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- (I) Musk ox, each 2.800 [2,300]
- (J) Sheen, each 1.150 [1,050]
- (K) Wolf, each 350

A nonresident alien is not required to have a nonresident alien wolf tag to take a wolf in a game management unit if the Board of Game has adopted an intensive management program under AS 16.05.255 for all or a portion of the game management unit.

- (L) Wolverine, each 600 [550]

* Sec. 54. AS 16.05.340(a) is amended by adding new paragraphs to read:

(28) Nonresident trophy fee

- (A) Black bear with skull size over 20 inches..... 500
- (B) Brown bear with skull size under 24 inches..... 500
- (C) Brown bear with skull size 24 inches or more and less than 26 inches..... 750
- (D) Brown bear with skull size 26 inches or more and less than 28 inches..... 1,000
- (E) Brown bear with skull size 28 inches or more 1,500
- (F) Musk ox (bull) 1,000
- (G) Musk ox (cow) 750
- (H) Bison (bull) 1,000
- (I) Bison (cow) 750
- (J) Moose with skull size over 50 inches and less than 65 inches..... 200
- (K) Moose with skull size 65 inches or more 500
- (L) Sheep with skull size 36 inches or more and less than 38 inches..... 200
- (M) Sheep with skull size 38 inches or more and less than 40 inches..... 400
- (N) Sheep with skull size 40 inches or more..... 600
- (O) Goat (billy) 750
- (P) Goat (nanny) 1,000

1 (Q) Wolf 100

2 (29) Nonresident alien trophy fee

3 (A) Black bear with skull size over 20 inches 675

4 (B) Brown bear with skull size under 24 inches 675

5 (C) Brown bear with skull size 24 inches or more and less than

6 26 inches 1,015

7 (D) Brown bear with skull size 26 inches or more and less than

8 28 inches 1,350

9 (E) Brown bear with skull size 28 inches or more 2,025

10 (F) Musk ox (bull) 1,350

11 (G) Musk ox (cow) 1,015

12 (H) Bison (bull) 1,350

13 (I) Bison (cow) 1,015

14 (J) Moose with skull size 50 inches or more and less than 65

15 inches 270

16 (K) Moose with skull size 65 inches or more 675

17 (L) Sheep with skull size 36 inches or more and less than 38

18 inches 270

19 (M) Sheep with skull size 38 inches or more and less than 40

20 inches 540

21 (N) Sheep with skull size 40 inches or more 810

22 (O) Goat (billy) 1,015

23 (P) Goat (nanny) 1,350

24 (Q) Wolf 135

25 (30) Resident registration permit stamp 10

26 The \$10 fee for the resident registration permit stamp is owed for each hunt, including

27 renewals of the same hunt.

28 (31) Nonresident registration permit stamp 15

29 * Sec. 55. AS 16.05.340(d) is amended to read:

30 (d) Members of the military service on active duty who are permanently

31 stationed in the state, and their dependents, who do not qualify as residents under

1 AS 16.05.415, may obtain special nonresident military hunting [SMALL GAME] and
2 [SPORT] fishing licenses at the rates for resident hunting and [SPORT] fishing
3 licenses], BUT MAY NOT TAKE A BIG GAME ANIMAL WITHOUT
4 PREVIOUSLY PURCHASING A REGULAR NONRESIDENT HUNTING
5 LICENSE AND A NUMBERED, NONTRANSFERABLE APPROPRIATE TAG,
6 ISSUED AT ONE-HALF OF THE NONRESIDENT RATE, UNDER (a)(15) OF
7 THIS SECTION].

8 * Sec. 56. AS 16.05.340 is amended by adding new subsections to read:

9 (k) By regulation, the commissioner may authorize a reduction, not to exceed
10 five percent, in the fee for a license, permit, stamp, or tag issued under AS 16.05.330 -
11 16.05.430 that is purchased through the department's Internet website.

12 (l) In addition to the fee for a hunting, trapping, or sport fishing license set
13 under (a) of this section, the department shall collect an access surcharge on each
14 individual or combined hunting, trapping, or sport fishing license sold. The amount of
15 the surcharge is \$1 for each individual or combined resident hunting, trapping, or sport
16 fishing license sold and \$5 for each individual or combined nonresident hunting,
17 trapping, or sport fishing license sold. The proceeds of the surcharge must be
18 separately accounted and are intended to be appropriated for the acquisition of
19 easements, rights-of-way, and land to provide access to fish and game for holders of
20 hunting, trapping, and sport fishing licenses.

21 * Sec. 57. AS 16.05.346(a) is amended to read:

22 (a) If the Board of Game establishes an open season for musk oxen and has
23 not reduced or eliminated the \$500 resident tag fee under AS 16.05.340(a)(16), the
24 department shall conduct a drawing for permits to take the musk oxen. If the Board of
25 Game establishes an open season for musk oxen for which the Board of Game has
26 reduced or eliminated the resident tag fee, the department shall issue permits to take
27 the musk oxen in the order in which applications are received by the department. A
28 person is not eligible for more than one musk oxen permit a year. The department may
29 not charge a fee for an application for a musk oxen permit for an open season in which
30 the Board of Game has reduced or eliminated the resident tag fee under
31 AS 16.05.340(a)(16). In all other cases, the application fee for a musk oxen permit is

1 **\$7.50** [~~\$10~~].

2 * Sec. 58. AS 16.05.346(b) is amended to read:

3 (b) The application fee for a drawing permit issued by the department for the
4 hunting of bison is **\$7.50** [~~\$10~~].

5 * Sec. 59. AS 16.05.346(c) is amended to read:

6 (c) Except as provided in (a) and (b) of this section, the permit application fee
7 for all species for which a limited drawing is conducted is **\$7.50** [~~\$5~~].

8 * Sec. 60. AS 16.05.346 is amended by adding new subsections to read:

9 (c) The application fee for a hunting permit issued by the department under
10 AS 16.05.258(b)(4), known as a tier II hunting permit, is \$7.50. A person is exempt
11 from the payment of the application fee for a tier II hunting permit if the person is

- 12 (1) blind;
- 13 (2) under the age of 16;
- 14 (3) 60 years of age or older; or
- 15 (4) a disabled veteran eligible for a free license under AS 16.05.341.

16 (i) The application fee for an annual registration hunt stamp is \$7.50. A person
17 shall obtain an annual registration hunt stamp before participating in a hunt for which
18 a registration stamp is required by regulation of the Board of Game. A person is
19 exempt from the payment of the annual registration hunt stamp application fee if the
20 person is

- 21 (1) blind;
- 22 (2) under the age of 16;
- 23 (3) 60 years of age or older; or
- 24 (4) a disabled veteran eligible for a free license under AS 16.05.341.

25 * Sec. 61. AS 16.05.350(a) is amended to read:

26 (a) Licenses, permits, **stamps**, and tags required under AS 16.05.330 -
27 16.05.430, except biennial licenses, triennial licenses, the nonresident sport fishing
28 licenses, the resident trapping license, the nonresident anadromous king salmon tags,
29 the waterfowl conservation tag, and permits having a different specified expiration
30 date, expire at the close of December 31 following issuance.

31 * Sec. 62. AS 16.05.360(a) is amended to read:

1 (a) The commissioner or the commissioner's designee [AN AUTHORIZED
2 DEPUTY] shall issue each license, [AND] tag, permit, stamp, certificate, or other
3 document issued by the department that is required by law as a prerequisite to
4 engaging in an activity, authorized by the Board of Fisheries or Board of Game to
5 a qualified person under written application containing such reasonable information as
6 required by the commissioner. The commissioner shall designate the [LICENSE AND
7 TAG] form or type of the document. The document [FORM OR TYPE] must be
8 sufficient to identify and locate the applicant and establish the applicant's status as to
9 residency and citizenship. Each application shall be subscribed by the applicant.

10 * Sec. 63. AS 16.05.380 is amended to read:

11 **Sec. 16.05.380. Commissioner may appoint agents.** The commissioner may
12 appoint state employees or other persons to take applications, issue licenses, permits,
13 stamps, and tags, and collect fees. The commissioner is not liable for defalcation or
14 failure to account for the fees collected by any person so appointed, but the
15 commissioner shall require a bond in an adequate sum, conditioned upon faithfully
16 accounting for all money collected. However, the commissioner may waive the bond
17 requirements of an instrumentality of the United States or its agents and employees
18 when the instrumentality or its agents or employees sell licenses, permits, or tags
19 primarily to persons in the armed forces. Each person, upon appointment by the
20 commissioner, may administer oaths on applications for licenses, permits, stamps, and
21 tags.

22 * Sec. 64. AS 16.05.390(a) is amended to read:

23 (a) Except as provided in (c) of this section, an agent appointed by the
24 commissioner under AS 16.05.380 to sell licenses, permits, stamps, and tags is
25 entitled to

26 (1) retain five percent of the fee that is charged for a license, permit,
27 stamp, or tag or 25 cents for each license, permit, stamp, or tag sold, whichever is
28 greater; and

29 (2) compensation of \$50 a [PER] year or \$1 for each license, permit,
30 stamp, or tag sold during the year, whichever is greater.

31 * Sec. 65. AS 16.05.390(b) is amended to read:

1 (b) Each agent appointed to sell licenses, permits, stamps, or tags under
2 AS 16.05.380 shall, as directed by the commissioner, transmit the proceeds from the
3 sales of licenses, permits, stamps, and tags, except the amount authorized to be
4 retained under (a)(1) of this section, together with a report on the sales, to the
5 commissioner for deposit in the fish and game fund or the general fund.

6 * Sec. 66. AS 16.05.390(c) is amended to read:

7 (c) On March 31, June 30, September 30, and December 31 of each year, the
8 commissioner shall calculate the compensation earned by an agent under (a)(2) of this
9 section, minus the penalties assessed under (g) of this section. If the compensation due
10 exceeds \$50, the commissioner shall pay the compensation not later than 30 days after
11 the date for which the compensation was calculated. If the compensation due is \$50 or
12 less, the commissioner shall pay the compensation not later than January 30 of the
13 year following the year in which the compensation was earned. The commissioner
14 shall pay compensation only for sales of licenses, permits, stamps, or tags for which
15 the commissioner has received the report and proceeds required to be transmitted
16 under (b) of this section.

17 * Sec. 67. AS 16.05.390(e) is amended to read:

18 (e) The provisions of (a) of this section do not apply to a state employee
19 appointed by the commissioner under AS 16.05.380 to sell licenses, permits, stamps,
20 and tags.

21 * Sec. 68. AS 16.05.390(f) is amended to read:

22 (f) Proceeds and reports under (b) of this section shall be transmitted to the
23 commissioner by the last day of the month following the month in which the licenses,
24 permits, stamps, and tags are sold, unless an alternative reporting schedule has been
25 established by contract.

26 * Sec. 69. AS 16.05.405 is amended by adding new subsections to read:

27 (g) Notwithstanding (a) - (f) of this section and AS 16.05.420(c), a resident
28 who has a valid hunting license to take big game or who is exempt from the hunting
29 license requirement under AS 16.05.400 may take a big game animal on behalf of
30 another resident who has a permit, tag, or other written authorization issued by the
31 department under AS 16.05.346 or under regulations of the department or Board of

1 Game to take the animal, if the resident is physically present in the field with the other
2 resident who has the permit, tag, or other written authorization to take the animal and
3 the other resident has provided written authorization for the resident to take the
4 animal.

5 (h) Notwithstanding (a) - (f) of this section and AS 16.05.420(c), a resident
6 may affix a permit, tag, or other written authorization issued by the department under
7 AS 16.05.346 or under regulations of the department or Board of Game that is
8 required to be affixed to a big game animal when the animal has been taken to a big
9 game animal taken by another resident if the resident is physically present in the field
10 with the other resident and has the permission of the other resident who took the big
11 game animal.

12 * Sec. 70. AS 16.05.407(a) is amended to read:

13 (a) Except as provided under AS 16.05.781, it [IT] is unlawful for a
14 nonresident to hunt, pursue, or take brown bear, grizzly bear, mountain goat, or sheep
15 in this state, unless personally accompanied by

16 (1) a person who is licensed as

17 (A) a registered guide-outfitter or a master guide-outfitter under
18 AS 08.54 and who is providing big game hunting services to the nonresident
19 under a contract with the nonresident; or

20 (B) a class-A assistant guide or an assistant guide under
21 AS 08.54 and who is employed by a registered guide-outfitter or a master
22 guide-outfitter who has a contract to provide big game hunting services to the
23 nonresident; or

24 (2) a resident over 19 years of age who is

25 (A) the spouse of the nonresident; or

26 (B) related to the nonresident, within and including the second
27 degree of kindred, by marriage or blood.

28 * Sec. 71. AS 16.05.408(a) is amended to read:

29 (a) Except as provided under AS 16.05.781, it [IT] is a class A misdemeanor
30 for a nonresident alien to hunt, pursue, or take a big game animal as defined by the
31 Board of Game unless personally accompanied by

1 (1) a registered guide-outfitter or a master guide-outfitter licensed
2 under AS 08.54 who is providing big game hunting services to the nonresident alien
3 under a contract with the nonresident alien; or

4 (2) a class-A assistant guide or an assistant guide licensed under
5 AS 08.54 who is employed by a registered guide-outfitter or a master guide-outfitter
6 who has a contract to provide big game hunting services to the nonresident alien.

7 * Sec. 72. AS 16.05.420 is amended to read:

8 **Sec. 16.05.420. License, tag, permit, stamp, and registration violations.** (a)

9 A false statement of a material fact in an application for a license, tag, permit, stamp,
10 and sport fishing vessel registration issued under AS 16.05.330 - 16.05.430 voids the
11 license, tag, permit, stamp, or registration for which the application is made.

12 (b) A person may not make a false statement, or omit a material fact, in an
13 application for a license, tag, permit, stamp, or sport fishing vessel registration issued
14 under AS 16.05.330 - 16.05.430. A person who with or without any culpable mental
15 state makes a false statement as to the person's identity or residency in an application
16 for a license, tag, permit, stamp, or sport fishing vessel registration issued under
17 AS 16.05.330 - 16.05.430 is guilty of a violation and upon conviction is punishable by
18 a fine of not more than \$300. [A PERSON WHO KNOWINGLY VIOLATES THIS
19 SUBSECTION IS GUILTY OF A CLASS A MISDEMEANOR.]

20 (c) A person to whom a license, permit, tag, stamp, or sport fishing vessel
21 registration has been issued under this chapter may not alter, change, loan, or transfer
22 the license, permit, tag, stamp, or sport fishing vessel registration. A person may not
23 use a license, permit, tag, stamp, or sport fishing vessel registration that has been
24 issued under this chapter to another person.

25 * Sec. 73. AS 16.05 is amended by adding a new section to read:

26 **Sec. 16.05.781. Taking of black bear and brown or grizzly bear.** (a) If,
27 under AS 16.05.255(e) or (f), the Board of Game has identified predation by bear as a
28 cause of the depletion of a big game prey population or reduction of the productivity
29 of a big game population that is a basis for the establishment of an intensive
30 management program in a game management unit or subunit or for the declaration of
31 the biological emergency in a game management unit or subunit, bear may be taken in

1 the game management unit or subunit under (b) - (h) of this section. The department
2 shall provide notice to the public of when and where (b) - (h) of this section are in
3 effect. The taking of bear under this section is subject to provisions of this title,
4 applicable to the taking of bear, and to regulations governing the method, manner,
5 means, bag limit, or other matters adopted by the Board of Game that do not conflict
6 with (b) - (h) of this section.

7 (b) Subject to (a) of this section, a person may take bear with the use of bait
8 without registration and may relocate viscera and nonedible parts of legally taken
9 game or commercially purchased material for use as bait for bear.

10 (c) Subject to (a) of this section, a person who is airborne may assist another
11 person who is not airborne to locate a bear.

12 (d) Subject to (a) of this section, a person may use an electronic predator call
13 device and other electronic equipment as an aid to take bear.

14 (e) Subject to (a) of this section, a person may take bear on the same day that
15 the person has been airborne.

16 (f) Subject to (a) of this section and notwithstanding AS 16.05.782, a person
17 may take a bear within one-half mile of a solid waste disposal facility.

18 (g) Subject to (a) of this section, there is no closed season on bear.

19 (h) Subject to (a) of this section and notwithstanding AS 16.05.407 and
20 AS 16.05.408, a nonresident or a nonresident alien who has successfully completed a
21 big game hunter safety course administered by the department under (i) of this section
22 may take a bear if the nonresident or nonresident alien is accompanied by a resident
23 who is over 19 years of age, who has hunted big game in the state during three or more
24 calendar years, who has successfully completed a big game hunter safety course
25 administered by the department under (i) of this section, and who does not receive any
26 remuneration for accompanying the nonresident or nonresident alien to take a bear. A
27 resident may not accompany more than two nonresidents, regardless of whether they
28 are aliens or not, during a calendar year to take a bear under this subsection.

29 (i) The department shall provide a big game hunter safety course for
30 nonresidents and nonresident aliens who intend to hunt for bear under (h) of this
31 section and for residents who intend to accompany a nonresident or nonresident alien

1 to take bear under (h) of this section. The big game hunter safety course must include
2 information on applicable hunting laws and on the hazards of dangerous animals,
3 rugged terrain, weather, and other conditions found in the state. The department shall
4 provide the course materials for the course at each of its offices and through the
5 department's Internet website. The department shall authorize agents to distribute
6 course materials. The department shall offer the test for completion of the hunter
7 safety course at each of its offices. The department may also administer the test for
8 completion of the hunter safety course by mail or through the Internet. The department
9 shall issue a big game hunter safety certificate to each person who successfully
10 completes the course. The department may charge a fee not to exceed \$50 to take the
11 test for completion of the hunter safety course.

12 (j) In this section, "bear" means black bear and brown or grizzly bear.

13 * Sec. 74. AS 16.05.930 is amended by adding a new subsection to read:

14 (h) This chapter does not prohibit the purchase, sale, resale, barter, or other
15 transfer for value of a mount, trophy, or part of a lawfully taken fish or game animal.
16 The commissioner, Board of Fisheries, and Board of Game may not prohibit the
17 purchase, sale, resale, barter, or other transfer for value, or the advertising for the
18 purchase, sale, resale, barter, or other transfer for value, of a mount, trophy, or part of
19 a lawfully taken fish or game animal.

20 * Sec. 75. AS 16.05.935 is amended to read:

21 **Sec. 16.05.935. Restrictions on cooperation with federal government.** (a) In
22 recognition of the fact that the state has not assented to federal control of fish and
23 wildlife [GAME] in Glacier Bay National Park and Preserve or the navigable waters
24 within or adjoining the park and preserve, that the power to control the management of
25 fish and wildlife [GAME] within the boundaries of the state is an incident of state
26 sovereignty, and that the federal government cannot commandeer the lawmaking
27 processes of the states to compel the state to enact and enforce a federal regulatory
28 program, an agency, employee, or agent of the state may not expend funds to adopt or
29 enforce the implementation of any [THE] federal regulatory program or a part of the
30 program for control of fish and wildlife [GAME] in the park and preserve or the
31 navigable waters within or adjoining the park and preserve that is in conflict with a

1 state statute or regulation regarding management of fish or wildlife [GAME] within
2 the park or preserve. This subsection does not prohibit an agency, employee, or agent
3 of the state from

4 (1) taking action necessary to protect life or property;

5 (2) commenting on proposed federal statutes or regulations;

6 (3) collecting data relating to claims of economic harm arising from
7 the closure of the park and preserve to commercial fishing; or

8 (4) participating in or cooperating with a federal program established
9 under 16 U.S.C. 703 - 712 (Migratory Bird Treaty Act); 16 U.S.C. 773 - 773k
10 (Northern Pacific Halibut Act of 1982); 16 U.S.C. 1361 - 1421h (Marine Mammal
11 Protection Act); 16 U.S.C. 1531 - 1544 (Endangered Species Act); 16 U.S.C. 1801 -
12 1883 (Magnuson-Stevens Fishery Conservation and Management Act); 16 U.S.C.
13 3631 - 3644 (Pacific Salmon Treaty Act of 1985).

14 (b) Nothing in this title authorizes the department or a board to enter into an
15 agreement with a department or agency of the federal government that cedes state
16 authority for the management of fish or wildlife [GAME] in the state to the federal
17 government. In this subsection, "management" means the regulation of the method,
18 manner, means, time, or place of taking of fish or wildlife [GAME] or the regulation
19 of the amount of fish or wildlife [GAME] that may be taken.

20 * Sec. 76. AS 16.05.940(19) is amended to read:

21 (19) "game" means any species of bird, reptile, or [AND] mammal,
22 including a feral domestic animal, found or introduced in the state, except domestic
23 birds and mammals, for which the Board of Game has adopted regulations
24 authorizing consumptive use or that the Board of Game has authorized the
25 department to manage [; AND GAME MAY BE CLASSIFIED BY REGULATION
26 AS BIG GAME, SMALL GAME, FUR BEARERS OR OTHER CATEGORIES
27 CONSIDERED ESSENTIAL FOR CARRYING OUT THE INTENTION AND
28 PURPOSES OF AS 16.05 - AS 16.40];

29 * Sec. 77. AS 16.05.940(34) is amended to read:

30 (34) "take" means [TAKING, PURSUING,] hunting, fishing, trapping,
31 or in any manner [DISTURBING,] capturing [,] or killing or attempting to take,

1 [PURSUE.] hunt, fish, trap, or in any manner capture or kill fish or game;

2 * Sec. 78. AS 16.05.050(a)(1) is repealed.

3 * Sec. 79. AS 16.05.340(a)(21) is repealed.

4 * Sec. 80. The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITION: BIG GAME HUNTER SAFETY COURSE. (a) Notwithstanding
7 AS 16.05.781(h), added by sec. 77 of this Act, a nonresident or a nonresident alien who is
8 accompanied by a resident in accordance with AS 16.05.781(h), added by sec. 77 of this Act,
9 may take a bear without having successfully completed a big game hunter safety course
10 administered by the Department of Fish and Game under AS 16.05.781(i), added by sec. 77 of
11 this Act, until 30 days after the course materials for the big game hunter safety course have
12 been published and distributed to each of the offices of the department and through the
13 department's Internet website.

14 (b) Notwithstanding AS 16.05.781(h), added by sec. 77 of this Act, a resident who is
15 over 19 years of age and who has hunted big game in the state during three or more calendar
16 years, may accompany a nonresident or a nonresident alien to take a bear in accordance with
17 AS 16.05.781(h), added by sec. 77 of this Act, without having successfully completed a big
18 game hunter safety course administered by the Department of Fish and Game under
19 AS 16.05.781(i), added by sec. 77 of this Act, until 30 days after the course materials for the
20 big game hunter safety course have been published and distributed to each of the offices of
21 the department and through the department's Internet website.

22 * Sec. 81. Sections 1, 20, 23, 26, 29, 32, 35, 38, 41, 43, 46, 49, 52, 55, and 58 of this Act
23 take effect January 1, 2007.

24 * Sec. 82. Sections 21, 24, 27, 30, 33, 36, 39, 44, 47, 50, and 56 of this Act take effect
25 January 1, 2009.

26 * Sec. 83. Sections 22, 25, 28, 31, 34, 37, 40, 42, 45, 48, 51, 53, and 57 of this Act take
27 effect January 1, 2011.

28 * Sec. 84. Except as provided in secs. 81 - 83 of this Act, this Act takes effect July 1, 2006.

Follow Up

- ① Pg. 21, line 17-20 (Stedman)
- ② Sectional from ASF&G on new CS.
- ③ Letter from Department re:
resident rate for tags, etc.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: S.B. 170
 (S) Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish & Game
 Title: Board / Dept of Fish & Game Powers and Duties RDU: Wildlife Conservation
 Component: Wildlife Conservation
 Sponsor: Senate Ralph Seekins
 Requester: Senate Resources Committee Component No.: 473

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	320.3	320.3	320.3	320.3	320.3	320.3
Travel	30.0	30.0	30.0	30.0	30.0	30.0
Contractual	50.0	50.0	50.0	50.0	50.0	50.0
Supplies	25.0	25.0	25.0	25.0	25.0	25.0
Equipment						
Buildings & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	425.3	425.3	425.3	425.3	425.3	425.3

CAPITAL EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012

CHANGE IN REVENUES (1024)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
	1,165.6	4,662.2	4,662.2	4,662.2	4,662.2	4,662.2

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1024 Fish & Game Fund	425.3	425.3	425.3	425.3	425.3	425.3
TOTAL	425.3	425.3	425.3	425.3	425.3	425.3

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	4	4	4	4	4	4
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The legislation proposes various license fee increases that take effect for the 2007 license year, starting January 1, 2007. Sales of hunting licenses occur primarily during the fall. Revenue for FY07, which includes sales in the spring of 2007 is estimated at 25% of the anticipated yearly projection due to the annual pattern of license purchases.

A projected revenue increase of \$4.6 million could be realized during FY08 and beyond should sale volume remain constant. This revenue will be used to maintain existing area office and field programs within the Division of Wildlife Conservation and to expand efforts toward wildlife survey-inventory programs and intensive management activities.

Prepared by: David Thomson, Administrative Manager Phone 465-6194
 Division: Division of Wildlife Conservation Date/Time 4/10/2006
 Approved by: McKie Campbell, Commissioner Date 4/10/2006
 Agency: Department of Fish & Game

FISCAL NOTE

**STATE OF ALASKA
2006 LEGISLATIVE SESSION**

BILL NO. S.B. 170

ANALYSIS CONTINUATION

The revenue will be deposited into the Fish & Game Fund and added to the revolving fund balance. The fund balance is drawn upon by the department for expenditures from Legislative operating and capital appropriations.

The stipulations of all sections of this bill requiring Board of Game involvement, review, and approvals regarding wildlife issues and plans will necessitate a fulltime Assistant Director and an Administrative Clerk for communication and division coordination. A senior Wildlife Biologist position will also be added to serve as a statewide coordinator for Intensive Management operations, research, coordination, and planning.

Stipulations to require OMB approval for funding transfers between projects and project accounting will necessitate additional accounting oversight at the Division's headquarters office. The level of management to achieve compliance will require coordination between Wildlife regions, headquarters, and the Division of Administrative Services. An Accountant position will also be required.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: S.B. 170
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title: Bd/Dept. Fish & Game Powers and Duties RDU: Administrative Services
 Component: Boards of Fisheries and Game
 Sponsor: Senator Ralph Seekins
 Requester: Senate Resources Committee Component No.: 2048

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	194.7	194.7	194.7	194.7	194.7	194.7
Travel	39.9	39.9	39.9	39.9	39.9	39.9
Contractual	174.3	174.3	174.3	174.3	174.3	174.3
Supplies	5.0	5.0	5.0	5.0	5.0	5.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	413.9	413.9	413.9	413.9	413.9	413.9
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	413.9	413.9	413.9	413.9	413.9	413.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	413.9	413.9	413.9	413.9	413.9	413.9

Estimate of any current year (FY2006) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time	0					
Temporary	0					

ANALYSIS: (Attach a separate page if necessary)

S.B. 170 proposes fundamental changes in the duties and powers of the Board of Fisheries and Board of Game. Among some of the new duties for both boards is the authority to approve department "plans, strategies, and guidelines" prior to implementation of the policy; requiring both boards to assign a priority for consumptive uses on an area-by-area basis for every fish/wildlife species in the state; and requiring the Board of Game to establish a hunting permit deferral program in certain areas of the state. Additionally, this legislation shifts authority for the state's endangered species determinations from the commissioner to the respective boards. S.B. 170 requires maximum sustained yield (MSY)

(Analysis continued on Page 2)

Prepared by: Jim Marcotte, Executive Director Phone: 465-6095
 Division: Boards Support Section Date/Time: 4/11/06 3:59 PM
 Approved by: Commissioner McKie Campbell Date: 4/11/2006
 Agency: Alaska Department of Fish and Game

FISCAL NOTE

**STATE OF ALASKA
2006 LEGISLATIVE SESSION**

BILL NO. S.B. 170

ANALYSIS CONTINUATION

determinations on all fish and wildlife species, which will require extensive detailed information from Division of Wildlife Conservation, Division of Commercial Fisheries, and Division of Sport Fish be provided to the boards for deliberations and decision making.

In order to meet the new responsibilities under this legislation, each board would need to hold additional meetings: 2 face-to-face meetings and bimonthly teleconferences. Both boards will be required to conduct a thorough review of current regulations to eliminate those that do not meet the new statutes under S.B. 170, in addition to creating new regulations to implement the bill. A new position would be needed to coordinate the additional needs for meeting support, written materials, notices, coordination with staff and the public, and recordkeeping.

*It is possible that a full-time board would be necessary to achieve the desired outcome of this legislation. If so, the fiscal note would need to be adjusted to add 14 full-time positions (range 26C) at an additional cost of 1,413.5 not shown above. It is possible that travel costs for advisory committees would increase if committees need to send representatives to board meetings and hold advisory committee meetings more frequently and throughout the year for an additional cost of 276.2 not shown above.

The fiscal note reflects changes in the current RDU as follows:

Personal Services

Add 1 program manager (range 20C)

Travel, Contractual, Supplies and Equipment (under \$5000 per individual item)

The boards estimate that 30 additional regulatory meeting days would be required for each board. There will be increased costs for board member honorarium and travel, meeting space, teleconferencing, legal notices, and a small increase in supplies for the full-time boards. Boards will need to add a computer for the program manager.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: S.B. 170
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title BD/Department of Fish and Game Powers & Duties RDU Sport Fisheries
 Component Sport Fisheries
 Sponsor Senator Ralph Seekins
 Requester Senate Resources Committee Component No. 464

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel	9.9	9.9	9.9	9.9	9.9	9.9
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	9.9	9.9	9.9	9.9	9.9	9.9

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	9.9	9.9	9.9	9.9	9.9	9.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	9.9	9.9	9.9	9.9	9.9	9.9

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Department estimates that the provisions of SB170 would require two additional BOF meetings of four days per meeting. Sport Fish Division plans to have four staff members at each of these two meetings. Issues expected to be covered include Board review of Invasive Species Management Plan, State Wildlife Grant Plan, Stocking Plans, Education Outreach Plan, etc.

Prepared by: Kelly Hepler, Director
 Division: Division of Sport Fish
 Approved by: Commissioner McKie Campbell
 Agency: Alaska Department of Fish and Game

Phone 267-2195
 Date/Time 4/11/06 4:19 PM
 Date 4/11/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: S.B. 170
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title Bd/Dept Fish & Game Powers and Duties RDU Administration and Support
Component Subsistence
Sponsor Senator Ralph Seekins
Requester Senate Resources Committee Component No. 2625

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	410.8	363.6	207.8	207.8	207.8	207.8
Travel	16.5	7.5	8.0	8.5	9.0	10.0
Contractual	18.0	13.5	10.0	10.5	11.0	11.5
Supplies	18.0	1.0	1.0	1.0	1.0	1.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	463.3	385.6	226.8	227.8	228.8	230.3

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	463.3	385.6	226.8	227.8	228.8	230.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	463.3	385.6	226.8	227.8	228.8	230.3

Estimate of any current year (FY2006) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	6	5	3	3	3	3
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Overview: Changes to duties in AS16.05.094 include new duties to: (1) compile existing data and gather information on compliance with state fishing, hunting, and trapping licensing requirements by subsistence users; (2) provide information to the boards of Fisheries and Game and the department on subsistence uses and methods and means; and (3) assist with department statewide and regional fisheries and wildlife management plans. These changes require the addition of full-time staff positions: 6.2 FTE in Year 1; reduced to 5.4 FTE in Year 2; and 3.4 FTE in subsequent years.

Fiscal information for each of these changes is presented in the Analysis Continuation on the next page.

Prepared by: Elizabeth Andrews, Director Phone 907-465-4146
Division: Subsistence Division Date/Time April 10, 2006; 17:30
Approved by: Commissioner McKie Campbell Date 4/10/2006
Agency: Alaska Department of Fish and Game

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. S.B. 170

ANALYSIS CONTINUATION

(1) Compliance information and data. Design and implement a SQL Server database to combine wildlife, sport fishing, and trapping licensing data for compiling and analyzing license and reporting compliance for harvest of fish and wildlife for subsistence.

Personnel:

- a. Program Coordinator, Range 20, Anchorage, \$14.8 /2 mos. Overall management and supervision of the project within the Information Management program.
- b. Project Coordinator, Range 18, Anchorage, \$78.0 /yr. Leads and coordinates project team; schedules and mileposts; collaborates with wildlife and fisheries divisions on methodology, design, and functionality; solicits input from users on design and data and metadata formats for presenting results.
- c. Research Analyst III, Range 18, Anchorage, \$78.0/yr. Formats data from 2000-2005; combines wildlife, fisheries, and subsistence databases into SQL Server; documents technical aspects of the database; initializes format protocols for ongoing databases and projects for future input. Statistical examination of existing datasets for compatibility; error checking and debugging.
- d. Analyst Programmer III, Range 18 Anchorage, \$78.0/yr. SQL Server database construction; programming stored procedures (predefined queries, relationships, tabulations, look-ups); upload previous database tables; check for import errors; ensure data integrity; statistical examination
- e. Administrative Clerk II, Range 8, Anchorage, \$38.0/yr. Data entry and conversions for 2000-2005 projects; assist in formatting for uploads.

Travel: Travel and per diems costs to Juneau and Fairbanks for reviewing datasets in regional offices; presenting results to Boards of Fisheries and Game at regulatory meetings--\$6.0 year 1

Contractual: Network and communications service costs in Anchorage office--\$12.0 year 1

Supplies: Computers, associated software and hardware--\$13.0 year 1

(2) Provide information on allowed subsistence uses to the department and boards. Compile into electronic records system boards of Fisheries and Game findings on subsistence (customary and traditional) uses and associated worksheets and information each board used for making the findings and determinations, including amounts reasonably necessary for subsistence uses.

Personnel: Project Assistant, Range 16, Juneau, \$72.0/yr. Compiles all hard-copy records from 1987-2005 into searchable electronic files for each wildlife and fish population by Game Management Unit and Fishing District, as appropriate.

Travel: Travel and per diems costs to Anchorage and Fairbanks to locate and scan hardcopy records. \$4.5 year 1

Contractual: Network and communications service costs in Juneau office--\$3.0 year 1

Supplies: Computer, associated software and hardware--\$2.5 year 1

(3) Assist preparing statewide and regional management plans with wildlife and fisheries divisions.

Personnel: Project Assistant, Range 16, Anchorage, \$72.0/yr. Assists the planning teams for fisheries and wildlife resource management planning efforts of wildlife, sport, and commercial fisheries divisions. Planning teams are resource and area specific. This position assists on all teams for any given year; or as prioritized by division's leading the planning effort.

Travel: Travel and per diems costs to Fairbanks and Juneau, and field locations for planning meetings--\$6.0 year 1

Contractual: Network and communications service costs in Anchorage office--\$3.0 year 1

Supplies: Computer, associated software and hardware--\$2.5 year 1

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: S.B. 170
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title Bd/Dept. Fish & Game Powers and Duties RDU Administration and Support
 Component Administrative Services
 Sponsor Senator Ralph Seekins
 Requester Senate Resources Committee Component No. 479

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	16.5	16.5	16.5	16.5	16.5	16.5
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	16.5	16.5	16.5	16.5	16.5	16.5

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	16.5	16.5	16.5	16.5	16.5	16.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	16.5	16.5	16.5	16.5	16.5	16.5

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Division of Administrative Services will require additional personal services to oversee: the increase in revised programs that OMB and LBA would need to approve (Section 3g); track Reimbursable Service Agreements from the Divisions of Sport Fish and Wildlife Conservation to other agencies have received legislative approval (Section 7); audit of fish and game funds to ensure compliance that fixed cost expenditures do not exceed 55% of the budgeted expenditures unless the legislature has specifically authorized them (Section 8); audit expenditures from the Fish and Game Fund and federal aid funds directly benefit license purchasers (Section 9); and work with license vendors about individuals showing proof to purchase a low income license (Section 24). The division estimates about 25% of an Administrative Manager 1's cost (\$65,900) would be the personal services amount related to this legislation.

Prepared by: Tom Lawson, Director Phone 465-5999
 Division: Division of Administrative Services Date/Time 4/11/06 1:31 PM
 Approved by: Commissioner McKie Campbell Date 4/11/2006
 Agency: Alaska Department of Fish and Game

04/12/00 WED 10:14 FAX 202 400 4042

BIRCH HORTON BITTNER

LAW OFFICES

BIRCH, HORTON, BITTNER AND CHEROT

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1155 CONNECTICUT AVENUE, N.W. • SUITE 1200 • WASHINGTON, D.C. 20036 • TELEPHONE (202) 659-5800 • FACSIMILE (202) 659-1027

MAX R. HORTON (1944 - 1988)

VULVA B. ANDRETTUCCI
RONALD S. BIRCH**
WILLIAM K. BITTNER
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JAMES H. LUTER**
GUY GORDY A. MILLER
MICHAEL J. RABBS
TIMOTHY J. PYLIMONOS
ELIZABETH M. ROSE**

OF COUNSEL
JENNIFER S. ALEXANDER
BRADLEY D. STEIN
KIMBERLY E. VARRIN

1177 WEST ELEVENTH AVENUE
ANCHORAGE, ALASKA 99511-0000
(907) 578-1000
FACSIMILE (907) 270-2400

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- ALL OTHERS ALASKA BAR

April 10, 2006

Mr. Joe Klutsch
President
Alaska Professional Hunters
Association
P.O. Box 313
King Salmon, AK 99613

VIA TELEFAX

Re: SB 170

Dear Joe:

We have reviewed those provisions of SB 170 substitute relating to bear predation management (e.g. §§ 73, 80) and conclude that it creates a threat to the guide requirement in State law for non-resident hunting of bears and other big game species. The problem arises from the interplay of these provisions and recent rulings by the U.S. Court of Appeals for the Ninth Circuit. Enactment of these provisions would facilitate a challenge in federal courts to the State's present guide requirement.

Alaska's guide requirement is predicated on considerations of hunter welfare and safety, resource management, and enforcement of hunting regulations. AS 16.05.407-408. Federal and state courts have upheld as legitimate and rational similar restrictions concerning nonresident hunters. See *O'Brien v. State*, 711 P.2d 1144, 1151 (Wyoming 1986) (upholding guide requirement for hunting big or trophy game as rational means of ensuring "proper game management, protection of hunter welfare and safety, or better enforcement of the game [and] fish laws"); *Clajon Production Corp. v. Peteru*, 854 F.Supp 843 (D.Wyoming 1994) (upholding a resident license preference regulation that reserved a certain percentage of big game hunting licenses for state residents); *DeMasters v. State*, 656 F.Supp. 21 (D.Montana 1986) (upholding Montana statute limiting the number of yearly nonresident elk hunting licenses as an effective management tool for the purpose of wildlife conservation).

Any action that says, in essence, that these considerations are legitimate and compelling with respect to one area (where the guide requirement is in effect) but are not compelling (and are waived) in another, weakens the rational basis of the requirement. As a result, differential treatment of non-residents in different areas within the State is

04/12/06 WED 10:15 FAX 202 488 4042

BIRCH HORTON BITTNER

BIRCH, HORTON, BITTNER AND CHEROY
A PROFESSIONAL CORPORATIONMr. Joe Klutsch
April 10, 2006
Page 2

likely to expose Alaska's guide requirement to federal constitutional equal protection challenge.

SB 170 would open the door to such differential treatment. The measure would amend AS 16.05.781 to eliminate the guide requirement for non-residents hunting bears in specific management units or subunits where predation by bears is identified as cause of depletion of big game populations. The revised version of the bill attempts to address the differential treatment issue by requiring non-residents to receive some special training and to be accompanied by residents that also satisfy certain criteria and receive special training. Although the purposes and objectives behind criteria are not specified, the emphasis on "experience" and "safety" seem to be mirror or replicate the purposes underlying the guide requirement. Put another way, the bill seeks to establish these special residents as de facto guides operating in a non-commercial manner. We presume that the thinking is that the differences between commercial and non-commercial "guides" would be considered minimal and not arbitrary or irrational.

This raises two issues. First, certifying a specific set of residents as stand-ins for guides raises questions about the basis for retaining guide requirements in other areas or for different big game species. If the State determines that the objectives of public safety resource management, and enforcement related to bear hunting can be secured via non-commercial means (i.e., using specially qualified non-compensated individuals as de facto guides), it indicates that commercial or economic purposes are the remaining rationale for guide requirements in other venues. Once guide requirements are rendered fundamentally commercial, these requirements become subject to attack under a commerce clause analysis. See *Conservation Force v. Manning*, 301 F.3d 985 (9th Cir. 2002); see also, *Montoya v. Shroufe*, No. CIV 98-0239-PHX RCB (D.C. AZ, 2004). Application of the commerce clause/commercial analysis case law standards usually results in striking down guide requirements. *Id.*; *O'Brien* at 1152.

Second, requiring non-residents to hunt with specially qualified residents (i.e., de facto guides) appears to thwart the purpose of the bill - to facilitate killing bears. If the existing guide requirement is considered an obstacle to bear management, the special resident requirement could constitute a comparable obstacle. It raises this question: how many additional bears are likely to be taken by switching to a de facto guide requirement as compared to a certified professional guide requirement? It is likely that the benefits (in terms of facilitating the take of problem bears) of the de facto guide arrangement will be extremely minimal. Only a handful of residents are likely to qualify and go through the testing process to be able to "guide" non-resident hunters. On balance, such minimal benefits do not appear to outweigh the risks the revised scheme poses to the existing guide requirement.

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Mr. Joe Klutsch
April 10, 2006
Page 3

Additional difficulties are created by the transition provisions in section 80 of the revised bill. It provides that during the period before the State sets up the special resident training program, non-residents may hunt with residents (not guides) who have not received any special training. Since this transition period is open ended, non-resident hunters could avoid the guide requirement for an appreciable period of time. This would likely be construed by a federal court (e.g., the Ninth Circuit) as evidence that the stated purposes for the guide requirement are really not that important to the State and have been broadly waived. Such a significant exception further weakens the State's ability to defend the guide requirement.

To preserve the constitutionality of Alaska's guide requirement for non-resident hunters, we would strongly counsel against authorizing any exception to the guide requirement or a scheme in which special residents act as de facto guides in a non-commercial or quasi-commercial manner.

Sincerely,



William P. Horn
Counsel for Alaska Professional
Hunters Association

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3887 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 8, 2005

SUBJECT: Sectional summary of a draft bill relating to the Department of Fish and Game, Board of Fisheries, Board of Game (Work Order No. 24-LS0494\Y)

TO: Senator Ralph Seekins
Attn: Brian Hove

FROM: George Utermohle ⁴⁴
Legislative Counsel

You have requested a sectional summary of a draft bill relating to the Department of Fish and Game, Board of Fisheries, and Board of Game.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the intent of the legislature that the revenue generated by the increase in hunting and trapping fees by this bill be used to maximize hunting and trapping opportunities throughout the state.

Section 2 of the bill amends AS 16.05.020 to provide that the commissioner of fish and game shall manage, protect, maintain, improve and extend only the fish, game, and aquatic plant resources which the Board of Fisheries or the Board of Game has authorized to be taken for consumptive uses or for which the Board of Fisheries or the Board of Game has otherwise adopted regulations regarding the resource.

Section 3 of the bill amends AS 16.05.050 by adding numerous provisions regarding the powers and duties of the commissioner of fish and game.

Subsection (c) provides that the commissioner may use the commissioner's authority to manage, protect, maintain, improve and extend only the fish, game, and aquatic plant resources which the Board of Fisheries or the Board of Game has authorized to be taken for consumptive use, unless otherwise required by law.

Subsection (d) provides that the commissioner shall manage non-game species in accordance with regulations adopted by the Board of Game.

Subsection (e) provides that the commissioner may not manage, improve, or manipulate habitat used by fish, game, or aquatic plants except as otherwise provided by certain statutes.

≈ SB 170 ≈

Senator Ralph Seekins

April 8, 2005

Page 2

Subsection (f) provides that all policies for the management of fish or game prepared by the department must be approved by the appropriate board before the department implements the policies.

Subsection (g) provides that the commissioner may not transfer more than \$5,000 between projects, objects of expenditures, or allocations without approval of the office of management and budget and review by the Legislative Budget and Audit Committee.

Subsection (h) provides that the commissioner may not expend certain hunting, trapping, and sport fishing revenue and federal funds received from certain federal aid programs except for purposes authorized under AS 16.05.130.

Section 4 of the bill amends AS 16.05.090(a) to provide that the commissioner may organize and reorganize the Department of Fish and Game with the approval of the governor.

Section 5 of the bill amends AS 16.05.094 to alter the duties of the section of subsistence hunting and fishing.

Section 6 of the bill amends AS 16.05.110(a) to provide that money deposited into the fish and game fund is subject to appropriation by the legislature before it may be expended and to substitute the term "wildlife" for "game" as the consequence of the revised definition of "game" contained in sec. 59 of the bill.

Section 7 of the bill amends AS 16.05.110(b) in regard to the expenditure of appropriations from the fish and game fund and from federal funds by the division of wildlife conservation and division of sport fish and in regard to reimbursable service agreements.

Section 8 of the bill amends AS 16.05.120 by adding a new subsection to provide that the additional license and related revenue generated by this bill shall be separately accounted for by the department. If the ratio of fixed cost expenditures of the department exceeds 55 percent of the department's budgeted expenditures for a fiscal year, the department may not expend the additional receipts generated by this bill until, or unless, the legislature has expressly authorized the expenditure of the funds.

Section 9 of the bill amends AS 16.05.130(a) to provide for the use of sport fishing, hunting, and trapping license, tag, stamp, and permit fees and application fees and federal funds to benefit purchasers of sport fishing, hunting, and trapping licenses.

Section 10 of the bill amends AS 16.05.130(b) to provide that the revenue derived from the waterfowl conservation tag fee may be used to respond to waterfowl conservation emergencies in the state as determined by the commissioner or the Board of Game.

Section 11 of the bill amends AS 16.05.130(d) in regard to the use of sport fishing, hunting, and trapping license, tag, stamp, and permit fees and application fees and federal

funds to benefit purchasers of sport fishing, hunting, and trapping licenses. The material to be included in a report on the use of the fees and funds is described.

Section 12 of the bill amends AS 16.05.130 by adding a new subsection which sets out the definition of "project" for the purposes of this section.

Sections 13 - 16 of the bill amend AS 16.05.190, 16.05.195(a), 16.05.195(c), and 16.05.221(b) to substitute the term "wildlife" for the term "game" as the result of the amendment of the definition of "game" to apply only to species for which the Board of Game has authorized consumptive uses.

Section 17 of the bill amends AS 16.05.251 by adding new subsections.

Subsection (i) provides that the Board of Fisheries shall accord a priority to the conservation, development, and utilization of fish species which the board has authorized to be taken for consumptive uses. The board shall accord a subordinate priority to the management of other fish species. Except for endangered species, the board may not amend or repeal regulations authorizing the consumptive use of a fish species based on the level of abundance of a finfish, aquatic invertebrate, or amphibian species for which the board has not authorized consumptive uses.

Subsection (j) provides that the department shall submit policies regarding the management of fish to the Board of Fisheries for approval before the policies are implemented.

Section 18 of the bill amends AS 16.05.255(e) regarding the adoption of regulations for intensive management programs for identified big game populations.

Section 19 of the bill amends AS 16.05.255 by adding new subsections relating to the powers of the Board of Game.

Subsection (k) provides that the Board of Game shall accord a priority to the conservation, development, and utilization of game species which the board has authorized to be taken for consumptive uses. The board shall accord a subordinate priority to the management of other species. Except for endangered species, the board may not amend or repeal regulations authorizing the consumptive use of a game species based on the level of abundance of a mammal, bird, reptile, insect, or other species for which the board has not authorized consumptive uses.

Subsection (l) provides that the department shall submit policies regarding the management of game to the Board of Game for approval before the policies are implemented.

Subsection (m) provides that the Board of Game may adopt regulations for the management of non-game species by the department.

Sections 20 - 26 of the bill amend AS 16.05.340(a)(2), (3), (4), (5), (6), (9), and (11) to increase the fees for certain resident and nonresident hunting, trapping, and sport fishing licenses.

Section 27 of the bill amends AS 16.05.340(a)(15) to increase the fees for nonresident big game tags and to provide that nonresident aliens pay the same big game tag fees as other nonresidents.

Section 28 - 30 of the bill amends AS 16.05.340(a)(17), (19), and (20) to increase the amount of the fees for the waterfowl conservation tag, nonresident small game hunting license, and the nonresident alien hunting license.

Section 31 of the bill amends AS 16.05.340(a) by adding a new paragraph to create the resident small game hunting license.

Section 32 of the bill amends AS 16.05.340(d) to make a technical change to conform to the creation of the resident small game hunting license by sec. 31 of the bill.

Section 33 of the bill amends AS 16.05.340 by adding new subsections.

Subsection (j) authorizes the commissioner to reduce the fee for sport fishing, hunting, and trapping licenses, tags, permits, and stamps that are purchased on-line.

Subsection (k) establishes an access surcharge to be collected on hunting, trapping, and sport fishing licenses. The amount of the surcharge is \$1 for resident licenses and \$5 for nonresident licenses. The proceeds of the surcharge may be used to acquire land and rights in land to provide access to fish and game for holders of hunting, trapping, and sport fishing licenses.

Section 34 of the bill amends AS 16.05.346(a) to increase the application fee for certain musk ox hunting permits to \$15.

Section 35 of the bill amends AS 16.05.346(b) to increase the application fee for a bison drawing permit to \$15.

Section 36 of the bill amends AS 16.05.346(c) to increase the application fee for certain limited drawing permits to \$7.50.

Section 37 of the bill amends AS 16.05.346 by adding new subsections to establish \$10 application fees for a tier II hunting permit and for an annual registration hunt stamp.

Section 38 of the bill amends AS 16.05 by adding a new section to authorize the Board of Game to establish brown or grizzly bear and wolf hunting permit deferral programs in areas adjacent or near to state game sanctuaries or federal national parks. If the permit deferral fee, set by the commissioner, is paid, the department shall defer the issuance of one hunting permit for brown or grizzly bear or wolf, as appropriate, for one year for the area where the program is established.

Section 39 of the bill amends AS 16.05.350(a), relating to the expiration of certain licenses, tags, permits, etc., by making a technical change to conform to the establishment of a registration hunt stamp by sec. 37 of the bill.

Senator Ralph Seekins

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Section 40 of the bill amends AS 16.05.360(a) regarding the issuance and form of licenses, tags, permits, stamps, and other documents required as a prerequisite to engaging in activities authorized by the Board of Fisheries and the Board of Game.

Sections 41 - 46 of the bill amend AS 16.05.380, 16.05.390(a), 16.05.390(b), 16.05.390(c), 16.05.390(e), and 16.05.390(f) by making technical changes to conform to the establishment of a registration hunt stamp by sec. 37 of the bill.

Section 47 of the bill amends AS 16.05.405 by adding new subsections.

Subsection (g) authorizes a resident under specified conditions to take a big game animal on behalf of another resident who has the appropriate tag, permit, or other authorization to take the animal.

Subsection (h) authorizes a resident under specified conditions to affix a tag, permit, etc. to a big game animal taken by another resident.

Sections 48 - 49 of the bill amend AS 16.05.407(a) and 16.05.408(a) to make technical changes to conform to the provisions of AS 16.05.781 which are added by sec. 51 of the bill.

Section 50 of the bill amends AS 16.05.420, relating to license, tag, permit, etc. violations, by making a technical change to conform to the establishment of a registration hunt stamp by sec. 37 of the bill.

Section 51 of the bill adds a new section to AS 16.05 to provide for special rules governing the taking of black bear and brown or grizzly bear in an area if the Board of Game has identified predation by bears as the cause of the depletion of a big game prey population or reductions of the productivity of a big game population that is the basis for the establishment of an intensive management program or for the declaration of a biological emergency.

Section 52 of the bill amends AS 16.05.810, relating to the burden of proof for crimes involving wildlife, by substituting the term "wildlife" for the term "game" as the result of the amendment of the definition of "game" to apply only to species for which the Board of Game has authorized consumptive uses.

Section 53 of the bill amends AS 16.05.920(a), prohibiting the taking, possession, transport, etc. of fish and wildlife unless the taking, possession, transport, etc. is authorized by law, by substituting the term "wildlife" for the term "game" as the result of the amendment of the definition of "game" to apply only to species for which the Board of Game has authorized consumptive uses.

Section 54 of the bill amends AS 16.05.930(a), relating to the collection and export of fish or wildlife, by substituting the term "wildlife" for the term "game" as the result of the amendment of the definition of "game" to apply only to species for which the Board of

Game has authorized consumptive uses.

Section 55 of the bill amends AS 16.05.930(b), authorizing the taking of fish and wildlife in the case of dire need, by substituting the term "wildlife" for the term "game" as the result of the amendment of the definition of "game" to apply only to species for which the Board of Game has authorized consumptive uses.

Section 56 of the bill amends AS 16.05.930 by adding a new subsection to allow the purchase, sale, resale, barter, or other transfer of value of a mount, trophy or part of a lawfully taken fish or game animal.

Section 57 of the bill amends AS 16.05.935, relating to restrictions on cooperation with the federal government, by substituting the term "wildlife" for the term "game" as the result of the amendment of the definition of "game" to apply only to species for which the Board of Game has authorized consumptive uses.

Section 58 of the bill amends AS 16.05.940(12) to provide that for the purposes of AS 16 the definition of "fish" means only aquatic finfish, invertebrates, and amphibians for which the Board of Fisheries has adopted regulations authorizing consumptive use or for which the Board of Fisheries has adopted regulations authorizing the Department of Fish and Game to manage.

Section 59 of the bill amends AS 16.05.940(19) to provide that for the purposes of AS 16 the definition of "game" means only birds, reptiles, and mammals for which the Board of Game has adopted regulations authorizing consumptive use or for which the Board of Game has adopted regulations authorizing the Department of Fish and Game to manage.

Sections 60 - 61 of the bill amend AS 16.05.940(34) and (35) to amend the definitions of "take" and "taxidermy" by substituting the term "wildlife" for the term "game" as the result of the amendment of the definition of "game" to apply only to species for which the Board of Game has authorized consumptive uses.

Section 62 of the bill amends AS 16.05.940 by adding definitions for the terms "non-game" and "wildlife".

Sections 63 - 64 of the bill amend AS 16.20.180 and 16.20.185, relating to endangered species and subspecies, by making a technical change to conform to the language of AS 16.20.190, as amended by sec. 65 of the bill.

Section 65 of the bill amends AS 16.20.190 to provide that the Board of Fisheries and the Board of Game are responsible for determining whether a species or subspecies of fish or wildlife is in danger of extinction.

Section 66 of the bill repeals AS 16.05.050(a)(1), relating to the authority of the commissioner of fish and game to assist the United States Fish and Wildlife Service in

Senator Ralph Seekins

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the enforcement of laws and regulations pertaining to fish and game.

Section 67 of the bill repeals AS 16.05.340(a)(21), relating to nonresident alien big game permit fees, to conform to the changes made by sec. 27 of the bill.

Section 68 of the bill provides that secs. 1, 20 - 37, 39 - 46, 50, and 67 of the bill take effect January 1, 2006.

Section 69 of the bill provides that the remainder of the bill takes effect July 1, 2005.

GU:med

05-240.med

TESTIMONY RE SPONSOR SUBSTITUTE FOR SB 170

Joel Bennett
April 21, 2006

Thank you for the opportunity to offer testimony regarding a serious problem that would result for the Board of Game and the Department if SSSB 170 becomes law. My view comes with the experience of over 13 years of service on the Alaska Board of Game between 1977 and 1990.

SECTION 4 of the bill requires that all plans, strategies, guidelines or similar documents that establish or affect a management policy for fish or game be submitted to the appropriate board for approval before the Department implements the policy.

Under the current long-standing system, the respective boards meet infrequently several times a year and then address proposals for certain regions according to a revolving schedule. For the game board, this means that issues in one region are only addressed every two years. Proposals to statewide regulations are reviewed on a four-year cycle.

The requirement of Section 4 would not be feasible to carry out under the present system because decisions that require immediate attention could not be addressed in a timely manner. This could seriously damage state resources.

Moreover, even if the boards met frequently, many plans and strategies are not of a nature that the Boards need to approve them. These are routine management calls that the Department often must make on a daily basis, with no statewide implications or controversy involved. A citizen lay member board need not –and should not– be burdened with the minutiae of day to day decision-making that is the purview of the administrative agency.

Section 4 would be unworkable, inappropriate and costly. Unless the board system was changed dramatically, this requirement would jeopardize important state fish and wildlife resources.

Sincerely,

Joel Bennett
15255 Point Louisa Road
Juneau, AK 99801

ALASKA BOARD OF GAME MEETING CYCLE

The board meeting cycle generally occurs from October through March. The board considers changes to regulations on a region-based schedule. Each region will be discussed on a two-year cycle. When the regional area is before the board, the following regulations are open for consideration within that region:

- Trapping Seasons and Bag Limits -- All species
- General and Subsistence Hunting Seasons and Bag Limits -- All species
(Except antlerless moose hunts as noted below)
- Wolf Control Implementation Plans
- Bag Limit for Brown Bears
- Areas Closed To Hunting
- Closures and Restrictions in State Game Refuges
- Management Areas
- Controlled Use Areas
- Areas Closed To Trapping

Regulations specific to an area (e.g., Permits for Access to Round Island) will be taken up when the board is scheduled to consider regulations in that region.

Proposals for changes to regulations pertaining to reauthorization of antlerless moose hunts, 5 AAC 85.045, and brown bear tag fee exemptions, 5 AAC 92.015, will be taken up annually, at spring meetings.

The Board of Game does not consider proposals to statewide regulations in every meeting cycle. Instead, the Board of Game reviews statewide regulations on a four-year cycle, distributed between fall meetings, every other year. The list of statewide regulations and the associated "Cycle A" and "Cycle B" meeting schedule is set forth on the next page of this publication.

<u>Regulations for:</u>	<u>Will be considered:</u>		
SOUTHEAST REGION Game Management Units: 1, 2, 3, 4, 5	Fall 2006	Fall 2008	Fall 2010
SOUTHCENTRAL & SOUTHWEST REGIONS Game Management Units: 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17 All GMUs: Brown Bear Tag Fees Reauthorization of Antlerless Moose Hunts	Spring 2007	Spring 2009	Spring 2011
ARCTIC AND WESTERN REGIONS Game Management Units: 18, 22, 23, 26A	Fall 2005	Fall 2007	Fall 2009
INTERIOR REGION Game Management Units: 12, 19, 20, 21, 24, 25, 26B, 26C All GMUs: Brown Bear Tag Fees Reauthorization of Antlerless Moose Hunts	Spring 2006	Spring 2008	Spring 2010

ALASKA BOARD OF GAME STATEWIDE REGULATIONS SCHEDULE

STATEWIDE REGULATIONS: 5 AAC 92 CYCLE "A": 2006, 2010, 2014, 2020

- .001 Application of this Chapter
- .002 Liability for Violations
- .003 Hunter Education and Orientation Requirements
- .004 Policy for Off-Road Vehicle Use for Hunting and Transporting Game
- .005 Policy for Changing Board Agenda
- .010 Harvest Tickets and Reports
- .011 Taking of Game by Proxy
- .012 Licenses and Tags
- .013 Migratory bird hunting guide services
- .018 Waterfowl Conservation Tag
- .019 Taking of Big Game for Certain Religious Ceremonies
- .020 Application of Permit Regulations and Permit Reports
- .025 Permit for Exporting a Raw Skin
- .027 Permit for Exporting Big Game Trophies
- .028 Aviculture Permits
- .029 Permit for Possessing Live Game
- .030 Possession of wolf hybrid prohibited
- .031 Permit for Selling Skins and Trophies
- .033 Permit for Sci., Ed., Propagative, or Public Safety Purposes
- .034 Permit to Take Game for Cultural Purposes
- .039 Permit for Taking Wolves Using Aircraft
- .047 Permit for Using Radio Telemetry Equipment
- .104 Authorization for Methods and Means Disability Exemptions
- .106 Intensive Management of Identified Big Game Prey Populations
- .110 Control of predation by wolves
- .115 Control of predation by bears
- .165 Sealing of Bear Skins and Skulls
- .170 Sealing of Marten, Lynx, Beaver, Otter, Wolf, and Wolverine
- .171 Sealing of Dall sheep horns
- .200 Purchase and Sale of Game
- .210 Game as Animal Food or Bait
- .220 Salvage of Game Meat, Furs, and Hides
- .230 Feeding of Game
- .250 Transfer of Muskoxen for Sci. and Ed. Purposes
- .450 Description of Game Management Units
- .990 Definitions

STATEWIDE REGULATIONS: 5 AAC 92 CYCLE "B": 2008, 2012, 2016, 2022.

- .009 Obstruction or hindrance of lawful hunting or trapping
- .035 Permit for Temporary Commercial Use of Live Game
- .037 Permit for Falconry
- .040 Permit for Taking of Furbearers with Game Meat
- .041 Permit to Take Beavers to Control Damage to Property
- .043 Permit for Capturing Wild Furbearers for Fur Farming
- .044 Permit for hunting black bear with the use of bait or scent lures
- .049 Permits, Permit Procedures, and Permit Conditions
- .050 Required Permit Hunt Conditions and Procedures
- .051 Discretionary Trapping Permit Conditions & Procedures
- .052 Discretionary Permit Hunt Conditions and Procedures
- .062 Priority for Subsistence Hunting; Tier II Permits
- .068 Permit Conditions for Hunting Black Bear with Dogs
- .070 Tier II Subsistence Hunting Permit Point System
- .075 Lawful Methods of Taking Game
- .080 Unlawful Methods of Taking Game; Exceptions
- .085 Unlawful Methods of Taking Big Game; Exceptions
- .090 Unlawful Methods of Taking Fur Animals
- .095 Unlawful Methods of Taking Furbearers; Exceptions
- .100 Unlawful Methods of Hunting Waterfowl, Snipe, Crane
- .130 Restriction to Bag Limit
- .135 Transfer of Possession
- .140 Unlawful Possession or Transportation of Game
- .150 Evidence of Sex and Identity
- .160 Marked or Tagged Game
- .260 Taking Cub Bears & Female Bears with Cubs Prohibited
- .400 Emergency Taking of Game
- .410 Taking Game in Defense of Life or Property
- .420 Taking nuisance wildlife



UNITED FISHERMEN OF ALASKA

April 19, 2006

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

Senator Thomas Wagoner, Chairman
Senate Resources Committee
State Capitol, Mail Stop 3100
Juneau AK 99801-1182

Dear Senator Wagoner,

United Fishermen of Alaska (UFA) opposes SB 170. This legislation includes many changes to the structure of the Alaska Department of Fish and Game (ADF&G) and Board of Fisheries (Board), and would affect the powers and ability of the Commissioner to manage Alaska's fisheries. Our concerns are focused on the fisheries components of the bill.

Specifically we object to the changes to the functions of the Commissioner in regulations section 16.05.020 that are included in lines 19-23 on page 2 of the "Work Draft C" version of the bill.

The portions of the bill on page 4 from line 5 to line 20 that affect regulations section 16.05.050 may require a full time Board of Fisheries, which would further restrict the already limited pool of qualified volunteers who serve on the Board. The language in the bill that requires the Board to analyze all Fish and Game regulations would require a lengthy and costly process, likely to require a full time Board of Fisheries with an additional cost exceeding \$1.4 million that is not included in the fiscal note according to the Board Support Division, with little tangible benefit to those who use fish and game resources.

The bill would also restrict the ability of ADF&G to implement policy changes and to conduct projects jointly funded by sport and commercial fishery divisions.

The proposed legislation includes language regarding consumptive use of fish, while consumptive use is not defined in current regulation or statute, or in the legislation. In summary, we have serious concerns with many of the fisheries components in this bill and for this reason oppose SB 170.

UFA represents 31 Alaska commercial fishing organizations from fisheries throughout Alaska. We appreciate your consideration of our concerns.

Sincerely,

Mark Vinsel
Executive Director

Mary Kivi

From: Richard Rohrer [RRohrer@alaska.com]
Sent: Wednesday, April 19, 2006 11:59 AM
To: Sen. Tom Wagoner
Cc: Sen. Kim Elton
Subject: SB170

Dear Senators Wagoner and Elton,

My name is Richard (Dick) Rohrer, I came to Alaska 41 years ago and have lived on Kodiak Island for the past 37 years. I'm a Licensed Master Guide and the primary source of my livelihood since the 1970's has been guiding non-resident hunters, fishermen and wildlife viewers. My business, Rohrer Bear Camp Inc., is a business that generates all its revenue from outside of Alaska and with that revenue provides jobs for Rural Alaskans as well as revenue for my wife and I to raise four children to responsible and productive adults.

I was prepared to testify on SB 170 last Thursday April 13th for the Resources Committee hearing, however I'll not be available for this Friday's hearing. SB 170 if passed in its current form will potentially have devastating effects on the Big Game hunting industry for both Guides and Transporters. Please consider the following comments on the work draft dated March 19, 2006

1. Sec. 12 on Page 7, line 18 states that money may only be used for game populations that are important for human consumption. It appears that this section will prohibit any money to be spent for the management of Brown Bears. One of the great success stories of game management in Alaska is Kodiak Island. Our Kodiak Brown Bear Management Plan is known, respected and used throughout the World. Specifically by Russia and Japan in the management of their Bears. We must continue to actively manage our Bear populations and not reduce them all to predator status.
2. I agree that we are overdue for some reasonable license fee increases however the non-resident and alien non-resident fees in this bill will "kill the goose that lays our eggs"! CONSIDER THE FOLLOWING EXAMPLE, The proposed fees will raise the license and tag fee for a Canadian and all alien non-resident deer hunters to \$1050.00 on 1/1/07 and to \$1650.00 on 1/1/11. US nonresidents will pay \$400 and \$600 respectively. I can assure you these fees will eliminate nonresident hunters coming to Alaska to hunt an abundant population of deer. License fee increases should be considered in a separate bill developed by the Department, Guides and Resident hunters not just suggestions from the Anchorage Advisory Council.
3. Please delete Sect. 73 beginning on Page 26, Sec. 6.05.781 This new section has great potential to weaken an industry that the Legislature has worked to strengthen by passing legislation last year that reestablished the Big Game Commercial Services Board. The Guiding Industry is one of the few industries that bring new money to the Alaskan Economy rather than take money from Alaska.

The Guide Requirements in AS 16.05.407 and 408 should not be compromised in Legislation that deals with Predator Management.

Methods and means for hunting is primarily the responsibility of the board of Game and should remain so. One exception is AS 16.05.482 which prohibits taking a bear within 1/2 mile of a solid waste disposal facility. This legislation was passed to circumvent the Board of Games refusal to pass the prohibition as a regulation.

Litzen Guide Service

MOOSE • SHEEP • CARIBOU • BEAR

April 12, 2006

The Honorable Tom Wagoner
Alaska State Legislature
State Capital Building
Juneau, Alaska 99801-1182

Dear Senator Wagoner,

This letter is to voice my strong opposition to SB 170. My name is Michael Litzen; I'm a 10-year resident of Nikiski, and a 38-year resident of the state of Alaska and I'm licensed as a Master Guide by the state of Alaska. I have been involved in the guiding industry for 25 years and owned and operated my own guide and flying business as my sole source of income for the last 20 years. I'm also a permitted pilot in the current predator management program.

After looking through this bill, I have numerous objections to it. First of all, this bill is far too comprehensive, making too many huge changes to the industry for one bill. There will be many negative repercussions resulting from the many changes proposed in this bill. Changes of this magnitude should be studied further and considered by all the parties that would be affected and only then make small measured steps to address the concerns that brought this bill about.

I have only known about this bill for a few days and many of my colleagues are in the field starting their season and have no idea that changes to their industry are even in the works. More time is needed for the affected parties to get involved.

The increased amounts proposed for the non-resident tag fees are far too excessive. I feel strongly from my years in the business that cost increases of this magnitude would put hunting in Alaska out of the reach of some of the clients that I work with today. The rising costs of fuel, insurance, and general business expenses of today, have already stretched many of the patrons to our state and the guide business to their limit. I support license and tag fee increases of a more reasonable nature for non-residents, as well as starting to look at the possibility for Alaskan residents to start to pay nominal fees for big game tags.

Years ago when I dreamed of having the kind of business that I do have today, I looked into what it would take to make my dream a reality. I studied the laws pertaining to the guiding and flying industry and made a plan to achieve my goal. Now this business supports my family and is a significant source of income for the people in my organization as well as many service providers that I routinely use. I'm adamantly opposed to allowing unlicensed people to be able to take bear hunters in some parts of the state, as this bill would. There are reasons why there are guide-required laws for some of

Litzen Guide Service

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our species and licensing standards, and why the newly formed Commercial Services Use Board is working to strengthen those existing licensing standards, public safety, and protecting our valuable resource. Allowing unlicensed people to do what the licensed individuals are doing would be a slap in the face and would make a mockery of the system that was trusted and worked through by the legally licensed guides. A change like this would undermine our businesses and devalue the service that we work so hard to legally provide.

I'm strongly in favor of the current predator management programs and I'm in favor of implementing them into new areas of the state where relief is needed from the predator prey imbalances. We are starting to see positive results from the current programs and they should have a chance to work before initiating more radical measures.

I have the utmost confidence in the existing BOG process as well as the expertise that the Department of Fish & Wildlife Conservation brings to the board and strongly believe that it should remain the way it is.

With a bill dealing with important issues as these, there is much to be considered. Far too many possibilities exist to cause both short-term and long-term damage to the resource, the guiding industry and negatively impact the residents of the state of Alaska. If a bill of this nature is to go through, please help shape it into one that addresses these concerns.

Sincerely,



Michael Litzen
Board of director - APHA

Robert R. Fithian, Master Guide
Executive Director, Alaska Professional Hunters Association, Inc.
HC 60 Box 299C Copper Center, Alaska 99573
(907) 822-3755

SB SS 170 Concerns

April 12, 2006

Senator Tom Wagoner
Chair, Senate Resource Committee
Juneau, Alaska

Dear Chairman Wagoner and Senate Resources Committee Members,

Please find the following comments and concerns regarding SB CS 170. Please understand that I, and the Professional Guiding Industry are appreciative of Senator Seekins concerns with wildlife management and some of the goals included in this bill. However, the bill as written is a threat to the guide industry, rural Alaska and my families long time developed business. The guiding industry is a major stakeholder in the regards of this bill and we have had no opportunity for input. We have an exceptional knowledge in these regards because they affect our livelihoods. Please allow us to be consulted or engaged in any amendments. Please find listed below my concerns.

1. For my personal guide business which is family run and caters to 12-15 hunters a year, most of my clients currently pay around \$1,700.00 apiece for their hunting license and tags. SB 170 would require them to pay between \$8,000. to \$10,000. which, they would not. They would go to some other country and hunt. This bill as written would put me out of business just in the proposed license fee increases.

2. In Alaska, the guide required law represents the most important piece of law for resident hunters and provides a base for the equitable sustainability of the guide industry. This bill deletes guide required for intensive management areas and calls for development of training classes for non-resident hunters who want to hunt without a guide in these areas. If it is allowable to hunt without a guide on one side of a river, why is it not allowed on the other? This equation will lead to loss of guide required for all species in all areas.

In all other states where there is no guide required law and non-resident hunters have access to hunt without a guide, there are not enough animals to facilitate this effort. Each of these states has had to develop comprehensive drawing permit programs for resident and non-resident hunters. Many residents of these states will never draw a permit to hunt right in the areas where they reside or any where in the state where they live. Many of these hunters come to Alaska on guided hunts because they do not have hunting opportunities where they live, as a result of this situation. If we delete guide required as SB 170 proposes and we ultimately loose guide required statewide, all Alaskan hunters will find themselves in a drawing permit equation statewide within a few short years. **Please do not allow this to happen.**

3. The Bill as a whole is much too comprehensive in nature and makes too many broad sweeping changes seriously affecting too many areas, too many people, industry service providers and ways of life. There should be separate bills that are more understandable, dealing with specific issues such as administrative changes, vendor issues, license fee increases, liberalization of brown/grizzly bear conservation, federal/state agreements, and deleting guide requirements.
4. This Bill through its license fee increases, it's watering down of brown/grizzly bear conservation, and the deletion of guide required provisions could destroy the professional guiding industry in Alaska. An industry that generates over \$200 million dollars a year. How many \$200 million dollar a year industries do we have in Alaska that we can afford to jeopardize this one for little or no apparent value gained purpose.
5. The Bill takes away existing ability of the most democratic process in the world for wildlife conservation.
6. It creates substantial additional workload for the Board of Game, which is a volunteer Board.
7. When "watering down" the existing process by opening the door for Legislative control of wildlife conservation, we lower the professional standard and thus weaken our ability to provide management per our constitutional mandates by allowing other interests to become key players.
8. The crafters of our State Constitution did not have the foresight to understand that the future of our wildlife management and stewardship would be impacted so greatly by judicial challenges brought on by people and organizations that do not understand or have any consideration for balance of the whole, high-level sustained yield principles of management as mandated by our Constitution. Without this foresight, they did not envision the support challenges that have occurred for wildlife conservation management. As we have lost ungulate populations resulting from our inability to effectively manage wolves we have lost non-resident hunting opportunity on over 50 million acres of Alaska due to Intensive Management Law, State Subsistence Law and Board of Game actions. The result is a higher cost of management with less funding. All of the reasoning behind the changes proposed by SB170 is due to lack of support for wildlife conservation. Nothing within SB170 provides an equitable solution to the fundamental problem.
9. Non-resident hunters currently pay for over 75% of our Wildlife Conservation costs. SB170 taxes them to an undue extreme. It is time that Alaskans start paying for management of our public trust wildlife resources and not expect an industry to continue to foot this bill for all Alaskans. We would support an increase in non-resident licensing but the increases proposed in SB170 break all equitable bounds. We need to consider other funding sources including resident licensing requirements.
10. Regarding stewardship failure that has led us to this juncture; Alaska had thriving population densities of moose, sheep, and caribou prior to 1988 when we lost the ability to effectively control Alaska's wolf populations and at the same time had years of brown/grizzly bear conservation actions in place. If we want to address corrections that would bring us back to where we were, let us focus our effort on revisions to the Federal Airborne Hunting Act instead of a completely new set of guidelines for wildlife conservation that do not affect the fundamental problem.

11. Regarding Section 73 and the proposed brown/grizzly bear harvest liberalization, there are a number of reasons to reconsider these provisions:

- a. It took a number of years for the decline in moose, sheep and caribou populations to plummet to current levels and we have had only a few years of predator control programs at work.
- b. In each of the areas where we have existing predator management programs in place we are seeing improvement. The annual average harvest of brown bears in GMU 16 where we have an existing predator management program underway was 81 bears from 1999-2004. During the 2004-2005 season, the harvest went up to 120 bears, nearly a fifty percent increase. In GMU 13 over 300 wolves have been harvested during the past three winters. The caribou and moose, cow-calf ratio has significantly increased and survival rates are steadily climbing. In GMU 19A where we have had another of the predator management program in place for just over one year the moose cow calf ratio is coming back fast and the animals are being seen in their normal habitats once again. The program in 19D East is working. We are gaining. Please do not go too far too fast with this liberalization of bear conservation. The tools we have are working. We vitally need additional funding for better science to support additional predator management.
- c. Less than a month ago the province of Alberta shut down all spring grizzly bear hunting for three years due to challenges in scientifically determining the correct population density of the bears. British Columbia is facing the same problem and their Guide and Outfitter Association has had to hire biologists to assist in science gathering to sustain future hunting challenges brought on by anti-hunting groups and sentiment. Alaska is next and the bear harvest liberalization aspects of SB170, of which many are outside of the realm of any ethical standards, will do more to harm future hunting opportunities in Alaska than they will to help. Additionally they will aid in giving Alaska an image of how to do things wrong.
- d. We can continue to develop good solid based and science supported management strategies that will allow for management of our wildlife as per our constitutional mandates by turning together as Alaskans to do so. It may take revisions to some state and federal law impediments but we can achieve these tasks. Sound support and sound science is what we need.

12. SB170 divides Alaskans who have similar interests, jeopardizes an industry, takes away the integrity of our Fish and Game Department, provides for future challenges and losses and does not resolve the problem.

13. There are no provisions in SB170 that define what the policy would be if the Legislature, or the Board of Game and ADF&G reach an impasse on any proposed operations plan or budget concern. SB170 seems to develop a slippery slope of management strategizing that could easily be swayed or stalled by special interests within any part of the three entities.

Very Respectfully,


Robert R. Fithian
Lower Tonsina, Alaska



Cordova District Fishermen United

P.O. Box 939
Cordova, Alaska 99574
(907) 424-3447 FAX (907) 424-3430

20 April, 2006

Senator Thomas Wagoner, Chairman
Senate Resources Committee
State Capitol, Mail Stop 3100
Juneau AK 99801-1182

Dear Senator Wagoner,

Cordova District Fishermen United (CDFU) opposes SB 170. This legislation includes many changes to the structure of the Alaska Department of Fish and Game (ADF&G) and Board of Fisheries (Board), and would affect the powers and ability of the Commissioner to manage Alaska's fisheries. Our concerns are focused on the fisheries components of the bill.

Specifically we object to the changes to the functions of the Commissioner in regulations section 16.05.020 that are included in lines 19-23 on page 2 of the "Work Draft C" version of the bill.

The portions of the bill on page 4 from line 5 to line 20 that affect regulations section 16.05.050 may require a full time Board of Fisheries, which would further restrict the already limited pool of qualified volunteers who serve on the Board. The language in the bill that requires the Board to analyze all Fish and Game regulations would require a lengthy and costly process, likely to require a full time Board of Fisheries with an additional cost exceeding \$1.4 million that is not included in the fiscal note according to the Board Support Division, with little tangible benefit to those who use fish and game resources.

The bill would also restrict the ability of ADF&G to implement policy changes and to conduct projects jointly funded by sport and commercial fishery divisions.

The proposed legislation also includes language regarding consumptive use of fish, while consumptive use is not defined in current regulation of statute, or in the legislation. In summary, we have serious concerns with many of the fisheries components in this bill and for this reason oppose SB 170.

CDFU appreciates your consideration of our concerns.

Sincerely,

Rochelle van den Broek
Acting Executive Director



United Southeast Alaska Gillnetters

P.O. Box 23378, Ketchikan, AK 99901 Phone & Fax (907) 247-2471 Email: usa_gillnetters@att.net

April 20, 2006

The Honorable Thomas Wagoner, Chairman
Senate Resources Committee
State Capitol, Room 427
Juneau, AK 99801

Sent Via Fax to: 907 465-4779

Dear Senator Wagoner,

The United Southeast Alaska Gillnetters (USAG) oppose SB 170. In our view, this bill as currently drafted would seriously restrict the Department of Fish and Game's ability to manage our fishery resource. It would reduce the Department's ability to adjust commercial fisheries in season to optimize the harvest of salmon and other species while assuring adequate escapement. The current policies for the management of our salmon stocks and other commercial fisheries have made Alaska the role model for other US states and countries. Our successful management model is well demonstrated by the number of record and near record salmon returns and harvests during the past 20 years. Our Department of Fish and Game is not "broke" and we therefore should not try to fix what is not broken. SB 170 would add another unnecessary layer of bureaucracy to the decision-making procedures that control the use of our wildlife resources.

USAG supports the present Boards of Fisheries and Game processes and authorities. The current structure of the present boards in establishing broad policies and allocations between users with public input through the submission of proposed regulation or regulation change is a basic strength of Alaska's management system. Our laymen Boards of Fish and Game combined with the public participation procedure is a fundamental strength of our resource management procedure and is different than that of any other State. SB 170 would in all likelihood create a full-time board which would be staffed with "professionals" rather than the lay board we now enjoy. A lay board is composed of persons who participate in and depend on the resource for their livelihood and/or recreational enjoyment. As they are directly affected by the decisions they make, they are more personally aware of the consequences of those decisions. USAG strongly opposes the establishment of a "professional board" for the management of our fish and game.

SB 170 contains language referring to the "consumptive use of fish". This term is not defined in the legislation and to our knowledge it is not defined in current regulation or

statute. The definition of this term is key to the meaning and application of this legislation to our current system of management and the impacts it would have on that system. It should be defined prior to further consideration of the legislation.

The members of USAG do not always agree with the decisions that are made by the Department of Fish and Game. We do believe, however, that its decisions on the majority of issues are correct and that the current authorities of the Commissioner and the Department should remain as currently structured. We appreciate this opportunity to express our position on SB 170 and hope the Resources Committee will join us in opposing it.

Yours truly,



Kenneth Duckett
Executive Director

cc: Senator Seekins, Vice Chair Fax to: 907 465-8163
Senator Ben Stevens, Member Fax to: 907 465-3872
Senator Dyson, Member Fax to: 907 465-4587
Senator Stedman, Member Fax to: 907 465-3922
Senator Elton, Member Fax to: 907 465-2108
Senator Kookesh, Member Fax to: 907 465-2827
UFA



BACKCOUNTRY HUNTERS AND ANGLERS



Alaska Chapter

PO Box 47 Homer, AK 99603

(907) 235-9408 AlaskaBHA@starband.net

www.backcountryhunters.org

To: Senate Resources Committee
Chair: Senator Wagoner
Inre: SB 170

Dear Mr. Chairman,

I am Mark Richards, co-chair of Alaska Backcountry Hunters and Anglers (ABHA). Thank you for taking the time to consider SB 170. This bill is of great importance to many Alaskan hunters and anglers and we appreciate your committee's efforts on deliberations. ABHA is a dedicated group of hunters and anglers seeking to ensure Alaska's outdoor traditions in a manner that promotes the importance of *wild places for wild animals and fish* that has so come to define our "Last Frontier" state.

SB 170

ABHA supports the license and tag fee increases originally requested by the Alaska Department of Fish and Game (ADFG) as per their straightforward two-page *ADFG Hunting and Trapping License Fee Increase Proposal of January 25, 2005*. This proposal was based upon the fact that there hadn't been a license or tag fee increase since 1993 to keep up with inflation and ADFG was experiencing budget shortfalls that prevented the department from adequately continuing its mission. We recognize the need for these modest increases so that ADFG and the Division of Wildlife Conservation can carry out continued prudent and valuable wildlife management efforts, studies and research that are necessary for appropriate wildlife conservation. We support *only* the license and tag fee increases that would amend AS 16.05.340 as originally proposed by ADFG, along with annual ADFG budget reports made available to the public via the ADFG website.

We strongly oppose the divergence from the original ADFG draft proposal as per the following:

- 1) Added license and tag-fee increases well beyond what was originally requested by ADFG and particularly any "trophy" fees that add extra monetary costs to non-resident hunters based solely on the "size" of the antlers, skulls, or horns of a harvested animal. We feel these added exorbitant "trophy" fees are unjustified, that they overly complicate the licensing process and unfairly discriminate against the average middle-class non-resident hunter. Many non-resident hunters save for years to travel to Alaska for the "hunt of a lifetime," and should they come across a moose that may be "large" enough to cost them an extra \$500 that they don't have and can't afford, it would be an unfair monetary burden for them as well as an impossible decision to make under field conditions encountered during a hunt.
- 2) Tying license fee increases to mandates that would amend other Title 16 Statutes (and even add many new subsections) that govern *how* we manage our Fish and Game is unwarranted and in SB 170 these changes are also biologically and scientifically unsound. Surely in the twelve years since the last ADFG license and tag fee increase, the science of wildlife management and biology hasn't changed enough to warrant such sweeping changes in our Fish and Game statutes, such as:
 - Title 16 amendments that call for achieving "maximum carrying capacity of the habitat of the population" to "provide for high levels of human harvest."¹
 - Further defining "high level of human harvest" as "the allocation of at least one-third of the harvestable surplus" of an ungulate population annually.²
 - Title 16 additions that would "accord a subordinate priority to the conservation, development, and utilization of species that the board has not authorized to be taken for consumptive use."³
 - Title 16 additions that would allow the year-round "hunting" of brown/grizzly and black bears in any designated Intensive Management units or subunits via unregistered bait stations, same-day airborne

hunting, assistance from an observer in an aircraft, and also allow the sale of bear (and other animal) parts, including gallbladders, claws, hides and skulls on the open market.⁴

None of the above amendments and additions to Title 16 Statutes are consistent with any prudent statewide wildlife management practices undertaken by the Division of Wildlife conservation and would force wildlife biologists and managers at ADFG to tolerate and even promote the widespread killing of wolves and/or bears in perpetuity, which would be both biologically and morally unsound and contrary to the very purpose of the Division to practice conservation of all species on the "sustained yield" principle for the benefit of all Alaskans.

These proposed amendments and additions to Title 16 Statutes that call for achieving "abundance for the use and benefit of the people of the state consistent with the public interest, and to achieve maximum sustained yield"⁵ are not in the overall "public interest," but only in the interest of a select group of consumptive users (hunters) at the expense of other beneficial users—hunters like ourselves, and non-hunting wildlife viewers—who appreciate and enjoy and value the still-wild places and full diversity and complexity of predator and prey species that inhabit Alaska. In this day and age, the value of intact ecosystems that still hold indigenous species of predators and prey is priceless. This is why I choose to live here; this is why others choose to live here, and this is why so many hunters and non-hunters visit our state and spend millions of tourism dollars annually.

CONCLUSION:

The Alaska Department of Fish and Game needs a license and tag fee increase to keep up with inflation and carry on their necessary duties and mission. Transparency and budget reporting by ADFG are warranted so that the public can see how funds are spent. But we should not tie any license and tag fee increases, and budget reporting, to specific mandates and Title 16 amendments and additions that would force the department into practicing and promoting biologically unsound or unscientific management practices.

Alaska Backcountry Hunters and Anglers cherish the peace, solitude, challenge, tradition, freedom and health of the backcountry experience in the wild places of Alaska and recognize the need for prudent, long-term, adaptive wildlife management of all species by an adequately funded

Division of Wildlife Conservation. We are hunters and anglers devoted to family and to passing on these traditions to our future generations.

Sincerely,

Mark Richards

Co-chair Alaska Backcountry Hunters and Anglers

Box 47 Homer, AK 99603

(907) 235-9408 AlaskaBHA@starband.net

Footnotes:

(*) <http://www.adfg.state.ak.us/special/license/huntproposal.pdf>

(1) Sec. 16, page 10 (2) Sec. 17, page 10 (3) Sec. 18, page 10 (4) Sec. 73, page 26-27 (5) Sec. 2, page 2

Mary Jackson

From: Henry D. Tiffany IV [henrytiffany@alaska.net]
Sent: Wednesday, April 12, 2006 2:11 PM
To: Mary Jackson
Subject: Opposition to SB 170

Dear Senate Resources Committee Members,

My name is Henry D. Tiffany IV and I am a life long Alaskan that resides in Fairbanks, Alaska. It had been my desire to telephonically testify my strong opposition to Senate Bill 170 but unfortunately I have an appointment at 3:00 pm today, which I am unable to miss and thus I hope my opposition to this bill will be noted via this email.

Besides being an avid outdoorsman and hunter, I am also a State of Alaska licensed Master Big Game Guide and Outfitter. Guiding has been my passion and profession for 17 years and it is the only way in which I support my family. This bill, among many other negative things, will have a very detrimental impact on the guiding industry here in Alaska and those individuals that make guiding their livelihood. Professional guiding in Alaska is an industry that generates over \$200 million dollar a year. Do we have so many \$200 million dollar a year industries in Alaska that we can afford to jeopardize this one, for little or no apparent gain?

This Bill, through it's license fee increases, is a watering down of brown/grizzly bear conservation and the deletion of "guide required" provision could not only destroy the professional guiding industry in Alaska but could also create more conflicts, and injuries to hunters, as inexperienced hunters take to the field "guiding" their friends and relatives with perhaps little or no knowledge of bear hunting, judging or field preparation.

This Bill would erode the existing process, by opening the door for Legislative control of wildlife conservation, and would lower the professional standard, and thus weaken our ability to provide management per our constitutional mandates, by allowing other interests to become key players and decision makers.

The crafters of our State Constitution did not have the foresight to understand that the future of our wildlife management and stewardship would be impacted so greatly by judicial challenges brought on by people and organizations that do not understand, nor have any consideration for, balance of the whole, high-level sustained yield principles of management as mandated by our Constitution. Without this foresight, they did not envision the support challenges that have occurred for wildlife conservation management support.

As we have lost ungulate populations resulting from our inability to effectively manage wolves we have lost non-resident hunting opportunity on over 50 million acres of Alaska. Due to Intensive Management Law, State Subsistence Law and Board of Game actions. The result is higher cost management with less funding. All of the reasoning behind the changes proposed by SB 170 is due to lack of support for wildlife conservation. Nothing within SB 170 provides an equitable solution to the fundamental problem.

Non-resident hunters currently pay for over 75% of our Wildlife Conservation costs. SB 170 taxes them to a undue extreme. It is time that Alaskans start paying for management of our public trust wildlife resources and not expect an industry to continue to foot this bill for all Alaskans. I could support a reasonable increase in non-resident licensing fees but the ones proposed in SB 170 break all equitable bounds. We need to consider other funding sources including resident licensing requirements as well.

SB 170 divides Alaskans who have similar interests, jeopardizes an industry, takes away the integrity of our Fish and Game Department, creates unnecessary future challenges, and losses, and does not resolve the problem.

In closing, I would like to reiterate my strong opposition to Senate Bill 170 and I thank you for your time and

4/12/2006

consideration.

Sincerely,

Henry D. Tiffany IV

Mary Jackson

From: Nancy Barnes
Sent: Tuesday, April 11, 2006 12:13 PM
To: Sharon Clark; Mary Jackson; Gayle Keller; Shannon Straube; Kimberly Carnot
Subject: FW: SB 170
Attachments: SB170 Robert R.doc

I am forwarding you an email with an attachment for your boss--received from a constituent concerning SB 170 which I understand will be heard tomorrow in Resources. You may have already received this. Nancy Barnes, Senator Kookesh's Office

From: Robert Fithian [mailto:rfithian@alaskaprohunter.org]
Sent: Tuesday, April 11, 2006 11:59 AM
To: Nancy Barnes
Subject: SB 170

Dear Senator Kookesh,

My name is Bobby Fithian, I live near Lower Tonsina (between Kenny Lake and Chitina). My phone number is (907) 822-3755. Please note that I am very much opposed to Senate Bill 170 regarding ADF&G, the guide industry and related bear conservation factors. My family and I represent a long established small guiding business conducting long term multiple specie hunts in the Western Alaska Range out of McGrath (25 years) and in the Wrangell Mountains and Prince William Sound. I also serve as the Executive Director (since 2001) of the Alaska Professional Hunters Association, have served a term as elected President of the Alaska Miners Association and successfully completed numerous timber harvest and reforestation projects throughout Interior and South-central Alaska. I have a very dear and real concern towards conservation of our natural resources, subsistence and the social integrity of rural Alaska. This being said with no interest of raising my personal image to you but for you to understand that I care about Alaska and have a better than average knowledge of some issues.

Please see and read my attached concerns with SB170. Please do all you can to stop this bill from moving without amendments to protect my families livelihood and the provisions of our constitutional mandates. Currently my clients spend on the average \$1,700.00 per person for licensing. If SB170 would pass as written they would pay over \$8,000.00 each. This represents an undue hardship and would put me out of business, take away meat from needy people, jobs from rural Alaska (several from Nikolai, McGrath, McCarthy and Tatitlek), service provider opportunities (air, hotel, B&B etc.), retail sales and additional hardship for rural Alaska. We have better mechanisms to fix the problems perceived by Senator Seekins.

Please feel free to call me anytime with any concerns.

Very Respectfully,
Bobby Fithian
(907) 822-3755

SB 170

Joe Dilly:

Please don't let this thing out of the Senate

It will put him out of business – needs to be discussed in detail for users in the areas.


It doesn't only just affect him, but the guides he has working for him.

He doesn't want to rag on anyone but this can't pass as it is.

Mary Jackson

Joe Dilly
398-6047

PHONE CALL	For	Date	Time
	M. <u>Derrick Cox</u>	<u>4-12</u>	<u>9</u> <small>AM</small>
	Phone <u>260-3422</u>	Assistant Guide	
	Remarks <u>SB 170 - Afraid -</u>	<input type="checkbox"/> Telephoned	
	<u>would put him</u>	<input type="checkbox"/> Returned your Call	
<u>put of Business;</u>	<input checked="" type="checkbox"/> Please Call		
<u>please don't pass</u>	<input type="checkbox"/> Will Call Again		
	<input type="checkbox"/> Came to See You		
	<input type="checkbox"/> Wants to See You		
Signed	SPR02301		



Senator Wagoner,

I am writing this letter in regards to Bill 170 that would allow non resident hunters to hunt brown bear with out a guide in unit 16. We guide unit 16 for brown bear and this is our livelihood and that is our only unit we hunt in. We take guide areas 16-01 , 16-02, & 16-03. . Buy allowing non residents to hunt this area with out a guide would allow air services to drop off hunters in all our hunting places where we have made airstrips and cleaned water ways so we would have access to the bears. It would be very unsafe for those hunters and would be devastating to our business and Alaska's guide business. We have 3 families in our business that totally depend on this brown bear hunting area for our living, So please vote against this bill and save our business. This bill is a direct offense to every resident in this state, our hunting regulations allow residents to take non resident relatives out hunting now so buy allowing anyone to hunt these brown bear with out a guide will start a huge illegal guide business to go on and devastate the legal guide business that is here. If you feel we as guides need to take more brown bear in this unit then extend the season in the spring from May 31st to June 15th. The bear pelts are still in good shape and this is the time the bears our starting to mate so it would make for a great hunt.

Again I urge you to vote against bill 170 and any other bill that would come up like this anywhere in this great state of Alaska. Thank you for your time in reading this letter.

Sincerely!

Thomas M. Krueger ph 262-2538/ 398-7302 Sterling, AK

Carolyn N. Krueger

Mark A. Krueger ph 394-2467 Soldotna, AK

Jayne Krueger ph 394-2464

Luke Krueger ph 260-4766/ 398-2540 Soldotna, AK

Linsey Krueger

Frank Sanders ph 262-0893 Soldotna, AK

Michelle

ALASKA

PROFESSIONAL HUNTERS ASSOCIATION, INC.

HC60 Box 299C • Copper Center, AK 99573

Phone: 907-822-3755 • FAX: 907-822-3752

Email: office@alaskaprohunter.org

www.alaskaprohunter.org

April 11, 2006

The Honorable Tom Wagoner
Alaska State Legislature
State Capital Building
Juneau, Alaska 99801-1182

Dear Senator Wagoner,

SB 170 is scheduled for a hearing on Wednesday of this week. We have last years bill and a copy of the probable SS that will be heard in your committee. We have not been consulted or questioned about key aspects in the bill yet our industry and many support industries are critically affected. Moreover, the process by which Alaska's wildlife resources are managed and allocated would be significantly changed if this bill became law.

The economic contribution of the guiding and transporting industries to our state have long been ignored and underestimated. One section of the SS would raise non-resident license and tag fees to an exorbitant if not a punitive level. Non-resident license and tag fees currently fund 70% plus of the Division of Wildlife Conservation's budget. We strongly support full funding for this essential department of ADF&G and are amenable to an across the board increase in non-resident tag fees of up to 25%. We so stated last year in testimony on this bill. We also believe the time is right to implement tag fees for residents as well. All responsible hunters realize that sufficient funding is essential to insure abundant wildlife populations yet we currently are able to enjoy the incredible benefits of hunting in the state for a mere \$25 license. It is our view that tag fee increases should be the subject of a bill dealing with this matter alone and considered with the full input of all the affected parties. We believe it is unreasonable and unacceptable to place the burden of taxation on one industry alone!

Another section of the bill would exempt Brown/Grizzly Bear hunters from the guide required provision in areas designated for intensive management. We are certain, based on advise from our council, that this provision would undermine the defensibility of the guide required provision in its entirety. We simply cannot put at risk a 200 million dollar industry and related support industries. If the

page 2

justification for having a guide is safety, accountability and stewardship of a truly unique wildlife resource, how can a judge agree that it is not necessary to have a guide on one side of the river and that it is mandatory on the other? One of the primary reasons key big game species such as Brown Grizzly, Dall's Sheep, and Mountain Goat are not under a constricted permit drawing allocation scheme is because of guide required. This benefits residents every bit as much as non-residents and guides. The Board of Game has systematically liberalized seasons and bag limits for Brown/Grizzly bears in areas of intensive management unheard of anywhere in the world. Give that liberalized system time to work, but don't jeopardize the resource and the people who depend on it.

There were arguments offered that some assistant guides were no more qualified to accompany a client in the field than many residents. We have recognized for some years that guide licensing standards needed to be upgraded and those former standards did not come into existence because we advocated for them. Quite to the contrary, APHA has always taken the position that credible apprenticeship and testing standards are essential. The new Big Game Commercial Services Board has taken significant regulatory steps to do just that. I can also state that after thirty years of guiding and over two hundred Brown Bear hunts behind me, there are more reasons than most people can imagine to justify guide required. The justifications are real, very real. You simply cannot afford to forsake public safety, professional accountability, and another of Alaska's private sector entities based the notion that an unknown percentage increase in bear harvest will produce any measurable increase in Moose calf survival.

The bill would also essentially define wildlife management plans in statute. APHA has long supported managing for abundance which means including predators in any management formula. Regrettably, we have endured nearly a decade of not responding to severe ungulate population declines due to predation. While the public policy debate raged, arguments centered on the esoteric and philosophical dimensions of the issue, litigation became the favored tool of opponents to any measure of including predators in a management equation and lip service was being payed to those people who directly rely on game resources. We believe the tide has turned in the last several years.

We also believe that it is not a good idea to legislatively micro manage the Board of Game and ADF&G. The Governor has

page 3

the authority to nominate individuals to the Board. The legislature has the authority to confirm. The Board has the authority to adopt management plans and set seasons and bag limits following probably the most thorough public process anywhere in the world. ADF&G has the responsibility to provide the best information possible, to plan and implement. Statutory direction carries with it the risk of jeopardising the integrity of the process and it can ultimately work both ways.

The purpose of SB 170 may be well intentioned but we are opposed to the fullest measure the tag fee increases as listed and to any exemptions to the guide required provision. While we wholeheartedly support including predators in any management formula, we are skeptical that legislatively directing management plans is the best way to go about achieving this goal. The ramification of enacting this bill are huge. Given the lack of input from the affected parties and the shortness of the legislative session, we believe it wise to pursue other remedies to the problems of proper predator management and generating much needed revenues for ADF&G.

Sincerely,


Joe Klutsch
President - APHA

c.c. Senator Ralph Seekins
Senator Albert Kookesh
Senator Kim Elton
Senator Bert Stedman
Senator Fred Dyson

04/12/06 WED 18:14 FAX 202 486 4042

BIRCH HORTON BITTNER

LAW OFFICES

BIRCH, HORTON, BITTNER AND CHEROT

A PROFESSIONAL CORPORATION

1188 CONNECTICUT AVENUE, N.W. • SUITE 1200 • WASHINGTON, D.C. 20036 • TELEPHONE (202) 698-5800 • FACSIMILE (202) 659-1027

HAL B. HORTON (1944 - 1988)

YULYA B. ANDRESTIUS
RICHARD G. BIRCH**
WILLIAM M. BITTNER
KATHRYN A. BLACK
MARK W. BRIDMAN
SUZANNE CHEROT
JOHN M. DIVONE**
KATHLEEN TOBIN MS
MUNK E. PRIDMAA, P.E.

GREGORY B. FISHER
DOUGLAS S. FULLER*
MARK S. GARNER
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TIM M. GROVER
PATRICIA M. HADOMA
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STANLEY T. LINDS
JAMES H. LISTER**
GREGORY A. MILLER
MICHAEL J. PARISE
TIMOTHY J. FITZMAURICE
ELIZABETH M. ROSS**

OF COUNSEL:
JONAS C. ALLENHORN
SHELLEY D. BRIDMAN
KIMBERLY E. VASSER

1177 WEST SEVENTH AVENUE
ANCHORAGE, ALASKA 99511-0528
(907) 576-1480
FACSIMILE (907) 576-3680

- * D.C. BAR
- ** D.C. AND ALASKA BAR
- FLORIDA BAR
- † MARYLAND BAR
- ‡ NEW YORK BAR
- ◊ VIRGINIA BAR
- ALL OTHERS ALASKA BAR

April 10, 2006

Mr. Joe Klutsch
President
Alaska Professional Hunters
Association
P.O. Box 313
King Salmon, AK 99613

Re: SB 170

Dear Joe:

We have reviewed those provisions of SB 170 substitute relating to bear predation management (e.g. §§ 73, 80) and conclude that it creates a threat to the guide requirement in State law for non-resident hunting of bears and other big game species. The problem arises from the interplay of these provisions and recent rulings by the U.S. Court of Appeals for the Ninth Circuit. Enactment of these provisions would facilitate a challenge in federal courts to the State's present guide requirement.

Alaska's guide requirement is predicated on considerations of hunter welfare and safety, resource management, and enforcement of hunting regulations. AS 16.05.407-408. Federal and state courts have upheld as legitimate and rational similar restrictions concerning nonresident hunters. See *O'Brien v. State*, 711 P.2d 1144, 1151 (Wyoming 1986)(upholding guide requirement for hunting big or trophy game as rational means of ensuring "proper game management, protection of hunter welfare and safety, or better enforcement of the game [and] fish laws"); *Clajon Production Corp. v. Peteru*, 854 F.Supp 843 (D.Wyoming 1994) (upholding a resident license preference regulation that reserved a certain percentage of big game hunting licenses for state residents); *DeMasters v. State*, 656 F.Supp. 21 (D.Montana 1986) (upholding Montana statute limiting the number of yearly nonresident elk hunting licenses as an effective management tool for the purpose of wildlife conservation).

Any action that says, in essence, that these considerations are legitimate and compelling with respect to one area (where the guide requirement is in effect) but are not compelling (and are waived) in another, weakens the rational basis of the requirement. As a result, differential treatment of non-residents in different areas within the State is

Please!
Forward to Senator Wagoner
Prior to Today's hearing

VIA TELEFAX

04/12/06 WED 10:15 FAX 202 486 4042

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Mr. Joe Klutsch
April 10, 2006
Page 2

likely to expose Alaska's guide requirement to federal constitutional equal protection challenge.

SB 170 would open the door to such differential treatment. The measure would amend AS 16.05.781 to eliminate the guide requirement for non-residents hunting bears in specific management units or subunits where predation by bears is identified as cause of depletion of big game populations. The revised version of the bill attempts to address the differential treatment issue by requiring non-residents to receive some special training and to be accompanied by residents that also satisfy certain criteria and receive special training. Although the purposes and objectives behind criteria are not specified, the emphasis on "experience" and "safety" seem to be mirror or replicate the purposes underlying the guide requirement. Put another way, the bill seeks to establish these special residents as de facto guides operating in a non-commercial manner. We presume that the thinking is that the differences between commercial and non-commercial "guides" would be considered minimal and not arbitrary or irrational.

This raises two issues. First, certifying a specific set of residents as stand-ins for guides raises questions about the basis for retaining guide requirements in other areas or for different big game species. If the State determines that the objectives of public safety resource management, and enforcement related to bear hunting can be secured via non-commercial means (i.e., using specially qualified non-compensated individuals as de facto guides), it indicates that commercial or economic purposes are the remaining rationale for guide requirements in other venues. Once guide requirements are rendered fundamentally commercial, these requirements become subject to attack under a commerce clause analysis. See *Conservation Force v. Manning*, 301 F.3d 985 (9th Cir. 2002); see also, *Montoya v. Shrouse*, No. CIV 98-0239-PHX RCB (D.C. AZ, 2004). Application of the commerce clause/commercial analysis case law standards usually results in striking down guide requirements. *Id.*; *O'Brien* at 1152.

Second, requiring non-residents to hunt with specially qualified residents (i.e., de facto guides) appears to thwart the purpose of the bill – to facilitate killing bears. If the existing guide requirement is considered an obstacle to bear management, the special resident requirement could constitute a comparable obstacle. It raises this question: how many additional bears are likely to be taken by switching to a de facto guide requirement as compared to a certified professional guide requirement? It is likely that the benefits (in terms of facilitating the take of problem bears) of the de facto guide arrangement will be extremely minimal. Only a handful of residents are likely to qualify and go through the testing process to be able to "guide" non-resident hunters. On balance, such minimal benefits do not appear to outweigh the risks the revised scheme poses to the existing guide requirement.

04/12/06 WED 18:15 FAX 202 466 4042

BIRCH HORTON BITTNER

BIRCH, HORTON, BITTNER AND CHEROT
A PROFESSIONAL CORPORATIONMr. Joe Klutsch
April 10, 2006
Page 3

Additional difficulties are created by the transition provisions in section 80 of the revised bill. It provides that during the period before the State sets up the special resident training program, non-residents may hunt with residents (not guides) who have not received any special training. Since this transition period is open ended, non-resident hunters could avoid the guide requirement for an appreciable period of time. This would likely be construed by a federal court (e.g., the Ninth Circuit) as evidence that the stated purposes for the guide requirement are really not that important to the State and have been broadly waived. Such a significant exception further weakens the State's ability to defend the guide requirement.

To preserve the constitutionality of Alaska's guide requirement for non-resident hunters, we would strongly counsel against authorizing any exception to the guide requirement or a scheme in which special residents act as de facto guides in a non-commercial or quasi-commercial manner.

Sincerely,

William P. Horn
Counsel for Alaska Professional
Hunters Association

Results of the 2005 Spring Permit Hunt Drawings

DB240				DC808				DM167				DM534										
Permits Available	Permits Awarded	Percent Drawn	Hunt Number	Applications Received	Permits Available	Permits Awarded	Percent Drawn	Hunt Number	Applications Received	Permits Available	Permits Awarded	Percent Drawn	Hunt Number	Applications Received	Permits Available	Permits Awarded	Percent Drawn	Hunt Number	Applications Received	Permits Available	Permits Awarded	% Drawn
3	3	3	DB240	55	5	5	9	DC808	452	25	25	6	DM167	649	9	9	1	DM534	57	12	12	21
3	3	2	DB241	173	6	6	3	DC827	1684	150	150	9	DM210	1385	20	20	1	DM535	205	12	12	6
2	2	3	DB242	118	5	5	4	DE318	96	25	25	26	DM400	1460	30	30	2	DM536	41	8	8	20
3	3	2	DB243	183	5	5	3	DE321	594	75	75	13	DM401	477	10	10	2	DM537	184	8	8	4
3	3	10	DB244	27	5	5	19	DE323	657	75	75	11	DM402	2985	50	50	2	DM538	91	10	10	11
3	3	8	DB245	32	5	5	16	DE702	311	15	15	5	DM403	1425	20	20	1	DM539	217	10	10	5
3	3	4	DB246	58	6	6	10	DE704	299	20	20	7	DM406	1925	40	40	2	DM549	751	50	50	7
3	3	4	DB247	40	5	5	13	DE706	275	45	45	16	DM407	2879	60	60	2	DM666	156	4	4	3
2	2	2	DB248	78	6	6	8	DE711	217	15	15	7	DM408	819	30	30	4	DM766	204	75	75	37
2	2	3	DB249	37	5	5	14	DE713	161	100	100	62	DM410	1992	40	40	2	DM788	495	150	150	30
2	2	7	DB250	17	5	5	29	DE715	139	75	75	54	DM422	380	20	20	5	DM789	82	10	10	12
3	3	5	DB251	33	5	5	15	DE717	133	75	63	56	DM423	136	5	5	4	DM790	671	10	10	1
3	3	7	DB252	42	6	6	14	DE721	106	75	75	28	DM424	650	40	40	6	DM799	171	21	21	11

STATE OF ALASKA

FRANK H. MURKOWSKI
GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. Box 115526
JUNEAU, AK 99811-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

ADF&G Section by Section Analysis CSSB 170 (RES) version 24-LS0409\C

Last Updated: April 20, 2006

This analysis only comments on those sections of the bill that make significant changes to statutes. It does not cover those sections that only make minor wording changes or those that do not alter the intent or interpretation of statute.

Section 1 A narrow reading of this language could be used to argue that fish and game funds and federal aid funds could not be used to support activities that are outside of the divisions of Sport Fish and Wildlife Conservation, but which benefit the public and specifically hunters and anglers. For example, enforcement of hunting and fishing regulations, regulations development, the activities of the commissioner's office, and departmental administrative functions that benefit the entire department, but may be carried out within the Division of Administration, such as information technology functions.

Section 2 amends AS 16.05.020 (Functions of the Commissioner) to require the commissioner to "manage fish and wildlife to achieve abundance for the use and benefit of the people of the state consistent with public interest and to achieve maximum sustained yield." Management at maximum sustained yield (MSY) is very difficult and expensive, and is generally not the recommended management strategy to optimize harvest. Instead, most fish and game resources are managed for "optimum sustained yield" when they are managed for high harvest rates.

Wildlife Conservation - It is not possible to manage for MSY for all species at the same time (i.e., we cannot manage for MSY of both moose and wolves, or lynx and hares; the more plentiful a species becomes, the less abundant the other will be in reaction).

Also, this would preclude the department and the Board of Game from managing certain areas or species for trophy animals. We currently manage Dall sheep for trophy by limiting the harvest to full curl rams. This provision would require the harvest of smaller rams and in some cases the harvest of females. The vast majority of sheep hunters want to harvest a trophy sheep and support the current management scheme. This section would also affect our management of brown bears on Kodiak Island, the Alaska Peninsula, and Southeast Alaska, and trophy moose hunts, such as those held on the Kenai Peninsula.

The new requirement in (3) to maintain nongame animals is inconsistent with other sections, including sections 14 and 76. "Nongame" is not defined in the bill.

Commercial Fisheries – It is not possible to manage all fish species for MSY because of the varying rates of productivity of different stocks and species. Rarely can fish be managed as a single stock; they are almost always managed as a stock complex. If the department attempted to manage all stocks at MSY, some stocks would be rapidly depleted because they cannot sustain as high a harvest rate as larger, or more productive stocks. There are also often economic bycatch concerns in fisheries and some fisheries are managed below MSY in order to reduce the bycatch of other economically important species. A MSY mandate would also hamper ongoing state efforts to restructure Alaska's commercial fisheries.

Deleting "in the interest of the economy and general well-being of the state" diminishes the importance of managing fisheries to generate economic value. Since the state's fisheries resources support a multi-billion dollar industry, deleting this language appears out of touch with current uses.

Sport Fisheries – Many recreational fisheries are managed for targets other than MSY. For example, many resident fish populations (e.g., rainbow trout, steelhead, Arctic grayling, cutthroat trout, lake trout) are managed under optimal sustained yield (OSY) objectives as catch and release or trophy sport fisheries across the state. All wild trout across the state are specifically managed for "optimum sustained yield," not "maximum sustained yield," under a Board-approved management plan. The department would have no management authority or ability to spend funds whatsoever for any of these fisheries if this bill is adopted as written.

Finally, the department would not have authority over other species that are not harvested or managed under MSY guidelines. This is quite troubling in that some of these species affect our ability to manage for species harvested under sustained yield objectives. For example, we could not manage or spend funds on invasive species. Failure to address invasive species could impact harvestable surpluses.

Section 4 amends AS 16.05.050 by adding four new sections (c-f). *Subsection (c)* requires that all management plans, strategies, guidelines, or other similar documents produced by the department that include policy statements must be approved by the Board. This section will greatly expand the workload of the Board of Fisheries and Board of Game and has the potential to clog the regulatory process. This section will also greatly increase the vulnerability of our predator management and other programs to litigation because details of program implementation and internal policy must be considered by the Boards and become regulations, which are then subject to court challenge. Requiring even the small details of operational plan/internal policies to be approved by the Boards will be very cumbersome and inefficient. Details within operational plans are frequently changed in-season; however, under this section, the department would have to go before the appropriate Board and get the regulations changed before modifying any activities. For fishery managers, this language would require putting many provisions into regulation that do not warrant such action, thereby reducing the ability of area managers to respond to changing conditions in the fisheries. Such rigidity is contrary to the flexibility that has been so critical to the success of the department's fisheries management program.

Subsection (d) would limit the department from transferring more than \$20,000 from one project to another project without approval of Office of Management and Budget and the Legislative Budget

and Audit Committee. In Section 13 of this bill, a project is defined as "an activity that has a single purpose for which the department expends funds or administrative, material, personnel, or other department resources." If enacted, this section would make it nearly impossible to operate the department. The definition could be interpreted to prohibit movement of funds from one line item to another within a project. It would, for certain, prohibit the Division of Wildlife Conservation from shifting funds for wildlife population estimates or surveys from one area to another due to snow conditions or changes in priorities. It would also greatly hamper our ability to manage our fishery resources in-season.

This subsection also raises concerns about the separation of powers between the legislative and executive branches of government. The legislature has the responsibility to allocate funds to achieve specific purposes; the administration needs adequate flexibility to get the job done.

Subsection (e) limits the department to expending fish and game funds (license fees) or federal aid funds except as authorized under AS 16.05.130. However, 16.05.130 is amended in this bill (Section 9) to restrict expenditure of funds only to projects that provide for the protection, propagation, investigation and restoration of sport fish and game resources and the expenses of administering the department's divisions of Sport Fisheries and Wildlife Conservation. This means that the department could not use license fees for a broad range of programs that have been done for years, such as education programs in our schools, sport fishing angler preference surveys used to more closely align division projects to meet angler desires, innovative outreach to nontraditional user groups such as the Becoming an Outdoor Woman program, or surveys and inventories of species that have been petitioned to be listed as threatened or endangered under the Federal Endangered Species Act. Fish and Game funds are also used to deal with nuisance wildlife situations and enforcement actions. The department's ability to engage in studies and have input into petroleum, mining, or other development projects could also be affected. This would also prohibit the department from funding projects to combat invasive species, which could very well lead to declines in indigenous consumptive species as seen in many other states.

Subsection (f) would prohibit the department from entering into memoranda of understanding (MOUs) or other agreements with other government or non-government entities without legislative approval. The department enters into hundreds of MOUs each year with various agencies to support specific field work with financial resources. Under this section, every one of these would be subject to legislative approval. The department only enters into MOUs if they benefit the State of Alaska.

Section 6 amends AS 16.05.094 by deleting subsection 5. The Subsistence Division would no longer be able to evaluate the impact of federal laws and regulations to state subsistence hunting and fishing. This amendment would greatly hamper the department's ability to challenge federal regulations and laws, such as federal closures that eliminate state hunting and fishing opportunities for Alaskans.

Section 7 amends AS 16.05.110 (a) and would have the effect of eliminating the constitutionally dedicated fund money recovered for damages to fishery resources. Because funds would be subject to legislative appropriation, this pre-statehood dedicated fund will cease to exist and may not be revived.

Section 8 amends AS 16.05.110(b) to require legislative approval of all Reimbursable Service Agreements (RSAs) from the divisions of Sport Fish and Wildlife Conservation to other agencies. However, some costs accruing to the department are allocated to divisions on a cost share formula and money is then transferred from division to division by RSA. This is a fair, efficient, and traceable way to allocate funds to pay for unexpected costs that are passed down to departments from the Department of Administration or Governor's Office. Such a restriction could make such simple actions very difficult to accomplish.

This section also raises a question about separation of powers between the legislative and executive branches of government.

Section 12 seems to do away with the department's ability to use Fish and Game Fund revenues to manage a variety of fish and wildlife that while they may be eaten, are hunted or fished primarily for their trophy or sport value (examples would include brown bear, mountain goats, Dall sheep, grayling, rainbow trout, steelhead, and others).

Section 13 (g) is confusing in that it states that fish and game fund expenditures that do not comport to AS 16.05.130(a)-(d), can only be allocated by the legislature. In practice, the department cannot spend fish and game funds on activities that are not listed in AS 16.05.130. Even if the legislature appropriated Fish and Game Funds for a specific activity outside the scope of AS 16.05.130, the department would be unable to conduct the activity due to Fish and Game Fund use restrictions.

(h) defines "project." The requirement for a "single purpose" is likely to provide fertile ground for judicial challenges. The department currently uses the following definition: "Project" means an organized unit of work with specific objectives or purposes designed to be accomplished within a fixed time period."

Section 14 amends AS 16.05.255(a) by changing "advisable" to "necessary." This will mean that the two boards will now have different standards, and the Board of Game will be unable to rely on precedents relating to the Board of Fisheries, and vice-versa.

Section 15 amends AS 16.05.255 (e), the intensive management law. The intent of this section seems to be to lower the amount and quality of information that the Board of Game must have prior to authorizing predator control and to therefore reduce the state's vulnerability when defending predation control programs. While the intent may be to reduce demands on the department, the language does harm to our ability to win court cases challenging predator management programs. Introducing the concepts of "reliable sources" and "reasonable person" would make it nearly impossible to obtain summary judgments upholding the programs. "Reasonableness" is almost always treated as a jury question, so courts will be more likely to require all challenges to proceed through a jury trial. Moreover, program opponents can certainly bring forward experts with experience, and reliable information and who seem reasonable. This section could jeopardize the sustainability of our predator management programs. The department is working with the Department of Law to develop language that would legally strengthen our predator control programs and we will be furnishing that language to the bill sponsor and the committee in the very near future.

Section 16 amends AS 16.05.255 (g) that requires the Board of Game to base population goals on historic high population levels consistent with maximum carrying capacity. It appears the intent of this language is to maximize harvest of big game animals, but managing at maximum carrying capacity would not achieve this objective. Maximum harvest for ungulates is attained when populations are managed at about 75-80% of maximum carrying capacity because that is when the population is most productive. The level of productivity declines markedly at maximum carrying capacity due to habitat limitations. Moreover, the requirement for annual review and adjustment of each plan will lead to much more lengthy and expensive Board of Game meetings, to more opportunities for legal challenges, and more difficult records to defend.

Section 17 amends the definition in the intensive management statutes for a "high level of human harvest" to be at least one-third of the harvestable surplus as uniquely defined at AS 16.05.255(j)(2)) of a prey population. This may be biologically impossible to achieve in portions of Alaska or for specific species. Each population exists amidst varying limiting factors and it is unwise to set arbitrary limits across the board; the constitutional makers recognized the variation inherent in biological population dynamics when calling for management under the sustained yield principle without trying to demand any specific level of yield. This change makes the definition inconsistent with the existing definition of "harvestable surplus."

Section 18 adds three new subsections (k, l, and m) to AS 16.05.255. Subsection (k) requires the Board of Game to accord a higher priority to the management of species used for consumption by humans than for other wildlife species. It also prohibits any restriction on harvest of a game species based on the abundance of a species that is not hunted, unless that species is endangered. This could prevent proactive management to solve conservation problems until the situation gets so bad that a species is listed under the Endangered Species Act.

Subsection 18 (l) would require that all plans, strategies, guidelines or similar documents that establish policies for the management of game would have to be adopted as regulation by the Board of Game before they could be implemented. This would greatly expand the workload of the Board, unnecessarily place great amounts of material into regulation and expose all such material to appeal or litigation because of its incorporation into the regulatory process. Adopting all plans, programs, strategies, guidelines, and similar documents into regulation is not consistent with AS 44.62, the State's Administrative Procedures Act. The Department of Law consistently recommends against codifying policy as regulation.

All of the internal implementation plans for our predator management programs would be subject to public comment, Board review and adoption as regulations, as would all other management programs. This will greatly increase the opportunities for opponents of these programs to litigate and significantly increase the amount of time needed before a program could be implemented. This change could be very damaging to our predator management program.

Section 19 amends AS 16.05.258 by adding subsection (g) that requires a person engaged in subsistence fishing to possess a sport fishing license. This section also requires subsistence hunters to have a hunting license, but this is currently the law. The difference is that we do not differentiate between types of hunting by gear, but we do differentiate between sport fishing, personal use

fishing and subsistence fishing. This change would be confusing to the public, especially those residents who only use legal subsistence gear—set and drift gill nets and fish wheels—and do not use rod and reel or hook and line gear, which are not an authorized legal gear type for most subsistence fishing activities. Many people who fish under the subsistence fishing regulations know that subsistence fishing is a customary and traditional use authorized by the Board of Fisheries and is different than sport fishing, which has different gear and fishing restrictions. To require a sport fishing license for the take of fish under subsistence fishing regulations would be confusing to the public and likely result in little compliance.

Sections 20-55 deal primarily with increases in hunting licenses and other fees for resident and non-resident hunters. This bill provides for a series of license fee increases that would become effective in January of 2007, 2009 and 2011. The fee structure proposed in this bill for non-resident tag fees is so high it will likely result in reduced income for the Department. Non-resident hunters contribute almost three quarters of hunting license/tag revenues, and we do not want to price them out of the market. Our fees must be competitive with other states, Canadian provinces and Russia or hunters will simply go other places to hunt.

The fees we charge for non-residents to hunt must not be too much higher than the fees we charge resident hunters. We may constitutionally charge more for non-resident hunters and fishermen, but the differential must, at least, be rationally tied to a legitimate governmental purpose and be justifiable. The fee schedule proposed in this bill is neither.

The license fees suggested by the Department and contained in the original version of this bill were based on a careful analysis of the fees charged for non-resident hunting in other western states and Canadian provinces. The fee schedule we proposed makes significant increases, but keeps our fees competitive with other places.

Sections 32 and 34 would require anyone purchasing a low income license to present proof such as their income tax return to the license vendor to document their income level before they can purchase a license. Currently, in order to qualify for a low income license, people only have to sign a statement that they have an income below \$8,200. We realize some people abuse the current system, but the proposed fix to the problem will create numerous new problems. Many people simply will not buy a license at all, and many vendors will drop out of the system because they are not interested in the paperwork and accounting hassles that would ensue.

In addition, Section 32 requires an annual gross family income that is outdated and not comparable with other programs with low-income eligibility requirements. Other programs used the standard federal poverty income guidelines for Alaska, which is currently \$12,250 for a household of one and \$25,000 for a family of four.

Section 41 exempts non-resident hunters from purchasing a tag to harvest a black bear in intensive management areas and **Section 42** exempts non-residents from purchasing a wolf tag to take a wolf in intensive management areas. These are tools that should be available to the Board of Game, not mandated by the Legislature. The Board of Game has already used this approach in some specific situations. In addition, the term "intensive management area" could be interpreted in several ways; it is unclear whether the reference is to areas included in predation management plans under

5 AAC9 2.125, areas in which ungulate herds are listed in 5 AAC 92.108 as being eligible for intensive management, or some other definition.

Section 54 is a new section that assesses trophy fees on non-resident hunters that harvest a trophy animal. The fees vary from \$500 to \$2,025 depending upon the species and size of the skull, antlers or horns. This is a new concept that has not been discussed within the department nor with any of our constituent groups. Such a system is not used in any other state, but it is a common practice in Africa. It would likely significantly decrease the number of non-resident hunters coming to Alaska because the combined license fees and trophy fees are not competitive with hunts in other states or provinces. The reason for charging this unique fee to non-residents and aliens must, at least, be rationally tied to a legitimate governmental purpose, and be justifiable in order to survive constitutional scrutiny.

Section 56 (l) establishes a surcharge of \$1 for residents and \$5 for non-resident hunting licenses. This surcharge would be used for acquisition of access to fishing or hunting.

Section 58 reduces the application fee for bison from \$10 to \$7.50 and **Section 59 (c)** increases the application fee for drawing hunts from \$5 to \$7.50. This would increase revenue by \$120,000. **Section 60 f** established a fee of \$7.50 for registration permits.

Section 60 e establishes a \$7.50 fee to apply for a Tier II permit.

Section 69 adds a new subsection to AS 16.05.405 that authorizes party hunting. The department and the Board of Game have consistently opposed party hunting. We believe that this practice raises ethical issues and can lead to wanton waste. Enforcement of this subsection would be very difficult.

Section 72 eliminates the current and misdemeanor penalty for lying on a license application, leaving only the possibility of a \$300 fine.

Section 73 adds a new section to AS 16.05 that deals with harvest methods of black and brown bears in areas identified by the Board of Game as areas with depleted ungulate populations. It has provisions that allow the following methods to take a bear in such areas:

1. Black and brown bear baiting without a permit.
2. Use of air to ground communication to take a bear.
3. Use of electronic predator calls to take a bear.
4. Use of radio communication to take a bear.
5. Taking of a bear at or near a dump.
6. Taking a bear the same day a hunter has been airborne.
7. No closed season for bears.
8. Non-residents could hunt brown bears in the areas without hiring a guide if they take a bear hunting safety course provided by the department. The department would be required to provide such courses at all field offices.

This section violates numerous fair-chase and ethical standards. Efforts to reduce bear populations must be conducted under predator management programs and NOT under normal hunting rules.

This section also makes it extremely unlikely that the state would be able to constitutionally defend its guide requirements for non-residents who hunt brown bear.

This is another example of taking tools out of the hands of the Board of Game and legislatively mandating the way things will be done, down to the level of methods and means, seasons, and bag limits. The Board of Game is engaged in a careful, defensible effort to manage predator-prey imbalances that took many years to develop. The Board has employed innovative management approaches and should not have management options either precluded or imposed on it.

Section 74 amends AS 16.05.930 to allow the purchase, sale, resale or barter of fish and wildlife. The apparent intent of this section is to allow the sale of big game trophies, but the language allows the sale of any legally taken fish or game. As mentioned in comments on previous versions, this would include meat from game animals, as well as parts such as gall bladders, claws, and teeth, which have some degree of market demand. This section could lead to market hunting, sale of fish caught for personal use, sport, or subsistence use. Moreover, it turns all cases into commerce, thus bringing Alaska within the scope of caselaw limiting states' abilities to regulate interstate commerce. This imperils all of Alaska's existing preferences and quotas for residents; including, but not limited to, limiting subsistence uses to residents, reserving drawing permit quotas to residents, and closing non-resident uses before closing resident uses.

Sections 76 and 77 amend the definitions in AS 16.05.940 for game and take, respectively. The new definition for game limits the department's authority to only species for which the Board of Game has adopted regulations authorizing consumptive use or that the Board of Game has authorized the department to manage. It is unwise to create a situation where many species are outside the jurisdiction of any agency.

We believe that modifying the definition of "take" will have significant, negative ramifications for enforcement of fish and game laws. For example, running caribou with a snow machine may no longer be prosecutable. The Board of Game recently addressed this issue with a more thorough definition and a statutory definition is not necessary.

Section 78 amends AS 16.05.050 (powers and duties of the commissioner) by repealing the commissioner's duty to assist the U.S. Fish & Wildlife Service in enforcement of federal fish and wildlife laws. The intent may be to make this a discretionary item rather than a duty, but the legal aspects need to be explored.

ALASKA STATE SENATE

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2327
(907) 465-5241 Fax



Interim:
119 N. Cushman, Suite 201
Fairbanks Alaska 99701
(907) 456-8161
Senator_Ralph_Seekins@legis.state.ak.us

Senator Ralph Seekins
District D

Senate Bill 170 Sponsor Statement

Senate Bill 170 addresses several areas of Title 16 - the Fish and Game statutes.

It provides for the sale of legally taken trophy mounts and certain parts of legally harvested game animals. This solves the current nonsensical situation where a person cannot buy a trophy mount in Alaska but the seller can take the mount to Seattle, conduct the transaction with the buyer there who then returns to Alaska with the mount.

It provides for a "small game" hunting license as differentiated from a general hunting license. This license will be sold for \$25.

It provides for uniform application fees for certain hunting permits, drawings and stamps. This fee will be \$7.50. Currently these fees range between \$5.00 and \$10.00.

It establishes a higher degree of accountability for the use of the fish and game fund. This fund is dedicated to uses directly benefiting those who purchase hunting and fishing licenses

It assures Alaskans that no fish or game policy will be established in the absence of the public hearing process currently utilized by the Boards of Fish and Game.

It provides that the "reasonable person" legal standard be applied to decisions made by Board of Game members when adopting regulations to provide for intensive management. A reasonable person acts sensibly, does things without serious delay, and takes proper but not excessive precautions.

It provides for new fees for hunting licenses, trapping licenses and tags and requires that the increases be used to maximize management for an abundance of animals for human consumption.

It provides for certain predator control (not hunting) regulations for bears in areas under intensive management where the Board of Game has determined that bear predation is a cause of the problem and a reduction in bears would reasonably help cure the problem.

It provides for a new "deferral fee" limited to certain areas adjacent to or near state wildlife sanctuaries or national parks. When the Board authorizes permits to hunt bear or wolf in these areas, a person can take a permit "off the table" by paying to the fish and game fund the maximum market value a hunt would otherwise have contributed to the state economy.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3877 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 18, 2005

SUBJECT: Sectional summary of CSSB 170(), draft version "L", relating to the Department of Fish and Game, Board of Fisheries, and Board of Game and to fish and game (Work Order No. 24-LS0494\L)

TO: Senator Ralph Seekins
Attn: Brian Hove

FROM: George Utermohle *GU*
Legislative Counsel

You have requested a sectional summary of CSSB 170(), draft version "L", relating to the Department of Fish and Game, Board of Fisheries, and Board of Game and to fish and game.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill sets out the intent of the legislature that the revenue generated by the increase in hunting and trapping fees by this bill be used to maximize hunting and trapping opportunities throughout the state and that the revenue be used for species for which general human consumptive use regulations exist.

Section 2 of the bill amends AS 16.05.020 to provide that the commissioner of fish and game shall manage, protect, maintain, improve and extend only the fish, game, and aquatic plant resources which the Board of Fisheries or the Board of Game has authorized to be taken for consumptive uses or for which the Board of Fisheries or the Board of Game has otherwise adopted regulations regarding the resource to achieve abundance for maximum sustained yield for human consumptive use.

Section 3 of the bill amends AS 16.05.050 by adding numerous provisions regarding the powers and duties of the commissioner of fish and game.

Subsection (c) provides that the commissioner may use the commissioner's authority to manage, protect, maintain, improve and extend only the fish, game, and aquatic plant resources which the Board of Fisheries or the Board of Game has authorized to be taken for consumptive use, unless otherwise required by law.

Subsection (d) provides that the commissioner shall manage non-game species in accordance with regulations adopted by the Board of Game.

Subsection (e) provides that the commissioner may not manage, improve, or manipulate habitat used by fish, game, or aquatic plants except as otherwise provided by certain statutes.

Subsection (f) provides that all policies for the management of fish or game prepared by the department must be approved by the appropriate board before the department implements the policies.

Subsection (g) provides that the commissioner may not transfer more than \$5,000 between projects, objects of expenditures, or allocations without approval of the office of management and budget and review by the Legislative Budget and Audit Committee.

Subsection (h) provides that the commissioner may not expend certain hunting, trapping, and sport fishing revenue and federal funds received from certain federal aid programs except for purposes authorized under AS 16.05.130.

Subsection (i) provides that the commissioner may not enter into co-management agreements without prior approval by the legislature.

Section 4 of the bill amends AS 16.05.090(a) to provide that the commissioner may organize and reorganize the Department of Fish and Game with the approval of the governor.

Section 5 of the bill amends AS 16.05.094 to alter the duties of the section of subsistence hunting and fishing.

Section 6 of the bill amends AS 16.05.110(a) to provide that money deposited into the fish and game fund is subject to appropriation by the legislature before it may be expended and to provide that money received as hunting permit deferral fees is deposited into the fish and game fund.

Section 7 of the bill amends AS 16.05.110(b) in regard to the expenditure of appropriations from the fish and game fund and from federal funds by the division of wildlife conservation and division of sport fish and in regard to reimbursable service agreements.

Section 8 of the bill amends AS 16.05.120 by adding a new subsection to provide that the additional license and related revenue generated by this bill shall be separately accounted for by the department. If the ratio of fixed cost expenditures of the division of wildlife conservation exceeds 50 percent of the division's budgeted expenditures for a fiscal year, the department may not expend the additional receipts generated by this bill until, or unless, the legislature has expressly authorized the expenditure of the funds. "Fixed cost expenditures" are defined.

Section 9 of the bill amends AS 16.05.130(a) to provide for the use of sport fishing, hunting, and trapping license, tag, stamp, and permit fees and application fees and federal funds to benefit purchasers of sport fishing, hunting, and trapping licenses.

Section 10 of the bill amends AS 16.05.130(b) to provide that the revenue derived from the waterfowl conservation tag fee may be used for waterfowl related projects approved by the Board of Game and the commissioner and for waterfowl conservation emergencies in the state as determined by the commissioner or the Board of Game.

Section 11 of the bill amends AS 16.05.130(d) in regard to the use of sport fishing, hunting, and trapping license, tag, stamp, and permit fees and application fees and federal funds to benefit purchasers of sport fishing, hunting, and trapping licenses. The material to be included in a report on the use of the fees and funds is described.

Section 12 of the bill amends AS 16.05.130 by adding a new subsection which sets out the definition of "project" for the purposes of this section.

Section 13 of the bill amends AS 16.05.251 by adding new subsections.

Subsection (i) provides that the Board of Fisheries shall accord a priority to the conservation, development, and utilization of fish species which the board has authorized to be taken for consumptive uses. The board shall accord a subordinate priority to the management of other fish species. Except for endangered species, the board may not amend or repeal regulations authorizing the consumptive use of a fish species based on the level of abundance of a finfish, aquatic invertebrate, or amphibian species for which the board has not authorized consumptive uses.

Subsection (j) provides that the department shall submit policies regarding the management of fish to the Board of Fisheries for approval before the policies are implemented.

Section 14 of the bill amends AS 16.05.255(a) regarding the powers of the Board of Game.

Section 15 of the bill amends AS 16.05.255(e) regarding the adoption of regulations for intensive management programs for identified big game populations.

Section 16 of the bill amends AS 16.05.255(g) regarding intensive management programs for big game prey populations.

Section 17 of the bill amends AS 16.05.255(j)(2) regarding the definition of "high level of human harvest".

Section 18 of the bill amends AS 16.05.255 by adding new subsections relating to the powers of the Board of Game.

Subsection (k) provides that the Board of Game shall accord a priority to the conservation, development, and utilization of game species which the board has authorized to be taken for consumptive uses. The board shall accord a subordinate priority to the management of other species. Except for endangered species, the board may not amend or repeal regulations authorizing the consumptive use of a game species based on the level of abundance of a mammal, bird, reptile, insect, or other species for

which the board has not authorized consumptive uses.

Subsection (l) provides that the department shall submit policies regarding the management of game to the Board of Game for approval before the policies are implemented.

Subsection (m) provides that the Board of Game may adopt regulations for the management of non-game species by the department.

Section 19 of the bill amends AS 16.05.258 by adding a new subsection to provide that subsistence hunters and fishermen must have hunting and sport fishing licenses, as appropriate, unless they are exempt from the licensing requirement.

Sections 20 - 26 of the bill amend AS 16.05.340(a)(2), (3), (4), (5), (6), (9), and (11) to increase the fees for certain resident and nonresident hunting, trapping, and sport fishing licenses.

Section 27 of the bill amends AS 16.05.340(a)(15) to increase the fees for nonresident big game tags, to provide that nonresident aliens pay the same big game tag fees as other nonresidents, and to provide that nonresident hunters do not need a black bear tag in a game management unit or subunit if the Board of Game has established an intensive management area for that game management unit or subunit.

Section 28 - 30 of the bill amends AS 16.05.340(a)(17), (19), and (20) to increase the amount of the fees for the waterfowl conservation tag, nonresident small game hunting license, and the nonresident alien hunting license.

Section 31 of the bill amends AS 16.05.340(a) by adding a new paragraph to create the resident small game hunting license.

Section 32 of the bill amends AS 16.05.340(d) to make a technical change to conform to the creation of the resident small game hunting license by sec. 31 of the bill.

Section 33 of the bill amends AS 16.05.340 by adding new subsections.

Subsection (j) authorizes the commissioner to reduce the fee for sport fishing, hunting, and trapping licenses, tags, permits, and stamps that are purchased on-line.

Subsection (k) establishes an access surcharge to be collected on hunting, trapping, and sport fishing licenses. The amount of the surcharge is \$1 for resident licenses and \$5 for nonresident licenses. The proceeds of the surcharge may be used to acquire land and rights in land to provide access to fish and game for holders of hunting, trapping, and sport fishing licenses.

Section 34 of the bill amends AS 16.05.346(a) to set the application fee for certain musk ox hunting permits at \$7.50.

Section 35 of the bill amends AS 16.05.346(b) to set the application fee for a bison drawing permit at \$7.50.

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Section 36 of the bill amends AS 16.05.346(c) to increase the application fee for certain limited drawing permits to \$7.50.

Section 37 of the bill amends AS 16.05.346 by adding new subsections to establish a \$7.50 application fee for a tier II hunting permit and for an annual registration hunt stamp.

Section 38 of the bill amends AS 16.05 by adding a new section to authorize the Board of Game to establish brown or grizzly bear and wolf hunting permit deferral programs in areas adjacent or near to state game sanctuaries or federal national parks. If the permit deferral fee, set by the commissioner, is paid, the department shall defer the issuance of one hunting permit for brown or grizzly bear or wolf, as appropriate, for one year for the area where the program is established. The commissioner may defer the issuance of hunting permits for up to 50 percent of the allowable harvest of brown or grizzly bear or wolf for the area.

Section 39 of the bill amends AS 16.05.350(a), relating to the expiration of certain licenses, tags, permits, etc., by making a technical change to conform to the establishment of a registration hunt stamp by sec. 37 of the bill.

Section 40 of the bill amends AS 16.05.360(a) regarding the issuance and form of licenses, tags, permits, stamps, and other documents required as a prerequisite to engaging in activities authorized by the Board of Fisheries and the Board of Game.

Sections 41 - 45 of the bill amend AS 16.05.380, 16.05.390(a), 16.05.390(b), 16.05.390(c), 16.05.390(e), and 16.05.390(f) by making technical changes to conform to the establishment of a registration hunt stamp by sec. 37 of the bill.

Section 47 of the bill amends AS 16.05.405 by adding new subsections.

Subsection (g) authorizes a resident under specified conditions to take a big game animal on behalf of another resident who has the appropriate tag, permit, or other authorization to take the animal.

Subsection (h) authorizes a resident under specified conditions to affix a tag, permit, etc. to a big game animal taken by another resident.

Sections 48 - 49 of the bill amend AS 16.05.407(a) and 16.05.408(a) to make technical changes to conform to the provisions of AS 16.05.781 which are added by sec. 51 of the bill.

Section 50 of the bill amends AS 16.05.420, relating to license, tag, permit, etc. violations, by providing that the penalty for false statement in applications for licenses, tags, permits, etc. is subject to a maximum fine of \$300, and by making a technical change to conform to the establishment of a registration hunt stamp by sec. 37 of the bill.

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Section 51 of the bill adds a new section to AS 16.05 to provide for special rules governing the taking of black bear and brown or grizzly bear in an area if the Board of Game has identified predation by bears as the cause of the depletion of a big game prey population or reductions of the productivity of a big game population that is the basis for the establishment of an intensive management program or for the declaration of a biological emergency.

Section 52 of the bill amends AS 16.05.930 by adding a new subsection to allow the purchase, sale, resale, barter, or other transfer of value of a mount, trophy or part of a lawfully taken fish or game animal.

Section 53 of the bill amends AS 16.05.935, relating to restrictions on cooperation with the federal government, by substituting the term "wildlife" for the term "game" as the result of the amendment of the definition of "game" to apply only to species for which the Board of Game has authorized consumptive uses.

Section 54 of the bill amends AS 16.05.940(12) to provide that for the purposes of AS 16 the definition of "fish" means only aquatic finfish, invertebrates, and amphibians for which the Board of Fisheries has adopted regulations authorizing consumptive use or for which the Board of Fisheries has adopted regulations authorizing the Department of Fish and Game to manage.

Section 55 of the bill amends AS 16.05.940(19) to provide that for the purposes of AS 16 the definition of "game" means only birds, reptiles, and mammals for which the Board of Game has adopted regulations authorizing consumptive use or for which the Board of Game has adopted regulations authorizing the Department of Fish and Game to manage.

Section 56 of the bill amends AS 16.05.940(34) to change the definition of "take".

Section 57 of the bill amends AS 16.05.940 by adding definitions for the terms "non-game" and "wildlife".

Sections 58 - 59 of the bill amend AS 16.20.180 and 16.20.185, relating to endangered species and subspecies, by substituting "game and non-game" for "wildlife" and by making a technical change to conform to the language of AS 16.20.190, as amended by sec. 60 of the bill.

Section 60 of the bill amends AS 16.20.190 to provide that the Board of Fisheries and the Board of Game are responsible for determining whether a species or subspecies of fish, game, or non-game is in danger of extinction.

Section 61 of the bill repeals AS 16.05.050(a)(1), relating to the authority of the commissioner of fish and game to assist the United States Fish and Wildlife Service in the enforcement of laws and regulations pertaining to fish and game.

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Section 62 of the bill repeals AS 16.05.340(a)(21), relating to nonresident alien big game permit fees, to conform to the changes made by sec. 27 of the bill.

Section 63 of the bill adds a transitional section that suspends the requirement for successful completion of a big game hunter safety course under AS 16.05.781, added by sec. 51 of the bill, until 30 days after the materials for the course have been made available by the Department of Fish and Game

Section 64 of the bill provides that secs. 1, 20 - 37, 39 - 46, 50, and 62 of the bill take effect January 1, 2006.

Section 65 of the bill provides that the remainder of the bill takes effect July 1, 2005.

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CS FOR SENATE BILL NO. 170()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

**Offered:
Referred:**

Sponsor(s): SENATOR SEEKINS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Department of Fish and Game, the Board of Fisheries, and the
2 Board of Game; relating to the taking of big game and to the disposition of a mount,
3 trophy, or part of a fish or game animal; setting fees for certain trapping licenses and
4 certain hunting licenses, permits, and tags; setting fees for the resident combined
5 hunting, trapping, and sport fishing license and the resident combined hunting and
6 sport fishing license; relating to the resident small game hunting license; setting
7 application fees for certain hunting permits and stamps; establishing a surcharge on
8 hunting, trapping, and sport fishing licenses; relating to certain hunting, trapping, and
9 sport fishing licenses, tags, permits, and stamps; relating to the fish and game fund;
10 relating to violations of fish and game laws; relating to state management of wildlife;
11 relating to endangered fish and wildlife; and providing for an effective date."

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

1 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
2 to read:

3 LEGISLATIVE INTENT. It is the intent of the Alaska State Legislature that

4 (1) the additional revenue generated from the hunting and trapping fees
5 established or increased by this Act shall be used to maximize hunting and trapping
6 opportunities throughout the state, with the specific purpose of supporting programs designed
7 to increase the harvestable surplus of game for human consumptive uses; and

8 (2) none of the additional funds generated by this Act be utilized on species
9 for which no general human consumptive use regulations exist.

10 * Sec. 2. AS 16.05.020 is amended to read:

11 Sec. 16.05.020. Functions of commissioner. The commissioner shall

12 (1) supervise and control the department, and may appoint and employ
13 division heads, enforcement agents, and the technical, clerical, and other assistants
14 necessary for the general administration of the department;

15 (2) manage, protect, maintain, improve, and extend the fish, game,
16 non-game, and aquatic plant resources of the state, for which the Board of Fisheries
17 or the Board of Game has either authorized the taking for consumptive uses or
18 adopted regulations regarding the conservation, development, or utilization of
19 the resource to achieve abundance for maximum sustained yield for human
20 consumptive use, in the interest of the economy and general well-being of the state;

21 (3) have necessary power to accomplish the foregoing including, but
22 not limited to, the power to delegate authority to subordinate officers and employees
23 of the department.

24 * Sec. 3. AS 16.05.050 is amended by adding new subsections to read:

25 (c) Except as otherwise expressly required by law, the commissioner may
26 exercise the powers conferred on the commissioner under this title to manage, protect,
27 maintain, improve, or extend the fish, game, or aquatic plant resources of the state for
28 only those species that the Board of Fisheries or the Board of Game has authorized the
29 taking for consumptive uses.

30 (d) The commissioner shall manage non-game in accordance with regulations
31 adopted by the Board of Game.