

## **PROPOSAL 99**

### **5 AAC 92.061. Special provisions for brown bear drawing permit hunts.**

Allocate at least 90% of the Unit 8 brown bear drawing permits to residents as follows:

The Board of Game (board) should amend the beginning of 5 AAC 92.061(a)(1) as follows: “the department shall issue a **minimum of 90 percent of the drawing permits to residents, with the remaining drawing permits available to residents and nonresidents on the same terms** [MAXIMUM OF 40 PERCENT OF THE DRAWING PERMITS TO NONRESIDENTS AND A MINIMUM OF 60 PERCENT TO RESIDENTS]”

**What is the issue you would like the board to address and why?** Under 5 AAC 92.061, the Department of Fish and Game issues 40% of drawing permits in the Kodiak Brown Bear Permit Area to nonresidents. This allocation of hunting permits exclusively to nonresidents is contrary to the Alaska Constitution’s mandates that wildlife in the State of Alaska be “reserved to the people for common use” and “utiliz[ed] . . . for the maximum benefit of its people.”

The Kodiak brown bear hunt, like many drawing permit hunts in Alaska, dedicates a percentage of the available permits exclusively to nonresidents. In this hunt, the nonresident allocation is an astronomical 40%—and the nonresident harvest typically *exceeds* resident harvest. Taking these permits and harvesting opportunities away from Alaskans and guaranteeing them to nonresidents is contrary to the Alaska Constitution.

Alaska’s natural resources, including its wildlife, belong to the state, which holds them in trust for all Alaskans. *Shepherd v. State, Dep’t of Fish & Game*, 897 P.2d 33, 40-41 (Alaska 1995). This principle was a pillar of statehood and is enshrined in the Alaska Constitution. Article 8, Section 3 of the constitution provides, “Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.” Article 8, Section 2 provides, “The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.” Thus, it is constitutionally mandated that when state agencies make decisions regarding wildlife management and allocation, the rights of Alaskans must be given priority.

The board is responsible for ensuring that hunting takes place responsibly and sustainably. Drawing permit hunts exist to avoid the overharvest of a scarce resource. The board’s decision to conduct the Kodiak brown bear hunt as a drawing permit hunt is based on its determination that the bears do not exist in great enough numbers to support unlimited hunting.

Yet under the current regulations, the board also takes a number of these scarce animals away from Alaskans and dedicates them to the exclusive use of nonresidents. As a result, often nonresident hunters have almost equal odds as Alaskans for drawing these rare and highly-sought after permits. This is inconsistent with, and contrary to, the constitution’s mandate that wildlife be reserved to Alaskans. In certain other hunts, permits are available only to Alaska residents, but the number of permits varies wildly by hunt and—across the board—the allocations to residents are too low to satisfy the constitutional requirements. The 40% nonresident permit allocation of the Kodiak brown bear hunt is the most egregious.

The proposed regulatory change would bring the Kodiak brown bear hunt permit allocations in line with the above constitutional mandates. Alaskans would be guaranteed the majority of the permits and have a fair chance—along with nonresidents—at the rest. Under this change, *no* permits would be set aside for the exclusive use of nonresidents. Revenue generated by nonresident hunters cannot justify depriving Alaskans of the opportunity to harvest their own game in direct violation of the Alaska Constitution.

The proposal provides that, at minimum, 90% of all Kodiak brown bear hunt drawing permits would be set aside for Alaskans, with the remaining permits available to all, nonresidents and Alaskans alike. This proposal is in line with the resident allocation percentages adopted by many other states, including Arizona, California, Colorado, Idaho, Kentucky, Montana, Nevada, New Mexico, Oregon and Utah.

**PROPOSED BY:** Robert Cassell

(HQ-F18-020)

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