

CS FOR HOUSE BILL NO. 514(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 3/20/96

Referred: Resources, Finance

Sponsor(s): REPRESENTATIVES MULDER, Kelly

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to finfish farming."**

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

3 * **Section 1.** AS 16.40 is amended by adding new sections to read:

4 Sec. 16.40.220. FINFISH FARMING PERMIT. (a) The commissioner of fish
5 and game shall issue triennial finfish farming permits to qualified applicants.

6 (b) A finfish farming permit authorizes the permittee, subject to the conditions
7 of AS 03.05, AS 16.40.210 - 16.40.239, and regulations adopted under AS 16.40.210 -
8 16.40.239 to operate a finfish farm and to acquire, purchase, offer to purchase, transfer,
9 possess, sell, and offer to sell finfish stock and finfish farm products that are used or
10 reared at the finfish farm.

11 (c) The commissioner shall adopt regulations governing

12 (1) eligibility for a finfish farming permit and terms and conditions of
13 a finfish farming permit;

14 (2) siting of finfish farming facilities;

15 (3) sources of finfish stock or eggs for use in finfish farms; positive

1 control and captivity of finfish stocks; acquisition, importation, transportation, and
2 export of finfish stocks used in finfish farms; disposition of surplus finfish stocks at
3 a finfish farm;

4 (4) control, prevention, and eradication of disease at finfish farms and
5 destruction of diseased finfish;

6 (5) operation of finfish farms, including operation plans and record
7 keeping;

8 (6) standards for treatment of discharge water from finfish farms;

9 (7) ownership of finfish stocks;

10 (8) other matters necessary to implement AS 16.40.210 - 16.40.239 and
11 to protect wild stocks of fish and game in the state.

12 (d) Notwithstanding AS 16.05.080, the commissioner shall set the amount of
13 the fee for the finfish farming permit. The amount of the fee shall reflect the cost of
14 issuing the permit and operating the finfish farming program of the department.

15 (e) The Board of Fisheries may adopt regulations for the conservation,
16 maintenance, and management of finfish species that are acquired for use as finfish
17 farm stock.

18 (f) A person may not operate a finfish farm or acquire, purchase, offer to
19 purchase, transfer, possess, sell, and offer to sell finfish stock and finfish farm products
20 that are used or reared at a finfish farm, unless the person holds a finfish farming
21 permit issued under this section.

22 (g) A person may not engage in finfish farming of, or utilize as finfish farm
23 stock, pink salmon, chum salmon, sockeye salmon, coho salmon, chinook salmon,
24 Atlantic salmon, or other species of salmon.

25 Sec. 16.40.230. PENALTY. A person who violates a provision of
26 AS 16.40.210 - 16.40.239, a regulation adopted under AS 16.40.210 - 16.40.239, or
27 a term or condition of a permit issued under AS 16.40.210 - 16.40.239, is guilty of a
28 class B misdemeanor.

29 Sec. 16.40.239. DEFINITIONS. In AS 16.40.210 - 16.40.239,

30 (1) "finfish" means a fish, other than an invertebrate or amphibian, in
31 any stage of its life cycle;

1 (2) "finfish farm" means a facility that grows, farms, or cultivates
2 finfish farm products in captivity or under positive control;

3 (3) "finfish farm product" means a finfish, or part of a finfish, that is
4 propagated, farmed, or cultivated in a finfish farm and sold or offered for sale;

5 (4) "positive control" means enclosed within a natural or artificial
6 escape-proof barrier;

7 (5) "stock" means live finfish acquired, collected, possessed, or
8 intended for use by a finfish farm for the purpose of further growth or propagation.

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

10 (a) To carry out the requirements of this title, the commissioner of
11 environmental conservation may issue orders, regulations, permits, quarantines, and
12 embargoes relating to

13 (1) examination and inspection of premises containing products,
14 articles, and commodities carrying pests;

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

16 (3) establishment of standards and labeling requirements pertaining to
17 the sale of meat, fish, and poultry;

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) cooperation with federal and other state agencies;

21 (6) regulation of fur farming; for purposes of this paragraph, "fur
22 farming" means the raising of and caring for animals for the purpose of marketing
23 their fur, or animals themselves for breeding stock;

24 (7) examination and inspection of meat, fish, and poultry advertised for
25 sale or sold to the public;

26 (8) enforcement of quality assurance plans developed in cooperation
27 with appropriate industry representatives;

28 (9) establishment of standards and conditions for the operation and
29 siting of aquatic farms and related hatcheries **and of finfish farms**, including

30 (A) restrictions on the use of chemicals; [AND]

31 (B) requirements to protect the public from contaminated

1 aquatic farm products **and finfish farm products** that pose a risk to health;
2 **and**

3 **(C) requirements for the quality of water in which finfish**
4 **are held at a finfish farm;**

5 (10) monitoring aquatic farms and aquatic farm products to ensure
6 compliance with this chapter and with the requirements of the national shellfish
7 sanitation program manual of operations published by the Food and Drug
8 Administration;

9 **(11) monitoring finfish farms and finfish farm products to ensure**
10 **compliance with this chapter.**

11 * **Sec. 3.** AS 03.05.040(a) is amended to read:

12 (a) On any business day during the usual hours of business, the commissioner
13 or an authorized inspector may, for the purpose of inspecting agricultural, fisheries, or
14 aquatic farm products or aquatic farm **or finfish farm** sites subject to regulation, enter
15 a storehouse, warehouse, cold storage plant, packing house, slaughterhouse, retail store,
16 or other building or place where those products are kept, stored, processed, or sold.

17 * **Sec. 4.** AS 03.05.100 is amended to read:

18 Sec. 03.05.100. DEFINITIONS. In this chapter,

19 (1) "agricultural products" does not include fish or fisheries products;

20 (2) "aquatic farm" and "aquatic farm product" have the meanings given
21 in AS 16.40.199;

22 (3) **"finfish farm" and "finfish farm product" have the meanings**
23 **given in AS 16.40.239;**

24 (4) "fish or fisheries products" means any aquatic animal, including
25 **finfish farm products**, amphibians, or aquatic plants, or parts of [THOSE] plants,
26 animals, or amphibians that are usable as human food.

27 * **Sec. 5.** AS 16.05.050(17) is amended to read:

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

31 * **Sec. 6.** AS 16.05.251(f) is amended to read:

1 (f) Except as expressly provided in AS 16.40.120(e), [AND] 16.40.130, **and**
2 **16.40.220(e)**, the Board of Fisheries may not adopt regulations or take action regarding
3 the issuance, denial, or conditioning of a permit under AS 16.40.100, [OR] 16.40.120,
4 **or 16.40.220**, the construction or operation of **an aquatic** [A] farm or hatchery
5 required to have a permit under AS 16.40.100, **the construction or operation of a**
6 **finfish farm required to have a permit under AS 16.40.220**, or a harvest with a
7 permit issued under AS 16.40.120 **or 16.40.220**.

8 * **Sec. 7.** AS 16.05.930(g) is amended to read:

9 (g) AS 16.05.440 - 16.05.723 do not apply to an activity authorized by a
10 permit issued under AS 16.40.100, [OR] 16.40.120, **or 16.40.220**, or to a person or
11 vessel employed in an activity authorized by a permit issued under AS 16.40.100, [OR]
12 16.40.120, **or 16.40.220**.

13 * **Sec. 8.** AS 16.05.940(15) is amended to read:

14 (15) "[FISH OR] game farming" means the business of propagating,
15 breeding, raising, or producing [FISH OR] game in captivity for the purpose of
16 marketing the [FISH OR] game or their products; **in this paragraph**, [AND]
17 "captivity" means having the [FISH OR] game under positive control, as in a pen,
18 pond, or an area of land or water that is completely enclosed by a generally escape-
19 proof barrier; [IN THIS PARAGRAPH, "FISH" DOES NOT INCLUDE SHELLFISH,
20 AS DEFINED IN AS 16.40.199;]

21 * **Sec. 9.** AS 16.10.269 is amended to read:

22 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 and 16.10.267 do not apply
23 to the purchase or sale of

24 (1) aquatic farm products from a holder of a permit issued under
25 AS 16.40.100;

26 (2) [OR] stock from a holder of a permit issued under AS 16.40.120;
27 **or**

28 (3) **finfish farm products from a holder of a permit issued under**
29 **AS 16.40.220**.

30 * **Sec. 10.** AS 16.40.210(a) is repealed and reenacted to read:

31 (a) A person may grow or cultivate finfish under positive control for

1 commercial purposes under a permit issued by the commissioner under AS 16.40.220.

2 * **Sec. 11.** AS 16.40.210(b) is amended to read:

3 (b) **AS 16.40.210 - 16.40.239 do** [THIS SECTION DOES] not restrict

4 (1) the fishery rehabilitation, enhancement, or development activities
5 of the department;

6 (2) the ability of a nonprofit corporation that holds a salmon hatchery
7 permit under AS 16.10.400 to sell salmon returning from the natural water of the state,
8 as authorized under AS 16.10.450, or surplus salmon eggs, as authorized under
9 AS 16.10.420 and 16.10.450;

10 (3) rearing and sale of ornamental finfish for aquariums or ornamental
11 ponds provided that the fish are not reared in or released into water of the state.

12 * **Sec. 12.** AS 16.43.940 is amended to read:

13 Sec. 16.43.940. EXEMPTED ACTIVITIES. This chapter does not apply to
14 activities authorized by a permit issued under AS 16.40.100, [OR] 16.40.120, **or**
15 **16.40.220.**

16 * **Sec. 13.** AS 16.51.180(5) is amended to read:

17 (5) "seafood" means finfish, shellfish, and fish by-products, including
18 but not limited to salmon, halibut, herring, flounder, crab, clam, cod, shrimp, and
19 pollock, but does not include aquatic farm products as defined in AS 16.40.199 **or**
20 **finfish farm products as defined in AS 16.40.239;**

21 * **Sec. 14.** AS 17.20.370(7) is amended to read:

22 (7) "farmed salmon product" means a food product that contains salmon
23 that is propagated, farmed, or cultivated in an aquatic farm **or finfish farm;** in this
24 paragraph,

25 (A) "aquatic farm **or finfish farm**" means a facility that grows,
26 farms, or cultivates finfish in captivity or under positive control, but does not
27 include a salmon hatchery that is owned by the state or that holds a salmon
28 hatchery permit under AS 16.10.400;

29 (B) "positive control" has the meaning given in AS 16.40.199;

30 * **Sec. 15.** AS 38.05.083(a) is amended to read:

31 (a) The commissioner may offer to the public for lease a site that has been

1 developed **for finfish farming or** for aquatic farming or related hatchery operations
2 under a permit issued under AS 38.05.856. Before offering the site to the public, the
3 commissioner shall offer the site to the permittee.

4 * **Sec. 16.** AS 38.05.855(a) is amended to read:

5 (a) The commissioner shall identify districts in the state within which sites
6 may be selected for the establishment and operation of

7 **(1) aquatic farms and related hatcheries required to have a permit under**
8 **AS 16.40.100; or**

9 **(2) finfish farms required to have permits under AS 16.40.220.**

10 * **Sec. 17.** AS 38.05.856(a) is amended to read:

11 (a) The commissioner may issue a tideland or land use permit for the
12 establishment and operation of an aquatic farm and related hatchery operations **or of**
13 **a finfish farm.** A permit under this section is valid for three years after the date of
14 issuance. The permit may not be transferred.

15 * **Sec. 18.** AS 38.05.945(a) is amended to read:

16 (a) This section establishes the requirements for notice given by the department
17 for the following actions:

18 (1) classification or reclassification of state land under AS 38.05.300
19 and the closing of land to mineral leasing or entry under AS 38.05.185;

20 (2) zoning of land under applicable law;

21 (3) issuance of a

22 (A) preliminary written finding under AS 38.05.035(e)(5)(A)
23 regarding the sale, lease, or disposal of an interest in state land or resources for
24 oil and gas subject to AS 38.05.180(b);

25 (B) final written finding under AS 38.05.035(e)(5)(B) regarding
26 the sale, lease, or disposal of an interest in state land or resources for oil and
27 gas subject to AS 38.05.180(b);

28 (C) written finding for the sale, lease, or disposal of an interest
29 in state land or resources under AS 38.05.035(e)(6);

30 (4) a competitive disposal of an interest in state land or resources after
31 final decision under AS 38.05.035(e);

- 1 (5) a public hearing under AS 38.05.856(b);
2 (6) a preliminary finding under AS 38.05.035(e) and 38.05.855(c)
3 concerning sites for aquatic farms and related hatcheries **or for finfish farms**;
4 (7) a decision under AS 38.05.132 - 38.05.134 regarding the sale, lease,
5 or disposal of an interest in state land or resources.

6 * **Sec. 19.** AS 38.05.946(b) is amended to read:

- 7 (b) The commissioner shall hold a public hearing in each district identified
8 under AS 38.05.855 within 30 days after giving notice of a preliminary finding under
9 AS 38.05.035(e) and 38.05.855(c) concerning sites for aquatic farms and related
10 hatcheries **or for finfish farms**.