

HOUSE BILL NO. 254

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE AUSTERMAN

Introduced: 3/15/95

Referred: House Special Committee on Fisheries, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the management of fish and aquatic plants; establishing the
2 Board of Salmon and Freshwater Fisheries and the Board of Marine Fisheries;
3 and providing for an effective date."

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

5 * Section 1. PURPOSE. It is the purpose of this Act to divide the responsibilities and
6 authorities of the Alaska Board of Fisheries among two new boards. The Board of Salmon
7 and Freshwater Fisheries will be responsible for the management of salmon and anadromous
8 fish wherever they occur in the state and for the management of other fish and aquatic plants
9 that occur in the fresh water of the state. The Board of Marine Fisheries will be responsible
10 for the management of all other fish, including finfish and shellfish, and aquatic plants that
11 occur in the salt water of the state.

12 * Sec. 2. AS 16.05.050 is amended to read:

13 Sec. 16.05.050. POWERS AND DUTIES OF COMMISSIONER. The
14 commissioner has, but not by way of limitation, the following powers and duties:

1 (1) to assist the United States Fish and Wildlife Service in the
2 enforcement of federal laws and regulations pertaining to fish and game;

3 (2) through the appropriate state agency and under the provisions of
4 AS 36.30 (State Procurement Code), to acquire by gift, purchase, or lease, or other
5 lawful means, land, buildings, water, rights-of-way, or other necessary or proper real
6 or personal property when the acquisition is in the interest of furthering an objective
7 or purpose of the department and the state;

8 (3) under the provisions of AS 36.30, to design and construct
9 hatcheries, pipelines, rearing ponds, fishways, and other projects beneficial for the fish
10 and game resources of the state;

11 (4) to accept money from any person under conditions requiring the use
12 of the money for specific purposes in the furtherance of the protection, rehabilitation,
13 propagation, preservation, or investigation of the fish and game resources of the state
14 or in settlement of claims for damages to fish or game resources;

15 (5) to collect, classify, and disseminate statistics, data, and information
16 that, in the commissioner's discretion, will tend to promote the purposes of this title
17 except AS 16.51 and AS 16.52;

18 (6) to capture, propagate, transport, buy, sell, or exchange fish or game
19 or eggs for propagating, scientific, or stocking purposes;

20 (7) under the provisions of AS 36.30, to provide public facilities where
21 necessary or proper to facilitate the taking of fish or game, and to enter into
22 cooperative agreements with any person to effect them;

23 (8) to exercise administrative, budgeting, and fiscal powers;

24 (9) under the provisions of AS 36.30, to construct, operate, supervise,
25 and maintain vessels used by the department;

26 (10) to authorize the holder of an interim-use permit under AS 16.43
27 to engage on an experimental basis in commercial taking of a fishery resource with
28 vessel, gear, and techniques not presently qualifying for licensing under this chapter
29 in conformity with standards established by the Alaska Commercial Fisheries Entry
30 Commission;

31 (11) not later than January 31 of each year, to provide to the

1 commissioner of revenue the names of those fish and shellfish species that the
2 commissioner of fish and game designates as developing commercial fish species for
3 that calendar year; a fish or shellfish species is a developing commercial fish species
4 if, within a specified geographical region,

5 (A) the optimum yield from the harvest of the species has not
6 been reached;

7 (B) a substantial portion of the allowable harvest of the species
8 has been allocated to fishing vessels of a foreign nation; or

9 (C) a commercial harvest of the fish species has recently
10 developed;

11 (12) to initiate or conduct research necessary or advisable to carry out
12 the purposes of this title except AS 16.51 and AS 16.52;

13 (13) to enter into cooperative agreements with agencies of the federal
14 government, educational institutions, or other agencies or organizations, when in the
15 public interest, to carry out the purposes of this title except AS 16.51 and AS 16.52;

16 (14) to implement an on-board observer program authorized by the
17 Board of **Salmon and Freshwater Fisheries or the Board of Marine Fisheries** under
18 AS 16.05.251(a)(13); implementation

19 (A) must be as unintrusive to vessel operations as practicable;
20 and

21 (B) must make scheduling and scope of observers' activities as
22 predictable as practicable;

23 (15) to sell fish caught during commercial fisheries test fishing
24 operations;

25 (16) to establish and charge fees equal to the cost of services provided
26 by the department, including provision of public shooting ranges, broodstock and eggs
27 for private nonprofit hatcheries, department publications, and other direct services, and
28 reasonable fees for the use of state facilities managed by the department; fees
29 established under this paragraph for tours of hatchery facilities, commercial use of
30 sport fishing access sites, and for operation of state hatchery facilities by private
31 aquaculture associations are not subject to the cost limit under AS 37.10.050(a);

1 (17) to permit and regulate aquatic farming in the state in a manner that
2 ensures the protection of the state's fish and game resources and improves the
3 economy, health, and well-being of the citizens of the state;

4 (18) to operate state housing and facilities for employees, contractors,
5 and others in support of the department's responsibilities and to charge rent that is
6 consistent with applicable collective bargaining agreements, or, if no collective
7 bargaining agreement is applicable, competitive with market conditions; rent received
8 from tenants shall be deposited in the general fund;

9 (19) to petition the Alaska Commercial Fisheries Entry Commission,
10 unless the Board of **Salmon and Freshwater Fisheries or the Board of Marine**
11 Fisheries disapproves the petition under AS 16.05.251(g), to establish a moratorium
12 on new entrants into commercial fisheries

13 (A) that have experienced recent increases in fishing effort that
14 are beyond a low, sporadic level of effort;

15 (B) that have achieved a level of harvest that may be
16 approaching or exceeding the maximum sustainable level for the fishery; and

17 (C) for which there is insufficient biological and resource
18 management information necessary to promote the conservation and sustained
19 yield management of the fishery.

20 * **Sec. 3.** AS 16.05.055(b) is amended to read:

21 (b) The master of a vessel, as a condition of participating in a fishery for
22 which an on-board observer program is authorized by the Board of **Salmon and**
23 **Freshwater Fisheries or the Board of Marine** Fisheries under AS 16.05.251, shall
24 consent in writing to the placement of an observer aboard the vessel.

25 * **Sec. 4.** AS 16.05.060(b) is amended to read:

26 (b) The commissioner or an authorized designee may, under criteria adopted
27 by the Board of **Salmon and Freshwater Fisheries or the Board of Marine**
28 Fisheries, summarily increase or decrease sport fish bag limits or modify methods of
29 harvest for sport fish by means of emergency orders.

30 * **Sec. 5.** AS 16.05.094 is amended to read:

31 Sec. 16.05.094. DUTIES OF SECTION OF SUBSISTENCE HUNTING AND

1 FISHING. The section of subsistence hunting and fishing shall

2 (1) compile existing data and conduct studies to gather information,
3 including data from subsistence users, on all aspects of the role of subsistence hunting
4 and fishing in the lives of the residents of the state;

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

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

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

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

16 (6) make recommendations to the Board of Game, the Board of
17 Salmon and Freshwater Fisheries, and the Board of Marine Fisheries regarding
18 adoption, amendment, and repeal of regulations affecting subsistence hunting and
19 fishing;

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

23 * **Sec. 6.** AS 16.05.221(a) is amended to read:

24 (a) For purposes of the conservation, utilization, and development of the
25 salmon and freshwater fishery resources of the state, there is created the Board of
26 Salmon and Freshwater Fisheries composed of seven members appointed by the
27 governor, subject to confirmation by a majority of the members of the legislature in
28 joint session. The governor shall appoint each member on the basis of interest in
29 public affairs, good judgment, knowledge, and ability in the field of action of the
30 board, and with a view to providing diversity of interest and points of view in the
31 membership. The appointed members shall be residents of the state and shall be

1 appointed without regard to political affiliation or geographical location of residence.
2 The commissioner is not a member of the Board of **Salmon and Freshwater** Fisheries,
3 but shall be ex officio secretary.

4 * **Sec. 7.** AS 16.05.221(c) is amended to read:

5 (c) Members of the Board of **Salmon and Freshwater Fisheries, Board of**
6 **Marine** Fisheries, or Board of Game serve staggered terms of three years and until a
7 successor is appointed. An appointment to fill a vacancy in the membership of the
8 Board of **Salmon and Freshwater Fisheries, Board of Marine** Fisheries, or Board
9 of Game shall be made in the same manner as the original appointment and for the
10 balance of the unexpired term.

11 * **Sec. 8.** AS 16.05.221 is amended by adding new subsections to read:

12 (d) For purposes of the conservation, utilization, and development of the
13 groundfish, shellfish, and other marine fishery resources of the state, there is created
14 the Board of Marine Fisheries composed of seven members appointed by the governor,
15 subject to confirmation by a majority of the members of the legislature in joint session.
16 The governor shall appoint each member on the basis of interest in public affairs, good
17 judgment, knowledge, and ability in the field of action of the board, and with a view
18 to providing diversity of interest and points of view in the membership. The appointed
19 members shall be residents of the state and shall be appointed without regard to
20 political affiliation or geographical location of residence. The commissioner is not a
21 member of the Board of Marine Fisheries, but shall be ex officio secretary.

22 (e) The Board of Salmon and Freshwater Fisheries shall provide for the
23 utilization, development, and conservation of salmon and anadromous fish wherever
24 they occur in the state and of all fish, including shellfish, and aquatic plants present
25 in the fresh water of the state. The Board of Marine Fisheries shall provide for the
26 utilization, development, and conservation of all fish, including shellfish but not
27 including salmon and anadromous fish, and aquatic plants occurring in the salt water
28 of the state. The boards may, by jointly adopting regulations, refine the jurisdiction
29 of the boards as to the species of fish and aquatic plants and as to the areas of water
30 that are to be managed by each board. The boards may allocate jurisdiction over
31 species of fish present in estuaries, brackish water, and similar transition areas between

1 fresh water and salt water to a single board or may exercise concurrent jurisdiction in
2 those areas. However, the Board of Marine Fisheries may not exercise authority over
3 salmon or anadromous fish present in salt water or in estuarine areas, brackish water,
4 or similar transition areas, unless the Board of Salmon and Freshwater Fisheries has
5 specifically delegated the authority to the Board of Marine Fisheries by regulation.

6 * **Sec. 9.** AS 16.05.251(a) is amended to read:

7 (a) The Board of Salmon and Freshwater Fisheries or the Board of Marine
8 Fisheries may adopt regulations the board [IT] considers advisable in accordance with
9 AS 44.62 (Administrative Procedure Act) for

10 (1) setting apart fish reserve areas, refuges, and sanctuaries in the
11 waters of the state over which the board [IT] has jurisdiction, subject to the approval
12 of the legislature;

13 (2) establishing open and closed seasons and areas for the taking of
14 fish; if consistent with resource conservation and development goals, the board may
15 adopt regulations establishing restricted seasons and areas necessary for persons 60
16 years of age and older to participate in sport, personal use, or subsistence fishing;

17 (3) setting quotas, bag limits, harvest levels, and sex and size
18 limitations on the taking of fish;

19 (4) establishing the means and methods employed in the pursuit,
20 capture, and transport of fish;

21 (5) establishing marking and identification requirements for means used
22 in pursuit, capture, and transport of fish;

23 (6) classifying as commercial fish, sport fish, guided sport fish,
24 personal use fish, subsistence fish, or predators or other categories essential for
25 regulatory purposes;

26 (7) watershed and habitat improvement, and management, conservation,
27 protection, use, disposal, propagation, and stocking of fish;

28 (8) investigating and determining the extent and effect of disease,
29 predation, and competition among fish in the state, exercising control measures
30 considered necessary to the resources of the state;

31 (9) prohibiting and regulating the live capture, possession, transport, or

1 release of native or exotic fish or their eggs;

2 (10) establishing seasons, areas, quotas, and methods of harvest for
3 aquatic plants;

4 (11) establishing the times and dates during which the issuance of
5 fishing licenses, permits, and registrations and the transfer of permits and registrations
6 between registration areas is allowed; however, this paragraph does not apply to
7 permits issued or transferred under AS 16.43;

8 (12) regulating commercial, sport, guided sport, subsistence, and
9 personal use fishing as needed for the conservation, development, and utilization of
10 fisheries;

11 (13) requiring, in a fishery, observers on board fishing vessels, as
12 defined in AS 16.05.475(d), that are registered under the laws of the state, as defined
13 in AS 16.05.475(c), after making a written determination that an on-board observer
14 program

15 (A) is the only practical data-gathering or enforcement
16 mechanism for that fishery;

17 (B) will not unduly disrupt the fishery;

18 (C) can be conducted at a reasonable cost; and

19 (D) can be coordinated with observer programs of other
20 agencies, including the National Marine Fisheries Service, North Pacific
21 Fishery Management Council, and the International Pacific Halibut
22 Commission;

23 (14) establishing nonexclusive, exclusive, and superexclusive
24 registration and use areas for regulating commercial fishing;

25 (15) regulating resident or nonresident sport fishermen as needed for
26 the conservation, development, and utilization of fishery resources.

27 * **Sec. 10.** AS 16.05.251(c) is amended to read:

28 (c) If the Board of **Salmon and Freshwater Fisheries or the Board of**
29 **Marine** Fisheries denies a petition or proposal to amend, adopt, or repeal a regulation,
30 the board, upon receiving a written request from the sponsor of the petition or
31 proposal, shall in addition to the requirements of AS 44.62.230 provide a written

1 explanation for the denial to the sponsor not later than 30 days after the board has
2 officially met and denied the sponsor's petition or proposal, or 30 days after receiving
3 the request for an explanation, whichever is later.

4 * **Sec. 11.** AS 16.05.251(e) is amended to read:

5 (e) The Board of **Salmon and Freshwater Fisheries or the Board of Marine**
6 Fisheries may allocate fishery resources among personal use, sport, guided sport, and
7 commercial fisheries. **Each** [THE] board shall adopt criteria for the allocation of
8 fishery resources and shall use the criteria as appropriate to particular allocation
9 decisions. The criteria may include factors such as

10 (1) the history of each personal use, sport, guided sport, and
11 commercial fishery;

12 (2) the number of residents and nonresidents who have participated in
13 each fishery in the past and the number of residents and nonresidents who can
14 reasonably be expected to participate in the future;

15 (3) the importance of each fishery for providing residents the
16 opportunity to obtain fish for personal and family consumption;

17 (4) the availability of alternative fisheries resources;

18 (5) the importance of each fishery to the economy of the state;

19 (6) the importance of each fishery to the economy of the region and
20 local area in which the fishery is located;

21 (7) the importance of each fishery in providing recreational
22 opportunities for residents and nonresidents.

23 * **Sec. 12.** AS 16.05.251(f) is amended to read:

24 (f) Except as expressly provided in AS 16.40.120(e) and 16.40.130, the Board
25 of **Salmon and Freshwater Fisheries and the Board of Marine** Fisheries may not
26 adopt regulations or take action regarding the issuance, denial, or conditioning of a
27 permit under AS 16.40.100 or 16.40.120, the construction or operation of a farm or
28 hatchery required to have a permit under AS 16.40.100, or a harvest with a permit
29 issued under AS 16.40.120.

30 * **Sec. 13.** AS 16.05.251(g) is amended to read:

31 (g) The Board of **Salmon and Freshwater Fisheries or the Board of Marine**

1 Fisheries, as appropriate, shall consider a request of the commissioner for approval
2 of a petition to the Alaska Commercial Fisheries Entry Commission to establish a
3 moratorium on new entrants into a commercial fishery under AS 16.43.225 at the
4 board's next regular or special meeting that follows the receipt by the board of the
5 request for approval of the petition and that allows time for the notice required under
6 this subsection. The board may consider the request of the commissioner for approval
7 of the petition only after 15 days' public notice of the board's intention to consider
8 approval of the petition. The board shall consider whether the commissioner, in
9 support of the request for approval of the petition, has adequately shown that the
10 fishery meets requirements for a moratorium on new entrants under AS 16.05.050.
11 The board by a majority vote of its members at the meeting when the petition must
12 be considered shall approve or disapprove the petition.

13 * **Sec. 14.** AS 16.05.251(h) is amended to read:

14 (h) The Board of **Salmon and Freshwater Fisheries and the Board of**
15 **Marine** Fisheries shall **each** adopt by regulation a policy for the management of mixed
16 stock fisheries. The policy shall provide for the management of mixed stock fisheries
17 in a manner that is consistent with sustained yield of wild fish stocks.

18 * **Sec. 15.** AS 16.05.253 is amended to read:

19 Sec. 16.05.253. OPERATION OF STATIONARY FISHING GEAR. (a) The
20 Board of **Salmon and Freshwater Fisheries or the Board of Marine** Fisheries may
21 require a person who holds a limited entry permit or an interim-use permit under
22 AS 16.43 to be physically present at a beach or riparian fishing site during the
23 operation of net gear or other stationary fishing gear at the site, except when the
24 permit holder is at or traveling to or from the location of

- 25 (1) a sale of fish caught in the gear; or
26 (2) other stationary gear of the permit holder.

27 (b) In this section, "fishing site " means fishing site as defined by the Board
28 of **Salmon and Freshwater Fisheries or the Board of Marine** Fisheries and includes
29 any structure used for providing shelter in support of the operation of the net gear or
30 other stationary fishing gear.

1 * **Sec. 16.** AS 16.05.258(a) is amended to read:

2 (a) Except in nonsubsistence areas, the Board of **Salmon and Freshwater**
3 **Fisheries, the Board of Marine Fisheries,** and the Board of Game shall identify the
4 fish stocks and game populations, or portions of stocks or populations, that are
5 customarily and traditionally taken or used for subsistence. The commissioner shall
6 provide recommendations to the boards concerning the stock and population
7 identifications. The boards shall make identifications required under this subsection
8 after receipt of the commissioner's recommendations.

9 * **Sec. 17.** AS 16.05.258(c) is amended to read:

10 (c) The boards may not permit subsistence hunting or fishing in a
11 nonsubsistence area. The boards, acting jointly, shall identify by regulation the
12 boundaries of nonsubsistence areas. **The Board of Marine Fisheries may abstain**
13 **from participation in a joint meeting regarding a nonsubsistence area, if the**
14 **Board of Marine Fisheries determines that the nonsubsistence area lies outside of**
15 **the geographic jurisdiction of the Board of Marine Fisheries and does not affect**
16 **fishery resources subject to the jurisdiction of the Board of Marine Fisheries.** A
17 nonsubsistence area is an area or community where dependence upon subsistence is
18 not a principal characteristic of the economy, culture, and way of life of the area or
19 community. In determining whether dependence upon subsistence is a principal
20 characteristic of the economy, culture, and way of life of an area or community under
21 this subsection, the boards shall jointly consider the relative importance of subsistence
22 in the context of the totality of the following socio-economic characteristics of the area
23 or community:

- 24 (1) the social and economic structure;
- 25 (2) the stability of the economy;
- 26 (3) the extent and the kinds of employment for wages, including full-
27 time, part-time, temporary, and seasonal employment;
- 28 (4) the amount and distribution of cash income among those domiciled
29 in the area or community;
- 30 (5) the cost and availability of goods and services to those domiciled
31 in the area or community;

- 1 (6) the variety of fish and game species used by those domiciled in the
2 area or community;
- 3 (7) the seasonal cycle of economic activity;
- 4 (8) the percentage of those domiciled in the area or community
5 participating in hunting and fishing activities or using wild fish and game;
- 6 (9) the harvest levels of fish and game by those domiciled in the area
7 or community;
- 8 (10) the cultural, social, and economic values associated with the taking
9 and use of fish and game;
- 10 (11) the geographic locations where those domiciled in the area or
11 community hunt and fish;
- 12 (12) the extent of sharing and exchange of fish and game by those
13 domiciled in the area or community;
- 14 (13) additional similar factors the boards establish by regulation to be
15 relevant to their determinations under this subsection.

16 * **Sec. 18.** AS 16.05.260 is amended to read:

17 Sec. 16.05.260. **ADVISORY COMMITTEES.** The Board of **Salmon and**
18 **Freshwater Fisheries, the Board of Marine** Fisheries, and the Board of Game may
19 adopt regulations they consider advisable in accordance with AS 44.62 (Administrative
20 Procedure Act) establishing, at places in the state designated by the individual boards,
21 advisory committees to be composed of persons well informed on the fish or game
22 resources of the locality. The boards shall set the number and terms of each of the
23 members of the advisory committees, shall delegate one member of each committee
24 as chairman, and shall give the chairman authority to hold public hearings on fish or
25 game matters. Recommendations from the advisory committees shall be forwarded to
26 the appropriate board for their consideration but if the **board** [BOARD OF
27 FISHERIES OR THE BOARD OF GAME] chooses not to follow the
28 recommendations of the local advisory committee the appropriate board shall inform
29 the appropriate advisory committee of this action and state the reasons for not
30 following the recommendations. The commissioner shall delegate authority to advisory
31 committees for emergency closures during established seasons. The commissioner is

1 empowered to set aside and make null and void only opening of seasons set by the
2 advisory committees under this section. The appropriate board shall adopt the
3 necessary regulations governing these closures.

4 * **Sec. 19.** AS 16.05.300(b) is amended to read:

5 (b) In addition, the Board of **Salmon and Freshwater Fisheries and the**
6 **Board of Marine** Fisheries shall hold at least one meeting or hearing a year in each
7 of the following general areas:

8 (1) Upper Yukon - Kuskokwim - Arctic

9 (2) Western Alaska (including Kodiak)

10 (3) Southcentral

11 (4) Prince William Sound (including Yakutat).

12 * **Sec. 20.** AS 16.05.305 is amended to read:

13 Sec. 16.05.305. CLERICAL ASSISTANCE FOR BOARDS. The Board of
14 **Salmon and Freshwater Fisheries, the Board of Marine** Fisheries, and the Board
15 of Game are authorized to hire and set the compensation for one clerical assistant for
16 each board.

17 * **Sec. 21.** AS 16.05.315 is amended to read:

18 Sec. 16.05.315. JOINT BOARD MEETINGS. **Any two or more of the** [THE]
19 Board of **Salmon and Freshwater Fisheries, the Board of Marine** Fisheries, **or**
20 [AND] the Board of Game may hold a joint meeting upon the call of the commissioner
21 or a board to resolve any conflicts in regulations of the boards and to consider matters,
22 as determined by the commissioner or a board, that require the consideration of **two**
23 **or more of the** [BOTH] boards.

24 * **Sec. 22.** AS 16.05.320 is amended to read:

25 Sec. 16.05.320. QUORUM. A majority of the members of a board constitutes
26 a quorum for the transaction of business, for the performance of any duty, and for the
27 exercise of any power. However, a majority of the full board membership is required
28 to carry all motions, regulations, and resolutions. A majority of the members of the
29 boards **meeting in a joint meeting** [OF FISHERIES AND GAME] constitute a
30 quorum for the transaction of business in a joint board meeting. A majority of the
31 membership of the boards **meeting in a joint meeting** is required to carry all joint

1 motions, regulations, and resolutions of the boards.

2 * **Sec. 23.** AS 16.05.330(c) is amended to read:

3 (c) The Board of **Salmon and Freshwater Fisheries, the Board of Marine**
4 Fisheries, and the Board of Game may adopt regulations providing for the issuance and
5 expiration of subsistence permits for areas, villages, communities, groups, or
6 individuals as needed for authorizing, regulating, and monitoring the subsistence
7 harvest of fish and game. The boards shall adopt these regulations when the
8 subsistence preference requires a reduction in the harvest of a fish stock or game
9 population by nonsubsistence users.

10 * **Sec. 24.** AS 16.05.405(a) is amended to read:

11 (a) Subject to regulations adopted by the Board of **Salmon and Freshwater**
12 **Fisheries, the Board of Marine** Fisheries, or the Board of Game to implement this
13 section, including regulations relating to or restricting seasons, areas, methods and
14 means, and species, a resident may take fish or game harvested primarily for food on
15 behalf of another person under this section.

16 * **Sec. 25.** AS 16.05.405(d) is amended to read:

17 (d) A resident who takes fish or game on behalf of another person under this
18 section may, subject to applicable regulations of the Board of **Salmon and Freshwater**
19 **Fisheries, the Board of Marine** Fisheries, or the Board of Game, take the fish or
20 game only under those conditions that would apply to the other person if the other
21 person took the fish or game personally.

22 * **Sec. 26.** AS 16.05.475(b) is amended to read:

23 (b) The term "employ,"[,], as used in this section, shall be defined by the Board
24 of **Salmon and Freshwater Fisheries and the Board of Marine** Fisheries through the
25 adoption of regulations under AS 44.62 (Administrative Procedure Act). The
26 definition may include any activities involving the use or navigation of fishing vessels.

27 * **Sec. 27.** AS 16.05.475(c) is amended to read:

28 (c) The term "registered under the laws of the state,"[,], as used in this section,
29 shall be defined by the Board of **Salmon and Freshwater Fisheries and the Board**
30 **of Marine** Fisheries through the adoption of regulations under AS 44.62
31 (Administrative Procedure Act). The definition may include any existing requirements

1 regarding registration, licenses, permits, and similar matters imposed by law or
2 regulation together with modifications of them and with any additional requirements
3 the board finds necessary to maximize the authority of the state to apply and enforce
4 fisheries regulations under 16 U.S.C. 1801-1882 (Fishery Conservation and
5 Management Act of 1976, [(] P.L. 94-265, 90 Stat. 331).

6 * **Sec. 28.** AS 16.05.632(e)(1) is amended to read:

7 (1) "board" means the Board of **Marine** Fisheries;

8 * **Sec. 29.** AS 16.05.685(c)(2) is amended to read:

9 (2) "registration area" means a specific king crab registration area as
10 designated by regulation of the Board of **Marine** Fisheries.

11 * **Sec. 30.** AS 16.05.722(a) is amended to read:

12 (a) A person who without any culpable mental state violates AS 16.05.440 -
13 16.05.690, or a regulation of the Board of **Salmon and Freshwater Fisheries, the**
14 **Board of Marine** Fisheries, or the department governing commercial fishing, is guilty
15 of a violation and upon conviction is punishable by a fine of not more than

16 (1) \$3,000 for a first conviction; and

17 (2) \$6,000 for a second or subsequent conviction.

18 * **Sec. 31.** AS 16.05.722(b) is amended to read:

19 (b) In addition, the court shall order forfeiture of any fish, or its fair market
20 value, taken or retained as a result of the commission of the violation. For purposes
21 of this subsection, it is a rebuttable presumption that all fish found on board a fishing
22 vessel used in or in aid of a violation, or found at the fishing site, were taken or
23 retained in violation of AS 16.05.440 - 16.05.690 or a commercial fisheries regulation
24 of the Board of **Salmon and Freshwater Fisheries, the Board of Marine** Fisheries,
25 or the department. It is the defendant's burden to show by a preponderance of the
26 evidence that fish on board or at the site were lawfully taken and retained.

27 * **Sec. 32.** AS 16.05.723(a) is amended to read:

28 (a) A person who negligently violates AS 16.05.440 - 16.05.690, or a
29 regulation of the Board of **Salmon and Freshwater Fisheries, the Board of Marine**
30 Fisheries, or the department governing commercial fishing, is guilty of a misdemeanor
31 and in addition to punishment under other provisions in this title, including

1 AS 16.05.195 and 16.05.710, is punishable upon conviction by a fine of not more than
2 \$15,000 or by imprisonment for not more than one year, or by both. In addition, the
3 court shall order forfeiture of any fish, or its fair market value, taken or retained as a
4 result of the commission of the violation, and the court may forfeit any vessel and any
5 fishing gear, including any net, pot, tackle, or other device designed or employed to
6 take fish commercially, that was used in or in aid of the violation. Any fish, or its fair
7 market value, forfeited under this subsection may not also be forfeited under
8 AS 16.05.195. For purposes of this subsection, it is a rebuttable presumption that all
9 fish found on board a fishing vessel used in or in aid of a violation, or found at the
10 fishing site, were taken or retained in violation of AS 16.05.440 - 16.05.690 or a
11 commercial fisheries regulation of the Board of **Salmon and Freshwater Fisheries,**
12 **the Board of Marine Fisheries,** or the department, and it is the defendant's burden to
13 show by a preponderance of the evidence that fish on board or at the site were
14 lawfully taken and retained.

15 * **Sec. 33.** AS 16.05.730(d) is amended to read:

16 (d) In this section,

17 (1) **"board" means the Board of Salmon and Freshwater Fisheries;**

18 (2) "enhancement project" means a project, facility, or hatchery for the
19 enhancement of fishery resources of the state for which the department has issued a
20 permit.

21 * **Sec. 34.** AS 16.05.785 is amended to read:

22 Sec. 16.05.785. EFFECT OF FAILURE TO REMOVE OLD MARKERS. If
23 the Board of **Salmon and Freshwater Fisheries or the Board of Marine Fisheries**
24 by regulation uses department markers to establish waters closed to commercial fishing
25 and the state fails to remove the old markers when new markers are posted to establish
26 waters closed to commercial fishing, commercial fishing is expressly permitted in the
27 waters between the new markers and the old markers until the old markers are
28 removed.

29 * **Sec. 35.** AS 16.05.820 is amended to read:

30 Sec. 16.05.820. RESEARCH BY THE FEDERAL GOVERNMENT. The
31 Secretary of the Interior, the Secretary of Commerce, or the Secretary of Agriculture

1 of the United States and their authorized agents or other appropriate federal agencies
2 may conduct fish cultural operations and scientific investigations in the state in the
3 manner and at the times jointly considered necessary or proper by the Board of
4 **Salmon and Freshwater Fisheries or the Board of Marine** Fisheries and the
5 secretary and their authorized agents.

6 * **Sec. 36.** AS 16.05.940(3) is amended to read:

7 (3) "a board" means [EITHER] the Board of **Salmon and Freshwater**
8 **Fisheries, the Board of Marine** Fisheries, or the Board of Game;

9 * **Sec. 37.** AS 16.05.940(14) is amended to read:

10 (14) "fishery" means a specific administrative area in which a specific
11 fishery resource is taken with a specific type of gear; however, the Board of **Salmon**
12 **and Freshwater Fisheries or the Board of Marine** Fisheries may designate a fishery
13 to include more than one specific administrative area, type of gear, or fishery resource;
14 in this paragraph

15 (A) "gear" means the specific apparatus used in the harvest of
16 a fishery resource; and

17 (B) "type of gear" means an identifiable classification of gear
18 and may include

19 (i) classifications for which separate regulations are
20 adopted by the Board of **Salmon and Freshwater Fisheries or the**
21 **Board of Marine** Fisheries or for which separate gear licenses were
22 required by former AS 16.05.550 - 16.05.630; and

23 (ii) distinct subclassifications of gear such as "power"
24 troll gear and "hand" troll gear or sport gear and guided sport gear;

25 * **Sec. 38.** AS 16.05.940(24) is amended to read:

26 (24) "personal use fishing" means the taking, fishing for, or possession
27 of finfish, shellfish, or other fishery resources, by Alaska residents for personal use and
28 not for sale or barter, with gill or dip net, seine, fish wheel, long line, or other means
29 defined by the Board of **Salmon and Freshwater Fisheries or the Board of Marine**
30 Fisheries;

31 * **Sec. 39.** AS 16.05.940(29) is amended to read:

1 (29) "sport fishing" means the taking of or attempting to take for
2 personal use, and not for sale or barter, any **freshwater** [FRESH WATER], marine,
3 or anadromous fish by hook and line held in the hand, or by hook and line with the
4 line attached to a pole or rod which is held in the hand or closely attended, or by other
5 means defined by the Board of **Salmon and Freshwater Fisheries or the Board of**
6 **Marine** Fisheries;

7 * **Sec. 40.** AS 16.05.940(30) is amended to read:

8 (30) "subsistence fishing" means the taking of, fishing for, or
9 possession of fish, shellfish, or other fisheries resources by a resident domiciled in a
10 rural area of the state for subsistence uses with gill net, seine, fish wheel, long line,
11 or other means defined by the Board of **Salmon and Freshwater Fisheries or the**
12 **Board of Marine** Fisheries;

13 * **Sec. 41.** AS 16.10.125 is amended to read:

14 Sec. 16.10.125. USE OF TERMINATION DEVICE ON SHELLFISH AND
15 BOTTOM FISH POT REQUIRED. The Board of **Marine** Fisheries shall, by
16 regulation, prescribe a termination device or devices for all shellfish and bottom fish
17 pots. In this section "termination device" means a biodegradable seam or panel or
18 other device that renders the pot incapable of holding shellfish or bottom fish for more
19 than six months when it is continuously immersed in sea water.

20 * **Sec. 42.** AS 16.10.165(b) is amended to read:

21 (b) The Board of **Marine** Fisheries may adopt regulations under AS 44.62
22 (Administrative Procedure Act) it considers necessary for implementation of this
23 section. The board may delegate its authority under this section to the commissioner.

24 * **Sec. 43.** AS 16.10.173(b) is amended to read:

25 (b) The Board of **Marine** Fisheries may adopt regulations under AS 44.62
26 (Administrative Procedure Act) it considers necessary for implementation of this
27 section. The board may delegate its authority under this section to the commissioner.

28 * **Sec. 44.** AS 16.10.190 is amended to read:

29 Sec. 16.10.190. REGULATIONS. The Board of **Salmon and Freshwater**
30 **Fisheries or the Board of Marine** Fisheries may adopt regulations to carry out the
31 purposes of AS 16.10.180 - 16.10.230 defining the adjacent high sea areas, migratory

1 fish, and migratory shellfish and to make coastal fishery regulations governing the
2 manner, means, conditions, and time for the taking of migratory fish and migratory
3 shellfish applicable in designated adjacent high sea areas.

4 * **Sec. 45.** AS 16.10.200 is amended to read:

5 Sec. 16.10.200. UNLAWFUL TAKING PROHIBITED. A person taking
6 migratory fish and migratory shellfish in high sea areas designated by the Board of
7 **Salmon and Freshwater Fisheries or the Board of Marine** Fisheries or in violation
8 of the regulations adopted by the Board of **Salmon and Freshwater Fisheries or the**
9 **Board of Marine** Fisheries governing the taking of migratory fish and migratory
10 shellfish in the designated areas may not possess, sell, offer to sell, barter, offer to
11 barter, give, or transport in the state, including the waters of the state, migratory fish
12 or migratory shellfish.

13 * **Sec. 46.** AS 16.10.210 is amended to read:

14 Sec. 16.10.210. UNLAWFUL SALE OR OFFER PROHIBITED. A person
15 may not possess, purchase, offer to purchase, sell, or offer to sell in the state migratory
16 fish or migratory shellfish taken on the high seas knowing that they were taken in
17 violation of a regulation adopted by the Board of **Salmon and Freshwater Fisheries**
18 **or the Board of Marine** Fisheries governing the taking of migratory fish or migratory
19 shellfish in certain areas designated by the Board of **Salmon and Freshwater**
20 **Fisheries, the Board of Marine** Fisheries, or the commissioner.

21 * **Sec. 47.** AS 16.10.440(b) is amended to read:

22 (b) The Board of **Salmon and Freshwater** Fisheries may, after the issuance
23 of a permit by the commissioner, amend by regulation adopted in accordance with
24 AS 44.62 (Administrative Procedure Act), the terms of the permit relating to the source
25 and number of salmon eggs, the harvest of fish by hatchery operators, and the specific
26 locations designated by the department for harvest. The Board of **Salmon and**
27 **Freshwater** Fisheries may not adopt any regulations or take any action regarding the
28 issuance or denial of any permits required in AS 16.10.400 - 16.10.470.

29 * **Sec. 48.** AS 16.20.033(f) is amended to read:

30 (f) The department shall allow commercial, sport, and subsistence fishing and
31 hunting within the Yakataga State Game Refuge under regulations of the Board of

1 Salmon and Freshwater Fisheries, the Board of Marine Fisheries, and the Board
2 of Game. The department shall also permit associated support activities when
3 necessary and consistent with AS 16.20.010 - 16.20.080 to support fishing and hunting
4 permitted under this section, including fish buying operations, aircraft support
5 including landing strips, and off-road vehicle use.

6 * **Sec. 49.** AS 16.20.510 is amended to read:

7 Sec. 16.20.510. REGULATIONS. The Board of Salmon and Freshwater
8 Fisheries, the Board of Marine Fisheries, and the Board of Game, where appropriate,
9 shall adopt regulations they consider advisable for conservation and protection
10 purposes governing the taking of fish and game in state fish and game critical habitat
11 areas.

12 * **Sec. 50.** AS 16.40.120(d) is amended to read:

13 (d) The commissioner shall deny or restrict a permit under this section upon
14 finding that the proposed harvest will impair sustained yield of the species or will
15 unreasonably disrupt established uses of the resources by commercial, sport, personal
16 use, or subsistence users. The commissioner shall inform either the Board of Salmon
17 and Freshwater Fisheries or the Board of Marine Fisheries, as appropriate, of any
18 action taken on permit applications for species that support commercial fisheries
19 subject to limited entry under AS 16.43 and of any permits denied because of
20 unreasonable disruption of an established use. A denial of the permit by the
21 commissioner must contain the factual basis for the findings.

22 * **Sec. 51.** AS 16.40.120(e) is amended to read:

23 (e) The Board of Salmon and Freshwater Fisheries or the Board of Marine
24 Fisheries may adopt regulations for the conservation, maintenance, and management
25 of species for which an acquisition permit is required.

26 * **Sec. 52.** AS 16.40.130 is amended to read:

27 Sec. 16.40.130. IMPORTATION OF AQUATIC PLANTS OR SHELLFISH
28 FOR STOCK. A person may not import into the state an aquatic plant or shellfish for
29 the purpose of supplying stock to an aquatic farm or hatchery unless authorized by a
30 regulation of the Board of Salmon and Freshwater Fisheries or the Board of
31 Marine Fisheries.

1 * **Sec. 53.** AS 16.43.200(a) is amended to read:

2 (a) The commission shall establish administrative areas suitable for regulating
3 and controlling entry into the commercial fisheries. The commission shall make the
4 administrative areas reasonably compatible with the geographic areas for which
5 specific commercial fishing regulations are adopted by the Board of **Salmon and**
6 **Freshwater Fisheries or the Board of Marine** Fisheries.

7 * **Sec. 54.** AS 16.43.225(d) is amended to read:

8 (d) While a moratorium is in effect, the commission shall conduct
9 investigations to determine whether a maximum number of entry permits should be
10 established under AS 16.43.240 by

11 (1) conducting research into conditions in the fishery;

12 (2) consulting with the Department of Fish and Game and, **as**
13 **appropriate, either** the Board of **Salmon and Freshwater Fisheries or the Board**
14 **of Marine** Fisheries; and

15 (3) consulting with participants in the fishery.

16 * **Sec. 55.** AS 16.43.381(a) is amended to read:

17 (a) Use privileges granted under AS 16.43.340 - 16.43.390 are subject to the
18 regulations of the Board of **Salmon and Freshwater Fisheries or the Board of**
19 **Marine** Fisheries, which may adopt regulations exclusively applicable to the use of
20 educational entry permits.

21 * **Sec. 56.** AS 16.43.430 is amended to read:

22 Sec. 16.43.430. AUTHORIZED GEAR. For the purposes of harvesting
23 salmon, a special harvest area entry permit holder may employ any fishing gear
24 designated as legal gear in the applicable special harvest area by the Board of **Salmon**
25 **and Freshwater** Fisheries.

26 * **Sec. 57.** AS 16.43.440(a) is amended to read:

27 (a) Use privileges granted under AS 16.43.400 - 16.43.440 are subject to the
28 regulations of the Board of **Salmon and Freshwater** Fisheries.

29 * **Sec. 58.** AS 16.43.950 is amended to read:

30 Sec. 16.43.950. APPLICATIONS OF **FISHERIES** REGULATIONS [OF
31 BOARD OF FISHERIES]. Nothing in this chapter limits the powers of the Board of

1 Salmon and Freshwater Fisheries or the Board of Marine Fisheries, including the
2 power to determine legal types of gear and the power to establish size limitations or
3 other uniform restrictions applying to a certain type of gear. Holders of interim-use
4 permits or entry permits issued under this chapter are subject to all regulations adopted
5 by the Board of Salmon and Freshwater Fisheries or the Board of Marine
6 Fisheries.

7 * **Sec. 59.** AS 16.43.955 is amended to read:

8 Sec. 16.43.955. HEARINGS IN PROXIMITY TO BOARD OF SALMON
9 AND FRESHWATER FISHERIES AND BOARD OF MARINE FISHERIES
10 MEETINGS. When practicable, a commission hearing that deals with the subject of
11 limiting entry to a fishery shall be held on the same dates on which, and in the same
12 building or in a building adjacent to the building in which, a meeting of the Board of
13 Salmon and Freshwater Fisheries or the Board of Marine Fisheries, as
14 appropriate, [MEETING] is being held.

15 * **Sec. 60.** AS 16.43.990(8) is amended to read:

16 (8) "type of gear" means a customary and identifiable classification of
17 gear and shall include:

18 (A) those classifications for which separate regulations were
19 adopted by the Board of Salmon and Freshwater Fisheries or the Board of
20 Marine Fisheries and for which separate gear licenses were required by former
21 AS 16.05.550 - 16.05.630; and

22 (B) distinct subclassifications of gear such as "power" troll gear
23 and "hand" troll gear;

24 * **Sec. 61.** AS 16.43.990(9) is amended to read:

25 (9) "unit of gear" means the maximum amount of a specific type of
26 gear which can be fished under a single gear license subject to regulations established
27 by the Board of Salmon and Freshwater Fisheries or the Board of Marine Fisheries
28 defining the legal requirements for that type of gear.

29 * **Sec. 62.** AS 29.60.450(f)(6) is amended to read:

30 (6) "management area" means one of the geographical units designated
31 by the Board of Salmon and Freshwater Fisheries or the Board of Marine Fisheries

1 by regulation adopted under AS 16.05.251(a)(2) for the management of commercial
2 fisheries of the state;

3 * **Sec. 63.** AS 39.50.200(b)(40) is amended to read:

4 (40) Board of Salmon and Freshwater Fisheries (AS 16.05.221(a));

5 * **Sec. 64.** AS 39.50.200(b) is amended by adding a new paragraph to read:

6 (55) Board of Marine Fisheries (AS 16.05.221(d)).

7 * **Sec. 65.** AS 39.52.120(c) is amended to read:

8 (c) In addition to other provisions of this section, a public officer who is a
9 member of the Board of Salmon and Freshwater Fisheries, the Board of Marine
10 Fisheries, or the Board of Game may not act on a matter before the board if the public
11 officer has not disclosed in the manner set out in AS 39.52.220 all personal or
12 financial interests in a business or organization relating to fish or game resources.

13 * **Sec. 66.** AS 41.21.174(b) is amended to read:

14 (b) The Department of Fish and Game is responsible for the management of
15 fish and game resources in the Shuyak Island State Park, consistent with the sustained
16 yield principle and the purposes and provisions of this chapter. The Board of Salmon
17 and Freshwater Fisheries, the Board of Marine Fisheries, the Board of Game, and
18 the commissioner of fish and game are responsible for adopting regulations governing
19 uses of fish and game in accordance with AS 16. The fish and game habitat and
20 breeding areas shall be managed to ensure that the fish and game resources of the park
21 continue on a sustained yield basis.

22 * **Sec. 67.** AS 41.21.176(c) is amended to read:

23 (c) The regulations governing public use of the Shuyak Island State Park shall
24 provide ample access for legal sport and subsistence hunting and fishing, trapping, and
25 recreational uses. Except to protect public safety the commissioner may not restrict
26 the exercise of sport or subsistence fishing or hunting, or trapping permitted under law
27 or under a regulation of the Board of Salmon and Freshwater Fisheries, the Board
28 of Marine Fisheries, or the Board of Game within the Shuyak Island State Park.

29 * **Sec. 68.** AS 41.21.183(b) is amended to read:

30 (b) The Department of Fish and Game is responsible for the management of
31 fish and game resources in the Point Bridget State Park, consistent with the sustained-

1 yield principle and the purposes and provisions of this chapter. The Board of **Salmon**
2 **and Freshwater Fisheries, the Board of Marine** Fisheries, the Board of Game, and
3 the commissioner of fish and game are responsible for adopting regulations governing
4 uses of fish and game under AS 16. The fish and game habitat and breeding areas
5 shall be managed to ensure that the fish and game resources of the park continue on
6 a sustained-yield basis.

7 * **Sec. 69.** AS 41.21.187(b) is amended to read:

8 (b) The Department of Fish and Game is responsible for the management of
9 fish and game resources in the Afognak Island State Park, consistent with the sustained
10 yield principle and the purposes and provisions of this chapter. The Board of **Salmon**
11 **and Freshwater Fisheries, the Board of Marine** Fisheries, the Board of Game, and
12 the commissioner of fish and game are responsible for adopting regulations governing
13 uses of fish and game in accordance with AS 16. The fish and game habitat and
14 breeding areas shall be managed to ensure that the fish and game resources of the park
15 and habitat are maintained or enhanced.

16 * **Sec. 70.** AS 41.21.187(d) is amended to read:

17 (d) The Board of **Salmon and Freshwater Fisheries, the Board of Marine**
18 Fisheries, the Board of Game, and the commissioner of fish and game shall consult
19 with the Department of Natural Resources before adoption of regulations governing
20 fish and game use in the Afognak Island State Park.

21 * **Sec. 71.** AS 41.21.188(c) is amended to read:

22 (c) The regulations governing public use of the Afognak Island State Park
23 must provide reasonable access for lawful sport and subsistence hunting and fishing,
24 personal use fishing, trapping, recreational uses, and commercial fishing. Except to
25 protect public safety, the commissioner may not restrict the exercise of sport or
26 subsistence hunting or fishing, personal use fishing, trapping, or commercial fishing
27 permitted under law or under a regulation of the Board of **Salmon and Freshwater**
28 **Fisheries, the Board of Marine** Fisheries, or the Board of Game within the Afognak
29 Island State Park.

30 * **Sec. 72.** AS 41.21.302(d) is amended to read:

31 (d) The commissioner may not restrict the exercise of fishing, hunting, or

1 trapping rights permitted under law or under a regulation of the Board of **Salmon and**
2 **Freshwater Fisheries, the Board of Marine** Fisheries, or the Board of Game within
3 a marine park unit of the Alaska state park system.

4 * **Sec. 73.** AS 41.21.492(b) is amended to read:

5 (b) Nothing in AS 41.21.491 - 41.21.495 affects the responsibilities of

6 (1) the Department of Fish and Game, the Board of **Salmon and**
7 **Freshwater Fisheries, the Board of Marine** Fisheries, or the Board of Game under
8 AS 16 and AS 41.99.010;

9 (2) the Department of Environmental Conservation under AS 46.03; or

10 (3) state agencies and municipalities under AS 44.19.145(a)(11) and
11 AS 46.40.100.

12 * **Sec. 74.** AS 41.21.504(b) is amended to read:

13 (b) Nothing in AS 41.21.500 - 41.21.514 affects the applicability of

14 (1) AS 41.99.010 and AS 16 regarding the responsibilities of the
15 Department of Fish and Game, [OR] the Board of **Salmon and Freshwater Fisheries,**
16 **the Board of Marine** Fisheries, or the Board of Game;

17 (2) AS 46.03 regarding the responsibilities of the Department of
18 Environmental Conservation; or

19 (3) AS 44.19.145(a)(11) and AS 46.40.100 regarding the responsibilities
20 of state agencies and municipalities.

21 * **Sec. 75.** AS 41.21.616 is amended to read:

22 Sec. 41.21.616. REGULATIONS. The department shall consult with the
23 Department of Fish and Game, the United States Fish and Wildlife Service, a local
24 governing body of a municipality, any local fish and game advisory committees, and
25 the Alaska Chilkat Bald Eagle Preserve Advisory Council established by AS 41.21.625
26 before adoption of reasonable regulations governing public use and protection of the
27 Alaska Chilkat Bald Eagle Preserve. The Department of Fish and Game shall consult
28 with the department and the Alaska Chilkat Bald Eagle Preserve Advisory Council in
29 proposing regulations governing fish and game management in the Alaska Chilkat Bald
30 Eagle Preserve for adoption by the Board of **Salmon and Freshwater** Fisheries or the
31 Board of Game. The Department of Fish and Game and the department shall

1 cooperate with the United States Fish and Wildlife Service in its administration of
2 federal law governing the conservation of bald eagles.

3 * **Sec. 76.** AS 41.23.030(c) is amended to read:

4 (c) The commissioner may not restrict lawful sport and subsistence fishing,
5 hunting, or trapping rights allowed under a regulation of the Board of **Salmon and**
6 **Freshwater** Fisheries or the Board of Game within the Nelchina Public Use Area.

7 * **Sec. 77.** AS 41.23.110(b) is amended to read:

8 (b) The commissioner of fish and game, the Board of **Salmon and Freshwater**
9 Fisheries, and the Board of Game are responsible for the management of fish and
10 game resources and public use of fish and wildlife in the Hatcher Pass Public Use
11 Area consistent with the purposes of AS 41.23.100.

12 * **Sec. 78.** AS 41.23.110(d) is amended to read:

13 (d) The provisions of AS 41.23.100 - 41.23.130 do not restrict a responsibility
14 within the Hatcher Pass Public Use Area of the commissioner of fish and game, the
15 Board of **Salmon and Freshwater** Fisheries, the Board of Game, the commissioner
16 of environmental conservation, or the commissioner of public safety.

17 * **Sec. 79.** AS 41.23.120(c) is amended to read:

18 (c) The commissioner may not restrict lawful fishing, hunting, or trapping
19 rights allowed under a regulation of the Board of **Salmon and Freshwater** Fisheries
20 or the Board of Game within the Hatcher Pass Public Use Area.

21 * **Sec. 80.** AS 41.23.160(c) is amended to read:

22 (c) The commissioner may not restrict fishing, hunting, or trapping rights
23 allowed under a regulation of the Board of **Salmon and Freshwater** Fisheries or the
24 Board of Game within the Goldstream Public Use Area.

25 * **Sec. 81.** AS 41.23.420(d) is amended to read:

26 (d) The provisions of AS 41.23.400 - 41.23.510 do not affect the authority of
27 (1) the Department of Fish and Game, the Board of **Salmon and**
28 **Freshwater Fisheries, the Board of Marine** Fisheries, the Board of Game, or the Big
29 Game Commercial Services Board under AS 08.54, AS 16, or AS 41.99.010;
30 (2) the Department of Environmental Conservation under AS 46.03; or
31 (3) state agencies and municipalities under AS 44.19.145(a)(11) and

1 AS 46.40.100.

2 * **Sec. 82.** AS 41.99.010 is amended to read:

3 Sec. 41.99.010. FISH AND GAME MANAGEMENT AND ENFORCEMENT.
4 Nothing in this title denies the Department of Fish and Game, [OR] the Board of
5 Salmon and Freshwater Fisheries, the Board of Marine Fisheries, or [AND] the
6 Board of Game their management and enforcement responsibilities related to the fish
7 and game of this state.

8 * **Sec. 83.** AS 44.39.030 is amended to read:

9 Sec. 44.39.030. APPOINTMENT AND TERM OF OFFICE OF
10 COMMISSIONER. The governor shall appoint the commissioner of fish and game
11 from a list of qualified persons nominated by the Board of Salmon and Freshwater
12 Fisheries, the Board of Marine Fisheries, and the Board of Game meeting in joint
13 session, subject to the right of the governor to request additional nominations. The
14 appointment shall be confirmed by a majority of the members of the legislature in joint
15 session. The commissioner of fish and game serves for a term of five years.

16 * **Sec. 84.** AS 44.39.050 is amended to read:

17 Sec. 44.39.050. REMOVAL OF COMMISSIONER. The Board of Salmon
18 and Freshwater Fisheries, the Board of Marine Fisheries, or the Board of Game
19 may submit a resolution to the governor requesting the removal of the commissioner.
20 The resolution shall set out the grounds for the request and the governor shall give the
21 commissioner and both boards an opportunity to be heard. The final decision to
22 remove or retain the commissioner shall be made by the governor.

23 * **Sec. 85.** AS 44.62.330(a)(40) is amended to read:

24 (40) Board of Salmon and Freshwater Fisheries;

25 * **Sec. 86.** AS 44.62.330(a) is amended by adding a new paragraph to read:

26 (60) Board of Marine Fisheries.

27 * **Sec. 87.** AS 46.15.035(e)(1) is amended to read:

28 (1) "fish" means a species of anadromous or freshwater fish that may
29 be taken under regulations of the Board of Salmon and Freshwater Fisheries;

30 * **Sec. 88.** AS 46.15.037(e)(1) is amended to read:

31 (1) "fish" means a species of anadromous or freshwater fish that may

1 be taken under regulations of the Board of Salmon and Freshwater Fisheries;

2 * **Sec. 89.** Section 3, ch. 1, SSSLA 1992, is amended to read:

3 Sec. 3. AS 16.05.258 is repealed and reenacted to read:

4 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND
5 GAME. (a) The Board of Salmon and Freshwater Fisheries, the Board of Marine
6 Fisheries, and the Board of Game shall identify the fish stocks and game populations,
7 or portions of stocks and populations, that are customarily and traditionally used for
8 subsistence in each rural area identified by the boards.

9 (b) The boards shall determine

10 (1) what portion, if any, of the stocks and populations identified under
11 (a) of this section can be harvested consistent with sustained yield; and

12 (2) how much of the harvestable portion is needed to provide a
13 reasonable opportunity to satisfy the subsistence uses of those stocks and populations.

14 (c) The boards shall adopt subsistence fishing and subsistence hunting
15 regulations for each stock and population for which a harvestable portion is determined
16 to exist under (b)(1) of this section. If the harvestable portion is not sufficient to
17 accommodate all consumptive uses of the stock or population, but is sufficient to
18 accommodate subsistence uses of the stock or population, then nonwasteful subsistence
19 uses shall be accorded a preference over other consumptive uses, and the regulations
20 shall provide a reasonable opportunity to satisfy the subsistence uses. If the
21 harvestable portion is sufficient to accommodate the subsistence uses of the stock or
22 population, then the boards may provide for other consumptive uses of the remainder
23 of the harvestable portion. If it is necessary to restrict subsistence fishing or
24 subsistence hunting in order to assure sustained yield or continue subsistence uses, then
25 the preference shall be limited, and the boards shall distinguish among subsistence
26 users, by applying the following criteria:

27 (1) customary and direct dependence on the fish stock or game
28 population as the mainstay of livelihood;

29 (2) local residency; and

30 (3) availability of alternative resources.

31 (d) The boards may adopt regulations consistent with this section that authorize

1 taking for nonsubsistence uses a stock or population identified under (a) of this section.

2 (e) Fish stocks and game populations, including bison, or portions of fish
3 stocks and game populations, not identified under (a) of this section may be taken only
4 under nonsubsistence regulations.

5 (f) Takings authorized under this section are subject to reasonable regulation
6 of seasons, catch or bag limits, and methods and means. Takings and uses of
7 resources authorized under this section are subject to AS 16.05.831 and AS 16.30.

8 * **Sec. 90.** Section 8, ch. 1, SSSLA 1992, is amended to read:

9 Sec. 8. TRANSITION. After January 1, 1995, the Board of **Salmon and**
10 **Freshwater Fisheries, Board of Marine** Fisheries, Board of Game, and Department
11 of Fish and Game may adopt regulations to implement AS 16.05.258, as amended by
12 sec. 3 of this Act. Regulations adopted under this section may not take effect before
13 the effective date of sec. 3 of this Act.

14 * **Sec. 91.** TRANSITION; REGULATIONS. (a) Regulations of the Board of Fisheries
15 that are in effect on the effective date of this section and regulations of the Board of Fisheries
16 adopted before the effective date of this section, upon taking effect, must be implemented and
17 enforced until the regulation expires or is amended or repealed by the Board of Salmon and
18 Freshwater Fisheries or the Board of Marine Fisheries, or both, as appropriate under provisions
19 of this Act.

20 (b) Regulations jointly adopted by the Board of Fisheries and the Board of Game that
21 are in effect on the effective date of this section or that were adopted before the effective date
22 of this section, upon taking effect, must be implemented and enforced until the regulation
23 expires or is amended or repealed by the joint action of the Board of Game, the Board of
24 Salmon and Freshwater Fisheries, and the Board of Marine Fisheries, or as otherwise provided
25 under provisions of this Act.

26 * **Sec. 92.** TRANSITION; APPOINTMENTS. (a) The governor shall appoint, and submit
27 to the legislature for confirmation by the 10th legislative day of the Second Regular Session
28 of the Nineteenth Alaska State Legislature, seven persons qualified to serve on the Board of
29 Salmon and Freshwater Fisheries, established by sec. 6 of this Act. Notwithstanding
30 AS 16.05.221(c), as amended by sec. 7 of this Act, the governor shall appoint two persons to
31 serve on the board for an initial term of one year, two persons to serve on the board for an

1 initial term of two years, and three persons to serve on the board for a term of three years.

2 (b) The governor shall appoint, and submit to the legislature for confirmation by the
3 10th legislative day of the Second Regular Session of the Nineteenth Alaska State Legislature,
4 seven persons qualified to serve on the Board of Marine Fisheries, established by sec. 8 of this
5 Act. Notwithstanding AS 16.05.221(c), as amended by sec. 7 of this Act, the governor shall
6 appoint two persons to serve on the board for an initial term of one year, two persons to serve
7 on the board for an initial term of two years, and three persons to serve on the board for a
8 term of three years.

9 * **Sec. 93.** (a) This section of this Act does not take effect if sec. 94 of this Act is passed
10 by concurrence of two-thirds of the membership of each house of the Alaska State Legislature
11 as provided under art. II, sec. 18, Constitution of the State of Alaska.

12 (b) Notwithstanding secs. 1 - 91 of this Act, the persons serving as members of the
13 Board of Fisheries on the day before the effective date of sec. 1 of this Act, and their
14 successors, shall continue to serve on the board until July 1 following the confirmation by
15 the legislature of

16 (1) at least five of the seven persons appointed by the governor to serve on
17 the Board of Salmon and Freshwater Fisheries as established by sec. 6 of this Act; and

18 (2) at least five of the seven persons appointed by the governor to serve on
19 the Board of Marine Fisheries as established by sec. 8 of this Act.

20 (c) Notwithstanding secs. 1 - 91 of this Act, the Board of Fisheries shall operate under
21 the provisions of laws amended by secs. 1 - 91 of this Act as those provisions read on the day
22 before the effective date of sec. 1 of this Act until July 1 following the confirmation by the
23 legislature of

24 (1) at least five of the seven persons appointed by the governor to serve on
25 the Board of Salmon and Freshwater Fisheries as established by sec. 6 of this Act; and

26 (2) at least five of the seven persons appointed by the governor to serve on
27 the Board of Marine Fisheries as established by sec. 8 of this Act.

28 * **Sec. 94.** Sections 1 - 91 of this Act take effect on July 1 following the confirmation by
29 the legislature of

30 (1) at least five of the seven persons appointed by the governor to serve on
31 the Board of Salmon and Freshwater Fisheries as established by sec. 6 of this Act; and

1 (2) at least five of the seven persons appointed by the governor to serve on
2 the Board of Marine Fisheries as established by sec. 8 of this Act.