

32-GH1608\G
Bullard
3/16/22

SENATE CS FOR CS FOR HOUSE BILL NO. 79(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:

Referred:

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

A BILL

FOR AN ACT ENTITLED

"An Act relating to salt water sport fishing operators and salt water sport fishing guides; requiring the Department of Fish and Game to prepare and submit a report; 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 new paragraphs to read:

(28) Resident fishing services licenses

(A) Resident salt water sport fishing operator license 200

(B) Resident salt water sport fishing guide license 100

(C) Resident salt water sport fishing operator and guide
combined license 200;

(29) Nonresident fishing services licenses

(A) Nonresident salt water sport fishing operator license . 400

(B) Nonresident salt water sport fishing guide license 200

(C) Nonresident salt water sport fishing operator and guide

combined license 400.

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

Sec. 16.40.262. 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; 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) 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 16.40.272.

(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 holds a combined operator and guide license 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

1 shellfish by a business that employs a salt water sport fishing guide to provide salt
2 water sport fishing guide services to the person during any portion of a sport fishing
3 trip on salt water; "salt water sport fishing services" does not include

4 (1) an activity for which a salt water sport fishing guide license is
5 required; or

6 (2) booking and other ancillary services provided by a tour broker or
7 agent to a salt water sport fishing operator.

8 **Sec. 16.40.272. Salt water sport fishing guide license; combined operator**
9 **and guide license.** (a) A natural person may obtain an annual salt water sport fishing
10 guide license if the person

11 (1) is a citizen of the United States, Canada, or Mexico, or is a resident
12 alien;

13 (2) is certified in first aid by the American Red Cross or a similar
14 organization;

15 (3) holds a current sport fishing license from the state;

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

17 (5) satisfies all additional requirements adopted in regulation by the
18 Board of Fisheries.

19 (b) A natural person may obtain an annual salt water sport fishing operator
20 and guide combined license if the person satisfies the requirements for a salt water
21 sport fishing operator license under AS 16.40.262 and for a license under this section
22 and pays the license fee prescribed by AS 16.05.340(a).

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

25 (1) holds a current salt water sport fishing guide license under (a) or
26 (b) of this section; and

27 (2) holds, or is an employee of a person who holds, a current salt water
28 sport fishing operator license under AS 16.40.262 or (b) of this section.

29 (d) A salt water sport fishing guide may provide salt water sport fishing guide
30 services only to persons who have engaged the services of the salt water sport fishing
31 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)(28)(B) or (C) or (29)(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)(28)(A) or (C) or (29)(A) or (C); or

(B) current licensure under AS 16.05.340(a)(28)(A) or (C) or (29)(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. 16.40.282. Reports. (a) The department may collect information from salt water sport fishing guides, including

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

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

(3) the locations fished during the provision of salt water sport fishing

guide services; and

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

(b) The department may limit the information it collects from a salt water sport fishing guide under this section to

(1) salt water sport fishing guide services; or

(2) guided sport fishing for certain species.

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

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

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

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

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

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

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

(c) A person who knowingly violates AS 16.40.272(e) or who knowingly fails to comply with a requirement for timely submission of reports required by a regulation adopted under AS 16.40.282(b) 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 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. 16.40.301. Definitions. In AS 16.40.262 - 16.40.301,

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

HARVEST DATA DOCUMENTATION REPORT. (a) The Department of Fish and Game shall prepare a report proposing solutions for improving sport fishing harvest data documentation and collection from the salt water rental and unguided fishing industry.

(b) The report must provide consideration and analysis of collection methods used to collect comparable data by other states and comparable international jurisdictions, including British Columbia.

(c) The commissioner shall submit the report to the senate secretary and chief clerk of the house of representatives by December 1, 2023, and notify the legislature that the report is available.

* **Sec. 5.** This Act takes effect January 1, 2023.