

**HB**

**286**

<TARGET><BILL>HB 286</BILL><SUBJECT>HB  
286</SUBJECT><COMM>HJUD29</COMM></TARGET>

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Governor Bill Walker  
STATE OF ALASKA

January 28, 2016

The Honorable Mike Chenault  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Chenault:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to sport fishing, hunting, or trapping licenses, tags, or permits; relating to penalties for certain sport fishing, hunting, and trapping license violations; relating to restrictions on the issuance of sport fishing, hunting, and trapping licenses; creating violations and amending fines and restitution for certain fish and game offenses; relating to commercial fishing violations; allowing lost federal matching funds from the Pittman - Robertson, Dingell - Johnson/Wallop - Breaux programs to be included in an order of restitution; adding a definition of "electronic form;" and amending Rule 5(a)(4), Alaska Rules of Minor Offense Procedure.

The bill would allow a person to correct a citation for not having a sport fishing, hunting, or trapping license, tag, or permit on their person, by bringing a copy of the license, tag, or permit that was valid at the time of the citation to the office of the citing officer or to court. There are many reasons why a person may not have a fishing, hunting, or trapping license on their person in the field. This provision would prevent what may have been an honest mistake from turning into an unnecessary conviction.

In addition, the bill would allow a person to show actual possession of a license or permit in paper or electronic form. Electronic form would mean the display of a license or permit on an electronic device, such as a mobile telephone, tablet, or computer. However, tags are not conducive to display in electronic format and so are excluded from this provision.

In order to better manage issuance of a fishing, hunting, or trapping license, if a person has had their fishing, hunting, or trapping privileges revoked or suspended in this or any other state, this bill would prohibit them from obtaining a fishing, hunting, or trapping license in Alaska. A person should not be able to avoid sanctions merely by obtaining another license.

The bill also gives greater discretion to prosecutors and law enforcement by allowing almost all fish and game offenses to be charged as violations rather than criminal offenses. Currently, if a person

The Honorable Mike Chenault  
Transmittal Fish and Game Offenses  
January 28, 2016  
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violates certain fish and game laws, they can only be charged with a criminal offense. A criminal conviction is not always appropriate, nor is it necessarily the best outcome for the State or the offender. By creating the option of a violation where the offender acts without any culpable mental state, prosecutors and law enforcement can more appropriately enforce the State's fish and game laws while maximizing public use and enjoyment.

One of the ways Alaska manages its fish and game resources is through the sale of hunting and fishing licenses. The sale of licenses helps track the harvest of resources and sustains important conservation and management programs. Under the Pittman - Robertson, Dingell - Johnson programs, the State receives significant federal funding for fish and game management activities that is matched at a 3:1 ratio using license revenue. When a person fails to obtain a license, the State loses an important funding source used to manage fish and game resources. The bill would allow the State to collect restitution when a person fails to obtain a lawful hunting or fishing license, including lost federal funds.

The bill also increases the strict liability fine limits on commercial fishing violations as well as restitution amounts for unlawfully taking an animal. The increased fines and restitution amounts are necessary to ensure that more people can use and enjoy the resource by deterring illegal fishing and hunting that harms other users.

The bill would directly amend Rule 5(a)(4), Alaska Rules of Minor Offense Procedure to allow a person charged with engaging in hunting or sport fishing without a license to present proof of compliance to the appropriate court or municipality in order for the citation to be dismissed.

Protecting the proper use of Alaska's resources is one of our most important responsibilities. I urge your prompt and favorable action on this measure.

Sincerely,



Bill Walker  
Governor

Enclosure



**Sectional Analysis, CSHB 286(RES)**  
**Fish and Game: Offenses; Licenses; Penalties**  
**April 4, 2016**

- Sec. 1** This section amends AS 16.05.330(a) to include “permit” in addition to “license” and “tag” for purposes of clarifying the proper types of documentation a person must have in their actual possession when engaging in certain activities, and reorders the activities of “trapping” and “fur dealing” to exclude the latter from being a correctable citation.
- Sec. 2** This section amends AS 16.05.330(d) to make it unlawful for a person to obtain a sport fishing, hunting, or trapping license if the person has had their rights to engage in those activities revoked or suspended in Alaska.
- Sec. 3** This section amends AS 16.05.330 by adding three subsections.
- The first provides that a person charged with failing to have the appropriate sport fishing, hunting or trapping license in their actual possession may not be convicted if the person produces a license previously issued to the person that was valid at the time of the offense.
  - The second subsection specifies that a license may be in actual possession in paper or electronic form.
  - The third subsection specifically states any peace officer presented with an electronic device under this section shall be immune from any liability resulting from damage to the device.
- Sec. 4** Under fish and game licensing statutes, this section removes the specific fines and penalties associated with an unclassified misdemeanor and replaces it with a class A misdemeanor.
- Sec. 5** Related to section 4, this section creates the ability to charge some offenses as violations that are currently only misdemeanors. It also addresses the Pittman-Robertson act and federal matching dollars lost by the State of Alaska when the state is defrauded by a defendant who does not purchase the proper license and/or tag as required by law to participate in a given hunt or fishery.
- Sec. 6** This section raises the strict liability commercial fishing violation fines. The current fine schedule has been in place for many years and has not been increased. These fine increases will act as a deterrent for future commercial fisheries crimes which will ultimately help protect the commercial fisheries resource and the commercial fishing industry.
- Sec. 7** This section requires the court system to transmit notice of all convictions under this section to the Commercial Fisheries Entry Commission (CFEC). Transmittal of these convictions to CFEC has not always been done by the court system. Commercial fishing permits are applied points similar to drivers licenses when a person commits a violation.

This section will require the court to notify the CFEC of the conviction so applicable points can be applied to the violators permit.

**Sec. 8** This section makes it clear that a person may not take a brown or grizzly bear within one-half mile of a solid waste disposal facility.

**Sec. 9** Related to section 8, this section removes the unnecessary reference to section (a).

**Sections 10-15** generally standardize penalties in the statutes listed by providing an additional option of charging a person with a violation offense when appropriate. These sections maintain the option of charging a person with a misdemeanor offense if the violation is more serious.

**Sec. 10** Also related to section 8, this section establishes the violation as a class A misdemeanor, and also provides the additional option of charging a person with a violation offense when appropriate.

**Sec. 11** Under "Same day airborne hunting" statutes, this section removes the specific fines and penalties associated with an unclassified misdemeanor and replaces it with a class A misdemeanor.

**Sec. 12** Under the "Prohibition of hunting adjacent to highway" statute, this section provides the additional option of charging a person with a violation offense when appropriate.

**Sec. 13** Related to section 12, this section provides the additional option of charging a person with a violation offense when appropriate.

**Sec. 14** Under "Obstruction or hindrance" statute, this section provides the additional option of charging a person with a violation offense when appropriate.

**Sec. 15** Under "Waste of salmon" statutes, this section removes the specific fines and penalties associated with an unclassified misdemeanor and replaces it with a class A misdemeanor.

**Sec. 16** Under "Protection of fish and game" statute, this section provides the additional option of charging a person with a violation offense when appropriate.

**Sec. 17** This section increases the restitution amounts for animals taken illegally. Originally set at a 50% increase, some amounts were raised by the House Resources Committee.

**Sec. 18** Creates a new section that provides that a court may not order restitution under section 17 of this bill in a case where a defendant voluntarily turns themselves in and is charged with a violation offense. It also provides that a person must voluntarily and immediately report to ADFG or DPS a violation that they committed to qualify for this affirmative defense.

**Sec. 19** This section adds a definition of "electronic form".

**Sections 20-27** generally standardize penalties in the statutes listed by providing an additional option of charging a person with a violation offense when appropriate. These sections maintain the option of charging a person with a misdemeanor offense if the violation is more serious.

- Sec. 20** Under “Interference with salmon spawning streams and waters” statutes, this section removes the specific fines and penalties associated with an unclassified misdemeanor and replaces it with a class A misdemeanor.
- Sec. 21** Related to section 20, this section provides the additional option of charging a person with a violation offense when appropriate.
- Sec. 22** Under “Operation of fish traps” statutes, this section removes the specific fines and penalties associated with an unclassified misdemeanor and replaces it with a class A misdemeanor.
- Sec. 23** Related to section 22, this section provides the additional option of charging a person with a violation offense when appropriate.
- Sec. 24** Under “Erection of fish traps” statutes, this section removes the specific fines and penalties associated with an unclassified misdemeanor and replaces it with a class A misdemeanor.
- Sec. 25** Related to section 24, this section provides the additional option of charging a person with a violation offense when appropriate.
- Sec. 26** Under “Use of drum or reel” and “Use of termination device” statutes, this section removes the specific fines and penalties associated with an unclassified misdemeanor and replaces it with a class A misdemeanor.
- Sec. 27** Related to section 26, this section provides the additional option of charging a person with a violation offense when appropriate.
- Sec. 28** This section amends the uncodified law of Alaska to make it clear that the act applies to offenses that occur on or after the effective date of the act.
- Sec. 29** This section provides for an effective date of July 1, 2016.

**CSHB286(RES) Summary of Changes from the Original Version  
April 4, 2016**

- 1) Page 1, line 5 adds a semicolon to the title creating an exemption from payment of restitution for certain unlawful takings of big game animals.
- 2) Page 2, section 3, line 21 removes the words "tag or permit" from an item that can be correctable, and removes reference to the Court. An individual can correct a violation at a Department of Public Safety office.
- 3) Page 5, section 17, line 6 adds language "**and c of this section**" to address changes in section 18 of this bill.
- 4) Page 5, section 17 lines 14-25 changes restitution amounts that the court may apply if the court feels it is appropriate. These increases represent the value of the illegally taken resource to the citizens of Alaska.
- 5) Page 5, line 26 deleted section 17 of the original bill which was redundant with section 15 of the original bill.
- 6) Page 5, section 18, line 26 to page 6, line 3 creates a new section that provides that a court may not order restitution under section 17 of this bill in a case where a defendant voluntarily turns themselves in and is charged with a violation offence. It also provides that a person must voluntarily and immediately report to ADFG or DPS a violation that they committed to qualify for this affirmative defense.
- 7) Page 6, section 24, line 23-24 was a drafting error that was corrected to reflect the correct statute number.
- 8) Page 7, line 9, delete section 27 of the original bill related to Court Rule 5(a)(4) .

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version: HB 286  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: CSHB 286(RES)-DFG-CO-4-4-16  
Title: FISH & GAME:  
OFFENSES;LICENSES;PENALTIES  
Sponsor: RLS BY REQUEST OF THE GOVERNOR  
Requester: Governor Walker

Department: Department of Fish and Game  
Appropriation: Statewide Support Services  
Allocation: Commissioner's Office  
OMB Component Number: 2175

**Expenditures/Revenues**

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

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates					
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time								
Part-time								
Temporary								

<b>Change in Revenues</b>								
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**Estimated SUPPLEMENTAL (FY2016) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2017) 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:**

House Resources Committee Substitute.
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Prepared By: <u>Carol A. Petraborg, Administrative Services Director</u>	Phone: <u>(907)465-6077</u>
Division: <u>Administrative Services</u>	Date: <u>04/04/2016 07:40 AM</u>
Approved By: <u>Keven Brooks, Deputy Commissioner</u>	Date: <u>04/04/16</u>
Agency: <u>Department of Fish and Game</u>	

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2016 LEGISLATIVE SESSION

BILL NO. CSHB 286(RES)

**Analysis**

This Bill creates violations for certain fish and game offenses; amends fines relating to hunting and commercial fishing violations; allows lost federal matching funds from the Pittman-Robertson, Dingell-Johnson/Wallop-Breaux programs to be included in an order of restitution. The Bill would allow the court or municipality to dismiss a citation for a person sport fishing, hunting, or trapping without a license in their possession upon proof of compliance.

These violations , amendments to fines, change in order of restitution, and allowing for citation dismissal would not have a fiscal impact on the department.

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version:	HB 286
Fiscal Note Number:	2
(H) Publish Date:	1/29/2016

Identifier: DPS-AWT-12-18-15  
 Title: FISH & GAME:  
           OFFENSES;LICENSES;PENALTIES  
 Sponsor: RLS BY REQUEST OF THE GOVERNOR  
 Requester: Governor

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)

	FY2017	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2017 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>	<b>FY 2017</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2016) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2017) 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.
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Prepared By:	Major Bernard Chastain	Phone:	(907)269-2054
Division:	Alaska Wildlife Troopers	Date:	12/18/2015 04:00 PM
Approved By:	Gary Folger, Commissioner	Date:	12/18/15
Agency:	Public Safety		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2016 LEGISLATIVE SESSION

## Analysis

This legislation would allow most fish and game offenses to be charged as violations rather than criminal offenses; allow the state to collect restitution from resource users who fail to obtain a hunting or fishing license; and increase the strict liability fine amounts on commercial fishing violations.

This bill also allows a person to correct a citation for not having a sport fishing, hunting, or trapping license, permit, or tag on their person while exercising their hunting, fishing, or trapping rights in the field. It also prohibits a person from obtaining a sport fishing, hunting, or trapping license, permit, or tag in Alaska if they have had these same rights previously suspended or revoked in Alaska (or any other state).

This bill would have no fiscal impact to the Department of Public Safety's Division of Alaska Wildlife Troopers.