



LAWS OF ALASKA

1978

Source

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Chapter No.

151

AN ACT

Relating to fish and game management.

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

* Section 1. INTENT. The legislature finds that there is a need to develop a statewide policy on the utilization, development and conservation of fish and game resources, and to recognize that those resources are not inexhaustible and that preferences must be established among beneficial users of the resources. The legislature further determines that it is in the public interest to clearly establish subsistence use as a priority use of Alaska's fish and game resources and to recognize the needs, customs and traditions of Alaskan residents. The legislature further finds that beneficial use of those resources by all state residents should be carefully monitored and regulated, with as much input as possible from the affected users, so that the viability of fish and game resources is not threatened and so that resources are conserved in a manner consistent with the sustained-yield principle.

* Sec. 2. AS 16.05.090 is amended by adding a new subsection to read:

(c) There is established in the Department of Fish and Game a section of subsistence hunting and fishing.

* Sec. 3. AS 16.05 is amended by adding a new section to read:

Sec. 16.05.094. DUTIES OF SECTION OF SUBSISTENCE HUNTING AND FISHING. The section of subsistence hunting and fishing shall

(1) compile existing data and conduct studies to gather information, including data from subsistence users,

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on all aspects of the role of subsistence hunting and fishing in the lives of the residents of the state;

(2) quantify the amount, nutritional value, and extent of dependence on food acquired through subsistence hunting and fishing;

(3) make information gathered available to the public, appropriate agencies, and other organized bodies;

(4) assist the department, the Board of Fisheries, and the Board of Game in determining what uses of fish and game, as well as which users and what methods, should be termed subsistence uses, users, and methods;

(5) evaluate the impact of state and federal laws and regulations on subsistence hunting and fishing and, when corrective action is indicated, make recommendations to the department;

(6) make recommendations to the Board of Game and the Board of Fisheries regarding adoption, amendment and repeal of regulations affecting subsistence hunting and fishing;

(7) participate with other divisions in the preparation of statewide and regional management plans so that those plans reorganize and incorporate the needs of subsistence users of fish and game.

* Sec. 4. AS 16.05.251 is amended by adding a new subsection to read:

(b) The Board of Fisheries shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the taking of fish for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act, that adoption of such regulations will jeopardize or interfere with the maintenance of fish stocks on a sustained-yield basis. Whenever it is necessary to restrict the taking of fish to assure the maintenance of fish stocks on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

(1) customary and direct dependence upon the resource as the mainstay of one's livelihood;

(2) local residency; and

(3) availability of alternative resources.

* Sec. 5. AS 16.05.255 is amended by adding a new subsection to read:

(b) The Board of Game shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the taking of game for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act, that adoption of such regulations will

jeopardize or interfere with the maintenance of game resources on a sustained-yield basis. Whenever it is necessary to restrict the taking of game to assure the maintenance of game resources on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

- (1) customary and direct dependence upon the resource as the mainstay of one's livelihood;
- (2) local residency; and
- (3) availability of alternative resources.

* Sec. 6. AS 16.05.257(a) is amended to read:

(a) The Board of Game, at its regularly scheduled annual meeting and other meetings held under authority of sec. 300(a) of this chapter, shall consider and may adopt regulations providing for subsistence hunting in a game management unit or subunit or a portion of a unit or subunit upon

- (1) recommendation of the department, based on biological evidence;
- (2) the recommendation of the active local advisory committees for that game management unit or subunit or a portion of a unit or subunit;
- (3) the written petition of not less than 100 interested residents of that game management unit or subunit; or
- (4) the written petition of not less than 25 interested residents of an area which is requested for establishment as a subsistence area within a game management unit or subunit.

* Sec. 7. AS 16.05.257(c) is repealed and re-enacted to read:

(c) No regulations may be adopted by the Board of Game under (a), (b) or (f) of this section unless, in addition to the requirements of AS 44.62.180 - 44.62.290, the department

- (1) holds public hearings, after reasonable notice, at least 30 days before the meeting at which the regulation is to be adopted, with at least one of the hearings being held in close proximity to the area potentially affected;
- (2) presents at the hearings the information provided for in (e) of this section;
- (3) makes the information provided for in (e) of this section available to the appropriate advisory committees and to petitioners if consideration of adoption of regulations was prompted by petitions under (a)(3) or (4) of this section; comments shall be received by the board

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until 10 days before any adoption of regulations.

- * Sec. 8. AS 16.05.257(d) is amended to read:

(d) A petition submitted under (a)(3) - (4) of this section shall contain a complete description of the area requested as a subsistence area and a specification of the species within the area considered necessary for subsistence use. A petition or recommendation made under (a)(2), (3) or (4) of this section must be filed with the department at least 75 days before the meeting of the board at which the petition or recommendation is to be considered.

- * Sec. 9. AS 16.05.257(e) is repealed and re-enacted to read:

(e) The department shall investigate, by collecting existing data, and, when necessary, conducting new studies, every petition or recommendation made under (a)(2), (3) or (4) of this section to the extent practicable within the time available and provide the following information:

(1) the concentration of the species to be affected and carrying capacity of the area to be affected;

(2) the current hunting practices in the area, including numbers of animals taken and by what methods and means and whether the take is subsistence or recreational;

(3) the dependence of persons in the area for subsistence use of a species;

(4) the population trends of the affected fish and game in the area;

(5) whether the affected fish and game population is able to support a nonsubsistence harvest; and

(6) other information considered necessary by the section of subsistence hunting and fishing.

- * Sec. 10. AS 16.05.257(h)(1) is amended to read:

(1) "subsistence hunting" means the taking of game animals by a state resident for subsistence uses by means defined by the Board of Game;

- * Sec. 11. AS 16.05.257(h)(2) is repealed and re-enacted to read:

(2) "subsistence hunting area" means an area in which only subsistence hunting of the affected species is permitted and which is managed for maximum food potential.

- * Sec. 12. AS 16.05.257 is amended by adding a new subsection to read:

(i) The Board of Game may make no decision denying, creating or changing a subsistence hunting area unless based on specific written findings of fact regarding all the information provided in accordance with (e) of this section.

- * Sec. 13. AS 16.05.930 is amended by adding a new subsection to read:

(e) This chapter does not prevent the traditional barter of fish and game taken by subsistence hunting or fishing, except that the commissioner may prohibit the barter of subsistence-taken fish and game by regulation, emergency or otherwise, if a determination on the record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.

* Sec. 14. AS 16.05.940(17) is amended to read:

(17) "subsistence fishing" means the taking, fishing for, or possession of fish, shellfish, or other fisheries resources for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

* Sec. 15. AS 16.05.940 is amended by adding new paragraphs to read:

(26) "subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living with in the household on a permanent basis;

(27) "barter" means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts;
or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.