

**ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2**

**3537 HRES HB 21 - HB 33**

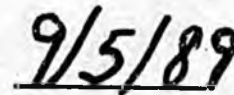
973



# RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

HB

21

reports. — For 977 (CSHD 2), see 663.  
s. — 63 Am. Jur. to 64.  
nds, §§ 36 to 57.

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(d) An applicant may apply for more than one available homesite. A person holding a homesite patent may not apply for a homesite entry permit, a person may not simultaneously hold more than one homesite entry permit, and a person who is a member of the homesite entry permit holder's household may not be issued a homesite entry permit while a member of the homesite entry permit holder's household. (§ 2 ch 142 SLA 1977; am § 39 ch 113 SLA 1981; am § 19 ch 67 SLA 1983; am § 50 ch 152 SLA 1984)

Effect of amendments. — The 1983 amendment repealed subsection (b). The 1984 amendment rewrote subsection (c).

**Sec. 38.08.050. Revocation of entry permit.** (a) The entry permit may only be revoked for failure to erect a dwelling as required under AS 38.08.060, or for other substantial breach of the terms and conditions of the homesite entry permit.

(b) Upon revocation and termination of a permit, improvements or chattels upon the homesite shall be managed, and subsequent issuance of a permit for entry on the homesite shall be conditioned, in the same manner as provided in AS 38.05.090 for removal or reversion of improvements upon termination of leases of state land. (§ 2 ch 142 SLA 1977)

**Sec. 38.08.060. Issuance of patent.** (a) A person who enters upon homesite entry land under a permit issued by the director shall be issued a patent to the land conveying an unencumbered title if that person

(1) occupies the land for a cumulative total of 35 months within the seven-year period following issuance of the homesite entry permit;

(2) erects a habitable, permanent, single-family dwelling on the homesite, which meets all applicable state and local regulations, within five years of the date of issuance of the homesite entry permit; for the purposes of this paragraph, mobile homes are not considered to be permanent dwellings unless they are placed on a permanent foundation;

(3) reimburses the state for the survey and platting undertaken in accordance with this chapter; the director shall provide by regulation for installment payments of this requirement.

(b) Nothing in this chapter shall be construed to prohibit a person issued a homesite entry permit from residing in a temporary habitable dwelling on the homesite until revocation of the homesite entry permit.

(c) A person may not be issued more than one patent during a lifetime, nor may any person who is a member of a patent holder's household be issued a patent while a member of the patent holder's household.

(d) If a dwelling is found to have been substantially completed under AS 38.08.100, patent shall be issued upon completion of the dwelling, notwithstanding (a) (2) of this section.

(e) A permit holder who meets each of the provisions of (a) of this section except for (a)(1) and who tenders the commissioner an amount equal to five percent of the purchase price of the land within seven years of the issuance of the permit may purchase the land under AS 38.05.065. The purchase price of the land is the fair market value of the land at the time of purchase. (§ 2 ch 142 SLA 1977; am § 11 ch 181 SLA 1978; am § 42 ch 85 SLA 1979; am § 38 ch 113 SLA 1981; am § 51 ch 152 SLA 1984)

**Cross references.** — For special conditions relating to entry permits issued before July 1, 1983, see sec. 87, ch. 152, SLA 1984 in the Temporary and Special Acts.

**Effect of amendments.** — The 1981 amendment substituted "seven-year" for "five-year" in paragraph (1) of subsection (a).

The 1984 amendment added subsection (e).

**Editor's notes.** — Section 47, ch. 113, SLA 1981 provides: "A person who is granted a homesite entry permit before July 1, 1981, is entitled to a patent to the land if the person satisfies the conditions imposed (1) in the homesite entry permit; or (2) by AS 38.08.060(a)."

*Secs. 38.08.070 — 38.08.080. Required planning authority and zoning approval of land within municipality. [Repealed, § 45 ch 85 SLA 1979.]*

**Sec. 38.08.090. Disclaimer of intent to provide services.** Nothing in this chapter obligates the state to provide services to land which is the subject of homesite entry and patent. (§ 2 ch 142 SLA 1977)

**Sec. 38.08.100. Substantial completion of dwelling.** An entry permit may not be revoked for failure to erect a dwelling in the time required under AS 38.08.060(a)(2) if the director finds that erection of the dwelling has been substantially completed and progress toward completion is being made at the expiration of the time required. (§ 2 ch 142 SLA 1977)

**Sec. 38.08.110. Regulations.** The commissioner shall adopt regulations in accordance with AS 44.62.180 — 44.62.290 to carry out the purposes of this chapter, including, but not limited to, regulations relating to easements and access routes. (§ 2 ch 142 SLA 1977; am § 12 ch 181 SLA 1978)

**Sec. 38.08.120. Definitions.** In this chapter

(1) "commissioner" means the commissioner of natural resources;  
 (2) "habitable dwelling" means a dwelling of a permanent nature, together with fixtures and facilities, including sanitary facilities required or customary in the vicinity of the land made available for homesite entry;

(3) "resident" means a person who is not claiming residence in another state and shows by all attending circumstances an intent to maintain a permanent residence in the state. (§ 2 ch 142 SLA 1977)

**Section**  
 10. Design entry  
 20. Homesite  
 30. Qualification  
 40. Revocation  
 50. Issuance  
 60. Marking

**Collateral**  
 2d, Public Law  
 73A C.J.S.

**Sec. 38.09.1**  
 The commission shall make a survey of the state land made available for distribution.  
 (b) The commission shall make a survey of the homestead land made available for cadastral settlement, and shall make a survey.  
 (c) Notice of the survey shall be given to the owner of the land.  
 (d) Land made available for distribution shall have preference over other land made available for distribution.  
 (e) The commission shall make a survey for each area of land made available for distribution. The procedure shall be:  
 (1) the commission shall make a survey;  
 (2) the director shall make a survey;  
 (3) a description of the land made available for distribution shall be prepared;  
 (4) a requirement shall be made for the land as a point of reference;  
 (5) a specification shall be made of a homestead made available for distribution;  
 (6) the time for the survey shall be determined.  
 (f) The commission shall make a survey of the homestead made available for distribution.  
 (a) of this section shall apply to more than one entry on more than one



*Grand Camp*  
*Alaska Native Brotherhood*

71ST, ANNUAL ANB-ANS GRAND CAMP CONVENTION  
JUNEAU, ALASKA  
NOVEMBER 14-19, 1983

RESOLUTION NO. 16

WHEREAS, "House Bill 433, An Act relating to homesites for veterans",  
and

WHEREAS, Section 1. AS 38.08 was amended by adding a new section to  
read:

Sec. 38.08.015. Homesites for Veterans. A veteran who quali-  
fies for a homesite entry permit under AS 38.08.030 may not be  
required to reimburse the State for the costs incurred by the  
State in surveying and platting undertaken by the State in  
accordance with this chapter.

"Veteran" means a person who

(a) Performed service in the armed forces of the United  
States for a period of 180 days or more during one or  
more of the following periods unless a shorter period  
of service resulted from a service connected injury or  
disability:

- (1) Between April 6, 1917 and December 1, 1918;
- (11) Between September 16, 1940 and December 31, 1947;
- (111) Between June 25, 1950 and January 31, 1955
- (1V) Between August 4, 1964 and November 7, 1975

(b) Received an honorable discharge.

THEREFORE BE IT RESOLVED that the 71st Annual Grand Camp Convention of  
the Alaska Native Brotherhood and Sisterhood assembled in  
Juneau, Alaska support H.B. 433 and diligently pursue this bill  
in the 1984 legislature.

ATTEST:

I certify that this resolution  
was adopted by the ANB ANS Grand  
Camp in Convention at Juneau  
during the week of Nov. 14-19,  
1983.

*Ronald Williams* 586-7600  
Ronald Williams, Grand President

*Albert Kookesh*  
Albert Kookesh, Grand Secretary

Past ANB Grand Presidents  
Roy Peratrovich  
Alfred Widmark  
Cyrus Peck

Frank Peratrovich  
Patrick J. Paul  
Thomas Jackson  
John Hope

Frank See  
Walter Soboleff  
Richard Silt  
Steven V. Hotch

Nelson D. Frank  
Frank J. Williams  
Herbert Hope  
Robert R. Martin

# DNR AMENDMENT 1

Introduced: 1/14/85  
Referred: Resources and  
Finance

1 IN THE HOUSE

BY COLL

2

HOUSE BILL NO. 21

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to homesites for veterans."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 38.08 is amended by adding a new section to read:

9 *Sec. 38.08.015. HOMESITES FOR VETERANS. A veteran who qualifies*  
10 *(and who complies with the provisions of AS 38.08.060 (a-d) except (a)(3),*  
11 *for a homesite entry permit under AS 38.08.030/may not be required to*  
12 *reimburse the state for the costs incurred by the state in surveying*  
13 *and platting undertaken by the state in accordance with this chapter.*

13 \* Sec. 2. AS 38.08.120 is amended by adding a new paragraph to read:

14 (4) "veteran" means a person who

15 (A) performed service in the armed forces of the  
16 United States for a period of 180 days or more during one or more  
17 of the following periods unless a shorter period of service  
18 resulted from a service connected injury or disability:

19 (i) between April 6, 1917 and December 1, 1918;

20 (ii) between September 16, 1940 and December 31,  
21 1947;

22 (iii) between June 25, 1950 and January 31, 1955;

23 or

24 (iv) between August 4, 1964 and November 7, 1975;

25 (B) received an honorable discharge.

## DNR AMENDMENT 2

### Definition of Veteran

The definition of veteran for purposes of this measure (§2 AS 38.08.120) is different than the existing wording in AS 38.05.940 (b) (3&4). In order to avoid confusion and difficulty in administering two qualification standards for veterans, the department recommends the following amendment to HB 21, section 2:

Sec. 2. AS 38.08.120 is amended by adding a new paragraph to read:

(4) "veteran" as used in this section shall have the same meaning as in AS 38.05.940 (b) (3&4). [MEANS A PERSON WHO

(A) PERFORMED SERVICE IN THE ARMED FORCES OF THE UNITED STATES FOR A PERIOD OF 180 DAYS OR MORE DURING ONE OR MORE OF THE FOLLOWING PERIODS UNLESS A SHORTER PERIOD OF SERVICE RESULTED FROM A SERVICE CONNECTED INJURY OR DISABILITY:

(I) BETWEEN APRIL 6, 1917 AND DECEMBER 1, 1918;

(II) BETWEEN SEPTEMBER 16, 1940 AND DECEMBER 31, 1947;

(III) BETWEEN JUNE 25, 1950 AND JANUARY 31, 1955;

OR

(IV) BETWEEN AUGUST 4, 1964 AND NOVEMBER 7, 1975;

(B) RECEIVED AN HONORABLE DISCHARGE.]

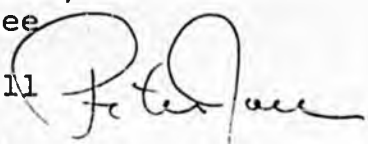


STATE OF ALASKA  
HOUSE OF REPRESENTATIVES

M E M O R A N D U M

January 21, 1985

TO: Representative Dick Shultz, Co-Chairman  
House Resources Committee

FROM: Representative Peter Goll 

SUBJECT: HB 21

The intent of HB 21 is to provide consideration to war-time veterans seeking a homesite for purposes of establishing a permanent residence.

Other land disposal programs and many state loan programs award veterans discounts or preferences. This bill would exempt veterans from reimbursing the state for the cost of survey and platting which are required under AS 38.08.060(a)(3). The application fee, would still be required prior to the state's issuing a patent.

The definition of veteran serving during periods of conflict was developed last session, and consistent with the dates established by federal and state law.

A number of citizens will be testifying. Mr. Leo Land will be traveling from Haines, expressly to testify on this legislation. My staff has provided your office with the names of other persons and groups who are interested in the legislation. Your assistance in assuring that they receive prior notice is greatly appreciated.

A sectional analysis has also been provided to committee staff.

Thank you very much for your prompt scheduling of HB 21.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 18, 1985

SUBJECT: HB 21, Sectional Analysis  
TO: Representative Peter Goll  
FROM: Randall J. Moen *RJM*  
Legislative Counsel

Section 1 Allows a qualified veteran to acquire state land under a homesite entry permit without having to reimburse the state for surveying and platting costs incurred by the state on the homesite.

Section 2 Defines the word "veteran" for purposes of section 1, above, to mean a person who served in the armed forces of the U.S.A. for 180 days or more during a prescribed period of time and received an honorable discharge. The 180 day service requirement does not apply if the person received a service connected injury or disability.

RJM:csh  
c2/180

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 21  
Title: Homesites for Veterans

Sponsor: Goll  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Natural Resources  
Program Category Affected: \_\_\_\_\_

BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		24.5	4.4	4.4	4.4	4.4
200 TRAVEL						
300 CONTRACTUAL		0.5	0.1	0.1	0.1	0.1
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		25.0	4.5	4.5	4.5	4.5
<b>CAPITAL</b>						
<b>REVENUE</b>		(86.0)	(86.0)	(86.0)	(86.0)	(86.0)

FUNDING: (Thousands of Dollars)

GENERAL FUND		25.0	4.5	4.5	4.5	4.5
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		25.0	4.5	4.5	4.5	4.5

POSITIONS:

FULL-TIME						
PART-TIME		1				
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attached

Prepared By: Michael E. Vediner Phone: 465-2400  
Division: Land and Water Management Date: January 18, 1985  
Approved by Commissioner: Robert D. Arnold, Deputy Date: January 18, 1985  
Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

January 18, 1985

ANALYSIS:

Operating expenditures will be minimal in the implementation of this bill. Of approximately 2200 homesite entry permits now issued, 20 percent are held by veterans. As much as \$25,000 will be required to obtain and review necessary documentation of eligibility of these permittees. This figure covers management, clerical, typing, and postage costs. At projected rate, homesite entry permittees authorized after implementation of this bill will require an additional annual increment of \$4500 to administer.

A net revenue loss will be incurred with this bill as follows. 20 percent of the total number of homesites issued is 440. At an average cost of \$1450 for surveying and platting each homesite, the total forgiveness of these costs is \$640,000 over the next ten years. In addition, at the current rate of 75 homesites per year, an additional 15 will be issued to veterans. This will further increase the revenue loss by \$22,000 per year. Using these figures a net annual revenue loss of \$86,000 will be incurred. Of course, as the program becomes more attractive the percentage of veterans in the numbers, and consequently the net annual revenue loss, will increase.

Part time position in FY 86 is for clerical staff.

Original sponsor: Goll

IN THE HOUSE

BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 21 (Resources)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to homesites for veterans."

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

\* Section 1. AS 38.08 is amended by adding a new section to read:

Sec. 38.08.015. HOMESITES FOR VETERANS. A veteran who qualifies for a homesite entry permit under AS 38.03.030 and who complies with the provisions of AS 38.08.060(a)-(d), except AS 38.08.060(a)(3), may not be required to reimburse the state for the costs incurred by the state in surveying and platting undertaken by the state in accordance with this chapter.

\* Sec. 2. AS 38.08.120 is amended by adding a new paragraph to read:

(4) "veteran" means a person who

(A) performed service in the armed forces of the United States for a period of 180 days or more during one or more of the following periods unless a shorter period of service resulted from a service connected injury or disability:

(i) between April 6, 1917 and December 1, 1918;

(ii) between September 16, 1940 and December 31, 1947;

(iii) between June 25, 1950 and January 31, 1955;

or

(iv) between August 4, 1964 and November 7, 1975;

(B) received a discharge under honorable conditions.



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

H B

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STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

POUCH V. STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary Committee, 4/17/85, 1:30 pm  
" " " " 4/19/85, 1:15 pm

COMMITTEE REPORT  
HOUSE

1/22

Res. 62

(9)

FURTHER:

4/22/85

Date:

1/22/86

The Committee on RESOURCES has had HB 31

"An Act relating to the obstruction or hindrance of lawful hunting, fishing, or trapping."

under consideration and recommends:

do pass                       do not pass

do pass with attached amendments(s)

replace with CS for \_\_\_\_\_  same title

and recommends \_\_\_\_\_  new title

AND attaches a "Letter of Intent"       New Fiscal Note

reports it back without recommendation       Zero Fiscal Note Attached

referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

Shultz

Dick Stutz

Cato

[Signature]

Jenkins

[Signature]

Pearce

[Signature]

Miller(NP)

M.L. Miller

Thompson

[Signature]

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Helmut Herrmann No Rec

Herrmann

[Signature]

Sund

[Signature]

Wallis

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Dick Stutz

CO-CHAIRMAN SHULTZ

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : HB 31  
 Title : "An Act relating to obstruction of lawful hunting, fishing or trapping"  
 Sponsor : Rep. Shultz  
 Requestor : H. Resources  
 Date of Request : 1/28/86

**FISCAL DETAIL**

Agency Affected : Public Safety  
 BRU : Fish & Wildlife Protection  
 Components : \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by: *K.M. Niles* Kathleen M. Niles, Admin. Ass't Phone: 465-4336  
 Division: Commissioner's Office Date: 1-28-86

Approved by Commissioner: *X* [Signature] Date: 1/22/86  
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 31  
 Title: "An Act relating to obstruction of lawful hunting, fishing or trapping."  
 Sponsor: Rep. Shultz  
 Requestor: H. Judiciary  
 Date of Request: ~~4/19/85~~ 1/28/86

FISCAL DETAIL

Agency Affected: Public Safety  
 Program Category Affected: \_\_\_\_\_  
NRMEC  
 BRU, Program or Subprogram(s) Affected: Fish & Wildlife Protection

of lawful

*L.T.C. Subp*

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Marcia Lynn McKenzie  
 Division: Administrative Services

Phone: 465-4349

Date: 4/19/85

Approved by Commissioner: Robert J. Striberg  
 Agency: Department of Public Safety

Date: 4/17/85

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 31  
 Title: Obstructing/hindering  
hunting or fishing  
 Sponsor: Shultz  
 Requestor: \_\_\_\_\_  
 Date of Request: January 28, 1986

FISCAL DETAIL

Agency Affected: Fish and Game  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME		NONE				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert A. Hinman Phone: 465-4190  
 Division: Game Date: 1-28-86

Approved by Commissioner: Orin Coleman Date: 1-30-86  
 Agency: Fish and Game

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: HB 31  
 Title: Obstructing/hindering  
hunting or fishing  
 Sponsor: Shultz  
 Requestor: \_\_\_\_\_  
 Date of Request: January 28, 1986

**FISCAL DETAIL**

Agency Affected: Fish and Game  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

FULL-TIME		NONE				
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary

Prepared By: Robert A. Hinman *Robert A. Hinman* Phone: 465-4190  
 Division: Game Date: 1-28-86

Approved by Commissioner: Quill Culmworth *Quill Culmworth* Date: 1-30-86  
 Agency: Fish and Game

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3715

## Overview HB 31

TO: HOUSE RESOURCES MEMBERS DATE: January 21, 1986  
FROM: Representative Dick Shultz (As requested by  
Representative John Sund)

HB 31 is not a new bill in that the concept has been around for some three years.

The rationale of HB 31 is very simple, however the political solution is more complex. Basically it boils down to two points of view.

1. Animal protectionist groups believe they should have the legal right to harass hunters, fishermen or their quarry in the name of conservation.
2. Hunters and fishermen feel this is an infringement on their rights to conduct a legally sanctioned activity.

Other states (see packet) have opted to protect hunters and fishermen in their activities and as a result have fashioned legislation to address conflicts that may occur in the field.

HB 31 is based on the review and input from several of these states and is designed to protect both the hunter and the fisherman as well as others enjoying the outdoors from intentional harassment designed to frustrate their activities.

The penalties involved are commensurate with those established by other states and a defense is provided for those who have a right to disturb field activities or reasonably believed they had the right to create a disruption or disturbance.

If one will take the time to read the growing sources of information provided to those who wish to harass hunters the necessity of this legislation will become more obvious.

When such activity takes place in Alaska it may cost an individual many thousands of dollars and ruin the trip of a lifetime. With this type of loss the potential for violence in the field is greatly increased. It is the intention of the sponsor through the legal relief available via HB 31 to provide a better alternative when such altercations arise.

COMMITTEE REPORT

HOUSE

(7)

1/14/85

FURTHER: Resources

Date: April 17, 1985

The Committee on Judiciary has had HB 31

"An Act relating to the obstruction or hindrance of lawful hunting, fishing, or trapping."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for \_\_\_\_\_ [ ] same title [ ] new title

and recommends \_\_\_\_\_

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendations [ ] Zero Fiscal Note Attached

[ ] referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

*[Handwritten signatures]*

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*[Handwritten signatures and notes: NO REC, do not pass]*

*[Handwritten signature]*  
CHAIRMAN

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: HB 31  
 Title: Obstruction or hindrance of  
hunting, fishing, or trapping  
 Sponsor: Shultz and Marrou  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Fish and Game; FWP  
 Program Category Affected: \_\_\_\_\_  
Natural Resource Management  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Game

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary

Prepared By: Phil Koehl Phone: 465-4190  
 Division: Game Date: 4/19/85

Approved by Commissioner: *James H. Poyser* Date: 4-22-85  
 Agency: Fish and Game

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 31  
 Title: "An Act relating to obstruction of lawful hunting, fishing or trapping."  
 Sponsor: Rep. Shultz  
 Requestor: H. Judiciary  
 Date of Request: 4/19/85

FISCAL DETAIL

Agency Affected: Public Safety  
 Program Category Affected: NRMEC  
 BRU, Program or Subprogram(s) Affected: Fish & Wildlife Protection

of lawful

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared by: Marcia Lynn McKenzie  
 Division: Administrative Services

Phone: 465-4349  
 Date: 4/19/85

Approved by Commissioner: Robert J. Steidberg  
 Agency: Department of Public Safety

Date: 4/19/85

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 546

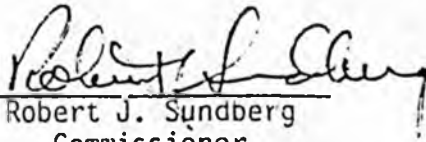
Support

"HB 546 - An Act relating to harassment of persons lawfully engaged in hunting, fishing, or trapping."

The Department of Public Safety supports passage of HB 546.

This bill adequately addresses conduct that is illegally aimed at interfering with lawful hunting, fishing or trapping.

British Columbia has had severe problems between legal hunters and anti-hunting groups that have led to armed confrontations. The potential for that to occur in Alaska is evident and I think enacting a law to address this problem would be a good start toward prevention.

  
Robert J. Sundberg  
Commissioner

NEVADA

Section 1. Chapter 503 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. It is unlawful for a group of people, acting together, intentionally to interfere with a person who is lawfully hunting or trapping. For the purpose of this subsection, hunting or trapping is "lawful" only if permitted by the owner or person in possession of the land, other than the government, in addition to any requirement of license or permit from a public authority.

2. The provisions of subsection 1 do not apply to any incidental interference arising from lawful activity by users of the public land, including without limitation ranchers, miners or persons seeking lawful recreation.

MAINE

§7541 Harassment prohibited.

1. Interference with taking. No person may willfully interfere with the lawful hunting, fishing or trapping of a wild animal, wild bird or fish.

2. Disturbing wild animals, wild birds or fish. No person may willfully disturb or attempt to disturb a wild animal, wild bird or fish with the intent to interfere with the hunting, fishing or trapping of them.

3. Violation. A violation of this section is a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

4. Property rights otherwise provided by law. This chapter shall not be construed in any way to limit the ownership use, access or control of property rights otherwise provided by law.

§7542 Injunction; damages.

1. Injunction. The District Court or Superior Court may enjoin conduct which would be in violation of section 7541 upon notification by a person affected or who reasonably may be affected by the conduct, upon a showing that the conduct is threatened or that it has occurred on particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.

SOUTH DAKOTA

Section 1. No person may intentionally interfere with any person or group of persons lawfully engaged in the process of taking or attempting to take any game or fish. No person may engage in any activity specifically intended to harass or otherwise prevent the lawful taking of any game or fish. No person may engage in any activity to scare or disturb any game with specific intent to prevent their lawful taking. This section may not be construed to prohibit a landowner from revoking a prior grant of permission to hunt on his land. A violation of any provision of this section is a Class 2 misdemeanor.

Section 2. Any person who fails to obey the order of a peace officer to desist from conduct in violation of section 1 of this Act, if the officer observes such conduct, or has reasonable grounds to believe the person was engaged in such conduct that day or intends to engage in such conduct that day on a specific premises, is guilty of a Class 1 misdemeanor.

Section 3. The court may enjoin conduct which is in violation of section 1 of this Act upon petition by a person affected or who reasonably may be affected by such conduct, upon a showing that such conduct is threatened or that it has occurred on a particular premises in the past and may reasonably be expected to be repeated. The court may award damages to any person adversely affected by a violation of section 1 of this Act. Damages may include an award for punitive damages, license fees, travel or other expenses which were rendered futile by preventing the licensee from taking game or fish.

Signed March 12, 1983.

ILLINOIS

[S.H.A. ch. 61, §301]

Section 1. Definitions. As used in this Act:

- a. "wild animal" means any wild creature the taking of which is authorized by the fish and game laws of the State.
- b. "Taking", means the capture or killing of a wild animal and includes travel, camping, and other acts preparatory to taking which occur on lands or waters upon which the affected person has the right or privilege to take such wild animals.

[S.H.A. ch.61, §302]

Section 2. Any person who knowingly performs any of the following is guilty of a Class C misdemeanor;

- (a) interferes with the lawful taking of a wild animal by another with intent to prevent the taking.
- (b) disturbs or engages in an activity that will tend to disturb wild animals, with intent to prevent their lawful taking.
- (c) disturbs another person who is engaged in the lawful taking of a wild animal or who is engaged in the process of taking, with intent to dissuade or otherwise prevent the taking.

(d) enters or remains upon public lands, or upon private lands without permission of the owner or his agent, with intent to violate this Section.

[S.H.A. ch. 61, §303]

Section 3. Any person who knowingly performs any of the following acts is guilty of a Class B misdemeanor;

(a) fails to obey the order of a peace officer to desist from conduct in violation of Section 2 of this Act if the officer observes such conduct, or has reasonable grounds to believe that the person has engaged in such conduct that day or that the person plans or intends to engage in such conduct that day on a specific premises.

[S.H.A. ch. 61 §304]

Section 4. (a) Any court may enjoin conduct which would be in violation of Section 2 of this Act upon petition by a person affected or who reasonably may be affected by such conduct, upon a showing that such conduct is threatened or that it has occurred on a particular premises in the past and that it is not unreasonable to expect that under similar circumstances it will be repeated.

(b) A court may award damages to any person adversely affected by a violation of Section 2, which may include an award for punitive damages. In addition to other items of special damage, the measure of damages may include expenditures of the affected person for license and permit fees, travel, guides, special equipment and supplies, to the extent that such expenditures were rendered futile by prevention of the taking of a wild animal.



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

April 13, 1984

MEMORANDUM

TO: Representative M. Mike Miller

FROM: Nancy Pease *Nancy Pease*  
Legislative Analyst

RE: HB 546 Harassment of Hunters  
Research Request 84-081

You requested information on statutes prohibiting the harassment of hunters in other states. Specifically, you asked how other states define harassment of hunters, what penalties other states prescribe for the harassment of hunters, and how many people have actually been prosecuted in each state in which these laws are in place.

Statutory Definitions of Harassment

Nine states currently have statutes which prohibit persons from intentionally interfering with the lawful taking of fish and game.<sup>1</sup> Most of the states' statutes use fairly broad language to prohibit persons from intentionally.

- harassing persons engaged in lawful hunting, trapping, and/or fishing; or
- interfering with the process of the lawful taking of fish or game; or
- disturbing fish or game in order to hinder fishermen or hunters from lawful taking.

In most of these states, the language of the statutes does not define "harassment", "interference", or "disturbance" in terms of specific activities which are disallowed. There are some instances in which states mention activities that would constitute harassment under the

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<sup>1</sup>Arizona, Illinois, Louisiana, Maine, Michigan, Nevada, Pennsylvania, South Dakota and Vermont. Arkansas repealed a law prohibiting the harassment of hunters after landowners protested that the law, as written, might have legalized trespassing on private lands.

Representative Miller  
April 13, 1984  
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law: Pennsylvania prohibits persons from tampering with, mutilating, destroying or removing traps, and from removing animals from traps; Louisiana prohibits the disturbing of wild animals by placing any object or substance intended to alter the behavior of the animals to the detriment of hunters; Vermont, Arizona and Pennsylvania specify that the "driving" of animals with the intent to hinder hunters constitutes illegal interference with a hunt. Nevada frames illegal interference with hunters in narrow terms by prohibiting "a group of people, acting together, [from] intentionally interfering with a person who is lawfully hunting or trapping."

The statutes of several states also mention specific activities which the law does not curtail even though the activities may, in some instances, hinder hunters, fishermen or trappers. For example, the Pennsylvania statutes specify that landowners may remove traps which have been set on their private property without their permission; in Maine the law does not prevent private landowners from keeping hunters off their property; and in several states, the law "may not be construed to prohibit incidental interference arising from lawful activity by land users such as farmers and recreationists (Vermont) or ranchers and miners (Nevada).

For the most part, states have either not defined "harassment", or have set out very general circumstances under which activities of many types might be construed as "harassment" of hunters. As an example of the broad language common to these statutes, Louisiana and Illinois forbid persons from disturbing any hunter, trapper or fisherman who is "engaged in the lawful taking of a wild animal or who is engaged in the process of taking (including travel, camping or other hunt preparations) with intent to dissuade or otherwise prevent the taking." In addition, other parties may not act to "prevent such person's enjoyment of the outdoors." Also, other parties may not enter or remain on state-managed or private lands or waters with the intent to disturb game or harass hunters.

#### Actual Incidents of Harassment

I talked with game wardens or legal specialists in the Fish and Game Departments of fifteen states to try to compile a list of activities which might commonly be considered interference in the lawful taking of fish and game. It appears that Fish and Game personnel have differing and uncertain impressions, under the broadly written statutes, of what activities might constitute intentional harassment of hunters or interference in the taking of game. Several of the fish and game officers with whom I spoke emphasized that they would not charge a

person with interference unless his presence and activities in a hunting area were blatantly intended to disrupt a hunt. The wardens mentioned planned, publicized disruptions by anti-hunting groups as instances in which they would charge participants with interference in the lawful taking of game.

Game wardens in Maine and South Dakota mentioned incidents of disturbance to hunters where charges were considered but not filed. In Maine, game wardens issued warnings to a person who drove a deer out of a clearing, interrupting the stalk of a bow hunter; and to an elderly couple dressed in blaze-orange clothing and carrying a red umbrella who settled themselves in lawnchairs right behind a duck blind where hunters were hunting over decoys. In South Dakota, state conservation officers investigated two incidents between competing sportsmen and failed to file charges because the harassment appeared to have been mutual and of unverifiable origin. The first such incident involved two parties of fishermen throwing rocks at one another in a dispute over access to a creek on private land. The second incident occurred when a goose hunter was ordered to leave a section line by a farmer who owned the land on either side of the right-of-way and charged hunters to hunt on his property.

Only two states report that persons have been convicted under their statutes prohibiting interference with the lawful taking of fish and game.<sup>2</sup> These cases apparently did not involve serious challenges to the vagueness of the statutes; to date, there have been no court rulings to further define what activities and circumstances constitute intentional harassment of hunters.

Because anti-harassment statutes have resulted in few actual charges, officials in most states explained the scope and intent of the statutes by mentioning past instances of harassment of hunters in their states, or incidents that have occurred in other states. Following is a list of instances of harassment of hunters mentioned by fish and game officials as contributing to the passage of anti-harassment legislation, or as defining the application of such laws.

Arizona. According to Assistant Attorney General Joe Clifford, three incidents of harassment of hunters in Arizona led to his state's passage in 1981 of the first law prohibiting interference with the legal taking of game. The earliest incident involved Arizona's small bison

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<sup>2</sup>Vermont's Chief Warden of Fish and Game reported that four complaints of interference with the taking of game in the second half of 1983 resulted in three convictions, all related to trapping. In Illinois, since the anti-harassment law took effect on January 1, 1984, one person has been convicted of tampering with traps.

Representative Miller

April 13, 1984

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herd. Approximately 10 years ago, anti-hunting groups began to protest the annual permit hunt by which the Arizona Game Department culls the bison herd to keep the herd's population stable. The protest escalated year by year until the anti-hunters were threatening to lie down between the herd and the hunters. A second protest was sparked over Arizona's desert bighorn sheep, which Mr. Clifford called "a rare animal", highly valued by both trophy hunters and wildlife conservationists. Individuals opposed to the sheep hunt attempted to protect the herd of bighorns in the Tucson area by hiking in the mountains and beating pots and pans. The final incident which contributed to passage of an anti-harassment law in Arizona involved a shootout between a hunter and a ranch owner over the locking of a gate on grazing lands owned by the state.

Because the conflicts in Arizona primarily involved organized protests, the anti-harassment law in Arizona was drafted specifically to prevent harassment of hunters by organized groups. The Arizona law becomes effective only in instances where the game commission (1) "finds that a significant interference or disruption of a hunt is likely to occur," and (2) establishes a designated hunting area where harassment is illegal. This law passed unanimously. There have been no arrests under the Arizona law.

Illinois. Jennifer Breedlove, an officer of the Illinois Department of Conservation's Law Enforcement Division, stated that anti-harassment legislation was instigated in Illinois by incidents involving duck hunters along the Mississippi River. The hunting of animals by drawing them to bait or feed is illegal in Illinois, and hunting protesters would attempt to protect waterfowl by spreading grain in popular hunting areas to make hunting illegal there.

Since the law went into effect on January 1, 1984, there has been one incident of arrest; a person was convicted of tampering with traps, and fined.

Louisiana. In 1982, Louisiana adopted a very broad law prohibiting interference with the lawful taking of game. According to Major Tommy Candize of the Louisiana Department of Wildlife and Fisheries, there have been no reported incidents of interference in Louisiana before or after the passage of the law; the law was passed as a preventive measure.

Michigan. According to Dick Elden, Assistant Chief of the Wildlife Division of Michigan, there were no incidents in his state which led to the introduction of an anti-harassment bill, and there have been no reported incidents since its enactment. The bill was inspired by hunting protests in the western states and by the CBS documentary "Guns of Autumn" which portrayed a negative image of hunters. Mr. Elden characterizes his state as having a high potential for conflicts

between hunters and anti-hunters because of Michigan's large urban population for whom hunting is not traditional, and the state's healthy wildlife resource which attracts hunters from many areas.

Maine. In Maine, the passage of a law to prohibit interference with the taking of fish and game was largely a preventive measure. According to Dave Allen, Executive Director and lobbyist for the Sportsmen's Alliance of Maine, Maine hunters were inspired to campaign for a protective law by two out-of-state events: the disruption of a trophy hunt in British Columbia by Greenpeace protesters, and the distribution in the Northeast of a tip sheet of tactics for "hunt saboteurs". Within Maine, there was debate over whether or not to hold a moose hunting season, but according to Mr. Allen, the moose hunt was challenged only by ballot referendum; and the sportsmen's fears of a protest in the woods were not confirmed.

Mr. Allen stated that the terms "willful" and "harassment" used in Maine's anti-harassment law were not discussed at any length during hearings on the bill; the terms draw on their standard legal definitions. Mr. Allen did offer his opinion that the law would not prevent landowners from keeping hunters off their private land, or prevent someone from walking in the woods with a radio unless a prosecutor could prove that the action was willful disruption of a hunt.

Nevada. The staff specialist in law enforcement with the Nevada Division of Fish and Game could recall no instances of harassment of hunters in his state before or after the passage of a law to prohibit such harassment.

Pennsylvania. John Plowman, legislative liaison with Pennsylvania Fish and Wildlife, reports that there have been no direct confrontations between hunters and hunt protesters in his state. Pennsylvania has had for many years a law protecting law-abiding trappers from interference; protection for hunters was instituted in 1983 as a preventive measure, with the backing of the Federation of Sportsmen and the Wildlife Legislative Fund of America. No charges have been filed under the new law.

South Dakota. South Dakota appears to be the only state that has prohibited interference with hunters partly because of conflicts among the hunters themselves. According to state conservation officer Bob Pracht, the primary conflicts with hunters in South Dakota have involved pay-to-hunt operations run by farmers who own the wheat and corn fields on the bluffs above the wildlife refuges in the bottomlands of the Missouri River. These farmers construct duck blinds along their bluffs and charge hunters fees to hunt the ducks and geese that fly out of the bottomlands to feed in the grain fields. Hunters who choose not to pay to hunt from private lands have legal access to the bluff hunting areas only along the public right-of-way of the section lines.

The competition for ducks and geese, pitting nonpaying hunters against farmers and their client-hunters, has led to confrontations--verbal threats and physical blows. The anti-interference statute seeks to discourage harassment of hunters by competing hunters. Officer Pract added that while he knows of no anti-hunting groups in South Dakota, this law was also intended to prevent such groups from establishing themselves in the state.

Vermont. The Vermont State Constitution (written in 1777) guarantees that all citizens have the right to hunt, fish, and trap the state's wildlife. In 1981, the Vermont legislature adopted an anti-harassment law to safeguard that constitutional right by prohibiting disturbance of hunters and fishermen. (Trappers in Vermont had been protected by the statute for over 20 years.) The new statute seeks to minimize restrictions on other legitimate users of public lands by exempting from the ban "any incidental interference arising from lawful activity by land users including farmers and recreationists."

Vermont's Chief Warden Roger Whitcomb reports that the anti-harassment law is actively enforced in Vermont because trapping and hunting are activities traditional to the Vermont lifestyle. During the six-month period from July 1 to December 1, 1983, the warden's office pursued four complaints of harassment, leading to three convictions in trapping cases. The harassment problem in Vermont has been limited primarily to instances of individuals tampering with traps.

In summary, of the nine states which have adopted laws to prohibit interference with the lawful taking of fish and game,

- only two states have convicted persons of violating the law, in a total of four cases,
- a few states have used the authority of the law to issue warnings rather than to make arrests, and
- in over half of the states which have passed a law to prohibit harassment of hunters, there have never been major, reported instances of harassment of hunters, trappers or fishermen.

Comments from Advocacy Groups

In addition to talking with Fish and Game Department officials and legislative specialists, I contacted several organizations dedicated to the protection of wildlife and several organizations that promote hunting, fishing and trapping.<sup>3</sup> While these groups were not aware of further incidents or arrests involving interference with hunters, they did offer a few comments on the issue. Susan Russell, Director of Friends of Animals (a national animal protection agency) cautioned that the "intent" of persons who disrupt a hunt may be difficult to prove. She added that legislation to prohibit interference with a hunt may be unconstitutional in its vagueness and in its infringement upon a person's rights to use public lands. From the opposite point of view, the Wildlife Legislative Fund of America (a hunters lobby) argues that, when charges of interference arise, a non-hunter who is using a hunting area should have the burden of justifying his activities. The Wildlife Legislative Fund is sending us a copy of a "model" statute, proposed by their organization, which would make interference with hunting a felony; we will forward a copy to you.

Incidents in States Without Anti-Harassment Laws

The confrontations between hunters and hunt protesters have become most heated in the northeastern states. Fish and game officials or legislative specialists in other states commonly cited conflicts in New York, Massachusetts, Connecticut or New Jersey in explaining the intent and scope of laws passed in their own states. The major conflicts that have occurred in these states are summarized below.

New York. The New York Director of Fish and Wildlife stated that most instances of alleged harassment of hunters in his state were not well-documented. He recalled two protests involving the "peaceful, though noisy" picketing of deer hunts in state parks by the Committee Against Sports Hunting. A third incident involved the special Ripley Hunt to curtail deer damage to orchards in a deer wintering area; hunters' car tires were punctured by unidentified persons. Partly on the basis of these three incidents of potential violence between hunters and hunt protesters, the New York legislature is now considering legislation to prohibit interference with the taking of game.

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<sup>3</sup>Greenpeace, USA; Fund for Animals; Friends of Animals; Animal Protection Institute of America; National Rifle Association; National Shooting Sports Foundation; Wildlife Legislative Fund of America; Game Conservation International.

Massachusetts. Fisheries and Wildlife Director Richard Cronin characterized hunting conflicts in his state as involving a core group of no more than 200 sophisticated protesters who achieve major disruption by playing to the media. Their strategies have included picketing deer check stations, playing music at duck hunting lakes, and announcing that they would place themselves in hunters' lines-of-fire in order to halt a hunt scheduled for the culling of the deer herd on a private nature preserve at Cranes Beach. Legislation has been proposed to prohibit such activities, but Mr. Cronin estimated that it has only a slim chance of passage.

New Jersey. Legislation to prohibit hunt interference is much closer to passage in New Jersey, where a bill has been introduced with 21 co-sponsors (in an 81-member House). According to the game department's legislative specialist, Bob Hitchmoney, New Jersey has experienced isolated incidents in which duck blinds have been contaminated through methods advocated by wildlife protection groups. In addition, Mr. Hitchmoney says a group of protesters from New York City annually picket the Great Swamp deer hunt, attracting considerable media attention.

Connecticut. The Director of Wildlife said that incidents of harassment were common several years ago (although legislation failed to pass at that time), but Connecticut has experienced no major problems within the past year. Past incidents have involved the New York-based protection society Friends of Animals, whose tactics include walking in the woods with loud radios, beating on pots and pans, and sprinkling lighter fluid along deer trails. There was also an incident where anti-hunters launched a raft in Long Island Sound from which they shot flares and played martial music to alarm ducks and geese, and an incident where limbs were sawed through on a deer stand, resulting in a hunter's falling and injuring himself. Connecticut's Director of Wildlife said that, in the absence of a statute to prohibit such harassment, Connecticut conservation officers would in the future arrest hunt protesters on other applicable charges; for example, a person pouring lighter fluid along deer trails could be charged with illegal disposal of flammable substances.

#### Penalties

Most states classify intentional interference with the lawful taking of fish or game as a misdemeanor offense, punishable by a fine in the range of \$100 to \$500, or a jail term in the general range of 30 to 90 days, or both. (See attached table.) The severity of the penalty usually depends on whether or not the violator actively disrupted a hunt, refused an enforcement officer's order or a court injunction not to disturb a hunt, or was only present in the hunting area with the

Representative Miller  
April 13, 1984  
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intent to disrupt the hunt. In addition to civil penalties, a convicted violator may be liable for court costs, for punitive damages, and for damages incurred by the affected hunter when the interference rendered his hunting efforts and expenditures futile. (For example, the affected hunter might collect the cost of his license and permit fees, travel, guides, special equipment and supplies.)

I hope this information is helpful to you. If you have further questions, please let us know how we can be of assistance.

NP

Attachment

PENALTIES FOR  
INTERFERENCE WITH THE LAWFUL TAKING OF FISH & GAME

Arizona

Actual interference is a Class 2 misdemeanor punishable by a fine not to exceed \$750.00.

Presence in a hunting area with intent to disrupt a hunt is a Class 3 misdemeanor punishable by a fine not to exceed \$500.00.

A hunter may claim reimbursement for expenses related to an interrupted hunt.

Illinois

Failure to obey a peace officer's orders to cease interference or to leave a hunting area is a Class B misdemeanor punishable by a fine of up to \$500, or a jail term of up to 6 months, or both.

Actual interference with a hunt, or presence in a hunting area with the intent to interfere, is a Class C misdemeanor, punishable by a fine of up to \$500, or 30 days in jail, or both.

A hunter may claim punitive damages and damages for expenditures that were rendered futile by the actions of the person who disrupted the hunt.

Louisiana

Actual interference with a hunt, or presence in a hunting area with intent to interfere is a Class 2 violation.

Failure to obey an enforcement officer's orders not to engage in disruptive activities or to cease disruptive activities is a Class 3 violation.

The first such offense is punishable by a fine of \$25 to \$100, or 10 to 60 days of imprisonment, or both. A subsequent offense is punishable by a fine of \$100 to \$300, or 30 to 90 days in jail, or both.

Maine.

Interference with the taking of fish and game in Maine is a civil violation punishable by a fine of \$100 to \$300.

A hunter may collect may collect damages or costs related to the interrupted hunt.

PENALTIES (continued)

Michigan Interference with a hunt is a misdemeanor violation of game laws which may result in a fine of not more than \$100 plus the costs of prosecution, or jail for up to 90 days, or both.

Nevada The law makes no provision for penalties.

Pennsylvania Interference with the lawful taking of game is punishable by a fine of up to \$500, or jail for up to 30 days, or both.

South Dakota Failure to heed a peace officer's warning not to engage in, or to cease, an act disruptive to hunters is a Class 1 misdemeanor.

Interfering with hunters, the process of the hunt, or the hunted game is a Class 2 misdemeanor.

A violation may draw a fine of not more than \$500, or a jail sentence of not more than one year, or both.

Damages may include an award for punitive damages as well as license fees, travel or other expenses which were rendered futile by the interference.

Vermont Violators of minor hunting laws in Vermont are generally penalized by a fine of not more than \$100.

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Source: State statutes, and telephone conversations with Fish and Game enforcement officers in the respective states.

Prepared by: House Research Agency, April 1984.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y. STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

November 20, 1984

SUBJECT: Draft bill reintroducing HB  
546, An Act relating to the  
obstruction or hindrance of  
lawful hunting, fishing or  
trapping. (WO 14-0063)

TO: Rep. Richard Shultz

FROM: George Edwards  
Legislative Counsel

The draft bill for reintroduction of HB 546 from last session has been completed with some modifications I wish to point out. The modifications are responsive to objections set out in the Governor's veto letter of June 19, 1984.

The initial objection went to language in section (a) which limited the protected group to persons holding valid Alaska licenses. The constitutional argument against this language is compelling and my reaction has been to eliminate the suspect phrase.

Thus, where the former version read:

"(a) a person may not perform an act with the intent to obstruct or hinder hunting, fishing, or trapping engaged in lawfully by another person possessing a valid State of Alaska license or permit or exempted from license requirements under AS 16.05.044,"

the current draft reads:

"(a) a person may not perform an act with the intent to obstruct or hinder hunting, fishing, or trapping engaged in lawfully by another person."

The Governor's other objection which can be responded to in the proposed legislation is the interpretation of section (d) which formerly read:

Representative Shultz  
Page 2  
November 20, 1984

"This section does not apply to obstruction or hindrance that is incidental to the lawful use of public or private land or water."

If this section was incorporated to protect commercial fishermen who may inadvertently hinder other fishermen in the ordinary course of their work, it appears to be unnecessary. The affirmative defenses cover such a situation as well as others in which legitimate rights conflict. Thus, I have simply deleted the original section (d).

The only other substantive change occurs in Sec. 16.05.927 (formerly 926) where "costs for" has been inserted before "special equipment and supplies."

If you have questions or further suggestions, please don't hesitate to contact me.

GE:mkr  
Enclosure  
017:M1

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

JAN 16 1985

June 19, 1984

The Honorable Joe L. Hayes  
Speaker of the House  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811

Re: CSHB 546(Res) am S  
(An Act relating to the  
obstruction or  
hindrance of lawful  
hunting, fishing, or  
trapping.)

Dear Representative Hayes:

Under the authority granted in art. II, sec. 15, of the Alaska Constitution, I have vetoed CSHB 546(Res) am S -- a bill that would have made it a misdemeanor for a person "to perform an act with the intent to obstruct or hinder hunting, fishing, or trapping engaged in lawfully by another person." As you may recall, I vetoed a similar bill (2d SCS CSHB 163(Jud)) last year.

I have decided to veto this legislation for the following reasons:

First, an amendment to the bill made on the House floor (the insertion of the language "possessing a valid State of Alaska license or permit" which appears on page 1, lines 13 -- 14, of the final bill) creates both a potential constitutional problem and a public policy problem.

The amendment was made to ensure that a person who obstructs the capture of orca whales in Alaskan waters by Sea World could not be prosecuted under this law. The overall result of this amendment is that if a person obstructs a hunter holding a valid state license or permit, that person can be prosecuted under this law, whereas, if a person obstructs a hunter who is lawfully hunting with only a federal permit, (this includes orca capture, as well as any other kind of hunting, fishing, or trapping requiring a federal permit only) that person is

exempt from prosecution. Such disparate treatment of similar offenders, with no apparent rational basis for the distinction, raises an equal protection question under the constitution.

On a policy basis, I question the wisdom of granting -- just because we want to specifically exempt from prosecution those who might attempt to obstruct the capture of orca whales -- blanket immunity to persons who obstruct hunters, fishermen, and trappers who are hunting, fishing, or trapping lawfully without a state license or permit. This provision should be given more thoughtful consideration.

Secondly, it may be difficult to effectively prosecute an offender under the bill. The new law would not apply to obstruction or hindrance that is "incidental" to a person's lawful use of public or private land or water. This exception was included so that hunting activities would not be given a clear priority over other lawful outdoor activities such as camping, hiking, birdwatching, etc. Although adding this provision serves a laudable purpose, especially since last year's bill included no recognition of the validity of such competing uses, this language is likely to make it more difficult to prosecute some cases. That is, it may be difficult to prove that obstructive acts were deliberate as opposed to being the incidental result of another person's lawful use of the land.

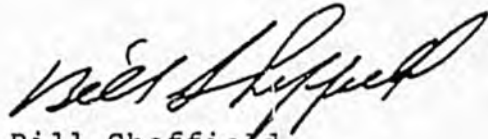
Thirdly, there have apparently been no verified reports in Alaska of the types of "sabotage" tactics that the proponents of this bill seek to prohibit. I am not convinced of the need to establish a new crime prohibiting conduct that has yet to occur in this state.

Fourthly, as I stated in last year's veto letter, existing criminal statutes provide adequate coverage for physical interference with lawful hunting and fishing. In particular, the crimes of assault, criminal mischief, and harassment provide criminal penalties similar to those imposed under this bill.

Finally, creating such a crime in the Alaska statutes gives the impression that Alaska seeks to give hunting, fishing and trapping of wildlife, (whether it be for sport, commercial purposes, or subsistence use) priority over efforts to protect and preserve wildlife. Despite the fact that I myself have participated in sport hunting and fishing, I do not believe that it is appropriate to make such a strong statement in our laws.

For these reasons, I have vetoed this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Sheffield". The signature is written in a cursive, flowing style with some loops and flourishes.

Bill Sheffield  
Governor

# HUNTING IS A DIRTY BUSINESS

*Excerpts from an article by Bil Gilbert*

Stories about hunters shooting cows, goats, poodles, Volkswagens and people are part of the folklore, but unfortunately they are frequently true. One fall I foolishly ventured out with three small children into our overgrown pasture. Suddenly there was the report of a gun, the zinging of slugs passing through the underbrush a foot or so over our heads. One satisfaction of the whole scary incident was proving that at least a bird watcher was hardy enough to run down a 17-year old hunter. I took the gun away from the boy and took him to his father, who was 'sporting' nearby. The old man mildly admonished the boy and lectured me sternly about letting "unmarked" children wander about our own posted field.

Beyond the fact that sports hunters are, as a rule, disreputable, the most obvious complaint against them is that they are destructive of wildlife. Several species — the passenger pigeon, heath hen, Eskimo curlew — were simply hunted into extinction. Many more — buffalo, antelope, grizzly bear, wolf, mountain lion, eagle, certain waterfowl — now barely survive.

Wildlife officials usually admit that without wardens, the sport gunners would probably come close to wiping out all game and a variety of other species.

The most irksome aspect of all this is that, unlike bridge players, Boy Scouts, pool hustlers or any other sporting group, hunters are more or less public wards. I, you, we are required to subsidize hunters with our taxes and set aside large chunks of our increasingly scarce wild lands and wildlife for their use. Somewhere in the neighborhood of 25,000 public wildlife "conservation" workers, state and federal, consume upwards of a half-billion dollars a year mostly to make it easier and quicker for gunners to kill animals. No other sports comes anywhere close to being so pampered and coddled.

Take, for example, the National Wildlife Refuge system operated by the Department of the Interior. Some 29 million acres of public land (2 million more than are in the National Park system) are set aside for wildlife refuges. Much of this land is managed and maintained for the primary benefit of waterfowl gunners. Hunters point out that they buy duck stamps and assert that this money pays for the refuge system. The truth is that in 1976 the annual refuge budget was about \$30 million, and the annual income from duck stamps was \$5 million. In other words, about 85 percent of the refuge money comes from general tax revenues. Today the situation is even worse. So far as I know, there are no state game agencies that do not need appropriations which issue from people who do not hunt at all.



Hunters attempt to justify this obvious inequity by explaining that the work of state and federal wildlife agencies benefits all wildlife. It is claimed that state and federal hunting lands also serve as a sanctuary for many nongame birds and mammals. They do sometimes, but it is largely a mental. For example, Michigan is contemplating creating about a half-million acres of new deer habitat. This will involve bulldozing the land, turning it into deer-browse scrub. Some other species will find the scrub hospitable, but the variety of wildlife that can use the land will decline. From the standpoint of the nature watcher, these acres will be about as attractive as a housing development in preconstruction stages.

An obvious solution to many of these inconsistencies and inequities is to remove the financial — and thus political — stranglehold that hunters and many public wildlife men believe they have on wildlife agencies. The crucial need is for all the operating funds for wildlife agencies to be appropriated from general revenues. Freed from the bondage of hunters' money, state and federal wildlife agencies should be required to initiate research programs which would benefit all fauna, not just those creatures that hunters shoot. There is no reason why some public refuges could not be left for the pleasure of photographers and those who simply enjoy seeing and contemplating the ways of species not classified as human.

Hunters are so firmly entrenched in our wildlife bureaucracy that only a concerted, aggressive campaign will flush them. A philosophical basis for this campaign might be the realization that despite a lot of pious, self-congratulatory propaganda, hunters are generally a destructive, dangerous lot, who have made a mess of our wildlife. ■

# HUNTING SEASON IS HERE

## Get Out Your Hip Boots and Make Life Difficult For the Weekend Woodsman

American hunters will be shouldering their rifles and shotguns within the next few months, marching off to their annual offensive against wildlife. This legion, which is generally better equipped than the entire German armies of the Second World War, will take a bloody toll before the season ends. They will kill deer and rabbits, ducks, dogs, cats, a few children, and even a few of themselves. How about calling a meeting of a few friends to plan for this hunting season? Here are a few ways you can strike out against the hunt:

1. Encourage neighbors with acreage to post their land. Let them know that hunters cause more damage than wild animals.
2. Many areas have hunting restricted to a specified number of hunters with permits. The permits are usually awarded by a simple lottery selection. Apply for these permits yourself; you may win one and deny a hunter his kill.
3. Get into the woods the day before hunting season. Try to drive wildlife away. Stroll about with a loud radio or a dog on a leash to make wildlife wary of humans.
4. Rotten eggs or cow dung can be rubbed into the floor and walls of hunting blinds to make hunters uncomfortable. Uncomfortable hunters are irritable, and are more likely to miss.
5. Placing deer repellent (available at many feed and hardware stores) along deer routes will encourage the deer to move away and leave the hunter with a route devoid of the species. Scoop up a bag of human hair from a local barber shop and put handfuls of it in little bags about 2 or 3 feet from the ground, along the deer track. The deer will soon get the message that there are humans in the area and will drift away.
6. If hunters use dogs in your area, try to get hold of a female dog in heat and lead her, on a leash, through



"Okay! Now don't move, Andy! Here comes Mom!"

- an area that is heavily hunted. Male dogs in the hunter's pack will "get wind" of the female and lose their enthusiasm for chasing rabbits or other hunted animals.
7. If you have a portable tape recorder, buy a cassette recording of wolf howls. Play this in the woods a few times in the days before hunting season.
  8. Buy large, old stuffed animal toys at a local thrift shop or make your own. Set these around commonly hunted areas. Hunters often don't take the time to check if an animal is real! Better to have a hole in a cotton rabbit than a real one—and the noise of the gun going off may scare away other wildlife. ■

Excerpted from Friends of Animals "Tips for Hunt Saboteurs"

## COMMITTEE TO ABOLISH SPORT HUNTING

Called "One of the Most Dangerous and Aggressive Organizations in the U.S." by the National Rifle Association

C.A.S.H. has

- ★ Won an epic battle to keep hunters out of 52,000 acre Harriman State Park in New York
- ★ Filed a lawsuit to stop hunting at Riley Creek State Park in Pennsylvania
- ★ Defeated the U.S. Department of Interior's ban on anti-hunting demonstrations at Great Swamp Refuge, New Jersey

Specializing only in the fight against "sport" hunting, C.A.S.H. can continue working for wildlife only because people like you care.

\$20 provides a 1-year membership. Contributions of any size are gratefully accepted and immediately put to use. Write us:

The Committee to Abolish Sport Hunting  
Box 4C, White Plains, New York 10605  
or call: 212/428-7523

# ARE YOU REALLY THAT HUNGRY?



PETA Director, Ingrid Newkirk, with a chicken rescued from a slaughterhouse.

Today, chickens (and most farm animals) are raised in such cramped quarters that they cannot even turn around. Some are unable to lie down and must try to rest on the backs of other animals.

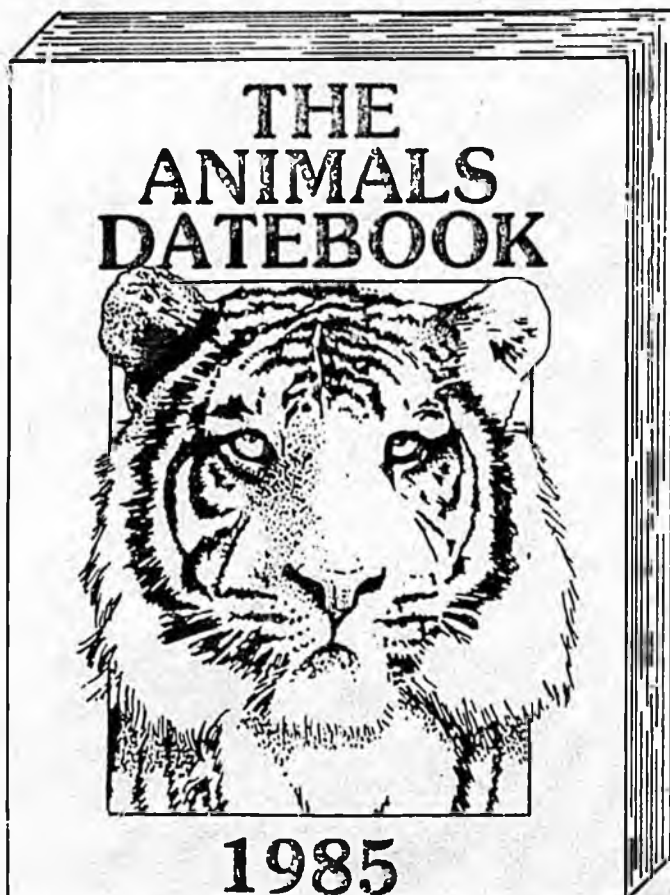
Chickens in egg production can never stretch a wing. They live indoors on slanted wire, 5 to 7 hens to a cage slightly larger than a record album cover. Layers and broilers have their beaks burnt off with a red-hot iron to prevent the cannibalism that results from overcrowding and stress.

At the meat inspection line the bodies spin by so fast there is less than 3 seconds for inspectors to check the entire carcass. Cancerous tumors are simply cut out with a handknife, if detected, and the rest of the carcass is sold at the meat counter.

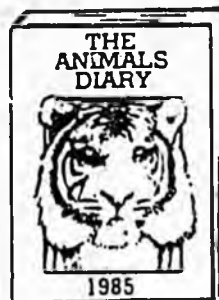
Almost 100 of the drugs and pesticides used in animal feed leave residues. According to the New England Journal of Medicine, many of these chemical additives are known carcinogens or linked to birth defects, even death, in humans.

You can do something. You can vote with your consumer dollars every time you do your marketing or order a meal. Vote 'no' to cruelty and 'yes' to life—yours and the animals'. ■

## THE ANIMALS DATEBOOK 1985



EXCLUSIVE  
Imported to US from England \$6, Air Mail  
delivery included.



The first Animal Rights Datebook shows animal exploitation and liberation in photos, drawings and cartoons — many produced especially for the book. Each double-page spread shows one week of the year plus an illustration, and the datebook includes a resource section with Animal First Aid, Legal Advice, and Cruelty-Free Cosmetics.

128 pages (8 1/4 x 5 1/2") with laminated cover. Datebooks are traditional Christmas presents — give your friends something to think about all next year...

Order early; limited numbers: PETA, Box 42516,  
Washington, DC 20015.

# Give Great Gifts that Support Animal Rights



## BOOKS

- **Animal Liberation**  
By Peter Singer. This finest book on animal rights ever written. \$4
- **The Cookbook for People Who Love Animals**  
Delightful and delicious animal-free recipes. A must for your home. \$9
- **Animal Factories**  
A horrifying, factual account of modern intensive farming methods. \$8
- **The Naked Empress**  
Learn how drug companies and others gain from animal research and how we all lose. \$10
- **Slaughter of the Innocent**  
Graphic descriptions of how animals suffer in laboratories and the industry that makes it happen. \$4
- **The Farm Cookbook**  
Great recipes from a peaceful community of craftspeople, artists (and cooks!). \$7
- **Dr. Rat**  
By author of E.T. William Kotzwinkle. A scathing, witty novel with a hard liberationist message. \$4

## BUTTONS

- **Animal Liberation**  
3 for \$2
- **Animal Liberation--Human Liberation**  
3 for \$2
- **Meat Is Murder**  
3 for \$2

## STICKERS

- **Liberate Laboratory Animals**  
Bumper sticker. \$1.50
- **Anti-Meat Stickers for Meat Packages**  
25 for \$1
- **Love Animals, Don't Eat Them**
- **Respect Animals, Don't Eat Them**  
Bumper sticker. \$1
- **CANCELLED**  
The perfect sticker for events that abuse animals. \$1
- **Meat Is Murder**  
Window decal. \$1

## POSTCARDS

- **Hugging Infant Monkeys**  
4 for \$1
- **Buddy Chimps**  
5 for \$1

## T-SHIRTS

- **Peaceful Rabbit**  
People for the Ethical Treatment of Animals' own. Rainbow effect on a background of lilac, blue, beige, pink or yellow. \$9  
Also: Sweatshirt \$15  
Tote bag \$8
- **Meat's No Treat for Those You Eat**  
Famous crying pig in a sandwich shirt. Blue or beige. \$6
- **Animals Are Not Ours To Eat, Wear or Experiment On**  
Gray, Blue, Yellow or Red. \$7
- **The Animal Liberation Front Wants You**  
"Gorilla/guerilla". Black on beige, red or blue. \$6
- **Meat Is Murder**  
Cow's face on a plate with knife and fork. Silver/gray, beige, or blue. \$8  
*Specify size (S/M/L/XL) and color when ordering shirts.*

## POSTER

- **This is Vivisection**  
Ideal for booths, walls, and stores. \$3

Please send order to: PETA, P.O. Box 42516, Washington, D.C. 20015.

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

ITEM	SIZE (S/M/L)	COLOR	PRICE	QUANTITY	TOTAL

TOTAL ENCLOSED: \_\_\_\_\_

# Defenders of Wildlife

1244 19th Street, N.W. • Washington, D.C. 20036

NRA/ILA  
LIBRARY  
DATE ~~SEP 05 1984~~  
2

Brace yourself.

What I have to tell you in this letter is going to shock you.

The National Rifle Association has just filed a lawsuit that could open most National Parks to hunting and trapping.

This is an absolute outrage. There's no other way I can describe it.

Dear Friend,

For over 100 years America's national parks have been an example of enlightened environmental policy to the rest of the world. And integral to our model park system is the principle that wildlife is allowed to live free and unmolested in the parks.

All this will change if the NRA wins its suit.

The National Rifle Association -- the wealthy lobbying organization for gun enthusiasts and gun manufacturers -- will have all the money it needs to pursue its insidious lawsuit.

But we can stop them if we take decisive action right now.

That's why I am writing you this urgent letter. If ever there was a pivotal case where we should stand up for wildlife, this is it.

I am asking you to send Defenders of Wildlife a gift of \$20 today to help save our national parks from the hunting and killing of the NRA. Maybe you can afford \$35 or \$50? Whatever you can send, please do it today. We have no time to lose.

Hunting in the National Parks would not only threaten the wildlife but also endanger other visitors. Trapping could have a devastating impact on endangered species. Rare river otters, cougars, and even bald eagles have been killed in traps set for other animals.

The National Rifle Association suit cites Park Service regulations for eleven areas within the National Park System. But the suit actually takes aim at a very basic policy by which hunting is prohibited in the National Park System except in the few cases where Congress has specifically allowed it.

The National Rifle Association would turn this 100-year-old principle

upside down: if they win, only a specific act of Congress could prohibit hunting and trapping in a National Park.

It is hard to believe that a selfish few would attempt such an attack on the fundamental character of our National Parks. The National Rifle Association wants to raid our national wildlife treasures to provide trophies and pelts for a handful of hunters and trappers.

The American people don't want this outrage. Americans have steadfastly supported the hunting ban in the National Parks.

Defenders of Wildlife is committed to stopping this attack on the wildlife of our National Parks, by intervening in the suit. We have pledged our all-out participation in a coalition of five environmental groups who will cooperate in defending the parks against the NRA.

To meet the unexpected costs of defending our national parks, we need your emergency contribution of \$20, \$50, or \$75 today.

When you support Defenders of Wildlife, you will join the distinguished company of concerned citizens from all walks of life who make up our membership.

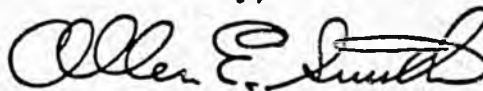
Furthermore, membership in Defenders of Wildlife entitles you to receive Defenders magazine, bringing you a vivid and illuminating look at wildlife in America. In each issue of Defenders, you'll see the threatened, the nearly extinct ... and the species that are recovering thanks to the work of Defenders of Wildlife and allied groups. Clear, insightful articles cast new light on the complex issues of wildlife conservation.

But most important, by joining Defenders of Wildlife, you'll be giving your support to one of America's most aggressive conservation organizations, now taking the lead in defending the wildlife of our National Parks.

Do we need hunting in Zion National Park? Do we want trapping in the Assateague National Seashore? Do we want rifle-shots echoing through the Grand Canyon? Should hikers have to fear a stray bullet in Everglades National Park? The National Rifle Association lawsuit threatens all these parks and 20 more where Congress has not specifically outlawed hunting and trapping.

Please send your emergency contribution today.

Sincerely,



Allen E. Smith  
President

PS: Defenders of Wildlife doesn't have the opulent funding and high-paid legal staff of the National Rifle Association. But we do have the support of the vast majority of Americans who want to save our National Park wildlife. Can we count on your generous contribution today?

A copy of the last financial report filed with the New York Department of State may be obtained by writing to New York State Department of State, Office of Charities Registration, Albany, N.Y. 12231 or Defenders of Wildlife.

\$10 is the minimum membership contribution and entitles the member to 6 issues of *Defenders* magazine

# Defenders of Wildlife

NRA/JLA  
LIBRARY  
DATE: 20 1982

Dear Friend,

A young bobcat, not more than 6 months old, searches through the snowy drifts for her evening meal. One misplaced step--- and she screams in agony--- her paw is caught in the steel jaws of a leghold trap.

Once the heavy steel jaws slam shut, her efforts to escape are futile. Every panic-stricken attempt merely tears the flesh of her leg or paw. The trap may even crush or break the bone.

For the bobcat, a slow, torturous death from loss of blood, gangrene, starvation or exposure is almost certain.

If the bobcat survives until the trapper checks his lines she will most likely be clubbed or choked to death.

Horrifying? Yes. But this is exactly how America's vanishing bobcats are being killed to supply the European "fun fur" market. And with the price of a bobcat skin up to \$650 in some areas you can expect record kills this year.

The soaring demand "to be fashionable" has all but driven bobcats to the brink of extinction in many states. Already, bobcats are gone, or require full protection in 12 states.

Just imagine, it takes the fur from ten bobcats to make a single coat.

But bobcats aren't the only animals to suffer. Over 15,000,000 wild animals and many thousands of dogs and cats will be victims of the barbaric leghold trap this year alone!

Frequently, the traps intended for a particular animal often kill non-target wildlife. Countless hawks, owls, raccoons, badgers, and even rare and endangered species like bald eagles are often killed or maimed by these non-selective traps.

And as many areas of the country become more populated, many household pets are caught in leghold traps. This year

1244 19th Street N.W. • Washington, D. C. 20036

tens-of-thousands of dogs and cats will die or be severely injured by leghold traps.

Yet those who trap for fun and profit continue to slaughter innocent animals at an alarming rate.

Most people are not aware that trapping has increased drastically to supply the current "fur boom". They are also unaware that trapping is widely abused, wasteful, and inhumane.

But Defenders of Wildlife is working hard to change all this. We are making people more aware of these horrible abuses of America's last remaining wild animals. And with your help, our relentless campaign to ban the cruel and destructive use of the leghold trap will be even more effective.

As you can see, we've taken on no small task. The forces against us are powerful and determined. And that's why--- more than ever before--- we need your help and support as a member of Defenders of Wildlife.

When you join Defenders, you become an important member of a special group of caring people who are concerned about the fate of America's precious wildlife.

And you will have the personal satisfaction of knowing that your dues will be used to save wildlife, not only for ourselves, but for our children and their children who will applaud your foresight.

Frankly, we're very proud of our reputation as America's most active, effective, and hard-hitting wildlife protection group. Here in Washington, and across the country through our Field Representatives in key states, Defenders voices your concern on wildlife abuses.

Defenders of Wildlife is not bashful when the lives of wild animals are at stake. Through lawsuits in Federal court Defenders has fought to save wolves, sea turtles, bobcats, and preserve wildlife refuges.

And we have taken other legal actions to protect eagles, manatees, coyotes, foxes, kangaroos and other wild animals.

Since 1925 Defenders has fought to save and protect defenseless animals. With the strong support of members like you, we were able to stop aerial hunting of wolves in Alaska--- temporarily halt the export of bobcat pelts--- defeat Congressional attempts to weaken the Marine Mammal Protection Act--- eliminate the killing of coyote pups in their dens--- and win major reforms in the Government's Predator Control Program.

But all this is not enough if we want a safe future for our remaining wild animals. We must expand the crusade against

senseless and inhumane use of leghold traps and the other cruelties inflicted on helpless animals.

So if you care about bobcats and America's other vanishing and threatened wildlife please join Defenders of Wildlife today.

I'm counting on you to accept this invitation to become a member of Defenders of Wildlife. When you accept, I will start your subscription to Defenders--- the magazine that celebrates the wonder of wild places and wild animals.

The first thing you're sure to notice about Defenders is the truly distinctive quality of the articles and wildlife illustrations produced by our brilliant writers and contributing artists.

And as a bonus: Each issue of Defenders brings you a handsome, full-color, wildlife poster. . . or a special educational supplement focusing on a specific animal or issue of concern to members.

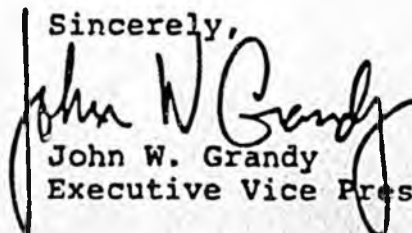
Of course there are other reasons for joining Defenders of Wildlife--- like our timely Action Alerts on critical issues in your area--- special member's discounts on beautiful books and gift items--- wildlife travel opportunities--- and you will also receive a membership card and window decal to proclaim to others your commitment to save wildlife.

But the most important reason of all for joining Defenders of Wildlife is the pride and personal satisfaction you will get from knowing that your support is making a positive difference in the crusade to protect wildlife.

Please fill out and return the enclosed membership reservation card. Full membership in Defenders of Wildlife, with all it's benefits, costs you just \$15 for one year. Or you can enjoy a family membership for \$20.

I doubt you'll find a better value, or the chance to do so much to preserve our wild heritage. Please act now. We need you as a Defender.

Sincerely,

  
John W. Grandy  
Executive Vice President

P.S. Together, we can be the voice for these defenseless animals. So please--- while you're thinking about it--- Return the membership form in the enclosed postage-paid envelope and join Defenders today.

JWG:aa

Thank you. 

# What's in a Name?

BY E. B. MANN

A recent news item reminds me that of the dozens of conservation-oriented organizations begging us for support, few hunters really know which are for us and which are against us. Their names do not tell us. Friends of Animals is an appealing name, but their official statement of their aims and purposes includes these words: "Sports hunting is neither sport nor hunting. It is a base activity comparable to shooting fish in a barrel . . . Destroyers of wildlife must, in turn, be destroyed—preferably by legal process." But one of the more notorious—and silly—proponents of anti-hunting disdains legal process, proposing instead a "Hunt the Hunters Club" whose members should shoot each other!

The Society for Animal Rights has changed its name to the International Society for Animal Rights, a broadening of scope, but with no change of objectives. The Society has been, in the words of the news writer, "a vocal opponent of any form of hunting. In fact, its philosophy seems to be one of forced vegetarianism for everyone." The announced strategy of the newly named Society is "to gain control of the various state fish and wildlife departments"—departments financed by hunting and fishing license fees and by the excise taxes paid for hunting and fishing equipment!

Space prevents naming and evaluating all of the groups operating in this category, but here are a few whose attitudes have been publicly stated:

Some of the names are confusing, perhaps deliberately so. The American Humane Association "opposes trophy hunting, but supports the biological necessity of population control through hunting when population and habitat conditions warrant." Not an all-out endorsement, but better than the verdict of The Humane Society of the United States, which is "... unalterably opposed to the cruelties that are an unavoidable component of most hunting as it is conducted today." Notice the similarity of each of their names, and the

difference in policy.

The Wildlife Legislative Fund of America states that it "... helps sportsmen . . . defend themselves against anti-hunting fanatics." They claim credit for the voting in South Dakota which legalized dove hunting in that state. The National Rifle Association says of them that "they and the Wildlife Conservation Fund of America, their companion organization, help to protect the rights of every American to hunt, fish, and trap." We can use all the help of that kind we can get!

The National Audubon Society position "... has never been opposed to hunting . . . done ethically and in accordance with laws and regulations designed to prevent depletion of wildlife resources . . . Our objective is wildlife and environmental conservation, not the promotion of hunting . . . but this does not make us anti-hunting." Again, approval with reservations, but far from the condemnation of hunting that many people (including some of their own members) attribute to them.

The Fund for Animals minces no words in its condemnation of all hunting. "Hunting," they tell us, "is not a true sport, for the simple reason that there is nothing sporting about shooting defenseless animals with a high-powered rifle. Hunters have helped wipe out numerous species of once-abundant wildlife, including the now-extinct auk, the heath hen, the passenger pigeon, the badlands bighorn, and others." The truth is, of course, that hunting was never more than marginally involved in the depletion of any of these species, and then only before today's hunter-invoked and hunter-subsidized conservation programs and hunting regulations (bag limits, seasonal hunting, etc.) were invented. Nor does the Fund for Animals mention the revival of the wild turkey, antelope, elk, and other wildlife populations brought about and paid for by hunters.

Named for and originally principally concerned with the ecology and natural resources of the Sierra Nevadas, the

Sierra Club has expanded its interests to national and even worldwide problems. In its official statement, the Sierra Club denies opposition to "sports hunting outside appropriate sanctuaries such as national parks, provided it is regulated," but clouds that denial with the belief that hunting, at best, "checks unrestricted propagation of [game] species that used to be controlled far better by natural predators which, too often, have been tragically destroyed. Wildlife policy should not revolve about hunting. Wild animals should not be valued in terms of whether they serve as targets . . . Regulated sports hunting may have a place for those who choose to pursue it, but there are more pressing concerns."

In sharp contrast with the (to say the least) meager support of hunting expressed by the Sierra Club are the vigorously pro-hunting sentiments expressed by the International Association of Fish and Wildlife Agencies. "Hunting," they say, "is a major source of outdoor recreation. Participation in it is increasing annually. Not only is it a major form of recreation, but it is an absolute necessity for the proper management and future well-being of many wildlife populations. It is our aim, in connection with other state, national, international, and private agencies involved in conserving natural resources, to provide the public with an accurate portrayal of the role of the hunter and hunting in America, counteracting the anti-hunting sentiment being created by some anti-hunting groups."

Two of the best and most effective friends of hunters and hunting in America today are the National Rifle Association and the National Shooting Sports Foundation. The NRA position is clearly stated as follows: "Hunting is in complete accord with the moral tenets of man. Hunting is dominant among American traditions and has contributed substantially to our sound national character. Its future is a primary concern of the NRA."

The National Shooting Sports Foun-

*Fund for Animals*

dation was created "to foster active participation in the shooting sports and to finance the conservation of both game and non-game wildlife. Over recent years, such support has amounted to some five billion dollars!

"No game species has ever been endangered to the point of extinction by sport hunting alone. On the contrary, numerous species have been returned to healthy numbers through hunter-sponsored, hunter-financed habitat management.

"The future of hunting and the future of habitat capable of sustaining abundant wildlife depend in large measure on the time, effort, and money that each of us is willing to put back into our sport.

"Dedicated hunters are the backbone of the many efforts designed to introduce young people to hunting and the shooting sports. Without volunteer service, many such programs could not exist. There is something every hunter can do to help insure the future of hunting and of quality wildlife habitat. If you are not already involved, now is a good time to start."

Many state wildlife agencies offer publications and advice as to how and with whom hunters can support the pro-hunting programs. The NRA club in your community will also welcome your inquiry and your support.

These are only a few of the many groups working for and against hunters and hunting. If your state fish and game agency or your local shooting clubs cannot give you the information you need, write the National Shooting Sports Foundation, Dept. FS, 1075 Post Rd., Riverside, Conn. 06878, or the National Rifle Association, Dept. FS, 1600 Rhode Island Ave., Washington, D. C. 20036, for further information. And in this election year, ask also about the positions taken by state and federal candidates regarding hunting and gun controls. Your vote and the influence you can exert with your neighbors can be, this year, a vital factor in the election of people who will help us defend our endangered tradition.

FIELD & STREAM APRIL 1984

Many groups are interested in shooting and hunting. Some would like to end both sports tomorrow.

friends of animals, inc.

11 West 60th Street, New York, N.Y. 10019

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AUG 30 1983

## TIPS FOR HUNT SABOTEURS

DATE \_\_\_\_\_

2

Fourteen million Americans will be shouldering their rifles and shotguns within the next few months, marching off to their annual offensive against our wildlife. These legions, which are more numerous, and generally better equipped than the entire Nazi armies of the Second World War, will take a bloody toll before the season ends. They will kill deer and rabbits, ducks, dogs, cats, a few children, and even a few hunters.

It is time for friends of animals to start organizing a defense that will serve to at least temper the wanton destruction. There are many ways that a friend of animals can become a forest partisan on behalf of our wildlife, and we offer here a few suggestions that range in effort, depending upon a person's abilities and commitment:

1. Deny the hunter the land to hunt on. Much hunting is done on private lands. To protect these animals, encourage your neighbors, especially those who own large tracts such as farms and ranches, to post their land and forbid hunting. Try to convince them that hunters invariably cause more damage to agriculture than the wild animals do.
2. Many areas have hunting restricted to a specified number of hunters who have special permits. Commonly, these permits allow the hunter to use a particular blind or hunt less common species, such as bear. Apply for these permits yourself. The permits are usually awarded by a simple lottery selection. If you're lucky, you'll win a permit and deny a hunter his kill.
3. Get into the woods yourself the day before the hunting season. If you're familiar with the most commonly hunted areas, try to drive wildlife away. A stroll through the forest with a nice loud radio and a dog on a leash, will serve to make wildlife more wary of humans. This is particularly important for younger animals that have not yet had the traumatizing experience of being hunted.
4. Certain substances, such as rotten eggs, when rubbed into hunting blinds, make these enclosures even more uncomfortable for the hunters. Uncomfortable hunters are irritable, and are also poorer shots. Plastering the floor of a hunting blind with cow dung is another good idea.
5. If you're familiar with wildlife habits in your neighborhood, try to encourage them to break these habits shortly before hunting season. For instance, many hunters like to stalk along deer tracks which are pretty well defined to a good woodsman. Placing deer repellent (available at many feed and hardware stores) along these tracks will encourage the deer to move away and leave the hunter with a route devoid of the species. If you want to save money, just scoop up a bag of human hair from a local barber shop and hang handfuls of it in little bags about two or three feet from the ground, along the deer track. The deer will soon get the message that there are humans in the area and will drift away.
6. If there is much hunting with dogs in your area, try to get hold of a female dog in heat and lead her, on a leash, through an area that is heavily hunted. Male dogs in the hunter's pack will "get wind" of the female and lose their enthusiasm for chasing rabbits or deer.

7. Hunters frequently like to ambush their prey by setting out food and then hiding in blinds. Commonly, bushels of apples are set out a few days before hunting season to encourage deer to browse in this area. When hunting season comes, the hunter merely comes to the site, climbs into a blind, and waits for the deer to come to him. To disrupt this, there are two alternatives. First, remove all apple piles immediately on finding them during the days preceding hunting season. Second, if there are just too many apples to carry away, give them a good spraying with deer repellent and spread barber shop hair clippings all over the area.

8. Encourage your municipality to pass an ordinance that bans, in the interest of public safety, the use of all weapons within its limits. Rifles, shotguns, bows and arrows have been known to kill people too.

9. If you have a portable tape recorder, get a cassette recording of wolf howls. Play this in the woods a few times in the days before hunting season. It will make wildlife wary.

10. Try to develop strong anti-hunting sentiment in your community by writing letters to the editor of your local newspapers, meeting with neighbors, getting on talk shows. Creating public awareness of the problem is a vital point. Let your neighbors know that the law recognizes wildlife as belonging to all people, and they are not the exclusive property of hunters until after they have been murdered.

11. Work on a project to get your State to pass a law that would require all hunters to carry written permission from the landowners of the places they hunt. This further curbs the hunter's battlegrounds because many farmers are reluctant to sign permits that would allow people to hunt on their lands. Also, much land is owned by summer residents, corporations, etc. that are nearly impossible to get hold of.

12. Approach your Congressperson and Senators with demands that hunting and trapping be prohibited on national wildlife refuges and all public land.

13. If you have any old, stuffed animal toys, set these around commonly hunted areas. Hunters often don't take the time to check if an animal is real. Better to have a hole in a cotton rabbit than a real one - and the noise of the gun going off might serve to scare away other wildlife.

14. We will be trying to put together a better activist's guide for next hunting season, so if you have any ideas or procedures you've found effective, please let us know. Mail them in to Bill Clark, Friends of Animals, 11 West 60th Street, New York, NY 10023.

Use your imagination. There are plenty of ways to frustrate the hunt, depending on your own abilities and enthusiasms. The main point here is to do something. By your work, you will be helping animals in two ways. First, you will be protecting them from the hunters and second, you will be letting the hunters know that friends of animals are in the woods. This serves to anger them, and angry hunters do not stalk so quietly, their aim is not so precise. Emotions can play heavily in the success of a hunt, and the most effective killers are cool and methodical. Disrupt!

# Hunting— An American Tradition

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A bell finally broke loose at British Columbia's Spatsizi Wilderness Park. On August 3, 1981, after Greenpeace members harassed hunters relentlessly, a physical confrontation between hunting guides and the Greenpeace group occurred. According to outfitter Ray Collingwood, four Greenpeace members were involved in a fist fight with Collingwood and three of his guides. The environmentalists suffered severe facial injuries while the outfitter and guides emerged from the melee with sore knuckles.

## Three Years Of Harassment End In Fist-Swinging Violence.

The altercation was predictable, though unfortunate. For the third year, the Greenpeace group tried to stop hunting in the provincial park by intimidating hunters and their wives, blocking horse trails by holding hands, and, in one case, by grabbing the wing strut of a bush plane with hunters inside as the craft was taxiing for takeoff.

The Greenpeace organization has long been known for its defense of whales and seals. The activist group relies on publicity and tries to appeal to the uninformed public by using polished media campaigns. Lies and innuendoes play a major role in their smear campaign.

The Greenpeace effort in Spatsizi is designed first to terminate hunting in the park, then British Columbia, and finally the rest of the world. Patrick Moore of Vancouver, B.C., is the leader of the group. Typically, Moore relies on misinformation and public ignorance to get his viewpoint across. In an interview with Wayne Cox of CKVU in Vancouver, Moore said of Spatsizi: "It (Spatsizi) was created in 1975 to preserve the Osborne caribou herd, which is B.C.'s only major caribou herd." Moore is wrong. British Columbia wildlife officials say the Osborne caribou is technically the woodland caribou and is found in large numbers from B.C. to Quebec. Moore also falsely stated that Spatsizi Park was the only northern B.C. park with caribou in it.

In the same interview, Moore said . . . "there are many moose and caribou shot up in the high alpine meadows in Spatsizi. The meat is not taken out."

Again Moore lied. Ray Collingwood said, "We've been bringing meat out ever since we've been outfitting, starting in 1969. At my own expense I've hauled meat to Iskut Indians for their winter food supply."

Cox asked Moore how he could possibly interrupt hunters in a 1.6-million-acre park. Moore answered, "Well, it's very easy to find them. It's almost all alpine meadow. There're no trees on most of it. So, they're right out in the open. They have to have a camp. You have to stay in a tent. So, it's extremely easy to find from aircraft."

Moore is dead wrong. I was in Spatsizi just a few days before the altercation. Much of the park is indeed forested. Collingwood's guides successfully outsmarted Greenpeace helicopters practically every day, and hunters were able to take the animals they had permits for. During the first few days of the British



Columbia sheep season, Collingwood's hunters took three respectable Stone sheep that measured 38, 39, and 40 inches, despite so-called "successful" Greenpeace intervention. In fact, during the three-year Greenpeace campaign in the park, no hunts were stymied or thwarted, despite Moore's false statement to the contrary. He said, "they're not trophy hunting in Spatsizi because Greenpeace has occupied the park, and we're succeeding in keeping the people out of there this year, thankfully."

According to Collingwood, fewer than a dozen Greenpeace members come to the park, and they're woefully out of shape to follow hunters or even locate them. Their efforts to stop hunting and to prevent hunters from shooting at legal game have been entirely in vain.

Why did Greenpeace suddenly attack hunting, and why did they pick Spatsizi Park? One close observer said they were looking for another "cause" to raise money. Spatsizi itself has been a controversial issue since it was made a provincial park in 1975. The Order in Council spells out specific restrictions and regulations in the park, including one that states hunting and fishing will be allowed in the park on a sustained yield basis.

Spatsizi Park is entirely wilderness with no roads leading to it or through it. It is a superb big game hunting area. Many record animals have been taken there, including grizzlies, caribou, goats, sheep and moose. Collingwood is the only outfitter in the park, and most of his clients are American hunters. Only 30 or so nonresident hunters visit Spatsizi annually. Hunter harvest is minimal in the enormous 1.6-million-acre park, and many areas are not hunted at all. According to Collingwood, his hunter harvest level is about one percent of the total game population.

He guides only six nonresident sheep hunters each year.

Obviously, the Greenpeace opposition to hunting in Spatsizi appears to be based on a moral rather than biological issue. If the hardcore anti-hunting group was as concerned with game populations as they say they are, they should logically assist biological studies by contributing funds, but they haven't offered a dime. This is a typical posture of anti-hunter groups. Bob Henderson, Executive Director of the Western Guides and Outfitter's Association made up of 187 British Columbia and Yukon guides, said their organization contributed more than \$40,000 to caribou migration studies. He, Collingwood and other outfitters have donated their time and bush planes to help game studies conducted by Canadian wildlife agencies.

Greenpeace tactics in Spatsizi are typical of their standard operation. Perhaps the most highly activist environmental group in the world, Greenpeace members go to the scenes of their targets and physically try to interrupt or stymie activities. The group is best known for its bold efforts at stopping whaling and seal clubbing — even to the point of risking bodily harm. This is no loosely-knit organization of drug-using hippies who have nothing better to do, but a highly professional group of shrewd activists who will stop at nothing to achieve their goals.

Jim Haney, a wildlife graduate who manages Collingwood's Spatsizi operation, had an interesting thought on the subject. "Most of us are sympathetic to the 'Save The Whale' issue engineered by Greenpeace. After all, most of us are ignorant about whales, and for all we know, they are quickly being reduced to levels of extinction. But after seeing the Greenpeace effort in Spatsizi where they cleverly use the press to their advantage and broadcast lies and untruths, you wonder how valid their whale issue is. Worse than that, how many American hunters and their families are contributing to the whale funds, not knowing that their money might be going to finance expensive anti-hunting programs?"

When Greenpeace added Spatsizi hunting to their "hit list," they entered the park in 1979. Using expensive helicopters, they harassed Gary Zechel and his wife, Jo-Carole. Zechel, an engineer with Ford Motor Company in Detroit, reported incredible provocations by Greenpeace members. The environmentalists showed up when Zechel was hunting on horseback out of a spike camp. After they jeered and taunted the hunter, they locked hands, tried to stop Zechel from riding down the trail, and grabbed the horse's reins. Then they turned their attention to Jo-Carole. They hurled insults at her, ran close to her as animals would, and seemed to be demon-possessed. Jo-Carole finally broke down, ran into her tent sobbing, and refused to leave the tent for days. Throughout the ordeal, Zechel and his guide kept their cool. Their restraint seemed to drive the Greenpeace fanatics even wilder.

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### *It Was Inevitable That Collingwood And His Guides Used Frontier Justice.*

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The following year was not so tranquil for Greenpeace in Spatsizi. This time they took on Darryl Hastings and Richard Mielke, two Michigan hunters. Members of the group walked into camp, stuck cameras in their faces — even when the hunters were in the outhouse — and screamed vulgar innuendoes about sex and guns. The harassment was incessant and continued every day. At one point, Mielke scoped a wolf near camp with an unloaded rifle, and he was physically jarred by a screaming Greenpeace fanatic. The antagonist, wearing expensive cameras, ended up in a lake. Later, several Greenpeace fanatics grabbed the wing strut of a Beaver aircraft as it taxied for takeoff. The enraged pilot, who was flying two Swedish hunters to another of Collingwood's camps, completed the flight, picked up an iron pipe to be used as an "equalizer" in a possible fight with the

Greenpeace who outnumbered him, and returned to the trouble area. He jumped out of the plane, and roughed up the individual who grabbed his plane. The Greenpeace member made no attempt to fight back as the pilot slapped him around, but kept his hands in his pockets all the time. Afterward, the pilot was urged to file a formal complaint against Greenpeace because it is a grievous offense — and highly illegal — to interfere with a moving aircraft, but the pilot figured he'd received satisfaction by scaring the wits out of the Greenpeace member.

After Mielke and Hastings left Spatsizi, (they took all the game animals they desired) and entered Vancouver Airport, they were again harassed by Greenpeace members who harassed TV stations and reporters. The two hunters took refuge in a cocktail bar, but the demonstrators continued until the bartender finally drove them away.

So it was inevitable that Collingwood and his guides used frontier justice to deal with the Greenpeace fanatics in August of 1981. After the fight, in which the environmentalists were severely bloodied and battered by the swinging fists of Collingwood and his men, the Greenpeace effort was called off in Spatsizi. Their headquarters office said it was too dangerous for them to continue their offensive against Collingwood and hunters in the wilderness park.

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### *"...A Greenpeace Member Fired A Flare Gun Close To A Guide's Face."*

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Ray Collingwood did not want to have a fight with Greenpeace. He avoided the confrontation for two years, and instructed his guides to ignore them. He politely requested Greenpeace groups to leave him and his clients alone, and he silently endured their taunting jeers. But Collingwood did not take their insults lightly. He fumed inside and tried legal means to stop the harassment. When I talked to Ray in his Smithers, B.C., office in late July, he told me he would try to get an injunction against the Greenpeace attacks. As it turned out, the anti-hunters not only harassed hunters, but also chased sheep all over the rugged mountains from aircraft. The final straw came when Greenpeace members incessantly attacked an Austrian hunter and his wife. When Collingwood heard the radio call for help, he landed his bush plane and confronted the fanatic group with three of his guides. The bloody fight began when a Greenpeace member fired a flare gun close to a guide's face.

After the battle, Collingwood filed a restraining order barring Greenpeace members from entering Spatsizi, but the legal battle is just starting. Greenpeace will no doubt enter into expensive court proceedings against Collingwood, since he is the only outfitter in Spatsizi. If they beat Collingwood and have hunting banned in Spatsizi, they'll gain a tremendous psychological advantage and continue their objective of eliminating hunting worldwide.

You can help. Write to the Hon. James Chabot, Minister of Lands, Parks, and Housing; Parliament Building, Victoria, British Columbia, Canada, V8V1X4. Mr. Chabot, who is responsible for provincial parks, has been supportive of hunting in Spatsizi. Tell him you appreciate his attitude and urge him to continue it.

The British Columbia Wildlife Federation is urging passage of a law preventing harassment of hunters. Write to Bill Otway, Executive Director of the organization and congratulate him. His address: B.C. Wildlife Federation; 5659-176th St.; Surrey, B.C., Canada, V3S4C5.

And finally, a note of appreciation to Ray Collingwood, who is about to fight in court for all of us, would be appropriate. Write him at P.O. Box 3070, Smithers, B.C., Canada, VOJ2NO.

## Teaching Anti-Hunting

DATE

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A year or more ago a young student in Connecticut wrote a letter to me describing how a teacher of his was using the classroom as a place to preach against hunting. We ran that letter in the magazine and you readers were incensed. Just recently I have received more such letters from young students. We ran one of these letters from Jeff Caesar of Lansing, Michigan, in the letters column of the January 1984 issue. Jeff described how a teacher held him up to ridicule in front of his fellow students and made him "look like a murderer in front of my peers."

Since that time I have received another letter from Marty Sims of Lancaster, South Carolina. Marty says, "I am sorry to say that I also have a teacher who tries to influence her students on anti-hunting, so I wanted to let you know that this is one mind she won't change. I am 17 and an avid deer hunter, and no matter what she says she can't change my mind about guns and hunting. Every person has the right to keep and bear arms, and I will work to keep it that way."

I compliment Marty on his strong statement. He has the strength of his convictions and he won't be swayed by the powerful position being misused by the teacher. But what about those students whose minds are not made up either way or who don't have the personal strength to stand up to a teacher? They are the ones whose future opinions and lives are being shaped by teachers advocating anti-hunting ideas from a position in the classroom that cannot be argued with.

Anti-hunting sentiments have no more place being taught in the classroom than do political opinions. I would like to see what would happen to a teacher who said that either the Republicans or the Democrats were all no good. The law now says that not even prayers can be said in the classroom because of the danger of stepping on someone's rights. Opinions about hunting are exactly the same. Teachers should stick to teaching the lessons and not waste precious time preaching their personal opinions.

John Kraker, a sixth-grade teacher from Osakis, Minnesota, wrote and made an important point, which is that many teachers love to hunt and fish. This is something we should all keep in mind. He says, "Most teachers are professionals and try to give unbiased education. If some people choose not to hunt that is fine but they should not deny anyone the right to hunt. Along with this I do not like being included with anti-hunters; most teachers are not anti-hunters."

What he says is true but the few teachers who use the classroom as a soapbox for their anti-hunting ideas are a serious problem. Year after year, class after class, each one pounds his or her anti-hunting theme into the heads of thousands of students. These teachers must be stopped. I fear the problem is greater than we realize and I welcome letters giving specific accounts of teachers preaching anti-hunting sentiments. I would like to measure just how big the problem is.

To those teachers whose minds are still open, I would urge them to read a column written by John C. Dunlap, a high school English teacher at the Lyndon Institute in Vermont. His article, "In Defense of Hunting," appeared in the March 7, 1983 issue of *Newsweek*. In it, Dunlap eloquently states what hunting means to him. And I would also ask teachers to read, "Four Legs Good, Two Legs Bad," written by Matt Cartmill, in the November 1983 issue of *Natural History*. Cartmill is a professor of anatomy and anthropology at Duke University. In his article Cartmill traces both the importance of hunting in the development of mankind and the history of the anti-hunting sentiment. I could quote many lines from this article, but there is a real danger in taking the author out of context.

So I will close by restating something Cartmill himself quoted in his article: "Whether we love hunting or hate it," wrote the ethologist Valerius Geist in 1975, "eulogize its blinding passion or condemn it, hunting was the force that shaped our bodies, molded our souls, and honed our minds."

Clare Conley

(Publication number 493710)

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STATE OF ALASKA 1985 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 33  
 Title: Agricultural rights to land

FISCAL DETAIL

Agency Affected: Natural Resources  
 Program Category Affected: \_\_\_\_\_

Sponsor: Representative Shultz  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

BRU, Program or Subprogram(s) Affected:  
Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY	0	0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

Prepared By: Carol Wilson  
 Division: Commissioner's Office

Phone: 465-2400  
 Date: 1/18/85

Approved by Commissioner: Natasha Peterson  
 Agency: Natural Resources

Date: 1/18/85

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- Office of Management and Budget
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[Legal Description]

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PROVIDED FURTHER, as a condition subsequent to this patent, that if the property is used for purposes other than agricultural purposes then the grantor may enter the property and terminate the estate conveyed herein.

AND PROVIDED FURTHER, Grantor, hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, all development rights inconsistent with the agricultural use of

the property, as well as all oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils of every name, kind or description, and which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times for the purpose of opening, developing, drilling, and working mines or wells on these or other lands and taking out and removing therefrom all such oils, gases, coal, ores, minerals, fissionable materials, geothermal resources, and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to, and over said land,

whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved.

(d) The conservation plan must include a map of the homestead showing

(1) the planned location of any clearing and breaking of ground;

(2) the location of windbreaks, homestead ponds, and other improvements.

(e) A homestead conservation plan may be modified upon request of the entryperson. A modification must be approved by the director of the division of agriculture.

(f) In deciding whether to approve or modify a homestead conservation plan, the director of the division of agriculture, after consulting with the local soil and water conservation district, shall review the plan for consistency with the substantive standards contained in the United States Department of Agriculture, Soil Conservation Service's Conservation Practices, Standards and Specifications for Alaska, January 1978. (Eff. 5/31/84, Reg. 90)

Authority: AS 38.05.020 AS 38.09.020  
AS 38.05.035 AS 38.09.110  
AS 38.09.010

Editor's Note: A copy of the publication mentioned in 11 AAC 67.155(f) is available for inspection at the offices of the division of agriculture.

ARTICLE 7.  
DISPOSAL OF  
AGRICULTURAL INTEREST

Section

- 160. Administration of 11 AAC 67.160-11 AAC 67.195
- 162. Title and interest conveyed
- 165. Actions for trespass, damages, and forfeiture
- 167. Agricultural preference right
- 170. Sale notice
- 172. Purchaser qualification
- 175. Qualifications for purchase by lottery
- 177. Farm conservation plan
- 180. Contents of farm conservation plan
- 182. Modification of farm conservation plan
- 185. Farm development plan
- 187. Construction of real property improvements
- 190. Retained interests in land

192. Sale, assignment, or sublease of agricultural interest

195. (Repealed)

11 AAC 67.160. ADMINISTRATION OF 11 AAC 67.160 - 11 AAC 67.195. The director shall carry out 11 AAC 67.160 - 11 AAC 67.195 in a manner which

(1) minimizes the diversion of agricultural land to other uses;

(2) minimizes the impairment of agricultural land for agricultural use and development; and

(3) enhances the economic operation of viable farm units. (Eff. 4/28/78, Reg. 66)

Authority: AS 38.04.900 AS 38.05.069  
AS 38.05.020 AS 38.05.321  
AS 38.05.050

11 AAC 67.162. TITLE AND INTEREST CONVEYED. (a) Under 11 AAC 67.160 - 11 AAC 67.195, the state will convey only that portion of the state's title which constitutes the agricultural interest in the tract conveyed. The state's sale of the agricultural interest is the conveyance of the surface estate in fee simple subject to the conditions subsequent and covenants relating to agricultural use and development set out in (b) of this section. All other interests in the property remain in the absolute ownership of the state as prescribed by AS 38.05.069 and 38.05.321, and may not be trespassed upon by the grantee. The conveyance includes the right to exclusive possession. The agricultural interest may be alienated, encumbered, and inherited and is subject to the provisions of 11 AAC 67.192. The agricultural interest may not be augmented except as provided in AS 38.05.069(c), and may not be diminished except in the case of a forfeiture under this chapter.

(b) A grantee of an agricultural interest conveyed under 11 AAC 67.160 - 11 AAC 67.195 must

(1) comply with the terms, conditions, and limitations attached to the conveyance;

(2) comply with applicable laws and regulations; and

(3) use the land only for

(A) the production of plants and animals useful to man, including, without limitation, forage and sod crops; grains and feed crops; fruits, trees, and vegetables; dairy animals and products; and livestock; all such production

must be consistent with the farm conservation plan, but without the right to construct fixed, permanent or immovable structures except as specified in (C) of this paragraph;

(B) the maintenance of the land conveyed in its existing natural or undeveloped state, unless otherwise required by a farm development plan;

(C) the construction of fixed, permanent, or immovable structures reasonably required for or related to agricultural production, including that farmstead normally required for yards, driveways, parking, barns, and other outbuildings, and similar uses, to the extent permitted by the director under sec. 187 of this chapter and authorized and depicted in the farm conservation plan;

(D) the subdivision, for agricultural purposes only, of the land under the farm conservation plan and the requirements of this chapter;

(E) the use of gravel reasonably required for agricultural production only on the parcel conveyed, as authorized and depicted in the farm conservation plan;

(F) removal and disposition of timber by sale, gift, or other means in order to bring agricultural land into production, as authorized and depicted in the farm conservation plan and in accordance with accepted principles of land management and conservation. (Eff. 4/28/78, Reg. 66)

Authority: AS 38.04.900	AS 38.05.050
AS 38.05.020	AS 38.05.069
AS 38.05.035	AS 38.05.321

**11 AAC 67.165. ACTIONS FOR TRESPASS, DAMAGES, AND FORFEITURE.** (a) Any development or use of an agricultural interest conveyed under secs. 160-195 of this chapter by a grantee which is inconsistent with or contrary to sec. 162(b) of this chapter is a violation of the terms of conveyance and constitutes, together and as separate legal matters

(1) a breach of a condition subsequent;

(2) a breach of covenant; and

(3) a breach in the form of a trespass upon the remaining interest of the state.

(b) In the event of a violation described in (a) of this section, the director shall give written notice of the violation by certified mail to the record owner of the land and to the holder of any recorded security interest in the land. The record owner has no more than six months from the receipt of the notice to correct the violation. If the record owner fails or refuses to correct the violation, the holder of a recorded security interest who has received notice under this subsection may correct the violation to the extent the holder is empowered to do so, through, as appropriate, the payment of money, the performance of an act, or contracting for the performance of an act. The holder of a recorded security interest shall act within six months after notice is received under this subsection, or within an additional period as the director may allow for good cause.

(c) If the violation is not corrected to the satisfaction of the director within the period of time allowed under (b) of this section, the director may bring an action for injunction to abate the trespass upon the remaining interest of the state and an action for damages for breach of covenant against the grantee, together with any other remedy authorized by law, except that the director shall waive exercise of the right of reentry and power of termination for breach of condition subsequent unless action is also taken under (d) of this section.

(d) If the violation is not corrected to the satisfaction of the director within the period of time allowed under (b) of this section, and the violation is of such extent or gravity as to result in prolonged or permanent damage to or impairment of the usefulness or productivity of the land for agricultural purposes, the director may, in addition to the actions and remedies authorized by (c) of this section, exercise the right of reentry and the power of termination for breach of a condition subsequent after written notice of that action or of other necessary proceedings to the record owner and the holder of any recorded security interest, which results in the forfeiture of the agricultural interest to the state. Before acting under this subsection, the director shall consult with the

local soil conservation subdistrict established by AS 41.10.130. Upon forfeiture of the agricultural interest, improvements and chattels upon the land must be removed by the prior owner within 60 days thereafter. Any improvements remaining after the end of 60 days become the property of the state. (Eff. 4/28/78, Reg. 66)

Authority: AS 38.04.900	AS 38.05.069
AS 38.05.020	AS 38.05.090
AS 38.05.035	AS 38.05.321
AS 38.05.050	

**11 AAC 67.167. AGRICULTURAL PREFERENCE RIGHT.** (a) All sales of the state's agricultural interest are subject to an agricultural preference right as provided in AS 38.05.069. In order to qualify for a preference right, an applicant must submit his application on a form supplied by the division during the period specified in the sale notice.

(b) A qualified applicant must be the owner or lessee and operator of a farm or land upon which he has been actively engaged in agricultural pursuits as defined in AS 38.05.069. In order to qualify, the applicant may be required to have not less than 50 percent of the potentially tillable land he owns or leases cleared or otherwise devoted to agricultural purposes of a nature recognized by the director as consistent with the climate and soil capabilities of the area in which the land is located. In addition, he must present with his application a development plan that demonstrates the need for additional agricultural land in order to create an economic unit.

(c) The award of an agricultural preference right will be based on the characteristics of the existing farm as an economic unit. Multiple ownership of a farm unit does not create a qualification for multiple preference rights.

(d) Only the agricultural interest as described in secs. 160-195 of this chapter will be conveyed in conjunction with a preference right award. Permission to construct real property improvements under sec. 187 of this chapter will be granted to a preference right holder whose base farm is leased land, but will be withheld from other preference right holders unless

(i) the preference right holder's base farm is

separated from the parcel purchased under secs. 160-195 of this chapter by a physical barrier that necessitates duplication of farm support buildings on the purchased parcel; however, the director may require the preference right holder to convey to the state development rights on the base farm on an acre-for-acre basis; or

(2) granting permission would enhance the economic operation of a viable farm unit or result in only minimal diversion of agricultural land to other uses; however, the director may require the preference right holder to submit additional economic and land use justification for the farmstead area applied for; the director may also grant less than five acres for a farmstead, withhold the right to construct residences, and require the preference right holder to convey to the state development rights on the base farm on an acre-for-acre basis. (Eff. 4/28/78, Reg. 66; am 5/13/79, Reg. 70)

Authority: AS 38.04.900	AS 38.05.050
AS 38.05.020	AS 38.05.069
AS 38.05.035	AS 38.05.321

**11 AAC 67.170. SALE NOTICE.** Before offering the state's agricultural interest for disposal, the division will publish a descriptive brochure containing

(1) the date, time and place of disposal;

(2) the period during which preference right applications will be accepted;

(3) a statement of terms and conditions of disposal, including the terms of payment and length of contract, the availability of homestead credits, veteran's preference, purchaser qualifications, contract performance requirements, and any other special conditions or limitations;

(4) for each parcel

(A) size;

(B) appraised value;

(C) interests to be conveyed;

(D) farm conservation plan requirements;

(E) farm development plan requirements, if any;



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3715

## HB 33 SECTIONAL ANALYSIS

SECTION 1. AS 38.05.059 is repealed and a new section added that establishes a fee simple conditional title for the purposes of transferring land to persons for agricultural uses.

- a) Allows only one tract of ag. land to be purchased by an individual in an eight year period.
- b) Provides that the use of the land classified as agricultural will be restricted. After a fee simple title is transferred, the commissioner reserves the right of reentry should the terms of the condition be breached. Also clarifies that the right of reentry does not affect the validity of a prior lien or security interest in the land.
- c) These provisions apply to lessees as well as purchasers of ag. property.
- d) Establishes that the commission may set as a condition of purchase or lease of agricultural land, the submission of a farm development plan that is based on economic feasibility and sound development principles.
- e) Fee simple conditional title may not be conveyed to a person who has not completed a farm development plan.
- f) Definition of agricultural purposes and the size of the tract that may be conveyed as fee simple conditional.

SECTION 2: AS 38.05.321 (a) is repealed (see file for language)



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3715

## MEMORANDUM

January 23, 1985

TO: Representative Dick Shultz, Co-Chair  
House Resources Committee

FROM: Dave Stancliff, Professional Assistant *D.S.*

SUBJECT: Brief Synopsis for HB 33

HB 33 repeals and reenacts AS 38.05.059 to establish the type of title that is transferred to a person who purchases, leases, or is otherwise entitled to receive state lands that have been classified as agricultural. The clarification is needed to address differences between the understanding of those who have purchased lands under the agricultural land disposal program and the understanding of DNR as to the nature and format of the interest or land title being conveyed. These differences have come to light as a result of the issuance by the State of a few patents in the format of one issued to Mr. John A. Baker, a copy of which is in each members' packets.

All parties appear to be in agreement that the intent of the State was to transfer the land to be used for agricultural purposes only and that the title transferred was to be restricted to insure that this would be the only use.

The problem is that the type of patent, as issued to Mr. Baker, is too restrictive. The interest transferred by that document is little more than an agricultural easement subject to forfeiture if the Director of the Division of Forest, Land and Water Management so declares. This forfeitable interest cannot be insured by a Title company, and is not sufficient to provide security for any financing into which the recipient of the patent may wish to enter.

As presently constituted HB 33 provides that the title to be transferred will be a fee simply conditional - the condition being that the land will always be used for agricultural purposes only. There is also provided a right of re-entry by the State if the condition is broken. What this means is that if the owner of the property or his or her successors start using the property for something other than agriculture, the State can require that the other use be terminated or the owner may lose the property. This type of title should solve the title insurance and financial problems. (See Bank of the North letter)

The remainder of HB 33 recognizes the existing practice of requiring that a development plan be entered into and completed, and provides a definition of the phrase "agricultural purposes".

fees, conditional fees, and fees-tail. The term is opposed to "fee-simple."

*Plowman's fee.* In old English law, was a species of tenure peculiar to peasants or small farmers, somewhat like gavelkind, by which the lands descended in equal shares to all the sons of the tenant.

*Qualified fee.* In English law, a fee having a qualification subjoined thereto, and which must be determined whenever the qualification annexed to it is at an end; otherwise termed a "base fee." An interest which may continue forever, but is liable to be determined, without the aid of a conveyance, by some act or event, circumscribing its continuance or extent. An interest given to a man and certain of his heirs at the time of its limitation.

*Quasi fee.* An estate gained by wrong.

*Feed.* To lend additional support; to strengthen ex post facto. Similarly, a subsequent title acquired by the mortgagor is said "to feed the mortgage."

*Fee-farm.* A species of tenure, where land is held of another in perpetuity at a yearly rent, without fealty, homage, or other services than such as are specially comprised in the feoffment. It corresponds very nearly to the "enphyteusis" of the Roman law. Fealty, however, was incident to a holding in fee-farm, according to some authors.

Fee-farm is where an estate in fee is granted subject to a rent in fee of at least one-fourth of the value of the lands at the time of its reservation. Such rent appears to be called "fee-farm" because a grant of lands reserving so considerable a rent is indeed only letting lands to farm in fee-simple, instead of the usual method of life or years. Fee-farms are lands held in fee to render for them annually the true value, or more or less; so called because a farm rent is reserved upon a grant in fee. Such estates are estates of inheritance. They are classed among estates in fee-simple. No reversionary interest remains in the lessor, and they are therefore subject to the operation of the legal principles which forbid restraints upon alienation in all cases where no feudal relation exists between grantor and grantee.

*Fee-farm rent.* The rent reserved on granting a fee-farm. It might be one-fourth or one-third the value of the land. Fee-farm rent is a rent-charge issuing out of an estate in fee; a perpetual rent reserved on a conveyance in fee-simple.

\* **Fee simple.**

*Absolute.* A fee simple absolute is an estate limited absolutely to a man and his heirs and assigns forever without limitation or condition. An absolute or fee-simple estate is one in which the owner is entitled to the entire property, with unconditional power of disposition during his life, and descending to his heirs and legal representatives upon his death intestate. Such estate is unlimited as to duration, disposition, and descendibility. *Slayden v. Hardin*, 257 Ky. 685, 79 S.W.2d 11, 12.

The estate which a man has where lands are given to him and to his heirs absolutely without any end or limit put to his estate. 2 Bl.Comm. 106. The word "fee," used alone, is a sufficient designation of this species of estate, and hence "simple" is not a neces-

sary part of the title, but it is added as a means of clearly distinguishing this estate from a fee-tail or from any variety of conditional estates. Fee-simple signifies a pure fee; an absolute estate of inheritance clear of any condition or restriction to particular heirs, being descendible to the heirs general, whether male or female, lineal or collateral. It is the largest estate and most extensive interest that can be enjoyed in land.

\* **Conditional.** Type of transfer in which grantor conveys fee simply on condition that something be done or not done. A defeasible fee which leaves grantor with right of entry for condition broken, which right may be exercised by some action on part of grantor when condition is breached.

At common law an estate in fee simple conditional was a fee limited or restrained to some particular heirs, exclusive of others. But the statute "De donis" converted all such estates into estates tail. 2 Bl. Comm. 110.

*Defeasible.* Type of fee grant which may be defeated on the happening of an event. An estate which may last forever, but which may end upon the happening of a specified event, is a "fee simple defeasible". *Newbern v. Barnes*, 3 N.C.App. 521, 165 S.E.2d 526, 530.

*Determinable.* A "fee simple determinable" is created by conveyance which contains words effective to create a fee simple and, in addition, a provision for automatic expiration of estate on occurrence of stated event. *Selectmen of Town of Nahant v. U. S.*, D.C.Mass., 293 F.Supp. 1076, 1978.

Fee simple title. See Fee simple.

*Fee tail.* A freehold estate in which there is a fixed line of inheritable succession limited to the issue of the body of the grantee or devisee, and in which the regular and general succession of heirs at law is cut off. *Coleman v. Shoemaker*, 147 Kan. 689, 78 P.2d 905, 907.

An estate tail; an estate of inheritance given to a man and the heirs of his body, or limited to certain classes of particular heirs. It corresponds to the *feudum talliatum* of the feudal law, and the idea is believed to have been borrowed from the Roman law, where, by way of *fidei commissa*, lands might be entailed upon children and freedmen and their descendants, with restrictions as to alienation. For the varieties and special characteristics of this kind of estate, see Tail, Estate In.

*Fegangl /fægənjay/.* In old English law, a thief caught while escaping with the stolen goods in his possession.

*Fehmgerichte /féymgərikht/.* The name given to certain secret tribunals which flourished in Germany from the end of the twelfth century to the middle of the sixteenth, usurping many of the functions of the governments which were too weak to maintain law and order, and inspiring dread in all who came within their jurisdiction. Such a court existed in Westphalia (though with greatly diminished powers) until finally suppressed by Jerome Bonaparte in 1811.

*Felgned /féynd/.* Fictitious; pretended; supposititious; simulated.

*Felgned accomplice.* A pretended right, which act with others in a crime, but only for plans and confederates.

*Felgned action.* An action of pretended right, which of action, for some action the words of false action, in which false. See also Felg.

*Felgned diseases.* Similar cases are generally —fear, shame, or th.

*Felgned issue.* A proceeding by consent, jury without act; Felgned action.

**FELA.** Federal Empl

*Felagus /fələygəs/.* In er by oath; a sworn decennary for the who took the place of was murdered, the r er went to the fel parents or lord.

*Feld.* A field; in com

*Fele, feal.* L. Fr. Fait

*Fellow.* A co-worker; panion; one with w another in some leg; a college or corpora

*Fellow-heir.* A co-he lance.

*Fellow servant.* One the same master. S.W.2d 762, 764. mon pursuit, under who derive author same common sour general business, th or departments of i App.D.C. 21, 16 F. employed and paid duties are such as that negligence of c other in performanc the same common vants." See also E

*Fellow servant rule.* generally abrogated and Federal Emplo: tion for damages br injured employee t negligence of anothe responsible for the and, thus reducing

*Felo de se /fəlow d*

*Felon /fəlon/.* Person a felony (q.v.).

# BANK OF THE NORTH

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April 25, 1984

TO: State of Alaska  
House Finance Committee

Subject: CSHB 458 (Resources) (Now HB 33)

Following are observations of a banker as they pertain to CSHB 458. I have had 27 years experience in banking including agricultural lending in California with Wells Fargo Bank.

In response to your questions regarding particulars of the proposed bill, I would like to offer:

1. Banks traditionally lend to borrowers for agriculture purposes taking a secured position involving land, equipment and crops as collateral. The only collateral with sustaining real value is land. If it is owned, title is transferred and held by the lending institution. If it is leased, the lease is assigned to the Bank. Depending on the circumstances of the particular borrowing, other collateral - equipment and crops (including proceeds of the sale of the harvest) is pledged to the bank.

Under the conditions imposed by the present statute the title of the property (land) is conveyed and reverts to the State of Alaska if the grantee has failed to observe certain provisions or conditions of the Patent. Any financial institution, using prudent banking policies and practices, would not accept title to property as collateral with this condition for a loan.

2. The proposed change to the Act is worded sufficiently in my opinion, to protect and support a lien placed by a financial institution to perfect a security interest in land being used by the borrower as collateral for a loan for agricultural purposes. If leased by the State of Alaska to a lessor for agricultural purposes, the financial institution would insist that the lease of the land be assigned to the lender. It is presumed that the State would not oppose such assignment.
3. Your question addresses a situation that occurs frequently by lenders - financial institutions or individuals. In this case the financial institution would be faced with the problem of assuming the responsibility of the grantee of the land - to maintain the land for agricultural purposes.

First, the lender would have to foreclose on the loan, and to the extent possible:

1. Harvest and sell the crops, applying the net proceeds of the sale to the loan balance.
2. Secure all equipment pledged by the borrower for the loan and sell it to obtain cash to apply to any balance remaining.

April 25, 1984

If a balance were to remain after the above actions, this amount would probably be charged off as a loss.

Your question #3 presumes the State reentered the land because the land was not being used for agricultural purposes. This situation raises other questions - for the financial institution:

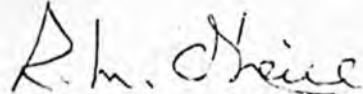
1. Who is responsible for clearing away any and all improvements that are not agriculturally related?
2. Who is responsible to find and qualify another grantee for the land? Who has approval authority - the State or the financial institution?

Note: In both questions above, I have assumed that the financial institution still holds title to the land as collateral for a loan not paid in full.

If the loan were to be paid in full from the sale of crops and equipment the land would presumably revert to the State of Alaska and title released to the State, providing the grantee has no legal claim to the land.

I hope these observations and comments have been helpful.

ALASKA NATIONAL BANK OF THE NORTH



Robert M. O'Neill  
Vice President  
Branch Manager

RMO/dk



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

JOHN RINGSTAD, CO-CHAIRMAN  
RICHARD SHULTZ, CO-CHAIRMAN  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3715

## M E M O R A N D U M

To: Bob O'Neill  
Bank of the North

From: John Manly *jm*  
House Resources Committee

Date: April 24, 1984

Re: CSHB 458 (Resources)

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As per our earlier conversation, I have formulated several questions pertinent to the Finance Committee's consideration of the above-referenced bill which we would appreciate having your advice on.

I have also included with this memorandum several pieces of relative information, including the current version of the bill itself, the present statute, and a typical patent, as issued by DNR under the present statute.

The questions we would anticipate from members of the Finance Committee are, in general:

- 1) Why won't the banks loan under the present conditions?
- 2) How does the proposed change solve the problem of security, as far as the banks are concerned?
- 3) In the event the State reenters the land, who would the bank expect to make good on the financial commitment entered into by the borrower to the bank?

Patent

No. 5151

Know All Men By These Presents that the State of Alaska, in consideration of the sum of NINE THOUSAND SIX HUNDRED EIGHTY-ONE AND 00/100----- DOLLARS

lawful money of the United States, and other good and valuable considerations, now paid, the receipt whereof is hereby acknowledged, does hereby grant to

JOHN A. BAKER, a single man

Box 57, Talkeetna, Alaska 99676

and to

his heirs and assigns, all that real property situated in the Borough of Matanuska-Susitna

State of Alaska, and described as follows:

AGRICULTURAL INTEREST ONLY

TRACT 9 OF ALASKA STATE LAND SURVEY NO. 79-109, LOCATED WITHIN THE BARTLETT HILLS ALASKA SUBDIVISION, TOWNSHIPS 25 AND 26 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, CONTAINING 196.81 ACRES, MORE OR LESS, ACCORDING TO THE SURVEY PLAT FILED IN THE TALKEETNA RECORDING DISTRICT ON MARCH 13, 1980 AS PLAT NO. 80-25.

SUBJECT TO:

PLATTED EASEMENTS.

CONDITIONS AND COVENANTS OF THE FARM CONSERVATION PLAN APPROVED BY THE DIRECTOR OF THE DIVISION OF AGRICULTURE OF THE DEPARTMENT OF NATURAL RESOURCES.

IF AT ANY TIME THE DIRECTOR OF THE DIVISION OF FOREST, LAND AND WATER MANAGEMENT OF THE DEPARTMENT OF NATURAL RESOURCES DETERMINES THAT THE GRANTEE OR HIS SUCCESSORS IN INTEREST HAS FAILED TO OBSERVE ANY PROVISION OR CONDITION OF THIS PATENT, THE DIRECTOR MAY DECLARE A FORFEITURE OF THIS CONVEYANCE AND TITLE HEREBY CONVEYED SHALL THEREUPON REVERT TO THE STATE OF ALASKA.

LATE PAYMENT PENALTY: A service charge plus annual interest (twice the interest rate charged on installment payments at the prevailing rate for real estate mortgage loans made by the Federal Land Bank for the farm credit district for Alaska) on the amount due will be charged on a past due account until payment is received by the State or until the contract termination date is reached.

SALE OF AGRICULTURAL INTEREST ONLY

The sale of State land classified as agricultural land transfers only rights for agricultural purposes, and all other interests in the land remain with the State and may not be trespassed upon by the purchaser. The State's sale of the agricultural interest is the conveyance of the surface estate in fee simple subject to the conditions subsequent and covenants relating to agricultural use and development. The development schedule will be incorporated into the sales contract and the conveyance documents as a covenant and condition and will be recorded in that form.

FARM CONSERVATION PLAN

Successful applicants are required to submit a Farm Conservation Plan for the parcel they are purchasing to the Division of Agriculture, Pouch A, Wasilla AK 99687, within 30 days of being awarded the parcel. If the Division of Agriculture does not approve the initial plan, the applicant has 30 days from the rejection of the first Conservation Plan to file an acceptable plan with the Division of Agriculture. Failure to file a plan within the allotted time, or an extension thereof, will result in the automatic termination of the applicant's interest.

The Farm Conservation Plan must include:

A map of the farm showing

1. the planned location of clearing and breaking of ground;
2. planned location and size of the farm's real property improvements, if authorized;
3. planned location of windbreaks, farm ponds, and similar conservation measures and improvements;
4. planned soil conservation measures.

This plan will be accepted or rejected by the Department of Natural Resources, Division of Agriculture, in conjunction with the local soil conservation subdistrict. The Farm Conservation Plan is a part of the sale contract and will be a permanent condition of the sale contract and title.

appraised fair market value, exclusive of value accruing from improvements or development, such as fill material, buildings or structures, by the occupant or his predecessor in interest or reflecting, equities of the occupant:

(3) "home rule cities and cities of the first class" do not include a borough. (§ 5 art III ch 169 SLA 1959; am § 6 ch 61 SLA 1960; am § 1 ch 18 SLA 1962; am §§ 1, 2 ch 81 SLA 1964; am § 1 ch 4 SLA 1966)

**Editor's notes.** — This section is set out above to correct an error in the main pamphlet.

#### NOTES TO DECISIONS

**Purpose of section.** — One purpose of the Alaska Land Act was to establish equitable methods of disposing of certain tidelands. Toward this end, and within the federal parameters requiring the recognition of "preference rights," this section was included in the Act. *City of Homer v. State*, Sup. Ct. Op. No. 1455 (File No. 3009), 566 P.2d 1314 (1977).

**Due process required.** — Private parties are entitled to due process of law before property rights may be removed; therefore, the minimal protection provided by adjudicatory procedures of the Department of Natural Resources must meet that standard. *City of Homer v. State*, Sup. Ct. Op. No. 1455 (File No. 3009), 566 P.2d 1314 (1977).

Municipalities are entitled to due process in the adjudication of claims to tide and submerged lands. *City of Homer v. State*, Sup. Ct. Op. No. 1455 (File No. 3009), 566 P.2d 1314 (1977).

With respect to the disposition of tidelands, municipal corporations are to be afforded the same rights of due process as are private parties. *City of Homer v. State*, Sup. Ct. Op. No. 1455 (File No. 3009), 566 P.2d 1314 (1977).

The language of subsection (b) is clear and unambiguous. *State Dep't of Nat'l Resources v. City of Haines*, Sup. Ct. Op. No. 2342 (File No. 5067), 627 P.2d 1047 (1981).

**Scope of subsection (b) grant.** — The

grant in subsection (b) of this section encompasses tideland adjacent to subsequently expanded municipal boundaries. *State, Dep't of Nat'l Resources v. City of Haines*, Sup. Ct. Op. No. 2342 (File No. 5067), 627 P.2d 1047 (1981).

In effect, this section gives the authorities of a city, etc.

In accord with original. See *Talbot's, Inc. v. Cessnun Enter., Inc.*, Sup. Ct. Op. No. 1462 (File Nos. 2561, 2671), 566 P.2d 1320 (1977).

In order for easement under subsection (b)(6) of this section to be established, it must appear that it is reasonably necessary for the enjoyment of the property, the term "necessary" meaning that there could be no other reasonable mode of enjoying the dominant tenement without the easement. An easement by implication does not arise merely because its use is convenient to the beneficial enjoyment of the dominant portion of the property. *Talbot's, Inc. v. Cessnun Enter., Inc.*, Sup. Ct. Op. No. 1462 (File Nos. 2561, 2671), 566 P.2d 1320 (1977).

While strict or absolute necessity is not required, something more than mere convenience must be shown before an occupant of tidelands is entitled to an easement under subsection (b)(6) of this section. *Talbot's, Inc. v. Cessnun Enter., Inc.*, Sup. Ct. Op. No. 1462 (File Nos. 2561, 2671), 566 P.2d 1320 (1977).

**Sec. 38.05.321. Restriction on sale, lease or other disposal of agricultural land.** (a) The sale, lease or other disposal of state land classified as agricultural land transfers only rights for agricultural purposes, and all other interests in the land remain with the state unless otherwise required by law.

NOTES TO DECISIONS

Quoted in *Gilman v. Martin*, Sup. Ct. (1983); *State v. Weidner*, Sup. Ct. Op. No. 2652 (File No. 5937), 662 P.2d 120 (1983); *LeResche v. Lustig*, Sup. Ct. Op. No. 2656 (File No. 6058), 663 P.2d 542 (1984); 2788 (File Nos. 6220, 6240, 6272), P.2d (1984).

*Sec. 38.05.058. Land discount program. [Repealed, § 19 ch 67 SLA 1983.]*

*Sec. 38.05.059. Limitation on purchases of agricultural land. A person may purchase more than one parcel of land that is part of an agricultural development project under AS 44.33-475 during any eight-year period. (§ 3 ch 29 SLA 1982)*

**Sec. 38.05.060. Rejection of bids.** Before the signing of the formal conveyance by the director, the commissioner may reject all bids when the best interests of the state justify this action. Land offered at public sale but not sold may be made available at private sale for not less than its appraised value. (§ 2 art IV ch 169 SLA 1959; am § 9 ch 61 SLA 1960; am § 2 ch 137 SLA 1962)

NOTES TO DECISIONS

Cited in *State v. University of Alaska*, Sup. Ct. Op. No. 2303 (File No. 4579), 624 P.2d 807 (1981).

*Sec. 38.05.063. Sales for pipeline purposes. [Repealed, § 31 ch 3 FSSLA 1973.]*

**Sec. 38.05.065. Terms of contract of sale.** (a) The contract of sale for land sold at public auction under AS 38.05.055 shall require the remainder of the purchase price to be paid in monthly, quarterly or annual installments over a period of 20 years, with interest at the prevailing rate for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska at the time the contract is signed. Installment payments plus interest shall be set on the level-payment basis.

(b) The contract of sale for land sold under AS 38.05.057 and under AS 38.05.078 shall require the remainder of the purchase price to be paid in monthly, quarterly or annual installments over a period of not more than 20 years. Installment payments plus interest shall be set on the level-payment basis. The interest rate to be charged on installment payments is the prevailing rate for real estate mortgage loans made by the federal land bank for the farm credit district for Alaska at the time the contract is signed.

(c) The director shall, for contracts under (a) or (b) of this section, set out in the contract for each sale the period for the payment of install-

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