

# AVOIDING THE OBVIOUS: PLAIN MEANING AND THE ENDANGERMENT OF ALASKA'S HUNTING LAWS IN *KINMON V.* *STATE*

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## ABSTRACT

*This Comment critiques the court of appeals' statutory interpretation of Alaska's hunting laws in Kinmon v. State and proposes legislative reform to correct those judicially created errors. Kinmon arose from a series of hunts between 2009 and 2011 during which nonresident hunters did not pay for their big game tags until after the completion of their hunts. The guide leading these hunts was charged with violating section 16.05.340(a)(15) of the Alaska Statutes, which prohibits nonresidents from hunting big game without "previously purchasing" a big game tag. The Alaska Court of Appeals held in favor of the guide, reasoning that "previously purchasing" was ambiguous and could be understood to permit purchase of a big game tag after a hunt. This reading of the statute is faulty under the plain meaning canon of statutory construction and has deleterious policy implications. To address this error, this Comment proposes a legislative amendment to section 16.06.340(a)(15) of the Alaska Statutes to clarify that "previously purchasing" a game tag requires purchase prior to a hunt.*

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## I. INTRODUCTION

Alaska is, by some accounts, the most hunter-friendly state in the nation.<sup>1</sup> Hunting is central to the state's culture, both traditionally<sup>2</sup> and contemporaneously.<sup>3</sup> Hunting not only enriches Alaska's culture, it also contributes to the state's coffers: in 2019, Alaska netted nearly \$40 million from the sale of fishing and hunting licenses, stamps, and tags.<sup>4</sup> Over \$7.5 million of that revenue came from the sale of nonresident big game tags.<sup>5</sup> However, the Alaska Court of Appeals' decision in *Kinmon v. State*<sup>6</sup> threatens this valuable source of revenue and oversight created by the big game tag system.

The State charged Richard Kinmon, a licensed big game hunter,<sup>7</sup> with violating section 16.05.340(a)(15) of the Alaska Statutes<sup>8</sup> following a series of hunts between 2009 and 2011.<sup>9</sup> During these hunts, Kinmon allegedly allowed his clients to take game without "previously purchasing" big game tags.<sup>10</sup> At trial, Kinmon argued the statutory meaning of "previously purchasing" could reasonably be understood to include the provision of a tag with a promise to pay in the future, *after* a hunt.<sup>11</sup> The jury was presumably unconvinced by this argument as it convicted Kinmon on eight counts that turned, in part, on the phrase's

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1. Kyle Hey, *Top 10 Most Hunter Friendly States*, BOWHUNTING.COM (July 24, 2019), <https://www.bowhunting.com/blog/2019/07/24/top-10-most-hunter-friendly-states/>; see also Ben O'Brien, *HUNTING Ranks the Best States for Meat Eaters*, PETERSEN'S HUNTING (Nov. 27, 2013), <https://www.petersenshunting.com/editorial/hunting-ranks-best-states-meat-eaters/272907>.

2. See generally Jeffrey W. Stowers, Jr., *A Starving Culture: Alaskan Native Villages' Fight to Use Traditional Hunting and Fishing Grounds*, 40 AM. INDIAN L. REV. 41 (2015) (describing the historical importance of subsistence hunting to Alaska Native culture and the threat to that way of life presented by the modern legal regime).

3. See Jon Schuppe, *The Fight over Alaska's Hunting Rules Run Deeper than Doughnuts to Bait Bears*, NBC NEWS (June 14, 2018), <https://www.nbcnews.com/news/us-news/fight-over-alaska-s-hunting-rules-runs-deeper-using-doughnuts-n882811> (describing unique features of Alaska's contemporary recreational and subsistence hunting culture in relation to changes in federal land regulation under the Trump Administration).

4. DEP'T OF FISH AND GAME, 2019 CALENDAR YEAR LICENSES AND TAGS ISSUED (2020), [http://www.adfg.alaska.gov/static/license/pdfs/licenses\\_stamps\\_tags\\_issued\\_2019.pdf](http://www.adfg.alaska.gov/static/license/pdfs/licenses_stamps_tags_issued_2019.pdf).

5. *Id.*

6. 451 P.3d 392 (Alaska Ct. App. 2019).

7. Under Alaska law, 'big game' includes black, brown, and grizzly bears, bison, caribou, elk, goats, moose, sheep, and wolves. ALASKA STAT. § 08.54.790(2) (2018).

8. *Id.* § 16.05.340(a)(15) (2018).

9. *Kinmon*, 451 P.3d 392 at 394.

10. *Id.* at 396.

11. *Id.* at 394.

definition.<sup>12</sup> On appeal, the court of appeals reversed four of those counts based upon a construction of “previously purchasing” under which a binding promise to pay after a hunt is sufficient to satisfy the statute’s requirements.<sup>13</sup>

This Comment critiques the holding in *Kinmon* from both a legal and a policy perspective. As such, the Alaska legislature should correct the error of *Kinmon* by clarifying the statutory meaning of “previously purchasing.” In making this argument, this Comment first presents Alaska’s well-established canons of statutory construction and introduces Alaska’s big game hunting laws in Part II. Part III then describes *Kinmon* in more detail to contextualize the application of those canons to the statutory scheme. Finally, Part IV shows that a proper application of the canons and salient policy considerations merit legislative action to correct the error in *Kinmon*. Specifically, the legislature should statutorily clarify that big game tags must be purchased prior to the commencement of a hunt.

## II. BACKGROUND

To fully comprehend why *Kinmon* was wrongly decided, it is critical to both understand the tools of statutory construction that were misused and appreciate the statutory scheme to which those tools were misapplied. As to the former consideration, the court found the statute’s language sufficiently ambiguous to merit applying the rule of lenity.<sup>14</sup> This most-straightforward of canons, the “plain meaning rule,” is well known and used throughout the nation’s various judicial systems.<sup>15</sup> In Alaska, the core of the rule is constructing statutes in accordance with their common usage.<sup>16</sup> Put bluntly, “[u]nless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common

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12. *Id.* at 396.

13. *Id.* at 399.

14. The court determined that “if a statute is unresolvably [sic] ambiguous following [plain meaning] analysis, the rule of lenity requires that it be construed in the defendant’s favor.” *Id.* at 397. The court then found that “previously purchas[ed] could reasonably be construed to encompass the delivery of goods with a binding promise to pay in the near future” and applied the rule of lenity. *Id.* at 399.

15. See, e.g., *Sebelius v. Cloer*, 569 U.S. 369, 381 (2014) (quoting *Hartford Underwrites, Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1, 6 (2000)). “When [a] statute’s language is plain, the sole function of the courts – at least where the disposition required by the text is not absurd – is to enforce it according to its terms.” *Id.*

16. See, e.g., *Homer Elec. Ass’n v. Towsley*, 841 P.2d 1042, 1043–44 (Alaska 1992).

meaning.”<sup>17</sup> The plain meaning of a statutory term may be further clarified by legislative history and the term’s context in a larger statutory scheme.<sup>18</sup> To this end, Alaska courts use a “sliding scale” approach in which the plainer the statutory language, the more convincing contrary legislative history must be to negate that plain meaning.<sup>19</sup> In the criminal context, if, after applying this analysis, “the legislature’s intent cannot be ascertained or remains ambiguous,” then the rule of lenity is applied.<sup>20</sup> A court applying the rule construes the ambiguous statute in favor of the defendant.<sup>21</sup>

In *Kinmon*, these interpretive canons were improperly applied to the statutory scheme governing the regulation of hunting in Alaska.<sup>22</sup> Specifically, the court of appeals applied them to section 16.05.340(a)(15) of the Alaska Statutes.<sup>23</sup> Under that statute, nonresidents are prohibited from hunting big game without “previously purchasing” a big game tag.<sup>24</sup> The significance of this statute is hard to understate as nonresidents have purchased sixty-seven percent of all big game tags sold in Alaska since 1977.<sup>25</sup> In the past decade, tags purchased by nonresidents accounted for \$43,873,055, or approximately ninety-seven percent of the

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17. *State v. Niedermeyer*, 14 P.3d 265, 272 (Alaska 2000).

18. *See, e.g., FDIC v. Laidlaw Transit*, 21 P.3d 344, 351 (Alaska 2001) (quoting *Homer Elec. Ass’n v. Towsley*, 841 P.2d 1042, 1048 (Alaska 1992) (Compton, J., dissenting)) (“[B]ecause ‘plain meaning’ cannot exist in a vacuum, ambiguity is necessarily a creature of context. ‘As the Supreme Court has stated, “in ascertaining the plain meaning of a statute, the court must look to the particular language at issue, as well as the language and design of the statute as a whole.””).

19. *Alaska Spine Ctr., LLC v. Mat-Su Valley Med. Ctr. LLC*, 440 P.3d 176, 181 (Alaska 2019) (quoting *Adamson v. Municipality of Anchorage*, 333 P.3d 5, 11 (Alaska 2014)).

20. *Ward v. Dep’t of Pub. Safety*, 288 P.3d 94, 97–98 (Alaska 2012); *see also Anchorage v. Brooks*, 397 P.3d 346, 349 (Alaska Ct. App. 2017) (stating a statute can be termed ambiguous only when its meaning remains “unresolvably [sic] confused”).

21. *See Ward*, 288 P.3d at 97–98 (quoting *State v. Andrews*, 707 P.2d 900, 907 (Alaska Ct. App. 1985), *aff’d*, 723 P.2d 85, 86 (Alaska 1986)) (“If a statute establishing a penalty is susceptible of more than one meaning, it should be construed so as to provide the most lenient penalty.”); *see also De Nardo v. State*, 819 P.2d 903, 907 (Alaska Ct. App. 1991) (“[An ambiguous criminal] statute must be construed in favor of the defendant and against the government. But this rule of lenity or strict construction comes into play only when, after employing normal methods of statutory construction, the legislature’s intent cannot be ascertained or remains ambiguous.”).

22. *See Kinmon v. State*, 451 P.3d 392, 397–99 (Alaska Ct. App. 2019); *infra* Part III.

23. ALASKA STAT. § 16.05.340(a)(15) (2018).

24. *Id.*

25. *See ALASKA DEP’T OF FISH AND GAME, BIG GAME TAGS, 1962 TO PRESENT* (2020), [http://www.adfg.alaska.gov/static/license/pdfs/big\\_game\\_tags\\_1962-2019.pdf](http://www.adfg.alaska.gov/static/license/pdfs/big_game_tags_1962-2019.pdf) (listing the number of big game tags issued each year since 1962 broken down by game type, year, and recipients’ residential status).

\$45,172,155 in revenue from all big game tags.<sup>26</sup> As important as the revenue generated by section 16.05.340(a)(15) is, the statute's wider goal of wildlife management is framed by the Alaska Constitution's directive that "wildlife . . . belonging to the State shall be utilized, developed, and maintained on the sustained yield principle."<sup>27</sup>

### III. *KINMON V. STATE*

In *Kinmon*, the Alaska Court of Appeals faced a deceptively simple question concerning big game hunting: whether statutory requirements to have "previously purchas[ed]" hunting tags require the actual payment of money or simply "a promise to pay in the future."<sup>28</sup> The court split on this question, but the majority ultimately held that the term "could reasonably be construed to encompass the delivery of goods with a binding promise to pay in the near future."<sup>29</sup>

The question of statutory interpretation revolved around Mr. Richard Kinmon, a big game guide licensed in Alaska.<sup>30</sup> The state charged and convicted Kinmon of eleven misdemeanor offenses arising out of hunting excursions he guided between 2009 and 2011; eight of these charges included offenses involving whether or not Kinmon's clients had "previously purchas[ed]" statutorily required big game tags.<sup>31</sup> Section 16.05.340(a)(15) of the Alaska Statutes states that "[a] nonresident may not take a big game animal without previously purchasing a numbered, nontransferable, appropriate tag, issued under this paragraph."<sup>32</sup> At trial and on appeal, Kinmon argued that the term "previously purchasing" was ambiguous as to whether or not nonresidents must pay money *before* the hunt or simply must "promise to pay in the future."<sup>33</sup>

The hunting expeditions in question involved leading nonresident hunters on moose and sheep hunts.<sup>34</sup> For non-Alaskans to hunt big game, they must submit the requisite forms to the Alaska Department of Fish

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26. ALASKA DEP'T OF FISH AND GAME, STATE OF ALASKA HUNT/SPORT FISH & GAME LICENSE GROSS REVENUE BY CALENDAR YEAR, 2011–2020 RECAP (2020), [http://www.adfg.alaska.gov/static/license/pdfs/1926\\_2019\\_licenses\\_stamps\\_tags\\_revenue.pdf](http://www.adfg.alaska.gov/static/license/pdfs/1926_2019_licenses_stamps_tags_revenue.pdf).

27. ALASKA CONST. art. VIII, § 4. Cf. Bertil Näslund, *The Principle of Sustained Yield and Optimal Forest Management*, 79 SCANDANAVIAN J. OF ECON. 1 (1977) (describing a formula of forest harvesting designed to ensure long-term production).

28. *Kinmon v. State*, 451 P.3d 392, 394 (Alaska Ct. App. 2019).

29. *Id.* at 399.

30. *Id.* at 394.

31. *Id.* at 395.

32. ALASKA STAT. § 16.05.340(a)(15) (2018).

33. *Kinmon*, 451 P.3d at 394.

34. *Id.*

and Game (“Department”).<sup>35</sup> One of the required forms is submitted to the Department prior to the hunt, while another report is due to the Department following the actual hunting trip, regardless of the hunter’s success in shooting big game.<sup>36</sup> While Kinmon was convicted on charges concerning three separate hunting excursions, the court of appeals ultimately treated these excursions differently.

The first four charges Kinmon faced concerned a sheep hunt he guided in 2009 with an out-of-state hunter, John Maser.<sup>37</sup> One of these charges included going on the sheep hunt “without a valid (i.e., “previously purchas[ed]”) nonresident sheep tag and/or harvest ticket” and other charges of knowingly failing to report the hunt and public records tampering.<sup>38</sup> Because of Kinmon’s backdating of hunting tags, these convictions were upheld by the appellate court and were not altered by shifting interpretations of “previously purchas[ed].”<sup>39</sup>

However, the court of appeals found stark differences between Maser’s hunt and Kinmon’s other disputed hunts concerning grizzly bears and moose with the non-Alaskans Joseph Hahn and Shelley Ailts.<sup>40</sup> While Hahn and Kinmon completed the requisite paperwork before commencing the bear hunt, Hahn did not pay for the tag until “after the hunt was completed,” per Kinmon’s recommendation.<sup>41</sup> Three of the convictions “potentially hinged on a legal conclusion that a ‘purchase’ did not occur until after Hahn paid for the bear tag.”<sup>42</sup> Kinmon pursued the same sort of post-payment scheme with the third hunting expedition, with his conviction for that hunt also turning on the correct interpretation of “previously purchas[ed].”<sup>43</sup>

While the trial court determined the “commonly understood meaning” of “previously purchasing” was “that a ‘purchase’ did not take place until money changed hands,” it allowed both sides to present differing interpretations to the jury, with no jury instructions on the provided phrase.<sup>44</sup> The court of appeals, however, disagreed with this procedure. The court was convinced by Kinmon’s argument that “purchase” had alternative meanings in other states’ hunting regulations worth reviewing, such as California’s relevant statutory definition of “an offer to buy, purchase, barter, exchange, or trade,” which the court

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35. *Id.*

36. *Id.* at 394–95.

37. *Id.* at 395.

38. *Id.*

39. *Id.* at 400.

40. *Id.* at 396.

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.* at 394–95.

contrasted with the narrower definition in Florida's law that it found akin to the district court's interpretation.<sup>45</sup>

The court of appeals did not afford much weight to the state's persuasive policy arguments.<sup>46</sup> The crux of the State's policy argument was that hunters may be less likely to pay for the hunting tags post-hunt; but the court, not convinced more nonresidents would shirk their responsibilities to actually pay for unsuccessful hunts, noted that "it [was] not clear that this policy interest would be undermined by allowing a hunter to obtain a tag before the hunt with a promise to pay at the close of the hunt."<sup>47</sup> Instead of following the trial court in "appl[ying the] ordinary usage" of "previously purchasing," the appellate court held the term could mean nothing more than a promise to pay in the future.<sup>48</sup>

The court also relied on its unpublished opinion in *State v. Chun*,<sup>49</sup> in which it held that "substantial and unresolvable ambiguity in existing law" led to the rule of lenity being applied.<sup>50</sup> Here, the court ruled it was error for the trial court to allow both parties to present competing definitions of "previously purchasing" and instead sided with Kinmon's interpretation.<sup>51</sup> The court of appeals then held that "previously purchasing" requires nothing more than "a binding promise to pay" under the statute.<sup>52</sup>

Judge Harbison, however, dissented from the majority's opinion, finding no statutory ambiguity in "previously purchasing."<sup>53</sup> Applying the canon of statutory construction of plain meaning, Judge Harbison determined that "previously purchased . . . clearly requires a nonresident to complete the act of purchasing a tag—including paying for it—before the nonresident may take a big game animal."<sup>54</sup> She went on to point out the lack of similarity between the California statute and Alaska's, noting that the California statute's term does not relate to how tags are actually

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45. *Id.* at 397–98 (citing CAL. FISH & GAME CODE §§ 68, 24).

46. *Id.* at 398.

47. *Id.* The court pointed out that Hahn "did not directly testify that he thought he would not have to pay for the tag if the hunt was unsuccessful" and also noted that Kinmon "did testify that he told Hahn he would cover the cost of the tag if Hahn did not kill the bear." *Id.* The court noted the same for Ailts, acknowledging that "the trial testimony suggested that she also believed she was in effect purchasing the tag at the time she filled out the paperwork to procure the tag." *Id.*

48. *Id.* at 401 (Harbison, J., dissenting).

49. *State v. Chun*, 1992 WL 12153276 (Alaska Ct. App. 1992) (unpublished) (A-4283).

50. *Kinmon*, 451 P.3d at 398 (quoting *Chun*, 1992 WL 12153276 at •2-3).

51. *Id.* at 399.

52. *Id.*

53. *Id.* at 400–02 (Harbison, J., dissenting).

54. *Id.* at 401 (emphasis added).

purchased.<sup>55</sup> Going on, Judge Harbison did not find *Chun* persuasive due to the different set of codes in dispute: the present case involved Alaska's statutory code, which is clear in its meaning, while the Uniform Commercial Code, at play in *Chun*, addresses when title has vested.<sup>56</sup> The judge concluded her analysis of the disputed statutory term, writing that "[t]here is no ambiguity to the statutory requirement in Kinmon's case that a nonresident hunter must 'purchase' an appropriate tag *before* taking the animal," which includes paying money.<sup>57</sup> Instead of the majority's "unnecessar[y] complicat[ion of] the meaning of an unambiguous statute," Judge Harbison would allow "previously purchasing" to retain its plain meaning within this statutory context, requiring the nonresident hunter who is accompanied by a guide to pay for a tag prior to the hunt or taking of a big game animal.<sup>58</sup>

#### IV. A STATUTORY SOLUTION

The Alaska Court of Appeals wrongly decided *Kinmon* because of an erroneous interpretation of the plain meaning of the statutory phrase "previously purchasing" in section 16.05.340(a)(15), and improper consideration of statutory context and the over-arching policy of the statute. While future Alaska appellate courts can, and should, fix this judicial error, the legislature should also step in and assert that the purchase of big game tags must occur prior to the commencement of a hunt.

Here, the court of appeals failed to provide the statutory phrase "previously purchasing" with its "ordinary, contemporary, [and] common meaning."<sup>59</sup> The court in *Kinmon* considered the dictionary definitions provided by the State which define purchase as "the act or instance of buying" and "to obtain by paying money or its equivalent," both of which would clearly indicate that a "purchase" is contemporaneous with payment.<sup>60</sup> In short, payment is necessary for a purchase to have occurred. Common sense dictates that one does not assert ownership of an item, such as a hunting tag, until the buyer has committed the act of payment. Furthermore, "previously" is a distinguishing mark that places the purchase of a tag prior to a future

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55. *Id.* "[I]nstead, California uses the term 'procure' to refer to the method of obtaining a game tag" while the term "purchase" "is used to govern the transfer of lawfully and unlawfully taken fish and game," which are distinctly different activities. *Id.*

56. *Id.* at 401-02.

57. *Id.* at 402.

58. *Id.*

59. *State v. Niedermeyer*, 14 P.3d 265, 272 (Alaska 2000).

60. *Kinmon*, 451 P.3d at 397.

action, such as a big game hunt. Judge Harbison noted that the statute “clarifies that the transaction must be *complete* before the animal can be taken.”<sup>61</sup> A simple transaction for hunting tags should be distinguished from the more complex contracts that do not require previous payment, the latter of which Kinmon erroneously compared the former transactions to.<sup>62</sup> Unlike vehicles or real estate, hunting tags are simple one-time transactions. Reading the phrase “previously purchasing” with its common understanding, the court of appeals should have held the hunting tag must have actually been bought before the hunt took place.

The State is also supported by the provision’s statutory context and the legislature’s subsequent narrowing of the relevant statutory provisions. As laid out in the State’s appellee brief, this specific statutory provision operates within the context of the larger statutory scheme to “ensure sustainable big game animal populations.”<sup>63</sup> Other Alaska statutes and regulations impose limitations on nonresidents conducting big game hunting without local guides,<sup>64</sup> detailed instructions on big game hunting for religious purposes by Alaska Natives,<sup>65</sup> and requirements regarding big game kill sites.<sup>66</sup> Subsequent redrafting of the statutory provision in 1997 sheds additional light on the legislature’s intent to provide greater restrictions on nonresident big game hunting. Prior to 1997 there was no limiting language on nonresident big game tags in section 16.05.340(a)(15); by inserting the “previously purchasing” language into the statute, the legislature demonstrated an intent to tighten the requirements surrounding nonresident big game hunting.<sup>67</sup> Therefore, even if the court did find “previous purchasing” ambiguous, that ambiguity is outweighed by the provision’s legislative history and statutory context. Read together, these statutory provisions mandate the appellate court to interpret a narrower meaning of “previously purchasing,” which will also ensure state coffers receive hunting tag revenue before all hunts, weakening the opportunity for hunting guides to avoid purchasing tags following unsuccessful hunts.

Furthermore, the Alaska Constitution provides an overarching purpose for managing wildlife that commands a narrower interpretation

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61. *Id.* at 401 (Harbison, J., dissenting) (emphasis added).

62. *See id.* at 398–99 (majority opinion) (noting Kinmon’s argument that “previously purchasing” could be interpreted to include “a binding promise to pay in the near future”).

63. Opening Brief for Appellee State of Alaska at 1, *Kinmon v. State*, 451 P.3d 392 (Alaska Ct. App. 2019) (No. A-12645).

64. ALASKA STAT. § 16.05.407 (2018).

65. ALASKA ADMIN. CODE tit. 5, § 92.017 (2019); *id.* § 92.019 (2019).

66. *Id.* § 92.012(e) (2019).

67. *Id.* § 16.05.340(a)(15) (enacted in 1997).

of “previously purchasing.” Alaska’s detailed hunting regime, especially for big game hunting, exists under the constitution’s mandate that wildlife populations are “maintained on [a] sustained yield principle.”<sup>68</sup> The Alaska Supreme Court has approvingly cited to the proper definition of sustained yield principle proffered by the delegates of the Resources Committee to the state’s constitutional convention: it “denotes conscious application insofar as practicable of principles of management intended to sustain the yield of the resource being managed” and is to hold a “broad meaning” as used in the constitution.<sup>69</sup> Operating under a broad constitutional framework to protect wildlife resources such as big game, the court of appeals should have interpreted “previously purchasing” in the light most favorable to ensuring big game populations are responsibly managed. Here, that would mean interpreting previously purchased as requiring the buying of hunting tags before a guide takes a nonresident on a hunt, strengthening the likelihood guides purchase tags for their hunts, even if they are ultimately unsuccessful.

Not only is the statutory phrase “previously purchasing” unambiguous, but the “sliding scale”<sup>70</sup> approach used in Alaska canons of construction require a narrower interpretation of the phrase which mandates tags be paid for before hunts begin. Statutory context (including numerous restrictions on big game hunting), the broader constitutional purpose of preserving sustainable wildlife population, and other canons of constructions all serve to strengthen rather than negate the provision’s lack of ambiguity.

The policy behind requiring hunters to pay for the privilege of hunting regardless of the success of their expedition is simple: to ensure that the state receives the needed financial resources that are inherent in successful wildlife management. The past decade alone has seen nonresident tags provide ninety-seven percent of the \$45,172,155 in revenue from big game tags.<sup>71</sup> If the appellate court’s holding goes unaddressed, hunting guides can simply backdate successful big game hunting tags while avoiding the purchase of tags for unsuccessful hunts. Instead, the proper interpretation of the statute should require all big game hunting tags to be purchased before hunters begin an expedition, reducing the likelihood that unsuccessful hunters will avoid paying for tags.

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68. ALASKA CONST. art. VIII, § 4.

69. *West v. State*, 248 P.3d 689, 695 (Alaska 2010) (quoting RESOURCES COMMITTEE, ALASKA CONSTITUTIONAL CONVENTION, TERMS (1955)).

70. See *Alaska Spine Ctr., LLC v. Mat-Su Valley Med. Ctr. LLC*, 440 P.3d 176, 181 (Alaska 2019) (quoting *Adamson v. Municipality of Anchorage*, 333 P.3d 5, 11 (Alaska 2014)).

71. ALASKA DEP’T OF FISH AND GAME, *supra* note 26.

*Kinmon* has unnecessarily complicated an unambiguous statute. The court of appeals failed to perform any statutory interpretation besides deciphering plain meaning, ignoring statutory context, narrowing of subsequent iterations, and the over-arching purpose of the statute buoyed by the Alaska Constitution. The legislature can and should address this judicial error. By clarifying section 16.05.340(a)(15) as requiring the buying of a hunting tag before the hunt, the legislature can remedy this erroneous interpretation of the statute. To this end, section 16.05.340(a)(15) should be amended to read as follows, with the proposed changes emphasized:

A nonresident may not take a big game animal without purchasing, *prior to the commencement of a hunt*, a numbered, nontransferable, appropriate tag, issued under this paragraph. The tag must be affixed to the animal before leaving the kill site and must remain affixed until the animal is prepared for storage, consumed, or exported. A tag issued but not used for an animal may be used to satisfy the tagging requirement for an animal of any other species for which the tag fee is of equal or less value.

## V. CONCLUSION

In *Kinmon*, the court of appeals not only erred in its interpretation of the plain meaning of “previously purchasing” in section 16.05.340(a)(15) of the Alaska Statutes, it also neglected to account for the policy ramifications of its interpretation. This two-part error has left Alaska’s statutory scheme regulating hunting weakened and less able to achieve its intended purpose. To rectify this error, the Alaska legislature should amend the language of section 16.05.340(a)(15) to clarify that the purchase of big game tags must occur prior to the commencement of a hunt. This change will allow the state to more effectively protect the practice of hunting from unscrupulous and unlawful actors. Hunting, a cultural pillar of Alaska, demands legal protection of a quality commensurate with its importance to the state’s socio-economic identity.