

CS FOR HOUSE BILL NO. 218(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 2/21/20

Referred: Resources, Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to salt water sport fishing operators and salt water sport fishing**
2 **guides; and providing for an effective date."**

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

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

5 (28) Fishing services licenses

6 (A) Salt water sport fishing operator license 400

7 (B) Salt water sport fishing guide license 200

8 (C) Salt water sport fishing operator and guide combined
9 license 400.

10 * **Sec. 2.** AS 16.40 is amended by adding new sections to read:

11 **Sec. 16.40.262. Salt water sport fishing operator license.** (a) The department
12 shall issue an annual salt water sport fishing operator license to a person who
13 (1) holds a current business license under AS 43.70 to provide services
14 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; the liability insurance or marine protection and indemnity insurance must be in the amount of at least \$100,000 for each incident and \$300,000 for all incidents in a year;

(3) signs a sworn statement identifying whether the person is a state resident or a nonresident;

(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 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 16.40.272.

(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 16.40.272.

(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. 16.40.272. 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) signs a sworn statement identifying whether the person is a state resident or a nonresident;

(5) pays the license fee prescribed by AS 16.05.340(a); and

(6) 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 16.40.262 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 16.40.262 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

1 readily available for inspection

2 (1) a current license issued under AS 16.05.340(a)(28)(B) or (C);

3 (2) the current licenses, tags, and permits required to engage in the
4 sport fishery for which the salt water sport fishing guide is providing services;

5 (3) a driver's license or valid government-issued photographic
6 identification card; and

7 (4) proof of

8 (A) employment as a salt water sport fishing guide by a person
9 who holds a current license under AS 16.05.340(a)(28)(A) or (C); or

10 (B) current licensure under AS 16.05.340(a)(28)(A) or (C).

11 (f) A salt water sport fishing guide may not

12 (1) aid in the commission of a violation of AS 16.05 - AS 16.40 or a
13 regulation adopted under AS 16.05 - AS 16.40 by a client of the guide; or

14 (2) permit a client to commit a violation of AS 16.05 - AS 16.40 or a
15 regulation adopted under AS 16.05 - AS 16.40 that the guide knows or reasonably
16 believes is being or will be committed without

17 (A) attempting to prevent it, short of using force; and

18 (B) reporting the violation.

19 **Sec. 16.40.282. Reports.** (a) The department may collect information from
20 sport fishing guides, including

21 (1) the name and license number of each vessel licensed under
22 AS 16.05.490 that is used in providing sport fishing guide services;

23 (2) the amount of fishing effort, catch, and harvest by clients of a sport
24 fishing guide;

25 (3) the locations fished during the provision of sport fishing guide
26 services; and

27 (4) other information that the department or board requires by
28 regulation.

29 (b) A person who holds a license issued under AS 16.40.262 or 16.40.272
30 shall comply with the reporting requirements in this section and reporting
31 requirements adopted in regulation by the department or board.

1 (c) A person who is required to complete reports under this section may not
2 provide false information or omit material facts in a report.

3 (d) A person who is required to complete reports under this section may not be
4 issued a new license under AS 16.40.262 or 16.40.272 unless the department has
5 received all reports required under this section for the preceding year.

6 (e) Information collected under this section is confidential to the extent
7 provided under AS 16.05.815.

8 (f) The board may adopt regulations under AS 44.62 (Administrative
9 Procedure Act) that it considers necessary to implement this section.

10 **Sec. 16.40.292. Penalty.** (a) Except as provided in (b) and (c) of this section, a
11 person who knowingly violates AS 16.40.262 - 16.40.301 or a regulation adopted
12 under AS 16.40.262 - 16.40.301 is guilty of a class A misdemeanor. However, this
13 subsection does not apply to the failure to hold a current business license under
14 AS 16.40.262(a)(1) as required under AS 43.70.

15 (b) A person who, without any culpable mental state, violates AS 16.40.272(e)
16 is guilty of a violation.

17 (c) A person who knowingly violates AS 16.40.272(e) or who knowingly fails
18 to comply with a requirement for timely submission of reports required by a regulation
19 adopted under AS 16.40.282(b) is, for a

20 (1) first offense in a three-year period, guilty of a violation; and

21 (2) second or subsequent offense in a three-year period, guilty of a
22 class B misdemeanor.

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

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

27 **Sec. 16.40.301. Definitions.** In AS 16.40.262 - 16.40.301,

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

31 (2) "salt water sport fishing guide services" means assistance, for

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

5 (A) sport fishing services; or

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

9 * **Sec. 3.** AS 25.27.244(s)(2) is amended to read:

10 (2) "license"

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

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

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

19 (iii) teacher certificate under AS 14.20;

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

22 (v) asbestos worker certification under AS 18.31;

23 (vi) boiler operator's license under AS 18.60.395;

24 (vii) certificate of fitness under AS 18.62;

25 (viii) hazardous painting certification under AS 18.63;

26 (ix) security guard license under AS 18.65.400 -
 27 18.65.490;

28 (x) license relating to insurance under AS 21.27;

29 (xi) employment agency permit under AS 23.15.330 -
 30 23.15.520;

31 (xii) registration as a broker-dealer, an agent, an

investment adviser, or an investment adviser representative under AS 45.56.300 - 45.56.350;

(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 16.40.262;

(xix) salt water sport fishing guide license under AS 16.40.272; [REPEALED

(xix) REPEALED]

(B) does not include

(i) a vessel license issued under AS 16.05.490 or 16.05.530;

(ii) a business license issued under AS 43.70;

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

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

* **Sec. 4.** This Act takes effect January 1, 2021.