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Bullard
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SENATE CS FOR CS FOR HOUSE BILL NO. 41(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES TILTON AND MUÑOZ

SENATOR Costello

A BILL

FOR AN ACT ENTITLED

"An Act relating to sport fishing services, sport fishing operators, and sport fishing guides; and providing for an effective date."

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

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

(27) Fishing services licenses

(A) Sport fishing operator license 200

(B) Sport fishing guide license 100

(C) 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. Sport fishing operator license. (a) The department shall issue an annual 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 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 sport fishing guide services to a sport fisherman through an employee who holds a current sport fishing guide license under AS 16.40.271.

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

(e) A person licensed as a 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 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, "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 taking or attempting to take fish or shellfish by a business

that employs a sport fishing guide to provide sport fishing guide services to the person during any portion of a sport fishing trip; "sport fishing services" does not include

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

Sec. 16.40.271. Sport fishing guide license; combined operator and guide license. (a) A natural person may obtain an annual 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 sport fishing operator and guide combined license if the person satisfies the requirements for a 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 sport fishing guide services unless the person

(1) holds a current 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 sport fishing operator license under AS 16.40.261 or (b) of this section.

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

(e) While providing 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 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 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 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

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

(2) "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 during any part of a sport fishing trip; "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 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) sport fishing operator license under
AS 16.40.261;

(xix) 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;

1 * **Sec. 5.** AS 16.05.340(a)(27); AS 16.40.261, 16.40.271, 16.40.281, 16.40.291, 16.40.300;
2 AS 25.27.244(s)(2)(A)(xviii), and 25.27.244(s)(2)(A)(xix) are repealed.

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

5 REGULATIONS. Notwithstanding AS 44.62.190, the Department of Fish and Game
6 may use and enforce regulations previously adopted to administer former AS 16.40.260 -
7 16.40.299 to the extent those regulations do not conflict with the provisions of this Act. The
8 Department of Fish and Game shall update and readopt those regulations in accordance with
9 AS 44.62 (Administrative Procedure Act) to conform to the provisions of this Act. The
10 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
11 effective date of the law implemented by the regulation.

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

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

14 * **Sec. 9.** Except as provided in secs. 7 and 8 of this Act, this Act takes effect January 1,
15 2017.