



Memorandum

RC 040

To: Alaska Board of Game
P.O. Box 115526
Juneau, Alaska 99811-5526

From: The Alaska Wildlife Troopers

Date: 13 February 2015

Subject: Proposal 201

The Alaska Wildlife Troopers (AWT) submitted an ACR to change the regulation 5AAC 92.220(i) to A person who has wounded game shall make every lawful [reasonable] effort to retrieve and salvage that game. This ACR has become proposal 201 and was first discussed on record at the southeast Board of Game meeting in Juneau. A discussion with the board and Department of Law (DOL) concluded a definition of lawful effort was not in the currently available in regulation; therefore, AWT amended the proposal to eliminate any confusion or legal conflicts to the wording listed below.

PROPOSAL 201 - 5 AAC 92.220(i). Salvage of game meat, furs and hides. Clarify the language regarding retrieval and salvage of wounded game as follows:

Amended Proposal:

(i) A person who has wounded game shall make every reasonable **and lawful** effort to retrieve and salvage that game, **except methods and means for taking game prohibited by statute or by regulations in 5 AAC 92.080 – 5 AAC 92.100.**

The amended proposal lists the regulations which define the unlawful methods and means of taking game, fur animals, waterfowl, snipe, crane, and their exceptions. The board over the years has created exceptions to taking wounded game which would otherwise be unlawful to decrease the amount of animals unsalvaged in the field.

Section (i) was created by the Board of Game in March 2004 when it was debating on adding the exemption for using a leashed dog to track and find a wounded animal. This was intended as an all-encompassing regulation to eliminate having to add exemptions each board cycle. This has had unintended consequences in the past year as resource users have begun to redefine what is a reasonable method or means to retrieve a wounded animal.

During the end of the Juneau Board of Game meeting the board requested an exemption be added to the proposal to allow for an exemption for airplanes to locate wounded game. The Alaska Wildlife Troopers advised the board the use of an airplane to locate wounded game is already allowed under lawful methods and means provided an individual does not shoot the wounded game until after 3:00 a.m. following the day in which the flying occurred.

If an animal is wounded by a hunter enough to cause significant injury the odds are the animal will be dead near where the hunter initially shot it. If the animal is only slightly wounded the animal will not be near where it was last seen and the problem arises as to which animal is spotted from the air the wounded animal or another animal in the general vicinity.

The Alaska Wildlife Troopers are reluctant to grant an exemption to a specific group of resource users over another due to the fact they have access to an airplane. A hunter shall be forced to make a determination in the field if the animal they spotted from the air is in fact the one they wounded. If the hunter shoots the animal and it is not the one they wounded earlier then they have committed same day airborne.

The amended language for proposal 201 attached below was submitted by the Department of Fish and Game upon the request of the board.

5 AAC 92.220. Salvage of game meat, furs, and hides.

- (i) a person who has wounded game shall make every reasonable **and lawful** effort to retrieve and salvage that game, **except methods and means for taking game prohibited by statute or by regulations in 5 AAC 92.080 – 5 AAC 92.100. A person who is unable to locate wounded game may contact the Alaska Wildlife Troopers to receive permission to retrieve and salvage that game utilizing methods and means normally prohibited by statute or by regulations in 5 AAC 92.080 – 5 AAC 92.100.**

The Alaska Wildlife Troopers strongly oppose this new amended language to proposal 201 and feel it will create more issues and questions.

The vague language stating an individual may contact the Alaska Wildlife Troopers does not specify contacting the nearest office; therefore, an individual could be in Bethel and contact a wildlife trooper in Ketchikan for permission to use an unlawful method or means to retrieve a wounded game animal. This amendment creates the possible scenario of an individual claiming they wounded an animal as a fabrication to get permission to take a game animal by unlawful means, i.e. with the use of a helicopter. The amended language will create more confusion to the public by adding verbiage and unnecessary additions which was not the intent of the Alaska Wildlife Troopers when we first created the proposal.

The Alaska Wildlife Troopers respectfully request the Board of Game repeal 5AAC 92.220(i) from the regulations. This will eliminate the confusion of the new amended language and remove the legal concern of reasonable versus lawful. An individual would still be held liable for the salvage of all edible meat for human consumption under 5AAC 92.220(d). An individual would still be charged under A.S. 16.30.010(a) for failing intentionally, knowingly, recklessly, or with criminal negligence to salvage for human consumption the edible meat of the animal or fowl.

The removal of 5AAC 92.220(i) would also be applied to the Professional ethics standards for guides under 12AAC 75.340(d) (1) Field Craft Standards. All classes of guides shall use every lawful means at the licensee's disposal to bag a wounded animal while it is in danger of escaping, or, in a serious emergency, while human life or well-being is endangered.

The Alaska Wildlife Troopers feel the removal of 5AAC 92.220(i) is the easiest and most efficient means to eliminate possible future conflicts and discussion on what is reasonable. The subsection (i) has only been a regulation for 11 years and the removal of a regulation for clarity is always encouraged.

The Alaska Wildlife Troopers have added the regional AC comments submitted for the Wasilla meeting as a quick reference for the board when discussing the upcoming proposal 201.

Bethel AC meeting unanimously opposed, very little discussion other than it seemed really unclear what "lawful" means?

Mid-lower Yukon AC: Discussion that use of this word "lawful" could cause confusion. How are they supposed to pursue the animal if it's wounded? Under 'reasonable' or 'legal' methods it's not clear what would be allowed? Recommendation to take no action on this until they get more information.

Upper Tanana/40 mile AC: If members of the public are able to make a call to the Troopers to request permission to dispatch/look for an animal under the term 'reasonable' then the AC might support. We do not support this proposal as written or as written with the amended language. Do not support (0-7)

Fairbanks AC: Oppose

Attempts to shift the government's burden to the people, there is no problem that needs fixed, AWT is overly aggressive, and clarity is admirable but the risk of misuse is more acceptable than the risk of lost game.

Koyukuk River AC:

Clarify the language regarding retrieval and salvage of wounded game. The AC believes that this is an attempt by the AWT to plug a loophole in the system, and is an ideal way to stop same day airborne abuse. Fully Support (7-0)

Kotzebue Sound Joint AC:

Support 5-0

Coastal Lower Yukon AC:

Support 0-6 Motion opposed unanimously