AN ACT

Relating to sport fishing services, salt water sport fishing operators, and salt water sport fishing guides; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1
AN ACT

Relating to sport fishing services, salt water sport fishing operators, and salt water sport fishing guides; and providing for an effective date.

* Section 1. AS 16.05.340(a) is amended by adding a new paragraph to read:

(27) Fishing services licenses

(A) Salt water sport fishing operator license ..................... 200
(B) Salt water sport fishing guide license .......................... 100
(C) Salt water sport fishing operator and guide combined license ................................................................. 200.

* Sec. 2. AS 16.05.395 is amended to read:

Sec. 16.05.395. Sport fishing vessel registration. A [FOR CALENDAR YEAR 2005 AND SUBSEQUENT CALENDAR YEARS, A] person may not use a vessel to provide sport fishing services [UNDER AS 16.40.260 - 16.40.299] unless the vessel is registered with the department and proof of registration is attached to and clearly visible on the vessel while the vessel is used to provide sport fishing services.
The department shall register vessels used to provide sport fishing services, and provide proof of registration, without charge. The department may adopt regulations as the department finds necessary to implement this section.

* Sec. 3. AS 16.40 is amended by adding new sections to read:

**Sec. 16.40.261. Salt water sport fishing operator license.** (a) The department shall issue an annual salt water sport fishing operator license to a person who

1. holds a current business license under AS 43.70 to provide services to sport fishermen;
2. presents proof satisfactory to the department of a general liability insurance policy or marine protection and indemnity insurance policy, covering the services provided by the person and the person's employees to sport fishermen, that provides coverage of at least $100,000 for each incident and $300,000 for all incidents in a year;
3. pays the license fee prescribed by AS 16.05.340(a); and
4. satisfies all additional requirements adopted in regulation by the Board of Fisheries.

(b) A person may not provide salt water sport fishing services unless the person is licensed and insured under (a) of this section.

(c) A person licensed under this section may contract to provide salt water sport fishing guide services to a sport fisherman through an employee who holds a current salt water sport fishing guide license under AS 16.40.271.

(d) A person licensed under this section may not directly provide salt water sport fishing guide services to a sport fisherman unless the person is also licensed as a salt water sport fishing guide, or a guide and operator, under AS 16.40.271.

(e) A person licensed as a salt water sport fishing operator may not aid in the commission of a violation of AS 16.05 - AS 16.40 or a regulation adopted under AS 16.05 - AS 16.40, including regulations relating to the proper method to release fish, by a salt water sport fishing guide who is employed by the person or by a sport fisherman who is a client of the person.

(f) In this section, "salt water sport fishing services" means the indirect provision of assistance, for compensation or with the intent to receive compensation,
to a person engaged in sport fishing in salt water in taking or attempting to take fish or shellfish by a business that employs a salt water sport fishing guide to provide salt water sport fishing guide services to the person during any portion of a sport fishing trip on salt water; "salt water sport fishing services" does not include

(1) an activity for which a salt water sport fishing guide license is required; or
(2) booking and other ancillary services provided by a tour broker or agent to a salt water sport fishing operator.

Sec. 16.40.271. Salt water sport fishing guide license; combined operator and guide license. (a) A natural person may obtain an annual salt water sport fishing guide license if the person

(1) is a citizen of the United States, Canada, or Mexico, or is a resident alien;
(2) is certified in first aid by the American Red Cross or a similar organization;
(3) holds a current sport fishing license from the state;
(4) pays the license fee prescribed by AS 16.05.340(a); and
(5) satisfies all additional requirements adopted in regulation by the Board of Fisheries.

(b) A natural person may obtain an annual salt water sport fishing operator and guide combined license if the person satisfies the requirements for a salt water sport fishing operator license under AS 16.40.261 and for a license under this section and pays the license fee prescribed by AS 16.05.340(a).

(c) A person may not provide salt water sport fishing guide services unless the person

(1) holds a current salt water sport fishing guide license under (a) or (b) of this section; and
(2) holds, or is an employee of a person who holds, a current salt water sport fishing operator license under AS 16.40.261 or (b) of this section.

(d) A salt water sport fishing guide may provide salt water sport fishing guide services only to persons who have engaged the services of the salt water sport fishing
operator who employs the salt water sport fishing guide. A salt water sport fishing
guide may not contract directly with a person to provide salt water sport fishing guide
services unless the guide also holds a current salt water sport fishing operator license.

(e) While providing salt water sport fishing guide services, a guide shall have
readily available for inspection

(1) a current license issued under AS 16.05.340(a)(27)(B) or (C);
(2) the current licenses, tags, and permits required to engage in the
sport fishery for which the salt water sport fishing guide is providing services;
(3) a driver's license or valid government-issued photographic
identification card; and
(4) proof of
(A) employment as a salt water sport fishing guide by a person
who holds a current license under AS 16.05.340(a)(27)(A) or (C); or
(B) current licensure under AS 16.05.340(a)(27)(A) or (C).

(f) A salt water sport fishing guide may not

(1) aid in the commission of a violation of AS 16.05 - AS 16.40 or a
regulation adopted under AS 16.05 - AS 16.40 by a client of the guide; or
(2) permit a client to commit a violation of AS 16.05 - AS 16.40 or a
regulation adopted under AS 16.05 - AS 16.40 that the guide knows or reasonably
believes is being or will be committed without
(A) attempting to prevent it, short of using force; and
(B) reporting the violation.

Sec. 16.40.291. Penalty. (a) Except as provided in (b) of this section, a person
who knowingly violates AS 16.40.261 - 16.40.300 or a regulation adopted under
AS 16.40.261 - 16.40.300 is guilty of a class A misdemeanor. However, this
subsection does not apply to the failure to hold a current business license under
AS 16.40.261(a)(1) as required under AS 43.70.

(b) A person who, without any culpable mental state, violates AS 16.40.271(e)
is guilty of a violation.

(c) A person who knowingly violates AS 16.40.271(e) is, for a

(1) first offense in a three-year period, guilty of a violation; and
second or subsequent offense in a three-year period, guilty of a class B misdemeanor.

(d) In addition to any other penalty provided by law, a court may revoke the salt water sport fishing guide license of a person who is convicted under (a) or (c)(2) of this section.

(e) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

**Sec. 16.40.300. Definitions.** In AS 16.40.261 - 16.40.300,

(1) "salt water sport fishing guide" means a person who is licensed to provide salt water sport fishing guide services to persons who are engaged in sport fishing;

(2) "salt water sport fishing guide services" means assistance, for compensation or with the intent to receive compensation, to a sport fisherman to take or to attempt to take fish by accompanying or physically directing the sport fisherman in sport fishing activities on salt water during any part of a sport fishing trip; "salt water sport fishing guide services" does not include

(A) sport fishing services; or

(B) services provided by an assistant, deckhand, or similar person who works directly under the supervision of and on the same vessel as a salt water sport fishing guide.

* Sec. 4. AS 25.27.244(s)(2) is amended to read:

(2) "license"

(A) means, except as provided in (B) of this paragraph, a license, certificate, permit, registration, or other authorization that, at the time of issuance, will be valid for more than 150 days and that may be acquired from a state agency to perform an occupation, including the following:

(i) license relating to boxing or wrestling under AS 05.10;

(ii) authorization to perform an occupation regulated under AS 08;

(iii) teacher certificate under AS 14.20;

(iv) authorization under AS 18.08 to perform
emergency medical services;

(v) asbestos worker certification under AS 18.31;
(vi) boiler operator's license under AS 18.60.395;
(vii) certificate of fitness under AS 18.62;
(viii) hazardous painting certification under AS 18.63;
(ix) security guard license under AS 18.65.400 - 18.65.490;
(x) license relating to insurance under AS 21.27;
(xi) employment agency permit under AS 23.15.330 - 23.15.520;
(xii) registration as a broker-dealer, an agent, a state investment adviser, or an investment adviser representative under AS 45.55.030;
(xiii) certification as a pesticide applicator under AS 46.03.320;
(xiv) certification as a storage tank worker or contractor under AS 46.03.375;
(xv) certification as a water and wastewater works operator under AS 46.30;
(xvi) commercial crewmember fishing license under AS 16.05.480 other than an entry permit or interim-use permit under AS 16.43;
(xvii) fish transporter permit under AS 16.05.671;
(xviii) salt water sport fishing operator license under AS 16.40.261;
(xix) salt water sport fishing guide license under AS 16.40.271; [REPEALED
(xix) REPEALED]
(B) does not include
(i) a vessel license issued under AS 16.05.490 or 16.05.530;
(ii) [REPEALED]

(iii)] a business license issued under AS 43.70;

(iii) [iv)] an entry permit or interim-use permit issued
under AS 16.43; or

(iv) [(v)] a driver's license issued under AS 28.15;

* Sec. 5. AS 16.05.340(a)(27); AS 16.40.261, 16.40.271, 16.40.291, 16.40.300; AS 25.27.244(s)(2)(A)(xviii), and 25.27.244(s)(2)(A)(xix) are repealed.

* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to read:

REGULATIONS. Notwithstanding AS 44.62.190, the Department of Fish and Game may use and enforce regulations previously adopted to administer former AS 16.40.260 to 16.40.299 to the extent those regulations do not conflict with the provisions of this Act. The Department of Fish and Game shall update and readopt those regulations in accordance with AS 44.62 (Administrative Procedure Act) to conform to the provisions of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

* Sec. 7. Section 6 of this Act takes effect immediately under AS 01.10.070(c).

* Sec. 8. Section 5 of this Act takes effect January 1, 2019.

* Sec. 9. Except as provided in secs. 7 and 8 of this Act, this Act takes effect January 1, 2017.