

CS FOR SENATE BILL NO. 164(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/7/16

Referred: Rules

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to sport fishing, hunting, or trapping licenses, tags, or permits; relating**
2 **to penalties for certain sport fishing, hunting, and trapping license violations; relating to**
3 **restrictions on the issuance of sport fishing, hunting, and trapping licenses; creating**
4 **violations and amending fines and restitution for certain fish and game offenses;**
5 **creating an exemption from payment of restitution for certain unlawful takings of big**
6 **game animals; relating to commercial fishing violations; allowing lost federal matching**
7 **funds from the Pittman - Robertson, Dingell - Johnson/Wallop - Breaux programs to be**
8 **included in an order of restitution; adding a definition of 'electronic form'; and**
9 **providing for an effective date."**

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

11 *** Section 1.** AS 16.05.330(a) is amended to read:

12 (a) Except as otherwise permitted in this chapter, without having the

1 appropriate license, [OR] tag, or permit in actual possession, a person may not
2 engage in

3 (1) sport fishing, including the taking of razor clams;

4 (2) hunting or [,] trapping [, OR FUR DEALING];

5 (3) the farming of fish, fur, or game;

6 (4) taxidermy or fur dealing; or

7 (5) control of nuisance wild birds and nuisance wild small mammals

8 for compensation.

9 * **Sec. 2.** AS 16.05.330(d) is amended to read:

10 (d) A person may not receive a sport fishing, hunting, or trapping license or
11 other permit or tag issued under AS 16.05.330 - 16.05.430, if the person's right to
12 obtain, or exercise the privileges granted by, a sport fishing, hunting, or trapping
13 license is suspended or revoked in this or another state. A person who applies for a
14 sport fishing, hunting, or trapping license or other permit or tag issued under
15 AS 16.05.330 - 16.05.430 shall sign a statement that the person's right to obtain, or
16 exercise the privileges granted by, a sport fishing, hunting, or trapping license is not
17 suspended or revoked in this or another state.

18 * **Sec. 3.** AS 16.05.330 is amended by adding new subsections to read:

19 (f) A person charged with violating (a)(1) or (2) of this section for failure to
20 have a license in actual possession may not be convicted if the person produces, in an
21 office of the arresting or citing agency, a license previously issued to the person that
22 was valid at the time of the offense.

23 (g) A license in actual possession may be in paper or electronic form.

24 (h) A peace officer presented with an electronic device under (g) of this
25 section is immune from any liability resulting from damage to the device.

26 * **Sec. 4.** AS 16.05.430(a) is amended to read:

27 (a) Except as provided in AS 16.05.330(f), 16.05.407(b) [AS 16.05.407(b)]
28 and (d), 16.05.408(b), and 16.05.420(b), a person who violates AS 16.05.330 -
29 16.05.420 or a regulation adopted under AS 16.05.330 - 16.05.420 is guilty of a class
30 A misdemeanor [AND UPON CONVICTION IS] punishable as provided in
31 AS 12.55 [BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRISONMENT

1 FOR NOT MORE THAN SIX MONTHS, OR BY BOTH].

2 * **Sec. 5.** AS 16.05.430 is amended by adding new subsections to read:

3 (c) Except as provided in AS 16.05.407(b) and (d), 16.05.408(b), and
4 16.05.420(b), a person who, without any culpable mental state, violates AS 16.05.330
5 - 16.05.420 or a regulation adopted under AS 16.05.330 - 16.05.420 is guilty of a
6 violation punishable as provided in AS 12.55.

7 (d) In addition to any penalty imposed under (a) or (b) of this section, a person
8 may be ordered to pay restitution to the state equal to the amount of any lost state or
9 federal matching funds from the Pittman - Robertson, Dingell - Johnson/Wallop -
10 Breaux programs incurred from the person's violation of AS 16.05.330 - 16.05.420 or
11 a regulation adopted under this chapter, AS 16.20, or AS 16.40.

12 * **Sec. 6.** AS 16.05.722(a) is amended to read:

13 (a) A person who, without any culpable mental state, violates AS 16.05.440 -
14 16.05.690 [,] or a regulation of the Board of Fisheries or the department governing
15 commercial fishing [,] is guilty of a violation and upon conviction is punishable by a
16 fine of not more than

17 (1) **\$6,000** [\$3,000] for a first conviction;

18 (2) **\$12,000** [\$6,000] for a second conviction or for a subsequent
19 conviction not described in (3) of this subsection; and

20 (3) **\$15,000** [\$9,000] for a third or subsequent conviction within a 10-
21 year period.

22 * **Sec. 7.** AS 16.05.722 is amended by adding a new subsection to read:

23 (d) The court shall transmit notice of all convictions under this section to the
24 Alaska Commercial Fisheries Entry Commission.

25 * **Sec. 8.** AS 16.05.782(a) is amended to read:

26 (a) Except as provided in (d) of this section, a person **may not take** [WHO
27 WITH CRIMINAL NEGLIGENCE TAKES] a brown or grizzly bear within one-half
28 mile of a solid waste disposal facility [IS GUILTY OF A CLASS A
29 MISDEMEANOR].

30 * **Sec. 9.** AS 16.05.782(b) is amended to read:

31 (b) In addition to the penalty imposed by law under [(a) OF] this section, the

1 court shall order forfeiture of the hide and skull of the bear; [, BUT] if the hide and
 2 skull are not salvaged and delivered to the department, [THEN] the court shall impose
 3 an additional fine of up to \$10,000.

4 * **Sec. 10.** AS 16.05.782 is amended by adding new subsections to read:

5 (f) A person who, with criminal negligence, violates (a) of this section is
 6 guilty of a class A misdemeanor punishable as provided in AS 12.55.

7 (g) A person who, without any culpable mental state, violates (a) of this
 8 section is guilty of a violation punishable as provided in AS 12.55.

9 * **Sec. 11.** AS 16.05.783(c) is amended to read:

10 (c) A person who violates this section is guilty of a **class A** misdemeanor
 11 **punishable as provided in AS 12.55** [, AND UPON CONVICTION IS
 12 PUNISHABLE BY A FINE OF NOT MORE THAN \$5,000, OR BY
 13 IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]. In
 14 addition, the court may order the aircraft and equipment used in or in aid of a violation
 15 of this section to be forfeited to the state.

16 * **Sec. 12.** AS 16.05.789(b) is amended to read:

17 (b) A person who violates this section is guilty of a class A misdemeanor
 18 **punishable as provided in AS 12.55.**

19 * **Sec. 13.** AS 16.05.789 is amended by adding a new subsection to read:

20 (c) A person who, without any culpable mental state, violates this section is
 21 guilty of a violation punishable as provided in AS 12.55.

22 * **Sec. 14.** AS 16.05.790 is amended by adding a new subsection to read:

23 (g) A person who, without any culpable mental state, violates this section is
 24 guilty of a violation punishable as provided in AS 12.55.

25 * **Sec. 15.** AS 16.05.831(c) is amended to read:

26 (c) A person who violates this section or a regulation adopted under it is **guilty**
 27 **of a class A misdemeanor** punishable **as provided in AS 12.55** [BY A FINE OF
 28 NOT MORE THAN \$10,000, OR BY IMPRISONMENT FOR NOT MORE THAN
 29 SIX MONTHS, OR BY BOTH]. In addition, a person who violates this section is
 30 subject to a civil action by the state for the cost of replacing the salmon wasted.

31 * **Sec. 16.** AS 16.05.901 is amended by adding a new subsection to read:

1 (c) A person who, without any culpable mental state, violates AS 16.05.871 -
2 16.05.896 is guilty of a violation punishable as provided in AS 12.55.

3 * **Sec. 17.** AS 16.05.925 is amended to read:

4 **Sec. 16.05.925. Penalty for violations.** (a) Except as provided in
5 AS 16.05.430, 16.05.665, 16.05.722, 16.05.723, 16.05.783, 16.05.831, 16.05.861,
6 [AND] 16.05.905, **and (c) of this section**, a person who violates AS 16.05.920 or
7 16.05.921, or a regulation adopted under this chapter or AS 16.20, is guilty of a class
8 A misdemeanor **punishable as provided in AS 12.55**.

9 (b) In addition to a penalty imposed under (a) of this section or any other
10 penalty for violation of this title or a regulation adopted under this title, **and except as**
11 **provided in (c) of this section**, a person who is convicted of unlawfully taking an
12 animal listed in this subsection may be ordered by the court to pay restitution to the
13 state in the amount set out in this subsection for each animal unlawfully taken:

14	(1) Bear, black	<u>\$ 900</u> [\$ 600]
15	(2) Bear, brown or grizzly	<u>2,500</u> [1,300]
16	(3) Bison	<u>3,000</u> [1,300]
17	(4) Caribou	<u>1,500</u> [850]
18	(5) Deer	<u>1,000</u> [400]
19	(6) Elk	<u>2,000</u> [800]
20	(7) Goat	<u>2,000</u> [800]
21	(8) Moose	<u>2,500</u> [1,000]
22	(9) Musk oxen	<u>4,500</u> [3,000]
23	(10) Sheep	<u>2,000</u> [1,100]
24	(11) Wolf	<u>1,000</u> [500]
25	(12) Wolverine	<u>750</u> [500].

26 * **Sec. 18.** AS 16.05.925 is amended by adding a new subsection to read:

27 (c) A defendant may not be ordered to pay restitution under (b) of this section
28 if the defendant

29 (1) voluntarily and immediately reported the taking to the department
30 or a state law enforcement officer engaged in fish and wildlife protection; and

31 (2) surrendered to the department all salvaged portions of the animal,

1 including its horns, antlers, hide, and skull, as applicable.

2 * **Sec. 19.** AS 16.05.940 is amended by adding a new paragraph to read:

3 (38) "electronic form" means the display of images on an electronic
4 device such as a mobile telephone, tablet, or computer.

5 * **Sec. 20.** AS 16.10.030 is amended to read:

6 **Sec. 16.10.030. Penalty for violation of AS 16.10.010 - 16.10.050.** A person
7 who violates AS 16.10.010 - 16.10.050 is guilty of a class A misdemeanor [AND,
8 UPON CONVICTION, IS] punishable as provided in AS 12.55 [BY A FINE OF
9 NOT LESS THAN \$100 NOR MORE THAN \$500].

10 * **Sec. 21.** AS 16.10.030 is amended by adding a new subsection to read:

11 (b) A person who, without any culpable mental state, violates AS 16.10.010 -
12 16.10.050 is guilty of a violation punishable as provided in AS 12.55.

13 * **Sec. 22.** AS 16.10.090 is amended to read:

14 **Sec. 16.10.090. Penalty for violation of AS 16.10.070.** A person who
15 violates AS 16.10.070 is guilty of a class A misdemeanor [AND IS] punishable as
16 provided in AS 12.55 [BY IMPRISONMENT FOR NOT MORE THAN ONE
17 YEAR, OR BY A FINE OF NOT MORE THAN \$5,000 OR BY BOTH].

18 * **Sec. 23.** AS 16.10.090 is amended by adding a new subsection to read:

19 (b) A person who, without any culpable mental state, violates AS 16.10.070 is
20 guilty of a violation punishable as provided in AS 12.55.

21 * **Sec. 24.** AS 16.10.110 is amended to read:

22 **Sec. 16.10.110. Penalty for violation of AS 16.10.100.** A person who violates
23 AS 16.10.100 is guilty of a class A misdemeanor [AND IS] punishable as provided in
24 AS 12.55 [BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR OR BY A
25 FINE OF NOT MORE THAN \$5,000, OR BY BOTH].

26 * **Sec. 25.** AS 16.10.110 is amended by adding a new subsection to read:

27 (b) A person who, without any culpable mental state, violates AS 16.10.100 is
28 guilty of a violation punishable as provided in AS 12.55.

29 * **Sec. 26.** AS 16.10.130 is amended to read:

30 **Sec. 16.10.130. Penalty for violation of AS 16.10.120 or 16.10.125.** A
31 person who violates AS 16.10.120 or 16.10.125 is guilty of a class A misdemeanor [,

1 AND UPON CONVICTION IS] punishable as provided in AS 12.55 [BY
2 IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY A FINE OF
3 NOT MORE THAN \$1,000, OR BY BOTH].

4 * **Sec. 27.** AS 16.10.130 is amended by adding a new subsection to read:

5 (b) A person who, without any culpable mental state, violates AS 16.10.120 or
6 16.10.125 is guilty of a violation punishable as provided in AS 12.55.

7 * **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 APPLICABILITY. This Act applies to offenses committed on or after the effective
10 date of this Act.

11 * **Sec. 29.** This Act takes effect July 1, 2016.