

Note: Proposal 169 was accepted by the Board of Game as an Agenda Change Request for consideration at the Western Arctic/Western Region meeting in January 2020.

PROPOSAL 169

5 AAC 92.012. Licenses and tags.

5 AAC 92.990. Definitions.

Clarify that big game tags be paid for and issued prior to hunters taking big game that require tags as follows:

5 AAC 92.012 is amended by adding a new section to read:

In any hunt where a nontransferable locking tag is required under AS 16.05.340 the appropriate tag must be previously purchased, and the big game tag record must be completed. The completed big game tag record must be in the hunter's actual possession in the field.

5 AAC 92.990 is amended to add a new definition:

"Previously Purchased" means fully paid and in possession of the hunter before taking an animal.

"Take" has the meaning found in AS 16.05.940(35).

What is the issue you would like the board to address and why? On October 4, 2019, a conviction in a criminal case was reversed by the State of Alaska Court of Appeals. (Kinmon v. State of Alaska) In the case a nonresident hunter had failed to previously purchase a big game locking tag prior to taking a big game animal. AS 16.05.340 (15 & 20) both state a nonresident/nonresident alien "may not take a big game animal without previously purchasing a numbered, nontransferable, appropriate tag ...". The Court of Appeals ruled that the term "previously purchasing" used in AS 16.05.340 is ambiguous and reversed the conviction. Alaska Statute 16.05.340 does not use this wording for resident locking tags, and the requirement to possess a tag is set out in regulation (5AAC 92.012(c)), solely for residents.

5AAC 92.012(c) states residents need to possess a locking tag that is issued to them but does not put this same requirement on nonresident or nonresident aliens. By adding this new subsection to 5AAC 92.012 it will make it clear to all hunters, no matter what their residence status is, that a big game tag must be purchased prior to taking a big game animal in which a tag is required for. Additionally, by creating a definition of "previously purchased" it will leave no ambiguity in what that term is intended to mean.

If the regulation is not clarified, nonresidents and nonresident aliens who are not "previously purchasing" big game tags prior to taking big game animals cannot be held accountable to the intent of the statutes and regulations. Residents will continue to be held accountable for the same violation. This can lead to a model of hunting where a hunter takes a game animal and then purchases the appropriate tag after the take when a vendor is accompanying them in the field.

PROPOSED BY: Alaska Wildlife Troopers

(HQ-F19-ACR5)
