

SB

164

<TARGET><BILL>SB 164</BILL><SUBJECT>SB
164</SUBJECT><COMM>SRES30</COMM></TARGET>

STATE CAPITOL
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Governor Bill Walker
STATE OF ALASKA

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January 25, 2018

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

Dear President Kelly,

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to confidentiality of animal and crop records.

The bill would make confidential certain records of animal or crop importation and lab testing. Farmers in Alaska must provide certain practices and information in order to comply with federal and state regulations. Commonly, farmers disclose animal importation records, farm locations, test results, and animal identification to the State. Farmers may be reluctant to participate in voluntary testing of animals in order to protect their information and competitive advantage, which increases the risk of animal disease outbreaks. Providing confidentiality for these records will promote farmer participation in voluntary testing. Confidentiality would also limit a competitor's unfair advantage in the market by not making available information regarding trade secrets and proprietary business information. Confidential records may still be disclosed if there is a threat to the health or safety of an animal, crop, or to the public. This bill also provides a definition for 'varietal'.

I urge your prompt and favorable action on this bill.

Sincerely,

A handwritten signature in cursive script that reads "Bill Walker".

Bill Walker
Governor

Enclosure

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version:	SB 164
Fiscal Note Number:	1
(S) Publish Date:	1/26/2018

Identifier: DEC-EHL-01-25-18
 Title: CONFIDENTIALITY OF ANIMAL & CROP RECORDS
 Sponsor: RLS BY REQUEST OF THE GOVERNOR
 Requester: Rules by Request of the Governor

Department: Department of Environmental Conservation
 Appropriation: Environmental Health
 Allocation: Laboratory Services
 OMB Component Number: 2065

Expenditures/Revenues

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

	FY2019	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2019 Request	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
OPERATING EXPENDITURES	FY 2019	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
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

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2018) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) 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/comments:

Not applicable, initial version.

Prepared By:	Christina Carpenter, Director	Phone:	(907)269-7645
Division:	Environmental Health	Date:	01/25/2018 10:30 AM
Approved By:	Alice Edwards, Deputy Commissioner	Date:	01/25/18
Agency:	Department of Environmental Conservation		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION

Analysis

This bill would make confidential certain records of animal importation and laboratory testing. Confidential records may still be disclosed if there is a threat to the health or safety of an animal or the public. The duties related to the Office of the State Veterinarian within the Environmental Health Laboratory are unchanged with this legislation, so there would be no fiscal impact to the Department.



SB 164: Confidentiality of Animal & Crop Records

Office of the State Veterinarian

Senate State Affairs Committee

Christina Carpenter
Division Director
Dr. Robert Gerlach, VMD
State Veterinarian

February 8, 2018



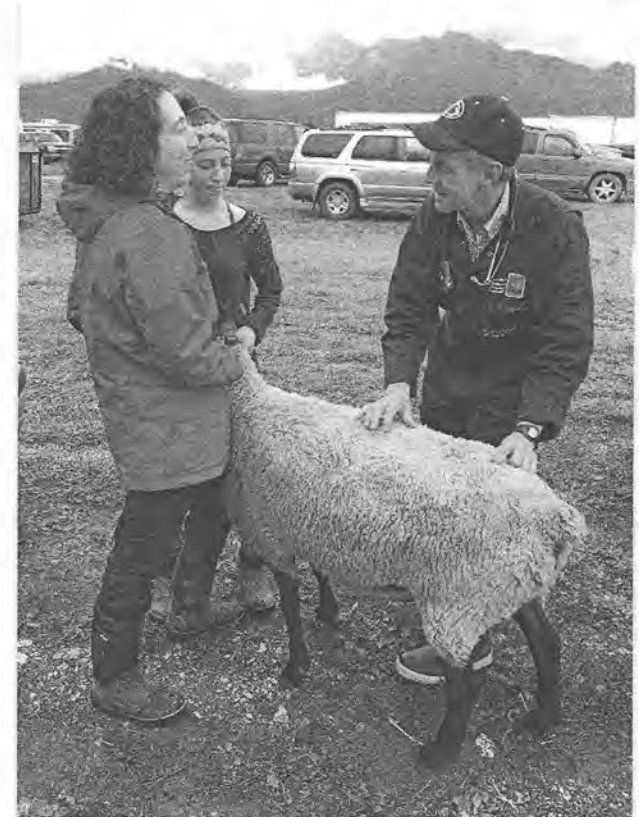
SB 164: Confidentiality of Records

- To keep the Alaska agricultural sector healthy, to encourage its growth, and to prevent unfair competitive practices requires a change to the Alaska Statutes, specifically to keep certain information about agricultural imports, animal identification, premise, and test results confidential
- Amends 03.05 to add a new section that would make certain records held by DEC and DNR confidential
- This bill would provide agriculture producers with similar confidentiality protection already afforded to other commercial industries (commercial fisheries, e.g.)
- Coordinated effort with the Departments of Environmental Conservation and Natural Resources



SB 164: Need Overview

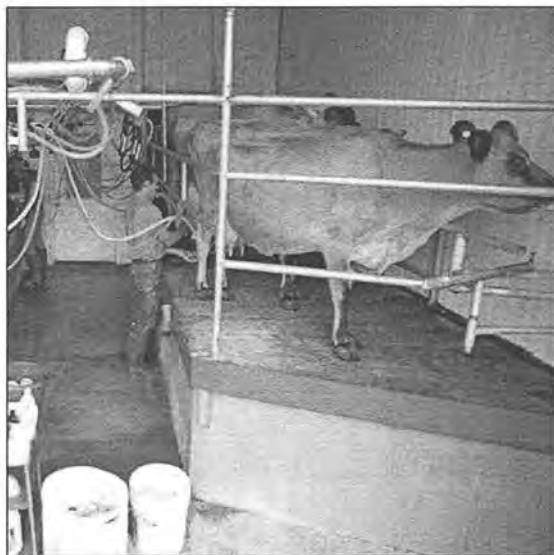
- Farmers are reluctant to subject their animals and crops to voluntary testing for disease because the results of those tests are not proprietary as they are in other states.
- Public disclosure of this information can have potentially negative impacts on their business, and since they are not mandated tests, they opt not to test at all.
- An outbreak of disease could cause significant threats to animal health (both wild and domestic), public health, the environment or the food supply.
- Holding animal import health records, import permit information and voluntary disease testing or product quality testing as proprietary allows farmers to keep this business information confidential.





Office of the State Veterinarian

The Office of the State Veterinarian is responsible for the prevention, control and eradication of animal diseases in all animals in the state including livestock and pets, safeguarding the health and food production capacity of the State's livestock, reindeer, and poultry and preventing the transmission of animal diseases to humans.





Program Functions and Record Examples

- “One Health” Animal Disease and Traceability
 - Import Regulations for Animals
 - Disease Surveillance and Investigation
 - Movi Study – Wild and Domestic Sheep and Goats
- Dairy
 - Sanitation at Dairy Farms and Milk Facilities
 - Dairy Products Safe for Human Consumption
 - New Recipes
- Reindeer Slaughter
- FSMA Produce Safety Rule
- Fish Tissue Monitoring





Alaska Animal Imports: OSV Records

		Cattle	Sheep/ Goats	Equine	Swine	Poultry
FY2014	# Permits	6	26	77	19	220
	# Animals	37	92	203	2,050	14,000
FY2015	# Permits	5	21	63	13	490
	# Animals	22	38	118	668	30,623
FY2016	# Permits	14	22	203	31	1,645
	# Animals	169	298	352	2,668	128,372
FY2017	# Permits	22	17	192	37	1,230
	# Animals	401	85	366	2,319	91,929

*These numbers do not include imports that do not require a permit (i.e. pets), but do require a health certificate from the state or country of origin.



Disease Outbreaks in Alaska

- Brucellosis
 - ~20% of cases are associated with recreational and subsistence hunting
- Domestic Animals
 - Pet Foods (brucellosis canis, leptospirosis, rabies, avian, swine, and canine influenza)
 - Poultry (Marek's Disease, fowl cholera, avian influenza)
 - Baby Chicks (salmonella)
 - Outbreaks at the Fair (Strep. suis, Malignant Catharral Fever)
 - Domestic Rabbits (herpes virus)
- Treats & Raw Foods
 - Poultry Deaths (SouthCentral; toxin)
 - Horses (Kodiak; aflatoxin)
 - Domestic Pets (salmonella, chemical contaminants)
- Records can still be disclosed if there is a threat to the health or safety of an animal, crop, or the public





SB 164: Sectional Analysis

Section 1:

- Makes certain animal and crop records maintained by the Departments of Environmental Conservation and Natural Resources exempt from the Alaska Public Records Act if they
 - 1) are importation records that identify a particular animal, crop, business, or individual;
 - 2) contain animal or crop test results if certain conditions are met; or
 - 3) are trade secrets or proprietary business or financial information.
- Allows the Departments to disclose the above described records in the case that the Departments determine that there is a threat to the health or safety of an animal, crop, or the public.
- Provides the definition of “varietal”.

Section 2:

- Allows the Departments of Environmental Conservation and Natural Resources to adopt regulations to implement the Act.

Section 3:

- Provides for an immediate effective date for Section 2.



SB 164: Benefits

- Routine surveillance testing may encourage better animal husbandry and crop management, resulting in a higher quality product for sale and increased production efficiency.
- Early identification and testing of sick or dead animals and crops decreases the potential for more serious outbreaks and spread of disease to other farms, plants or wildlife.
- Confidentiality of proprietary data prevents unfair advantage to a competitor regarding product development, marketing strategy, and source of animal inventory.





Questions?



<http://dec.alaska.gov/eh/vet.aspx>
<http://list.state.ak.us/mailman/listinfo/akstatevetnews>



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Environmental
Conservation

DIVISION OF ENVIRONMENTAL HEALTH
Director's Office

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February 9, 2018

The Honorable Senator Meyer, Chair, Senate State Affairs Committee
The Honorable Senator Giessel, Chair, Senate Resources Committee
State Capitol Rooms 103, 427
Juneau, AK 99801

Dear Senators Meyer and Giessel,

During the Department's presentation on SB 164 in the State Affairs Committee, questions were raised by Senator Coghill about the Alaska Grown marketing program, and how the records being proposed for confidentiality under the bill would be used to verify that a producer was eligible to use the Alaska Grown trademark and logo. Below is some clarifying information about this topic.

Current practice is that, upon request from the Department of Natural Resources, DEC would share records and information about animal imports that would assist them in determining if the animals had spent the required amount of their lives in Alaska to be labeled "Alaska Grown". These records may include the importation permit and health certificate, which would list the animal ID, the age of the animal, the source of the animal, and the date that the animal entered Alaska.

Under SB 164, both DNR and DEC would still be able to release these records if either Department determined that there was a threat to the health or safety of an animal, crop, or the public. If the issue was not related to health or safety, such as determining eligibility for the Alaska Grown program, the Department of Natural Resources could still require that the producer prove eligibility by providing those records or other records directly to them. Since the Alaska Grown program is voluntary, the producer could choose to submit the proof or not. If they did submit the records to DNR, they would be exempt from the Alaska Public Records Act as outlined in the bill.

Please let me know if you have additional questions.

Sincerely,

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

Christina Carpenter
Director

cc: Dr. Robert Gerlach, State Veterinarian, DEC Division of Environmental Health
Arthur Keyes, Director, DNR Division of Agriculture

From: Gerlach, Robert F (DEC)
To: Bus, Alida N (DEC); Carpenter, Christina E (DEC)
Subject: Fwd: SB164 Letter of Support
Date: Thursday, February 08, 2018 1:00:05 PM

Sent via the Samsung GALAXY S4 Active™, an AT&T 4G LTE smartphone

----- Original message -----

From: Jan Flora <grewingk@gmail.com>
Date: 02/08/2018 12:55 (GMT-09:00)
To: SenateStateAffairs@akleg.gov
Subject: SB164 Letter of Support

Dear Senator Meyer:

As a farmer and stockgrower, I'm writing in support of SB164, Confidentiality of Animal and Crop Records.

I was very surprised to discover that our crop and animal health records aren't protected in statute, as our right to privacy enjoys vigorous protections in the Constitution of the State of Alaska.

The five beef cattle herds on the Kachemak are currently disease-free, but we remain very vigilant, as a warming climate may bring emerging diseases with it. We need ranchers to feel confident that the state will protect our privacy as we work with animal health professionals to do surveillance and testing as necessary.

I encourage your committee to protect the confidentiality of our records, so farmers and stockgrowers will feel comfortable working with our DEC food safety professionals and with the Office of our State Veterinarian.

I support passage of SB164.

Thank you for your time and consideration.

Sincerely,

Jan Flora

Swift Creek Ranch
Homer, Alaska

Dear Senator Cathy Giessel,

I'm an Alaska livestock owner and I would appreciate you supporting SB164, the Confidentiality of Animal and Crop records legislation. This bill will encourage Alaska livestock owners and farmers to work with the Department of Environmental Conservation and the State Veterinarian's office in disease management through confidentiality provisions of State Law. Without confidentiality provisions livestock owners and farmers will be unlikely to contact the State Veterinarian to manage disease concerns, and will be less likely under current law to have animals tested voluntarily for contagious diseases and viruses. This could have a huge negative impact on the health of livestock and crops in Alaska.

Thank you

Sincerely, Tina Starr Judd



February 22, 2018

The Honorable Kathy Giessel
Chairman Senate Resource Committee
Alaska State Senate

Re: Alaska Wild Sheep Foundation (AK WSF) Position on SB164

Dear Senator Giessel,

AK WSF appreciates the opportunity to comment on SB164 and we sincerely hope that our comments are taken in the collaborative spirit in which they were intended. Although we have not formed our final position we believe that with minor modifications that we could support SB164 and are dedicated to contributing to that end in any way that we can.

AK WSF is a leading conservation organization in Alaska with a primary focus on wild *Caprinae* species including Dall sheep, Rocky Mountain goats, and muskoxen. Over the past two years, our organization has been engaged in discussions with the domestic sheep and goat industry in Alaska in an attempt to prevent the transmission of a harmful foreign pathogen called *Mycoplasma ovipneumoniae* (M.ovi) from domestic sheep and goats to their wild counterparts. During these discussions it became readily apparent that confidentiality of personal and business sensitive information was a major issue with domestic producers and therefore a potential hurdle to the development of a workable mitigation strategy.

We fully recognize the importance of maintaining a level of confidentiality for the agricultural records to encourage more voluntary participation in testing and mitigation of potential threats to animals and agricultural products in Alaska. We do however strongly believe that testing information without specific links to an individual agricultural producer must remain available to the public. We concur that once a threat is identified private information should be selectively released especially when it supports the development of a mitigation plan or strategy. We also think it is important that the bill contain at least a working definition of the operant term "threat" to help ensure that the bill is universally understood by all.

Personal information should be protected to the greatest extent possible.

AK WSF supports statutory privacy protections that ensure the identities of individuals or specific farms, facilities, herds, flocks or other veterinary records with owners or producers personal information remains confidential. We do not believe that this same protection extends to individual animals however.

We also suggest that wording be added to specifically protect the personal information of owners and producers that becomes available to the State under reportable disease regulations.

General testing results, reportable disease information, and import data collected and maintained by the State of Alaska whether voluntary or mandatory should always be available to the public.

The proposed legislation must differentiate between the confidentiality of personal and private information and disease testing and importation records. AK WSF strongly believes that state maintained crop and animal testing, reportable disease and importation records should be readily available to the public but disassociated with personal information. We ask that the legislature explicitly provide for public access to this information when collected and maintained by state agencies.

The knowledge of specific pathogens, viral agents, diseases or genetic variants that are present in the state should not be withheld from the public and are critical in developing the broad support necessary to implement

effective mitigation strategies. Many of the pathogens and diseases most concerning to wildlife conservationists and livestock breeders are bi-directional in that they can be transmitted from wild to domestic animals and vice versa. Knowing what pathogens or diseases are present in specific populations and their proximity to other potential host populations is vital to any risk mitigation plan. For example knowing which domestic sheep and goats are infected with M.ov1 and their proximity to their wild counterparts is vital information.

Private information should be selectively released in the case of an identified threat.

Senate Bill 164 provides for release of confidential, personal information if a threat is identified to animals/crops or the public. The language of the bill in the case of an identified threat uses the word "may" as opposed to "shall" and this seems appropriate to limit the potential inadvertent release of personal or business information.

Clearly the most appropriate time for the release of such information is in conjunction with the development of a mitigation strategy following identification of any domestic livestock or crop pathogen or disease that threatens public health, domestic animal health, or public resources including wildlife within the State of Alaska. Early development of these plans by DEC, DNR, ASF&G including the handling of associated sensitive information is key and might be considered for this bill.

The bill should contain at least a working definition of "threat."

We believe that a defining a threat as, "a disease, pathogen, organism, or varietal that has been proven to pose a threat to animals or agricultural products," or similar should be spelled out in the law and amplified as required in supporting regulations. The will help provide clarity and insure a consistent interpretation of the law and subsequent regulations.

Summary

Incorporating appropriate privacy protections are essential to building trust and continuing the collaboration between wildlife advocates, domestic owners and producers and the State. We know firsthand that strong privacy protections are necessary to further our efforts to protect wild *Caprinae* from the transmission of foreign pathogens from domestic sheep and goats.

The ability to review disease testing and importation records for domestic livestock is also necessary to address the risks posed by foreign pathogens to wild animals. When a threat is identified private information should be selectively released when it supports the development of a mitigation plan or strategy or is part of an established mitigation strategy. It is also important that we develop a common understanding of what constitutes a "threat" as part of this bill to help ensure that the bill is universally understood by all.

Minor language revisions within SB 164 will ensure that we strike a healthy balance between personal privacy and public interest.

Sincerely,



Kevin J Kehoe
President
Alaska Wild Sheep Foundation
Email: kevinkehoe@alaskan.com
Office: 907-868-8821