

May 2, 1991

The Honorable Steve Frank
Alaska State Senator
P. O. Box V
Juneau, AK 99811-3100

Re: Alaska resident military
personnel: fishing and
hunting
Our file: 663-91-0119

Dear Senator Frank:

You have inquired whether an Alaska resident who is a member of the military and who is transferred out of Alaska can obtain an Alaska resident hunting or fishing license while residing outside of Alaska. First, let me apologize for our delay in responding to your question. In brief, an individual in the situation you describe would be eligible to obtain an Alaska resident hunting or fishing license if the individual maintains a permanent place of abode and a "voting residence" in the state.

In answering your question, we turn first to the definition of "resident" for hunting and fishing purposes. AS 16.05.940(25) defines a resident as

a person who for the preceding 12 consecutive months has maintained a permanent place of abode in the state and who has continually maintained a voting residence in the state; . . . however, a member of the military service who has been stationed in the state for the preceding 12 consecutive months is a resident for the purposes of this paragraph

Thus, a member of the military may be an Alaska resident for hunting and fishing purposes (1) because he or she has been sta-

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tioned for the preceding twelve consecutive months in Alaska, or (2) because he or she qualifies as a resident independently of military status, that is, he or she has maintained "a permanent place of abode" in Alaska and "has continually maintained a voting residence" in Alaska.

In the first situation, where an individual is simply a resident for hunting and fishing purposes because of being a member of the military stationed here, that residency lapses under the terms of the statute when the individual is transferred out of the state.

On the other hand, in the second situation, where an individual is a resident under the statutory definition, quite apart from his or her association with the military, that residency would not necessarily lapse upon the individual leaving the state.

It appears from the statute that once residency has been established in this fashion, it does not lapse despite an absence from the state if a permanent place of abode and voting residency are maintained in Alaska.

The fish and game code does not define "voting residence," but that term is found in AS 15.05. Under AS 15.05.010, residency in the state for at least 30 days before an election is a prerequisite to voter qualification. AS 15.05.020 sets out rules for "determining residence for voting." The rules that are relevant to the situation you pose include:

(1) A person may not be considered to . . . lose [residency] solely by reason of absence while in the . . . military service.

(2) A residence of a person is that place in which the person's habitation is fixed, and to which, whenever absent, the person has the intention to return. . . .

(3) A change of residence is made only by the act of removal joined with the intent to remain in another place. There can only be one residence.

(4) A person does not lose residence if the person leaves home and goes to another country,

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state, or place in this state for temporary purposes only and with the intent of returning.

. . . .

(6) A person loses residence in this state if the person votes in another state's election, either in person or by absentee ballot, and will not be eligible to vote in this state until again qualifying under AS 15.05.010.

Thus, under AS 16.05.940(25), if a member of the military has a "permanent place of abode" in Alaska, and maintains voting residency in Alaska under the above quoted rules, that individual would still be eligible to obtain an Alaska resident hunting and fishing license, even while on duty outside of Alaska.

If we can be of any further assistance, please let us know.

Sincerely yours,

CHARLES E. COLE
ATTORNEY GENERAL

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Hon. Carl Rosier, Commissioner
Department of Fish and Game