

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672

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ALASKA OUTDOOR COUNCIL, INC.

1000 W. 10th Ave., Suite 100
Juneau, Alaska 99803

P.O. Box 34097
Juneau, Ak. 99803

MEMORANDUM

DATE: March 13, 1990
TO: Senator Steve Frank
FROM: Ed Grasser, Director Legislative Affairs
RE: SB 469 Hunter Harassment

The Alaska Outdoor Council has continually supported the passage of legislation which will protect individuals engaged in lawful harvesting of fish and wildlife from undue harassment by those persons who believe such practices should be banned.

There are increasing incidents of unprovoked attacks by individuals opposed to the harvest of wildlife nationwide. These types of activities were not in evidence here in Alaska until recently; therefore, past efforts to protect an individual's legal harvest activities were denied by Governor Sheffield, who vetoed two different pieces of legislation which would have accomplished this vital goal.

This past year, Native peoples in remote areas of Alaska were harassed during their attempts to harvest marine mammals which they depend upon for a livelihood. These types of activities will no doubt increase as individuals opposed to the harvest of wildlife become bolder in their attempts to physically harass or prevent legal harvests from taking place.

The problems posed by the increasingly blatant attempts of anti-hunters for lawful outdoorsmen will continue to grow if we do nothing. We feel SB 469 is a step in the right direction to protect the rights of persons legally engaged in wildlife harvests. In our opinion it will go a long way toward solving any future potential conflicts between user groups and will help protect America's outdoor heritage.

ALASKA FEDERATION OF NATIVES, INC.

411 W. 4th Avenue. Suite 301 • Anchorage, Alaska 99501 • Phone (907) 274-3611



April 24, 1990

The Honorable Steve Frank
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Frank:

Please be informed that the Alaska Federation of Natives is on record as supporting Senate Bill 469 as introduced.

You are correct your assessment that "hunter harassment" presents a potential threat to subsistence lifestyles in Alaska. SB469 will serve to protect lawful hunting rights and the special degree of dependence Alaska residents have on hunting and fishing resources.

Sincerely,

Julie E. Kitka
President



or Yellowstone Elk



Howard Lee Fox III

a \$3.5 million Congressional appropriation, a \$2 million commitment from the state of Montana, and a \$300,000 challenge grant from the National Fish and Wildlife Foundation.

The acquisition was part of a cooperative effort that aims at providing sufficient forage while minimizing landowner conflicts, and according to RMEF executive director Bob Munson, the North Yellowstone project is 70 percent complete. Also, lands acquired in the project will provide new recreation and access opportunities under the stewardship of the U.S. Forest Service.

\$0,000 of the new region maps to those who applied in 1989. Any nonresident interested in obtaining a 1990 deer ap-

* Hunters React With Restraint

In the face of increasing anti-hunting activity around the country—including incidences where lawful hunts were disrupted by so-called "animal rights" protesters—NRA has received reports that the involved hunters have handled themselves with admirable restraint and patience. In many cases the anti-hunting zealots were breaking the law, yet they got exactly what they were hoping for—publicity in local media. Meanwhile, the behavior and good citizenship of the affected hunters has mostly been ignored by the press.

NRA congratulates American hunters for the way they have handled this violation of their traditional sport, and reminds that such confrontations will likely continue, particularly on public land and opening days and even more so during special, permit-type hunts. With that in mind, NRA makes the following suggestions to sportsmen who find themselves in these situations:

1. Remember that your behavior, either right or wrong, will represent all 18.5 million hunters.
2. Do not attempt to convert anti-

hunters or discuss reason or logic, which will be a waste of time.

3. Keep cool, ignore derogatory comments, and try to distance yourself.

4. Find out if your state is one of the 37 that has a hunter harassment law.

5. If you are unable to get away from the protestors, find a way to contact law enforcement authorities.

6. Remember that law enforcement officers must protect constitutional rights and enforce the laws equally for both hunters and anti-hunters.

7. Remember that your commitment to hunting is stronger than their opposition. There is always another day and place during the season.



Neil Bolton

Virus Hits Some Arizona Javelinas

Hunters heading to Arizona for the upcoming javelina seasons should be aware of an apparent disease outbreak among the desert pigs in a small area south and west of Tucson. According to Ray Lee, big game supervisor for the game and fish department, preliminary examinations of collected animals point to an affliction of the paramyxovirus family, related to canine distemper in dogs and mumps or measles in humans.

Lee warns that sick or dead animals



Howard Lee Fox III

should be left alone and especially should not be handled by persons with open cuts or sores on their hands. Javelinas in poor condition or those that appear dazed or unable to walk properly should be avoided. Hunters should note, however, that the meat of javelina infected with the virus can be safely consumed only if it is cooked thoroughly.

Iowa Studies Ringneck Decline

A research project is underway in northern Iowa to look into declining pheasant numbers in areas where row-crop agriculture predominates. The department of natural resources study will monitor pheasant survival during winter and spring, nesting success, and chick survival over the summer.

Three areas have been targeted for the project. Two of them, one in Kossuth

Restoring Lynx To New York

A cooperative effort between New York and Vermont is restoring lynx to the 1880s. Since then, lynx sightings in the

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AMERICA'S BEST
QUAIL HUNTING



The Force Behind 'Friends of Animals'

Alice Herrington Raises the Hackles of Sportsmen in Her War on Hunting

By E. J. NELSON
Ort Staff Writer

Whether Alice Herrington is right or wrong, he is anything but a bore. As founder and president of Friends of Animals (FOA), Herrington arouses strong feelings among sportsmen and others in her crusade against hunting.

Herrington, who lives with eight cats in Little Silver, N.J., founded FOA in 1957 to try to reduce the numbers of stray dogs and cats. And that is still the major purpose of the organization, she said.

But the group's chief claim to fame is Herrington's verbal bouts with hunters and trappers.

"To call this a sport is just pure nonsense," she said about hunting. "It's a real cruelty. It can't be justified."

IN HERRINGTON'S view, the only people worse than hunters are trappers.

"Deer hunters are not nearly as bad as trappers," she said. "I can't imagine how hunters, who pride themselves on fine shooting, ally themselves with trappers, who practice sadism. Deer hunters are due a little credit for at least the speed of their kill."

Despite the fireworks that FOA ignites with its "full program of hunting and trapping disruption," Herrington wants to convince the public that there "are two cruelties."

Besides the killing of "free animals, which are called wildlife," she explained, she's concerned about man's treatment of all domesticated animals—including pets and livestock.

"It's an American syndrome to love kittens and puppies but then throw out dogs and cats," she said, adding that millions of dogs are killed "in American municipal dog pounds, but they were loved as puppies."

In 1970, Herrington organized low-cost spaying programs for 20,000 animals. By 1980, the number had risen to 80,000.

Last September in Neptune, N.J., she opened a low-cost spaying clinic, said to be "a model of its kind with room for 80 animals and two veterinarians." Across the nation, her group pays for part of the cost of spaying in cooperation with 750 participating veterinarians.

ONE OF the prime targets of Herrington and the FOA is the food business.

"Cruelty to animals is practiced on a larger scale by the food industry than by any other single sector of human activity," an FOA publication asserts.

And Herrington adds:

"If people want to support an industry that is destroying the land, then they can continue to eat these creatures. But if not they can eat vegetables."

Other institutions also are criticized

FOA, including zoos.

"Zoos must be phased out," said an FOA publication.

Herrington's concern for animals was heightened when she returned to the United States in 1954. Working as a War Department statistician, she had seen relatively few animals running loose in Europe.

In the United States, she said, "I was shocked to find stray animals everywhere."

HERRINGTON, a graduate of the University of Wisconsin in Madison, put her statistical talents to work calculating the rate of increase of dogs and cats. She said she realized that cutting the prolific birthrate was the only long-range solution.

This realization led to the founding of FOA, which worked with volunteers until 1967. Now the group has 12 full-time employees.

Herrington was asked whether she would advise FOA members to take traps that were legally set.

"Yes! Why not? Certainly," she said.

But wouldn't the "solution" be stealing?

"You could say that it's stealing if you like," she replied, "but the Robin Hood approach to life is still a very nice way to go."



Alice Herrington

To All Concerned
OUT
3/25/81
CM

Humane Group To Seize Animal Leghold Traps

By STEVE GRANT

Friends of Animals Inc. said Friday it is going to trip up trappers by setting off their leghold traps when the season opens next week.

The organization said it will ask its 4,500 members in Connecticut to look for the traps, touch them off with a stick and remove them, because it believes the traps are inhumane.

"We can't as an organization advise people to remove legally set leghold traps. It wouldn't be a smart thing to do. What we're asking them to do is remove illegally set traps. Our guess is most of them are illegal," said Patricia Feral, the organization's Connecticut director.

Game laws require all leghold traps to have the owner's name on them and they must be placed underwater or in an animal's burrow.

A spokesman for trappers questioned the new campaign, which will begin next Saturday, when the season opens.

"They're setting up a vigilante group. Vigilantes in any situation are not good. They don't know enough and they tend to break the law themselves," said Robert Crook of Madison, a member and former president of the Connecticut Trappers Association, which has about 800 members.

"I wouldn't object to anybody coming out and checking my traps, as long as they had the permission of the landowner, and as long as they didn't steal them, set them off or take animals out. But I really don't think that's their responsibility," Crook added.

He said the state Department of Environmental Protection is responsible

for seeing that trapping is conducted legally and that he understood the group was told by DEP not to remove illegal traps but instead to report them to a game warden.

Ms. Feral said a trapper's name legally can be placed anywhere on a trap, so members would have to trip them to check. She said members would not be advised to reset legal traps.

"DEP can read the riot act to me if it wishes. But no way will we aid the trapper. Our object is to get rid of the leghold trap," she said.

The organization has argued that the trap, which has two steel jaws that slam shut when an animal touches a piece of bait, is barbaric because some animals die slowly or are left crippled. Ms. Feral said domestic animals also have been caught in the traps. There are other traps available that are more humane, she said.

Crook estimated that there are 8,000 trappers in Connecticut, with the average trapper placing 50 or 100 traps in the wild.

The most commonly trapped animal in the state is the muskrat, which can yield a pelt that will fetch up to \$8. Raccoon, fox, mink, opossum, weasel, skunk and beaver also can be trapped legally, though the season for some of those animals does not begin until later.

Friends of Animals, which is based in New York, has waged other campaigns against hunters. Some members went into the Connecticut woods recently to play recorded wolf howls to alert animals of danger when the deer hunting season opened.

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10,000 years. But what we're saying is that the relationship between man and animals has changed dramatically. These hunters are an extension of the Detroit urban-industrial ecosystem. They have no place in Spatsizi. In a park set aside for protecting these animals, we must stop thinking of them as a natural resource and think of them as a national treasure."

Moore's disclaimer notwithstanding. Greenpeace's program would effectively end hunting. It would totally rule out all trophy hunting, even under the rigidly controlled conditions prevailing in Spatsizi. It would prohibit hunting by all outsiders, insisting that only food hunters "that are part of the (local) environment be permitted to hunt." It would, in short, permit only subsistence hunting, and then only if the cessation of hunting would "dramatically affect" the life-style of the hunter, and only if subsistence hunting remained in "balance" with the environment.

Moore repeatedly insisted that the hunters who were assailed by the Greenpeacers were unthinking trophy freaks who habitually left the meat of their animals to spoil after removing horns, antlers, and capes. All three hunters heatedly denied the charge, noting that they had painstakingly packed all usable meat back to camp, either for shipment home or for use by the outfitter's crew. The outfitters con-

firmed this. In fact, British Columbia law requires that the meat of game animals be removed and used for food, and in its exhaustive investigation of the incidents, the provincial game department found no violations of the law by the hunters.

For the record, Moore denies any of the Greenpeace activists at Spatsizi committed assault by grabbing anyone's arm. He denies that Mielke's rifle was pushed, but he insists that either Mielke or his companion shoved one of the Greenpeacers into the icy waters of

"They're crazy—I'm afraid of them," Gary Zechel's wife said. She spent the final days of the hunt in her tent.

Bug Lake. He concedes that they tried to block progress of the hunters' horses, but denies any member of his group seized them by the bridles. "They ran their horses at us," he insisted.

"Our intention is to be there again this year. We intend to shut down trophy hunting in Spatsizi to show that it can be done. They say we are interfering

with them. We deny that. We're competing, as is our right, and they can't stop us."

Perhaps more philosophical than many hunters would be, Richard Mielke warns future hunters of Spatsizi that the Greenpeace anti-hunters "are trying to provoke you into taking a poke at them. And that's the last thing anyone should do. It's exactly what they want."

Unfortunately, however, it isn't the last thing that's likely to happen—unless British Columbia takes a page from Newfoundland's book and contrives a way to keep the Greenpeace people away from the hunters. There are some indications B.C. officialdom, perhaps belatedly, is now working hard to find a way to end the harassment of hunters. In reply to a letter of complaint from Mielke, B.C. Minister of Environment Stephen Rogers wrote:

"I wish to extend my personal apologies for the harassment you suffered (and) I also want to congratulate you and your hunting partner for the restraint you both showed under trying circumstances. The hunters in Spatsizi by their good behavior, as opposed to the conduct of Greenpeace, gained in general public stature while Greenpeace suffered.

"We are working with the Parks Branch to see what can be done to prevent situations such as you experienced from recurring."



**OUTDOOR
LIFE**



JULY 1981

WAR IN THE WOODS

nics can be won when Zechel says, "One of those guys had an ice ax he kept waving in my face. I felt more fear than I have felt in a long time."

Zechel's wife seems to have been singled out for particular attention by the Greenpeaceers.

"They ran raving and yelling at her," he reported. "It was like a riot. They came within five or ten feet of her."

Exercising what can only be described as saintly restraint, the Zechels and their guide did their best to ignore the anti-hunters.

"This drove them into a frenzy," Zechel said. "They acted nearly hysterical, obviously looking to cause some action or incident." Not surprisingly, the Greenpeace tactics finally wore down Jo-Carole's emotional reserves. "She was terrified and finally broke down crying and screaming for them to leave us alone. They refused and she ran into the tent, sobbing. 'They're crazy—I'm afraid of them.' She spent the final days of the hunt in her tent."

When the Zechels broke camp and returned to Smithers, he filed an assault charge against the Greenpeace anti-hunters. Although technically the charge is still pending, it has been "stayed" and provincial authorities made it clear they have no plans to prosecute it.

Ralph Aldrich, chief conservation officer of the British Columbia fish and wildlife agency, undertook to explain why.

"From an enforcement point of view we can only follow the law," he said in an interview. "There is no law against yelling. It's just like picketing. Of course, if they threaten assault and take some overt action, that may be assault."

Is it illegal to impede hunters' horses? Aldrich's reply was something less than definitive. "It depends," he said. Thereupon he passed the buck to Peter Ewart, crown counsel (prosecuting attorney) for the Spatsizi district. From Prince George, B.C., Ewart indicated that, while still open, the charges laid by Gary Zechel against the Greenpeaceers would likely never be prosecuted.

"We took a look at the evidence and the probable outcome of a trial and put a 'stay' on the case," Ewart said. But then, plainly choosing his words carefully, Ewart laid out what may be provincial officials' plan to end the threat to one of British Columbia's prime industries. "I would have been much happier," he said, "if the charge had been intimidation instead of assault." British Columbia, he said, has a statute making it illegal to "impede or attempt to impede any person from carrying out

a lawful activity" by threats, harassment, or coercion.

"What he says is a crock," bluntly charged Ray Collingwood, whose firm outfitted both the Zechel and Mielke-Hasting parties. "They didn't prosecute because of the expense of getting witnesses back up here to testify. I've lost all respect for the government."

Collingwood revealed what apparently is not known by provincial authorities—real violence has already broken out.

"One of these, [Greenpeace] guys tried to stop one of our pilots from taking off from an airstrip we maintain in the park," he told *OUTDOOR LIFE*. "He grabbed a wing strut of the Beaver and tried to force our pilot to abort his take-off. The plane got off anyway and later the pilot returned, landed the aircraft, and punched the guy out. He knocked him down and slapped him around some. He just hung a little licking on him."

Despite the degree of restraint exercised by Mielke, Hastings and Zechel, provincial authorities are acutely aware of the potential for violence. Like the hunters themselves, provincial officials see the tactics of Greenpeace as calculated provocations designed to spark violent reaction. All agree that would be counterproductive and, as one put it, "would give Greenpeace 'proof' that all hunters are thugs and violence-prone killers." Chief conservation officer Aldrich pointedly noted that there will be combined Royal Canadian Mounted Police and game department patrols in Spatsizi during the 1981 season.

Greenpeace's Moore airily dismissed the prospect of being prosecuted under the intimidation statute.

"The attorney general (of British Columbia) hired a man last summer especially to research the question," he said. "He concluded there was no law that could stop us. Our activities are as legal as the hunters'. All we're doing is occupying nonconsumptive space, competing for resources with the hunters. They can't say we're interfering with their rights. Those [game] animals don't belong to anyone until they're actually taken into possession."

It is clear that Patrick Moore is the architect, principal voice, and presiding genius of Greenpeace. He conceived and created the organization while a graduate student at the University of British Columbia (he is now a doctor of ecology) five years ago. His title is Canadian director of Greenpeace International, but plainly his sway extends to the worldwide branches of the organization. He is one of 12 salaried, full-time employees of Canadian Greenpeace, and he is paid \$1,200 a month. There are offices in Vancouver,

"We intend to shut down trophy hunting in Spatsizi to show that it can be done."

Victoria, Toronto, and Montreal, as well as branches in the United States, the United Kingdom, the Netherlands, France, New Zealand, and Australia. A Greenpeace "secretariat" in Washington coordinates the activities of the international branches, and it has an annual budget of \$120,000.

"Our forte," Moore said in an interview, "is organizing expeditions into remote areas in order to confront in a nonviolent manner acts that we consider environmentally detrimental. Our funding is entirely private—donations from individuals that are generally less than \$50. We have no foundation or government grants. Our methods are too controversial to attract money from conservative quarters."

Greenpeace's first confrontation took place when Moore and others chartered an 85-foot vessel and sailed to the Aleutian island of Amchitka in an attempt to halt the testing of nuclear bombs. "We lost that battle but we won the war," he said. "They've stopped testing now and Amchitka is a wildlife preserve."

Later Greenpeace made expeditions to the South Seas in an attempt to stop nuclear testing by France (they failed), and they have conducted offensives against whalers and seal hunters.

"But we cut our teeth on nuclear testing," Moore said. "From it we learned how to deal with the media and how to understand international politics. We're fortunate in having people who understand the media—that's how you communicate with people in the modern world, knowing what sort of images appeal to the media."

Although Canadian authorities are tippy-toeing around the Greenpeace campaign of intimidation in Spatsizi, the government ended similar tactics that were attempted against commercial hunters of harp seals in Newfoundland.

"They enacted what they called 'sea protection regulations'," Moore said, "just to keep us out. It's ironic, and very undemocratic."

Moore insists that ending all hunting is not his goal. "Hunting can be part of a harmonious relationship with nature," he said. "Indian bowhunters lived in a balanced state with nature for

couldn't even go to the john without one of them sticking a camera in. It's hard to keep your cool under those circumstances, yet I couldn't give them the satisfaction of bothering me."

Although the Greenpeace scornfully characterize hunters such as Mielke and Hastings as "jet-set headhunters," both are men of modest means.

"I scrimped and saved and worked at odd jobs for two years to get the money for that hunt," Mielke said. "By the time I'd paid air fares, outfitters' fees, and license and trophy fees it cost me around \$10,000."

Hastings put the cost of his hunt at near \$12,500, and noted it would be a long time, if ever, before he could afford another hunt of that magnitude.

Both hunters report that attempts to reason with the anti-hunters were futile.

"We were after Stone sheep, principally," Hastings said. "But they kept alluding to them as 'bighorns.' I told one of them, 'You're such a phony; you don't even know what species you're talking about.'"

Both men got trophy sheep as well as other trophy specimens, but the Greenpeace activists succeeded in blighting what would otherwise have been an idyllic hunt.

"There were several days when I didn't hunt because of them," Hastings said.

Complaints to provincial wildlife authorities were to no avail. "Early in the hunt a park ranger came into our camp," Hastings said. "We asked him why he wouldn't protect our right to carry on a lawful activity. I'd paid around \$1,000 for licenses and tags, and these people were trying to deprive me of my right to hunt. The ranger replied that there was nothing he could do. 'It's a public park,' he told me. 'They can go anywhere they please.'"

Later, after the anti-hunter fell (Greenpeace Moore says he was pushed) into the lake, four Royal Canadian Mounted Police officers and two B.C. Fish and Wildlife Department officials arrived at the Mielke-Hastings camp by helicopter. Again the two hunters repeated their plea for protection, again the officials said there was nothing they could do.

"They told us they were trying to figure out how to resolve the issue," Hastings told *OUTDOOR LIFE*. "But all they did was to tell us. 'We want you fellows to be patient and keep the peace.'" (There are indications, however, which we will come to later, that B.C. officials are preparing to abandon

Illustration by Domenick D'Andrea

*Violence against them
would give Greenpeace
"proof" that all hunters
are thugs and violence-
prone killers.*

their policy of noninterference when the 1981 season opens.)

Even after Mielke and Hastings quit their camp to return home, the Greenpeace contingent pursued them. After alerting press and television, the anti-hunters continued their tactics of harassment. They followed the two hunters into the airport at Vancouver, taunting them, haranguing and vilifying them, and waving professionally-made anti-hunting placards for the benefit of news and television cameras. Several wore animal costumes, including horns or antlers. The Greenpeace drove the two hunters to take refuge in the airport lounge, where the bartender did what the Royal Canadian Mounted Police and game department officials had been unable or unwilling to do. He chased the anti-hunters out of the place.

In the fall of 1980, the Gary Zechel hunting party camped in the Spatsizi wilderness in British Columbia and ran into harassment by eight Greenpeace agitators (left). When Zechel and his wife rode out of their camp for a day of hunting with their guide, the Greenpeace locked arms across the trail to block their way and screamed abuse. A female Greenpeace grabbed Zechel's reins to hold him back. The guide broke through the human barrier, and the Zechels pulled away and roared around them. Gary Zechel stated that his greatest fear was that one of the horses would spook and injure or kill someone. The painting is based on a photograph supplied by the Greenpeace organization! At right, Greenpeace activists in animal costumes harass Richard A. Mielke and Darryl Hastings in the Vancouver airport after their successful hunt.



What was possibly an even uglier incident took place during the 1979 season in Spatsizi. Gary Zechel, an engineer with the Ford Motor Company, who lives in the Detroit area, was hunting Ranger Creek with his wife Jo-Carole, who is a hunter, but wasn't hunting on this occasion. Accompanied only by an Indian guide, the Zechels were traversing one of the wildest, most primitive areas in North America.

"We were six or eight hours by horseback from our base camp, staying in a spike camp," Zechel recalled. "when these Greenpeace people showed up. There were seven men and one woman. There was lots of taunting, harassment, and intimidation. They said they would do whatever they could to stop us. They said if they couldn't persuade us to abandon our hunt they would restrain us physically. When we rode out for a day of hunting, they locked arms in front of us. When I tried to go to my wife's aid, one of them grabbed my horse's reins. Eventually our guide broke through, and my wife and I got away from them. They chased us several hundred yards up the trail, and our guide's horse fell into a bog. That was very dangerous. Even a minor injury is serious in that remote wilderness."

Like Mielke and Hastings, Zechel is an experienced hunter and outdoorsman, clearly able to take care of himself. But some insight into the psychological impact of the Greenpeace tac-

ANTI-HUNTERS VS. HUNTERS: WAR IN THE WOODS

Greenpeace fanatics are harassing hunters in the field. It's a vicious and very dangerous movement, and you could be the next victim. Here's what to expect plus some very good advice on what not to do about it.

By Richard Starnes, Editor-at-Large

The lush alpine valleys and rugged highlands of northeastern British Columbia have witnessed the opening skirmishes in what threatens to become all-out war between big-game hunters and anti-hunting zealots who have sought to stop them by harassment, abuse, intimidation and—it is charged—physical violence.

How much violence has occurred to date is in dispute, but there have been several angry confrontations involving hunters and anti-hunting activists, one beating has already taken place, and feeling is running so high that Canadian provincial authorities are alarmed at the prospect of more violence when the big-game season opens this fall.

"It's only a question of time before some hothead loses his composure and someone gets hurt," said one hunter who was victimized by the anti-hunters.

Arrayed against each other in the conflict are the hunters, outfitters, and game-management officials of British Columbia, and a dedicated, well-financed, implacable organization of anti-hunters who call themselves Greenpeace.

Greenpeace is no collection of saloon conspirators content to crank

out mimeographed anti-hunting diatribes and picket sporting-goods stores. It is slick, professional, worldwide, and growing rapidly. Its Vancouver chapter alone budgets nearly \$500,000 a year for anti-hunting activities. Its tools are \$1,000-a-day helicopters, expensive sound cameras, and self-confessed expertise at manipulating the press and television. Its tactics are harassment, confrontation, and attempts physically to restrain hunters. Its leader, Dr. Patrick Moore of Vancouver, made it clear in an interview with *OUTDOOR LIFE* that episodes of harassment and intimidation that took place in the rich hunting grounds of British Columbia in 1979 and 1980 were only the opening salvos in the conflict.

"We'll be back this year," he said. "They can't stop us. We intend to stop trophy hunting, first in British Columbia, ultimately all over the world."

How Greenpeace seeks to frustrate hunters is perhaps best told in the words of Richard A. Mielke, a 50-year-old Pontiac, Michigan, fire fighter who last year took a 21-day hunt-of-a-lifetime in the rugged, 1.6-million-acre Spatsizi Wilderness Park in British Columbia. He and his partner, Darryl Hastings,

40, a computer broker from Rochester, Michigan, encountered the Greenpeace on the first day of the hunt.

"They barged right into our camp," Mielke said. "They stuck sound cameras right in our faces. They harangued and abused us. One of them screamed at me, 'Is there something wrong with your sex life? Is that why you're up here killing animals?' When we tried to ride out of camp they locked arms across the trail to stop us. One of them grabbed the bridle of my horse. That was dangerous. That's rough country up there. If the horse had shied and fallen I could have been badly hurt."

Eventually the hunters and their guide broke free and continued the hunt, but on nearly every day of the hunt the harassment continued. On one day Mielke took his rifle—unloaded—to a dock on tiny Bug Lake to scope a wolf that had been howling near the camp.

"One of these Greenpeace guys crowded up against me, bumped me, and yelled, 'You're not going to shoot that animal while I'm here!' He grabbed my rifle, and then he fell into the lake."

"They would taunt you in every way they could," Hastings added. "You

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, anelope, 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 accidental. 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, Anny! Here comes Momi!"

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 43, White Plains, New York 10605
or call: 212/428-7523

friends of animals, inc.

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

NRA/ILA

LIBRARY

247-8120

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.

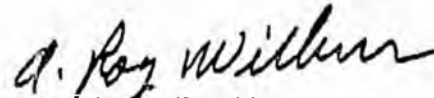
A similar request has been made of Governor Hickel. We hope that you will work together for the best interests of all Alaskans in this very important issue.

Thank you for your consideration.

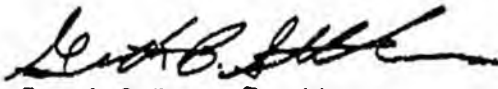
Respectfully,



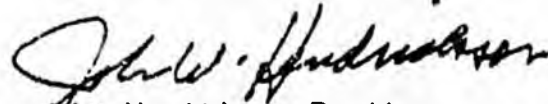
Richard Holmstrom, President
Alaska Falconers Association



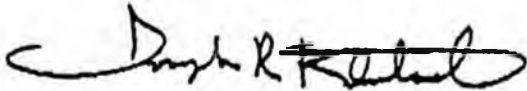
Roy Wilbur, President
Alaska Trappers Association



Gereth Stillman, President
Alaska Gun Collectors Association



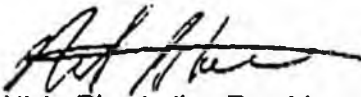
John Hendrickson, President
Alaska Waterfowl Association



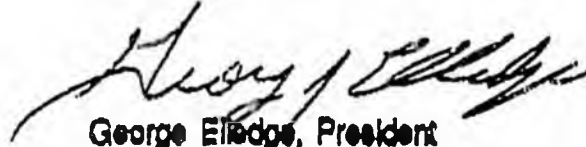
Joe Klutech, President
Alaska Professional Hunters Association



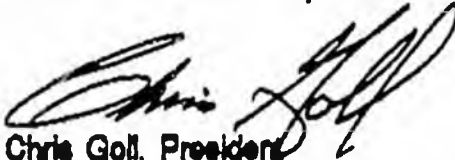
Don Poole, President
Alaskan Bowhunters Association, Inc.



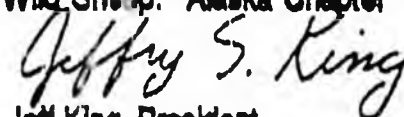
Nick Pierskalla, President
Alaska Professional Sportsman's Association



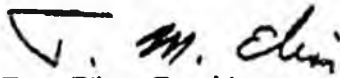
George Eledge, President
Foundation for North American
Wild Sheep: Alaska Chapter



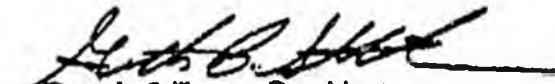
Chris Goll, President
Alaska Professional Sportfishing Association



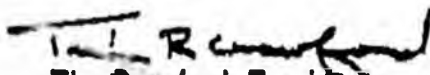
Jeff King, President
Kenai River Sportfishing Association



Tom Elias, President
Alaska Sportfishing Association



Gereth Stillman, President
Safari Club International: Alaska Chapter



Tim Crawford, President
Alaska State Muzzleloading Association

Representative Robin Taylor
P.O. Box 1441
Wrangell, Alaska 99029

December 12, 1990

Dear Representative Taylor:

The personal use of our fish and wildlife resources is critical to most Alaskans' personal lifestyle. We depend on these resources for sustenance as well as the enjoyment of pursuit. Many Alaskans rely almost exclusively on fish and wildlife for food and clothing, and the harvest and use of those resources is vital to their cultural health. For other Alaskans, it is the need to experience the thrill of the chase and the opportunity to supplement our diets with wild fish and game that are important.

A large segment of Alaska's population depends on the harvest of fur bearers as a significant part of their cash economy. Official estimates claim that trapping contributes from twenty to one-hundred percent of the income in some bush households, depending on the location. To these people trapping is not just a "job". It is a way of life and the only source of cash readily available to purchase supplies to support a bush lifestyle.

The commercial use of our fish and wildlife contributes significantly to the state's economy. The big game guiding industry is dependent almost entirely on non-residents who take less than fifteen percent of the big game animals harvested, but recycle guiding fees back into the economy by contracting transportation and field services from rural areas. The guided sport fishing industry makes up at least half of the Kenai Peninsula's summer economy. The commercial fishing industry is second only to the oil industry in generating dollars. In 1988, the most recent year information is available, the commercial fishing industry put \$1.3 billion dollars into the Alaskan economy.

It is important that Alaskans be protected in their methods and means, access to and right to use Alaska's bountiful fish and wildlife resources. We depend on these resources for our personal as well as our economic health. For most Alaskans, we literally would not be here if the opportunities to hunt, fish, and trap were lost.

It is for this reason that we request that you submit two bills to the 1991 Alaska Legislature. One bill would be an amendment to the Constitution of the state of Alaska providing that "The individual right to keep and bear arms shall not be denied or infringed by the state or a political subdivision of the state," which would be placed before the voters at the next general election. The second bill would create an act which would make it "illegal for a person or group to obstruct or hinder hunting, fishing, or trapping engaged in lawfully by another person." We would also request that a person who violates that act be guilty of a Class A misdemeanor punishable by a fine of not more than \$2000 or imprisonment for not more than one year, or both.

Laurence H. Holmes Jr
P.O. Box 454
Girdwood, Alaska 99587
December 20, 1980

Representative Robin Taylor
Alaska State Legislature
P.O. Box V (MS 9100)
Juneau, Alaska 99811

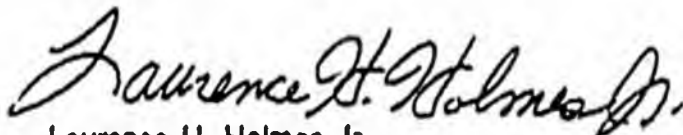
Dear Representative Taylor:

Enclosed is a letter requesting that you sponsor a bill making it a misdemeanor to hinder or obstruct any Alaskan in the normal, legal pursuit of fish or game for commercial or personal use. That piece of correspondence has thirteen signatures representing the leadership of those users of our fish and wildlife resources who most depend on those resources for their personal or commercial needs. The number and variety of user groups represented in that letter are a clear measure of the importance of the issue, and the commitment of those groups to protect Alaskans' opportunities to use our fish and wildlife resources.

Thirty-seven other states already protect to varying degrees their residents in the use of their fish and game. The commercial and personal use of Alaska's fish and wildlife are of vital importance to her residents. There are innumerable Alaskans whose lifestyles and livelihoods depend upon our state's fish and wildlife resources. Consumptive-user groups in other states have come under attack by anti-hunters and/or animal rights groups. It is time we protect ourselves from that kind of disruptive invasion of our rights.

We would appreciate your help in this effort. Thank you.

Sincerely,



Laurence H. Holmes Jr.
Legislative Vice-President
Alaskan Bowhunters Association, Inc.

birdwatching. This language is likely to make it more difficult to prosecute some cases, as 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. The bill also allows an alleged offender who had, or reasonably believed that he had, a right to obstruct or hinder the hunting, fishing, or trapping to raise this as an affirmative defense to a prosecution.

The reasons given for your veto of the similar bill last year were: (1) that much of this conduct could be prosecuted under existing criminal laws, particularly the assault, criminal mischief, and general harassment statutes; and (2) that the statute was unconstitutionally vague because of its failure to define what constituted "interference" with the protected activities. This bill differs from last year's bill in several respects. This bill more clearly states that a person's "interference" must be with the specific intent to obstruct or hinder a person's lawful hunting, fishing, or trapping. Secondly, the bill defines "lawful" hunting so as to more clearly identify the class of persons protected. Finally, the "incidental use" provision mentioned above recognizes that there may be legitimate competing uses for the same land or water area, and that hunting, fishing, or trapping activities do not take precedence over other lawful uses.

Ironically, an amendment to the bill (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) was made on the House floor. This 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. It appears that, while the legislature wishes to prohibit the deliberate interference with hunting or fishing in general, it believes that this specific "interference" should be allowed.

In summary, while we are not convinced that there is a need for this bill, it does not contain some of the legal problems present in the bill last year. Whether the bill is desirable on public policy ground is a decision which we leave to you to decide. As you correctly stated in your veto message last year, much of the conduct covered by this bill could be prosecuted under existing criminal statutes which carry comparable penalties.

Sincerely,

Norman C. Gorsuch
Attorney General

NCG/AHP/LBN/so

June 5, 1984

The Honorable Bill Sheffield
Governor
State of Alaska
Pouch A
Juneau, AK 99811

Re: CSHB 546(Res) am S -- hindrance
of lawful hunting
Our file: 388-096-84

Dear Governor Sheffield:

At Ray Gillespie's request on your behalf, we have reviewed CSHB 546(Res) am S. This bill makes it a misdemeanor (punishable by a fine of up to \$500, up to 30 days in jail, or both), for a person to perform an act with the intent to obstruct hunting, fishing, or trapping lawfully engaged in by another person. As you may recall, you vetoed a similar bill (2d SCS CSHB 163(Jud)) last year.

Proponents of the bill argue that it is needed because "sabotage" tactics are sometimes used by conservationists attempting to prevent the hunting or trapping of game in other parts of the United States or Canada. Although there apparently have not been any verified reports of such incidents in Alaska, the proponents of the bill argue that, considering Alaska's abundant game population and hunting opportunities, it is appropriate to pass such a law, as a precautionary measure.

Under this bill, a person subjected to or threatened by such intentional interference may petition a superior court to enjoin the offender from engaging in such conduct. The person may also be entitled to recover monetary damages for losses suffered, including the license and permit fees, travel costs, guide fees, equipment and supply costs, and other related expenses. In addition to these damages, a court may award punitive damages.

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, or

JULY 19, 1983

While we are not convinced of the need for this bill,
there are no apparent constitutional or other legal
difficulties with it.

Sincerely,

Norman C. Gorsuch
Attorney General

NCG:GAH:gb

July 19, 1983

The Honorable Bill Sheffield
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Re: 2d SCS CSHB 163(Jud) -
harassment of hunters
File no: 388-089-83

Dear Governor Sheffield:

As Emil Notti requested on your behalf, we have reviewed 2d SCS CSHB 163(Jud). This bill makes it a misdemeanor criminal offense, punishable by a fine of up to \$500 and up to 30 days in jail, for a person to knowingly interfere with another person lawfully engaged in hunting, fishing, camping, or trapping, with the intent of hindering the person's activity. It also prohibits a person from knowingly disturbing fish or game or their habitat with the intent of hindering a person lawfully engaged in hunting, fishing, camping, or trapping.

A person who has been subjected to or threatened with harassment may petition a superior court to enjoin the other person from behaving in such a manner. The victim may also be entitled to recover damages for losses suffered, including license fees and travel costs, and may also seek punitive damages.

This bill is a version of model legislation supported by the Wildlife Legislative Fund of America, an association of sportsmen. Proponents of the bill argue that it is needed because of "sabotage" tactics sometimes used by conservationists attempting to prevent the hunting or trapping of game in other parts of the United States or Canada. Although there have not been any verified reports of such incidents in Alaska, the sponsor of the bill argued that, considering Alaska's abundant game population and hunting opportunities, it was appropriate to clearly prohibit such behavior.

HISTORY OF HUNTER HARASSMENT LEGISLATION

TO: REP. TAYLOR

FROM: JOE AMBROSE

DATE: JANUARY 31, 1991

1983 HB163 by Shultz Res, Jud
Passed House 24-09-07
Passed Senate 13-05-2
Vetoed by Sheffield 07-25-83 (veto letter attached)

1984 by RESOURCES COMMITTEE Res, Jud, Fin
Passed House 25-14-01
Passed Senate 18-02-00
Vetoed by Sheffield 06-19-84 (veto letter attached)

1985 HB31 by Shultz and Marrou Res, Jud
Passed House 31-08-01
Died in Senate Rules (05-10-86)

1987 HB34 by Shultz and Menard Res, Jud
Died in House Judiciary (04-24-87)

*1987 was the first year that Shultz was not a member of the majority

1988 By Fanning

1990 by Frank
Passed senate (18-1-1)
Died in House Resources

1991 by Frank (Senate) by Taylor (House)

**THE PRECEDING PAGES
WERE TREATED AS A UNIT
IN THE ORIGINAL FILE**

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 163-3991
Fax: (907) 163-3351

April 27, 1990

MEMORANDUM

TO:

FROM: Glenn T. Gray ^{GTG}
Legislative Analyst

RE: Hunter Harassment Law Prosecutions in Other States
Research Request 90.331

You asked for an update to House Research Request 84.081 concerning prosecutions under hunter harassment statutes in other states. You also asked for a sample of hunter harassment statutes. This memorandum provides information about hunter harassment prosecutions in Arizona, Connecticut, Illinois, Maine, Maryland, Michigan, New York, Oregon, Pennsylvania, and Vermont. Legislative Request 90.189, sent to you earlier, contains information about hunter harassment statutes including a list of all states with hunter protection laws and sample legislation from seven western states. Statutes from ten additional states are attached to this memorandum (Attachment A).

Introduction

While most of the ten states we investigated report decreased activity by anti-hunting groups since the passage of hunter protection legislation, a few of the states have experienced recent occurrences of hunter harassment. These incidents are staged by animal rights groups rather than individuals. Groups generally target a specific type of hunt or hunting activity and announce the event ahead of time in an effort to encourage coverage by the media.

At least 33 states have enacted hunter harassment statutes in an attempt to prohibit people from intentionally harassing individuals legally hunting or trapping. State law enforcement personnel in the states surveyed seldom prosecute individuals under the hunter harassment laws for several reasons. Antihunting activists often conduct protests without interfering with hunters. Some enforcement authorities believe that hunter harassment statutes deter many of those who would be inclined to disturb hunters without such a law. Law enforcement personnel sometimes use other statutes to prosecute violators because of cumbersome statutory provisions or the fear that the statute would be found unconstitutional if challenged. Connecticut, however, is the only

Representative Davidson
April 27, 1990
Page 2

state where a hunter harassment statute has been found to be unconstitutional. Prosecutions under the hunter harassment statutes in each of the ten states investigated is summarized below.

Arizona

Arizona experienced some hunter harassment problems prior to the enactment of the nation's first hunter protection statute, but no one has been prosecuted under this law.¹ The statute targets organized antihunting groups rather than individuals. Before the state can implement the law in a specific instance, a formal process must be undertaken. Since most organized efforts to disrupt hunters are well-publicized before the event, the state could theoretically complete the process before the harassment occurs. State officials believe that the law has successfully discouraged incidents of hunter harassment. Antihunting protests, however, continue to occur.

Connecticut

The United States Court of Appeals for the Second Circuit upheld the United States District Court's finding that the state's hunter harassment law was unconstitutional under the first and fourteenth amendments of the United States Constitution. The first prosecution under the law resulted after an individual attempted to dissuade several sportsmen from hunting geese. An animal rights group later encouraged this individual to challenge the constitutionality of the law. The law was found to be unconstitutionally vague and subject to several interpretations. The Connecticut State legislature is currently considering new legislation that would correct deficiencies in the law (Attachment B).

Last fall, several antihunting groups, including Friends of Animals, harassed Connecticut hunters. Members of the groups wore animal costumes and attempted to scare deer away from the hunters. The groups target special hunts scheduled to control overpopulations of deer in specific areas. As well as disturbing hunters and thwarting management of game populations, concentrations of people in an area open to hunting pose a serious safety risk.²

¹Telephone conversation, Don Vance, supervisor, Law Enforcement Branch, Game and Fish Department, Phoenix, April 25, 1990.

²Telephone conversation, Elaine Korenkiewicz, legislative coordinator, Connecticut Department of Environmental Protection, Hartford, April 24, 1990.

Representative Davidson
April 27, 1990
Page 3

Illinois

A district court judge ruled that the hunter harassment statute in Illinois was constitutional in a 1989 challenge. The court case resulted over a conflict between two goose clubs. On the premise that hunting is prohibited within a certain distance of a residence, one club located a trailer on the edge of a parcel of private land to stop hunting in the area. The second club initiated a civil action against the first club, claiming that their attempt to prevent hunting was a type of harassment. The first club claimed that the law was unconstitutional due to its vagueness. The district court judge ruled that the law was not vague and ordered the first club to remove the trailer. The case was not appealed. Data is not available concerning the number of prosecutions under this hunter harassment statute.³

Maine

Colonel Cummings, chief warden of the Maine Department of Inland Fisheries and Wildlife, stated that there have been no prosecutions under the state hunter harassment law.⁴ The state has not experienced any problems with antihunting groups interfering with hunters in recent years.

Maryland

Animal rights activists gained national attention last fall as a result of a concerted attempt to stop hunting. Law enforcement officers responded by issuing ten citations for harassment of hunters. Some of the violators pleaded guilty but appealed the decision in an attempt to find the law unconstitutional. The appeals have not yet been completed and there is no data on the total number of citations issued under the state's hunter protection statute.⁵

Michigan

Two citations have been issued under the state's hunter protection statute but they were not contested. Staff of the Michigan Department of Natural Resources expect the state to be targeted by anti-hunting groups this year. The department believes that the law would be found unconstitutional if contested and law

³Telephone conversation, Jack Price, Attorney, Department of Conservation, Springfield, April 25, 1990.

⁴Telephone conversation, Augusta, April 24, 1990.

⁵Telephone conversation, Steve Shall, chief of field operations, Forests, Parks and Wildlife, Department of Natural Resources, Annapolis, April 25, 1990.

Representative Davidson
April 27, 1990
Page 4

enforcement officers have been directed to use other statutes (e.g., assault or trespass laws) instead of the hunter harassment law.⁶

New York

A concern about possible harassment to hunters led to enactment of a statute in 1986 prohibiting interference with hunting. However, there have been no prosecutions under this law and there are no current organized efforts to disrupt hunts.⁷

Oregon

Although there were some problems with harassment of hunters prior to enactment of Oregon's statute, there has never been a prosecution under the hunter protection statute. The offense is a violation rather than a misdemeanor. Opposition to hunting occurred primarily over hunts opened to control crop damage from wildlife.⁸

Pennsylvania

Pennsylvania has not experienced much of a problem with hunter harassment. There were some incidents before the hunter protection statute was written but there have been no prosecutions. Protests occurred over the decision to open special hunts to control overpopulations of deer in state parks. The protestors, however, stayed outside of park boundaries and did not interfere with the hunters.⁹

⁶Telephone conversation, Bruce Gustafson, supervisor, Recreational Safety Education, Michigan Department of Natural Resources, Lansing, April 24, 1990.

⁷Telephone conversation, James Davis, assistant council, Fish and Wildlife, Department of Environmental Conservation, Albany, April 24, 1990.

⁸Telephone conversation, Lieutenant Kraft, Game Enforcement Bureau, Oregon State Police, Portland, April 25, 1990.

⁹Telephone conversation, Richard Fagan, Director of Enforcement, Harrisburg, April 25, 1990.

Representative Davidson
April 27, 1990
Page 5

Vermont

Although there were incidents of harassment of hunters before the state's hunter protection law was enacted, there have been no prosecutions under the law. Harassment of hunters is currently not a problem in Vermont.¹⁰

*** ** ***

I hope you find this information useful. Please contact this office if we may be of further service.

Attachments

¹⁰Telephone conversation, Norman Brown, state game warden, Department of Fish and Wildlife, Waterbury, April 24, 1990.

ATTACHMENT A

Hunter Protection Statutes in Other States

D FISH

TAKING AND HANDLING OF WILDLIFE

§ 17-316

§ 17-315. Wildlife theft prevention fund; authorized expenditures

A. There shall be a wildlife theft prevention fund which shall consist of:

- 1. Monies received from damage assessments pursuant to § 17-314.
- 2. Money received from donations to the fund.
- 3. Monies appropriated by the legislature for the purposes provided in this article.

B. Funds from the wildlife theft prevention fund shall be expended only for the following purposes:

1. The financing of reward payments to persons, other than peace officers, game and fish department personnel and members of their immediate families, responsible for information leading to the conviction of any person for unlawfully taking, wounding or killing, possessing, transporting or selling wildlife and attendant acts of vandalism. The commission shall establish the schedule of rewards to be paid for information received and payment shall be made from funds available for this purpose.

2. The financing of a statewide telephone reporting system under the name of "operation game thief" which shall be established by the director under the guidance of the commission.

3. The promotion of the public recognition and awareness of the wildlife theft prevention program.

C. The wildlife theft prevention fund shall be expended in conformity with the laws governing state financial operations, except that any balance in excess of fifty thousand dollars shall revert to the game and fish fund. Balances remaining at the end of the fiscal year shall be exempt from the provisions of § 35-190, relating to lapsing of appropriations.

Added by Laws 1978, Ch. 185, § 2.

§ 17-316. Interference with rights of hunters; violation; classification

A. The commission may, by rule, establish designated hunting areas on public lands if it finds that a significant interference or disruption of a hunt is likely to occur on those lands.

B. It is a class 2 misdemeanor for a person while in a designated hunting area to intentionally interfere with the lawful taking of wildlife by another or to intentionally harass, drive or disturb any game animal for the purpose of disrupting a lawful hunt.

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Arizona p 2 of 2

§ 17-316

GAME AND FISH

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C. It is a class 3 misdemeanor for a person to enter or remain in a designated hunting area on any state lands including state trust lands with the intent to interfere with the lawful taking of wildlife.

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Law:

D. The commission or any person properly licensed to take wildlife who is directly affected by a violation of this section may bring an action to restrain conduct declared unlawful in this section and to recover damages.

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E. A peace officer who reasonably believes that a person has violated this section may order the person to desist or to leave the area or arrest such person upon refusal to desist or leave.

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F. The conduct declared unlawful in this section does not include any incidental interference arising from lawful activity by public land users, including ranchers, miners or recreationists.

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Added by Laws 1981, Ch. 239, § 1.

Library References

Game 371.
C.J.S. Game § 7.

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ARTICLE 2. LICENSES

Article 2, consisting of §§ 17-331 to 17-344, was added by Laws 1958, Ch. 80, § 2, effective July 1, 1958.

Former Article 2, consisting of §§ 17-331 to 17-346, was repealed by Laws 1958, Ch. 80, § 1, effective July 1, 1958.

For disposition of the subject matter of sections repealed or derivation of sections enacted by Laws 1958, Ch. 80, §§ 1 and 2, see Tables preceding § 17-101.

§ 17.

Cross References

Civil liability for unlawful wounding, killing, or possession of wildlife, see § 17-314.

§ 17-331. License required

No person, except as provided by this title, or commission order, shall take any wildlife in this state unless at the time of taking he has a valid license therefor on his person and exhibits it upon request for inspection to any game ranger, wildlife manager or peace officer.

Added by Laws 1958, Ch. 80, § 2.

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Historical Note

Source:
Laws 1929, Ch. 84, § 25.

Code 1939, § 57-125.
Laws 1945, Ch. 52, § 16.

Illinois

WILDLIFE

TAKING

61 ¶ 302

INTERFERENCE WITH TAKING OF WILD ANIMALS

Cross References

Misdemeanors,

Fines, see ch. 38, ¶ 1005-5-1.

Terms of imprisonment, see ch. 38, ¶ 1005-8-3.

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301. Definitions

§ 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 animal.

P.A. 83-153, § 1, eff. Jan. 1, 1984.

Historical Note

Title of Act:

83-153, approved August 29, 1983, eff.

An Act to prohibit harassment of hunt-
ers, trappers and fishermen. P.A.

Jan. 1, 1984.

Library References

Game ¶¶ 2, 4.

C.J.S. Game §§ 1, 8.

Words and Phrases (Perm.Ed.)

302. Interference with lawful taking of wild animal

§ 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.

P.A. 83-153, § 2, eff. Jan. 1, 1984.

Library References

Game ¶ 7.

C.J.S. Game § 10 et seq.

Subdiv. (3): Freedom of speech subject to reasonable regulation of place and manner of exercise. Not necessary to limit application of statute to "fighting words." The prohibition is against purposeful harassment by means of device readily susceptible of abuse; trespasser upon our privacy. 34 CS 689, 690, 693, 696, 698.

Sec. 53a-182. Harassment of hunters, trappers and fishermen: Class C Misdemeanor. (a) No person shall: (1) Interfere with the lawful taking of wildlife by another person, or acts in preparation for such taking, with intent to prevent such taking; or (2) harass another person who is engaged in the lawful taking of wildlife or acts in preparation for such taking.

(b) Any person who violates any provision of this section shall be guilty of a class C misdemeanor.

(P.A. 83-351.) (found to be unconstitutional)

PART XV

INTOXICATION

Sec. 53a-184. Intoxication by drug; definition, commitment, treatment, penalty. (a) A person is guilty of intoxication by drug when he is under the influence of a controlled drug or controlled substance, as defined in section 21a-240, to the degree that he may endanger himself or other persons or property, or annoy persons in his vicinity.

(b) The court in its discretion may commit to the custody and control of the executive director of the Connecticut alcohol and drug abuse commission or to any appropriate facility within that commission for not more than twelve months, or until discharged within that period by the executive director, any person found guilty under this section who has been convicted previously, under this section at least twice in the last-preceding six months or four times in the last-preceding year.

(c) Notwithstanding the provisions of subsection (a), in lieu of arrest, a police officer in his discretion may escort a person intoxicated by drug to a civil facility for the care of drug-dependent persons.

(d) Intoxication by drug shall be deemed an unclassified misdemeanor, the sentence for which shall be imprisonment for a period of not more than thirty days or a fine of not more than twenty dollars or both.

(1969, P.A. 828, S. 106; 1971, P.A. 871, S. 45; P.A. 74-280, S. 22, 25; P.A. 75-479, S. 12, 25; P.A. 76-300, S. 2, 3, 4; P.A. 86-371, S. 34, 45.)

History: 1971 act removed narcotic drugs from purview of section, deleted former Subsec. (c) which had required that defendant be advised of his rights under Subsec. (b) before being put in place, renumbering former Subsecs. (d) and (e) accordingly and added reference to facilities for care of drug-dependent persons in Subsec. (c), formerly (d); P.A. 74-280 revised provisions to apply to intoxication by drugs only, deleting reference to alcohol throughout and provisions in Subsec. (b) specifically concerning dismissal of criminal proceedings against person who court believes to be an alcoholic, requiring minimum commitment of thirty days and referring to guilt under Sec. 53-246, effective July 1, 1976; P.A. 75-479 renumbered effective date of section as stated in P.A. 74-280; P.A. 76-300 changed effective date of section to June 1, 1976; P.A. 86-371 substituted reference to the executive director and the Connecticut alcohol and drug abuse commission for reference to the commissioner and department of mental health.

Annotations to former section 53-246:

Omission of word "found" in complaint fatal. 25 C. 9.

Where minor defendant was committed to reformatory for indeterminate term - he a adult could not have been confined more than thirty days, sentence too severe. 26 CS 306, 307.

Cited, 4 Conn. Cir. Ct. 90; id., 536; 5 Conn. Cir. Ct. 311.

Annotations to present section:

Cited, 204 C. 240, 257.

for the purpose only of allowing and bears, providing the dogs are times, for such periods of time as

June 29, 1989.

Civil Procedure. State v. Leonard, 470 A.2d 1262.

of dog which was ordered killed sub- ject to personal jurisdiction of district waived any objection to proceeding on at court lacked personal jurisdiction or that case was not properly com- menced by complaint and summons or by of "evidence" where owner appeared in district court for evidentiary hear- ing participated fully therein. State v. Leon- ard, 470 A.2d 1262.

the animal

was sufficient to convict defendant to animals, even though defendant it he was privileged to kill dog be- cause attacking his cat; viewing evidence it favorable to State, and consider- ing between defendant's testimony and his tatement, trial court was not com- pelled to any reasonable doubt about killing itified. State v. Libby (1989) Me., 566

domestic animal" in this section provid- ing that any dog worrying, or killing any domestic animal killed or- dered includes dogs and other house- hold animals. State v. Leonard (1984) Me., 470 A.2d

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ent to subsec. 5 of § 7541 of

shall, by rule promulgated in Title 6, chapter 375,¹ establish a program. The program shall include rules established by the commissioner

- A. Largest female coyote killed \$1,500;
- B. Largest male coyote killed \$1,000;
- C. Most female coyotes killed \$500;
- D. Most male coyotes killed \$500;
- E. Most total coyotes killed \$1,000; and
- F. Drawing from all entries \$500.

2. Payment. At the conclusion of the program, the commissioner shall pay from the funds derived from the sale of the supersport license to the individual determined by the commissioner to have qualified as the winner in each of the categories set out in subsection 1, paragraphs A to F, an amount equal to the award set out for that category in subsection 1.

3. Rule. The commissioner may establish, by rule promulgated in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, procedures for applications for awards and for certification of the number, sex and size of coyotes killed.

4. Eligibility. Employees of the department, including part-time and seasonal employ- ees, and agents of the animal damage control program, including those who are not compensated, are not eligible to participate in any aspect of this program.

5. Repeal. This subchapter is repealed on September 30, 1990.

1989, c. 277, § 1.

¹ Section 8001 et seq.

CHAPTER 710

HARASSMENT OF HUNTERS, TRAPPERS AND FISHERMEN

Section

7541. Harassment prohibited.

7542. Injunction; damages.

Chapter 710, Harassment of Hunters, Trappers and Fishermen, was enact- ed by 1983, c. 366.

Cross References

Muzzle-loading hunting season, restrictions, see § 7107-A of this title.

§ 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.

1983, c. 366.

Library References

Fish ← 12(1).
Game ← 7.

C.J.S. Fish § 28 et seq.

C.J.S. Game § 10 et seq.

§ 7542. Injunction; damages

1. Injunction. The District Court or Superior Court may enjoin conduct which would be in violation of section 7541 upon petition 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.

1983, c. 366.

CHAPTER 711

FISHING

SUBCHAPTER I

GENERAL PROVISIONS

Cross References

Habitual violator,

Definition, see § 7001 of this title.

License revocation, see § 7079 of this title.

Muzzle-loading hunting season, restrictions, see § 7107-A of this title.

Suspension or revocation of license or permit, notification, see § 7077 of this title.

§ 7552. Open and closed seasons

Except as provided in subsection 5, and except as the commissioner may by rule provide, the following shall be the open seasons for fishing in the State. All opening and closing dates are inclusive.

[See main volume for text of 1 to 4]

5. Exceptions. Notwithstanding this section:

[See main volume for text of 5, A to 5, C]

D. The commissioner may issue a rule establishing an annual opening date as the last Saturday of April on waters reclaimed by the removal of rough fish; and E, F. Repealed.

G. There shall be a continued closed season on the dipping of smelts from Merrill Pond and its tributaries in Somerset County.

1983, c. 274, §§ 1 to 3; 1983, c. 440, § 12; 1987, c. 115, §§ 1, 2.

Historical Note

1983 Amendments. Subsection 5, E: Repealed by c. 274 and 440.

Subsection 5, F: Chapter 274 substituted "and" for a period.

Subsection 5, G: Added by c. 274.

1987 Legislation

Laws 1987, c. 115, repealed par. F of subsec. 5, which read:

"The open season in Aroostook County for all fish in rivers, brooks and streams is May 1st to September 15th; and".

§ 7553. Waters closed to fishing

Except as provided in subsection 4, and except as the commissioner may by rule provide, the following waters are closed to fishing.

1. Fishway dams. The area within 150 feet of any dam in which a fishway is located, except:

A. Repealed. Laws 1989, c. 493, § 41, eff. June 29, 1989.

B. At the following places, the fishway and the area within 75 feet of any part of the fishway shall be closed to fishing at all times:

(1) Woodland Dam and Grand Falls Powerhouse Dam on the St. Croix River in the Town of Baileyville;

(2) East Grand Lake Dam, T9 R4; and

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66C, §§ 196, 196A; 1973, 1st
507; 1988, ch. 76.)

re purposes of" at the beginning of
sentence of subsection (a) (1); and
section (a) (3).

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ply to any person who:
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(b) *In general.* — The following persons shall wear either a cap, vest, jacket, or jacket containing back and front panels of a daylight fluorescent orange color:

- (1) A person who hunts any wildlife; and
- (2) A person who accompanies, aids, or assists another person to hunt any wildlife. (1969, ch. 512.)

Editor's note. — Section 2, ch. 512, Acts 1989, provides that the act shall take effect July 1, 1989. Former § 10-418 was repealed by Acts 1986, ch. 805, effective July 1, 1986.

§ 10-421. Restriction on first day of firearms season for hunting deer.

On the first day of the firearms season for hunting deer, a person may not hunt any animal other than deer in this State except that waterfowl may be hunted from a licensed gunning rig within the seaduck shooting zone and gunning rig zone. (1983, ch. 414; 1988, ch. 180.)

Effect of amendment. — The 1988 amend- ment, effective July 1, 1988, added the excep- tion at the end. Editor's note. — Section 2, ch. 414, Acts 1983, provides that the act shall take effect July 1, 1983.

§ 10-422. Interference with hunters.

(a) *Adoption of rules and regulations prohibiting interference or disruption.* — If the Department determines that a significant interference or disruption of a hunt or hunters is likely to occur on any land managed by the Department, the Department may adopt rules and regulations to prohibit that interference or disruption.

(b) *Prohibited acts.* — While on private land that is owned by another person or in a hunting area on land managed by the Department, a person may not:

- (1) Interfere intentionally with the lawful taking of wildlife by another person; or
- (2) Harass, drive, or disturb any game animal intentionally for the purpose of disrupting a lawful hunt.

(c) *Actions by officers.* — A Natural Resources police officer or other police officer of the State who has probable cause to believe that a person has violated this section may:

- (1) Order the person to desist or to leave the area; or
- (2) Arrest the person on refusal to desist or leave the area.

(d) *Incidental interference.* — The conduct declared unlawful in this section does not include any incidental interference arising from lawful activity by private land users or users of land managed by the Department, including farmers, miners, or persons engaged in recreation. (1985, ch. 754.)

CASE NOTES

The possession and rehabilitation of wildlife, as well as the restoration of wildlife to their natural habitat, are governed exclusively by the Environmental Conservation Law. Agents or officers of an incorporated society for the prevention of cruelty

to animals or other humane societies may not engage in such activities, except in accordance with the procedures set forth in that statute. Ops Atty Gen 82-78.

§ 11-0110. Interference with lawful taking of wildlife prohibited

1. As used in this section "wildlife" means wild game and all other animal life existing in a wild state, including fish, shellfish and crustacea, and "process of taking", in addition to any act described in subdivision thirteen of section 11-0103 of this article, 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 wildlife.

2. A person is guilty of interfering with the lawful taking of wildlife when, with intent to prevent the taking of wildlife, in season, in a place where hunting is lawful, and by a person properly licensed to take such wildlife, he:

- (a) strikes, shoves, kicks or otherwise subjects the licensed person to physical contact, or attempts or threatens to do the same; or
- (b) follows the licensed person in or about such place and engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such licensed person and which serve no legitimate purpose.

Norwithstanding any other provision of law to the contrary, no one shall be arrested for violation of this section by other than a duly designated peace officer acting pursuant to his special duties, or a police officer.

HISTORY:

Add, L 1986, ch 881, § 1, eff Sept 1, 1986.

CROSS REFERENCES:

This section referred to in § 71-0923.

§ 11-0113. Manner of reference to and amendment of provisions contained in tables [For sub 1, see parent volume]

2. In the tables in sections 11-0905 and 11-0907 each letter of the alphabet in column one identifies and furnishes the citation for the matter in column one following such letter and also identifies and furnishes the citation for the matter appearing in column two and column three opposite the matter so identified in column one.

3. All matter identified by a letter of the alphabet printed in lower-case print and enclosed in parentheses may be referred to as an "item"; all matter identified by a figure printed in arabic numerals and enclosed in parentheses may be referred to as a "sub-item".

4. The headings appearing at the top of the columns are not part of the identification and citation of any part of the table, but the portion of any item or sub-item appearing in a column may be referred to as the portion of that item appearing in that column and "relating to" species, open season, bag limit, area, game and open season, manner of taking, specified waters of the state, or open season, size limits and limits of catch, as the case may be.

5. This section does not make ineffective or affect the construction or operation of any other form or manner of reference used in any act enacted by the legislature.

6. [Renumbered]

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ADMINISTRATION & ENFORCEMENT OF WILDLIFE LAWS 496.994

496.920 [1967 c.604 §4; 1973 c.723 §38; 1979 c.477 §13; renumbered 153.720]

496.925 [1967 c.604 §5; renumbered 153.725]

496.927 [1977 c.350 §2; 1979 c.477 §14; renumbered 153.730]

496.930 [1967 c.604 §6; renumbered 153.745]

496.935 [1967 c.604 §7; renumbered 153.750]

496.940 [1967 c.604 §8; renumbered 153.755]

496.945 [1967 c.604 §9; renumbered 153.760]

496.950 [1967 c.604 §10; renumbered 153.765]

PENALTIES

496.990 [Amended by 1967 c.523 §1; repealed by 1973 c.723 §130]

496.992 Penalties. (1) Except as otherwise provided by law, violation of any provision of the wildlife laws, or any rule promulgated pursuant thereto, is a Class A misdemeanor when the offense is committed with a culpable mental state as defined in ORS 161.085. If the defendant is sentenced to pay a fine, failure to pay the fine, or any portion thereof, shall be treated as provided in ORS 161.685.

(2) Except as otherwise provided by law, violation of any provision of the wildlife laws, or any rule promulgated pursuant thereto is punishable as a violation in the manner prescribed in ORS 161.635 when the

offense is committed with no culpable mental state as defined in ORS 161.085.

(3) The second and each subsequent conviction within a 10-year period for the taking of game fish with a total value of \$200 or more or the taking of antelope, black bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of the wildlife laws or any rule promulgated pursuant thereto which occurs more than one hour prior to or more than one hour subsequent to a season established for the lawful taking of such game mammals or game fish is a Class C felony when the offense is committed with a culpable mental state as defined in ORS 161.085. [1973 c.723 §39; 1975 c.578 §3; 1977 c.350 §3; 1977 c.353 §1; 1983 c.364 §1; 1985 c.372 §1]

496.994 Obstructing the taking of wildlife prohibited. (1) A person commits the offense of obstructing the taking of wildlife if the person, having no right to do so, intentionally interferes with the lawful taking, or the process of taking, of wildlife by another with the intent to prevent the taking.

(2) Obstructing the taking of wildlife is a violation as defined in ORS 161.565, punishable as provided in ORS 161.635 (3). [1987 c.473 §2; 1989 c.171 §67]

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NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**

PUBLIC OPINION MESSAGE

DEAR REPRESENTATIVE DAVIDSON

NAME: MAVIE EPOWSON
 TITLE:
 ADDRESS: P.O. BOX 231
 CITY: DELTA JCT. ZIP: 99737
 PHONE: 895-4762
 BILL NO: HB 64

SUBJECT:
 MESSAGE: BEING ONE WHO HAS BEEN HARASSED WHILE GROUSE HUNTING AND MULE OPERATING TRAPLINES WITHIN THE STATE, I URGE YOUR SUPPORT OF HB 64. HUNTING AND TRAPPING BRINGS MILLIONS OF DOLLARS INTO OUR ECONOMY. LET'S PROTECT THESE PEOPLES AND MONIES.

POPID: 02104940
 DATE: 91/02/05
 TIME: 10:49:40
 LIDNAME: DELTA JUNCTION LIO

COPIES: REPRESENTATIVES

LINCOLN
 IVAN
 MOYER
 FIMMELSTEIN
 CANNEY
 HUDSON
 LEMAN
 ZAMACKI
 GONZALES

PUBLIC OPINION MESSAGE

DEAR REPRESENTATIVE DAVIDSON

NAME: MICHAEL O'HARA
 TITLE: CITIZEN
 ADDRESS: BOX 1125
 CITY: HUNTER, AK ZIP: 99603
 PHONE: 235-2635
 BILL NO: HB 64

SUBJECT: INTERFERENCE WITH HUNTING/FISHING
 MESSAGE: I OBJECT TO HB64 AND URGE ITS DEFEAT. THE LANGUAGE CLEARLY DISCRIMINATES AGAINST NON-CONSUMPTIVE USERS. AMONGING SINDY HUNTERS, FISHERMAN AND TRAPPERS POWER TO HARASS EVERYONE ELSE IN THE WOODS. TO PASS. ANY SUCH LEGISLATION SHOULD EXPIALLY PROTECT AND EMPWER HILERS, PHOTOGRAPHERS, BIRD WATCHERS AND ALL OTHER LEGITIMATE USERS.

POPID: 13331006
 DATE: 91/02/05
 TIME: 13:10:06
 LIDNAME: SLDGOTINA LIO

COPIES: REPRESENTATIVES REPRESENTATIVES

LINCOLN	IVAN
MOYER	FIMMELSTEIN
CANNEY	HUDSON
LEMAN	ZAMACKI
DOHLEY	GRUENBERG
PARNELL	ELLIS
MARTIN	M.W.HILLER
HANLEY	NAVARO
MACLEAN	BOYER
ULMER	FRONI
JACKO	LARSON
EPOWSON	BARKIS
SHAUP	R.MILLIPS

PUBLIC OPINION MESSAGE

DEAR REPRESENTATIVE DAVIDSON

NAME: DON QUARBERG
TITLE:
ADDRESS: P.O. BOX 349
CITY: DELTA JCT. ZIP: 99757
PHONE: 895-4215
BILL NO: HB 84
SUBJECT: INTERFERENCE WITH HUNTING/FISHING
MESSAGE: I URGE YOUR SUPPORT OF THIS BILL! THANK YOU.

POPID: 02110555
DATE: 91/02/01
TIME: 11:05:55
LIONAME: DELTA JUNCTION LIO

COPIES: REPRESENTATIVES REPRESENTATIVES

GONZALES	SHARP
TAYLOR	MAVARRE
MACLEAN	BOYER
ULMER	BROWN
JACKO	LARSON
HOPKIN	BARNES
D. PHILLIPS	CONLEY
ORLEMBERG	PARNELL
ELLIS	MARTIN
R. W. MILLER	HANLEY
LINCOLN	IVAN
MOYER	FIMMELSTEIN
CARNEY	MUSSON
LEMAN	ZAWACKI

Alaska State Legislature

COMMITTEES:

MEMBER

RULES

INTERNATIONAL TRADES & TOURISM

LABOR & COMMERCE

ETHICS

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE



P.O. BOX 1441
WRANGELL, ALASKA 99929
(907) 874-2316

While in Juneau
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4905

House of Representatives

ROBIN L. TAYLOR
MINORITY LEADER

MEMORANDUM

TO: Rep. Dave Donley

FROM: Rep. Robin Taylor

REF: HB 64

A handwritten signature in cursive script, appearing to read "RLT", written over the "REF:" line.

DATE: March 21, 1991

Please consider this my formal request for a Judiciary Committee hearing on HB 64.

This measure was read across the floor on January 23 and was passed out of Resources on February 20. I realize that much of the past month has been devoted to the budget, but I would appreciate at hearing now that that process is winding down.

GAME AND WILDLIFE

arter or exchange.—Except as otherwise
s unlawful for any person, acting either for
tative of another, at any time to buy, sell,
to offer for sale or barter, or to have in
arter, or to aid, abet or conspire in the
or exchange, or to give away any endan-
cies or subspecies of wild birds or wild
f. It is the duty of every officer having
title to seize all endangered or threatened
ls, or any part thereof. A violation of this
onor of the second degree. All wild birds
art thereof, found to be in violation of this
d. This subsection shall not be construed
or agency other than the commission to
ame or wildlife or the plumage or parts of
n to crops or accidentally killed upon the
atraband.

3, § 1, eff. July 1, 1987.

CHAPTER 23

HUNTING AND FURTAKING

SUBCHAPTER A

GENERAL PROVISIONS

- of hunting.
- ful hunting or trapping prohibited.
- rohibited.
- of game or wildlife.
- ation of killed or wounded game or wildlife.
- life by mistake.
- ossession of game or wildlife.
- ' methods.
- game or wildlife from place of refuge.
- s while hunting.
- itional spotlighting.
- me.
- ure of game or wildlife.

Cross References

itle 71, State Government.

Pennsylvania Code References

Pa.Code

HUNTING AND FURTAKING

34 Pa.C.S.A. § 2302

§ 2301. Prima facie evidence of hunting

(a) **General rule.**—For the purpose of this title, any one of the following acts shall constitute prima facie evidence of hunting:

(1) Possession of any firearm, bow and arrow, raptor, trap or other device of any description usable for the purpose of hunting or taking game or wildlife.

(2) Possession of the carcass or any part or parts of any game or wildlife.

(3) Pursuing game or wildlife in any manner prohibited by this title or commission regulation.

(b) **Lawful cooperation or assistance.**—Notwithstanding any other provision of this title to the contrary, any person who has lawfully taken the bag or season limit for a particular species of game or wildlife may aid, assist, abet or cooperate in any manner specified by commission regulations with another person who is engaged in any lawful activity permitted by this title or the regulations of the commission.

1986, July 8, P.L. 442, No. 93, § 1, eff. July 1, 1987.

Cross References

Cooperation after lawfully killing big game, see § 2325 of this title.

Notes of Decisions

Possession of firearm 1
Presence of game 2

to overcome the presumption of intent to hunt. *Com. v. Phillips*, 27 D. & C.2d 549, 1963.

1. Possession of firearm

A defendant charged with hunting without a hunting license was found guilty where he was observed, subsequent to the suspension of his hunting license, carrying a deer rifle on his father's property, where a party of deer hunters was making a drive on deer on adjoining premises, and where he appeared to be watching for deer and in the act of hunting; in such case, defendant's testimony that he was carrying a gun to chase trespassers was insufficient

Where accused with a loaded gun, testified under oath that he was not hunting but target shooting, and he had no game in his possession, he overcame presumption that he had been hunting. *Com. v. Davenport*, 77 D. & C. 416, 1952.

2. Presence of game

Failure to prove that there was game where defendant was allegedly hunting does not entitle him to an acquittal. *Com. v. Spade*, 64 D. & C. 121, 1949.

§ 2302. Interference with lawful hunting or trapping prohibited

(a) **General rule.**—Except as otherwise provided in this title, it is unlawful to:

(1) Interfere with the lawful hunting, trapping or taking of game or wildlife.

34 Pa.C.S.A. § 2302

GAME AND WILDLIFE

HUNTING AND

(2) Disturb any game or wildlife, or engage in any activity or place any object or substance that may disturb or otherwise affect the behavior of any game or wildlife with the intent to hinder or prevent its lawful taking.

(3) Disturb or interfere with another person who is engaged in the lawful hunting, trapping or taking of game or wildlife or who is engaged in or preparing to hunt, trap or take any game or wildlife or prevent or hinder such person's enjoyment of the outdoors.

(4) Enter or remain upon public lands or upon private lands without permission of the owner or their agent, with intent to violate this section.

(5) Fail to obey the order of any officer whose duty it is to enforce any of the laws of this Commonwealth where such officer observes any conduct which violates this section, or has reasonable grounds to believe that any person intends to engage in such conduct.

(b) Enforcement and recovery of damages.—The commission or any person who is lawfully engaged in the taking, hunting or trapping of game or wildlife who is directly affected by a violation of this section may bring an action to restrain conduct declared unlawful in this section and to recover damages.

(c) Exceptions.—The conduct declared unlawful in this section does not include any activities arising from lawful activity by other land uses, including farming, mining, forestry practices, recreation or any other activities when it is evident that such activities are not intended to violate this section.

(d) Penalties.—A violation of this section is a summary offense of the second degree.

1986, July 8, P.L. 442, No. 93, § 1, eff. July 1, 1987.

§ 2303. Hunting on Sunday prohibited

(a) General rule.—Except as otherwise provided in this title, it is unlawful for any person to hunt for any furbearer or game on Sunday.

(b) Construction of section.—This section shall not be construed to prohibit:

(1) The training of dogs.

(2) The participation in dog trials as provided for in this title.

(3) The removal of lawfully taken game or wildlife from traps or the resetting of the traps on Sunday.

(c) Penalty.—the fifth degree. 1986, July 8, P.L.

§ 2304. Own

(a) General r or taken shall b wound which er

(b) Officer no to enforce this concerning the u ing any such di 1986, July 8, P.L.

§ 2305. Retri or

(a) General r wounds any gar ted by this title retrieve, retain c

(b) Penalty.—the fourth degre 1986, July 8, P.L.

§ 2306. Killi

(a) General r for game or wil mistake kills or bears, elk or th provisions of thi (b) to an officer remove all the e entire carcass, le in which killed f explaining when,

(b) Restitutio by accident or r

(1) Each dec

(2) Each tur

(3) Each oth or an endange.

§ 4706. Snaring animals

A person shall not take an animal by snaring; nor shall he possess a snare with intent to use the same.—Added 1961, No. 119, § 1, eff. May 9, 1961.

HISTORY

Prior law. 10 V.S.A. § 2986.

§ 4707. Traps; notice

A person who intends to set a trap for any animal on the property of another shall, prior to setting the trap, notify the owner of the property of his intention to set the trap and of the prospective location of the trap. The owner of the property may, at any time, refuse to grant permission to set a trap or revoke the permission if previously granted.—Added 1961, No. 119, § 1, eff. May 9, 1961; amended 1973, No. 178 (Adj. Sess.), § 3.

HISTORY

Amendments—1973 (Adj. Sess.). Amended section generally.
Prior law. 10 V.S.A. § 2990.

§ 4708. Interference with hunting, fishing or trapping

(a) A person shall not intentionally interfere with the lawful taking of fish or wild animals by another nor intentionally harass, drive or disturb fish or any wild animal for the purpose of disrupting the lawful taking of the same. Nothing in this subsection shall be construed to prohibit any incidental interference arising from lawful activity by land users including farmers and recreationists.

(b) A person shall not take, injure, destroy or wilfully interfere with

(1) a trap, when lawfully set for the purpose of taking wild animals, or

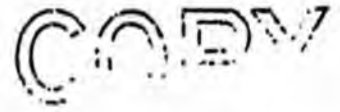
(2) wilfully interfere with a person in the act of trapping animals.—Added 1961, No. 119, § 1, eff. May 9, 1961; amended 1981, No. 85, § 10; 1981, No. 127 (Adj. Sess.).

HISTORY

Amendments—1981 (Adj. Sess.). Subsection (a): Added.
Subsection (b): Existing provisions of section designated as subsec. (b) and subdiv. (b)(2) added.
—1981. Deleted "game" preceding "trap" and substituted "wild animals" for "game or fur-bearing animals".
Prior law. 10 V.S.A. § 2993.

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**DIVISION OF LEGAL SERVICES
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STATE OF ALASKA**

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MEMORANDUM

January 3, 1991

SUBJECT: Governor's Power to Remove Members of Boards and Commissions (Work Order No. 17-LS0385)

TO: Senator Arliss Sturgulewski

FROM: Gerald P. Luckhaupt
Legislative Counsel

Article III, § 26, of the Alaska Constitution provides:

When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law....

This section clearly provides that the members of art. III, § 26 boards and commissions may only be removed as the legislature has provided by law. — The Alaska Supreme Court in Bradner v. Hammond, 553 P.2d 1, 3 (1976) recognized this and said:

Removal of Section 26 board or commission members is as provided by law and, therefore, not necessarily at the governor's pleasure.

To determine how the legislature has provided for the removal of the members of a board or commission that "is at the head of a principal department or a regulatory or quasi-judicial agency" one must look to the specific authorizing legislation for the board or commission to determine if the legislature has provided a specific procedure for removal. For example, AS 14.07.115 provides that members of the Board of Education serve at the pleasure of the governor, while AS 42.05.035 provides that members of the Public Utilities Commission may only be removed by the governor "by and with the consent of a majority of the legislature."

One must also look to the statutes pertaining to boards and commissions generally in AS 39 and AS 08. AS 39.05.060 provides that the members of the various boards

or commissions listed therein serve at the pleasure of the governor. AS 08.01.020 provides that the members of those boards and commissions listed at AS 08.01.010 serve at the pleasure of the governor.

The removal of the members of boards or commissions that do not meet the attributes of art. III, § 26 boards or commissions is not as simple a question. In considering this situation one must look to the appointment and removal authority of the governor and the type of government established by our constitution.

The government of the state of Alaska is divided into three branches, the executive, the legislative, and the judicial. The authority granted to one branch may not be exercised by another. In Alaska, "[t]he executive power of the State is vested in the Governor." Alaska Constitution, art. III, § 1. In Bradner v. Hammond, *supra*, the court found the executive authority of the governor necessarily clothes him "with the power to appoint subordinate executive officers to aid him in carrying out the laws of Alaska" and that "the appointment of executive officers is an executive function." In support of this proposition the court cited Ahearn v. Bailey, 104 Ariz. 250, 451 P.2d 30 (1969). In that case the Arizona Supreme Court found:

The Governor is charged with the duty of taking care that the laws are faithfully executed. He must, therefore, have the power to select subordinates and to remove them if they are unfaithful. Accordingly, we conclude that the power to remove is an executive function. . . .

And in Myers v. United States, 272 U.S. 52, 117-118, 47 S.Ct. 21, 71 L.Ed.2d 160 (1926) the United States Supreme Court said regarding the powers of the President:

As he is charged specifically to take care that [the laws] be faithfully executed, the reasonable implication even in the absence of express words, was that as part of his executive power he should select those who were to act for him under his direction in the execution of the laws. The further implication must be, in the absence of any express limitation respecting removals, that as his selection of administrative officers is essential to the execution of the laws by him, so must be his power of removing those for whom he cannot continue to be responsible. [Citation omitted.] It was urged that the natural meaning of the term 'executive power' granted the President included the appointment and removal of executive subordinates. If such appointments and removals were not an exercise of the executive power, what were they? They certainly were not the exercise of legislative or judicial power in government as usually understood.

Senator Arliss Sturgulewski
January 3, 1991
Page 3

And generally it has been held in other states that:

[T]he power to remove is incident to the power to appoint and that the authority to appoint an officer carries with it the authority to remove such officer in the absence of any constitutional or statutory restriction.

Gowey v. Siggelkow, 382 P.2d 764, 773 (Idaho 1963); 63 Am.Jur.2d, Public Officers and Employees § 221.

Clearly from this discussion the power to remove a member of a board or commission is as much a part of the executive power of the governor as is the power to appoint as determined by the Alaska Supreme Court in Bradner v. Hammond.

In determining that the confirmation power of the legislature provided in art. III, §§ 25 (principal department heads) and 26, is merely a limited delegation of the executive appointment power to the legislature, the court said:

As to this issue, we think the provisions of Sections 25 and 26 of Article III are clear and unambiguous. Thus, we conclude that Sections 25 and 26 mark the full reach of the delegated, or shared, appointive function to Alaska's legislative branch of government.

Bradner v. Hammond, *supra*, at 7.

Similarly, the legislature's authority to determine how an art. III, § 26 board or commission member may be removed appears to be a limited delegation of the executive appointment power and is limited to those boards or commissions that are "at the head of a principal department or a regulatory or quasi-judicial agency." Under this reasoning, other board or commission members serve at the pleasure of the governor and may be removed at any time despite limitations the legislature may attempt to impose by statute.

There is contrary authority that rejects the notion that an appointee serves at the pleasure of the governor when the legislature has set a specified term of office or has otherwise limited the authority of the executive to remove the appointee by statute.

But the power of removal is not incident to the power of appointment where the extent of the term is fixed by the statute. In the absence of any provision for summary removal, appointments to continue for life or during good behavior, which in contemplation of law is for a fixed term - or for a fixed term of years cannot be terminated except for cause. It is the fixity of the term that destroys the power of removal at pleasure.

Gowey v. Siggelkow, *supra*, at 774.

While the Alaska Supreme Court could adopt this general rule in Alaska, the likelihood of this appears to be remote based upon the Supreme Court decision in Bradner. The reasoning of the Bradner court appears to require a determination that non-section 26 boards and commissions are not subject to removal provisions enacted by the legislature and that the members of those boards and commissions serve at the pleasure of the governor.

In response to your specific inquiries concerning the Boards of Education, Fisheries, and Game, it appears that all are art. III, § 26 boards and so their members may only be removed as provided by law. AS 14.07.115 provides that members of the Board of Education serve at the pleasure of the governor.

The inquiries concerning the Board of Fisheries and the Board of Game are not as easily answered. AS 16.05.280 provides that "[t]he governor may remove a board member for inefficiency, neglect of duty, or misconduct in office" and provides for notice and a hearing. This section applies to both the Board of Fisheries and the Board of Game and appears to limit the governor to removals for cause only. However, AS 39.05.060 provides that each member of the Boards of Fisheries and Game "holds office at the pleasure of the governor notwithstanding the member's term." AS 39.05.060(d).

Two interpretations are available from the existence of these two seemingly conflicting statutes. One is that they are not in conflict but are merely alternative methods for the removal of board members. The second is that they are in conflict and the later (in time) enactment controls. I will briefly discuss the two interpretations.

That the provisions are not in conflict comports with the general rules governing statutory construction. Generally, repeals of statutes by implication or reach of another statute are disfavored and the statutes will be read in pari materia to avoid any such conflict. Peter v. State, 531 P.2d 1263 (Alaska 1975). Here, the statutes do not necessarily pertain to the same subject matter. AS 16.05.280 pertains to removals of board members for cause and AS 39.05.060 deals with removals of board members without cause. AS 16.05.280 also provides that board members "may" be removed for cause. It does not provide that board members may "only" be removed for cause, thereby not providing an exclusive removal procedure. The statutes may be read together to avoid any conflict, though the net result is to allow for the removal of board members at any time and for any reason. Such a result is not absurd, since a removal for cause may occasion public ridicule and injury to reputation necessitating the notice and hearing provisions of AS 16.05.280, while no such effects would normally attend a without cause removal.

Senator Arliss Sturgulewski
January 3, 1991
Page 5

The second alternative, that the two provisions are in conflict and that the provision enacted later in time controls, leads to the result that AS 39.05.060 impliedly repealed AS 16.05.280. Terry, supra. AS 16.05.280 was enacted in 1959 and has not been amended since that time. AS 39.05.060 was also enacted in 1959 and included the Board of Fisheries and Game (when only one combined board existed). In 1975 the Board of Fisheries and Game was split into two separate boards, the Board of Fisheries and the Board of Game, by chapter 206, SLA 1975. That act also amended AS 39.05.060 to include both the Board of Fisheries and the Board of Game. Since the legislature is intended to have knowledge of all its previous enactments, its enactment of AS 39.05.060 to include the Boards of Fisheries and Game acted as an implied repeal of AS 16.05.280 under this interpretation and, therefore, the members of the Boards of Fisheries and Game serve at the pleasure of the governor.

Of these two interpretations the former appears to be the most reasonable. Therefore, I conclude that the members of the Boards of Fisheries and Game serve at the pleasure of the governor subject to removal for cause after notice and hearing as provided by AS 16.05.280.

If you have any further questions, please contact me at your convenience.

GPL:mi
91-002.mai

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MEMORANDUM

January 21, 1991

SUBJECT: Removal of members of the Board of Fisheries and the Board of Game (Work Order No. 7LS-0475)

TO: Representative Cliff Davidson

FROM: George Utermohle *GU*
Legislative Counsel

Enclosed is the bill requested by Jay Nelson, of your staff, relating to the Board of Fisheries and Board of Game. The bill is identical to CSHB 476 (Resources) Sixteenth Legislature.

Section 2 of the bill amends AS 16.05.280 to provide that a member of either of the boards may be removed for cause on the ground that the board member has been convicted of violating a law related to fish or game. This provision gives the governor an additional procedure for removing a board member who has been convicted of a fish and game violation. The governor already has authority to remove any board member at the governor's pleasure under AS 39.05.060(d). AS 39.05.060 is an obscure statute and is frequently overlooked. I bring this to your attention so that you are aware that sec. 2 of the bill supplements the existing power of the governor but does not necessarily expand the scope of the governor's power to remove members of the Board of Fisheries and the Board of Game.

GU:pl:gc
91-015.plm


Enclosure



Alaska State Legislature

HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

POUCH V
JUNEAU, ALASKA 99811
(907) 485-3718

TO: House Resources Committee Members
FROM: Representative Cliff Davidson, Chairman 
DATE: 6 February 1991
SUBJECT: CS for HB 65

Attached is a proposed Committee Substitute for HB 65 which I am offering for Committee consideration.

The CS would add additional provisions to the fish and game statutes to make it clear that members of the Boards of Fish and Game can be removed from office by the Governor only for cause.

In light of recent events, I feel that this clarification of existing law will be in the best interest of our fish and game resources.

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MEMORANDUM

February 14, 1991

SUBJECT: Confirmation of appointees to the Boards of Fisheries and Game (Work Order No. 7LS0766)

TO: Representative Cliff Davidson

FROM: Tamara Brandt Cook
Director *TBC*

You have asked whether appointments to the Board of Fisheries and the Board of Game are subject to confirmation under art. III, § 26 of the Alaska Constitution and may be removed as provided by law under that same section. That section provides:

When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

Note that section 26 applies to three types of boards: those at the head of a principal department, those that are regulatory agencies, and those that are quasi-judicial agencies. The Boards are not at the head of a principal department. That position is occupied by the commissioner of fish and game. (AS 44.39.010) Nor are Boards quasi-judicial agencies in that they do not adjudicate individual rights. The Boards are, however, powerful regulatory agencies. (AS 16.10.190, 16.10.440, 16.20.040, 16.20.510, 16.43.381) As such, members are subject to confirmation and may be removed as provided by law.

To determine the meaning of the term "regulatory agency" we must first look to the views of the framers of our constitution to determine what they thought the term meant or what they intended the term to signify. Art. III, § 26, was proposed by the Committee on the Executive Branch as Committee Proposal 10 (later amended and resubmitted as Committee Proposal 10a), at the Constitutional Convention. (Alaska

Constitutional Convention Proceedings (ACCP), Part 6) In the commentary submitted by the executive branch committee with the proposal the committee explained their recommendations concerning government organization. These recommendations are embodied in secs. 22 - 27 of art. III, of the constitution. The committee said:

A clear distinction is made between the administrative departments, such as public works, health, education, and welfare, and the regulatory, including quasi-judicial, bodies such as a rate-setting public utility commission.

Delegate V. Rivers, chairman of the executive branch committee, summarized the committee proposal and the meaning of a "regulatory board" in this manner:

The purpose of that is that in a regulatory board, regulating the power rates, telephone rates, etc., the power of removal might be the power to make the office ineffective so that removal would be prescribed by the legislature. (ACCP, at p. 1102 - 03)

Discussion of what a "regulatory board" is and does includes these statements by delegates: "To me a utilities board would be regulatory" (ACCP, at p. 2204, Delegate V. Fischer); and Delegate McLaughlin, in response to a question of what is the difference between a "regulatory board" and a "quasi-judicial board" said:

Perhaps I can explain it in the terms best known to Alaskans. Very roughly, the Fish and Wildlife Service and the CAB, the Fish and Wildlife Service can set down regulations. Normally if there is an infraction of those regulations, they pick up the offender and deliver him to a judicial body, that is to the United States Commissioner, or to the United States District Court. They have no power of absolute confiscation on their own, no power to deprive of money or rights. In the case of the CAB, the Fish and Wildlife, in substance then, sets down regulations, but in the case of the CAB, they go further than that. In substance, they determine as between carrier and carrier, who is privileged and who can be deprived of it. (ACCP, at pp. 2204 - 05.)

The delegates also acknowledged that a "regulatory board" could also be a "quasi-judicial board." (ACCP, at p. 2206.) The Limited Entry Commission is an example of this. (AS 16.43.020)

From this discussion it appears that the framers believed that a "regulatory board" was a board that issued rules or regulations to govern the public (Fish and Wildlife Service), segments of the public (public utilities commission), or the use or management of resources (Fish and Wildlife Service). A "regulatory board" would

Representative Cliff Davidson

February 14, 1991

Page 3

seem to control or govern at large or in an area or field as the examples cited by the convention reveal. A board or commission that merely issues rules or regulations that govern or control its own internal conduct would not seem to be a "regulatory board" as that term is used in our constitution as the regulations or rules issued by such a board or commission do not govern or control at large or in an area or field.

Such a construction comports with the definitions of the term "regulate." Webster's *New World Dictionary* defines regulate as "to control, direct, or govern according to a rule. . . ." And *Black's Law Dictionary* defines regulate as "to fix, establish, or control." While these definitions are broad enough to encompass internal operating rules, rules that govern a board's own conduct, when applied to the examples and statements of the delegates to the constitutional convention, regulate apparently means the act of controlling, directing, or governing the public, segments of the public, or the resources of the state.

Clearly, the Board of Fisheries and the Board of Game qualify as regulatory boards under these principals.

TBC:gc:mi

91-075.glc

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MEMORANDUM

February 14, 1991

SUBJECT: Statutory History of Removal of Members of the Boards of Fisheries and Game (Work Order No. 17LS-0767)

TO: Representative Cliff Davidson
Attn: Jay Nelson

FROM: David R. Dierdorff
Revisor of Statutes



Jay Nelson of your staff has asked that we provide you with the statutory history of the governor's power to remove members of the Boards of Fisheries and Game since statehood.

The first post-statehood enactment dealing with the boards was ch. 64, SLA 1959, the State Organization Act of 1959, which created the principal departments of state government and made related changes. Section 17 of that Act established the Department of Fish and Game and the Board of Fish and Game. Section 6 of that Act (now codified as AS 39.05.060) provided, in part, that board members "hold office at the pleasure of the Governor notwithstanding their respective terms."

The same legislature also enacted ch. 94, SLA 1959, the Fish and Game Code of Alaska. That Act also established the department and the board. The section providing for the department (sec. 3 of Art. I) read:

The Alaska Department of Fish and Game referred to in this Act is the Department of Fish and Game created by the State Organization Act of 1959. [emphasis added]

On the other hand, the section establishing the board (sec. 6, Art. I) provided, in part:

There shall be a Board of Fish and Game composed of eight members having a general knowledge of the fish and game resources of the State and selected without regard to political affiliation or special interest.

Section 7 of Art. I, ch. 94 (now codified with style and grammatical changes as AS 16.05.280) provided for the removal of board members:

Sec. 7. Removal of Board Members. The Governor may remove any Board member for inefficiency, neglect of duty, or misconduct in office by delivering to him a written copy of the charges and affording such member the opportunity of being heard in person or through counsel at a public hearing to be held before the Governor or his designee upon not less than ten days' notice by registered mail. The member shall have the right to confrontation by and cross-examination of all witnesses against him. Upon removal as aforesaid, the Governor or his designee shall file in the proper State office a complete statement of all charges made against the member and the findings thereon.

Neither sec. 6 or sec. 7 referred to the State Organization Act of 1959. However, sec. 35, Art. I, ch. 94 provided:

It is the purpose of this Article to further implement the provisions of the State Organization Act of 1959 relating to fish and game. However, in the event the provisions of Sec. 6 and Sec. 7 of this Article are found to be in conflict with the provisions of the State Organization Act of 1959, then the provisions of Sec. 6 and Sec. 7 of this Article shall prevail to the extent of that conflict. [emphasis added]

Section 35, Art. I, ch. 94, SLA 1959 was set out in the Alaska Compiled Laws as sec. 39-10-35. However, when John Bohn (a Benicia, California contract attorney) prepared the first drafts of the Alaska Statutes codification, the section was not codified. Instead, it was set out in a revisor's note at the beginning of AS 16.05.

There is no question but that the provisions of sec. 6, ch. 64, SLA 1959 were intended to apply to the Board of Fish and Game in the context of that Act. However, it is my opinion that when the same legislature subsequently enacted ch. 94, the legislature intended that the provisions of secs. 6 and 7 of Art. I, ch. 94, that related to the board and were inconsistent with ch. 64 were to apply in lieu of ch. 64's provisions. The legislature's reference to the department as, essentially, continuing the department as previously established, while creating the board from whole cloth, coupled with the express provisos of sec. 35, are strong evidence of that intent.

The statutes enacted in 1959 have been subject to only one relevant amendment since their enactment (if one does not view the 1962 rewrite in connection with codification as an amendment). That amendment was in 1975 and related to the creation of the separate boards of fisheries and game. It could be argued that the intent of that legislation was to reinforce the belief that the "at pleasure" provision of AS 39.05.060 was in addition to the "for cause" provision of AS 16.05.280. However, it can be

Representative Cliff Davidson
February 14, 1991
Page 3

equally argued that the amendment was only a housekeeping change consistent with the primary substantive purpose of that enactment.

Because sec. 35, Art. I, ch. 94, SLA 1959 was not codified, it was repealed by the provisions of sec. 2, ch. 1, SLA 1963 (the Act which enacted the newly codified Alaska Statutes as the statutory law of the state). However, that does not lessen its effect on an understanding of the legislative history of AS 16.05.280 and AS 39.05.-060, and the appropriate interpretation of these two apparently inconsistent provisions.

DRD:mi
91-031.mai



Alaska State Legislature

HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

POUCH V
JUNEAU, ALASKA 99811
(907) 485-3715

TO: Representative Dave Donley
House Judiciary Committee

FROM: Representative Cliff Davidson *CD*

DATE: February 17, 1991

SUBJECT: Scheduling HB 65, "An Act relating to members of the Board of Fisheries and the Board of Game"

Last week CSHB 65 (RES) passed the Resources Committee and is next referred to the Judiciary Committee. I would appreciate an expeditious hearing on this legislation.

I originally introduced House Bill 65 to address the problem of inadequate compensation for members of the Board of Fisheries and Board of Game. The Boards of Fish and Game were originally established as citizen boards. Board members have traditionally been expected to serve with no monetary compensation. However, over the past few years, the workload for the boards has expanded dramatically. It has become increasingly difficult to find individuals to serve in these controversial and time consuming positions. House bill 65 is one attempt to address some of these concerns.

In the Resources Committee HB 65 was substantially amended to clarify existing law with respect to the Governor's authority to remove members of the Boards of Fish and Game. Until recently, most members of the public and folks in the fish and game community believed the Governor did not possess the authority to remove members of the Boards except for cause.

During the recent controversy between the Joint Boards and the Governor, several legal opinions on the subject identified the Governor's authority to remove boards members as a gray area at best. It appears the board members may indeed serve at the pleasure of the Governor. That concept was a surprise to many of us. For this reason and because there exists considerable ambiguity in existing law, I regard the new provisions in CSHB 65 (RES) as a simple clarification of the Governor's authority.

If you have any further questions on this legislation, please do not hesitate to contact me. My staff assigned to this bill is Jay Nelson (3715).



STATE OF ALASKA

HOUSE OF REPRESENTATIVES

Box V, Juneau, Alaska 99811

(907) 465-2487 • 465-2498

REPRESENTATIVE CLIFF DAVIDSON • DISTRICT 27 • Box 746, Kodiak, Alaska 99615 • (907) 486-8250

25 February 1991

Mr. Dan Joling, Managing Editor
Fairbanks Daily News-Miner
200 North Cushman
Fairbanks, Alaska 99701

Dear Mr. Joling,

Following is a response to your recent editorial (2/22) concerning House Bill 65. Thank you for this opportunity to respond.

To the editor:

Your recent editorial in opposition to House Bill 65 was, like an Iraqi scud missile, way off target. My legislation is intended to clarify the laws that provide for the removal of members of the Boards of Fish and Game.

For 30 years most people familiar with the appointment process for the Fish and Game Boards have felt that, once appointed, members could be removed by a governor only for cause. Several attorneys general, including the current one, advised their bosses that this was a correct interpretation of the law. Only recently, with all of the controversy over the Boards of Fish and Game, did differing legal opinions surface. It now seems that, at best, a governor's power to remove Fish and Game Board members is unclear.

House Bill 65 will clear up this confusion. It expands provisions for removal of Board members for cause and clarifies provisions prohibiting a governor from removing members at his pleasure.

There is one very good reason why Board members should be insulated from easy removal: politics. The Alaskan public does not want management decisions by the Board to become a political football. That is why the United Fisherman of Alaska, the National Rifle Association and the Alaska Environmental Lobby all support this bill.

They know that, by and large, the Boards have managed our \$1.5 billion fisheries and vast game resources quite well - without direct political interference.

A governor with the ability to remove members at his pleasure is

a governor with the ability to place Board members under enormous political pressure. That is something no Alaskan should want to see.

As to the assertion that this legislation is directed at Governor Hickel, that is absolutely not true. If I had discovered this confusion in the law last year or the year before, I would have proceeded along these same lines. Furthermore, I expect that any governor would have opposed this legislation. I certainly do not take Governor Hickel's opposition to HB 65 personally.

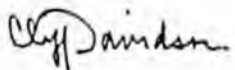
There are many folks that are not especially fond of the current Boards of Fish and Game, but the ones that have spoken to me absolutely do not want these Board members to be subject to easy removal by any governor.

This is not to say a governor cannot eventually place his people on these Boards. Member terms are 3 years so that at the end of Governor Hickel's four years in office he will have had the opportunity to replace any Board members he chooses.

Finally, I would like to make it crystal clear to your readers that there is no question but that the Legislature has the power, under the Constitution, to provide for methods of removal of members of the Boards of Fish and Game. Article III Section 26 of the Constitution clearly states that when a board is a regulatory agency, its members shall be appointed by a governor, "and may be removed as provided by law." (emphasis added)

I intend to "stick to making laws" as you suggested in your editorial. HB 65 will clarify the limits on removal of Fish and Game Board members by a governor. I believe it will also insulate our fish and game management from day-to-day "politics as usual."

Sincerely,



Cliff Davidson
State Representative

Editorial Opinion and Comment of



Daily News - Miner

"Independent in All Things . . . Neutral in None"

Other opinions expressed on this page do not necessarily reflect those of the Daily News-Miner.

Governor's choice

Legislators got huffy last week when a representative of Gov. Walter Hickel delivered a blunt threat to veto a bill limiting the governor's ability to fire members of boards and pick replacements.

Though the delivery may have lacked tact, the message from the governor was correct: The governor should have the right to pick who serves on the boards within his administration, especially such crucial boards as those overseeing hunting and fishing seasons.

House Bill 65 started out as an attempt to boost the daily pay for members of the Board of Game and the Board of Fisheries. However, legislators added language that listed the "only" reasons for which the governor could remove members—inefficiency, neglect of duty, misconduct in office, or a conviction of fish and game violations. That language goes too far.

Gov. Hickel has raised some eyebrows by making wholesale changes among some boards. Besides changes on the game and fisheries board, Hickel significantly changed membership on the state Board of Education, the Permanent Fund Board and the University of Alaska Board of Regents. However, that's his right.

Our state Constitution spells out a position of strength for our state's chief executive. It's also clear that voters did not elect Hickel to maintain the status quo.

The Legislature should stick to making laws and let the governor administrate them as he sees fit with the boards and commissions he desires.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

February 27, 1991

SUBJECT: Draft CSHB 65 (Judiciary)

TO: Representative Dave Donley

FROM: George Utermohle *GU*
Legislative Counsel

Enclosed is a draft CSHB 65 (Judiciary).

The draft CS contains two changes to the bill. First, the CS amends Sec. 2 of the bill to provide that a member of the Board of Fisheries or Board of Game may be removed by the governor because the member has been convicted of a misdemeanor involving a statute or regulation related to fish or game or has been convicted of any felony.

Second, the provision relating to disclosures of financial and other interests involving fish and game resources by members of the Board of Fisheries or the Board of Game has been moved to Sec. 4 of the bill and rephrased. This provision as originally introduced in HB 65 was derived from a bill (SB 309) introduced by Governor Cowper during the last legislature. The purpose of the provision as introduced by Governor Cowper was to affirm and emphasize that a member of either board must disclose financial and personal interests in matters before the boards even though members of the boards were already required to make such disclosures under AS 39.52. Senate Journal, Sixteenth Alaska State Legislature, January 8, 1990, pp. 1998-99.

In the draft CS, this provision is moved to AS 39.52 as a new subsection of AS 39.52.120, relating to misuse of an official position. The new subsection requires members of the boards, in addition to other requirements under AS 39.52.120, to disclose all financial and personal interests in businesses and organizations relating to fish or game resources. The new subsection expands existing law by requiring members of the boards to disclose those interests regardless of whether the interests are significant or not. Those interests shall be disclosed in the manner set out in AS 39.52.220: on the public record of the board and in writing to the designated ethics supervisor of the board. Also, in addition to the disclosure of those interests,

Representative Dave Donley
February 27, 1991
Page 2

any potential violation of this new subsection shall be disclosed by the board member and reviewed by the designated ethics supervisor for compliance with the Alaska Executive Branch Ethics Act under AS 39.52.220.

If I may be of further assistance, please advise.

GU:pl
91-112.plm

Enclosures

Alaska's Constitution

A Citizen's Guide

GORDON S. HARRISON

Agreed upon by the delegates in Constitutional Convention assembled at the University of Alaska, this fifth day of February, in the year of our Lord one thousand nine hundred and fifty-six, and of the Independence of the United States the one hundred and eightieth.

Wm. A. Snow
PRESIDENT OF THE CONVENTION

Richard L. Anderson · *Douglas Gray* · *Steve McCutcheon*
Thomas J. Amundson · *Alvin C. Harris* · *George McLaughlin* · *Nick C. Rivers*
Frank Barr · *William H. H. ...* · *John H. Rose*
John C. Boswell · *Malcolm R. ...* · *John A. ...* · *W.D. ...*
Deane ... · *Hub ...* · *...* · *B. Stewart*
John ... · *...* · *...* · *George ...*
E. B. ... · *...* · *Louis ...* · *...*
James ... · *...* · *James ...* · *Harold ...*
John ... · *...* · *...* · *...*
Edward ... · *...* · *...* · *...*
James ... · *...* · *...* · *...*
... · *...* · *...* · *...*
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... · *...* · *...* · *...*

ATTNEY
Thomas B. Stewart
SECRETARY OF THE CONVENTION

ORDINANCE NO. 1
SATISFACTION OF CONSTITUTION

SECTION 1. The Constitution for the State of Alaska agreed upon by the delegates to the Alaska Constitutional Convention on February 5, 1956, shall be submitted to the voters of Alaska for ratification or rejection at the territorial primary election to be held on April 24, 1956. The election shall be conducted according to existing laws regarding primary elections so far as applicable.

SECTION 2. Each elector who offers to vote upon this proposition shall be given a ballot by the election judge which will be separate from the ballot on which candidates in the primary election are listed. Each of the propositions offered by the Alaska Constitutional Convention shall be set forth separately, but on the same ballot form. The first proposition shall be as follows:

"Shall the Constitution for the State of Alaska prepared and agreed upon by the Alaska Constitutional Convention be adopted?"

Yes
No

\$2.00

proposal is well beyond the scope of this discussion, but it should be noted that such a change would be a further retreat from the original constitutional objective of a centralized and accountable executive administration.

A notable constitutional law case developed over interpretation of language in this section and Section 26 which gives the legislature authority to confirm the governor's appointments of heads of major departments. Confirmation authority of this type is a traditional legislative "check and balance" on the executive branch. The Alaska legislature asserted that it could by law extend its authority to confirm appointments to deputy department heads as well as department heads, on the ground that these positions involve substantial policy-making authority. The governor refused to submit names of his department deputy heads to the legislature, which sued. The supreme court ruled against the legislature (*Bradner v. Hammond*, 553 P.2d1; 1976). It said that the power to confirm did not extend beyond the express limits of the constitution and that the legislature's action violated the principle of separation of powers. Thus rebuffed, the legislature in 1980 placed a proposed constitutional amendment before the voters that would give the legislature explicit authority to determine which executive appointees would be subject to confirmation. The amendment failed to be ratified by the voters.

Section 26. Boards and Commissions

When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

Members of boards and commissions are appointed by the governor and confirmed by the legislature. Thus, even though there is a policy-making board at the head of an executive department, the governor retains the power to appoint the members of the board and to veto a board's choice of its principal executive officer. However, the constitution permits the legislature to determine how these board members are removed. The statutes governing the respective boards and commissions specify the terms of removal. In the case of the state board of education, for example, the law provides that the members serve at the pleasure of the governor. In the case of the boards of fisheries and game, however, the law restricts the governor's power of removal to cases of "inefficiency, neglect of duty, or misconduct in office."

STATE OF ALASKA
Office of the Governor
POSITION PAPER
Walter J. Hickel, Governor

P.O. BOX A, JUNEAU, AK 99811-0101

BRUCE KENDALL, LEGISLATIVE LIAISON

FEBRUARY 14, 1991

BILL NUMBER: HB65/CSHB65 (RES) ***SPONSOR:*** DAVIDSON

BILL TITLE: "AN ACT RELATING TO MEMBERS OF THE BOARD OF FISHERIES AND THE BOARD OF GAME."

POSITION STATEMENT:

IT IS THIS ADMINISTRATION'S POSITION THAT THIS BILL, IN ITS PRESENT FORM, IS A DELIBERATE ATTEMPT TO ABROGATE THE GOVERNOR'S CONSTITUTIONAL AUTHORITY AND OBLIGATION TO MANAGE THE RESOURCES AND BUSINESS OF THIS STATE FOR THE PEOPLE OF ALASKA.

IF THIS LEGISLATION PASSES BOTH HOUSES WITHOUT ACCEPTABLE AMENDMENTS TO MAKE THIS BOARD FALL WITHIN THE GENERAL RULES OF ALL OTHER BOARDS AND COMMISSIONS NOW IN EXISTENCE, IT WILL BE VETOED.



STATE OF ALASKA

HOUSE OF REPRESENTATIVES

Box V, Juneau, Alaska 99811

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REPRESENTATIVE CLIFF DAVIDSON • DISTRICT 27 • Box 746, Kodiak, Alaska 99615 • (907) 486-8250

HOUSE BILL 65

COMPENSATION FOR BOARD OF FISH AND BOARD OF GAME MEMBERS

	CURRENT LAW	HB 65
<u>SECTION 1</u>	NO DISCLOSURE REQUIRED	REQUIRES DISCLOSURE OF CONFLICT OF INTEREST
<u>SECTION 2</u>	PROVIDES FOR REMOVAL OF BOARD MEMBERS "FOR CAUSE"	EXPANDS GOVERNOR'S POWER TO REMOVE BOARD MEMBERS "FOR CAUSE"
<u>SECTION 3</u>	<u>COMPENSATION:</u>	
BOARD MEETINGS	\$150/DAY	\$195/DAY (RANGE 22)
OTHER MEETINGS	\$100/DAY	\$ 98/DAY (1/2 /RANGE 22)
PER DIEM	NONE	\$100/DAY

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 23, 1991

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 2/14/91

The RESOURCES Committee considered:

HB 65

HOUSE BILL NO. 65

COMPENSATION: MEMBERS BOARDS OF FISH/GAME

"An Act relating to members of the Board of Fisheries and the Board of Game."

RECOMMENDATIONS:

be replaced with

CS HB 65

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the Judiciary Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact ADFG

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
	<u>Bill Hudson</u> HUDSON	X		
<u>FIDKELSTEIN</u>	<u>J. Moyer</u> MOYER		X	
<u>Lincoln</u>	<u>Loren Leman</u> LEMAN			X
<u>CARNEY</u>				
<u>DAVIDSON</u>				
	<u>Jim Zawacki</u> ZAWACKI	X		

Cliff Davidson

Chairman's Signature

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 19, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 2-27-91

The JUDICIARY Committee considered:

HB 65

HOUSE BILL NO. 65

COMPENSATION: MEMBERS BOARDS OF FISH/GAME

"An Act relating to members of the Board of Fisheries and the Board of Game."

RECOMMENDATIONS:

be replaced with CS HB 65 (Jud) the same title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) Fish: Game 2/19/91

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>David Donley</i>				
<i>Mark Thunberg</i>	<i>Terry Anderson</i>		<input checked="" type="checkbox"/>	
<i>John Elmer</i>	<i>Mark Thunberg</i>		<input checked="" type="checkbox"/>	
<i>Kevin Pat Connell</i>				

David Donley

Chairman's Signature

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 142

Revision Date: _____ Department Affected: Department of Law
 Title: "An Act relating to the crime of escape..." BFIU: Prosecution
 Component: Criminal Justice Litigation
 Sponsor: House Judiciary
 Requestor: House Judiciary COMPONENT SERIAL NO.

		8	9
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Richard I. Pegues

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: February 25, 1991
 Approved by Commissioner: Richard I. Pegues
Charles E. Cole Attorney General
 Agency: Department of Law Date: February 25, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 142

This bill reverses the effects of two recent Alaska Court of Appeals' decisions, in Jacobson v. State and Hubbard v. State, concerning the crime of escape and the definition of official detention.

First, AS 11.56.330(a) is amended to clarify that one commits the crime of escape in the fourth degree if, without lawful authority, having been placed under actual restraint by a peace officer before arrest, one removes oneself from the restraint.

Second, AS 11.81.900(b)(34) is amended to include actual or constructive restraint under an order of the court within the definition of official detention.

These amendments will not have a fiscal impact on the Department of Law because they are consistent with the law as it was interpreted prior to the recent decisions of the Court of Appeals.

FISCAL NOTE

No. 1

Bill Version: CSHB 65 (RES)

(H) Publish Date: 2/19/91

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Fish and Game

Title: "An Act Relating to Members of the Board of Fisheries and Game"

BRU: Boards of Fisheries and Game

Sponsor: Davidson

Component: Board Services

Requestor: Davidson

COMPONENT SERIAL NO.

1	2	0	4
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL	144.4	151.0	151.0	151.0	151.0	151.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	144.4	151.0	151.0	151.0	151.0	151.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	144.4	151.0	151.0	151.0	151.0	151.0
FEDERAL FUNDS						
OTHER						
TOTAL	144.4	151.0	151.0	151.0	151.0	151.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Attached

Prepared By: Beverly Reaume *Beverly Reaume* Phone: 465-4120
 Division: Administration Date: 01/29/91
 Approved by Commissioner: *Thomas J. Kelly* 1/29/91
 Agency: Fish and Game Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

COMMITTEE COPY

1/29/91

SB65 BOARDS OF FISHERIES AND GAME

BOARD OF FISHERIES (7 MEMBERS)

CURRENT

89 DAYS AT \$150 PER DAY	\$93,450	
3 DAYS AT \$100 PER DAY	\$2,100	
TOTAL		\$95,550

PROPOSED

89 DAYS AT RANGE 22, STEP A - \$203.93	\$127,048	
3 DAYS AT 1/2 RANGE 22, STEP A - \$101.97	\$306	
92 DAYS AT \$95 PER DAY PER DIEM	\$61,180	
TOTAL		\$188,534

INCREASED COSTS FOR BOARD OF FISHERIES	\$92,984	*****
--	----------	-------

BOARD OF GAME

CURRENT

45 DAYS AT \$150 PER DAY	\$47,250	
3 DAYS AT \$100 PER DAY	\$2,100	
TOTAL		\$49,350

PROPOSED

48 DAYS AT RANGE 22, STEP A - \$203.93	\$68,520	
3 DAYS AT 1/2 RANGE 22, STEP A - \$101.97	\$306	
48 DAYS AT \$95 PER DAY PER DIEM	\$31,920	
TOTAL		\$100,746

INCREASED COSTS FOR BOARD OF GAME	\$51,396	*****
-----------------------------------	----------	-------

GRAND TOTAL	\$144,381	*****
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COMMITTEE COPY



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Boards	BILL NUMBER HB 65	SPONSOR Davidson
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SHORT TITLE OF BILL
"An act relating to the members of the Board of Fisheries and the Board of Game."

DEPARTMENT POSITION
Support

PREPARED BY Beverly Reaume <i>Beverly Reaume</i>	DATE 1/29/91	COMMISSIONER'S SIGNATURE <i>Dawn D. Wilby</i>	DATE 1-29-91
---	-----------------	--	-----------------

SUMMARY

OTHER AGENCIES AFFECTED BY BILL	CONSTITUENT GROUP(S) AFFECTED BY BILL Those members of the public affected by quality of regulation promulgated by the boards.
---------------------------------	---

ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL
---------------------------------	-----------------------------------

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
The Board of Fisheries meets approximately 92 days and the Board of Game meets approximately 48 days per year. The fourteen volunteer board members are unable to sustain themselves away from home at the current compensation rate.

ANALYSIS OF BILL/PROGRAM EFFECTS
Section 2 provides the Governor the ability to remove a board member who has been convicted of violating a fish or game statute or regulation. Section 3 provides board members with per diem at a rate authorized in AS 39.20.180 and additional daily compensation equal to a range 22.

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 65

Revision Date: _____ Department Affected: Fish and Game
 Title: "An Act Relating to Members of the Board of Fisheries and Game" BRU: Boards of Fisheries and Game
 Sponsor: Davidson Component: Board Services
 Requestor: Davidson COMPONENT SERIAL NO.

1	2	0	4
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL	144.4	151.0	151.0	151.0	151.0	151.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	144.4	151.0	151.0	151.0	151.0	151.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	144.4	151.0	151.0	151.0	151.0	151.0
FEDERAL FUNDS						
OTHER						
TOTAL	144.4	151.0	151.0	151.0	151.0	151.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Attached

Prepared By: Beverly Reaume *[Signature]* Phone: 465-4120
 Division: Administration Date: 01/29/91
 Approved by Commissioner: *[Signature]* 1/29/91
 Agency: Fish and Game Date: _____

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).