

HOUSE CS FOR CS FOR SENATE BILL NO. 262(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 5/2/96

Referred: Judiciary

Sponsor(s): SENATORS MILLER, Sharp, Pearce, Halford, Green, Frank, Taylor

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to management of game populations for maximum sustained
2 yield for human harvest and providing for the replacement of areas closed to
3 consumptive uses of game; relating to management of fish and game areas."

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

5 * **Section 1.** AS 16.05 is amended by adding a new section to read:

6 Sec. 16.05.005. MANAGEMENT OF GAME. (a) Notwithstanding any other
7 law to the contrary, game populations shall be managed solely on a biological basis.
8 In areas where human harvest has been found to be an important use of game, game
9 populations in those areas shall be managed for maximum sustained yield by human
10 harvest. Consumptive use of game is the highest and best use of game. This section
11 does not apply on land designated as a park or a state game sanctuary where
12 consumptive use of game is prohibited.

13 (b) If the department, the Board of Game, or other agency of the state, closes
14 an area to the taking of a game species for consumptive use for subsistence or sport

1 uses, or closes an area to the taking of a game species for consumptive use by a
2 method, manner, or means that was permitted in the area before the closure, the Board
3 of Game at its next regularly scheduled meeting after the closure shall open a new area
4 or areas where the consumptive uses that were prohibited can occur and where healthy
5 populations of the affected game species are present. The new area or areas opened
6 by the board shall be at least equal in size to the area that was closed. This subsection
7 does not apply to a temporary closure based upon a biological basis.

8 (c) A person may bring a civil action in a court of competent jurisdiction
9 against a state agency or a public official, other than a member of the Board of Game,
10 for an injunction to compel compliance with this section or to compel remedial action
11 to correct a violation of this section. A public official, other than a member of the
12 Board of Game, is not immune from suit under this section.

13 (d) In this section,

14 (1) "harvestable surplus" means the estimated number of animals that
15 is equal to the number of offspring born in a game population during a year less the
16 number of animals in the population that die during the year from all causes other than
17 predation or human harvest;

18 (2) "highest levels of human harvest" means the harvest of greater than
19 one-third or more of the harvestable surplus of a game population by humans;

20 (3) "maximum sustained yield" means the achievement and
21 maintenance in perpetuity of the highest levels of human harvest on an annual basis
22 of game, other than mammalian predators.

23 * **Sec. 2.** AS 16.05 is amended by adding a new section to read:

24 Sec. 16.05.145. PUBLIC TRUST FOR SPECIAL FISH AND GAME
25 MANAGEMENT AREAS. (a) The state has created a public trust by the use of
26 revenue generated from taxes, license fees, and other fees paid by sportsmen, by the
27 acceptance and use of funds received from federal aid in sport fish and wildlife
28 restoration programs, and by the establishment of state game refuges, range areas,
29 special management areas, critical habitat areas, and similar areas established by law.

30 (b) This public trust would be breached by

31 (1) restricting public access to state game refuges, range areas,

1 sanctuaries, special management areas, critical habitat areas, and similar areas
2 established by law, except when the restriction on access is necessary solely for the
3 purpose of protecting habitat from damage due to the method of access;

4 (2) restricting fishing, hunting, and trapping activities and opportunities
5 on state game refuges, range areas, special management areas, critical habitat areas,
6 and similar areas established by law in a manner that is inconsistent with maximum
7 sustained yield of fish and game except for controlled use areas; or

8 (3) utilization of the revenue generated from taxes, license fees, and
9 other fees paid by sportsmen or funds received from federal aid in sport fish and
10 wildlife restoration programs

11 (A) in an area where consumptive use of fish and game is not
12 permitted; or

13 (B) for management of nongame species.

14 (c) If the state breaches this public trust, the state shall either acquire an area
15 of land or designate an area of state land equal in size to the area of land on which the
16 public trust was breached in order to provide a location in the same geographic area
17 where unrestricted fishing, hunting, or trapping activities can occur.

18 (d) A person may bring a civil action in a court of competent jurisdiction
19 against a state agency or a public official, other than a member of the Board of Game,
20 for an injunction to compel compliance with this section or to compel remedial action
21 to correct a violation of this section. A public official, other than a member of the
22 Board of Game, is not immune from suit under this section.

23 (e) In this section,

24 (1) "harvestable surplus" means the estimated number of animals that
25 is equal to the number of offspring born in a game population during a year less the
26 number of animals in the population that die during the year from all causes other than
27 predation or human harvest;

28 (2) "highest levels of human harvest" means the harvest of greater than
29 one-third or more of the harvestable surplus of a fish stock or game population by
30 humans;

31 (3) "maximum sustained yield" means the achievement and

1 maintenance in perpetuity of the highest levels of human harvest on an annual basis
2 of game, other than mammalian predators, or of fish.

3 * **Sec. 3.** AS 16.20.020 is amended to read:

4 Sec. 16.20.020. PURPOSE. The purpose of AS 16.20.010 - 16.20.080 is to
5 **conserve, maintain, and develop habitat and game populations** [PROTECT AND
6 PRESERVE THE NATURAL HABITAT AND GAME POPULATION] in certain
7 designated areas of the state **and to guarantee access to and continued public**
8 **fishing, hunting, and trapping activities and opportunities in these areas,**
9 **consistent with maximum sustained yield.**

10 * **Sec. 4.** AS 16.20.075 is amended to read:

11 Sec. 16.20.075. REGULATIONS. The board shall, under AS 16.05, adopt
12 regulations

13 (1) governing the taking of game on state game refuges it considers
14 advisable for conservation and protection purposes;

15 (2) **guaranteeing access to and for continued consumptive uses.**

16 * **Sec. 5.** AS 16.20 is amended by adding a new section to article 4 to read:

17 Sec. 16.20.295. PURPOSE. In addition to the purposes stated in AS 16.20.300
18 - 16.20.360, state range areas are created to guarantee access to and continued public
19 fishing, hunting, and trapping activities and opportunities in these areas, consistent with
20 maximum sustained yield.

21 * **Sec. 6.** AS 16.20.500 is amended to read:

22 Sec. 16.20.500. PURPOSE. The purpose of AS 16.20.500 - 16.20.690 is to
23 protect and preserve habitat areas especially crucial to the perpetuation of fish and
24 wildlife, and to restrict all other uses not compatible with that primary purpose **and**
25 **to guarantee access to and continued public fishing, hunting, and trapping**
26 **activities and opportunities in critical habitat areas, consistent with maximum**
27 **sustained yield.**

28 * **Sec. 7.** AS 16.20.510 is amended to read:

29 Sec. 16.20.510. REGULATIONS. The Board of Fisheries and the Board of
30 Game, where appropriate, shall adopt regulations they consider advisable for

31 (1) conservation and protection purposes governing the taking of fish

1 and game in state fish and game critical habitat areas;

2 (2) guaranteeing access to and continued public fishing, hunting,
3 and trapping activities and opportunities in fish and game critical habitat areas,
4 consistent with maximum sustained yield.

5 * **Sec. 8.** AS 16.20 is amended by adding a new section to read:

6 ARTICLE 6. GENERAL PROVISIONS.

7 Sec. 16.20.990. DEFINITION. In this chapter, "maximum sustained yield" has
8 the meaning given in AS 16.05.145.