

HOUSE BILL NO. 19

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES AUSTERMAN, Ivan

Introduced: 1/13/97

Referred: House Special Committee on Fisheries, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to licensing of sport fishing services operators and fishing
2 guides; and providing for an effective date."

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

4 * **Section 1.** AS 16.05.330(a) is amended to read:

5 (a) Except as otherwise permitted in this chapter, without having the
6 appropriate license or tag in actual possession, a person may not engage in

7 (1) sport fishing, including the taking of razor clams;

8 (2) hunting, trapping, or fur dealing;

9 (3) the farming of fish, fur, or game; [OR]

10 (4) taxidermy; or

11 (5) providing fishing guide services to sport or personal use
12 fishermen.

13 * **Sec. 2.** AS 16.05.340(a) is amended by adding a new paragraph to read:

14 (25) Fishing services licenses

- 1 (A) Sport fishing services operator license
- 2 (i) Resident \$ 75
- 3 (ii) Nonresident 225
- 4 (B) Fishing guide license
- 5 (i) Resident 25
- 6 (ii) Nonresident 75
- 7 (C) Sport fishing services operator and fishing guide license
- 8 (i) Resident 75
- 9 (ii) Nonresident 225.

10 * **Sec. 3.** AS 16.05.815(d) is amended to read:

11 (d) Except as otherwise provided in this section, the department shall keep

12 confidential (1) personal information contained in fish and wildlife harvest and usage

13 data; [AND] (2) the records of the department that concern (A) telemetry radio

14 frequencies of monitored species; (B) denning sites; (C) nest locations of raptors that

15 require special attention; (D) the specific location of animal capture sites used for

16 wildlife research or management; and (E) the specific location of fish and wildlife

17 species; **and (3) information contained in reports received by the department**

18 **under AS 16.40.370 that identifies the sport fishing services operator or fishing**

19 **guide who provides the report or that identifies specific locations where fish have**

20 **been taken.** The department may release records and information that are kept

21 confidential under this subsection if the release is necessary to comply with a court

22 order, if the requestor is a state or federal agency, if the requestor is under contract

23 with the state or federal agency to conduct research on a fish or wildlife population,

24 or if the requestor has been authorized by the department to perform specific activities

25 and agrees to use the records and information only for purposes as provided under a

26 contract or agreement with the department. After 25 years, the records and

27 information that are kept confidential under this subsection become public records

28 subject to inspection and copying under AS 09.25.110 - 09.25.140 unless the

29 department determines that the release of the records or information may be

30 detrimental to the fish or wildlife population. In this subsection, "personal

31 information" has the meaning given in AS 44.99.350.

1 * **Sec. 4.** AS 16.40 is amended by adding new sections to read:

2 **Article 4. Sport and personal use fishing services.**

3 **Sec. 16.40.350. Sport fishing services operator license.** (a) The department

4 shall issue an annual sport fishing services operator license to a person who

5 (1) holds a current business license under AS 43.70 to provide services
6 to sport and personal use fishermen;

7 (2) presents proof satisfactory to the department of a general liability
8 insurance policy or marine protection and indemnity liability insurance policy, covering
9 the services provided by the person and the person's employees to sport and personal
10 use fishermen, that provides an annual minimum coverage of \$300,000; and

11 (3) pays the license fee prescribed by AS 16.05.340(a).

12 (b) A person may not provide sport fishing services unless the person holds
13 a current sport fishing services operator license and has a general liability insurance
14 policy or marine protection and indemnity liability insurance policy, covering the
15 services provided by the person and the person's employees to sport and personal use
16 fishermen, that provides an annual minimum coverage of \$300,000.

17 (c) A person who holds a sport fishing services operator license may contract
18 to provide fishing guide services to a sport or personal use fisherman through an
19 employee who holds a fishing guide license.

20 (d) A person who holds a sport fishing services operator license may not
21 directly provide fishing guide services to a sport or personal use fisherman unless the
22 person also holds a fishing guide license.

23 (e) A person who holds a sport fishing services operator license and who
24 intentionally or knowingly aids or abets in a violation of AS 16.40.350 - 16.40.390 or
25 a regulation adopted under AS 16.40.350 - 16.40.390 by a fishing guide who is
26 employed by the person is equally responsible for the violation.

27 **Sec. 16.40.360. Fishing guides.** (a) A natural person may obtain an annual
28 fishing guide license if the person

29 (1) is a citizen of the United States or a resident alien;

30 (2) is certified in first aid and cardiopulmonary resuscitation by the
31 American Red Cross, American Heart Association, or an equivalent organization;

1 (3) holds a license to carry passengers for hire issued by the United
2 States Coast Guard, if the person operates a vessel in the provision of fishing guide
3 services and the license is required by the United States Coast Guard for the area in
4 which the fishing guide provides fishing guide services;

5 (4) has during three of the preceding five years either

6 (A) held an annual Alaska sport fishing license;

7 (B) lawfully engaged in sport fishing in the state while exempt
8 from the sport fishing license requirement; or

9 (C) a combination of (A) and (B) of this paragraph;

10 (5) holds a current sport fishing license; and

11 (6) pays the fee prescribed by AS 16.05.340(a).

12 (b) A natural person may obtain an annual combined sport fishing services
13 operator and fishing guide license if the person satisfies the requirements for a sport
14 fishing services operator license under AS 16.40.350 and for a fishing guide license
15 under this section and pays the fee prescribed by AS 16.05.340(a).

16 (c) A person may not provide fishing guide services unless the person

17 (1) has first obtained a sport fishing guide license under this section;

18 and

19 (2) is an employee of a licensed sport fishing services operator or holds
20 a sport fishing services operator license.

21 (d) A fishing guide may provide fishing guide services only to persons who
22 have engaged the services of the sport fishing services operator by whom the fishing
23 guide is employed. A fishing guide may not contract directly with a person to provide
24 fishing guide services to that person unless the fishing guide also holds a sport fishing
25 services operator license.

26 (e) While engaged in providing fishing guide services, a fishing guide shall
27 physically possess

28 (1) a fishing guide license;

29 (2) the current licenses, tags, and permits that are required to engage
30 in the sport or personal use fishery for which the fishing guide services are being
31 provided;

1 (3) a driver's license or similar identification card that was issued by
2 a state or federal agency and that bears a photograph of the fishing guide;

3 (4) proof of employment as a fishing guide by a person licensed as a
4 sport fishing services operator or proof of licensure as a sport fishing services
5 operator;

6 (5) proof of current certification in first aid and cardiopulmonary
7 resuscitation; and

8 (6) proof of licensure by the United States Coast Guard to carry
9 passengers for hire if the fishing guide is operating a vessel in the provision of fishing
10 guide services and the license is required by the United States Coast Guard for the area
11 in which the fishing guide provides fishing guide services.

12 (f) A fishing guide may not aid the commission of a violation of AS 16.05 -
13 AS 16.40 or a regulation adopted under AS 16.05 - AS 16.40 by a sport or personal
14 use fisherman who is a client of the fishing guide.

15 **Sec. 16.40.370. Reports.** (a) The department shall collect in-season
16 information from sport fishing services operators on the number of king salmon,
17 sockeye salmon, coho salmon, chum salmon, and halibut taken by clients and fishing
18 guides during the provision of fishing guide services. The department may collect
19 information from sport fishing services operators on the number of pink salmon taken
20 by clients and fishing guides during the provision of fishing guide services and may
21 collect other information the department considers appropriate.

22 (b) A person who holds a license issued under AS 16.40.350 or 16.40.360
23 shall comply with reporting requirements adopted by regulation by the department.

24 (c) Except as provided under AS 16.05.815, information received by the
25 department under this section is public information.

26 (d) A person who is required to complete reports under this section may not
27 provide false, misleading, or substantially incomplete information.

28 (e) A person who is required to complete reports under this section may not
29 receive a new license under AS 16.40.350 or 16.40.360 unless all reports required
30 under this section for the preceding year have been received by the department.

31 **Sec. 16.40.380. Penalty.** (a) Except as provided in (b) of this section, a

1 person who intentionally or knowingly violates AS 16.40.350 - 16.40.390 or a
2 regulation adopted under AS 16.40.350 - 16.40.390 is guilty of a class A misdemeanor.

3 (b) A person who intentionally or knowingly violates AS 16.40.360(e) is

4 (1) guilty of a violation and upon conviction is punishable by a fine of
5 not more than \$500; or

6 (2) for a second or subsequent offense in a three-year period, guilty of
7 a class B misdemeanor.

8 (c) In addition to the penalties imposed upon a person who is guilty of a class
9 B misdemeanor under (b) of this section, a court may revoke the person's fishing
10 guide license.

11 **Sec. 16.40.390. Definitions.** In AS 16.40.350 - 16.40.390,

12 (1) "field" means an area that is

13 (A) outside of established developments usually associated with
14 a city or town; and

15 (B) not reasonably accessible by foot from the state highway
16 system;

17 (2) "fishing club" means an organization that offers use of real or
18 personal property or services to persons who pay a membership fee for the privilege
19 of using the real or personal property or services for sport or personal use fishing;

20 (3) "fishing guide" means a natural person who holds a fishing guide
21 license issued under AS 16.40.360;

22 (4) "fishing guide services" means to assist, for compensation or with
23 the intent to receive compensation, a sport or personal use fisherman in the field to
24 take or to attempt to take fish by accompanying or personally directing the fisherman
25 in sport or personal use fishing activities; "fishing guide services" do not include

26 (A) an activity for which a sport fishing services operator
27 license is required; or

28 (B) services provided by assistants, deckhands, and similar
29 persons who work directly under the supervision of and on the same vessel as
30 a fishing guide;

31 (5) "highway" has the meaning given in AS 19.45.001;

1 (6) "outfitting" means the provision of equipment or services to sport
2 or personal use fishermen in the field; "outfitting" does not include

3 (A) renting of vessels without a vessel operator; or

4 (B) the sale of fishing tackle, bait, or fuel;

5 (7) "sport fishing services" means the provision to sport or personal use
6 fishermen, for compensation or with the intent to receive compensation, of fishing
7 guide services through a person who is licensed as a fishing guide under AS 16.40.360,
8 of outfitting services, or of fishing club services; "sport fishing services" does not
9 include

10 (A) an activity for which a fishing guide license is required; or

11 (B) booking and other ancillary services provided by a tour

12 broker or agent to a fishing services operator.

13 * **Sec. 5.** This Act takes effect January 1, 1998.