

HB

36

<TARGET><BILL>HB 36</BILL><SUBJECT>HB
36</SUBJECT><COMM>SRES28</COMM></TARGET>

SENATE COMMITTEE REPORT

DATE: 2/6/13

FURTHER: RULES

DATE TURNED IN TO OFFICE: 3/11/13

Resources Committee considered HOUSE BILL NO. 36

HB 36-EXEMPT DISCHARGES FROM USE OF MUNITIONS

"An Act exempting certain federal agencies or military services firing or using munitions on active ranges from prior authorization requirements of the Department of Environmental Conservation."

and recommends:

- be replaced with SCS _____ (_____) Same Title Technical Title Change New Title/SCR No. _____
- adopt previous SCS _____ (_____) Same Title Technical Title Change New Title/SCR No. _____
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

| Dept Abbr. | |
|------------|-----|
| ADM | LWF |
| CED | LAW |
| COR | LEG |
| CRT | MVA |
| EED | DNR |
| DEC | DPS |
| DFG | REV |
| GOV | DOT |
| DHS | UA |

| NEW FISCAL NOTE(S) | | | | |
|--------------------|--------|--------|------|------|
| Dept. | Fiscal | Indet. | Zero | FN # |
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| PREVIOUS FISCAL NOTE(S) | | | | |
|-------------------------|--------|--------|------|------|
| Dept. | Fiscal | Indet. | Zero | FN # |
| DEC | | | ✓ | 1 |
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APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | PRINTED LAST NAME | Do PASS | DO NOT PASS | NO REC | AMEND |
|---------------------------------|-------------------|---------|-------------|--------|-------|
| | Micciche | ✓ | | | |
| | Bishop | ✓ | | | |
| | McBride | ✓ | | | |
| | Dyson | ✓ | | | |
| | | | | | |
| CHAIR: | Giessel | ✓ | | | |

Alaska State Legislature
House of Representatives

Rep.Tammie.Wilson@akleg.gov

Representative Tammie Wilson

Interim

1292 Saddler Way
Fairbanks, Alaska 99701
(907) 451-2723 - Phone
(907) 452-3430 - Fax



Session

State Capitol
Juneau, AK 99801
Phone - (907) 465-4797
Fax - (907) 465-3884

Date: February 6, 2013

To: Senator Cathy Giessel, Chair, Senate Resources Committee

From: Representative Tammie Wilson, District 2

Re: Request for Senate Resources Hearing, HB 36

Enclosed is HB 36—"An Act exempting certain federal agencies or military services firing or using munitions on active ranges from prior authorization requirements of the Department of Environmental Conservation."

House Bill 36 amends Alaska's Waste Management and Disposal Authorization (AS 46.03.100(e)) such that the use of military ranges can occur in accordance with the Federal Water Pollution Control Act. This amendment is important because current state law could be misinterpreted, therefore restricting the use of Alaska military ranges.

HB 36, which passed the House unanimously, is strongly recommended by the U.S. Department of Defense and a priority for Alaska DMVA.

Accompanying sponsor statement and general back-up documents are included.

I would appreciate a hearing in the Senate Resources Committee at your earliest convenience.

Thank you for your consideration. Please contact Brandon Brefczynski at 4916 if you have any questions.

Sincerely,

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

Representative Tammie Wilson

**Alaska State Legislature
House of Representatives
Representative Tammie Wilson**

Interim
1292 Saddler Way Ste. 308
Fairbanks, Alaska 99701
Phone - (907) 451-2723
Fax - (907) 452-3430



Rep.Tammie.Wilson@akleg.gov

Session
State Capitol
Juneau, AK 99801
Phone - (907) 465-4797
Fax - (907) 465-3884

House Bill 36

“An Act exempting certain federal agencies or military services firing or using munitions on active ranges from prior authorization requirements of the Department of Environmental Conservation”

House Bill 36 amends Alaska’s Waste Management and Disposal Authorization (AS 46.03.100(e)) such that the use of military ranges can occur in accordance with the Federal Water Pollution Control Act.

Additionally, HB 36 clarifies that all military services, such as the U.S. Coast Guard, conducting training activities on an active range, would be exempt from regulation unless otherwise regulated under the Federal Water Pollution Control Act.

This amendment is important because current state law could be interpreted to restrict the use of Alaska military ranges in a way not required by federal law. Without the amendment, Alaska’s military bases could be at risk of closure because of the operational constraints placed on military ranges.

HB 36 is supported by DMVA, DEC, and the Region 10 United States Air Force Regional Environmental Coordinator Office.

I appreciate the committee’s consideration for HB 36 and request your support.

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version: HB 36 (A)
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB036-DEC-WQ-01-10-13
Title: EXEMPT DISCHARGES FROM USE OF
MUNITIONS
Sponsor: T.WILSON
Requester: House Resources Committee

Department: Department of Environmental Conservation
Appropriation: Water
Allocation: Water Quality
OMB Component Number: 2062

Expenditures/Revenues

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

(Thousands of Dollars)

| | FY2014 | Included in | Out-Year Cost Estimates | | | | |
|-------------------------------|-------------------------|---------------------------|-------------------------|------------|------------|------------|------------|
| | Appropriation Requested | Governor's FY2014 Request | FY 2015 | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
| OPERATING EXPENDITURES | FY 2014 | FY 2014 | | | | | |
| 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 | | | | | | | |
|---------------------------|--|--|--|--|--|--|--|

Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

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: | Michelle Bonnet Hale, Director | Phone: | (907)269-6281 |
| Division: | Water | Date: | 01/11/2013 10:45 AM |
| Approved By: | Lynn Kent, Deputy Commissioner | Date: | 01/21/13 |
| | Dept. of Environmental Conservation | | |

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. HB 36

Analysis

Analysis/Assumptions:

This bill has no fiscal impact on the Department of Environmental Conservation, Division of Water.



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

**Department of Military and
Veterans Affairs**

Office of the Commissioner

P.O. Box 5800
JBER, AK 99505-0800
Main: 907.428.6003
Fax: 907.428.6019

January 14, 2013

The Honorable Tammie Wilson
Alaska House of Representatives
State Capitol Room 415
Juneau, Alaska 99801-1182

Representative Wilson,

I fully support the proposed amendment to the Alaska Clean Water Act. This amendment minimizes the opportunities for interruption to critical military training while maintaining a high level of environmental protection according to the Federal Water Pollution Control Act.

The United States Military presence in Alaska is vital to the state's safety, security, and economic stability. We must take every opportunity to empower the men and women of the military with the best training scenarios available. Alaska offers premier military training areas that are unmatched by any other location in the world. Although continued military training is critical, the protection of the natural environment on which the training is conducted is equally important. The amendment to the Alaska Clean Water Act both enhances military training capabilities and ensures the protection of Alaska's pristine environment.

Thank you for your efforts regarding this amendment. Your continued support of the United States Military in Alaska and your desire to protect Alaska's natural environment is very much appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Thomas H. Katkus".

Major General Thomas H. Katkus
Commissioner, DMVA



DEPARTMENT OF THE AIR FORCE
REGIONAL ENVIRONMENTAL COORDINATOR
SAN FRANCISCO, CALIFORNIA 94105-2230

23 Jan 2013

Clare R. Mendelsohn
Department of Defense
Regional Environmental Coordinator Region 10
50 Fremont St Ste 2450
San Francisco, CA 94105

The Honorable Tammie Wilson
Alaska House of Representatives
State Capitol, Room 412
Juneau, AK 99801-1182

Dear Representative Wilson:

I am writing on behalf the military services to express the Department of Defense's (DoD) support for House Bill 36, which you introduced to amend Alaska's Clean Water Act (AK CWA). Thanks to your continued leadership and assistance, this amendment will help ensure Alaska's continued capacity to host sustainable military readiness training.

As the DoD Regional Environmental Coordinator (REC) for U.S. Environmental Protection Agency (US EPA) Region X, I am responsible for coordinating responses to various environmental matters affecting Alaska's military installations. In this capacity, I am grateful for your support to DoD as we have coordinated with interested stakeholders, including the Alaska Department of Environmental Conservation (ADEC), Alaska Office of the Attorney General, US EPA, and the Alaska Military Force Advocacy and Structure Team (AMFAST), in developing this amendment.

As you are aware, existing language in Alaska Statute AS §46.03.100(e)(7) ("unless it results in a discharge into waters of the United States") might be interpreted to restrict the use of Alaska military ranges in a way that is not required under the federal Clean Water Act. HB 36 will instead allow the use of military ranges "unless otherwise regulated by the Federal Water Pollution Control Act." This will ensure military ranges can comply with Alaska law and be used in accordance with federal law, and will require that questions regarding the application of the AK CWA to military ranges are determined in accordance with the federal Clean Water Act.

In closing, Alaska's military installations and training range areas are crucial to DoD's worldwide mission. HB 36 is an important step in sustaining military training in Alaska. Thank you again for introducing and supporting this amendment.

Sincerely,

CLARE R. MENDELSON
DoD Regional Environmental Coordinator, Region 10



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of
Environmental Conservation

Office of the Commissioner

Post Office Box 111800
410 Willoughby Avenue, Suite 303
Juneau, Alaska 99811-1800
Main: 907.465.5066
Fax: 907.465.5070

January 24, 2013

13.012

The Honorable Tammie Wilson
House of Representatives
Alaska State Capitol, Room 412
Juneau, Alaska 99801-1182

Dear Representative Wilson:

Thank you for introducing on HB 36 – Exempt Discharges From Use Of Munitions. The Department of Environmental Conservation (DEC) supports this legislation. The bill, as written, will make a subtle but important change to Alaska Statute (AS) 46.03.100, making that statute's treatment of munitions discharges consistent with the Clean Water Act both now and in the future.

The federal Clean Water Act currently prohibits the discharge of pollutants, including munitions, into waters of the United States without a permit. Before the Department received primacy under the federal Clean Water Act to implement the Alaska Pollutant Discharge Elimination System (APDES) program, longstanding state policy via AS 46.03.100(e)(7) had exempted the use of munitions at firing ranges from wastewater discharge permitting requirements. To receive primacy for the APDES program, this exemption had to be removed so that state permitting requirements would be consistent with Clean Water Act requirements. Current AS 46.03.100(e)(7) was adopted to remove that longstanding state exemption from permitting requirements and a permit is now required when the firing of munitions results in a discharge into waters of the United States.

HB 36 will retain the requirement for wastewater discharge permits for munitions as long as the Clean Water Act requirement is in effect. The Environmental Protection Agency has reviewed this language and determined that this change will not have an effect on primacy for the APDES program. If the Clean Water Act requirement for permitting munitions discharge is amended in the future, HB 36 would allow the State of Alaska's program to maintain consistency with federal requirements.

Sincerely,

A handwritten signature in cursive script that reads "Larry Hartig".

Larry Hartig
Commissioner

FEDERAL WATER POLLUTION CONTROL ACT (CLEAN WATER ACT)

33 U.S.C. §§ 1251-1387, October 18, 1972, as amended 1973-1983, 1987, 1988, 1990-1992, 1994, 1995 and 1996.

Overview. The Federal Water Pollution Control Act, popularly known as the Clean Water Act, is a comprehensive statute aimed at restoring and maintaining the chemical, physical and biological integrity of the nation's waters. Enacted originally in 1948, the Act was amended numerous times until it was reorganized and expanded in 1972. It continues to be amended almost every year.

Even prior to the enactment of the 1972 version of the Act, the Act authorized the Public Health Service to prepare comprehensive programs for eliminating or reducing the pollution of interstate waters and tributaries and improving the sanitary condition of surface and underground waters. Due regard was to be given to improvements necessary to conserve waters for public water supplies, propagation of fish and aquatic life, recreational purposes, and agricultural and industrial uses. A number of other provisions found in the current Act were adopted prior to 1972.

Primary authority for the implementation and enforcement of the Clean Water Act now rests with the U.S. Environmental Protection Agency (EPA). In addition to the measures authorized before 1972, the Act authorizes water quality programs, requires federal effluent limitations and state water quality standards, requires permits for the discharge of pollutants into navigable waters, provides enforcement mechanisms, and authorizes funding for wastewater treatment works construction grants and state revolving loan programs, as well as funding to states and tribes for their water quality programs. Provisions have also been added to address water quality problems in specific regions and specific waterways.

Discharge Permits. One of the most significant features of the 1972 Act is the creation of a national pollutant discharge elimination system (NPDES). Except as otherwise provided in the Act, industrial sources and publicly owned treatment works may not discharge pollutants into navigable waters without a permit. The Administrator may issue a permit for discharge upon condition that the discharge meets applicable requirements, which are outlined extensively in the Act and which reflect, among other things, the need to meet federal effluent limitations and state water quality standards. The Act also provides that, with EPA approval, a state may administer its own permit program in lieu of the federal program. There are special provisions on municipal and industrial stormwater discharges. § 1342.

EPA was required, by mid-1973, to promulgate guidelines for determining the degradation of the waters of the territorial seas, the contiguous zone and the oceans. These guidelines were to include, for example: the effect of disposal of pollutants on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines and beaches; the effect on marine life, changes in marine ecosystem diversity, productivity and stability, or species and community population changes; the effect of disposal of pollutants on aesthetic, recreation and economic values. Discharge permits may not be issued except in compliance with the guidelines. § 1343.

Kilkenny, LLC
Box 8166
Kodiak, AK 99615

Senate Resources Committee
Alaska State 28th Legislature

Dear Senator Wagoner and Committee Members,

This letter is in support of Senate Bill 54 to extend the vessel-based limited entry system for the Alaska weathervane scallop and Bering Sea hair crab fisheries. My comments are limited to the scallop fishery as the Owner/ Captain of the F/V Kilkenny.

I have extensive experience in the scallop fishery in New England in the 1970s and in Alaska throughout the 1980s. I have operated the F/V Kilkenny since 2009 as an independent business, employing eight to ten crewmembers per season. With the exception of one student, all crew are Alaska residents, young people who have developed the skills to efficiently and sustainably harvest the resource with attention to the future of the stocks. I have trained two capable relief skippers in the past three years.

When I re-entered the scallop fishery in 2009 I was immediately included in resource management discussions with both the Alaska Weathervane Scallop Cooperative and State and Federal managers. I have been impressed with the collaboration between all participants in the industry, with everyone focused on sustainable management of this valuable but limited resource.

I believe the language in SB 54 to extend the current system until 2023 is the best option to maintain the weathervane scallop fishery in a commercially viable form. I truly believe that wide-open access at this point would jeopardize the businesses of those currently invested in the fishery while also failing to provide successful alternatives to potential new entrants. I am also concerned about the effects of more gear on the harvestable beds, and of the state's ability to effectively regulate an open access fishery without greatly expanding the personnel currently assigned to the management of the fishery, at considerable cost. The use of a moratorium will preserve the rights of others to enter the fishery at a later date, if the stocks improve, without total privatization of the resource.

I urge your support for SB54. I would be pleased to provide more information and answer any questions at a public hearing.

Respectfully,

Bill Harrington

cc: Senator Gary Stevens
Representative Alan Austerman
Commissioner Benjamin Brown

Alaska State Legislature House of Representatives

Rep.Tammie.Wilson@akleg.gov

Representative Tammie Wilson



Interim

1292 Saddler Way
Fairbanks, Alaska 99701
(907) 451-2723 - Phone
(907) 452-3430 - Fax

Session

State Capitol
Juneau, AK 99801
Phone - (907) 465-4797
Fax - (907) 465-3884

Date: March 1, 2013
To: Senator Cathy Giessel, Chair, Senate Resources Committee
From: Representative Tammie Wilson, District 2
Re: Updated Testimony List, HB 36

In Committee

- **Major General Thomas Katkus** *in room*
Commissioner DMVA
(907) 321 - 2179 (McHugh Pierre's phone number)

Off Net

- **Kevin M. Ward** *on line*
Regional Counsel
U.S. Army Regional Environmental and Energy Office - Western
721 19th Street, Room 427
Denver, CO 80202-2500
Phone: (303) 844-0955
- **Justin H. Trumbo, Lt Col, USAF** *on line*
Regional Counsel - United States Air Force Western Region
San Francisco, CA
(415) 977-8840
- **Seth Beausang** *on line*
Assistant Attorney General, DEC
1031 W 4th Ave #200
Anchorage, AK 99501
(907) 269-5274
- **Michelle Bonnet Hale** *on line*
Water Division Director, DEC
555 Cordova St
Anchorage, AK 99501
(907) 269-6281