

HOUSE BILL NO. 191
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE THOMPSON BY REQUEST, Kerttula, Tuck, Lynn, Dick, Miller, Tammie Wilson, Muñoz

Introduced: 3/11/11

Referred: House Special Committee on Economic Development, Trade, and Tourism, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing a state department of agriculture and food and relating to its**
2 **powers and duties; relating to the powers and duties of the Department of**
3 **Environmental Conservation and the Department of Natural Resources; and providing**
4 **for an effective date."**

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

6 *** Section 1.** AS 03.05.010 is amended to read:

7 **Sec. 03.05.010. Powers and duties: agricultural products [OF**
8 **COMMISSIONER OF NATURAL RESOURCES]. (a) The commissioner [OF**
9 **NATURAL RESOURCES] shall**

10 **(1) direct, administer, and supervise promotional and experimental**
11 **work, extension services, and agricultural projects for the purpose of promoting and**
12 **developing the agricultural industry within the state, including such fields as**
13 **horticulture, dairying, cattle raising, fur farming, grain production, vegetable**
14 **production, and development of other agricultural products;**

(2) procure and preserve all information pertaining to the development of the agricultural industry and disseminate that information to the public;

(3) assist prospective settlers and others desiring to engage in the agricultural industry in the state with information concerning areas suitable for agriculture, **food storage, food processing, sustainable and renewable farming practices,** and other activities and programs essential to the development of the agricultural industry in the state;

(4) review the marketing, financing, and development of agricultural products inside the state including transportation, with special emphasis upon local production, and negotiate for the marketing of agricultural products of the state with federal and state agencies operating in the state;

(5) regulate and control the entry into the state and the transportation, sale, or use inside the state of plants, seeds, vegetables, shell eggs, fruits and berries, nursery stock, animal feeds, remedies and mineral supplements, fertilizers, and agricultural chemicals in order to prevent the spread of pests, diseases, or toxic substances injurious to the public interest, and to protect the agricultural industry against fraud, deception, and misrepresentation; in this connection the commissioner may require registration, inspection, and testing, and establish procedures and fees;

(6) regulate the farming of elk in a manner similar to the manner in which the commissioner regulates domestic animals and livestock, to the extent that is appropriate;

(7) implement the farm-to-school program established in AS 03.20.100;

(8) establish a food security program that includes record keeping of food products stored on farms in the state and information about the number of days a supply of food is stored in the state.

(b) Except for retail food establishments and fish or fisheries products establishments, to [TO] carry out the requirements of this title, the commissioner [OF NATURAL RESOURCES] may issue orders, regulations, quarantines, and embargoes relating to

(1) examination and inspection of premises containing products,

1 articles, and commodities carrying pests;

2 (2) establishment of quarantines for eradication of pests;

3 (3) establishment of standards and labeling requirements pertaining to

4 the sale of agricultural and vegetable seeds;

5 (4) tests and analyses that [WHICH] may be made and hearings that

6 [WHICH] may be held to determine whether the commissioner will issue a stop order

7 or quarantine;

8 (5) cooperation with federal and other state agencies.

9 * **Sec. 2.** AS 03.05.011(a) is amended to read:

10 (a) Except for retail food establishments, to [TO] carry out the requirements

11 of this title relating to animals or animal products [OVER WHICH THE

12 DEPARTMENT HAS JURISDICTION], the commissioner may

13 (1) issue orders or permits relating to or authorizing the examination,

14 inspection, testing, quarantine, or embargo of animals or animal products, or premises

15 containing or having contained animals or animal products, in order to prevent the

16 spread of pests or contagious or infectious disease;

17 (2) conduct tests, analyses, and hearings to determine whether to issue

18 an order or permit relating to animals or animal products under this section;

19 (3) cooperate with federal, state, municipal, and other governmental

20 agencies regarding powers and duties under this section;

21 (4) issue orders or permits relating to or authorizing the custody, care,

22 or destruction of animals or animal products to prevent the spread of pests or

23 contagious or infectious disease;

24 (5) designate points of entry for the admission of animals or animal

25 products into the state; and

26 (6) issue orders or permits relating to, or authorizing the examination,

27 testing, or care of, animals or animal products to be transported into, within, or from

28 this state, in order

29 (A) to prevent the spread of pests or contagious or infectious

30 disease; or

31 (B) to promote safe or sanitary conditions for the animals or

animal products to be transported.

* **Sec. 3.** AS 03.05.011(b) is amended to read:

(b) Except for retail food establishments, the [THE] commissioner may

(1) adopt a schedule of fees or charges, and credit provisions, for services related to animals and animal products rendered by state veterinarians to farmers and others at their request, and all the receipts from the fees and charges shall be transmitted to the commissioner for deposit in the state treasury;

(2) designate individuals, independently or in cooperation with federal, state, municipal, or other governmental agencies, to carry out and enforce, under the direction of the state veterinarian, the requirements of this title relating to animals or animal products [OVER WHICH THE DEPARTMENT HAS JURISDICTION];

(3) enter into agreements with the federal government for controlling disease among animals and match federal payments for animals destroyed under those agreements from any appropriation available for this purpose;

(4) pay an owner of an animal destroyed under this section an amount from any appropriation available for this purpose; and

(5) adopt regulations under AS 44.62 (Administrative Procedure Act) to implement and interpret this section; when adopting regulations under this paragraph, the commissioner shall give substantial weight to the typical practices and standards in the state and in the United States of the industry for which the regulations are designed.

* **Sec. 4.** AS 03.05.011(e) is amended to read:

(e) In this section,

(1) "commissioner" means the commissioner of **agriculture and food** [ENVIRONMENTAL CONSERVATION];

(2) "department" means the Department of **Agriculture and Food** [ENVIRONMENTAL CONSERVATION].

* **Sec. 5.** AS 03.05 is amended by adding a new section to read:

Sec. 03.05.012. Powers over fish and fisheries products. (a) To carry out the requirements of this title relating to fish or fisheries products, the commissioner may

(1) issue orders or permits relating to or authorizing the examination,

1 inspection, testing, quarantine, or embargo of fish or fisheries products, or premises
2 containing or having contained fish or fisheries products, in order to prevent the
3 spread of pests or contagious or infectious disease;

4 (2) conduct tests, analyses, and hearings to determine whether to issue
5 an order or permit relating to fish or fisheries products under this section;

6 (3) cooperate with federal, state, municipal, and other governmental
7 agencies regarding powers and duties under this section;

8 (4) issue orders or permits relating to or authorizing the custody, care,
9 or destruction of fish or fisheries products to prevent the spread of pests or contagious
10 or infectious disease;

11 (5) designate points of entry for the admission of animals or animal
12 products into the state; and

13 (6) issue orders or permits relating to, or authorizing the examination,
14 testing, or care of, fish or fisheries products to be transported into, within, or from this
15 state, in order

16 (A) to prevent the spread of pests or contagious or infectious
17 disease; or

18 (B) to promote safe or sanitary conditions for the fish or
19 fisheries products to be transported.

20 (b) The commissioner may

21 (1) adopt a schedule of fees or charges, and credit provisions, for
22 services related to fish or fisheries products rendered by the department, and all the
23 receipts from the fees and charges shall be transmitted to the commissioner for deposit
24 in the state treasury;

25 (2) designate individuals, independently or in cooperation with federal,
26 state, municipal, or other governmental agencies, to carry out and enforce, under the
27 direction of the commissioner, the requirements of this title relating to fish or fisheries
28 products;

29 (3) enter into agreements with the federal government for controlling
30 disease in fish or fisheries products and match federal payments for fish or fisheries
31 products destroyed under those agreements from any appropriation available for this

purpose;

(4) pay an owner of a fish or fisheries product destroyed under this section an amount from any appropriation available for this purpose; and

(5) adopt regulations under AS 44.62 (Administrative Procedure Act) to implement and interpret this section; when adopting regulations under this paragraph, the commissioner shall give substantial weight to the typical practices and standards in the state and in the United States of the industry for which the regulations are designed.

(c) Before taking custody of or destroying a fish or fisheries product under (a)(4) of this section, or imposing a quarantine, placing an embargo, or taking another action under this section that deprives a person of a fish or fisheries product, the department shall provide for notice and an opportunity to be heard to the owner or person in possession of the fish or fisheries product, unless the commissioner determines there is an immediate threat to the health or safety of fish or fisheries products or the public.

(d) Nothing in this section affects the authority of another agency of this state.

(e) In this section,

(1) "commissioner" means the commissioner of environmental conservation;

(2) "department" means the Department of Environmental Conservation.

* **Sec. 6.** AS 03.05.013 is amended to read:

Sec. 03.05.013. State veterinarian. The commissioner [OF ENVIRONMENTAL CONSERVATION] may employ or appoint a person to act as the state veterinarian to carry out and enforce the requirements of this title relating to animals or animal products over which the **department** [DEPARTMENT OF ENVIRONMENTAL CONSERVATION] has jurisdiction. To be eligible for appointment as the state veterinarian, a person must be licensed or otherwise legally authorized under AS 08.98 to engage in the practice of veterinary medicine in the state.

* **Sec. 7.** AS 03.05.027(a) is amended to read:

(a) The commissioner [OF NATURAL RESOURCES] shall employ or appoint a state coordinator for noxious weed, invasive plant, and agricultural pest management and education.

* **Sec. 8.** AS 03.05.040(b) is amended to read:

(b) In this section, "commissioner" means the commissioner of agriculture and food [NATURAL RESOURCES] with respect to agricultural [THOSE] products and animals over which the commissioner of agriculture and food [NATURAL RESOURCES] has jurisdiction under this title, and the commissioner of environmental conservation with respect to retail food establishments and fish or fisheries [THOSE] products over which the commissioner of environmental conservation has jurisdiction under this title.

* **Sec. 9.** AS 03.05.050(b) is amended to read:

(b) In this section, "commissioner" means the commissioner of agriculture and food [NATURAL RESOURCES] with respect to agricultural [THOSE] products and animals, except fish or fisheries products, over which the commissioner of agriculture and food [NATURAL RESOURCES] has jurisdiction under this title, and the commissioner of environmental conservation with respect to retail food establishments, fish or fisheries [THOSE] products, and fish or fisheries products establishments, over which the commissioner of environmental conservation has jurisdiction under this title.

* **Sec. 10.** AS 03.05.075(a) is amended to read:

(a) Elk may be raised and bred as domestic stock for commercial purposes, including the sale of meat, by a person who lawfully owns the elk and who holds a current valid elk farming license. The commissioner [OF NATURAL RESOURCES] may issue an elk farming license for the farming of elk to a person who applies on a form provided by the commissioner, pays the biennial elk farming license fee, and proves to the satisfaction of the commissioner that the person lawfully owns the elk, intends to raise and breed elk, and possesses facilities for maintaining the elk under positive control. Before issuing or renewing an elk farming license, the commissioner shall conduct a physical inspection of the elk farming facilities and determine that the facilities are in good repair and comply with the fencing standards established under

(d) of this section. In this subsection, "lawfully owns" means ownership that was obtained without violating a state or federal law or regulation or a condition of a license or permit issued with respect to elk.

* **Sec. 11.** AS 03.05.075(b) is amended to read:

(b) The commissioner [OF NATURAL RESOURCES] shall provide to the Department of Fish and Game a copy of each application for an elk farming license received by the commissioner and each elk farming license issued by the commissioner.

* **Sec. 12.** AS 03.05.075(d) is amended to read:

(d) The commissioner [OF NATURAL RESOURCES] shall establish fencing standards for elk farming facilities to maintain elk under positive control. Proposed fencing standards shall be submitted to the commissioner of fish and game for review before the standards are adopted or amended.

* Sec. 13. AS 03.05.075(e) is amended to read:

(e) Notwithstanding other provisions of law, a license or permit is not required from the Department of Fish and Game in order to import, export, or possess elk for the purpose of elk farming. Elk imported, exported, or possessed for the purpose of elk farming are subject to the provisions of this title and regulations adopted under this title by the commissioner [OF NATURAL RESOURCES OR THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION] for domestic animals and livestock, to the extent they are made applicable to elk by the commissioner [COMMISSIONERS].

* **Sec. 14.** AS 03.05.090(a) is amended to read:

(a) A person who violates a provision of this chapter or a regulation, order, or quarantine made under authority of this chapter, or violates a provision of a permit issued under this chapter, or sells seeds failing to meet the labeling requirements, standards, and tests provided for by regulation of the commissioner of **agriculture and food** [NATURAL RESOURCES] or the commissioner of environmental conservation is guilty of a class A misdemeanor for each offense.

* **Sec. 15.** AS 03.05.090(c) is amended to read:

(c) If the **Department of Agriculture and Food** or the **Department of**

1 Environmental Conservation issues an order regarding, adopts a regulation on, issues a
 2 permit regarding, imposes a quarantine on, or orders an embargo on an animal, [OR]
 3 animal product, or fish or fisheries product that the department with jurisdiction
 4 over the item [DEPARTMENT OF ENVIRONMENTAL CONSERVATION]
 5 reasonably believes carries pests, a contagious disease, or an infectious disease, a
 6 consignee who knowingly receives, or a carrier who knowingly transports, the animal
 7 or animal product in violation of the order, regulation, permit, quarantine, or embargo
 8 is subject to a civil fine of not more than \$500 for each violation.

9 * **Sec. 16.** AS 03.05.090(d) is amended to read:

10 (d) The department handling the violation under this section
 11 [DEPARTMENT OF ENVIRONMENTAL CONSERVATION] or a court of
 12 competent jurisdiction may impose the fine authorized by (b) or (c) of this section.

13 * **Sec. 17.** AS 03.05.100 is amended to read:

14 **Sec. 03.05.100. Definitions.** In this chapter, unless the section or the context
 15 indicates otherwise,

16 (1) "agricultural products" does not include fish, fisheries products,
 17 animals, or animal products;

18 (2) "animal" means an animal other than a human being and includes a
 19 mammal, insect, bird, [FISH,] and reptile, whether wild or domestic, and whether
 20 living or dead, but does not include fish or fisheries products;

21 (3) "animal product" means a product, article, or commodity
 22 containing any part of an animal;

23 (4) "fish or fisheries products" means any aquatic animal, including
 24 amphibians, or aquatic plants or parts of those plants, animals, or amphibians that are
 25 usable as human food.

26 * **Sec. 18.** AS 03.05.100 is amended by adding new paragraphs to read:

27 (5) "commissioner" means the commissioner of agriculture and food;

28 (6) "department" means the Department of Agriculture and Food;

29 (7) "retail food establishment" means a business that sells prepared
 30 food products to the general public for consumption on or off the premises, and
 31 includes a business that is, or contains on its premises, a restaurant, a delicatessen, a

1 salad bar, or a bakery.

2 * **Sec. 19.** AS 03.09.020(a) is amended to read:

3 (a) The commissioner [DIRECTOR] of [THE DIVISION OF THE
4 DEPARTMENT WITH RESPONSIBILITY FOR] agriculture and food shall appoint
5 an employee of the Department of Agriculture and Food to serve as the director of
6 the Board of Agriculture and Conservation. The director may employ staff and, as
7 directed by the board, is responsible for the daily operations of the agricultural
8 revolving loan fund (AS 03.10.040).

9 * **Sec. 20.** AS 03.10.050(g) is amended to read:

10 (g) The board may dispose of property acquired by the agricultural revolving
11 loan fund through foreclosure, default, or other action arising out of agricultural loans
12 or the sale of agricultural land. Disposals shall be conducted under regulations
13 approved by the commissioner of agriculture and food. The regulations must ensure
14 that the property is disposed of so as to maximize the return to the state and must
15 require that the parcels of land that are composed primarily of cropland soils be
16 restricted to agricultural uses and disposed of only to persons who are residents of the
17 state.

18 * **Sec. 21.** AS 03.13.050 is amended to read:

19 **Sec. 03.13.050. Definitions.** In this chapter,

20 (1) "corporation" means the Federal Crop Insurance Corporation (7
21 U.S.C. 1503);

22 (2) **"department" means the Department of Agriculture and Food.**

23 * **Sec. 22.** AS 03.20.080 is amended by adding new paragraphs to read:

24 (3) "commissioner" means the commissioner of agriculture and food;

25 (4) "department" means the Department of Agriculture and Food.

26 * **Sec. 23.** AS 03.20.100(e) is amended by adding a new paragraph to read:

27 (3) "department" means the Department of Agriculture and Food.

28 * **Sec. 24.** AS 03.22.010 is amended to read:

29 **Sec. 03.22.010. Establishment of plant materials center.** The department
30 [DEPARTMENT OF NATURAL RESOURCES], in cooperation with the college or
31 department of the University of Alaska responsible for the Agricultural and Forestry

Experiment Station, shall establish and maintain a plant materials center.

* **Sec. 25.** AS 03.22.040 is amended to read:

Sec. 03.22.040. Personnel. The department shall ensure that competent professional, secretarial, and subprofessional personnel necessary to carry on the work of the center are employed. The administrator of the plant materials center is a joint appointment between the **department** [DEPARTMENT OF NATURAL RESOURCES] and the college or department of the University of Alaska responsible for the Agricultural and Forestry Experiment Station.

* **Sec. 26.** AS 03.22 is amended by adding a new section to read:

Sec. 03.22.100. Definitions. In this chapter, "department" means the Department of Agriculture and Food.

* **Sec. 27.** AS 03.35.030 is amended to read:

Sec. 03.35.030. Notice, hearing, and order. Upon receipt of a petition for the establishment, addition, elimination, or dissolution of a controlled livestock district, the district judge shall set a time for hearing the petition not less than 30 days after its receipt. Notice of the time and place of the hearing and its purpose shall be posted in not less than three conspicuous public places within the proposed district, including a post office, for a period of at least 30 days before the hearing. If there is no post office within the proposed district, then the notice shall be posted in two conspicuous public places in the proposed district and in the post office nearest the proposed district. If, at the hearing, the district judge finds that the petition meets the requirements established under AS 03.35.020 and that notice of the hearing has been given, the district judge shall enter an order granting the request contained within the petition. The boundaries of the district are those proposed within the petition. The district judge shall certify to the clerk of the superior court for the judicial district a copy of the findings and order. The district judge shall send a copy of the order to the commissioner **of agriculture and food.**

* **Sec. 28.** AS 03.40.030(a) is amended to read:

(a) To adopt a brand or mark, a person shall forward to the commissioner [OF NATURAL RESOURCES] a facsimile of the brand or mark, together with a written application, and the recording fee of \$2. Upon receipt, the commissioner shall record

1 the brand or mark unless it is of record or conflicts or closely resembles that of some
 2 other person, in which case the commissioner shall return the facsimile and fee to the
 3 applicant. A brand described as being on either side of the animal may not be accepted
 4 or recorded.

5 * **Sec. 29.** AS 03.40.270 is amended to read:

6 **Sec. 03.40.270. Definitions.** As used in this chapter,

7 **(1)** [A] "brand" means an identification mark burned into the hide of a
 8 live animal;

9 **(2) "commissioner" means the commissioner of agriculture and**
 10 **food.**

11 * **Sec. 30.** AS 03.47.020 is amended to read:

12 **Sec. 03.47.020. Importation of bees.** All bees imported into the state shall be
 13 accompanied by a health certificate that states that the bees come from an apiary
 14 apparently free of bee diseases and that is signed by an apiary inspector determined to
 15 be qualified by the **department** [DIVISION].

16 * **Sec. 31.** AS 03.47.030(a) is amended to read:

17 (a) The **department** [DIVISION] shall investigate reported cases of diseased
 18 bees and cases of diseased bees discovered by the **department** [DIVISION].

19 * **Sec. 32.** AS 03.47.030(b) is amended to read:

20 (b) The **department** [DIVISION] shall take action necessary to prevent the
 21 spread of bee diseases. Bees or used beekeeping equipment found to contain the
 22 causative organisms of American foulbrood (*Bacillus larvae*) or European foulbrood
 23 (*Streptococcus pluton*) shall be immediately quarantined and treated within five days
 24 by

25 (1) chamber fumigation using ethylene oxide or other gases approved
 26 by the **department** [DIVISION];

27 (2) sterilization by boiling in lyewater for at least 15 minutes; or

28 (3) destruction of bees, bee combs, and frames by burning followed by
 29 burying 18 inches deep.

30 * **Sec. 33.** AS 03.47.030(d) is amended to read:

31 (d) A quarantine imposed under this section may not be removed until infected

1 bees and used beekeeping equipment are destroyed or the **department** [DIVISION]
 2 determines through testing that the used beekeeping equipment is free of the disease.

3 * **Sec. 34.** AS 03.47.030(e) is amended to read:

4 (e) The **department** [DIVISION] shall adopt regulations necessary to carry
 5 out the purposes of this chapter.

6 * **Sec. 35.** AS 03.47.040 is amended by adding a new paragraph to read:

7 (4) "department" means the Department of Agriculture and Food.

8 * **Sec. 36.** AS 03.55.190 is amended to read:

9 **Sec. 03.55.190. Definitions.** In AS 03.55.100 - 03.55.190,

10 (1) "animal" has the meaning given in AS 11.81.900;

11 (2) "custodian" means a person responsible by law for the care,
 12 custody, or control of animals;

13 (3) "department" means the Department of **Agriculture and Food**
 14 [ENVIRONMENTAL CONSERVATION].

15 * **Sec. 37.** AS 03.58 is amended by adding a new section to read:

16 **Sec. 03.58.090. Definition.** In this chapter, "department" means the
 17 Department of Agriculture and Food.

18 * **Sec. 38.** AS 14.07.020(a) is amended to read:

19 (a) The department shall

20 (1) exercise general supervision over the public schools of the state
 21 except the University of Alaska;

22 (2) study the conditions and needs of the public schools of the state,
 23 adopt or recommend plans, administer and evaluate grants to improve school
 24 performance awarded under AS 14.03.125, and adopt regulations for the improvement
 25 of the public schools;

26 (3) provide advisory and consultative services to all public school
 27 governing bodies and personnel;

28 (4) prescribe by regulation a minimum course of study for the public
 29 schools; the regulations must provide that, if a course in American Sign Language is
 30 given, the course shall be given credit as a course in a foreign language;

31 (5) establish, in coordination with the Department of Health and Social

1 Services, a program for the continuing education of children who are held in detention
2 facilities in the state during the period of detention;

3 (6) accredit those public schools that meet accreditation standards
4 prescribed by regulation by the department; these regulations shall be adopted by the
5 department and presented to the legislature during the first 10 days of any regular
6 session, and become effective 45 days after presentation or at the end of the session,
7 whichever is earlier, unless disapproved by a resolution concurred in by a majority of
8 the members of each house;

9 (7) prescribe by regulation, after consultation with the state fire
10 marshal and the state sanitarian, standards to ensure [THAT WILL ASSURE]
11 healthful and safe conditions in the public and private schools of the state, including a
12 requirement of physical examinations and immunizations in pre-elementary schools;
13 the standards for private schools may not be more stringent than those for public
14 schools;

15 (8) exercise general supervision over pre-elementary schools that
16 receive direct state or federal funding;

17 (9) exercise general supervision over elementary and secondary
18 correspondence study programs offered by municipal school districts or regional
19 educational attendance areas; the department may also offer and make available to any
20 Alaskan through a centralized office a correspondence study program;

21 (10) accredit private schools that request accreditation and that meet
22 accreditation standards prescribed by regulation by the department; nothing in this
23 paragraph authorizes the department to require religious or other private schools to be
24 licensed;

25 (11) review plans for construction of new public elementary and
26 secondary schools and for additions to and major rehabilitation of existing public
27 elementary and secondary schools and, in accordance with regulations adopted by the
28 department, determine and approve the extent of eligibility for state aid of a school
29 construction or major maintenance project; for the purposes of this paragraph, "plans"
30 include educational specifications, schematic designs, projected energy consumption
31 and costs, and final contract documents;

(12) provide educational opportunities in the areas of vocational education and training, and basic education to individuals over 16 years of age who are no longer attending school;

(13) administer the grants awarded under AS 14.11;

(14) establish, in coordination with the Department of Public Safety, a school bus driver training course;

(15) require the reporting of information relating to school disciplinary and safety programs under AS 14.33.120 and of incidents of disruptive or violent behavior;

(16) establish by regulation criteria, based on low student performance, under which the department may intervene in a school district to improve instructional practices, as described in AS 14.07.030(14) or (15); the regulations must include

(A) a notice provision that alerts the district to the deficiencies and the instructional practice changes proposed by the department;

(B) an end date for departmental intervention, as described in AS 14.07.030(14)(A) and (B) and (15), after the district demonstrates three consecutive years of improvement consisting of not less than two percent increases in student proficiency on standards-based assessments in math, reading, and writing as provided in AS 14.03.123(f)(2)(A); and

(C) a process for districts to petition the department for continuing or discontinuing the department's intervention;

(17) notify the legislative committees having jurisdiction over education before intervening in a school district under AS 14.07.030(14) or redirecting public school funding under AS 14.07.030(15);

(18) assist the Department of **Agriculture and Food** [NATURAL RESOURCES] in developing and implementing the farm-to-school program established under AS 03.20.100.

* **Sec. 39.** AS 17.20.005 is repealed and reenacted to read:

Sec. 17.20.005. Powers and duties of commissioner of agriculture and food. (a) Except as provided in (b) of this section, to carry out the responsibilities of the Department of Agriculture and Food and the commissioner of agriculture and food

1 under this chapter, the commissioner of agriculture and food may issue orders,
2 regulations, permits, quarantines, and embargoes relating to

3 (1) agricultural food, including

4 (A) inspection;

5 (B) standards of sanitation and handling methods for all phases
6 of slaughtering, processing, storing, transporting, displaying, and selling;

7 (C) labeling; and

8 (D) the training, testing, and certification requirements for
9 individuals who handle or prepare the agricultural food, their supervisors, and
10 their employers to ensure their knowledge of food safety and sanitation
11 principles and requirements;

12 (2) control and eradication of pests;

13 (3) labeling, subject to AS 17.20.013, and grading of milk and milk
14 products and standards of sanitation for dairies offering to the public or selling milk or
15 milk products to at least the minimum of current recommendations of the United
16 States Public Health Service pasteurized milk ordinance as it may periodically be
17 revised;

18 (4) tests and analyses that may be made and hearings that may be held
19 to determine whether the commissioner will issue a stop order or quarantine;

20 (5) transportation of, use of, disposal of, recalls of, or warnings
21 concerning quarantined or embargoed items;

22 (6) cooperation with federal and other state agencies;

23 (7) written food safety disclosure statements by persons who sell
24 directly to a consumer agricultural food products that are grown and processed by the
25 sellers.

26 (b) The authority of the commissioner of agriculture and food under this
27 chapter does not extend to the inspection of retail food establishments.

28 * **Sec. 40.** AS 17.20 is amended by adding a new section to article 1 to read:

29 **Sec. 17.20.007. Powers and duties of commissioner of environmental**
30 **conservation.** To carry out the responsibilities of the Department of Environmental
31 Conservation and the commissioner of environmental conservation under this chapter,

1 the commissioner of environmental conservation may issue orders, regulations,
2 permits, quarantines, and embargoes relating to

3 (1) the inspection of retail food establishments for sanitation and food
4 safety, including

5 (A) standards of sanitation and handling methods for all phases
6 of processing, storing, transporting, displaying, and selling of food; and

7 (B) the training, testing, and certification requirements for
8 individuals who handle or prepare food, their supervisors, and their employers
9 to ensure their knowledge of food safety and sanitation principles and
10 requirements;

11 (2) fish or fisheries products, including

12 (A) inspection;

13 (B) standards of sanitation and handling methods for all phases
14 of processing, storing, transporting, displaying, and selling;

15 (C) labeling; and

16 (D) the training, testing, and certification requirements for
17 individuals who handle or prepare the fish or fisheries products, their
18 supervisors, and their employers to ensure their knowledge of food safety and
19 sanitation principles and requirements;

20 (3) enforcement of hazard analysis critical control point programs for
21 seafood processing that are developed in cooperation with appropriate industry
22 representatives or, to the extent not inconsistent with this chapter or regulations
23 adopted under the authority of this chapter, that are established by regulations of the
24 United States Food and Drug Administration as they may periodically be revised;

25 (4) standards and conditions for the operation and siting of aquatic
26 farms and related hatcheries, including

27 (A) restrictions on the use of chemicals; and

28 (B) requirements to protect the public from contaminated
29 aquatic farm products that pose a risk to health;

30 (5) monitoring aquatic farms and aquatic farm products to ensure
31 compliance with this chapter and, to the extent not inconsistent with this chapter or

1 regulations adopted under the authority of this chapter, with the requirements of the
 2 national shellfish sanitation program manual of operations published by the United
 3 States Food and Drug Administration as it may periodically be revised;

4 (6) tests and analyses that may be made and hearings that may be held
 5 to determine whether the commissioner will issue a stop order or quarantine;

6 (7) transportation of, use of, disposal of, recalls of, or warnings
 7 concerning quarantined or embargoed items;

8 (8) cooperation with federal and other state agencies.

9 * **Sec. 41.** AS 17.20.010 is amended to read:

10 **Sec. 17.20.010. Definitions and standards for food.** When, in the judgment
 11 of the commissioner of agriculture and food, honest and fair dealing in the interest of
 12 consumers will be promoted, the Department of Agriculture and Food
 13 [DEPARTMENT] shall adopt regulations fixing and establishing for agricultural
 14 food or class of agricultural food a reasonable definition and standard of identity, a
 15 reasonable standard of quality, and reasonable standards of fill of container. In
 16 prescribing a definition and standard of identity for agricultural food or class of
 17 agricultural food in which optional ingredients are permitted, the department shall,
 18 for the purpose of promoting honesty and fair dealing in the interest of consumers,
 19 designate the optional ingredients that [WHICH] shall be named on the label. The
 20 definitions and standards adopted shall conform as far as practicable to the definitions
 21 and standards adopted under authority of the federal act. The Department of
 22 Agriculture and Food [DEPARTMENT] shall establish a mobile canned
 23 agricultural food inspection service available upon request to agricultural food
 24 packers or processors inside the state.

25 * **Sec. 42.** AS 17.20.010 is amended by adding a new subsection to read:

26 (b) When, in the judgment of the commissioner of environmental
 27 conservation, honest and fair dealing in the interest of consumers will be promoted,
 28 the Department of Environmental Conservation shall adopt regulations fixing and
 29 establishing for fish or fisheries products, or class of fish or fisheries product a
 30 reasonable definition and standard of identity, a reasonable standard of quality, and
 31 reasonable standards of fill of container. In prescribing a definition and standard of

1 identity for nonagricultural food, or class of nonagricultural food in which optional
 2 ingredients are permitted, the department shall, for the purpose of promoting honesty
 3 and fair dealing in the interest of consumers, designate the optional ingredients that
 4 shall be named on the label. The definitions and standards adopted must conform as
 5 far as practicable to the definitions and standards adopted under authority of the
 6 federal act. The Department of Environmental Conservation shall establish a mobile
 7 canned nonagricultural food inspection service available upon request to
 8 nonagricultural food packers or processors inside the state.

9 * **Sec. 43.** AS 17.20.013(e) is amended to read:

10 (e) A dairy plant shall keep the original affidavit provided under (c) of this
 11 section on file for a period of not less than two years. The affidavit and corresponding
 12 records shall be made available for inspection by the commissioner **of agriculture**
 13 **and food.** If the milk product is to be labeled under (a) of this section, dairy plants
 14 supplying milk or cream to a processor or to a manufacturer of a milk product for use
 15 in the milk product shall supply the processor or manufacturer with a certificate stating
 16 that the producers of the supplied milk or cream have executed and delivered the
 17 affidavits as required by (c) of this section.

18 * **Sec. 44.** AS 17.20.013(f) is amended to read:

19 (f) All milk or cream from non-rBGH-treated cows used in the manufacturing
 20 or processing of milk products labeled under (a) of this section, and milk or cream
 21 supplied by a producer using an affidavit under (c) of this section, shall be kept
 22 completely separate from any other milk or cream throughout all stages of storage,
 23 transportation, and processing until the resulting milk products are in final packaged
 24 form in a properly labeled container. The dairy plant and the processor or
 25 manufacturer at each stage shall keep records of the separation and make them
 26 available to the commissioner **of agriculture and food** for inspection.

27 * **Sec. 45.** AS 17.20.030 is amended to read:

28 **Sec. 17.20.030. Tolerances for added poisonous ingredients.** A poisonous or
 29 deleterious substance added to food, except where the substance is required in the
 30 production of food or cannot be avoided by good manufacturing practice, is unsafe for
 31 purposes of the application of AS 17.20.020(a)(2). When the substance is required or

1 cannot be avoided, the department **responsible under AS 17.20.005 or 17.20.007 for**
 2 **the particular food item involved** shall adopt regulations limiting the quantity of it to
 3 the extent necessary for the protection of public health. A quantity exceeding the
 4 limits fixed is unsafe for purposes of the application of AS 17.20.020(a)(2). While a
 5 regulation limiting the quantity of a substance in the case of any food is in effect, the
 6 food is not, by reason of bearing or containing an added amount of the substance,
 7 adulterated within the meaning of AS 17.20.020(a)(1). In determining the quantity of
 8 the added substance to be tolerated in or on food, the department **responsible under**
 9 **AS 17.20.005 or 17.20.007 for the particular food item involved** shall consider the
 10 extent to which the use of the substance is required or cannot be avoided in the
 11 production of each article and the other ways in which the consumer may be affected
 12 by that or other poisonous or deleterious substances.

13 * **Sec. 46.** AS 17.20.040(a) is amended to read:

14 (a) Food is misbranded if

15 (1) its labeling is false or misleading in any particular;

16 (2) it is offered for sale under the name of another food;

17 (3) it is an imitation of another food, unless its label bears, in type of
 18 uniform size and prominence, the word "imitation" and, immediately **after that word**
 19 [THEREAFTER], the name of the food imitated;

20 (4) its container is made, formed, or filled so as to be misleading;

21 (5) it is in package form unless it bears a label containing (A) the name
 22 and place of business of the manufacturer, packer, or distributor; and (B) an accurate
 23 statement of the quantity of the contents in terms of weight, measure, or numerical
 24 count; however, under (B) of this paragraph, reasonable variations are permitted, and
 25 exemptions for small packages shall be established by regulations prescribed by the
 26 department **responsible under AS 17.20.005 or 17.20.007 for the particular food**
 27 **item involved;**

28 (6) a word, statement, or other information required by or under
 29 authority of this chapter to appear on the label or labeling is not prominently placed
 30 with the conspicuousness, [(] as compared with other words, statements, designs, or
 31 devices in the labeling, [)] and in terms that make it likely to be read and understood

1 by the ordinary individual under customary conditions of purchase and use;

2 (7) it purports to be or is represented as a food for which a definition
3 and standard of identity has been prescribed by regulations as provided by
4 AS 17.20.010, unless (A) it conforms to the definition and standard, and (B) its label
5 bears the name of the food specified in the definition and standard and the common
6 names of optional ingredients other than spices, flavoring, and coloring present in the
7 food as required by regulation;

8 (8) it purports to be or is represented as **a food for which a standard**
9 **of**

10 (A) [A FOOD FOR WHICH A STANDARD OF] quality has
11 been prescribed by regulations, and its quality falls below that standard, unless
12 its label bears, in the manner and form the regulations specify, a statement that
13 it falls below that standard; or

14 (B) [A FOOD FOR WHICH A STANDARD OF] fill of
15 container has been prescribed by regulation as provided by AS 17.20.010 and
16 it falls below the applicable standard of fill of container, unless its label bears,
17 in the manner and form as the regulations specify, a statement that it falls
18 below that standard;

19 (9) it is not subject to the provisions of (7) of this subsection, unless it
20 bears labeling clearly giving (A) the common or usual name of the food, if any, and
21 (B) in case it is fabricated from two or more ingredients, the common or usual name of
22 each ingredient; except that [, HOWEVER,] spices, flavorings, and colorings, other
23 than those sold as **spices, flavorings, and colorings** [SUCH], may be designated as
24 spices, flavorings, and colorings, without naming each; [HOWEVER,] to the extent
25 that compliance with the requirements of (B) of this paragraph is impracticable [,] or
26 results in deception or unfair competition, exemptions shall be established by
27 regulations adopted by the department **with the responsibility under AS 17.20.005**
28 **or 17.20.007 for the particular food item involved**, but the requirements of (B) of
29 this paragraph do not apply to food products that are packaged at the direction of
30 purchasers at retail at the time of sale, the ingredients of which are disclosed to the
31 purchasers by other means in accordance with regulations adopted by the department

1 **with the responsibility under AS 17.20.005 or 17.20.007 for the particular food**
 2 **item involved;**

3 (10) it purports to be or is represented for special dietary uses, unless
 4 its label bears information concerning its vitamin, mineral, and other dietary properties
 5 the commissioner **of the department with the responsibility under AS 17.20.005 or**
 6 **17.20.007 for the particular food item involved** determines to be, and by regulations
 7 prescribes as, necessary in order fully to inform purchasers as to its value for those
 8 uses;

9 (11) it bears or contains artificial flavoring, artificial coloring, or
 10 chemical preservative, unless it bears labeling stating that fact; [HOWEVER,] to the
 11 extent that compliance with the requirements of this paragraph is impracticable,
 12 exemption shall be established by regulations adopted by the department **with the**
 13 **responsibility under AS 17.20.005 or 17.20.007 for the particular food item**
 14 **involved;**

15 (12) the food is a farmed halibut, salmon, or sablefish product, unless
 16 (A) the product is labeled to identify the product as farmed fish
 17 raised outside the state, if the product is sold in a packaged form; or
 18 (B) the product is conspicuously identified as farmed fish
 19 raised outside the state, if the product is sold in an unpackaged form;

20 (13) the labeling, advertisement, or identification of the food is
 21 inconsistent with the labeling, advertisement, or identification provisions of
 22 AS 17.20.048 or 17.20.049;

23 (14) the food is a genetically modified fish or genetically modified fish
 24 product unless

25 (A) the food is conspicuously labeled to identify the fish or fish
 26 product as a genetically modified fish or fish product if the fish or fish product
 27 is sold in a packaged form; or

28 (B) the food is conspicuously identified as a genetically
 29 modified fish or fish product if the fish or fish product is sold in an unpackaged
 30 form.

31 * **Sec. 47.** AS 17.20.044(b) is amended to read:

(b) Meat, fish, and poultry that has been frozen must be labeled as a frozen food in accordance with regulations adopted by the commissioner **of the department with the responsibility under AS 17.20.005 or 17.20.007 for the food item.**

* **Sec. 48.** AS 17.20.044(c) is amended to read:

(c) The commissioner of the department with the responsibility under AS 17.20.005 or 17.20.007 for the food item shall adopt regulations that

(1) require frozen food labels for meat, fish, and poultry that has been frozen; and

(2) provide for the examination and inspection of meat, fish, and poultry to ascertain whether it has been frozen.

* **Sec. 49.** AS 17.20.049(b) is amended to read:

(b) In this section,

(1) "farmed fish" means fish that is propagated, farmed, or cultivated in a facility that grows, farms, or cultivates the fish in captivity or under positive control but that is not a salmon hatchery that is owned by the state or that holds a salmon hatchery permit under AS 16.10.400; in this paragraph, "positive control" has the meaning given in AS 16.40.199;

(2) "fish" means finfish;

(3) "prepared food product" means a food product that has been prepared by the retail food establishment selling the food product or by another person at the direction of the retail food establishment;

(4) "retail food establishment" has the meaning given in AS 17.20.370, but [MEANS A BUSINESS THAT SELLS PREPARED FOOD PRODUCTS TO THE GENERAL PUBLIC FOR CONSUMPTION ON OR OFF THE PREMISES, AND INCLUDES A BUSINESS THAT IS, OR CONTAINS ON ITS PREMISES, A RESTAURANT, A DELICATESSEN, A SALAD BAR, OR A BAKERY; "RETAIL FOOD ESTABLISHMENT"] does not include an establishment that is provided by

(A) an employer primarily for the employees of the employer;

(B) a school primarily for the students and employees of the

(C) a correctional facility primarily for persons held under official detention;

(5) "wild fish" means a fish that

(A) is harvested from a river, a lake, or an ocean;

(B) has not been raised in captivity under control for its entire

(C) is free from added colors and additives.

* **Sec. 50.** AS 17.20.050 is amended to read:

Sec. 17.20.050. Emergency permit control. When a [THE] department finds after investigation that the distribution in the state of a class of food that the department has responsibility for under AS 17.20.005 or 17.20.007 may, by reason of contamination with microorganisms during the manufacture, processing, or packing, be injurious to health, and that the injurious nature cannot be adequately determined after the articles have entered commerce, the department [IT], in that case only, shall adopt regulations providing for the issuance of permits to manufacturers, processors, or packers of that class of food, to which shall be attached the conditions governing the manufacture, processing, or packing of that class of food, for a temporary period of time as may be necessary to protect the public health. After the effective date of the regulations, and during the temporary period, no person may introduce or deliver for introduction into commerce the food so manufactured, processed, or packed by any manufacturer, processor, or packer unless the manufacturer, processor, or packer of it holds a permit issued by the commissioner of the department that has responsibility under AS 17.20.005 or 17.20.007 for the particular food item.

* **Sec. 51.** AS 17.20.060 is amended to read:

Sec. 17.20.060. Suspension and reinstatement of emergency permit. The commissioner of the department that has responsibility under AS 17.20.005 or 17.20.007 for the particular food item may suspend immediately upon notice a permit issued under AS 17.20.050 if it is found that the conditions of the permit have been violated. The holder of a suspended permit may apply for the reinstatement of the permit, and the commissioner of the department that has responsibility under

1 **AS 17.20.005 or 17.20.007 for the particular food item**, immediately after prompt
 2 hearing and an inspection of the establishment, shall reinstate the permit if it is found
 3 that adequate measures have been taken to comply with and maintain the conditions of
 4 the permit as originally issued or as amended.

5 * **Sec. 52.** AS 17.20.065 is amended by adding a new subsection to read:

6 (c) In this section, "department" means the Department of Environmental
 7 Conservation.

8 * **Sec. 53.** AS 17.20.066 is amended by adding a new subsection to read:

9 (f) In this section, "commissioner" means the commissioner of environmental
 10 conservation.

11 * **Sec. 54.** AS 17.20.067 is amended to read:

12 **Sec. 17.20.067. Seafood processing research.** The commissioner of
 13 environmental conservation may conduct studies, research, experiments, and
 14 demonstrations, directly or through grants to or contracts with public or private
 15 agencies, organizations, or individuals to

16 (1) improve sanitation practices in the processing of fish and fisheries
 17 products; and

18 (2) develop improved techniques for surveillance and inspection
 19 activities under this chapter.

20 * **Sec. 55.** AS 17.20.070 is amended to read:

21 **Sec. 17.20.070. Inspection by department.** An officer or employee
 22 designated by the commissioner of the department that has responsibility under
 23 AS 17.20.005 or 17.20.007 for the factory, aquatic farm, or establishment shall
 24 have access to a factory, aquatic farm, or establishment, the operator of which holds a
 25 permit from the commissioner of the department with responsibility under
 26 AS 17.20.005 or 17.20.007 for the factory, aquatic farm, or establishment, for the
 27 purpose of ascertaining whether the conditions of the permit are being complied with.
 28 Denial of access for inspection is ground for suspension of the permit until access is
 29 freely given.

30 * **Sec. 56.** AS 17.20.072 is amended to read:

31 **Sec. 17.20.072. Enforcement authority.** The department

1 [COMMISSIONER] is responsible for enforcing **AS 17.20.005 - 17.20.070**
 2 [AS 17.20.005 - 17.20.075], and may delegate that authority as appropriate. This
 3 section does not limit the authority of peace officers. **In this section, "department"**
 4 **means the department that has responsibility under AS 17.20.005 or 17.20.007**
 5 **for the particular area of regulation.**

6 * **Sec. 57.** AS 17.20.180 is amended to read:

7 **Sec. 17.20.180. Regulations.** The **Department of Agriculture and Food** the
 8 Department of Environmental Conservation, and the Department of Health and Social
 9 Services may adopt regulations for the efficient enforcement of their respective
 10 portions of this chapter. Each department may make the regulations conform, in so far
 11 as practicable, with those adopted under the federal act.

12 * **Sec. 58.** AS 17.20.200(a) is amended to read:

13 (a) The commissioner of environmental conservation or an agent shall have
 14 free access at reasonable hours to a factory, warehouse, or establishment in which **fish**
 15 **or fisheries products** [FOODS] or cosmetics are manufactured, processed, packed, or
 16 held for introduction into commerce, to enter a vehicle being used to transport or hold
 17 **fish or fisheries products** [THESE FOODS] or cosmetics in commerce, or to an
 18 aquatic farm in order to

19 (1) inspect a factory, warehouse, establishment, vehicle, or aquatic
 20 farm to determine if the provisions of the commissioner's respective portions of this
 21 chapter are being violated; and

22 (2) secure samples or specimens of a **fish or fisheries product**
 23 [FOOD], aquatic farm product, or cosmetic.

24 * **Sec. 59.** AS 17.20.200 is amended by adding a new subsection to read:

25 (d) The commissioner of agriculture and food or the commissioner's agent
 26 shall have free access at reasonable hours to a factory, warehouse, or establishment,
 27 except a retail food establishment, in which agricultural food is manufactured,
 28 processed, packed, or held for introduction into commerce, to enter a vehicle being
 29 used to transport or hold the foods in commerce in order to

30 (1) inspect a vehicle, factory, warehouse, or establishment, except a
 31 retail establishment, to determine if the provisions of the commissioner of agriculture

1 and food's respective portions of this chapter are being violated; and

2 (2) secure samples or specimens of an agricultural food.

3 * **Sec. 60.** AS 17.20.220(a) is amended to read:

4 (a) The commissioner of agriculture and food, the commissioner of
 5 environmental conservation, and the commissioner of health and social services may
 6 have published from time to time reports summarizing judgments, decrees, and court
 7 orders that [WHICH] have been rendered under their respective portions of this
 8 chapter, including the nature of the charge and the disposition of it.

9 * **Sec. 61.** AS 17.20.220(b) is amended to read:

10 (b) The commissioner of environmental conservation may disseminate
 11 [HAVE DISSEMINATED] information regarding fish or fisheries products, retail
 12 establishments, [FOOD] and cosmetics that [WHICH] the commissioner considers
 13 necessary in the interest of public health and the protection of the consumer against
 14 fraud. This section does not prohibit the commissioner from collecting, reporting, and
 15 illustrating the results of the commissioner's investigations.

16 * **Sec. 62.** AS 17.20.220 is amended by adding a new subsection to read:

17 (d) The commissioner of agriculture and food may disseminate information
 18 regarding agricultural food that the commissioner considers necessary in the interest of
 19 public health and the protection of the consumer against fraud. This section does not
 20 prohibit the commissioner from collecting, reporting, and illustrating the results of the
 21 commissioner's investigations.

22 * **Sec. 63.** AS 17.20.230(a) is amended to read:

23 (a) Whenever the commissioner of environmental conservation finds or has
 24 probable cause to believe that a fish or fisheries product [FOOD] or cosmetic is
 25 adulterated, or so misbranded as to be dangerous or fraudulent within the meaning of
 26 this chapter, the commissioner shall affix to it a tag or other appropriate marking,
 27 giving notice that it is or is suspected of being adulterated or misbranded and has been
 28 detained or embargoed, and warning all persons not to remove or dispose of it by sale
 29 or otherwise until permission for removal or disposal is given by the commissioner or
 30 the court. A person may not remove or dispose of a detained or embargoed article by
 31 sale or otherwise without this permission.

* **Sec. 64.** AS 17.20.230 is amended by adding a new subsection to read:

(c) Whenever the commissioner of agriculture and food finds or has probable cause to believe that an agricultural food is adulterated, or so misbranded as to be dangerous or fraudulent within the meaning of this chapter, the commissioner shall affix to it a tag or other appropriate marking, giving notice that it is or is suspected of being adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of it by sale or otherwise until permission for removal or disposal is given by the commissioner or the court. A person may not remove or dispose of a detained or embargoed article by sale or otherwise without this permission.

* **Sec. 65.** AS 17.20.240 is amended to read:

Sec. 17.20.240. Petition for libel for condemnation. When an article detained or embargoed under AS 17.20.230 has been found by the commissioner of agriculture and food, the commissioner of environmental conservation, or the commissioner of health and social services, as the case may be, to be adulterated or misbranded, the appropriate commissioner shall petition the superior court for a libel for condemnation of the article. When that commissioner finds that a detained or embargoed article is not adulterated or misbranded, the commissioner shall remove the tag or other marking.

* **Sec. 66.** AS 17.20.250 is amended to read:

Sec. 17.20.250. Destruction of adulterated or misbranded goods. If the superior court finds that a detained or embargoed article is adulterated or misbranded, it shall, after entry of the decree, be destroyed at the expense of the claimant, under the supervision of the commissioner of agriculture and food, the commissioner of environmental conservation, or the commissioner of health and social services, as the case may be. Court costs and fees and storage and other proper expenses shall be taxed against the claimant of the article.

* **Sec. 67.** AS 17.20.260 is amended to read:

Sec. 17.20.260. Exemption from destruction. When the adulteration or misbranding can be corrected by proper labeling or processing of the article, and after entry of the decree and after costs, fees, and expenses have been paid and a good and

1 sufficient bond, conditioned that the article will be properly labeled or processed has
 2 been executed, the court may order that the article be delivered to the claimant for
 3 labeling or processing under the supervision of the commissioner of agriculture and
 4 food, the commissioner of environmental conservation, or the commissioner of health
 5 and social services, as the case may be. The claimant shall pay the expense of
 6 supervision. The bond shall be returned to the claimant of the article on representation
 7 to the court by the appropriate commissioner that the article is no longer in violation of
 8 this chapter, and that the expenses of supervision have been paid.

9 * **Sec. 68.** AS 17.20.270 is amended to read:

10 **Sec. 17.20.270. Immediate destruction of contaminated food.** Meat,
 11 seafood, poultry, vegetable, fruit, or other perishable article in any room, building,
 12 vehicle of transportation, or other structure that [WHICH] is unsound, or contains
 13 filthy, decomposed, or putrid substance, or a substance that may be poisonous or
 14 deleterious to health or otherwise unsafe, is a nuisance. Whenever the commissioner
 15 of the department that is responsible under AS 17.20.005 or 17.20.007 for the
 16 article or structure [ENVIRONMENTAL CONSERVATION] finds [SUCH] an
 17 article that is a nuisance under this section, the commissioner shall immediately
 18 condemn or destroy it or in any other manner render it unsalable as human food.

19 * **Sec. 69.** AS 17.20.280 is amended to read:

20 **Sec. 17.20.280. Injunction proceedings.** The commissioner of agriculture
 21 and food, the commissioner of environmental conservation, and the commissioner of
 22 health and social services may apply to the superior court for, and the court has
 23 jurisdiction to grant, a temporary or permanent injunction restraining a person from
 24 violating their respective portions of this chapter.

25 * **Sec. 70.** AS 17.20.290(b) is amended to read:

26 (b) The commissioner of environmental conservation or a designee of the
 27 commissioner is responsible for enforcing the provisions of (a)(1) - (10) of this
 28 section, if the subject of the prohibited act involves fish or fisheries products, retail
 29 food establishments, [FOOD] or cosmetics, and the provisions of (a)(12) of this
 30 section. This subsection does not limit the authority of peace officers.

31 * **Sec. 71.** AS 17.20.290 is amended by adding a new subsection to read:

(d) The commissioner of agriculture and food or a designee of the commissioner is responsible for enforcing the provisions of (a)(1) - (10) of this section, if the subject of the prohibited act involves agricultural food and does not involve the inspection of retail food establishments. This subsection does not limit the authority of peace officers.

* **Sec. 72.** AS 17.20.315(c) is amended to read:

(c) In this section, "department" means the department with the responsibility for the subject of the violation under this chapter [DEPARTMENT OF ENVIRONMENTAL CONSERVATION].

* **Sec. 73.** AS 17.20.350 is amended to read:

Sec. 17.20.350. Report of minor violations. Nothing in this chapter requires [EITHER] the commissioner of agriculture and food, the commissioner of environmental conservation, or the commissioner of health and social services, as the case may be, to report minor violations of their respective portions of this chapter for prosecution, or for the institution of libel or injunction proceedings, when that commissioner believes that the public interest will be adequately served by a suitable written notice or warning.

* **Sec. 74.** AS 17.20.360 is amended to read:

Sec. 17.20.360. Attorney general to prosecute. The attorney general, to whom the commissioner of agriculture and food, the commissioner of environmental conservation, or the commissioner of health and social services, as the case may be, reports a violation of this chapter, shall institute appropriate proceedings in the superior court without delay and prosecute them in the manner required by law.

* **Sec. 75.** AS 17.20.370 is amended by adding new paragraphs to read:

(17) "agricultural food" means food, except for fish or fisheries products;

(18) "retail food establishment" means a business that sells prepared food products to the general public for consumption on or off the premises, and includes a business that is, or contains on its premises, a restaurant, a delicatessen, a salad bar, or a bakery.

* **Sec. 76.** AS 18.65.340(f) is amended to read:

1 (f) In this section,

2 (1) "department" means a department of state government listed in

3 **AS 44.17.005(2) - (16)** [AS 44.17.005(2) - (15)];

4 (2) "firearm" does not include a firearm that has been used in a

5 homicide;

6 (3) "surplus firearm" means a firearm or ammunition that is forfeited,

7 surplus, or recovered but unclaimed.

8 * **Sec. 77.** AS 37.05.146(c)(55) is amended to read:

9 (55) money received by the **Department of Agriculture and Food**
10 **and the** Department of Environmental Conservation from the inspection of food under
11 AS 17.20;

12 * **Sec. 78.** AS 38.07.030(a) is amended to read:

13 (a) An owner of agricultural land, or a lessee from the state of agricultural
14 land, in the general vicinity of the land to be cleared or drained under AS 38.07.010(a)
15 may apply to the commissioner to have the land cleared or drained or both along with
16 the state land. The applicant's land shall be included in the contract of land to be
17 cleared or drained if, in the discretion of the commissioner, the inclusion is feasible
18 and furthers the agricultural policies of the [DIVISION OF THE] Department of
19 **Agriculture and Food** [NATURAL RESOURCES WITH RESPONSIBILITY FOR
20 AGRICULTURE].

21 * **Sec. 79.** AS 44.17.005 is amended to read:

22 **Sec. 44.17.005. Offices and departments.** There are in the state government
23 the following principal offices and departments:

24 (1) Office of the Governor;

25 (2) Department of Administration;

26 (3) Department of Law;

27 (4) Department of Revenue;

28 (5) Department of Education and Early Development;

29 (6) Department of Health and Social Services;

30 (7) Department of Labor and Workforce Development;

31 (8) Department of Commerce, Community, and Economic

Development

- (9) Department of Military and Veterans' Affairs;
- (10) Department of Natural Resources;
- (11) Department of Fish and Game;
- (12) Department of Public Safety;
- (13) Department of Transportation and Public Facilities;
- (14) Department of Environmental Conservation;
- (15) Department of Corrections;

(16) Department of Agriculture and Food.

* **Sec. 80.** AS 44.37.020(a) is amended to read:

(a) The Department of Natural Resources shall administer the state program for the conservation and development of natural resources, including forests, parks, and recreational areas, land, water, [AGRICULTURE, SOIL CONSERVATION,] and minerals including petroleum and natural gas, but excluding commercial fisheries, sport fish, game, and fur-bearing animals in their natural state.

* **Sec. 81.** AS 44.46.020(a) is amended to read:

(a) The Department of Environmental Conservation shall

(1) have primary responsibility for coordination and development of policies, programs, and planning related to the environment of the state and of the various regions of the state;

(2) have primary responsibility for the adoption and enforcement of regulations setting standards for the prevention and abatement of all water, land, subsurface land, and air pollution, and other sources or potential sources of pollution of the environment, including by way of example only, petroleum and natural gas pipelines;

(3) promote and develop programs for the protection and control of the environment of the state;

(4) take actions that are necessary and proper to further the policy declared in AS 46.03.010;

(5) adopt regulations for

(A) the prevention and control of public health nuisances;

(B) the regulation of sanitation and sanitary practices in the interest of public health **under AS 03 and AS 17.20**;

(C) standards of cleanliness and sanitation under AS 03 and AS 17.20 in connection with the construction, operation, and maintenance of a camp, cannery, food handling establishment, food manufacturing plant, mattress manufacturing establishment, industrial plant, school, barbershop, hairdressing, manicuring, esthetics, tattooing and permanent cosmetic coloring, body piercing, or ear piercing establishment, soft drink establishment, beer and wine dispensaries, and for other similar establishments in which lack of sanitation may create a condition that causes disease;

(D) the regulation of quality and purity of commercially compressed air sold for human respiration.

* **Sec. 82.** AS 44.46.025(a) is amended to read:

(a) Except as otherwise provided in AS 37.10.050 - 37.10.056, the Department of Environmental Conservation may adopt regulations that prescribe reasonable fees, and establish procedures for the collection of those fees, to cover the applicable direct costs, not including travel except in the case of a designated regulatory service, as that term is defined in AS 37.10.058, of inspections, permit preparation and administration, plan review and approval, and other services provided by the department relating to

(1) **fish or fisheries** [ANIMALS AND ANIMAL] products **and retail food establishments** under AS 03.05; **fish or fisheries products, retail food establishments**, drugs, and cosmetics under AS 17.20; and public accommodations and facilities under AS 18.35;

(2) certificates of inspection for motor vehicles under AS 46.14.400 or 46.14.510;

(3) drinking water systems under AS 46.03.720;

(4) water and wastewater operator training under AS 46.30;

(5) waste management and disposal authorizations under

(6) certification of laboratories conducting environmental analyses of public drinking water systems or of oil or hazardous substances, or conducting other

1 analyses required by the department;

2 (7) certification of federal permits or authorizations under 33 U.S.C.

3 1341 (sec. 401, Clean Water Act);

4 (8) regulation of point source discharges of pollutants under the

5 program authorized by AS 46.03.020(12);

6 (9) regulation of pesticides and broadcast chemicals registered under

7 AS 46.03.320(a)(4), with a reasonable fee not to exceed \$120;

8 (10) licensing of pesticide applicators under AS 46.03.320(b), with a

9 reasonable fee not to exceed \$25.

10 * **Sec. 83.** AS 44 is amended by adding a new chapter to read:

11 **Chapter 48. Department of Agriculture and Food.**

12 **Sec. 44.48.010. Commissioner.** The principal executive officer of the

13 Department of Agriculture and Food is the commissioner of agriculture and food.

14 **Sec. 44.48.020. Duties of department.** (a) The department shall

15 (1) have primary responsibility for coordination and development of

16 policies, programs, and planning related to commercial agriculture in the state;

17 (2) promote and develop programs for the protection and promotion of

18 commercial agriculture in the state;

19 (3) obtain and distribute information on subjects connected with

20 commercial agriculture;

21 (4) control and regulate the entry and transportation of seeds, plants,

22 and other horticultural products into and within the state;

23 (5) control and eradicate the spread of pests injurious to plants, trees,

24 vegetables, fruit, livestock, and poultry;

25 (6) aid in developing used and unused agricultural resources; and

26 (7) experiment and determine practical methods of growing,

27 processing, soil analysis, eradication of obnoxious weeds, control of insects, and

28 cheaper and more satisfactory methods of land clearing.

29 (b) The department may adopt regulations to implement its powers and duties.

30 **Sec. 44.48.030. Fees for services.** (a) The department may adopt regulations

31 that establish reasonable fees, and establish procedures for the collection of those fees,

1 to cover the applicable direct costs, except for travel unless for a designated regulatory
 2 service, of inspections, permit preparation, permit administration, plan review, plan
 3 approval, and other services provided by the department relating to

4 (1) the department's responsibilities under AS 03;
 5 (2) the department's responsibilities under AS 17.20.

6 (b) The department may not charge a fee for a service that is provided by a
 7 municipality under a delegation of authority by the department to the municipality.

8 (c) Notwithstanding (a) of this section, the department may not charge a fee
 9 for an inspection, permit, or other service provided by the department under AS 03.05
 10 to a school.

11 (d) In this section,

12 (1) "direct cost" has the meaning given in AS 37.10.058;
 13 (2) "school" means a public school or private school for children of
 14 school age, or a head start center that receives federal financial assistance under 42
 15 U.S.C. 9835;

16 (3) "school age" has the meaning given in AS 14.03.070.

17 **Sec. 44.48.090. Definitions.** In this chapter, "department" means the
 18 Department of Agriculture and Food.

19 * **Sec. 84.** AS 44.62.330(a)(16) is amended to read:

20 (16) **Department of Agriculture and Food**, Department of Health and
 21 Social Services, and Department of Environmental Conservation under AS 17.20
 22 (Alaska Food, Drug, and Cosmetic Act), and Department of Commerce, Community,
 23 and Economic Development in connection with the licensing of embalmers and
 24 funeral directors under AS 08.42;

25 * **Sec. 85.** AS 44.62.330(a)(34) is amended to read:

26 (34) Department of **Agriculture and Food** [NATURAL
 27 RESOURCES] concerning the Alaska grain reserve program under former AS 03.12;

28 * **Sec. 86.** AS 03.47.040(2); AS 03.90.010; AS 17.20.075; and AS 44.37.030 are repealed.

29 * **Sec. 87.** The uncodified law of the State of Alaska is amended by adding a new section to
 30 read:

31 TRANSITION: REGULATIONS. The Department of Agriculture and Food, created

1 under sec. 83 of this Act, the Department of Environmental Conservation, and the Department
2 of Natural Resources may adopt, amend, and repeal regulations as necessary to implement
3 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
4 before July 1, 2014.

5 * **Sec. 88.** Section 87 of this Act takes effect immediately under AS 01.10.070(c).

6 * **Sec. 89.** Except as provided in sec. 88 of this Act, this Act takes effect July 1, 2014.