

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9685 SENATE RESOURCES

SCS CS HB 109(RES) vs CS HB 109 (FIN)

Sec	Senate Resources Version	Sec	House Version
1	Same as House Version	1	adds new subsection, lifts six year statute of limitations for the state to bring action to confirm the state's interests in real property or protect public resources (AS 09.10.120)
2	Same as House Version	2	clarifies that the department's consideration of timber, firewood, and water supplies before offering land for disposal does not imply that any person has exclusive use of those resources or constitute a limitation on future state disposals. (AS 38.04.010(b))
	Senate Version preserves the land disposal bank	3-4	removes the requirement of a "land disposal bank." Under laws passed in the last decade, regional land use plans are used to identify land that will be offered for private ownership. More than 2,000,000 acres have been classified through this process, making the land bank obsolete. Subsections c, f, j, and k relating to the land disposal bank are repealed in Sec.44. (AS 38.04.020(a)-(b))
		5	rewrites subsection: the report available to the legislature will contain information on the current inventory of state land available for disposal, tailored to the way the inventory is catalogued. Land is classified as suitable for settlement purposes including homestead, commercial, and industrial disposals; agricultural disposal; and grazing leases. (AS 38.04.020(d))
		6	puts the state land disposal program on the same footing as other natural resource sale programs, submitting a budget request each year would not be mandatory. But each budget proposal would be complete. It would request the full funding needed to put the land disposal projects ready for sale, including any access roads or other capital improvements that might be required. (AS 38.04.020(e))
		7	makes technical corrections, dropping an out-of-order classification reference (land must already be planned and classified for disposal before it is surveyed and platted), an erroneous reference to a homestead "lease" is removed, and a reference to homestead staking is removed to conform with repeals in sec 44. (AS 38.04.020(g))
3	Same as House version	8	clarifies the five-acre limit on subdivision lots applies to land sold for residential and recreational uses, not agricultural parcels, commercial parcels, etc. This clarification is needed because under current law, any division of a tract for purposes of sale constitutes a subdivision. The amendment would also allow larger lots if it would increase the return to the state. (AS 38.04.020(h))
4	Same as House version	9	updates a list of state land disposal programs by adding the homestead law and the remote recreational cabin site lease/sale program enacted by Sec. 29 of the bill. (AS 38.04.020(i))
	Senate version repeals 38.04.021, Disposal of municipal grant land entitlements	10	clarifies that the commissioner's disposal funding request must go to the governor not to the legislature. (AS 38.04.021(a))
5	conforming change due to the repeal of 38.04.021	11	deletes a cross-reference to an annual land demand study, repealed by this bill. (AS 38.04.021(b))

Senate Version does not amend this statute	12 allows the Department of Natural Resources to create new land disposal programs by regulation, provided they are competitive and produce at least fair market value for the land. (AS 38.04.030)
6 Same as House version	13 clarifies that sales of public land to private individuals shall be at fair market value unless specifically exempted, sale programs are preferred although lease programs may be used under certain circumstances, and removes a reference to remote cabin permits (repealed by this bill), . (AS 38.04.035)
7 Restores staking procedures, conforming language changes same as House version	14 deletes language exempting random-staked homesteads and remote parcels from cadastral survey requirements. The remote parcel program was repealed in 1983, effective 1984, and the homestead program was changed in 1988 to preclude random staking. (Remote recreational cabin site leases, as enacted by Sec. 29 of the bill, would be exempt from this statute because they are short-term leases. The statute would not apply until the remote recreational cabin site was ready to sell.) (AS 38.04.045(b))
8 new Senate section, allows for a site-specific land use plan for land disposals, a regional land use plan does not have to be adopted prior to a disposal (AS 38.04.065(h))	
9 Same as House version	15 allows discretion on where to hold land auctions and lotteries. (AS 38.05.050)
10 Same as House version	16 deletes the personal-appearance requirement for land auctions, allowing bidders to be represented by an agent. (AS 38.05.055) (personal appearance requirement found unconstitutional)
11 Same as House version	17 along with repealer, deletes the requirement that purchasers appear in person at land lotteries and pay the down payment on the spot. Instead, they would have 30 days to make the payment. It also drops language about consulting with the local assessor to determine land values, which is unnecessary because AS 38.05.840 requires a formal appraisal before the land can be offered for sale. (AS 38.05.057(a), plus repeal of (g))
12- Same as House version	18- repeals the current system for sale contract interest rates that relies on the old Federal Land Bank's "prevailing" rate.
13	19 (The Federal Land Bank's successor now uses many different rate systems with multiple variables, rather than a single prevailing rate.) It would also change the point at which the rate is determined, solving the problem of the rate changing after the contract is mailed out for signature but before both parties have signed. (State land sale contracts are not signed in a face-to-face closing ceremony.) Sec. 18 would also let contracts for auction parcels be issued for less than 20 years, as already allowed for lottery parcels. (AS 38.05.065(a)-(b).)
14 Same as House version, except it allows for prime plus 3%, house allowed for 4%	20 replaces the old Federal Land Bank interest rate with a new system for state land sale contracts. Interest would be based on the prime rate, the widely quoted market rate used for a bank's most credit-worthy corporate loan customers. A four percent add-on would adjust for the unique circumstances of state land sale contracts, which do not involve any credit check. The total would be capped at 9.5% for agricultural use contracts and 13.5% for other contracts. The rate would be computed monthly and would apply to all contracts prepared that month. (AS 38.05.065(i))

15 Same as House version	21 corrects a 1984 error, restoring the original intent of the veterans' preference auction law. It clarifies that although that law does not apply to the lottery, homesite, or homestead programs, a veterans' preference auction must be held before restricted residential lots can be sold at auction to the general public. A combination of amendments in 1984 had made veterans' preference sales inapplicable to all subdivision sales. (AS 38.05.067(d))
16 Same as House version	22 updates the agricultural preference right law (see Sec. 21) by defining the term "adjacent," instead of "approximate vicinity." The latter was removed from the body of the law in 1984. (AS 38.05.069(e)(2))
17 Same as House version	23 updates programs exempt from the general standard that state land leases must be offered at auction. It removes a reference to remote cabin permits (repealed by this bill), and substitutes a reference to remote cabin site recreational leases (enacted by Sec. 29 of this bill) (38.05.075(a))
18- Same as House version 19	24- allows upland owners to obtain a noncompetitive shoreland lease, treats shoreland leases same as tideland and 25 submerged land (38.05.075 (c),(d))
20 Same as House version	26 rewrites the aquatic farm site law to let standard state leasing laws be used. Sites could be offered directly at auction or by negotiated lease, rather than first being developed under a three-year permit process. As with other types of land disposals and leases, public hearings on the leasing decision would be held as needed, but would not be mandatory. (AS 38.05.083, plus repealers of AS 38.05.855, AS 38.05.856, AS 38.05.946(b))
21 Same as House version, except it allows a 60 day removal window for below ground tanks, same as current law	27 modernizes requirements to restore surface lease sites after lease termination, protecting the state against liability and high cleanup costs. Because other provisions of AS 38 apply this leasing statute to terminated homesites, homesteads, remote cabin sites, etc., special measures of the existing AS 38.05.090 would be retained to compensate individuals for authorized private residential improvements that are not removed from the site and are worth more than \$10,000 net value. (AS 38.05.090)
22 Same as House version	28 conforming amendment needed due to repeal of 38.05.040 bonding requirement for the director of the statutory Alaska Division of Lands) would be repealed by Sec. 44 of this bill. (AS 38.05.131(a))
23 Same as House version, except Senate version added language stating that the fair market value should be determined at the time of entry	29 creates a remote recreational cabin site lease/sale program for land disposals in remote, lightly populated areas. At any time during a total term of ten years, the lessee could purchase the site after getting it appraised and surveyed, just as in the former "open-to-entry" and "remote parcel" programs (repealed in 1979 and 1993 respectively). (AS 38.05.600)
24 Same as House version	30 allows "other public" facilities, beyond cemetery or solid waste facility that may be disposed of to a tax-exempt, non-profit corporation, or other organization to operate for a public purpose and allows the department to convey "common areas" in state subdivisions to the subdivision's homeowners' association for retention and management. Many state subdivisions were platted with certain lots reserved from disposal to provide open space and recreation for subdivision residents. The intention was eventually to transfer these reserved lots to local government. But where there is no local government or it does not want to assume management responsibility, conveyance to the homeowners' association is a logical substitute. The department would be required to ensure that the conveyance serves a public purpose. (AS 38.05.810(a))

25	Same as House version	31	allows a two year shelf life for appraisals, amended from one year (AS 38.05.840 (a))
26	Same as House version	32	clarifies that the division may allow livestock grazing, commercial berry picking or mushroom harvesting, and similar minimal-value consumptive uses by issuing permits, an authority the Department of Law recently questioned. (AS 38.05.850(a))
27- 28	Same as House version	33- 34	deletes references in the public notice law to special aquatic farm site permit procedures repealed by this bill: mandatory public hearings and preliminary findings before issuing permits. (AS 38.05.945(a)(5)-(6), d)
29	Same as House version	35	raises the application fee for homesites from the current \$10 to a maximum of \$25, the same as for lottery parcels. (AS 38.08.030(b))
30	Same as House version	36	adds a cross-reference to the lottery process used to select the winner of a homesite entry permit. It would also require a token annual rental of \$100 until the permit holder "proves up" or purchases the lot. Because a homesite entry permit is a contract, the rental requirement would not apply to existing entry permits. (AS 38.08.040(a))
31	Same as House version	37	adds a new subsection directing that homesite entry permits be offered at lottery. Using the lottery procedures of AS 38.05.057 was formerly a statutory requirement, but a 1984 amendment left the connection unclear. The department would be required to adopt regulations as consistent as possible with AS 38.05.057. (AS 38.08.040(f))
32	Same as House version	38	deletes the authority to make applicants appear in person at a homestead lottery. (AS 38.09.010(g))
33	Raises the fee to \$10 per acre for non agricultural land	39	Raises the fee to receive a non-agricultural homestead entry permit to \$20 per acre. This is a one-time rental fee, lasting for the entry permit's five-year term. The rental fee for agricultural homesteads would remain at the current \$5 per acre. In addition, combined with repealers in the bill, it would eliminate staking and legal-description requirements that became obsolete in 1988. In that year, the homestead law was changed to require the department to do a cadastral survey before offering the parcels, instead of making the homesteader survey it five years later. (AS 38.09.030(a), plus repealers of AS 38.09.010(e), 38.09.020, 38.09.040(a)(2), 38.09.040(a)(4), AS 38.09.060, AS 38.09.070, and 38.09.900(1))
	Senate version does not amend this statute except to remove requirement of habitable permanent dwelling which is covered in the repealer section	40	along with repealers, reduces and simplifies the ways to receive title to a homestead parcel. (Currently there are three methods. A homesteader may obtain the land for free by living on it and building a house, plus meeting clearing requirements applicable to agricultural homesteads only. Or he can buy the parcel at almost-current fair market value without building a house and living on it, if he applies within two years. Or he can buy the parcel at current fair market value without living on the parcel, if he builds a house and applies to purchase within five years.) Repealers eliminate the house-building requirement and the distinction between two-year and five-year purchase. Within five years the homesteader either "proves up" by living on the parcel for 25 months, or purchases the parcel at fair market value. (As with all state land sales, the purchaser may pay cash for the homestead, or enter into an installment contract under AS 38.05.065.) With either method, the homesteader must reimburse the state for survey and platting costs, and must meet agricultural clearing requirements if the land is classified agricultural.

45- Same as House version
46

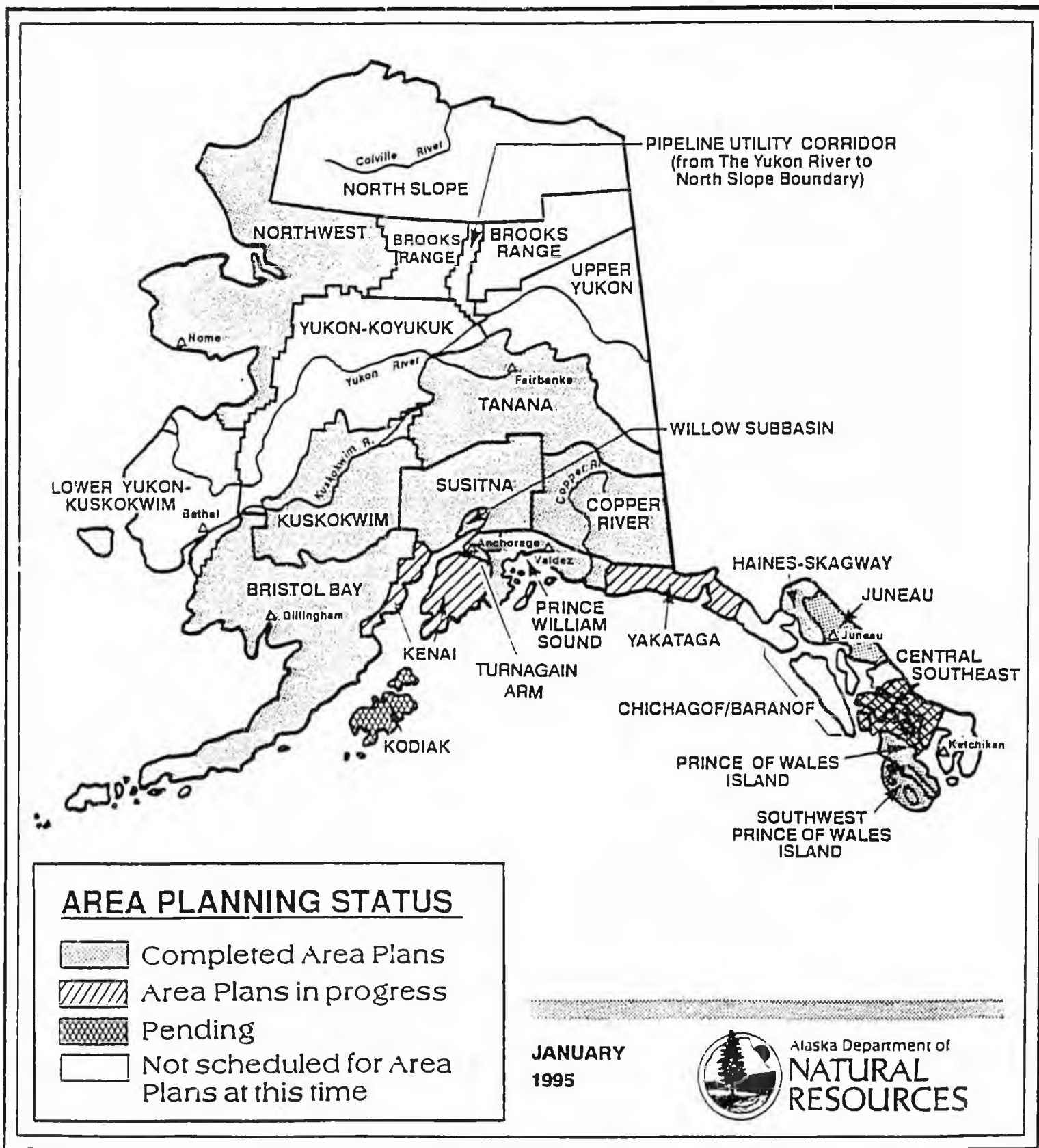
|| 51- are effective dates
|| 52

- 34 Same as House version
- 35 new section to conform with the repeal of 38.09.050(a)(3)
- 36 Same as House version
- 37 Same as House version
- 41 a conforming amendment eliminating a reference to a permanent dwelling. (AS 38.09.050(a)-(b), plus repealers of AS 38.09.040(a)(3), 38.09.090, 38.09.900(3), and 38.09.900(4))
- 42 New section along with repealers in Sec. 44 of the bill, affects both the remote parcel program and the homestead program. (The remote parcel law was repealed in 1983, effective in 1984, but the program will be alive until at least the year 2016. The last parcels were staked in 1984, and the last leases issued in 1985-1986. The lessees will have until 1996 or later to survey their parcels, and can then enter into 20-year purchase contracts.) This section would prohibit the department from imposing the conditions of the former AS 38.05.078(d) in new remote parcel purchase contracts. These conditions restricted the sale or subdivision of remote parcel land after it was conveyed into private ownership. It would also allow the department to amend existing remote parcel or homestead purchase contracts or patents to remove these restrictions if the holder consents and reimburses the state for the difference in value. (Each parcel's purchase price was cut by 50% to account for the resale restrictions.) (AS 38.09.105, plus repealers of AS 38.09.050(d)-(e))
- 43 the homesite disclaimer language is made applicable to all state land disposals: unless specifically provided, the state is not obligated to provide services to the grantee of a state land disposal. Also clarifies that the state is free to dispose of other land or resources in the future, without restrictions as to type, parcel density, etc. (38.95)

<p>38 no repeal of land disposal bank, does repeal 38.05.057 (g) no repeal of (j)</p>	<p>44 Repealers affecting the land disposal bank (AS 38.04.020) and down payments at land lotteries (AS 38.05.057(g))</p> <p>Repealing AS 38.05.057(j) eliminates special lottery procedures for an agricultural project statute that was repealed in 1979.</p> <p>Repealing AS 38.05.040 would eliminate the requirement for a \$150,000 bond for the director of the statutory Division of Lands, which was subsequently reorganized and subdivided into several different divisions.</p> <p>Repealing AS 38.05.079 eliminates the remote cabin permit program, which provided for 25-year leases for cabin sites.</p> <p>Repealing AS 38.05.855, AS 38.05.856, and AS 38.05.946(b) eliminates requirements associated with aquatic farm site permits</p> <p>AS 38.08.090 is made unnecessary by Sec. 43 which broadens its language and expands it to other land disposals.</p> <p>Repealing 38.09.010(e), 38.09.020, 38.09.040(a)(2), 38.09.040(a)(4), AS 38.09.060, AS 38.09.070, and 38.09.900(1) eliminates requirements related to staking, flagging, brushing, and filing a legal description on a homestead; see Sec. 39. Repealing AS 38.09.040(a)(3), 38.09.090, 38.09.900(3), and 38.09.900(4) eliminates homestead dwelling requirements and the distinction between two- and five-year purchase;</p> <p>Repealing AS 38.09.050(d) and (e) would remove restrictions on selling or subdividing land after it has been conveyed to a homesteader</p>
<p>Same as House version</p>	
<p>Same as House version</p>	
<p>Same as House version</p>	
<p>Same as House version</p>	
<p>does not repeal staking procedures, does repeal homestead dwelling requirements</p>	
<p>39 Same as House version</p>	<p>45 would authorize railroad, highway, and utility line rights-of-way within Chugach State Park necessitated by a Seward Highway relocation project at Bird Point (between Anchorage and Girdwood)</p>
<p>40 Same as House version, adds language to include renewals that might have expired and persons who received final notice to receive a permit to operate</p>	<p>46 savings clause protecting aquatic farm permit holders (and lease holders) by giving them a preference right to a lease under the terms and conditions outlined in section 26 of this bill.</p>
<p>41 Same as House version</p>	<p>47 adds a savings clause protecting homesite entry permits (and subsequent patents) granted by lottery after July 6, 1984. Which was the effective date of an amendment that dropped a reference to the lottery statute, leaving no statutory guidance on how to issue homesite entry permits.</p>
<p>42 Same as House version</p>	<p>48 specifies that the interest rate changes made by Secs. 18-20 of the bill apply to all contracts sent out to be signed after the bill's effective date.</p>
<p>43 Same as House version</p>	<p>49 allows the department to adopt regulations in advance of the bill's effective date, but may not take effect until July 1, 1997. Includes a savings clause for the existing homesite disposal regulations until they can be changed.</p>
<p>44 Same as House version</p>	<p>50 retroactive clause for sec 1</p>

Alaska Department of Natural Resources

AREA PLANS





Adopted Plans

Bristol Bay

Adopted September 1984. Covers 13 million acres of state land. This plan was prepared through a cooperative state-federal planning process. A management plan was completed in 1990 for the *Nushagak and Mulchaina Rivers* and in 1991 for the *Navigable Rivers within the Togiak National Wildlife Refuge*.

Copper River Basin.

Adopted November 1986. Covers 3.3 million acres of state land.

Haines - Skagway

Adopted in June 1979. Much of the 400,000 acres in the original plan are now covered by the *Alaska Chilkat Bald Eagle Preserve Management Plan* (September 1985) & the *Haines State Forest Management Plan* (February, 1986).

Juneau

Adopted January 1993. Covers 26,000 acres of state uplands and 400,000 acres of state tidelands within the City and Borough of Juneau, and proposed annexation area on Admiralty Island.

Kuskokwim

Adopted March 1988. Covers 16 million acres of state land in the middle and upper Kuskokwim drainage.

Northwest

Adopted February 1989. Plan covers 10 million acres of state land on the Seward Peninsula, in the Northwest Arctic Borough and in the western segment of the North Slope Borough.

Prince of Wales Island

A plan for the southwestern portion of the island was completed in June 1985 and revised in 1990. A plan for the remainder of the island was adopted December 1988. These plans cover about 72,000 acres of state uplands and about two million acres of state tidelands and submerged lands.

Prince William Sound

Adopted June 1988. This plan is for 850,000 acres of state land and most of the tidelands and submerged lands in Prince William Sound.

Susitna

Adopted April 1985. Covers 9.5 million acres of state land. This plan is in need of revision in order to provide better guidance for management of land retained in state ownership. In 1982, an area plan was completed for the Willow Sub-Basin, a portion of the Susitna basin. Management plans have been prepared for:

Susitna Recreation Rivers

A plan for six rivers, completed in 1991;

Susitna Forest Guidelines

Guidelines for forest management and timber access, completed 1991;

Kashwitna

Deals with forestry, wildlife, and access issues;

Hatcher Pass

Primary issues are recreation, mining, and wildlife;

Matanuska Valley Moose Range

Access, habitat management, and mining are concerns;

Fish Creek

Primary issues concern agricultural disposals;

Deception Creek

Former capital site, was not included in Susitna or Willow plans.

Tanana Basin

Adopted 1985, updated in 1991. This plan covers 14.5 million acres of state land in the Tanana valley, including the Fairbanks area. Includes Goodpastor River amendment, completed 1991. A management plan for the *Tanana Valley State Forest*, prepared by the Division of Forestry, was adopted in 1988.

Turnagain Arm Management Plan

Adopted in October 1994. Includes over 23,000 acres of state selected land in Girdwood and Bear valleys, & 25,000 acres of tidelands & submerged lands in Turnagain Arm. This plan is coordinated with planning for the Municipality of Anchorage's land. The major focus of both planning efforts is future resort development.

State Critical Habitat Areas, Refuges & Sanctuaries

The Department of Fish and Game, Division of Habitat, prepares land use plans for these areas, in consultation with the Department of Natural Resources.

State Park Units

The DNR - Division of Parks and Outdoor Recreation has prepared land use plans for most major state park units.

HB

128

Alaska State Legislature

REPRESENTATIVE BILL HUDSON

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COMMITTEES

CO-CHAIR
Resources Committee

MEMBER
Transportation Committee
Labor & Commerce Committee

SSHB 128 SPONSOR STATEMENT

"An Act relating to water quality; directing the Department of Environmental Conservation to conduct water quality research; establishing the Water Science Oversight Board; and providing for an effective date."

HB 128 provides a mechanism for DEC to form partnerships with interested parties to seek funding for water quality research for the state of Alaska leading to improved water quality regulations. The bill establishes a temporary Water Science Oversight Board to oversee the research.

The goal of this bill is, to the greatest extent possible, to substitute science for the emotion and political debate that characterizes consideration of water quality regulations. The Alaska Science and Technology Foundation has expressed interest in funding such research, but will only accept applications from a public agency if it is in partnership with private organizations.

Another potential source of funding would be federal dollars. Without such research to provide scientific backing, the Environmental Protection Agency will not accept changes to Alaska's water quality regulations to reflect Alaska specific conditions.

The Water Science Oversight Board which will oversee this research is to be composed of the department commissioner or a commissioner's designee and four additional members, each of whom has academic credentials and Alaska-based expertise in the field of water quality. The board will expire at the end of the five-year research program.

HB 128 will lead to continued protection of Alaska's clean waters while encouraging responsible economic development in the state. I urge the support of the committee on this bill.



FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSS HB128 (FIN) am

Revision Date: _____ Dept. Affected: Department of Law
 Title: "An Act relating to water quality; directing the BRU: Civil Division
Department of Environmental Conservation to conduct . . . research . . . Component: Environmental Law
 Sponsor: Representative Hudson
 Requester: Senate Resources Committee COMPONENT SERIAL NO. 2092

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES					28.3	
TRAVEL					0.1	
CONTRACTUAL					4.5	
SUPPLIES					0.5	
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	33.4	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
1007 Interagency Receipts					33.4	
TOTAL	0.0	0.0	0.0	0.0	33.4	0.0

Estimate of any current year (FY98) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

HB 128 directs the Department of Environmental Conservation (DEC) to conduct research and adopt new regulations based on that research in order "to reconcile the sometimes conflicting demands of protecting water quality and encouraging the economic use of the state's water." Research results must be submitted to the Water Science Oversight Board for review and recommendation by June 30, 2002. After the Board's recommendations are received, the regulations development process would begin. Under the bill, the regulations proposed and adopted would be part of one process, with the same effective date for all.

The Department of Law anticipates no fiscal impact from this bill until FY 03. With the promulgation of a presumably large package of new regulations all at once, some additional legal resources would be necessary. While it is somewhat speculative to project what might be necessary in the fall of 2002, the department anticipates needing approximately 1/4 of an attorney's time, 360 hours, at a cost of \$33,400. Funding would be interagency receipts from a reimbursable services agreement with DEC.

Prepared by: Joan M. Kasson *Joan M. Kasson*
 Division: Attorney General's Office
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

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 Date: 2/13/98
 Date: 2/13/98

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ANALYSIS CONTINUATION:

The cost estimate is based on the department's FY 98/99 standard attorney cost schedule (\$92.72/hour) and includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses.

Key Provisions of House Bill 128 – Water Research

- I. Sets forth the intent of the legislature to provide for scientific research to serve as the basis for future decisions on water quality regulations.
- II. Requires and provides funding mechanisms for the scientific research to achieve this goal. The Department of Environmental Conservation and the Producer's Council are currently co-applicants for an ASTF grant to fund priority studies.
- III. Temporarily creates the Water Science Oversight Board to oversee the quality of research performed under this bill, to make recommendations to the department regarding research plans and regulations based on the research, and to make annual reports to the governor and the legislature.

Sponsor's Sectional Analysis – HB 128

“An Act relating to water quality; directing the Department of Environmental Conservation to conduct water quality research; establishing the Water Science Oversight Board; and providing for an effective date.”

The history of water quality standards in Alaska has at times been a painful one, marked by emotional and political battles. The goal of House Bill 128 is, to the greatest extent possible, to provide for scientific research to serve as the basis for future discussions and decisions on water quality standards and criteria. **Section 1** of the bill, Findings and Intent, sets forth this goal.

Section 2, AS 46.083.082 of the bill instructs the Department of Environmental Conservation to work cooperatively with interested parties affected by water quality regulations to seek funds to perform water quality research. The Council of Alaska Producers has proposed a joint application with the Department to the Alaska Science and Technology Foundation to fund water quality research.

ASTF has expressed keen interest in funding such research, but will not provide funding to a public agency without a private partner. ASTF is willing to accept multiple applications for different aspects of water quality research.

AS 46.03.083 directs the department, after receiving the results of the research and consulting with the Water Science Oversight Board, to propose water quality regulations.

AS 46.03.085 (a) temporarily establishes a Water Science Oversight Board composed of the Commissioner or her designee and four additional members, each of whom has academic credentials and Alaska based expertise in the field of water quality. One member is appointed by the chancellor of the University of Alaska and three members by the governor, one from a list of three candidates proposed by the senate president and one from a list of three candidates proposed by the speaker of the house.

(b) establishes compensation for those board members who are not public employees at \$300 per day, plus per diem and travel expenses.

(c) sets forth the board's duties. The board shall:

- (1) review and comment on research plans prepared by the department
- (2) meet at least once every three months to review the work of the department and its contractors under the research plans
- (3) report annually to the governor and house and senate resource committees on the department's progress
- (4) review the department's research results and make recommendations to the department for changes in water quality regulations
- (5) review the regulations proposed by the department
- (6) make a final report to the governor and the resource committees after reviewing final research results and proposed regulations

- (7) during the course of the research, offer advice as necessary to the department and the legislature regarding appropriate water quality regulations and standards for the state

Section 3 - Timelines for Actions

- (a) The department must submit to the Water Science Oversight Board at least on research plan by October 1, 1997.
- (b) The department shall submit its research results to the board by June 30, 2002.

Section 4 provides that AS 46.03.082 (research plans), 46.03.083 (water quality standards), and 46.03.085 (Water Science Oversight Board) are repealed on the effective date of regulations adopted as a result of the research process.



ANCHORAGE WATERWAYS COUNCIL

P.O. Box 241774 • Anchorage, Alaska 99524-1774 • 277-9287

May 2, 1997

The Honorable Rick Halford, Chair
Senate Resources Committee
State Capitol
Juneau, AK 99801-1182

RE: HB 128

Dear Senator Halford:

Anchorage Waterways Council is a non-profit organization composed of concerned citizens who consider Anchorage's waterways to be a valuable community resource. We work to prevent further water quality and habitat degradation and to protect, restore and enhance Anchorage's streams, lakes and wetlands.

We do not support HB 128. It fails to propose satisfactory remedies for any of the problems which may exist in Alaska's water quality regulatory programs and is thus contrary to the public interest in several respects.

The intended remedies proposed in HB 128 are unsatisfactory because they would reduce the effectiveness of the professional staff of the Alaska Department of Environmental Conservation (ADEC) in its regulatory duties:

1. Despite the fact that ADEC has a staff of scientists with Alaska expertise, the bill would interpose an oversight body composed overwhelmingly (80%) of political appointees between the Department and the resources it is charged with protecting. The scientific value of the Boards' academic credentials would be rendered nearly irrelevant by the political nature of their positions. In short, the "Water Sciences Oversight Board" could serve no useful purpose in developing water quality standards, but would add another layer of bureaucracy when the state is trying to simplify its government.
2. The bill would remove important ADEC regulatory options and replace them with legislatively imposed "interim" regulations. Since none of the current reviews of standards within ADEC will require much longer than a year to complete, the five year effective period of these "interim" standards appears obviously intended to be permanent.

HB 128 is also directly contrary to the public interest in several respects:

1. It would introduce micromanagement standards, regulations and precedents which represent preferential treatment for extractive industry at the expense of other sectors of the public. We view the mixing zone requirements as especially egregious since they would not only reduce ADEC's regulatory flexibility but would require ADEC to assume additional burdens of proof which should be borne by industry.
2. When the legislature imposes standards and regulations, instead of allowing their development by professionals in agency staffs, ordinary citizens lose an important opportunity for direct participation. The formal public process associated with ADEC's reviews helps assure that our whole community is heard, rather than just the mining industry.
3. By forcing a general "lowering of the bar" for industry, the bill promotes the idea that the public must accept degraded waters as the price of selected resource development. If money is available to fund an additional board, AWC would prefer to see a "Mining Sciences Oversight Board", charged with ensuring that only the most environmentally sound reclamation techniques are used within the State of Alaska. As well as protecting Alaska's aquatic resources, this board would help keep the state in compliance with the Clean Water Act and send out the clear message that Alaskans are responsible resource managers.

We appreciate the opportunity to comment.

Sincerely,



Julius Rockwell, Jr. PhD
Vice President

cc: Senate Resources Committee members
Office of the Governor
Michelle Brown, ADEC
Scott Feierabend, NWF
Cliff Eames, ACE

Calista Corporation

APR 30 1998

601 W. 5th Avenue, Suite 200 • Anchorage, AK 99501-2226 • (907) 279-5516 Facsimile (907) 272-5060
April 23, 1998

Senator Rick Halford
Alaska State Senate
State Capitol
Juneau, Alaska 99801

Dear Chairman Halford:

I am writing this letter in support of HB 128, which directs the Department of Environmental Conservation to conduct research on Alaska's water quality in conjunction with the Alaska Department of Fish and Game with funding from the Alaska Science and Technology Foundation.

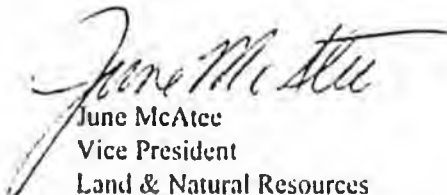
It is important that water quality regulations be founded on scientific data relevant to the conditions of the region where regulated activities occur. Water quality regulations need to be based on appropriate criteria relevant to Alaska. Indigenous aquatic species should be used to establish toxicity, and actual limnologic conditions, such as temperature, dissolved gases and pH levels of streams in Alaska affect the chemical activity and transport of metals.

I am particularly gratified to see that a Water Science Oversight Board proposed for creation by this proposed legislation would be based on scientific considerations of the water quality issue. We support the establishment of a Water Science Oversight Board because candidacy for membership on the board would be based on academic training and Alaska-based expertise in water quality or related fields. This is certainly an improvement on previous situations, in which the state found itself forced to comply with the National Toxics Rule. This Rule was imposed on Alaskans based on criteria developed elsewhere in the nation, and disregarded the actual levels of naturally-occurring elements and physical and chemical conditions found in Alaskan waters.

This issue has relevance for Calista Corporation, whose lands encompass the Kuskokwim Mineral Belt, where there are local areas of naturally occurring, anomalous levels of mercury and arsenic in bedrock and sediments. These areas have and continue to support healthy populations of wildlife, fish, and people who depend on these resources. Development in these areas would have been severely hampered under the Toxics Rule, yet development of a diversified economy and its related jobs are critical needs of the people who live in our region.

The Donlin Creek gold exploration project, now being conducted by Placer Dome Inc. on Calista/Kuskokwim Corporation land near Crooked Creek, is a notable example of a development project which will be directly impacted by water quality issues. Water quality will be a critical factor in determining the feasibility of additional development at Donlin Creek. Such determinations must be based on the best scientific data available about local water quality conditions at the project site.

Sincerely,



June McAtee
Vice President
Land & Natural Resources

cc: Mike Miller, President of the Senate
Gail Phillips, Speaker of the House of Representatives
Resource Committee Members
Representative Ivan M. Ivan
Representative Richard Foster
Senator Lyman Hoffman
Senator Albert P. Adams

APR 02 1998

RAVEN ENVIRONMENTAL SERVICES

NATURAL RESOURCES CONSULTING PERMITTING TECHNICAL SUPPORT
628 BASIN ROAD, JUNEAU, ALASKA 99801
907-586-2459

April 2, 1998

Senator Rick Halford
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Re: HB 128

Dear Senator Halford:

As I mentioned to you yesterday, I have reservations regarding passage of HB 128 which is presently in the Senate Resources Committee. My concerns are focused on the composition and selection of members of the Scientific committee and the cost of this program to the State. In speaking to these concerns let me digress to some anecdotal background material.

I was involved with trying to establish a scientific review committee for water quality within the Hickel Administration. This was to be a nine member board of experts drawn from academia, government, and industry within North America. Members were recognized researchers in the field with extremely strong academic and research credentials. All of the proposed board members were from out of State with no strong political or special interest group affiliations. The board was to advise DEC on the credibility of science underpinning current regulations and proposed changes to them, status of current science on water quality issues, and the relative risks associated with proposed State positions. This board would have required between \$200K and \$500K to operate each year.

While the concept was readily accepted by DEC and the Governors office, I was unable to get either DEC or the Governors office to rearrange priorities to fund the Scientific Advisory Board. Nor were they willing to sponsor legislation to establish such a board. Given this disposition at a time when the State budget was higher, I question the willingness of DEC to prioritize and commit funding to make a scientific advisory board work when budgets are more constrained now than they were in the early 1990's. I suggest that if you consider moving this legislation forward that the adequacy of funding and commitment of DEC to make it work be examined very closely.

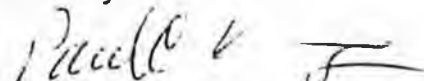
My second major concern involves the board composition and number of members. In my previous attempt to establish a scientific advisory board, as many as 18 members were considered. This number was ultimately pared down to nine due to cost considerations. However, water quality is a specialized art nowadays. Only a few positions on a board can be occupied by generalists, the rest must be highly specialized scientists well versed in their disciplines. These disciplines are surprisingly narrow. For example an organic chemist may be an expert on volatile organic compounds but not be able to deal with non-volatile organics. There are researchers who have specialized careers dealing only with dissolved gases in water! Given the complexity of issues, and the high costs associated with treatment, a scientific advisory board needs many members to adequately provide credible advice. HB 128 provides only for 5 members, with no guarantee that these 5 will be nationally or internationally renowned experts on water quality issues and the science supporting regulations.

I would strongly recommend that if you move HB 128 forward that the number of members on the board be increased, specific areas of expertise be defined for each board position, minimum credentials be established in order to consider a candidate for a board position, and that the board appointments be as apolitical as possible.

One way of depoliticizing the scientific advisory board would be to establish a 3-5 member selection committee, perhaps similar to that in the present Bill, that will review applications and make final appointments to the scientific advisory board. Appointment of a candidate would require either a majority or unanimous vote of the selection committee. Such an arrangement might strike a good balance for membership on the scientific advisory board so that their recommendations would subsequently be used by DEC in their dealings with the EPA and adoption of future regulations.

Thank you for taking the time to listen to me on my concerns with HB 128. I hope that you will either not move the Bill; or if you do, that you will consider my recommendations to make it a meaningful piece of environmental legislation that will help foster good water resources stewardship consistent with the mandates of the State constitution.

Sincerely,


Paul C. Rusanowski, Ph.D.
Principal

HB

141

DEVELOPMENT OF THE FISHERY FOR WEATHERVANE SCALLOPS, *PATINOPECTEN CAURINUS* (GOULD, 1850), IN ALASKA

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ABSTRACT The Alaska scallop fishery harvests weathervane scallops, *Patinopecten caurinus* (Gould 1850), in the Gulf of Alaska and Bering Sea, although small quantities of *Chlamys* spp. were harvested in recent years. The fishery began in 1967 and evolved from a sporadic, low-intensity fishery to one characterized by a highly specialized fleet by 1993. An influx of larger, more efficient vessels from 1990 through 1993 increased harvests and altered the character of the fishery. Vessel length increased 85% from a mean (± 1 standard error) of 18.5 ± 2.9 m in 1983 to 34.3 ± 4.5 m in 1991, and crew sizes doubled. The number of scallop landings increased significantly from 65.9 ± 8.3 y⁻¹ during 1980 through 1989 to 140.7 ± 3.3 y⁻¹ during 1990 through 1993, although the mean number of vessels did not change significantly between the two periods. Scallop harvests averaged 667.1 ± 54.8 mt of shucked meats from 1990 through 1993, three times the average harvest of 216.7 ± 30.3 mt from 1983 through 1989. The percentage of the fleet's total Alaskan fishing income derived from the scallop fishery increased from 57.7% in 1983 to 100% by 1990. The decreased diversification of scallop vessels into other fisheries represented a shift from a part-time fleet to a dedicated, full-time scallop fleet with greater harvesting efficiency. New management measures were adopted to address the changing nature of the fishery and included altered fishing seasons, observer coverage, area harvest limits, ceilings on catch of incidental species, restrictions on crew size and a moratorium on vessels fishing in the exclusive economic zone.

KEY WORDS: Scallops, fishery, *Patinopecten caurinus*, Alaska

INTRODUCTION

The commercial fishery in Alaska for weathervane scallops, *Patinopecten caurinus* (Gould 1850), is a relatively small fishery occurring primarily in the Gulf of Alaska and the Bering Sea in the northeastern Pacific Ocean. Although other scallop species (*Chlamys pseudoislandica* and *C. rubida*) were harvested in 1991 and 1992 in small directed fisheries in the Aleutian Islands or caught incidentally in the fishery for weathervane scallops, their contributions to the total harvest were minimal.

Interest in the Alaskan fishery developed in the late 1960s at the time catch-per-unit-effort (CPUE) was declining in the U.S. and Canadian scallop fisheries on Georges Bank (Orensanz 1986). The decreasing supply of Georges Bank scallops to U.S. markets and increased prices encouraged development of new fisheries and expansion of existing fisheries worldwide to meet the demand for scallops (Caddy and Lord 1971).

The contribution of the Alaskan fishery to the total U.S. harvest of scallops is small, but has grown in recent years. Landings for Alaska and U.S. are commonly reported as shucked meat weight (e.g., U.S. Dept. Commerce 1993). The Alaskan percentage of the U.S. harvest increased from an average of 1.7% from 1980 through 1985, to 2% from 1986 through 1990, to 4% in 1991 through 1992 (U.S. Dept. Commerce 1982-1993). The larger percentage resulted from declining harvest in other U.S. fisheries and increased harvest in the Alaskan fishery. Worldwide scallop landings are commonly reported as live whole weight (e.g., Anonymous 1991). Shucked weight of weathervane scallops averages 11.5% of whole weight (Haynes and Powell 1968). Thus, in 1991 the Alaskan harvest of 536 mt shucked weight was approximately 4,661 mt (0.57%) of the world scallop harvest of 816,000 mt whole weight (Anonymous 1991).

Because the Alaskan scallop fishery was relatively minor until recently, it was passively managed and data collection was minimal. Without a time series of routine abundance and catch sampling data, historical description of stock dynamics is not possible. Standardized CPUE data are unavailable. In any case, CPUE data may not be indicative of relative abundance due to the spatial distribution of scallop beds and the pattern of vessel movement among beds to sustain high CPUE (Orensanz et al. 1991). On the other hand, good records on landings, vessels, and participants have been maintained since the inception of the fishery.

In this paper, we review the geographic distribution of weathervane scallops in Alaska and chronicle the development and management of the commercial fishery, with particular emphasis on the evolution of the scallop fleet from a part-time, diversified, small-vessel fleet to a full-time, large-vessel fleet fishing almost exclusively for scallops.

MATERIALS AND METHODS

We analyzed databases of commercial vessel license applications, commercial fishing permit applications, and fish tickets which are maintained by the Alaska Department of Fish and Game (ADF&G) and Commercial Fisheries Entry Commission. Vessel license applications contain data on fishing vessels such as length, whereas fishing permit applications include information on permit holders such as residency, age, fishery and type of fishing gear.

Fish tickets are sales receipts which include information such as the date of landing, species, number and weight of fish caught, and area of harvest. In Alaska, scallop landings data are generally considered to be accurate, because there have been fewer than 20 vessels to monitor and overall compliance with fish ticket requirements is excellent. The scallop harvests reported herein include all

species, and represent weights of shucked meats without roe. Alaska state statutes protect the confidentiality of individual fishers' harvests and earnings. To maintain the confidentiality of this information, we omitted scallop harvest and earnings data when the number of persons or number of vessels participating in the fishery was less than four. For this reason, data were considered confidential in 1976, 1977 and 1979.

The Weathervane Scallop

The weathervane scallop, *P. caurinus*, is a large, long-lived species. The largest specimen recorded in Alaska was 250 mm shell height (SH), and had an adductor meat weight of 340 g (Hennick 1973). Bourne (1991) reported weathervane scallops over 20 years of age from the Strait of Georgia, British Columbia, and scallops up to age 28 have been found in Alaska (Hennick 1973).

Weathervane scallops are distributed along the western coast of North America from California northward to the Bering Sea and westward as far as the Aleutian Islands in depths to 300 m (Grau 1959, Bernard 1983). Commercial quantities of weathervane scallops in Alaska are located primarily in the relatively shallow waters of the submerged continental shelf (Kaiser 1986, Fig. 1). From 1973 through 1976, 68 to 100% of the calculated scallop biomass in Alaska was reported at depths of 0 to 100 m, and commercially harvestable quantities were identified at depths of 46 to 128 m (Ronholt et al. 1977). *P. caurinus* in the northeastern Gulf of Alaska comprised 31% to 37% of the benthic biomass, at depths of 100 m or less (Feder et al. 1981). Unfortunately, scallop assessment surveys were conducted in only a few years and their geographic coverage was limited.

Locations of commercially important beds of *Placopecten magellanicus* on the Atlantic coast were characterized in areas with oceanographic features, including persistent tidal gyres, which contribute to retention of pelagic larvae in the area during the larval period (Sinclair et al. 1985, Caddy 1989). The dominant oceanographic feature of the Gulf of Alaska is a permanent, counterclockwise gyre of the Alaska Current which generally parallels the continental slope at velocities of 30 to 100 cm s⁻¹. The velocities are relatively slow, but as the current narrows into the Alaskan Stream from Kodiak Island westward, velocities increase to a maximum of 100 cm s⁻¹ (Food 1986). Shoreward of the shelf break, the Alaska Coastal Current borders the Gulf of Alaska from the southeastern panhandle to beyond Kodiak Island and into the Bering Sea. The Alaska Coastal Current flows counterclockwise and is driven by wind and freshwater discharge (Royer 1983).

The largest commercial scallop harvests in Alaska were produced from the coastal margin of the Gulf of Alaska near Kodiak and Yakutat (Fig. 1). Smaller harvests occurred in Southeast Alaska, Prince William Sound, Cook Inlet, Dutch Harbor and the Bering Sea. Analyses have not been completed to determine if scallops in these areas are genetically distinct populations, although larvae could conceivably be transported by currents between some of the closer areas.

Weathervane scallops are found in aggregations which tend to form elongated beds, oriented along the direction of current flow as described for other scallop species (Orensanz 1986, Caddy 1989), on substrates of sand, mud, clay and gravel (Hennick 1973). Growth and size at maturity of weathervane scallops may vary spatially within beds in the same area or between beds in geographically different areas (Haynes and Hitz 1971, Orensanz

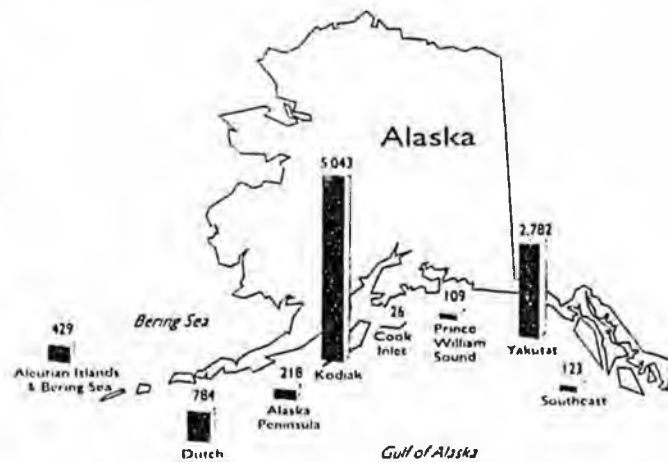


Figure 1. Distribution of total commercial scallop harvest in the Gulf of Alaska and Bering Sea from 1967 through 1993. Cumulative harvests in metric tons of shucked meats are indicated above the bar for each area; bar height is proportional to the area harvest.

1986, MacDonald and Bourne 1987, Caddy 1989). Based on von Bertalanffy growth estimates, weathervane scallops sampled in 1975 from Marmot Flats off the northeast side of Kodiak Island grew faster (131 mm SH at age 4) and achieved larger asymptotic sizes ($L_{\infty} = 190$ mm SH) than those sampled in 1980 from Cape St. Elias to Cape Fairweather in the eastern Gulf of Alaska (91 mm SH at age 4; $L_{\infty} = 144$ mm SH) (Kaiser 1986). Growth and mortality rates may be density dependent (Orensanz 1986) or may vary with spatial differences in temperature or feeding conditions (MacDonald and Thompson 1985).

Annual survival of long-lived species, such as the weathervane scallop, tends to be high. Kruse (1994) estimated the instantaneous natural mortality (M) of *P. caurinus* between 0.04 and 0.25, corresponding to annual mortality rates of 4 to 22%. A median estimate of $M = 0.16$, corresponding to 15% annual mortality, was obtained using Hoenig's (1983) method based on a Hennick's (1973) maximum scallop age of 28 (Kruse 1994).

The level of fishing mortality for weathervane scallops in Alaska is unknown. For other species of commercially important scallops, direct and indirect mortalities have been identified in association with fishing activities. Direct mortality includes damage or crushing within scallop dredges, and handling and exposure of undersized scallops that are later returned to the sea (Naidu 1988, Medcof and Bourne 1964). Indirect mortality results when scallops in the path of a dredge are not caught but are lethally damaged or exposed to increased predation as predators are attracted to dredge tracks (Caddy 1968, Elnor and Jamieson 1979, Caddy 1973). Indirect fishing mortality of Iceland scallops, *Chlamys islandica*, was estimated to range up to 17% or 31%, depending on the type of dredge used (Naidu 1988).

The vulnerability of scallops to fishing mortality may be increased by commensal or parasitic organisms. Scallops in the Cape Yakutat/Cape Yakutat region of Alaska were reported to be infested by the burrowing, spionid polychaetes *Pygospio elegans* and *Polydora ciliata* in the mid- and late-1970s (Feder et al. 1981). The polychaetes weakened the valves and increased the susceptibility of scallops to breakage in trawls or dredges.

The Fishery

The commercial scallop fishery progressed through several developmental phases along the Alaskan coast. In the initial phase

from 1967 through 1977, previously unexploited scallop beds were explored and harvested. Scallop landings were greatest in the years 1968 and 1969 (Fig. 2). Harvest effort decreased from 1970 to 1978, and a smaller, more stable fishery followed from 1979 through 1989. Beginning in 1990, the fishery for weathervane scallops in Alaska expanded with an influx of new, more efficient vessels. New state and federal management regimes were implemented in 1993 and 1994 to address concerns in the growing fishery.

The first commercial landings of weathervane scallops in the Alaskan fishery were made in 1967 in the western Gulf of Alaska near Kodiak Island. The fishery consisted of two vessels which delivered scallops alive and in the shell to processors on shore for an ex-vessel price of 50.15 kg^{-1} (Kaiser 1986). The fishery expanded rapidly in 1968 and 1969 when 19 vessels entered the fishery in the Kodiak area and the eastern Gulf of Alaska near Yakutat. A record harvest for the Alaskan fishery of 839.2 mt was produced in 1969. The costly process of shucking scallops by shore-based processors was soon abandoned, and scallopers began delivering shucked meats to processors for freezing and packaging (Kaiser 1986). The weighted average ex-vessel price for shucked meats in 1969 was 51.89 kg^{-1} . Unsuccessful attempts were made to extract scallop mantles and gonads for sale as frozen food (ADF&G 1968). To this date, a market for "roe-on" scallops has not developed, and shucked meats continue to be the only product of the Alaskan scallop industry.

During the years 1970 through 1978, the scallop fishery entered a phase of declining effort and harvest. Harvest levels of 1968 and 1969 were not sustained. More restrictive management measures, such as closed areas to limit bycatch, may have contributed to a reduction in the fishery. A catch sampling program conducted during 1968–1972 showed that the largest scallops were fished from previously unexploited populations. Hennick (1973) estimated catch age composition by enumerating annuli on the left valves of scallops. In the early years of the fishery the majority of scallops sampled from commercial harvests were at least 7 years old, but by the early 1970s, the percentage of scallops 2 to 6 years old had increased (Hennick 1973, Fig. 3). Scallopers continued to explore for new beds in attempts to boost their harvests in response to the decreasing abundance of large scallops.

The number of vessels in the fishery dropped from 19 in 1969 to 7 in 1970, but because the most efficient scallop vessels remained in the fishery (Kaiser 1986), the relatively high harvests continued from 1970 through 1973 and mean (± 1 standard error

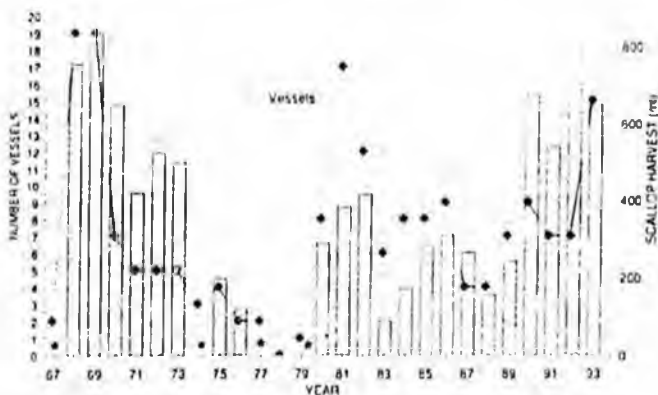


Figure 2. Annual scallop harvest (metric tons of shucked meats) and number of vessels fished in the Alaskan scallop fishery. Confidential harvests are indicated by an asterisk (*).

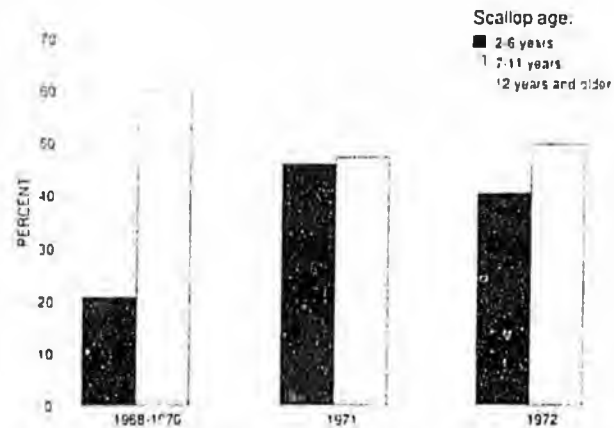


Figure 3. Age composition of scallops sampled from 1968 through 1972 commercial harvests from the Kodiak and Yakutat areas combined (Hennick 1973).

landings were $522.9 \pm 94.9 \text{ mt y}^{-1}$. By 1977, the number of vessels had dwindled to two. The fishery was opened in 1978, but no vessels participated and commercial harvest of scallops ceased.

The scallop fishery emerged again in 1979 with one vessel fishing off Kodiak Island. Marked increases in ex-vessel prices from an average of 33.49 kg^{-1} in 1976 and 1977 to 56.11 kg^{-1} in 1979 to 59.23 kg^{-1} in 1981 stimulated more interest in the fishery, and the number of vessels increased to 17 by 1981. Kaiser (1986) attributed much of the growth in the Alaskan fishery to an influx of vessels from the east coast of the U.S. A five-fold increase in the number of vessels in the Atlantic sea scallop fishery from 1975 through 1979 and a 22% decrease in the sea scallop harvest from 1978 through 1981 (NEFMC 1982) caused scallopers to move to the west coast in search of more productive scallop fisheries. This search led to an intense fishery for weathervane scallops off the Oregon coast in 1981 in which 532 mt (shucked weight) was harvested by 118 vessels (Starr and McCrae 1983). Subsequent landings in Oregon have been small (Bourne 1991).

Vessels began harvesting scallops from new areas of Alaska in the 1980s. Whereas previous fisheries occurred entirely in the Kodiak and Yakutat regions of the Gulf of Alaska, an increasing percentage of the harvest in the 1980s was from less traditional areas. Scallops were harvested from Southeast Alaska along the Alexander Archipelago south of Yakutat, for the first time in 1980. The first scallop harvest from the Alaska Peninsula in the western Gulf of Alaska south of Kodiak was recorded in 1982. Harvests were reported from the Dutch Harbor area of the Aleutian Islands beginning in 1982, and the first harvest from Cook Inlet was produced in 1983. Expansion of the scallop fishery continued into the Bering Sea in 1986. From 1983 through 1989, effort in the Alaskan fishery varied from 4 to 9 vessels. The harvest level fluctuated during that period, and averaged $216.7 \pm 30.3 \text{ mt y}^{-1}$.

Expansion of the fishery continued as scallopers explored and exploited new scallop grounds further west along the Aleutian Islands chain to Adak in 1991. In 1992, scallops were harvested from Prince William Sound in the north central Gulf of Alaska for the first time.

The period from 1990 through 1993 represented the most recent growth phase in the fishery. The average harvest more than tripled from an average of $216.7 \pm 30.3 \text{ mt y}^{-1}$ during 1983 through 1989 to $667.1 \pm 54.8 \text{ mt y}^{-1}$ from 1990 through 1993. The 1992 harvest of 806.9 mt, with an ex-vessel value of \$6.9

million, was the second largest recorded in the Alaskan scallop fishery. Although scallop harvests were much larger, effort was similar to that of recent years. Nine vessels fished in 1990 and 7 vessels in 1991 and 1992.

The number of vessels in the scallop fishery doubled to 15 in 1993. As in the early years of the fishery, many of the new vessels entering the fishery from 1990 through 1993 were east coast scallopers. A proposed moratorium in the Atlantic sea scallop fishery (NEFMC 1993) caused some vessels, which would be excluded from the east coast fishery by the moratorium, to move into west coast scallop fisheries.

In 1993, the North Pacific Fishery Management Council (NPFMC) considered a vessel moratorium for the Alaska fishery within the exclusive economic zone (3–200 miles) and gave notice to scallopers that new participants in the fishery after January 20, 1993 may not qualify to fish during a moratorium (NPFMC 1993). Effort escalated in anticipation of a moratorium in the Alaska scallop fishery as vessel owners established their eligibility by harvesting scallops in Alaska prior to January 20, 1993. State management agencies also considered a moratorium on new entrants within territorial (0–3 miles) waters (Kruse et al. 1992).

Vessel Length

Vessel size in the Alaskan scallop fishery increased substantially from the onset of the fishery in 1967. During the developmental period of the Alaskan fishery, scallop vessels consisted of a variety of converted crab, halibut and shrimp vessels, as well as scallop vessels from the east coast of the U.S. The east coast vessels averaged 24 to 28 m keel length and were capable of fishing two scallop dredges 3 to 5 m wide. These were the most efficient harvesters in the fleet (Kaiser 1986). Other vessels were fishing modified beam and otter trawls and an assortment of scallop dredges of various sizes.

Kaiser (1986) summarized vessel lengths in the scallop fishery from ADF&G data for 1967 through 1981. Vessels that fished in the Kodiak area were reported separately from vessels in Yakutat, although some vessels fished in both areas. Vessels that fished near Yakutat varied in length from 12 to 16 m to 24 to 28 m from 1967 through 1977. The largest number of vessels each year is 24 to 28 m in length. Similarly, most scallop vessels that fished in the Kodiak area were 24 to 28 m, although the size range for Kodiak vessels was greater than the range for Yakutat vessels in the early years of the fishery. Kodiak vessels varied from a 6 to 10 m length class to 48 to 52 m in length.

Vessel lengths after 1977 are shown in Figure 4 for all fishing areas combined. The largest component of the fleet in most years was the 18 to 31 m vessel class (Fig. 4A). Registered vessel length averaged 25.1 ± 0.8 m from 1980 through 1982 (Fig. 4B). An influx of vessels smaller than 18 m was evident beginning in 1982 and was associated with initiation of a scallop fishery in the Cook Inlet area where vessels tended to be smaller than vessels fishing in other areas. The mean vessel length reached a minimum of 18.5 ± 2.9 m in 1983 as a result of the increase in small vessels.

By 1988 all scallop vessels in the Alaskan fleet were larger than 18 m. Mean vessel length increased as the number of vessels over 31 m began to rise. Vessel size was largest during the years 1990 through 1992, when the percentage of vessels over 31 m varied from 30 to 57% of the fleet (Fig. 5). Mean length in 1991, 34.3 ± 4.5 m, was 85% larger than the mean length of 18.5 ± 2.9 m in 1983. The mean vessel length dropped to 26.8 ± 1.7 m as more vessels under 31 m in length entered the fishery.

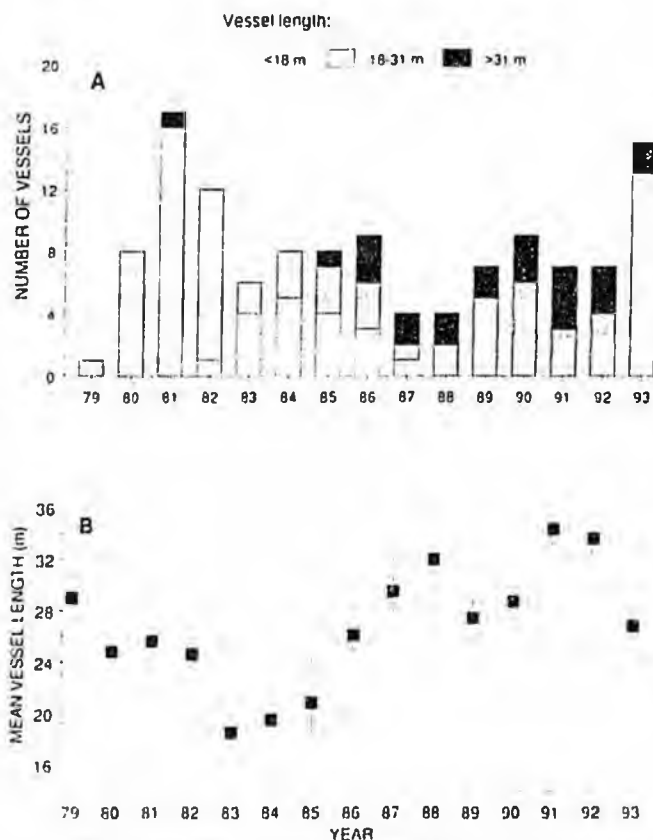


Figure 4. (A) Annual number of vessels in the Alaska scallop fishery from 1979 through 1993, by vessel length class. (B) Annual mean vessel lengths ± 1 standard error.

Fishing Capacity

One of the more important changes in the scallop fishery was the change in fishing capacity of the fleet. Fishing capacity was measured as the mean number of scallop landings (deliveries) per year and the mean size of landings.

In a previous study, we reported an escalation in the number of landings in the Alaskan scallop fishery in recent years (Kruse and Shirley 1994). A Student's *t*-test (SAS 1989) revealed that the mean number of landings of 140.7 ± 3.3 in 1990 through 1993 was significantly larger ($p \leq 0.01$) than the mean of 65.9 ± 8.3 landings in 1980 through 1989. The number of landings increased although the mean number of vessels fished per year from 1990 through 1993, 7.7 ± 0.7 , was not significantly different from the number of vessels fished in the earlier period, 8.3 ± 1.2 . The mean landing size (in mt) was not significantly different between the two time periods.

Diversification of Fishing Income

The proportion of Alaska fishing income derived from the scallop fishery was used as an indicator of the economic dependence of vessels on the scallop fishery and the extent of effort exerted in the fishery by these vessels. All ex-vessel earnings (gross receipts paid to fishers) from Alaskan fisheries were compiled annually for vessels that made scallop landings each year. Scallop earnings were calculated as a percentage of the scallop fleet's total earnings to estimate the degree of diversification from 1975 through 1992. The fleet was considered to be more diversified in years when the percentage of fishing income derived from scallops was low and

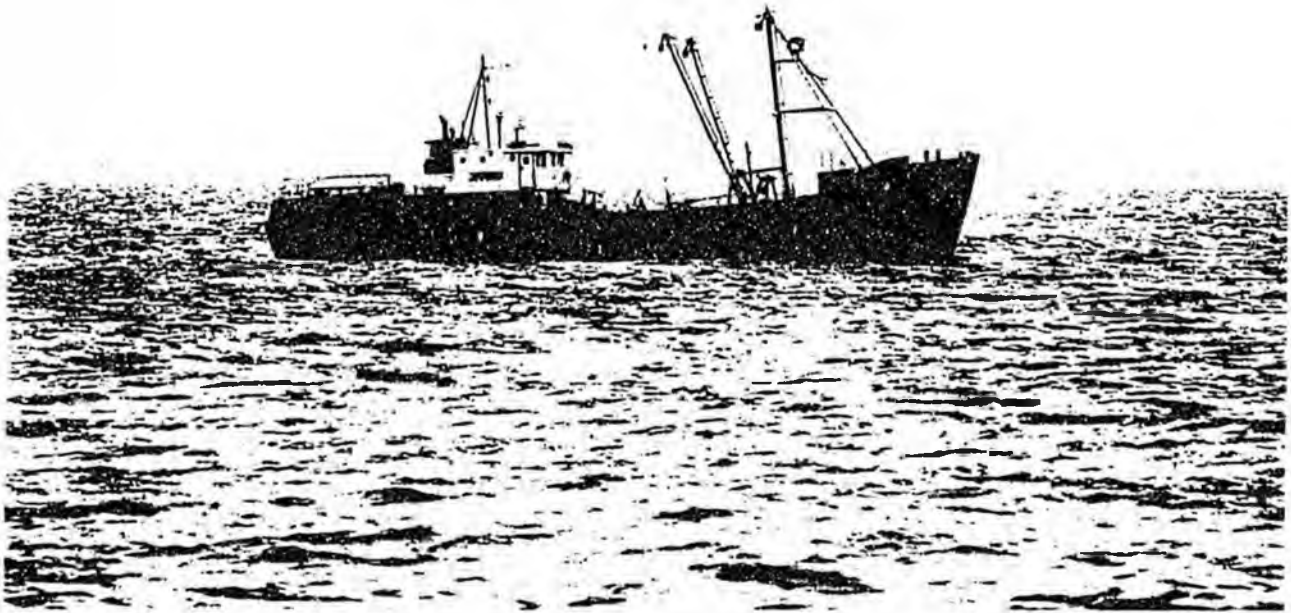


Figure 5. The commercial scallop vessel F/V PROVIDER which is an example of the type of vessel which has been used in the Alaskan scallop fishery since 1990. (Photo by Augustine Delahay)

less diversified in years when scallops contributed larger percentages to the fishing income.

The percentage of fishing income derived from the scallop fishery varied over time from a low of 57.7% in 1983 to 100% in 1979, 1990 and 1991 (Fig. 6). In 1975 through 1979, effort and harvests were reduced, and almost all fishing income for the few vessels during that period was generated from the scallop fishery.

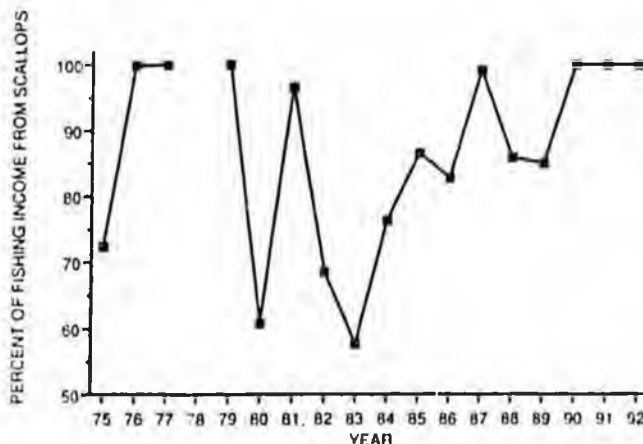


Figure 6. Percent of total ex-vessel fishing income derived from the scallop fishery for vessels participating in the fishery from 1975 through 1992. Total fishing income does not include any income generated from fisheries outside of Alaska.

Small percentages of non-scallop income were produced from king crab, halibut and salmon fisheries.

The contribution of scallops to total fishing income generally decreased after 1979 to the lowest level in 1983, suggesting an increased diversification of the fleet into fisheries other than scallops. Scallop vessels were also used in king crab, Tanner crab, shrimp, salmon, halibut and herring fisheries during that period.

Diversification of the scallop fleet began to change in 1983. The percentage of fishing income produced from the scallop fishery increased from 1983 to 1990. By 1990, scallops contributed 100% of the fishing income for the first time since 1979. All of the fishing income for the scallop vessels from 1990 through 1992 was produced from the scallop fishery. The change in fishing income represented a shift from a diversified fleet in the 1980s to a fleet concentrating almost entirely on scallops. The number of landings and the total harvest increased concurrently.

The contribution of the scallop fishery to total fishing income was not directly related to ex-vessel price of scallops or to the total scallop harvest. Ex-vessel prices remained relatively stable from 1982 through 1992, although when corrected for inflation, the price of scallops decreased over time (Kruse and Shirley 1994).

Harvesting Efficiency

The harvesting efficiency of the scallop fleet improved during the 1980s and 1990s. As vessels became larger and more specialized, crew sizes expanded and mechanical shuckers came into use. The average crew size for scallop vessels during 1980 through

1984 was estimated to be 5 persons per-vessel in the Yakutat area, 6 per-vessel in Prince William Sound, 6.3 per-vessel in Cook Inlet, the Alaska Peninsula, Aleutian Islands and Bristol Bay, and 8 per-vessel in Kodiak (Alaska Department of Labor, unpublished). By 1993, all vessels except the smallest in the fleet carried 12-person crews (NPFMC 1993). The Alaska Board of Fisheries limited the crew size on scallop vessels to 12 persons in 1993.

The use of mechanical shucking devices in Alaskan scallop fisheries was first reported in the 1991 fishery (Griffin and Ward 1992). Automatic shucking machines were employed to make harvest of smaller scallops more economical (Kruse and Shirley, in press). Although shucking machines were used primarily on vessels exploiting *Chlamys* spp., their use in processing weathervane scallops was banned in Alaska in 1993.

DISCUSSION

Alaska's commercial fishery for scallops evolved from a sporadic, low-intensity fishery to a fishery characterized by a highly specialized fleet capable of harvesting with greater efficiency. This growth and specialization within the fishery created conservation concerns for the scallop resource. Recent anecdotal reports indicated that the proportion of smaller scallops harvested in the commercial fishery may be increasing (NPFMC 1993). Additional concern has arisen over the increased threat to species caught incidentally in non-selective scallop dredges. Particularly vulnerable are benthic migratory species, such as crab, which move into shallower depths during their molting and mating periods (Haynes and Powell 1968, Hennick 1973, Stone et al. 1992). Protection of non-targeted species is especially critical in some areas of Alaska where depressed populations of commercially valuable king and Tanner crabs are rebuilding.

The rapid growth, specialization and over-capitalization of the scallop fishery may have jeopardized the economic viability of the fishery. Larger vessels and crews and mandatory observer coverage have increased operating costs for scallop vessels. Shorter fishing seasons and harvest limits have constrained the earning potential in the scallop fishery.

With increased competition, over-capitalization and decreased ex-vessel value, the tendency for some fisheries in Alaska has been for vessels to become more diversified by participating in more fisheries in order to maintain the level of income necessary to support their operations (Shirley 1993). More restrictive measures (e.g., harvest limits, seasons, crab bycatch caps) recently adopted by state and federal management agencies may also cause some scallop vessels to diversify their fishing activities.

Management changes have been made to address some of these problems in the fishery and to provide more scientific data to analyze the impact of the fishery on Alaskan scallop populations. For many years, the small scallop fishery prompted few conservation or management concerns, and was managed using gear restrictions, fishing seasons and closed areas (Kruse and Shirley, in press). The Alaska scallop fishery recently shifted from a passive management mode to more active management and monitoring of the fishery in response to expanded effort and increased harvest levels in the 1990s.

A management plan adopted in 1994 established a more comprehensive management regime for the scallop fishery (Kruse 1994). Scallop gear in Alaska was restricted to two New England-style dredges (Bourne 1964) per vessel, with a maximum dredge

width of 4.57 m and a minimum ring size of 10.16 cm. Dredges used in Cook Inlet cannot exceed 1.83 m in width. Alaskan waters were divided into 9 registration areas, and vessels are now required to register with ADF&G before harvesting scallops in an area. Annual harvest limits were established for each registration area. All scallop vessels are required to have, and pay for, observers on board to monitor incidental catch of crab and collect biological data on scallops. Restrictions on scallop crew size and prohibition of automatic shucking machines on vessels fishing for weathervane scallops were implemented to control harvesting efficiency. Fishing seasons were amended in the new plan to protect molting and mating crabs from incidental harvest by scallop dredges. The regulatory season extends from July 1 in most areas (August 15 in Cook Inlet) through February 15. In the Yakutat and Prince William Sound areas, the season opens on January 10. The fishing season ends when the harvest limit has been met, when the incidental catch limit has been met, or on the regulatory closing date, whichever comes first.

The NPFMC adopted a federal management plan for scallops in 1994 which included a moratorium on vessels fishing in the exclusive economic zone (NPFMC 1993). Vessels fishing scallops outside of territorial waters were previously managed by ADF&G in the absence of a federal management plan. Management changes provided by the new ADF&G and NPFMC management plans should help to curtail rapid expansion of the scallop fishery.

Because the weathervane scallop is a long-lived, slow-growing species with low natural mortality, it may be vulnerable to overfishing (Adams 1980). Historically, an overall depletion of scallop populations may have been avoided because of the widespread distribution of scallops in the Gulf of Alaska and the Bering Sea and the small fleet's motivation to move to new areas to maintain catch rates or to other fisheries. However, some local populations may have been overfished. As a fishery begins on virgin stocks it is normal for age composition to shift toward younger ages. However, the magnitude of the age shift during the early years of the fishery, coupled to subsequent fishery performance, suggests to us that high harvests during the early years of the fishery off Kodiak and Yakutat may not have been sustainable over the long term. Unfortunately, fishery-independent data are unavailable to verify whether overfishing occurred.

Oceanographic features similar to those described by Sinclair et al. (1985) and Caddy (1989) for self-sustaining scallop populations also may have contributed to the apparent resiliency of weathervane scallop populations in Alaska. Nonetheless, recent expansion of fishing capacity by the fleet concerned fishery managers who sought to conserve and sustain natural populations, and thereby avoid stock collapses that have often occurred in many other scallop fisheries after periods of intense fishing (Orensanz 1986, Bourne 1991, Gwyther et al. 1991, Orensanz et al. 1991, Piquimil et al. 1991). As biological data are collected from the new observer program, our knowledge of the sustainability of exploited weathervane scallop populations in Alaska should improve markedly with the estimation of recruitment, growth and mortality parameters.

ACKNOWLEDGMENTS

We thank Don Huntsman for producing the income diversification data, Thomas C. Shirley and anonymous reviewers for their helpful comments on the manuscript.

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SENATE COMMITTEE REPORT

DATE: 4/14/97

FURTHER:

DATE TURNED IN TO OFFICE: 5/8/97

Resources Committee considered CS FOR HOUSE BILL NO. 141(RES) am

"An Act relating to a vessel permit moratorium for the Alaska weathervane scallop fishery; relating to management of the scallop fisheries; and providing for an effective date."

and recommends:

- be replaced with S CS HB 141 (RES)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by Committee
- further referral to the Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical change
 - new: SCR#

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>John Long</i>	✓	<i>Lyde Green</i>	✓		
<i>Drew A. Roman</i>	✓	<i>Richard Halford</i>	✓		
CHAIR:		CHAIR: <i>Richard Halford</i>	✓		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>CFEC</i>	<i>2/24</i>	<i>X</i>	

APPLIES TO SCS

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No. 1
 Bill Version: CSHB 141(FSH)
 (H) Publish Date: 2/27/97

STATE OF ALASKA
 199 / LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Fish and Game
 Title: An Act relating to a vessel permit moratorium for the Alaska BRU: Commercial Fisheries (Limited) Entry Commission
weathervane scallop fishery; relating to management of scallop fisher Component: Limited Entry Program Administration
 Sponsor: Rep. Austerman
 Requester: Rep. Austerman COMPONENT SERIAL NO. 0471

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared By: Roger Kolden Phone: 789-6160
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 2/24/97

Approved by Commissioner: Dale Anderson Date: 2/24/97
COMMITTEE COPY Commercial Fisheries (Limited) Entry Commission

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 141(RES) am

1 Page 3, lines 15 - 19:

2 Delete all material.

3 Insert "unless

4 (1) the vessel has landed at least 1,000 pounds of weathervane scallops
5 that were legally taken in the statewide Alaska weathervane scallop fishery
6 registration area

7 (A) during calendar year 1995 or 1996; and

8 (B) during each of at least four calendar years between 1984
9 and 1996, inclusive; or

10 (2) the vessel qualifies for a vessel permit for the area H weathervane
11 scallop fishery registration area under (e) of this section."

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 141(RES) am

1 Page 4, following line 6:

2 Insert a new subsection to read:

3 "(g) Notwithstanding (d) - (f) of this section, the commission shall reissue a
4 vessel permit upon request of a person who is the owner of a vessel for which a
5 vessel permit has been issued under this section to another vessel owned by the
6 person if the vessel to which the vessel permit is to be reissued does not have an
7 overall length or horsepower rating exceeding the length or horsepower rating of the
8 vessel for which the vessel permit was initially issued. The vessel from which the
9 vessel permit was transferred may no longer be used in the fishery for which the
10 vessel permit was issued unless another vessel permit is reissued to the vessel. This
11 subsection does not authorize the issuance of more vessel permits than are authorized
12 under (d) - (f) of this section."

13 Reletter the following subsections accordingly.

14 Page 4, line 10:

15 Delete "(d) - (g)"

16 Insert "(d) - (h)"

17 Page 4, line 26, following "section":

18 Insert "or that is issued a vessel permit under this section"

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSHB 141(RES) am

1 Page 5, following line 2:

2 Insert a new subsection to read:

3 "(1) The commission shall, in cooperation with the Department of Fish and
4 Game, conduct investigations to determine whether an alternative form of
5 nontransferrable vessel or limited entry permit system or other management program
6 is appropriate for weathervane scallop fisheries in the state."

7 Reletter the following subsections accordingly.

ALASKA STATE LEGISLATURE

House of Representatives
Special Committee on Fisheries

SPONSOR STATEMENT

HB 141

A VESSEL PERMIT MORATORIUM FOR THE ALASKA WEATHERVANE SCALLOP FISHERY

I have introduced HB 141 to implement a moratorium within the state waters off Alaska similar to the moratorium being implemented by the North Pacific Fisheries Management Council affecting the federal waters off Alaska. Without a moratorium implemented in state waters, it is probable that there would be an increase in effort on our state water scallop stocks, as well as on the associated marine habitat, and create an unmanageable fishery.

World wide scallops have proven to be susceptible to overfishing and boom/bust cycles. Scallops are long lived shellfish. The large scallop meats which bring premium prices come from scallops eight years or older.

The Alaska scallop fishery started in 1968. Nineteen east coast scallop vessels came to Alaska and took 1.7 million pounds of scallop meats. The fishery continued at a harvest level of 1.3 million pounds of meats annually until 1973. Catches dropped off sharply after 1973 and fishing ceased in 1978 when scallop beds were depleted. This boom and bust cycle was repeated in the 1980's and appeared to be repeating for a third time in the 1990's until the state developed a fishery management plan for scallops in 1993. All scallop fishing was stopped in February 1995 in order to prevent an east coast scalloper, Mr. Big, from fishing in unregulated federal waters. The fishery reopened in late 1996 under a federal management plan.

At present weathervane scallops are managed jointly by the federal government and the State of Alaska. There is a federal fishery management plan to delegate management authority of scallops to the state "in process" which has not been finalized. The management plan includes mandatory 100% observer coverage, caps on the amount of crab bycatch which can be

taken and ~~area~~ specific quotas. Under new language in the Magnuson-Stevens Fisheries Conservation and Management Act, the State of Alaska could exercise management authority out to 200 miles under delegated authority.

It is also in the State of Alaska's best interest that both the State and federal water scallop fisheries have a similar management plans and be managed by the State of Alaska. My goal is delegation of management authority by the U.S. Department of Commerce to the State of Alaska with a more restricted moratorium base. It should be noted that the North Pacific Fishery Management Council's Environmental Assessment and Regulatory Impact Review found that far fewer vessels than established by the federal moratorium could efficiently harvest the Alaska scallop quotas.

Within this legislation, I have separated out the weathervane scallop fishery conducted in Area H, Cook Inlet. The Area H scallop fishery is unique in that it is managed as an entirely separate fishery, has different gear specifications, and has more recently been developed.

HB 141 is needed to ensure careful conservation of the scallop stocks, as well as the marine habitat in which the scallops live, and to ensure that the bycatch of other marine animals, such as crabs, are properly controlled and managed. It is imperative to implement a moratorium on new entrants into the weathervane scallop fishery now.

Effective January 1, 1996, all commercial pots were required to be partly covered by rigid mesh, which must have 7/8ths inch minimum diameter openings. This regulation was designed to reduce handling of small non-marketable shrimp thereby decreasing avoidable fishing mortality. Similar regulations are utilized in the Prince William Sound Management Area, Southeast Region, and State of Washington.

AREA H SCALLOP FISHERY

Introduction

The commercial scallop fishery in the Cook Inlet Management Area (H) began in 1983. The target species for the fishery is the Pacific weathervane scallop (Parinopecten caurinus). In 1983 and 1984 the Alaska Board of Fisheries responded to a public proposal by directing the department to allow restricted exploratory fisheries for scallops. These initial fisheries were characterized by low effort due to severe permit restrictions when compared with traditional scallop fisheries both inside and outside Alaska. The most important restrictions were:

- 1) Legal gear limited to a 6 foot wide dredge with minimum ring size of 4 inches inside diameter.
- 2) Only 1 unit of gear allowed on board at any one time.
- 3) Mandatory log book completion.
- 4) Contact with the Homer office prior to and at the completion of each trip.
- 5) An agreement to carry department observers on board if requested.

Except for some brief exploratory fishing elsewhere in the Kamishak District in 1984 and in the Outer District in 1987, a single bed of scallops near Augustine Island in the Kamishak District has sustained almost the entire harvest since the fishery began in 1983 (Figure 1). Using the state research vessel Pandalus, the department conducted an assessment survey in August, 1984 to define the extent of this particular bed and to aid in establishing appropriate harvest levels.

Based on information from the 1984 survey as well as data from the initial fisheries, the 1985 Board of Fisheries adopted regulations for scallops in Cook Inlet. These regulations included a season in the Kamishak District from August 15 through October 31, a guideline harvest level of 10,000 to 20,000 lb (changed to 0 to 20,000 lb in 1994) of shucked meats, and the restrictions mentioned previously (except for the single unit of gear provision). Commercial fishery performance has been used inseason to adjust guideline harvest levels. Historic harvest and effort peaked fishery during 1994 when 4 vessels took 20,431 lb of shucked meats (Figure 12 and Appendix K).

By regulation the Southern District was not open to scallop fishing in order to protect crab stocks, while the Outer and Eastern Districts were opened year round to encourage exploratory fishing.

In 1987 review of inseason fishery performance data clearly demonstrated that the Kamishak District stock had taken an unexpected decline. Substantial undocumented information indicated that the Kamishak scallop bed had been fished illegally between the 1986 and 1987 seasons. Regardless of the reason for the sharp decline in abundance, the department closed the fishery.

No commercial effort occurred in Cook Inlet from 1988 through 1992. Although some local fishermen expressed interest in fishing during these years, the potential of a fishery closure after 1 trip did not warrant the investment in time and effort because the department told fishermen that their catch data would be used to justify continuance of the fishery. Fishermen speculated that the probability of good catches were low. Information required from the fishermen would have included logbooks, shell samples, interviews, and a potential for observers.

In 1993 the fishery was essentially redeveloped when a single fishermen took a chance and began fishing the Kamishak District scallops. After his initial trip it was apparent that the stock had recovered to near historic levels. Two other boats joined the fishery before the season was over. The resultant catch was 20,115 lb. Logbooks and shell samples indicated a small but healthy stock of weathervane scallops once again existed near Augustine Island.

1995 Season Summary

In early 1995 a single vessel commercially fished scallops in a venture that was illegal by state law. This occurred in federal waters off Kayak Island (adjacent to the Prince William Sound Management Area) and resulted in the closure of all commercial scallop fisheries in federal waters. Virtually the entire stock of scallops in the Kamishak District resides in federal waters. Although state waters opened by regulation on August 15, 1995, no one fished as fishermen did not want to waste their time in an area where few scallops existed.

1996 Management Outlook

It appears that the state and federal regulatory problems, that provided a loophole for illegal fishing, have been resolved. The Kamishak District fishery, in both state and federal waters, will likely open by regulation on August 15, 1996. It appears that management of the fishery will be by the state with consent from the federal government. The harvest guideline, however, will be set based on the results of a department dredge survey that will occur in July 1996. It seems likely that the data should justify a harvest guideline of 20,000 lb or more because of the size and age structure of the stock coupled with no fishing mortality in 1995.

The scallop fishery in the Outer and Eastern Districts will be managed by regulation, which includes a requirement for an observer. The department does not anticipate significant effort or catch from these districts because exploratory fishing by 2 large commercial scallopers in 1994 yielded a catch of 11 scallops.

Appendix K. Pacific weathervane scallop catches, Cook Inlet Management Area., 1983-95.

Year	District	Number of vessels	Catch in pounds of shucked meats
1983	Kamishak	1	2,346
1984	Kamishak	3	6,305
1985 ^a	Kamishak	1	11,810
1986	Kamishak	3	15,364
1987	Outer	1	1,128
	Kamishak ^b	2	360
	<u>'87 Total</u>	<u>2</u>	<u>1,488</u>
1988		NO	EFFORT
1989		NO	EFFORT
1990		NO	EFFORT
1991		NO	EFFORT
1992		NO	EFFORT
1993	Kamishak	3	20,115
1994	Kamishak	4	20,431
1995 ^c	Kamishak	0	0

a/ Season and harvest guideline set by regulation.

b/ Season closed by E.O. on August 21, 1987, one week after opening, due to low cpue.

c/ State waters open only.

1996 Kamishak 5 28,228

<i>Number of vessels fished during the eligibility periods for the federal scallop vessel moratorium</i>	
Time Period	Number of Vessels with Landings
1991	7
1992	7
1993	15
Fished in 4 years during Jan. 1, 1980-Jan. 20, 1993	7
Total Unique Vessels	18

Prepared by:
 Commercial Fisheries Entry Commission
 8800 Glacier Highway, #109
 Juneau, AK 99801
 (907) 789-6160

October 4, 1996

North Pacific Fishery Management Council

Richard B. Lauber, Chairman
Clarence G. Paulzke, Executive Director



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NEWSLETTER

83-95

6/28/95

Dutch Harbor/Unalaska Rolls Out Red Carpet

From the first plane carrying meeting attendees to the last one to leave, participants in the NPFMC's June meeting in Dutch Harbor were greeted with enthusiasm and treated like royalty during their week-long stay. Several after-meeting social activities were provided by Dutch Harbor and Unalaska businesses and associations throughout the week, including a BBQ and recreational evening. Other opportunities for after-meeting sightseeing, plant tours, and fishing were abundant through the careful planning of the NPFMC Organizing Committee, composed of Mayor Frank Kelty, Doug Bagnell and Jane Schroeder (Grand Aleutian), Stephanie Madsen (Aleutian Logistics-ASPA), Shirley Marquardt (Freight Mgmt Services), Annemarie McElroy (Convention & Visitors Bureau), Herb Callahan (Arctic Alaska/Tyson Seafoods), and Emil Berikoff (Unalaska Fishermen's Assn). It seemed that every citizen of Unalaska and Dutch Harbor was in some way involved in ensuring a pleasant visit and worry-free meeting. Meeting participants and attendees alike commented on the extraordinary hospitality provided. An impromptu activity room provided by Grand Aleutian employees, equipped with a TV, VCR, loads of movies and games, was a life-saver when weather prevented many participants from leaving on Sunday.

The hospitality of Dutch Harbor/Unalaska is much appreciated!

Though a variety of issues were addressed during the meeting, the centerpiece of this meeting was final action on a license limitation program for the groundfish and crab fisheries off Alaska (details inside). The Council also took final action to recommend to the Secretary of Commerce that the inshore-offshore processing allocations established under Amendment 18/23 be extended for an additional three years. This action includes an extension of the pollock CDQ program.

The Council, Advisory Panel, and Scientific and Statistical Committee will meet next the week of September 25 at the Radisson Hotel/Quality Inn at the Sea-Tac Airport. Specific starting times and a draft agenda should be available by mid-August. (PLEASE NOTE: The original meeting date was delayed by one week because of meeting space availability.)

- Major issues scheduled for the September meeting will include:
- Discussion of full utilization and waste reduction initiatives.
 - Various amendments to the halibut/sablefish IFQ program.

IN THE NEWSLETTER

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- The domestic Observer Program and the North Pacific Fisheries Research Plan (fee collection program).
- Long-term crab management and rebuilding programs.
- Next steps in Comprehensive Rationalization, including development of a BSAI pollock ITQ proposal.
- A review of Magnuson Act Reauthorization, and
- Initial specifications of groundfish TACs and PSC allowances for the 1996 fisheries.

Council Bids Farewell to Two Members

The June 1995 meeting marked the end of six years of service on the Council for Mr. Ron Hegge of Anchorage. His direct presence on the Council will be missed, but given his keen interest in fisheries management issues, we don't expect to see him disappear into the sunset. We all look forward to his continued participation in the Council process.

Another member of the Council, Rear Admiral Roger Rufe Jr., will be moving on to warmer climates in the southern U.S. Admiral Rufe served for three years as the Coast Guard representative on the Council. He is replaced by Rear Admiral Ray Riutta, to whom the Council extends a warm welcome.

Incidental Taking of Marine Mammals

NMFS has published a proposed rule to implement new marine mammal takings requirements in commercial fishing operations. This proposed rule, published on June 16, 1995, responds to changes made to the Marine Mammal Protection Act as amended in 1994. There still are three categories of fisheries in terms of marine mammal takings, each having different registration and reporting requirements. Category I is for fisheries with frequent incidental mortality and serious injury of marine mammals. No Alaska fisheries are in this category. Category II is for occasional incidental mortality and serious injury of marine mammals. Alaska fisheries in this category include most drift gillnet and setnet salmon fisheries, Southeast salmon purse seiners, BSAI groundfish trawlers, pair trawlers, and southern BSAI and Western Gulf of Alaska sablefish longliners in federal waters. Category III has fisheries with remote likelihood or no known incidental mortality or serious injury of marine mammals. They include most other commercial fisheries off Alaska.

Comments on the proposed regulations must be submitted to Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, by July 31, 1995. Comments on the listing of fisheries by category are due by September 14. Contact for the Alaska Region of NMFS is Dr. Steve Zimmerman at (907) 586-7235. We have limited copies of the federal register notice available upon request.

Scallop Management

In June, the Council adopted Amendment 1 to the scallop fishery management plan which will allow a federally regulated scallop fishery to occur outside 3 miles in the Exclusive Economic Zone. The management program is based on the State of Alaska's management regime with additional measures previously adopted by the Council. Management measures include permit requirements, limited access, regulatory and reporting areas, districts and sections, scallop catch limits, inseason adjustments, reporting requirements, observer requirements, fishing seasons, closed waters, gear restrictions, efficiency limits, and prohibited species bycatch limits. A vessel moratorium, based on previously adopted criteria, was approved as a limited access measure for three years. If approved, the vessel moratorium would qualify vessels which participated (made at least one landing) in 1991, 1992 or 1993, or which participated for at least four years between January 1, 1980 and January 20, 1993. Areas to be closed to scallop fishing include those federal areas of the EEZ currently closed to bottom trawling to protect crabs and crab habitat. The Council also urged NMFS to require 100% observer coverage on all scallop vessels. NMFS and ADF&G will work together to develop a real-time monitoring system to monitor scallop

vessel locations relative to State water boundaries. If approved by the Secretary, a scallop fishery may be prosecuted under federal regulations by mid-1996, or earlier if opened by emergency rule. However, if the Magnuson Act is amended this year to allow extension of state jurisdiction into federal waters under certain conditions, the Council may revise the scallop FMP to defer management to the state. Staff contact is David Witherell.

Crab Bycatch

The Council reviewed an analysis of area closures to trawling that would protect red king crabs in Bristol Bay. The Council released the document for public review contingent upon completion of an economic analysis by late July and approval by the scientific and statistical committee. Please contact the NPFMC office if you wish to receive a copy of the analysis. Final action on this plan amendment is scheduled for September. If approved, an area closure would be implemented in early 1996, likely along the same lines as the 1995 closed area. NOAA General Counsel will examine the possibility of implementing this by emergency rule in January 1996. In September, the Council will also be receiving a report from the Crab Rebuilding Committee chaired by Dr. Fluharty, and perhaps initiating other, long-range crab management programs.

The Council also directed staff to analyze a proposal to combine the Zone 1 and Zone 2 Tanner crab PSC cap for the Pacific cod trawl and other fisheries. It was felt that the Bristol Bay closure may have increased bycatch rates of Tanner crab, causing an early closure of Zone 1. In turn, vessels fished in Zone 2 which may have increased halibut bycatch to the extent that the trawl fishery was unable to harvest its apportionment of the cod TAC. A draft analysis of this plan amendment proposal will be ready in December. Staff contact is David Witherell.

Halibut Discard Mortality Rates

At the December 1994 meeting, the Council recommended to NMFS the halibut discard mortality rates to be used for managing the Bering Sea/Aleutian Island and Gulf of Alaska 1995 groundfish fisheries. The Council recommended an assumed rate of 12.5 percent for the Pacific cod hook and line fishery for the first half of 1995 with a review of observed rates at the June 1995 Council meeting. The International Pacific Halibut Commission staff reevaluated the halibut discard mortality rate for BSAI Pacific cod hook and line fishery using in-season observer data and reported the fishery is exhibiting a rate of 11.5 percent. The Council recommended that NMFS apply this new rate for the remainder of the 1995 BSAI Pacific cod hook and line season, and to adjust the discard mortalities for this fishery for the first half of 1995. Staff contact is Jane DiCosimo.

Electronic Reporting

The Council approved a regulatory amendment to implement hardware requirements for electronic reporting. The amendment requires all processor vessels that process groundfish to have satellite communication equipment and the necessary hardware and software for electronic transmission of observer data and requires all shoreside processors that process groundfish to have the necessary computer hardware and software to send data electronically via a modem. It will become effective January 1, 1996. The objective is to facilitate electronic reporting of fisheries data. Use of this equipment by observers should reduce both the time and expense of collecting fishery information by providing real-time data and reducing the workload of the Observer Program. Currently, most industry reports are submitted by FAX, and all logbooks are kept on paper.

historical fishing practices in, and dependence on, the fishery, (3) the economics of the fishery, (4) the capability of fishing vessels used in the fishery to engage in other fisheries; (5) the cultural and social framework relevant to the fishery, and (6) any other relevant considerations (16 U.S.C. 1853).

Scallop Management Background

Management of scallops in the EEZ of Alaska was conducted by the Alaska State Department of Fish and Game (ADF&G) from 1988 until the implementation of the Federal FMP and an interim closure of the EEZ to fishing for scallops in 1995. In 1992, ADF&G developed an Interim Fishery Management Plan (IFMP) for scallops, as fishing effort was rapidly increasing and maximum sustainable yield may have been exceeded. The IFMP specified three major management measures: (1) Setting area-specific guideline harvest levels and gear restrictions to prevent localized overharvesting, (2) creating an observer program to monitor the fishery and obtain biological information, and (3) limiting effort via gear restrictions, seasons, minimum size limits, and other measures. Consistent with scallop management actions taken on the east coast, the State of Alaska (State) promulgated regulations that limit crew size to a total of 12, and mandated that weathervane scallops only be shucked manually to control effort. In 1993, the Commissioner of ADF&G declared scallops a High Impact Emerging Fishery (5 AAC 39.210) because of mounting resource concerns. A fishery may be regulated as a high impact emerging commercial fishery if the Commissioner determines that any of the following conditions apply to a species or species group in an area or region: (1) Harvesting effort has recently increased beyond a low sporadic level; (2) interest has been expressed in harvesting the resource by more than a single user group; (3) the level of harvest might be approaching a level that might not be sustainable on a local or regional level; and (4) comprehensive regulations to address issues of conservation, allocation, and conduct of an orderly fishery have not been developed.

In 1993, the Council also began to address the issues of overexploitation and overcapitalization in the scallop fishery. At the January 1993 meeting, the Council determined that the scallop fishery may require Federal management to protect the fishery from overexploitation and further overcapitalization. The Council set a control date of January 20, 1993, to

notify the industry that a moratorium for this fishery may be implemented. This control date, which was published in the Council's newsletter, meant that fishermen and/or vessels not participating in the fishery by that date may not be guaranteed future access to the fishery.

The Council was presented with information indicating that the stocks of weathervane scallops were fully exploited and any increase in effort would be detrimental to the stocks and the Nation. Information indicated that dramatic changes in age composition had occurred after the fishing-up period (1980-90), with commensurate declines in harvest. In recent years, many fishermen abandoned historical fishing areas and searched for new areas to maintain catch levels. Increased numbers of small scallops were reported. Additionally, scallops are highly susceptible to overfishing and boom/bust cycles worldwide.

The need to limit access was the primary motivation for the Council to prepare the FMP in lieu of State management of the scallop fishery. As anticipated, effort in the scallop fishery increased in 1993 when 32 scallop permits, representing 21 vessels, were issued by the State. Fifteen of these vessels had made landings by the end of 1993. Even without additional vessels entering the fishery, the Council believed that the 1993 fishery was overcapitalized, meaning that too much capital was invested relative to the fleet size necessary to conduct the fishery. In 1992, seven vessels harvested 1.8 million lb (816 mt), for an average of 257,143 lb (116.6 mt) harvested per vessel. The 1993 quota was set at 890,000 lb (403.7 mt) for areas with specified guideline harvest levels, or about one-half of the 1992 landings. This quota could have been harvested by three or four vessels. In 1993, landings from areas without guideline harvest levels totaled 524,000 lb (237.7 mt), which could have been taken by an additional two vessels. Yet, 15 vessels participated in the 1993 fishery. In 1994, the growth trend in the fishery continued with 16 vessels harvesting 1,235,289 lb (560.3 mt) of scallops.

At its January 1993 meeting, the Council directed staff to proceed with an analysis to evaluate potential Federal management of Alaskan scallops. A vessel moratorium was proposed as an essential element of a Federal management regime to stabilize the size and capitalization of the scallop fleet during the time that the Council considers limited entry alternatives for this fishery.

At its June 1993 meeting, the Council and its advisory panels reviewed a draft EA/RIR/IRFA analysis of management alternatives for the scallop fishery. Also at that meeting, the Council reaffirmed the control date of January 20, 1993, and recommended several revisions to the draft analysis, which was subsequently released for public review on August 9, 1993. At the September 1993 Council meeting, public testimony was received on scallop management, particularly on the qualifying criteria for a moratorium. At that meeting, the Council tentatively identified its preferred alternative of a separate FMP for the scallop fishery, with shared management authority with the State. The preferred alternative also included a vessel moratorium option. However, the Council requested additional analysis to assist with determining appropriate qualifying criteria. Additional analysis was incorporated into the revised draft FMP, including a draft EA/RIR/IRFA, and was released for public review on November 30, 1993.

At its April 1994 meeting, the Council and its advisory bodies reviewed the draft FMP, took public testimony, and voted to adopt a separate FMP for the scallop fishery. Eighteen vessels would qualify under the criteria adopted by the Council in April 1994. The 1994 draft FMP, which deferred most management measures to the State, was based on the premise that all vessels fishing for scallops in the Federal waters off Alaska would also be registered with the State.

While regulations were being drafted to implement the FMP, a vessel that had nullified its registration with the State began fishing for scallops in the Federal waters of the Prince William Sound Registration Area, which the State had already closed after the guideline harvest level of 50,000 lb (22,688 kg) was taken on January 26, 1995. The State did not have authority to stop the vessel from fishing, because it was no longer registered with the State and was fishing in the EEZ. On February 17, 1995, the Council met by emergency teleconference and recommended that NMFS implement an emergency rule to close the EEZ off Alaska to scallop fishing to prevent further uncontrolled harvests in Federal waters. The emergency rule went into effect on February 23, 1995 and was published on March 1, 1995 (60 FR 11054).

At its April 1995 meeting, the Council took additional steps to prevent unregulated and uncontrolled harvests after the emergency rule expired. On April 19, 1995, the Council adopted an FMP, which continued the closure of the EEZ to fishing for scallops for a 1-year period. The FMP was approved by

HB

144

Alaska State Legislature

CHAIR:
REPRESENTATIVE
JEANNETTE JAMES

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SPONSOR STATEMENT

House Bill 144

D.E.C. Fees, Pesticides, and Chemicals

April 7, 1998

This bill was originally submitted during the 1997 Legislative Session at the request of the Alaska Department of Environmental Conservation, Division of Environmental Health. It's purpose was to allow D.E.C. to collect a registration fee from chemical manufacturers for registration of pesticides.

The House Finance Committee has done a great deal of work and research on ways to make this bill apply more broadly to other D.E.C. certification and training programs. In it's current form, HB 144 now solves many problems which have needed addressing for a long time.

The efforts of the Finance Committee and staff are greatly appreciated in expanding the scope of this bill.

Alaska State Legislature

House Finance Committee

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Sectional Analysis CSHB 144(FIN)

Section 1

Amends AS 44.46.025(a), the Department of Environmental Conservation's statutory authority to prescribe and collect fees (excluding the air program). The revision limits fees to a fixed level that must be paid by the person receiving the service and restricts the fees to cover only the actual direct costs of the services being provided. This section also amends AS 44.46.025(a)(1) and (a)(3) to permit DEC to continue to charge for services currently being provided that were eliminated with the deletion of the words "and other services provided by the department" (sanitary surveys, monitoring waivers, laboratory analyses of food products for export, certification of seafood products for export, etc.)

Section 2

Adds new sections to AS 44.46.025

- (e) Requires the department at the request of an applicant to negotiate a fee for service that is based upon the average hourly rate of compensation of each departmental employee required to perform the service and a maximum number of hours for which the fee will be charged. This section is intended to give DEC as well as potential permittees the flexibility to deal with individual complex situations where a fixed fee would not otherwise be appropriate.
- (f) Establishes a fee for the registration of pesticides. The fee is set at \$30 for restricted use pesticides and \$20 for all other pesticides.
- (g) Prohibits the department from charging a fee for the costs to the department for conferring with or providing information to a third party. This section also gives the department the authority to require an applicant to pay for the costs of providing public notice of a permit or application when the notice is required by law.
- (h) Exempts the solid waste program from the requirement in AS 44.46.025(a) that all fees must be based upon a pre-established fixed fee. This section will allow DEC to continue to collect hourly fees for this program.

- (i) Gives the department flexibility to charge hourly fees without having to go through the negotiated agreement process when the department (1) performs work on an application that is withdrawn before completion; or (2) performs an inspection at the request of an applicant when the department would not otherwise conduct an inspection or for an inspection that is conducted outside the department's normal working hours.
- (j) Adds a definition of "actual direct costs" and "training" to AS 44.46.025.

Section 3

Clarifies that this act applies only to agreements entered into and fees collected on or after the effective date of this act. This bill does not impair any agreement that is in effect before the effected date of this act.

Section 4

Establishes the effective date of this act as July 1, 1998.



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic #202, Anchorage, Alaska 99503 FAX: (907) 503-9225 Telephone: (907) 563-9228

Honorable Rick Halford
Chairman, Senate Resources
Capitol Building
Juneau, AK 99801

April 23, 1998

RE: CSHB-144(FIN), Relating to DEC Fees

Dear Senator Halford,

Thank you for the opportunity to comment on the CS to House Bill 144(FIN) which relates to fees charged by the Department of Environmental Conservation. The issue of user fees has arisen as State revenues have decreased and reductions have been made to lower spending. The Alaska Miners Association, along with other associations, municipalities, and individual companies have been working with DEC over the past many months discussing possible changes to the user fee amounts DEC charges for specific items. These meetings were driven by the need for the DEC Water Division to maintain a core of competent experienced personnel and a DEC proposal to significantly increase fees (see enclosed letter to Commissioner Brown). The meetings highlighted the need to address the basic policy question -

How much of the DEC budget should be raised through user fees versus how much should be from the General Fund?

This brings us to CSIB-144(FIN) which is needed to clarify the present law and place some "sideboards" on the existing statute. Several important changes were made to the bill in the House but we feel that some "sideboards" must also be placed on payment for DEC inspections. To accomplish this we recommend the following underlined material be added (see page 2, line 20 of the bill) to AS 44.46.025(a)(7):

(7) certification of federal permits or authorizations under 33 U.S.C. 1341 (sec. 401, Clean Water Act) provided there will be only one paid inspection per year for the items covered by this subsection.

There is concern that without this limitation, inspections could be used by third parties to harass a miner who would then have to pay for multiple inspections. Also, without the limitation overzealous staff could take it upon themselves to use multiple inspections of readily accessible operations as a fund raising mechanism.

Thank you for this opportunity to comment. We urge passage of this bill with the above change.

Sincerely,

Steven C. Borell, P.E.
Executive Director

enclosure

APR 27 1998

APPMA



April 21, 1998

American Pet Products Manufacturers Association, Inc.

Rick Halford, Chair
Senate Resource Committee
Alaska State Legislature
Room 121, State Capitol
Juneau, AK 99801-1182

RE: Alaska State House Bill #144, "An act relating to the authority of the Department of Environmental Conservation to charge fees; and providing for an effective date."

Dear Senator Halford:

The American Pet Products Manufacturers Association (APPMA) is a trade association representing over 500 pet product manufacturers. Approximately 40% of our members are small manufacturers, *i.e.*, with gross annual sales of less than \$500,000 nationally. Additionally, we represent many larger manufacturers. Our industry employs more than 250,000 individuals in the manufacturing, distribution and marketing of pet products, including products essential to the health and well being of animals, such as flea and tick products. A recent national survey showed that there are approximately 256 million pets in the United States and that 58% of American households have at least one pet.

APPMA strongly opposes the provisions of House Bill #144 to the extent that it creates a fee-based pesticide registration program in the state where none had previously existed. The \$20 registration fee disregards the distinction between types of pesticides except as between restricted-use and "other" pesticides. The fee ignores the vast difference between "other" types of pesticides, for example, agricultural and nonagricultural pesticides including those used for pets. In fact, this difference is so great that nonagricultural pesticides should not be subject to fees at all.

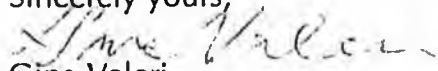
Any regulation of pesticides should reflect the vast difference between the use of pesticides for agricultural and nonagricultural purposes. It is simply neither fair nor reasonable to treat both uses in the same manner *and collect the same registration fees from both*. Whereas agricultural use of pesticides may involve thousands of pounds or gallons of a pesticide, pesticide use of pet products is very small and limited. The majority of problems and issues of concern stem from the agricultural use of pesticides – the highest concentration of pesticide use.

Page 2

Any registration fee scheme should distinguish between agricultural and nonagricultural products and assess product registration fees based upon the potential impact of the product. Pet product sales are not sufficient for the small manufacturer to justify the production and marketing of a product when the registration fees become such a great burden. This proposed fee could result in the loss of valuable products and choices for the Alaska consumer. Thus, pet products should not be included in the fee scheme at all.

We respectfully request that this bill not be passed. We appreciate the opportunity to present our views.

Sincerely yours,



Gina Valeri

Assistant Director of Product Issues

SENATE COMMITTEE REPORT

DATE: 4/20/98

FURTHER: Finance

DATE TURNED IN TO OFFICE: 4/30/98

Resources Committee considered CS FOR HOUSE BILL NO. 144(FIN)

"An Act relating to the authority of the Department of Environmental Conservation to charge fees; and providing for an effective date."

and recommends:

- be replaced with S CS HB 144 (RES) Senate Bill; same title
- adopt previous _____ CS _____ () new title
- attached amendment(s) House Bill; same title
- adopt Letter of Intent by _____ Committee technical title
- further referral to the _____ Committee new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Loren A. Leman</i>	✓	<i>John Leman</i>	✓		
		<i>Chris I. Taylor</i>	✓		
		<i>Lynne Green</i>	✓		
CHAIR: <i>Rick Halford</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

both County

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

<i>DEC</i>	<i>3/26</i>		X

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SCSCSHB144(RES)

Revision Date (Note if correction) 30-Apr-98 Dept. Affected Environmental Conservation
 Title DEC Fees BRU Administration
 Component Commissioner
 Sponsor House State Affairs
 Requester Senate Resources Component Serial No. 633

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	(51.0)	(51.0)	(51.0)	(51.0)	(51.0)	(51.0)
1004 GF	1,778.7	1,778.7	1,778.7	1,778.7	1,778.7	1,778.7
1005 GF/Program Receipts	(1,467.7)	(1,467.7)	(1,467.7)	(1,467.7)	(1,467.7)	(1,467.7)
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1091 Statutory Program Receipts	(260.0)	(260.0)	(260.0)	(260.0)	(260.0)	(260.0)
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

See attached for detail of financial impacts by component.

Prepared by Janice Adair and Barbara Frank Phone 269-7644
 Division Environmental Health and Administrative Services Date 4/30/98
 Approved by Commissioner [Signature] Date 4/30/98
 Agency Department of Environmental Conservation

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IMPACT OF HB 144 ON PROGRAM RECEIPT COLLECTIONS - FUND SOURCE CHANGES

Component	General Fund Program Receipts	Statutory Program Receipts	Total Program Receipts	Change in Recovery of Personal Services and Definition of Actual Costs	Overhead	Excluded Non Personal Services	Excluded Services Previously Recovered	Total Conversion to General Funds
Statewide Public Service	24.6	0.0	24.6	0.0	0.0	0.0	0.0	0.0
Air	263.8	50.0	313.8	125.5	28.2	10.3	3.0	167.1
Water	178.6	452.7	631.3	252.5	56.8	2.0	15.0	326.3
Animal Industries	25.0	0.0	25.0	10.0	2.3	5.0	0.0	17.3
Seafood and Sanitation	1,139.4	0.0	1,139.4	472.0	102.5	0.0	0.0	574.5
Laboratory Services	143.7	0.0	143.7	30.4	6.8	0.0	67.8	105.0
Drinking Water	503.3	0.0	503.3	201.3	45.3	0.0	115.0	361.6
Municipal Solid Waste	146.5	0.0	146.5	58.6	13.2	0.0	5.0	76.8
Industrial Solid Waste	285.9	0.0	285.9	114.4	25.7	0.0	10.0	150.1
	2,710.8	502.7	3,213.5	1,264.7	280.9	17.3	215.8	1,778.7

For purposes of the fiscal analysis, in the Air program 15% of the total funds converted to general funds are statutory program receipts and in the Water program 72% are statutory program receipts.

Fees for Pesticides	GF Program Receipts							GF Match
Laboratory Services	51.0	0.0	0.0	0.0	0.0	0.0	0.0	(51.0)

0-LS0573\T
Lauterbach
4/28/98

SENATE CS FOR CS FOR HOUSE BILL NO. 144(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authority of the Department of Environmental
2 Conservation to charge fees; and providing for an effective date."

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

4 * Section 1. AS 44.46.025(a) is amended to read:

5 (a) Subject to other provisions of this section, the [THE] Department of
6 Environmental Conservation may adopt regulations that prescribe reasonable fixed fees
7 to be paid by the person receiving the department's services, and establish
8 procedures for the collection of the fees, to cover the actual [APPLICABLE] direct
9 costs [, NOT INCLUDING TRAVEL,] of certifications, inspections, training, permit
10 preparation and administration, and plan review and approval [, AND OTHER
11 SERVICES PROVIDED BY THE DEPARTMENT] relating to
12 (1) agriculture and animals under AS 03.05; food, drugs, and cosmetics
13 under AS 17.20; and public accommodations and facilities under AS 18.35; in
14 addition to fees otherwise allowed under this subsection, the department may also

1 prescribe reasonable fixed fees, and establish procedures for collection of the fees,
2 to cover the actual direct costs of other services provided by the department
3 relating to matters described in this paragraph:

4 (2) certificates of inspection for motor vehicles under AS 46.14.400 or
5 46.14.510;

6 (3) sewerage system and treatment works and wastewater disposal
7 systems, and drinking water systems, under AS 46.03.720; in addition to fees
8 otherwise allowed under this subsection, the department may also prescribe
9 reasonable fixed fees, and establish procedures for the collection of the fees, for
10 the actual direct costs of sanitary surveys, determinations, classifications, and
11 monitoring waivers relating to matters described in this paragraph:

12 (4) [REPEALED

13 (5) REPEALED

14 (6)] water and wastewater operator training under AS 46.30;

15 (5) [(7)] control of solid waste facilities under AS 46.03.020(10) and
16 46.03.100;

17 (6) [(8)] certification of laboratories conducting environmental analyses
18 of public drinking water systems or of oil or hazardous substances, or conducting other
19 analyses required by the department;

20 (7) [(9)] certification of federal permits or authorizations under 33
21 U.S.C. 1341 (sec. 401, Clean Water Act).

22 * Sec. 2. AS 44.46.025 is amended by adding new subsections to read:

23 (e) Notwithstanding (a), (g), and (j) of this section, the department shall, at the
24 request of an applicant or permittee, negotiate a fee for services provided under (a)(1) -
25 (7) of this section that is based on the average hourly rate of compensation of each
26 departmental employee required to perform the service and a maximum number of
27 hours for which the fee will be charged, and the fee may cover associated travel costs
28 and costs described in (g) of this section.

29 (f) The department shall charge and collect a fee of \$40 for registration of a
30 restricted-use pesticide, as defined in AS 46.03.900. The department shall charge and
31 collect a fee of \$30 for registration of an agricultural pesticide. The department shall

1 charge and collect a fee of \$15 for registration of a consumer protection and health
2 benefit product. In this subsection, "consumer protection and health benefit product"
3 means a

4 (1) disinfectant, sanitizer, germicide, biocide, or other pesticide labeled
5 for use directly on humans or pets, including dogs, cats, horses, and other companion
6 animals; or

7 (2) pesticide for use directly in areas in or around household premises.

8 (g) Except for fees under (c) of this section, the department may not charge
9 a fee for the costs to the department for conferring with or providing information to
10 a third party about an application or a permit unless the third party is acting as a legal
11 representative or as an agent of the applicant or permittee. However, the department
12 may require an applicant to pay for the costs of providing public notice of a permit
13 application when the notice is otherwise required by law.

14 (h) Notwithstanding (a) of this section, the department may prescribe an hourly
15 fee for services provided under (a)(5) of this section, rather than a fixed fee, if the fee
16 otherwise complies with this section.

17 (i) Notwithstanding (a) of this section, the department may prescribe an hourly
18 fee to cover the actual direct costs to the department for

19 (1) work performed on an application that is withdrawn before
20 completion; or

21 (2) an inspection that is conducted at the request of an applicant or
22 permittee when the department would not otherwise conduct an inspection or for an
23 inspection that is conducted outside of the department's normal working hours after a
24 request by an applicant or permittee for an after-hours inspection; fees charged under
25 this paragraph may include travel costs incurred in providing the inspection.

26 (j) In this section,

27 (1) "actual direct costs" means the average hourly rate of compensation
28 of each departmental employee, including clerical staff, required to perform the service
29 under normal circumstances, multiplied by the number of hours usually required to
30 perform the service being provided; "actual direct costs" does not include

31 (A) overhead expenses;

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(B) the costs of administrative support or supervisory personnel who are not directly engaged in providing the service; or

(C) travel expenses;

(2) "training" means educational services provided by the department for the purpose of carrying out services provided under (a)(1) - (7) of this section, except that "training" does not include training of employees of the department.

* Sec. 3. APPLICABILITY. This Act applies to agreements entered into, fees for registrations applied for, and fees for services performed on or after the effective date of this Act.

* Sec. 4. This Act takes effect July 1, 1998.

FISCAL NOTE

No: 2

**STATE OF ALASKA
1998 LEGISLATIVE SESSION**

Bill version: CSHB 144 (FIN)
(H) Publish Date: 3/30/98

Revision Date (Note if correction)	<u>28-Mar-98</u>	Dept. Affected	<u>Environmental Conservation</u>
Title	<u>DEC Fees</u>	BRU	<u>Administration</u>
		Component	<u>Commissioner</u>
Sponsor	<u>House State Affairs</u>		
Requester	<u>House Finance</u>	Component Serial No.	<u>633</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	(55.0)	(55.0)	(55.0)	(55.0)	(55.0)	(55.0)
1004 GF	1,762.5	1,762.5	1,762.5	1,762.5	1,762.5	1,762.5
1005 GF/Program Receipts	(1,447.5)	(1,447.5)	(1,447.5)	(1,447.5)	(1,447.5)	(1,447.5)
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1091 Statutory Program Receipts	(260.0)	(260.0)	(260.0)	(260.0)	(260.0)	(260.0)
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The department remains concerned that the fee levels for pesticide registration established in this legislation will be insufficient to generate the needed general fund match.

See attached for detail of financial impacts by component.

Prepared by Barbara Frank
 Division Administrative Services
 Approved by Commissioner [Signature]
 Agency Department of Environmental Conservation

Phone 465-5256
 Date 3/26/98
 Date 3/26/98

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IMPACT OF HB 144 ON PROGRAM RECEIPT COLLECTIONS - FUND SOURCE CHANGES

Component	General Fund Program Receipts	Statutory Program Receipts	Total Program Receipts	Change in Recovery of Personal Services and Definition of Actual Costs	Overhead	Excluded Non Personal Services	Excluded Services Previously Recovered	Total Conversion to General Fund
Statewide Public Service	24.6	0.0	24.6	0.0	0.0	0.0	0.0	0.0
Air	263.8	50.0	313.8	125.5	28.2	10.3	3.0	16.5
Water	178.6	452.7	631.3	252.5	56.8	2.0	15.0	32.3
Animal Industries	25.0	0.0	25.0	10.0	2.3	5.0	0.0	1.3
Seafood and Sanitation	1,139.4	0.0	1,139.4	455.8	102.5	0.0	0.0	55.3
Laboratory Services	143.7	0.0	143.7	30.4	6.8	0.0	67.8	10.4
Drinking Water	503.3	0.0	503.3	201.3	45.3	0.0	115.0	36.0
Municipal Solid Waste	146.5	0.0	146.5	58.6	13.2	0.0	5.0	7.6
Industrial Solid Waste	285.9	0.0	285.9	114.4	25.7	0.0	10.0	15.1
	2,710.8	502.7	3,213.5	1,248.5	280.9	17.3	215.8	1,76.3

For purposes of the fiscal analysis, in the Air program 15% of the total funds converted to general funds are statutory program receipts and in the Water program 72% are statutory program receipts.

Fees for Pesticides	GF Program Receipts						GF Match	
Laboratory Services	55.0	0.0	0.0	0.0	0.0	0.0	0.0	(55.0)

HB

151

SENATE COMMITTEE REPORT

DATE: 4/25/97

FURTHER:

DATE TURNED
IN TO OFFICE: 5/6/97

Resources Committee considered CS FOR HOUSE BILL NO. 151(RES) am
BIG GAME GUIDES AND REGISTRATION AREAS

and recommends:

- be replaced with S CS HB 151 (RES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical change
 - new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>William L. Taylor</i>	✓				
<i>Lorini D. Herman</i>	✓				
<i>Lyle Green</i>	✓				
CHAIR: <i>Rich Halford</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):* (ALSO APPLY TO CS)

Department	Date	Zero	Fiscal
DPS/ETW PROTECTIONS	3/4	X	
ADF/G/DWC	2/25	X	
DCED/OCC. LICENSE	3/3	X	

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

FISCAL NOTE

No. 3

Bill Version: CSHB 151 (RES)

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: (H, Publish Date: 3/21/97 ...)

Revision Date: 3/4/97 Dept. Affected: Public Safety
 Title: An Act relating to personal hunting of big game guides while clients are in the field. BRU: Fish and Wildlife Protection
 Sponsor: Representative Ogan Component: Detachments
 Requestor: H. Resources COMPONENT SERIAL NO. 0490

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 97) impact: \$ -0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This Bill will return to statute the prohibition of big game guides personally hunting while clients are in the field. It will also allow guides to register for more than three guide use areas if the lands requested would otherwise not be used and the request is approved by DOC. It should not impact our Division's program objectives or budget.

Prepared By: Lt. Joel L. Hard Phone: 269-5409
 Division: Fish and Wildlife Protection Date: March 4, 1997
 Approved by Commissioner: *Ronald L. Otte* Date: 3/4/97
 Agency: Ronald L. Otte, Department of Public Safety

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ANALYSIS CONTINUED:

ORIGINAL

FISCAL NOTE

No. 2

Version: CSHB 151 (RES)

(H) Publish Date: 3/21/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Fish and Game
 Title: Big Game Guides and Registration Areas BRU: Wildlife Conservation
 Component: Wildlife Conservation
 Sponsor: Representative Ogan
 Requester: House Resources COMPONENT SERIAL NO. 473

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (1024)	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Wayne Regelin, Director *SR*
 Division: Wildlife Conservation
 Approved by Commissioner: William B. ...
 Agency: Department of Fish and Game

Phone: 464-4190
 Date: 2/28/97
 Date: 3/5/97

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ORIGINAL

FISCAL NOTE

No. 1
 Version: CSHB 151(RES)
 (H) Publish Date: 3/21/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act relating to personal hunting of big game by
big game guides while clients are in the field.....
 Sponsor: Representative Ogan
 Requestor: House Resources

Department: Commerce and Economic Development
 BRU: Occupational Licensing
 Component: Operations
 COMPONENT SERIAL NO. 1844

Expenditures/Revenues	(Thousands of Dollars)					
	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 HB 151 amends the big game guide statutes in AS 08.54 making it unlawful for big game guide licensees to take big game while guiding clients in the field. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager *JS* Phone: 465-2144
 Division: Occupational Licensing *CSR* Date: 3/3/97
 Approved by Commissioner: William L. Hensley *W. Hensley* Date: 3-4-97
 Agency: Commerce and Economic Development

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ORIGINAL

0-LS0618\H
Utermohle
5/3/97

SENATE CS FOR CS FOR HOUSE BILL NO. 151()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES OGAN, Croft

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to personal hunting of big game by big game guides while
2 clients are in the field, to activities of transporters in the field, to use area
3 registration for portions of additional guide use areas by registered guides, to oral
4 examination for a registered guide license or a game management unit
5 certification, and to eligibility for big game guide licenses, game management
6 unit certifications, or a transporter license."

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

8 * Section 1. AS 08.54.600 is amended by adding a new subsection to read:

9 (b) The department shall provide for administration of an oral examination for
10 a registered guide license or for a game management unit certification if an applicant
11 suffers from a reading disability.

12 * Sec. 2. AS 08.54.605(b) is amended to read:

13 (b) Notwithstanding (a) of this section, (a)(1)(B) and (C) [(a)(1)(C)] of this

1 section are not applicable to offenses committed by a person who receives or received
2 any class of guide license or a transporter license under sec. 13 [SECTION 13], ch.
3 33, SLA 1996, if the offense was committed before May 23, 1996. This subsection
4 does not apply when a person applies for a license that is different from the class
5 of guide license or the transporter license received under sec. 13, ch. 33, SLA
6 1996.

7 * Sec. 3. AS 08.54.605 is amended by adding a new subsection to read:

8 (c) A person may not receive a certification for a game management unit if
9 the person is prohibited by (a) of this section from receiving or renewing a registered
10 guide license or master guide license.

11 * Sec. 4. AS 08.54.610(a) is amended to read:

12 (a) A natural person is entitled to a registered guide license if the person

13 (1) is 21 years of age or older;

14 (2) has practical field experience in the handling of firearms, hunting,
15 judging trophies, field preparation of meat and trophies, first aid, photography, and
16 related guiding and outfitting activities;

17 (3) either

18 (A) has passed the qualification examination prepared and
19 administered by the department under AS 08.54.600; or

20 (B) provides evidence of 25 years of experience as a class-A
21 assistant guide or class-A assistant guide-outfitter;

22 (4) has passed a certification examination prepared and administered
23 by the department under AS 08.54.600 for at least one game management unit;

24 (5) has legally hunted in the state for part of each of any five years in
25 a manner directly contributing to the person's experience and competency as a guide;

26 (6) has been licensed as and performed the services of a class-A
27 assistant guide or assistant guide, or of a class-A assistant guide-outfitter or assistant
28 guide-outfitter under former AS 08.54.300 - 08.54.590, in the state for a part of each
29 of three years;

30 (7) is capable of performing the essential duties associated with guiding
31 and outfitting;

1 (8) has been favorably recommended in writing by eight big game
2 hunters whose recommendations have been solicited by the department from a list
3 provided by the applicant, including at least two favorable recommendations for each
4 year of any three years during which the person was a class-A assistant guide or
5 assistant guide, or a class-A assistant guide-outfitter or assistant guide-outfitter under
6 former AS 08.54.300 - 08.54.590;

7 (9) has provided proof of financial responsibility if required by the
8 department under AS 08.54.680; and

9 (10) has applied for a registered guide license on a form provided by
10 the department and paid the license application fee and the registered guide license fee.

11 * Sec. 5. AS 08.54.720(a) is amended to read:

12 (a) It is unlawful for a

13 (1) person who is licensed under this chapter to knowingly fail to
14 promptly report to the Department of Public Safety, division of fish and wildlife
15 protection, and in no event later than 20 days, a violation of a state game, guiding, or
16 transportation services statute or regulation that the person reasonably believes was
17 committed by a client or an employee of the person;

18 (2) person who is licensed under this chapter to intentionally obstruct
19 or hinder or attempt to obstruct or hinder lawful hunting engaged in by a person who
20 is not a client of the person;

21 (3) class-A assistant guide or an assistant guide to knowingly guide a
22 hunt except while employed and supervised by a registered guide;

23 (4) person who holds any class of guide license to knowingly enter or
24 remain on private land without prior authorization during the course of providing big
25 game hunting services;

26 (5) registered guide to knowingly engage in providing big game hunting
27 services outside of

28 (A) a game management unit for which the registered guide is
29 certified; or

30 (B) a use area for which the registered guide is registered under
31 AS 08.54.750 unless the registration requirement for the area has been

- 1 suspended by the Department of Fish and Game;
- 2 (6) person to knowingly guide without having a current registered
- 3 guide, class-A assistant guide, or assistant guide license and hunting license in actual
- 4 possession;
- 5 (7) registered guide to knowingly fail to comply with AS 08.54.610(e);
- 6 (8) person who is licensed under this chapter to knowingly
- 7 (A) commit or aid in the commission of a violation of this
- 8 chapter, a regulation adopted under this chapter, or a state game statute or
- 9 regulation; or
- 10 (B) permit the commission of a violation of this chapter, a
- 11 regulation adopted under this chapter, or a state game statute or regulation that
- 12 the person knows or reasonably believes is being or will be committed without
- 13 (i) attempting to prevent it, short of using force; and
- 14 (ii) reporting the violation;
- 15 (9) person without a current registered guide license to knowingly
- 16 guide, advertise as a registered guide, or represent to be a registered guide;
- 17 (10) person without a current master guide license to knowingly
- 18 advertise as, or represent to be, a master guide;
- 19 (11) person without a current registered guide license to knowingly
- 20 outfit a big game hunt, advertise as an outfitter of big game hunts, or represent to be
- 21 an outfitter of big game hunts;
- 22 (12) person to knowingly provide transportation services to big game
- 23 hunters without holding a current registered guide license or transporter license;
- 24 (13) person without a current transporter license to knowingly advertise
- 25 as, or represent to be, a transporter;
- 26 (14) class-A assistant guide or an assistant guide to knowingly contract
- 27 to guide or outfit a hunt;
- 28 (15) person licensed under this chapter to knowingly violate a state
- 29 statute or regulation prohibiting waste of a wild food animal or hunting on the same
- 30 day airborne; [OR]
- 31 (16) person to knowingly provide big game hunting service or

1 transportation services during the period for which the person's license to provide that
2 service is suspended or revoked;

3 (17) registered guide, except in the defense of life or property, to
4 knowingly personally take big game while a client of the registered guide is in the
5 field:

6 (18) person who is licensed as a registered guide, a class-A assistant
7 guide, or an assistant guide, except in the defense of life or property, to knowingly
8 personally take big game while a client of the registered guide by whom the
9 person is employed is in the field unless the person is not participating in,
10 supporting, or otherwise assisting in providing big game hunting services to a
11 client of the registered guide by whom the person is employed; or

12 (19) person who is licensed as a transporter, or who provides
13 transportation services under a transporter license, to knowingly accompany or
14 remain in the field with a big game hunter who is a client of the person except as
15 necessary to perform the specific duties of embarking or disembarking big game
16 hunters, their equipment, or big game animals harvested by hunters: this
17 paragraph does not apply to a person who holds both a transporter license and
18 any class of guide license issued under this chapter.

19 * Sec. 6. AS 08.54.720(b) is amended to read:

20 (b) In addition to a disciplinary sanction imposed under AS 08.54.710, a
21 person who commits an offense set out in (a)(1) - (7), (17), (18), or (19) of this
22 section is guilty of a misdemeanor and is punishable by a fine of not more than
23 \$10,000 or by imprisonment up to one year, or both.

24 * Sec. 7. AS 08.54.720(f) is amended to read:

25 (f) In addition to the penalties set out in (b) - (e) of this section and a
26 disciplinary sanction imposed under AS 08.54.710,

27 (1) the court may order the department to suspend the guide license or
28 transporter license of a person who commits a misdemeanor offense set out in (a)(1),
29 (3) - (5), [OR] (7), (17), (18), or (19) of this section for a specified period of not more
30 than three years;

31 (2) the court shall order the department to suspend the guide license or

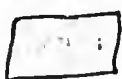
1 transporter license of a person who commits a misdemeanor offense set out in (a)(2)
2 or (8) - (14) of this section for a specified period of not less than one year and not
3 more than five years;

4 (3) the court shall order the department to suspend the guide license or
5 transporter license for a specified period of not less than three years, or to permanently
6 revoke the guide license or transporter license, of a person who commits an offense
7 set out in (a)(15) or (16) of this section; and

8 (4) all guns, fishing tackle, boats, aircraft, automobiles, or other
9 vehicles, camping gear, and other equipment and paraphernalia used in, or in aid of,
10 a violation of (a) of this section may be seized by persons authorized to enforce this
11 chapter and may be forfeited to the state as provided under AS 16.05.195.

12 * Sec. 8. AS 08.54.750 is amended by adding a new subsection to read:

13 (e) Notwithstanding (b) of this section, a registered guide who is registered in
14 three guide use areas may also register for and conduct big game hunting services in
15 a portion of one additional guide use area on federal land adjacent to a guide use area
16 in which the registered guide is already registered if the department finds that the
17 portion of the adjacent guide use area for which the registered guide is seeking to be
18 registered would otherwise remain unused by a registered guide because the boundaries
19 of guide use areas do not coincide with boundaries of federal big game guide
20 concession or permit areas.



- Highlighted material is deleted in the Sen: CS.

CS FOR HOUSE BILL NO. 151(RES) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Amended: 4/23/97
Offered: 3/21/97

Sponsor(s): REPRESENTATIVES OGAN, Croft

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to personal hunting of big game by big game guides while
2 clients are in the field, to activities of transporters in the field, to use area
3 registration for portions of additional guide use areas by registered guides, to oral
4 examinations for a registered guide license or a game management unit
5 certification, and to eligibility for big game guide licenses, game management
6 unit certifications, or a transporter license."

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

8 * Section 1. AS 08.54.600 is amended by adding a new subsection to read:
9 (b) The department shall provide for administration of an oral examination for
10 a registered guide license or for a game management unit certification if an applicant
11 cannot read English or suffers from a reading disability.

12 * Sec. 2. AS 08.54.605(b) is amended to read:
13 (b) Notwithstanding (a) of this section, (a)(1)(B) and (C) [(a)(1)(C)] of this

1 section are not applicable to offenses committed by a person who receives or received
 2 any class of guide license or a transporter license under sec. 13 [SECTION 13], ch.
 3 33, SLA 1996, if the offense was committed before May 23, 1996. This subsection
 4 does not apply when a person applies for a license that is different from the class
 5 of guide license or the transporter license received under sec. 13, ch. 33, SLA
 6 1996.

7 * Sec. 3. AS 08.54.610(a) is amended to read:

8 (a) A natural person is entitled to a registered guide license if the person

9 (1) is 21 years of age or older;

10 (2) has practical field experience in the handling of firearms, hunting,
 11 judging trophies, field preparation of meat and trophies, first aid, photography, and
 12 related guiding and outfitting activities;

13 (3) either

14 (A) has passed the qualification examination prepared and
 15 administered by the department under AS 08.54.600; or

16 (B) provides evidence of 25 years of experience as a class-A
 17 assistant guide, class-A assistant guide-outfitter, or equivalent guiding
 18 experience in the state;

19 (4) either

20 (A) has passed a certification examination prepared and
 21 administered by the department under AS 08.54.600 for at least one game
 22 management unit; or

23 (B) provides evidence of 10 years of experience as a class-A
 24 assistant guide or class-A assistant guide-outfitter in at least one game
 25 management unit;

26 (5) has legally hunted in the state for part of each of any five years in
 27 a manner directly contributing to the person's experience and competency as a guide;

28 (6) has been licensed as and performed the services of a class-A
 29 assistant guide or assistant guide, or of a class-A assistant guide-outfitter or assistant
 30 guide-outfitter under former AS 08.54.300 - 08.54.590, in the state for a part of each
 31 of three years;

1 (7) is capable of performing the essential duties associated with guiding
2 and outfitting;

3 (8) has been favorably recommended in writing by eight big game
4 hunters whose recommendations have been solicited by the department from a list
5 provided by the applicant, including at least two favorable recommendations for each
6 year of any three years during which the person was a class-A assistant guide or
7 assistant guide, or a class-A assistant guide-outfitter or assistant guide-outfitter under
8 former AS 08.54.300 - 08.54.590;

9 (9) has provided proof of financial responsibility if required by the
10 department under AS 08.54.680; and

11 (10) has applied for a registered guide license on a form provided by
12 the department and paid the license application fee and the registered guide license fee.

13 * Sec. 4. AS 08.54.610 is amended by adding a new subsection to read:

14 (f) Notwithstanding other provisions of this chapter, a person may receive
15 certification for a game management unit if the person provides evidence of 10 years
16 of experience as a class-A assistant guide or class-A assistant guide-outfitter in the
17 game management unit.

18 * Sec. 5. AS 08.54.720(a) is amended to read:

19 (a) It is unlawful for a

20 (1) person who is licensed under this chapter to knowingly fail to
21 promptly report to the Department of Public Safety, division of fish and wildlife
22 protection, and in no event later than 20 days, a violation of a state game, guiding, or
23 transportation services statute or regulation that the person reasonably believes was
24 committed by a client or an employee of the person;

25 (2) person who is licensed under this chapter to intentionally obstruct
26 or hinder or attempt to obstruct or hinder lawful hunting engaged in by a person who
27 is not a client of the person;

28 (3) class-A assistant guide or an assistant guide to knowingly guide a
29 hunt except while employed and supervised by a registered guide;

30 (4) person who holds any class of guide license to knowingly enter or
31 remain on private land without prior authorization during the course of providing big

1 game hunting services;

2 (5) registered guide to knowingly engage in providing big game hunting
3 services outside of

4 (A) a game management unit for which the registered guide is
5 certified; or

6 (B) a use area for which the registered guide is registered under
7 AS 08.54.750 unless the registration requirement for the area has been
8 suspended by the Department of Fish and Game;

9 (6) person to knowingly guide without having a current registered
10 guide, class-A assistant guide, or assistant guide license and hunting license in actual
11 possession;

12 (7) registered guide to knowingly fail to comply with AS 08.54.610(e);

13 (8) person who is licensed under this chapter to knowingly

14 (A) commit or aid in the commission of a violation of this
15 chapter, a regulation adopted under this chapter, or a state game statute or
16 regulation; or

17 (B) permit the commission of a violation of this chapter, a
18 regulation adopted under this chapter, or a state game statute or regulation that
19 the person knows or reasonably believes is being or will be committed without

20 (i) attempting to prevent it, short of using force; and

21 (ii) reporting the violation;

22 (9) person without a current registered guide license to knowingly
23 guide, advertise as a registered guide, or represent to be a registered guide;

24 (10) person without a current master guide license to knowingly
25 advertise as, or represent to be, a master guide;

26 (11) person without a current registered guide license to knowingly
27 outfit a big game hunt, advertise as an outfitter of big game hunts, or represent to be
28 an outfitter of big game hunts;

29 (12) person to knowingly provide transportation services to big game
30 hunters without holding a current registered guide license or transporter license;

31 (13) person without a current transporter license to knowingly advertise

1 as, or represent to be, a transporter;

2 (14) class-A assistant guide or an assistant guide to knowingly contract
3 to guide or outfit a hunt;

4 (15) person licensed under this chapter to knowingly violate a state
5 statute or regulation prohibiting waste of a wild food animal or hunting on the same
6 day airborne; [OR]

7 (16) person to knowingly provide big game hunting service or
8 transportation services during the period for which the person's license to provide that
9 service is suspended or revoked;

10 (17) registered guide, except in the defense of life or property, to
11 knowingly personally take big game while a client of the registered guide is in the
12 field; or

13 (18) person who is licensed as a registered guide, a class-A assistant
14 guide, or an assistant guide, except in the defense of life or property, to knowingly
15 personally take big game while a client of the registered guide by whom the
16 person is employed is in the field unless the person is not participating in,
17 supporting, or otherwise assisting in providing big game hunting services to a
18 client of the registered guide by whom the person is employed;

19 (19) person who is licensed as a transporter, or who provides
20 transportation services under a transporter license, to knowingly accompany or
21 remain in the field with a big game hunter who is a client of the person except as
22 necessary to perform the specific duties of embarking or disembarking big game
23 hunters, their equipment, or big game animals harvested by hunters; this
24 paragraph does not apply to a person who holds both a transporter license and
25 any class of guide license issued under this chapter.

26 * Sec. 6. AS 08.54.720(b) is amended to read:

27 (b) In addition to a disciplinary sanction imposed under AS 08.54.710, a
28 person who commits an offense set out in (a)(1) - (7), (17), (18), or (19) of this
29 section is guilty of a misdemeanor and is punishable by a fine of not more than
30 \$10,000 or by imprisonment up to one year, or both.

31 * Sec. 7. AS 08.54.720(f) is amended to read:

1 (f) In addition to the penalties set out in (b) - (e) of this section and a
2 disciplinary sanction imposed under AS 08.54.710,

3 (1) the court may order the department to suspend the guide license or
4 transporter license of a person who commits a misdemeanor offense set out in (a)(1);
5 (3) - (5), [OR] (7), (17), (18), or (19) of this section for a specified period of not more
6 than three years;

7 (2) the court shall order the department to suspend the guide license or
8 transporter license of a person who commits a misdemeanor offense set out in (a)(2)
9 or (8) - (14) of this section for a specified period of not less than one year and not
10 more than five years;

11 (3) the court shall order the department to suspend the guide license or
12 transporter license for a specified period of not less than three years, or to permanently
13 revoke the guide license or transporter license, of a person who commits an offense
14 set out in (a)(15) or (16) of this section; and

15 (4) all guns, fishing tackle, boats, aircraft, automobiles, or other
16 vehicles, camping gear, and other equipment and paraphernalia used in, or in aid of,
17 a violation of (a) of this section may be seized by persons authorized to enforce this
18 chapter and may be forfeited to the state as provided under AS 16.05.195.

19 * Sec. 8. AS 08.54.750(b) is amended to read:

20 (b) A registered guide may not register for or conduct big game hunting
21 services in

22 (1) more than three guide use areas during a calendar year; or

23 (2) a guide use area that is outside of a game management unit for
24 which the registered guide is certified under AS 08.54.600 or 08.54.610(f).

25 * Sec. 9. AS 08.54.750 is amended by adding a new subsection to read:

26 (e) Notwithstanding (b) of this section, a registered guide who is registered in
27 three guide use areas may also register for and conduct big game hunting services in
28 a portion of one additional guide use area on federal land adjacent to a guide use area
29 in which the registered guide is already registered if the department finds that the
30 portion of the adjacent guide use area for which the registered guide is seeking to be
31 registered would otherwise remain unused by a registered guide because the boundaries