

SB

164

<TARGET><BILL>SB 164</BILL><SUBJECT>SB
164</SUBJECT><COMM>SRES29</COMM></TARGET>

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/29/16

FURTHER: Judiciary

Date of 5-Day Notice: 02/18/16
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 03/04/16

Resources Committee considered SENATE BILL NO. 164

SB 164-FISH & GAME: OFFENSES;LICENSES;PENALTIES

"An Act 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'; amending Rule 5(a)(4), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

and recommends:

- be replaced with CS _____ (_____) Same Title New Title
- adopt previous CS _____ (_____) Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

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

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
DFG			✓	2
DPS			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Costello				✓
	Wielechowski			✓	
	Costello-Coshill				✓
	Micciche				✓
CHAIR:	Giesel	✓			

STATE CAPITOL
P.O. Box 110001
Juneau, AK 99811-0001
907-465-3500
fax: 907-465-3532



550 West Seventh Avenue, Suite 1700
Anchorage, AK 99501
907-269-7450
fax 907-269-7461
www.Gov.Alaska.Gov
Governor@Alaska.Gov

Governor Bill Walker
STATE OF ALASKA

January 28, 2016

The Honorable Kevin Meyer
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Meyer:

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 violates certain fish and game laws, they can only be charged with a criminal offense. A criminal

The Honorable Kevin Meyer
Transmittal Fish and Game Offenses
January 28, 2016
Page 2

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



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Fish and Game

OFFICE OF THE COMMISSIONER
Headquarters Office

1255 West 8th Street
P.O. Box 115526
Juneau, Alaska 99811-5526
Main: 907.465.4100
Fax: 907.465.2332

February 4, 2016

The Honorable Cathy Giessel, Chair
Senate Resources Committee
State Capitol Building, Room 427
Juneau, AK 99801

Dear Senator Giessel:

The Department of Fish and Game respectfully requests SB164 "An Act 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'; amending Rule 5(a)(4), Alaska Rules of Minor Offense Procedure; and providing for an effective date," be scheduled for a hearing in the Senate Resources Committee at your earliest convenience.

The purpose of this legislation is to provide the Alaska Wildlife Troopers the authority to issue correctable citations, similar to that available for driver's licenses. This bill will prohibit a person from receiving a sport fishing, hunting, or trapping license in Alaska if their privileges have been suspended or revoked in another state. This bill increases the restitution for animals harvested illegally, standardizes penalties for offenses, and also provides an additional tool for the Alaska Wildlife Troopers in charging wildlife, fisheries, and habitat crimes by allowing for some offenses to be reduced to violations. Finally, the bill allows for the display of a license in an electronic format to reflect modernization efforts made to the fish and game licensing program.

Your favorable consideration of this request is appreciated. If you need any additional information, please contact Kevin Brooks, Deputy Commissioner for the Alaska Department of Fish and Game at 907-465-6138.

Sincerely,

A handwritten signature in black ink that reads "Sam Cotten".

Sam Cotten
Commissioner

cc: Darwin Peterson, Legislative Director, Office of the Governor



Sectional Analysis, SB 164
Fish and Game: Offenses; Licenses; Penalties
February 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, tag, or permit in their actual possession may not be convicted if the person produces a license, tag, or permit previously issued to the person that was valid at the time of the offense.
 - The second subsection specifies that a license or permit 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 Under “Obstruction or hindrance” statute, this section provides the additional option of charging a person with a violation offense when appropriate.

Sec. 14 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. 15 Under “Protection of fish and game” statute, this section provides the additional option of charging a person with a violation offense when appropriate.

Sec. 16 This section increases the restitution amounts for animals taken illegally by 50%.

Sec. 17 Related to section 16, this section provides the additional option of charging a person with a violation offense when appropriate.

Sec. 18 This section adds a definition of “electronic form”.

Sections 19- 26 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. 19 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. 20** Related to section 19, this section provides the additional option of charging a person with a violation offense when appropriate.
- Sec. 21** 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. 22** Related to section 21, this section provides the additional option of charging a person with a violation offense when appropriate.
- Sec. 23** 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. 24** Related to section 23, this section provides the additional option of charging a person with a violation offense when appropriate.
- Sec. 25** 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. 26** Related to section 25, this section provides the additional option of charging a person with a violation offense when appropriate.
- Sec. 27** This section amends the uncodified rules of the court of Alaska to make it clear the court has the authority to dismiss citations written for people failing to have their license, tag, or permit in their possession.
- 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.

FISCAL NOTE

STATE OF ALASKA
2016 LEGISLATIVE SESSION

Bill Version SB 164
Fiscal Note Number _____
() Publish Date _____

Identifier (file name) FISH AND GAME OFFENSES and VIOLATION DISMISSAL Dept. Affected Fish and Game
Title _____ Appropriation Statewide Support Services
Allocation Commissioner's Office
Sponsor GOVERNOR WALKER
Requester Rules Committee OMB Component Number 2175

Expenditures/Revenues (Thousands of Dollars)

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

	FY17 Appropriation Requested	Included in Governor's FY17 Request	Out-Year Cost Estimates				
			FY18	FY19	FY20	FY21	FY22
OPERATING EXPENDITURES	FY17	FY17	FY18	FY19	FY20	FY21	FY22
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		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1007	I/A Rcpts (Other)						
1178	temp code (UGF)						
		0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY16) operating costs _____ (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY17) costs _____ (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? _____ Discuss details in analysis section.

Why this fiscal note differs from previous version (if initial version, please note as such)

Prepared by Carol A. Petraborg, Administrative Services Director
Division Administrative Services
Approved by Keven Brooks, Deputy Commissioner
Agency Department of Fish and Game

Phone 907-465-6077
Date/Time 2/2/16 4:00 PM
Date _____

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2016 LEGISLATIVE SESSION**

BILL NO. SB 164

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:	SB 164
Fiscal Note Number:	1
(S) 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 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates					
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
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	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues

--	--	--	--	--	--	--	--	--

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.

Prepared By: Major Bernard Chastain
 Division: Alaska Wildlife Troopers
 Approved By: Gary Folger, Commissioner
 Agency: Public Safety

Phone: (907)269-2054
 Date: 12/18/2015 04:00 PM
 Date: 12/18/15

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.