up on the complaint.

The verdict: Cyr and his trapping partner did nothing illegal, troopers said this week. That's because their access point wasn't posted with signs warning against trespass.

"If the land's not posted, it may be trespassing in your mind but it's not criminal trespassing by Alaska statute," said Alaska Wildlife Trooper Capt. Burke Waldron, who supervises Agnew and Cyr.

Cyr did not return calls for comment.

But his trapping partner, Rick Ellis, did.

Ellis, former president of the Alaska Frontier Trappers Association, said he and Cyr trapped that same area -- an old potato field next to Colony High School -- last year because there was no sign posted at the access area off the road.

A 60-year-old disabled veteran, Ellis said he looks for trapping sites he can access easily.

This year, Ellis said, he'd set the snares for fox and coyote but the pair hadn't started trapping yet.

The only illegal thing that happened in mid-November, Ellis said Wednesday, was that Loomis pulled his snares, which he still doesn't have back.

"My rights as a trapper were violated when the husband removed my equipment," he said. "If anybody broke the laws, they did. Not me."

He said he hadn't decided yet whether to press charges.

LANDOWNERS: BE WARNED

Property owners may not realize it, but Alaska statutes on criminal trespass put a significant burden on them to provide notice, Waldron said.

"The trespassing law is very specific on what constitutes 'posting,' " he said.

As defined by state law, signs warning against trespass must measure at least a square foot, be posted at each road and known access point, and include the property owner's name and address plus anyone else's who can OK access.

No sign marked the place where the trapper walked onto the Kircher land, everybody involved agrees.

But there were signs on another part of the property near the new Trunk Road traffic roundabout, Jordan said.

"If you have 'No Trespassing' signs on the front of the property and he comes in the back, how can it be legal?" she asked.

Jordan, who owns Central Gravel Products, called the state's interpretation a "loophole" and said Cyr should have known the land was private.

The logs piled at the edge of the field showed somebody didn't want people entering there, she said. Cyr also lives nearby and knows about the gravel pit because she's sold gravel to him.

"He knows full well what's going on on that property," Jordan said. "Those snares were set all the way to the face of the bank where we dig gravel."

Ellis, Cyr's partner, said the lack of signs at the access made all the difference.

"Lacking the presence of any signs, anybody can go anywhere they want," he said. "They can trap, they can hunt, they can do whatever."

He also said that the pair stopped once it became clear the property owner and leaseholders didn't like the snares.

"No harm, no foul," he said. "Nobody broke any laws."

A sign now marks the access point at the potato field near the high school.

ETHICAL VIOLATION?

Authorities say Cyr didn't violate criminal trespass or state game laws. The permit posted at the snares says the moose heads were legally obtained from the Alaska Department of Fish and Game.

But he apparently disregarded state guidelines for ethical trapping practices. The guidelines -- recommendations rather than enforceable laws -- urge trappers to get landowner permission before trapping on private land.

Property owner Kircher said Cyr never asked his permission before setting snares.

"I was never contacted and I would never allow that," he said. "My dad used to trap in the '30s so I understand the Alaska tradition, but for a guy that works for the (troopers) that doesn't seem right."

Kircher said a trapper could easily find who owns his land through the Mat-Su Borough and then contact him.

The Alaska Department of Fish and Game's Alaska Trapping Regulation booklet tells trappers it's their "responsibility as a conscientious trapper" to check with a private landowner first. The booklet's back page also includes the "Code of Ethics" from the Alaska Trappers Association.

Number four: Get landowner permission before trapping on private land.

"The trooper should have that (booklet) because that's the regulations he's supposed to be enforcing," said Keith Bayha, a Glacier View trapper who sits on the association's state and Southcentral boards of directors. "He should know that. He probably also knows it's not criminal trespass if it's not posted."

'NOT THAT UNUSUAL'

Trapping in Alaska remains a popular industry and hobby. Fish and Game sold more than 35,900 resident trapping licenses for the 2011-2012 season and 97 non-resident licenses, though not all licensees ended up trapping, an agency spokesman said. It's said there are about a thousand serious trappers in Alaska.

A Fish and Game spokesman said all the agency can do is encourage trappers to set snares and traps responsibly.

"It's their responsibility to check with landowners before they trap," Fish and Game spokesman Ken Marsh said. "But beyond that, those aren't our laws. We do hunting and fishing laws. As far as trespass laws, the state troopers would be enforcing those."

It's not uncommon for wildlife troopers around the state to field complaints about hunters and trappers on private property, Waldron said. The Palmer office alone has received three complaints, including the Cyr matter, since trapping season opened Nov. 10, he said.

Bayha, a retired biologist, said many trappers work hard to maintain positive relations with the public. He sets his traps miles from any road and posts signs to warn trail users.

People who set traps or snares on private land should -- but don't always -- take the time to find out who owns it, Bayha said.

"That can be found out if they work at it hard enough but it takes time and energy," he said. "For most trappers, time is everything."

Ellis, asked about the ethics of trapping without permission on private land, said the code was structured after Lower 48 states, where notification is a legal requirement. Alaska, with huge amounts of unposted property, is different.

"A lot of what would apply in the Lower 48 doesn't apply up here," he said. "If (Jordan) had made it known she didn't want me on there, then certainly I would have honored that. But otherwise it's fair game."

Reach Zaz Hollander at zhollander@adn.com or 257-4317.

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Wildlife trooper with traps on private land sued for trespass

By ZAZ HOLLANDER

zhollander@adn.com December 14, 2013

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Land leaseholders Mark Loomis and Nicolene Jordan posted a no trespassing sign at an access point near Colony High School after they discovered snares on the land. Authorities say setting traps or snares on private land isn't illegal unless access points are posted with signs. November 2013.

PHOTO BY MARK LOOMIS

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WASILLA -- An Alaska wildlife trooper has been named the defendant in a lawsuit that claims he and his trapping partner violated the law when they set snares for fox and coyote on private property without permission.

Central Gravel Products owners Nicolene Jordan and Mark Loomis filed the civil lawsuit against Trooper John Cyr for "multiple trespasses and creation of an ongoing nuisance" on land they lease in a suburban area near Colony High School.

The complaint, which Talkeetna attorney Paul Brattan filed Thursday in Palmer Superior Court, also lists as a defendant Rick Ellis, Cyr's trapping partner and a past president of the Alaska Frontier Trappers Association.

Ellis said Friday he hadn't yet been served and declined to comment. Cyr previously instructed a reporter to contact Ellis for any comments. He is a wildlife trooper based out of Palmer.

The lawsuit centers on an incident last month that's sparked a debate about just how far hunters and trappers can go before bumping up against private property rights.

Jordan and Loomis in mid-November discovered at least 38 snares in an old potato field on 160 acres leased for years from landowner Ralph Kircher. Neither they nor Kircher ever gave the trappers permission to enter the property, both said last month.

They also found several moose heads and what looked like the body of a moose calf used as bait, according to the complaint. Boot prints led in and out of the property about 200 feet from a sign marking the entrance to the gravel company.

Cyr's name was on a state permit for the salvaged moose parts.

Loomis pulled the snares and Jordan filed a formal complaint about the trooper's actions with the Department of Public Safety.

A wildlife trooper sergeant came out and investigated the complaint. He found nothing illegal happened because the place the trappers entered the property wasn't posted with a sign prohibiting trespassing or trapping, troopers said at the time.

Under Alaska's criminal trespass statute, property owners must post every road and known access point on their land with signs 144 square inches in size that are inscribed with the landowner or leaseholder's name and contact information.

There was no sign at the point where the trappers entered, authorities said. But there were other signs on the property.

Even if Jordan and Loomis "attempt to post enough signs to convince every potential passing trapper that they have complied with the strict provisions in the Alaska criminal trespass statute, the frequent gale-force winds in the area will soon blow a goodly portion of these signs away," the complaint says.

Ellis said last month that he and Cyr trapped fox and coyote on the land last year. This year, he set the snares but hadn't started trapping yet.

They never asked for permission, he said, because they didn't have to.

Ellis, in a contention echoed numerous times by the troopers, said the trappers did nothing illegal. That's because the place they entered the property -- a pull-out blocked by several logs -- wasn't posted.

"Lacking the presence of any signs, anybody can go anywhere they want," he said last month. "They can trap, they can hunt, they can do whatever."

Several attorneys said in interviews that Ellis' assertion is just not true.

Trapping or hunting on private property that's not properly posted may not be a crime but it's also not legal and could lead to civil lawsuits like the one filed this week by Loomis and Jordan, they said.

"It is a civil wrong," said attorney Sam Fortier, a longtime Anchorage attorney who represents 30 village corporations. "What (the troopers) said was true but that's not the whole story. There's kind of an omission. I think it's wrong to omit material facts as much as it to misstate them."

Civil trespass in Alaska is defined much more simply than its criminal counterpart, according to the Alaska Court System's standard jury instructions: "A trespass is an intrusion onto land possessed by another without consent or other privilege. Trespass includes not only entry onto land, but also remaining on land, or causing a third person or thing to enter or remain."

In a civil trespass case, a landowner or lease holder has the right to damages as well as attorney fees if they can prove someone intentionally entered the land when it wasn't an emergency even if no "harm" was done to the property, according to Doug Pope, another Anchorage attorney with decades of practice who's also a former Board of Game chairman.

"The trappers in your story would be classic examples of that," Pope wrote in an email, referring to an earlier Daily News story about the original incident involving the snares.

Troopers can only enforce criminal statutes, spokeswoman Megan Peters said Friday. "We have to go by the criminal definition of the law."

The complaint against Cyr and Ellis, however, charges that the men also may have violated criminal law.

The document refers to a state statute that defines criminal trespass as "a person who, without intent to commit a crime on the land, enters or remains upon unimproved and apparently unused land."

But the land in this case was clearly not "unimproved and apparently unused," so it was not necessary to post signs, the complaint charges.

"Snares were set within a dozen feet of excavations and gravel storage piles," it says. "Therefore there could have been no question in any reasonable person's mind about the land being 'apparently unused.' "

Cyr had also bought gravel there in the past, according to the complaint.

Even if the court doesn't find that Cyr and Ellis violated criminal law, they are still liable for civil trespass and creating a nuisance with the snares and carcasses, which could draw animals to the site in close proximity to a school, the complaint says.

Jordan and Loomis are seeking damages to be determined at trial, as well as attorney fees.

Superior Court Judge Eric Smith will hear the case. No hearings have been scheduled yet.

Reach Zaz Hollander at zhollander@adn.com or 257-4317.

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Lawsuit targets trooper, trapping partner over snares

Posted: Friday, December 27, 2013 2:06 pm

PALMER — A couple who operates a gravel business near Colony High School has filed a lawsuit in Superior Court against a pair of trappers — one of them an Alaska State Trooper — who set traps near their pit.

Nicolene Jordan and Mark Loomis have run central Gravel Products for 21 years. The company's pit is on an old homestead that was once a potato farm next to Colony High.

According to the lawsuit filed Dec. 12, Jordan spotted a vehicle parked near the entrance to the pit on Nov. 10 and tracks leading away from them. She told Loomis who investigated the next week.

“Loomis discovered dozens of steel snares had been set around several severed moose heads and what appeared to be the carcass of a moose calf. The total number of snares numbered at least 38,” Talkeetna attorney Paul Bratton wrote in the complaint filed on behalf of Looms and Jordan.

Loomis removed the snares.

Before it ever landed in court, the case had already been playing out in the media. The trappers — whose names were on a permit posted on a tree near by — are Rick Craig Ellis and John Cyr.

Ellis has been an active member of a local trapping group, the Alaska Frontier Trappers Association. Cyr is an Alaska Wildlife Trooper who has appeared on the Alaska State Troopers television program and is a member of the same organization.

Ellis said publicly that he did nothing wrong, that to keep trappers off of a person's property there has to be clear notice posted at every entrance to the property.

He has also publicly speculated about considering an attempt to somehow prosecute Loomis for interfering with trapping activities.

Troopers apparently have taken the stance that Cyr and Ellis did not act criminally, that the remedy Loomis and Jordan seek can't be found in criminal court. That, of course, implies it might be found in civil court, hence the lawsuit.

Bratton argues that although the law states that signs have to be posted at all access points to the property, the law also states that person is not trespassing if he “enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders” so long as those signs aren't present.

Bratton points out that the land in question was not, “unimproved or apparently unused.”

“Snares were set within a dozen feet of excavations and gravel storage piles,” Bratton writes. “There could have been no question in any reasonable person’s mind about the land being ‘apparently unused.’”

He also asserts that even if the “unused and unimproved” part of the statute doesn’t apply the way he says it does, requiring notice posted at every access point is infeasible.

“Even should they attempt to post enough signs to convince every potential passing trapper that they have complied with the strict notice provisions in the Alaska criminal trespass statutes, the frequent gale-force winds in the area will soon blow a goodly portion of these signs away,” Bratton writes.

Bratton writes that the snares were dangerous, that even with them gone the remaining moose parts could attract dogs and bears that could, in turn, be a danger to children who might find their way onto the property.

The lawsuit asks that the trappers be ordered not to trap on the property, for attorneys fees, and for punitive damages. Though the file does not contain a dollar amount, that it was filed in state superior court means the amount sought could potentially be more than \$100,000 each.

State: No laws broken when trooper set traps on someone else's property

The Associated Press | Posted: Sunday, December 1, 2013 10:39 am

WASILLA, Alaska - A longtime Alaska State Trooper didn't break any laws by setting snares for coyote and fox on private property near Wasilla, a review found.

That's because the area that the trooper and his trapping partner used to access the property wasn't posted with no-trespassing signs, the agency said this week.

John Cyr, a trooper who works wildlife cases out of Palmer, and Rick Ellis set the snares on land that belongs to Ralph Kircher, who now lives in Auburn, Wash., the Anchorage Daily News reported (<http://is.gd/0ymn36>).

Kircher says he opposes trapping for sport, and no one sought permission from him or the couple that leases his land for a gravel pit. The couple, Nicolene Jordan and husband Mark Loomis, filed a complaint Nov. 16 with the Department of Public Safety's Office of Professional Standards.

A review by the troopers determined no laws were broken.

"If the land's not posted, it may be trespassing in your mind, but it's not criminal trespassing by Alaska statute," said Alaska Wildlife Trooper Capt. Burke Waldron, who supervises Cyr.

The Fish and Game Department said it's the responsibility of trappers to check with landowners after they acquire trapping licenses from the agency.

"We do hunting and fishing laws. As far as trespass laws, the state troopers would be enforcing those," Fish and Game spokesman Ken Marsh said.

Jordan noted that there were no-trespassing signs at the front of the property, but not at the back near Colony High School. She said Cyr should have known the property was private and that he knew about the couple's gravel operation, because she had sold him gravel previously.

Cyr didn't return calls seeking comment, the newspaper said, but Ellis, his trapping partner, did.

Ellis, former president of the Alaska Frontier Trappers Association, said he and Cyr trapped in the same area last year because no signs were posted. Ellis said he's 60 years old and disabled, so he looks for trapping sites he can access easily.

Ellis said his rights as a trapper were violated when the couple removed the snares from the property.

"If anybody broke the laws, they did," he said. "Not me."

Even if Cyr didn't violate criminal trespass or state game laws, he may have disregarded state guidelines for ethical trapping practices, which urge trappers to get landowner permission.

"I was never contacted, and I would never allow that," Kircher said.

Ellis, asked about the ethics of trapping without permission on private land, said the code was structured after the Lower 48 states, where notification is a legal requirement. Alaska, with huge amounts of unmarked property, is different.

"A lot of what would apply in the Lower 48 doesn't apply up here," he said. "If (Jordan) had made it known she didn't want me on there, then certainly I would have honored that. But otherwise it's fair game."

Information from: Anchorage (Alaska) Daily News, <http://www.adn.com>

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[Home](#) > Alaska State Trooper and veteran trapper center a suburban snare uproar

[Craig Medred](#) ^[1]

December 4, 2013

Main Image:

[Bloody footprints with wolf tracks](#) ^[2]

Main Image Caption:

An Alaska outdoorsman and veteran pest eliminator, who's no stranger to controversy himself, believes there wouldn't be such a fuss over his efforts to trap foxes and coyotes if his partner weren't an officer of the law featured on the reality television show *Alaska State Troopers*.

Were it not for the fact Rick Ellis's trapping buddy is a TV star, albeit a minor one, and an Alaska State Trooper to boot, the Wasilla outdoorsman believes he would not find [himself and his trapping debated in the news](#) ^[3].

In his heart of hearts, Ellis believes he and Alaska Wildlife Trooper John Cyr were performing a public service by trapping coyotes and foxes on some undeveloped property in a rural area going suburban near Colony High School in the Matanuska Valley north of Anchorage.

"Do you realize how many dogs and cats we protected around town?" Ellis asked Tuesday before revealing he and Cyr caught two coyotes and two foxes on the same property last year.

Foxes aren't much of a threat to stray or runaway cats and dogs, but coyotes [are known for killing small dogs](#) ^[4] and [one scientific study found](#) ^[5] cats among their regular prey.

"Those members of the public who own cats or are otherwise interested in their well-being view this function of coyotes as strongly negative," The Cook County, Ill., Coyote Project noted in the wake of that study. "However, a positive consequence of coyotes removing peri-domestic or feral cats is the trickle-down effect. Studies in California urban areas showed that coyotes reduced cats in some habitat fragments, which then resulted in an increase in nesting success for songbirds."

So Ellis isn't totally out of whack in the belief he and Cyr might have been performing a public service for cat lovers, if not for bird lovers. But there is also a little matter of trespassing.

That is what angered Nicolene Jordan of Central Gravel Products in Palmer. She leases the land on which the trapping took place, and she didn't much like the idea of an officer of the law invading the property without its owner's permission.

"This Alaska State Wildlife trooper, John Cyr, has no regard for personal property, wildlife, domestic pets OR children," she said in an email sent to various media not long before the Thanksgiving Day holiday weekend. "He has totally disregarded the moral ethics code of his profession AND the rules of the hunt. His acts alone show him to be a disgrace to the troopers AND to the community. Here is a man who gets flown/driven/boated (with our tax dollars) all over the state, to hundreds of miles of wilderness yet is so lazy & belligerent that he chooses to break the law and set traps on private property, near schools & neighborhoods -- not more than 1 mile from his own house."

Cyr is one of the many stars of the reality show "Alaska State Troopers." He is featured in Season 3, Episode 4 when he rolls a four-wheeler in the Talkeetna Mountains and breaks an ankle.

The accident, in the words of a narrator [6], left "a wounded trooper ... stranded in terrain too dangerous for rescue."

He was rescued, however, and later ended up trapping -- or planning to trap -- a stone's throw from the Colony school in what is essentially the backyard of Jordan's gravel operation. Ellis said he and Cyr, who isn't talking, had placed 40 snares in the woods there, but never set any. Jordan's husband picked up 38 of the snares before they could be rigged to trap animals.

Jordan then called troopers to report her concern that Cyr was trapping illegally on private property. Troopers were at the time making a big deal of busting Anchorage gun shop owner Jim West [7] for, among other things, trespassing on private property to hunt.

West, according to his attorney, is contesting the claim his bear hunting near Copper Center was done on private lands owned by the Ahtna Inc., one of 12 regional Native corporations with major landholdings in the 49th state. There is no doubt Cyr and Ellis were trapping on private land.

But troopers decided it was OK because the land wasn't properly posted.

As Ellis noted in a television appearance to promote trapping [8] on KYUR's "Alaska's Political Insider" in Anchorage this spring, "it has to be very specific how you do that (posting)." If the land isn't properly posted, he said, it's open to trapping.

The state, he added, is very specific about this to prevent people from "willy nilly throwing up signs."

Jordan concedes the land where Cyr and Ellis were trapping wasn't posted as required by a state law, which stipulates [9] signs "at least 144 square inches in size" with "the name and address of the person under whose authority the property is posted and the name and address of the person who is authorized to grant permission to enter the property ... placed at each roadway and at each way of access onto the property that is known to the landowner ... and stat(ing) any specific prohibition that the posting is directed against, such as 'no trespassing,' 'no hunting,' 'no fishing,' 'no digging,' or similar prohibitions."

Differing standards for trespassing?

Little land in Alaska is so posted. And Brent Cole, an attorney for West, has suggested troopers enforce differing standards for what qualifies as trespass in the state depending on the people and the television shows and who knows what else is involved.

Cole has charged that troopers went after West because his TV show "Wild West Guns" appears on a network that competes with National Geographic Channel which airs "Alaska State Troopers" in a competitive reality TV market where there are now so many Alaska shows it is a wonder there is no Alaska Reality Channel, which would be unreal in a state that sometimes seems like some sort of hugely dysfunctional small town.

Troopers deny the accusation, but have only a weak excuse for why a cast member of "Life Below Zero", a show on their network, has never been investigated, let alone prosecuted, for feeding foxes in apparent violation of state law (10). A spokesperson indicated Troopers were simply unaware of what was going on.

"If anyone has any information regarding a crime being committed, they are encouraged to report it to troopers so we can look into it," said spokesperson Megan Peters. "Perhaps if you can show us a clip of someone feeding wildlife our wildlife troopers can look into the matter. To our knowledge we have not received a complaint regarding the show 'Life Below Zero.'"

Jordan did report something. Not much happened, though she is confident Cyr knew full well he was trespassing.

"Hell, I've been doing business on said property for 21 years," she said. "I've even delivered gravel to him. I'm sure he's been in my gravel business asking questions and scoped the place out personally. I'm also sure he's been at it for at least a couple of years."

Ellis appears to agree with the last accusation.

"I'm sure she saw me last year," he said. "Yes, must have known (about us).

"I know she's seen my truck. It's always my truck. I don't know why she just didn't leave a note (on the windshield).

"She's got a right to be upset. But she didn't need to crucify people in the press."

A convoluted history

Snares aren't a danger to children, he said, and most dogs will stop struggling and sit when the noose of the snare starts tightening around their neck. He compared the response to that of being restrained by a leash.

Only sled dogs are an issue, he said, because they're accustomed to charging ahead. But he and Cyr have never caught a sled dog, or any dog for that matter.

"There's no trapper that would target anybody's dog," he said. "Two coyotes. Two foxes. I guess I could have saved somebody's pet."

This is a view left over from Ellis's day of working with the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture. He helped rid some Aleutian Islands in far western Alaska of foxes eating endangered birds. At the time, he worked for a man named Corey Rossi.

Rossi eventually became the director of the state Division of Wildlife after being brought into the Alaska Department of Fish and Game by then-Gov. Sarah Palin, who appointed him over the objections of many of the state's wildlife professionals because Rossi was a friend of her mother and father.

Rossi's personal penchant for trying to help keep the state's predators under control eventually landed him in trouble with the law, put him the eye of his own firestorm of controversy [11], and cost him his job.

"It's such a small valley," Jordan noted about the Mat-Su. "Corey Rossi was also one of my gravel customer and lives very close by. I've been to his house to see what he did with his decorative rocks before Palin became infamous," and took a lot of others along for the ride.

By the time Rossi lost his job, he was already a high-profile public figure in the 49th state thanks to the hand up from Palin. And so was John Cyr, but not Trooper John Cyr. The trooper's father was the executive director of the Alaska Public Safety Employees Association when Palin tried to get brother-in-law Mike Wooten fired for his illegal hunting activities.

She was unhappy he was merely reprimanded for illegally shooting a moose on his wife's permit. Mainly, though, she was unhappy her sister and brother-in-law were engaged in an ugly divorce.

Such is the backdrop against which the latest little Wasilla drama plays out.

'I'm livid about this'

Only in Alaska -- with its strange and Byzantine cast of political players, its conflicts between values ancient and modern, its ungodly plethora of reality TV shows, and its animals good and bad -- could a few dozen poorly placed traps evolve into something bigger.

Where Ellis sees himself performing a public service, Jordan sees something 180 degrees opposite. But both view events through the prism of Alaska law-enforcement-officers-cum-movie-stars -- public servants who've shackled themselves to celebrity for better or worse.

"There are, or used to be, a lot of fox in the area," Jordan said. "Over the years, I've witnessed porcupine, river otters, coyotes, birds of prey, waterfowl, and of course, lots of fox. I thought maybe that the new Trunk Road construction had driven them away, but now I see it's been the work of one Alaska State Wildlife Trooper who is above the law.

"I'm livid about this."

She would likely have been angry even if the trapping didn't involve a trooper. But the trooper's 60-year-old sidekick doesn't think anyone else would be talking about traps that never actually got set.

"I don't think it would have made the news," Ellis said. "He's just another trapper like you and I. Why hold him to a different standard than anyone else?"

"I think it's a big to-do over nothing."

Maybe. Then again, maybe not.

Some Troopers used to work as big-game guides in their free time until the potential for conflict-of-interest between that profession and law enforcement became obvious.

The potential conflict between trapping and law enforcement used to be minimal, because there simply wasn't much money to be made in trapping. That is changing.

"With fur prices up, everybody's become a trapper," Ellis said. He claimed that was one of the reasons he and Cyr went looking for stray parcels of vacant land close to Wasilla on which they could trap.

"I trap wherever I can get at," he said. "Not everyone's got a snowmachine. Not everyone's got a Super Cub."

Could there be yet another new reality show there? Alaska Suburban Trappers. Coming soon to a backyard and TV near you.

Contact Craig Medred at [craig\(at\)alaskadispatch.com](mailto:craig(at)alaskadispatch.com) [12]

Source URL: <http://www.alaskadispatch.com/article/20131204/alaska-state-trooper-and-veteran-trapper-center-suburban-snare-uproar>

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- [1] <http://www.alaskadispatch.com/authors/677842>
- [2] <http://www.alaskadispatch.com/image/bloody-footprints-wolf-tracks>
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- [10] <http://www.alaskadispatch.com/article/20131118/alaska-state-troopers-bust-one-alaska-reality-tv-star-turn-blind-eye-another>
- [11] <http://www.alaskadispatch.com/article/spectacular-rise-alaska-wildlife-manager-corey-rossi>
- [12] <mailto:craig@alaskadispatch.com>

Ernest Prax

From: Howell, Kelly A (DPS) <kelly.howell@alaska.gov>
Sent: Saturday, April 05, 2014 1:52 PM
To: Rep. Wes Keller
Cc: Ernest Prax; Waldron, Burke D (DPS)
Subject: DPS AWT Response to 04/02/14 House Judiciary Committee Question re: HB 375

Dear Chairman Keller,

During testimony on HB 375 Criminal Trespass on Private Property at the April 2, 2014, meeting of the House Judiciary committee, Alaska Wildlife Trooper (AWT) Captain Burke Waldron stated that he would provide additional information regarding an incident involving an individual's pet turkey that was killed by a juvenile bow hunter in the Mat-Su Valley in August 2013. This email serves as the response as provided by Captain Waldron.

In regards to the incident, it was determined that the turkey was shot with a bow and arrow on the side of the road and at the end of the homeowner's driveway. Neither the bird nor the hunter was on private property when the incident took place; therefore no criminal trespass was committed.

5 AAC 92.080, unlawful methods of taking game, prohibits the taking of game by shooting from, on, or across a highway. The definition of "game" in AS 16.05.940(19) includes any species of bird, including feral domestic animals except for domestic birds and mammals. If the bird was to be considered a domestic bird (as described as a pet) then unlawful methods of taking game under 5 AAC 92.080 would not apply. Rather, the domestic pet may be considered as property and subject to a potential criminal mischief complaint.

However, per AS 11.46.475 – 486, "*a person commits the crime of criminal mischief... if, having no right to do so or any reasonable ground to believe the person has such a right, ...damages the property of another in an amount of...*". The ADF&G Hunting Regulations book lists feral, non-native game birds (including wild turkey) as having no closed season. The fact that the hunting regulations list wild turkeys as having no closed season would seem that a person would have reasonable grounds to believe he has the right to shoot a turkey that is running loose and not on private property.

If the hunter's belief that the animal was feral were to be applied then potentially he could have been charged with unlawful methods. If the bird was to be considered a domestic pet (property) then criminal mischief would apply except that the juvenile shooter had a reasonable belief that he could shoot the bird because it was listed in the hunting regulations. Considering the totality of the circumstances surrounding the incident, the no charges were filed. There is a possible remedy in civil court and the bird's owner was so advised.

Kelly Howell

Special Assistant to the Commissioner
Legislative Liaison
Department of Public Safety
269-5591 – Anchorage (*interim*)
465-4336 – Juneau (*session*)
952-5118 – cell