

Statewide All Shellfish (Except Prince William Sound, Southeast and Yakutat) and Prince William Sound Shrimp Only Proposals

42 proposals

Miscellaneous sport

PROPOSAL 234

5 AAC 75.XXX. New Section.

Require inseason reporting of non-resident sport fish harvest and effort, as follows:

All non-resident sport fisherman must keep track of a catch and harvest record of all species finfish and shellfish regardless of annual limit status of the species.

What is the issue you would like the board to address and why? The Ketchikan Indian Community Tribal Government believes nonresident sport fishermen and their fishing activities are severely data deficient, which has a negative impact on the management of all fisheries in the state of Alaska. It is imperative for these fishermen to report their catch and harvest so that management of our fisheries can use them for future population estimates of the fish abundance and distribution.

PROPOSED BY: Ketchikan Indian Community (HQ-F20-052)

PROPOSAL 235

5 AAC 39.975. Definitions; and 5 AAC 75.995. Definitions.

Modify the definition of domicile and include in sport fishing regulations, as follows:

“**“domicile”** means the location of a person’s primary residence which allows the person to meet the eligibility requirements for the Alaska Permanent Fund Dividend as defined in AS 43.23.005 (a)(1-7); evidence of domicile includes:

- (A) a statement made to obtain a license to drive, hunt, fish, or engage in an activity regulated by a government entity;
- (B) an affidavit of the person, or of another person who may know of that person’s domicile;
- (C) the place of voter registration
- (D) the location of a residence owned, rented, or leased;
- (E) the location where household goods are stored;
- (F) the location of a business owned or operated;
- (G) the residence of a spouse or minor children or dependents;
- (H) a government to which a tax is paid;
- (I) evidence indicating whether the person has a claimed residence in another location for the purpose of obtaining benefits provided by the government in that location;”

AS 43.23.005. Eligibility.

- (a) An individual is eligible to receive one permanent fund dividend each year in an amount to be determined under AS 43.23.025 if the individual
 - (1) applies to the department;

- (2) is a state resident on the date of application;
- (3) was a state resident during the entire qualifying year;
- (4) has been physically present in the state for at least 72 consecutive hours at some time during the prior two years before the current dividend year;
- (5) is
 - (A) a citizen of the United States;
 - (B) an alien lawfully admitted for permanent residence in the United States;
 - (C) an alien with refugee status under federal law; or
 - (D) an alien that has been granted asylum under federal law;
- (6) was, at all times during the qualifying year, physically present in the state or, if absent, was absent only as allowed in AS 43.23.008; and
- (7) was in compliance during the qualifying year with the military selective service registration requirements imposed under 50 U.S.C. App. 453 (Military Selective Service Act), if those requirements were applicable to the individual, or has come into compliance after being notified of the lack of compliance.

What is the issue you would like the board to address and why? Alaska has an increasing population of seasonal residents who come to Alaska only during the fishing season or hunting seasons to take advantage of the resources of Alaska. They reside most of the year in another state. Many of these seasonal residents have never been domiciled in Alaska for 12 consecutive months. Some tow or drive an RV to Alaska and lease an area to park their RV on during their temporary stay in Alaska. Some have family and spouses who do not travel with them to Alaska during their visit.

The issue is some of these visitors to Alaska are obtaining Alaska resident hunting and fishing licenses and benefits. They are obtaining an Alaska driver's license and registering to vote in Alaska. They are registering their vehicles in Alaska which has some of the lowest vehicle registration fees in the USA. If they are claiming a resident of a qualified area of the state, they are also permanently registering their vehicle in Alaska and never have to pay a registration fee on that vehicle again.

In past practices of the Alaska Court System, if the person is charged with a false statement on a ADF&G resident license permit, the definition of domicile continually keeps being the deciding factor in court decisions. A person may leave suitcases in a room of a house in Alaska. The court system has determined that this is the start of a person's domicile and after 12 consecutive months, they are eligible for an ADF&G resident license or permit. If a person maintains a yearly space rent at an RV park, that space rent qualifies as a person's domicile. The Alaska Court System does not consider paying resident taxes in another state as a benefit.

So in short reference, a resident of the lower 48 can take vacation time from their job. They can tow their RV to Alaska to their RV park which they have a year lease on a space. They can hunt, sport fish, and subsistence fish for a short time as an Alaska resident. They then can return back to their year round residence with freezers full of Alaskan salmon, halibut, and moose meat to their spouse and family in the lower 48. They do intend to visit their year round leased RV space year after year and repeat the cycle.

Another scenario is a person could come up to a lodge for a vacation in Alaska. During their vacation, they buy a cabin and return almost yearly. They do not buy a resident fishing license in the state which they work and reside in that state for 11 months out of the year. They intend to return most years to the cabin in Alaska. They purchase a resident ADF&G sport fishing license and obtain an Alaska subsistence salmon permit. The person is eligible because they are domiciled in Alaska according to the current definition and the Alaska Court System. When charged for giving a false statement on an ADF&G resident license, the person is found not guilty by the Alaska Court System because the person has been domiciled in Alaska for 12 consecutive months and intends to return to Alaska.

Most residents in Alaska do not comprehend how common of a situation they have in their communities concerning seasonal residents obtaining ADF&G resident benefits. The East Prince of Wales Advisory Committee purchased the ADF&G licensing list for their represented communities. The licensing list showed that several seasonal residents are in fact purchasing resident ADF&G licenses or have a Permanent Identification Card. Some of these seasonal residents can't even correctly pronounce the name of the community they claim to reside in or spell the name correctly. Mostly all of these seasonal residents will use a mail forwarding service such as the UPS Store, a neighbor, or they have a USPS Postal Box with all mail forwarded to their residence in another state.

The definition of "Domicile" under 5 AAC 39.975 and creating a definition of "Domicile" 5 AAC 75.995 as well as other respective applicable administrative codes, needs to be changed to prevent non-residents from obtaining resident benefits. True residents of Alaska are very familiar with the Alaska Permanent Fund and the requirements to be eligible to receive a yearly dividend. Changing the ADF&G Administrative Code's definition of "Domicile" to include meeting the requirements of obtaining an Alaska Permanent Fund dividend will clarify any confusion.

Alaskans will still be able to retire and visit a warm place during the winter months when this definition change is adopted. Alaska will obtain additional funds not only from the increased non-resident license sales, but also from the 3 to 1 dollar matching federal funds through the Dingell-Johnson and Pittman-Robertson funds. Currently a resident sport license costs \$29. Alaska would also receive \$87 of federal matching funds. Total revenue to the state is \$116 for a sale of a resident sport fishing license. If a non-resident sport license is purchased at \$145, Alaska would also receive \$435 in matching federal funds. Total revenue to the state is \$580 for the sale of an annual non-resident sport fishing license.

This change of the definition of "Domicile" will ensure the fish and game resources are for Alaskans. Seasonal and often referred locally as "fake" residents will most likely not meet the definition requirements and have to purchase non-resident licenses in Alaska. The increased licenses revenue will benefit Alaska at a much needed time. The fish and game populations will be better protected for the residents of Alaska as a seasonal "fake" resident will no longer qualify for resident bag limits or subsistence rights.

PROPOSED BY: East Prince of Wales Fish and Game Advisory Committee (EF-F20-075)

PROPOSAL 236

5 AAC 39.975. Definitions. and 5 AAC 75.995. Definitions.

Modify the definition of domicile and add to sport fishing regulations, as follows:

5 AAC 39.975 & create 5 AAC 75.995-Domicile defined –

““domicile” means the location of a person’s primary residence **which allows the person to meet the eligibility requirements to apply for the Alaska Permanent Fund Dividend as defined in AS 43.23.005 (a)(1-7)**; evidence of domicile includes

- (A) a statement made to obtain a license to drive, hunt, fish, or engage in an activity regulated by a government entity;
- (B) an affidavit of the person, or of another person who may know of that person’s domicile;
- (C) the place of voter registration
- (D) the location of a residence owned, rented, or leased;
- (E) the location where household goods are stored;
- (F) the location of a business owned or operated;
- (G) the residence of a spouse or minor children or dependents;
- (H) a government to which a tax is paid;
- (I) evidence indicating whether the person has a claimed residence in another location for the purpose of obtaining benefits provided by the government in that location;”

AS 43.23.005. Eligibility.

- (a) An individual is eligible to receive one permanent fund dividend each year in an amount to be determined under AS 43.23.025 if the individual
 - (1) applies to the department;
 - (2) is a state resident on the date of application;
 - (3) was a state resident during the entire qualifying year;
 - (4) has been physically present in the state for at least 72 consecutive hours at some time during the prior two years before the current dividend year;
 - (5) is
 - (A) a citizen of the United States;
 - (B) an alien lawfully admitted for permanent residence in the United States;
 - (C) an alien with refugee status under federal law; or
 - (D) an alien that has been granted asylum under federal law;
 - (6) was, at all times during the qualifying year, physically present in the state or, if absent, was absent only as allowed in AS 43.23.008; and
 - (7) was in compliance during the qualifying year with the military selective service registration requirements imposed under 50 U.S.C. App. 453 (Military Selective Service Act), if those requirements were applicable to the individual, or has come into compliance after being notified of the lack of compliance.

What is the issue you would like the board to address and why? Alaska’s Seasonal Residents. Alaska has an increasing population of seasonal residents who come to Alaska only during the summer fishing season or hunting seasons to take advantage of the resources of Alaska.

They reside most of the year in another state. Many of these seasonal residents have never been domiciled in Alaska for 12 consecutive months. Some tow or drive an RV/boat to Alaska and lease an area to park their RV/boat/vehicle on during their temporary stay in Alaska. Some have family and spouses who do not travel with them to Alaska during their visit.

The issue is some of these visitors to Alaska are obtaining Alaska resident hunting and fishing licenses and benefits.

They are obtaining an Alaska driver's license and registering to vote in Alaska. Many of them are obtaining a USPS postal box. They are registering their vehicle's in Alaska which Alaska has some of the lowest vehicle registration fees in the USA. If they are claiming to be a resident of a qualified area of the state, they are also permanently registering their vehicle in Alaska and never have to pay a registration fee on that vehicle again.

Some of them are also fishing and hunting under subsistence regulations.

To establish hunting/fishing residency in Alaska, the applicant doesn't have to prove anything to the license vendor. They simply tell a lie and get their resident license. After enough years have passed and the person reaches 60 years of age, they leverage their now long-standing "resident" status to get a Permanent ID (PID) and never have to worry about it again.

The entire burden of proving non-resident status falls onto the State of Alaska. A resident of the lower 48 can take vacation time from their job. They can tow their boat or RV to Alaska to their RV park which they have a year lease on a space. They can hunt, sport fish, and subsistence fish for a short time as an Alaska resident. Afterwards, they return back to their year round true residence with freezers full of Alaskan salmon, halibut, and moose meat in the lower 48.

They do intend to visit their year round leased RV space year after year and repeat the cycle. Another scenario is a person comes to a lodge for a vacation in Alaska. After they see how great Alaska is and how lenient the residency laws are, they buy a cabin or a plot of land to park their boat on and return almost yearly.

They do not buy a resident fishing/hunting license in the state which they work and reside. They purchase a resident ADF&G sport fishing/hunting license and some obtain an Alaska subsistence salmon permit.

On Prince of Wales, there are many of these seasonal residents in Coffman Cove, Thorne Bay, Hollis, Craig, Klawock, Naukati, Whale Pass, etc. and nearly every town and village in Southeast AK that is reasonably accessible. There seems to be more of them where the property values, moorage rates and taxes are lower for their RV's, plot of land and/or boats.

In Klawock, there are about a dozen that "live" on their boats or their camper/RV's, several others that own houses and/or property, maintain a USPS postal box, pay their rent or utility bill and fish nearly every day while they are here pulling subsistence skates, flooding the bays with crab pots, catching everything they can and taking it all back with them when they leave.

Many of them have larger fishing boats and bring their “friends” from down south while they are here. In Craig, there is a “resident” homeowner that has a large saltwater fishing boat and takes his “friends” fishing nearly every day, all summer long.

In Coffman Cove there are several of these “residents” that also do the same. Many of these seasonal residents set their halibut skate then spend the day fishing for salmon, pulling shrimp pots and crab pots and taking the resources from the real Alaskans.

Look around your community and you will spot these seasonal “residents”.

If you want proof you can check the following:

- public licensing info from Alaska Department of Fish and Game
- public voting records for the State
- Courtview website to see if they have a legal history in the state.
- State of AK recorder’s website to research property records that may show their true residence address down south.
- City office and Harbormaster’s office that often show their true residence address.

These seasonal residents oftentimes are also cheating other states out of taxes claiming they are not residents of that state by using their Alaska DL.

Military personnel who serve in Alaska for three years, become residents, move out of state, yet are able to claim residency for hunting and fishing for the rest of their career. That means they travel back to AK and take advantage of 2DK, resident allocation, license and other benefits even though they don’t live here.

These people are all eligible to do all the above because they are “domiciled” in Alaska according to the current definition and the Alaska Court System.

The state requires acceptable evidence to prove residency consisting of an Alaska DL or an Alaska voter registration card and 12 months of utility bills with an Alaska address. These are all readily obtainable. Anyone can obtain an Alaska DL and a PO Box the same day upon arrival in the state. Registering to vote requires just 1 month of “residency” and a copy of an Alaska DL. Obtaining rent slips and/or copies of utility bills for storing possessions in someone’s home is a low hurdle as well.

Most residents in Alaska do not comprehend how common of a situation they have in their communities concerning seasonal residents obtaining ADF&G resident benefits.

Several members of POW’s AC’s purchased the ADF&G licensing list for the entire state. The licensing list showed that several seasonal residents are in fact purchasing resident ADF&G licenses or have a Permanent Identification Card. Some of these seasonal residents can’t even correctly pronounce the name of the community they claim to reside in or spell the name correctly. Nearly all of these seasonal residents will use a mail forwarding service such as the UPS Store, a neighbor, or they have a USPS Postal Box with all mail forwarded to their real residence in another state.

Currently, the burden of proof rests with the state to prove the seasonal resident is meeting the requirements.

It should be just the opposite, a resident should have to prove to the state that they meet the residency requirements, just like they have to do with the Alaska Permanent Fund Dividend (PFD). For the Alaska State Troopers to make a residency case, they have to spend untold man hours diving into the seasonal residents life. The state funding shortage and their understaffing issues are prohibiting their investigations and judges are tossing the few investigations being brought forth due to the current confusing residency regulations.

When a person is charged for giving a false statement on an ADF&G resident license, the person is found not guilty by the Alaska Court System because the person has been domiciled in Alaska for 12 consecutive months and intends to return to Alaska.

Presently during trial, the courts are presented with evidence by the State to prove the defendants are not residents of Alaska. The law is not clear enough, is confusing, and in many instances makes it difficult for the judge/jury to find beyond a reasonable doubt that the defendant is guilty. We are asking that the statute be changed so that it is a strict liability offense with the same requirements as receiving the PFD.

The requirements for the PFD are well thought out and have been enforceable in the courts. Real residents of Alaska are very familiar with the Alaska Permanent Fund and the requirements to be eligible to receive a yearly dividend. Changing the ADF&G Administrative Code's definition of "Domicile" to include meeting the requirements of obtaining an Alaska Permanent Fund dividend will clarify any confusion. Alaskans will still be able to retire and visit a warm place during the winter months when these changes are adopted.

Changing the definition of "Domicile" under 5AAC 39.975 and creating a definition of "Domicile" 5AAC 75.995 as well as other respected applicable administrative codes, needs to be done to prevent non-residents from obtaining resident benefits.

Currently, it's a broken system that non-residents are abusing. The state is losing hundreds of thousands of dollars and communities are losing its resources/fish/game. The Pittman-Robertson Act is an 11% federal excise tax on all guns and ammunition that provides funding to each state to manage wildlife. The Dingell-Johnson Act is a 10% federal excise tax on sport fishing and boating equipment that provides funding for state fish restoration and management plans and projects. For every dollar the state of Alaska receives from fish and game licenses and tags, these two funds match that dollar with three more, 3:1 for every dollar.

For example, a seasonal resident that stays for more than 14 days, buys a resident annual fishing license for \$29 and also harvests a deer for \$0 should have paid \$145 for a non-resident annual fishing license, \$160 for a non-resident annual hunting license and \$300 for the non-resident locking deer tag.

Their total purchase of \$605 will be matched by \$1815 federal funds for a total of \$2420 paid to the state. The state is losing \$2,391 just on that one seasonal resident. These federal funds specify they cannot be used for anything other than their intended purpose of fish & wildlife restoration/management, so that one seasonal resident is cheating our Alaska Fish & Game Department out of \$2391. If they are just fishing, they paid \$29/license, \$10/king stamp (if fishing for kings.) They should have paid \$145/license, \$100/king stamp, totaling \$245 which will be matched by an additional \$735 federal funds for a grand total of \$980. The state is losing \$824 on every seasonal resident fisherman. If they are a PID, they are losing the full \$980/angler. The money the state is losing to seasonal residents is significant.

They are also fishing under the resident bag limits, allowing them to take one king per day and one lingcod per day all year long instead of the annual bag limits that non-residents must follow. That's a tremendous amount of king salmon and lingcod headed south in freezers. How do you quantify the worth of the fish and game these seasonal residents take from real Alaskans?

Real Alaskan residents see the abuse daily in the summertime, bays choked with crab pots, subsistence halibut skates fished daily and cleaning tables overflowing with fish. The changes we are asking for will ensure the fish and game resources are for real Alaskans. Seasonal and often referred locally as "fake" residents will most likely not meet the definition requirements and have to purchase non-resident licenses in Alaska. The increased licenses revenue will benefit Alaska at a much needed time. The fish and game populations will be better protected for the residents of Alaska as a seasonal "fake" resident will no longer qualify for resident bag limits or subsistence rights.

-We propose changing the ADF&G Administrative Code's definition of "Domicile" to include meeting the requirements of the PFD.

-We propose that all Alaskan residents must meet the requirements of the PFD in order to obtain a resident hunting/fishing/trapping license but a person does not have to apply for the PFD if they so choose.

PROPOSED BY: Klawock Fish and Game Advisory Committee

(EF-F20-072)
