

CS FOR HOUSE BILL NO. 19(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

Offered: 2/27/97

Referred: Resources, Finance

Sponsor(s): REPRESENTATIVES AUSTERMAN, Ivan

A BILL

FOR AN ACT ENTITLED

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

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

4 * **Section 1.** AS 16.05.251(a) is amended to read:

5 (a) The Board of Fisheries may adopt regulations it considers advisable in
6 accordance with AS 44.62 (Administrative Procedure Act) for

7 (1) setting apart fish reserve areas, refuges, and sanctuaries in the
8 waters of the state over which it has jurisdiction, subject to the approval of the
9 legislature;

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

14 (3) setting quotas, bag limits, harvest levels, and sex and size

1 limitations on the taking of fish;

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

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

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

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

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

14 (9) prohibiting and regulating the live capture, possession, transport, or
15 release of native or exotic fish or their eggs;

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

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

22 (12) regulating commercial, sport, guided sport, subsistence, and
23 personal use fishing as needed for the conservation, development, and utilization of
24 fisheries;

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

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

31 (B) will not unduly disrupt the fishery;

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

2 (D) can be coordinated with observer programs of other
3 agencies, including the National Marine Fisheries Service, North Pacific
4 Fishery Management Council, and the International Pacific Halibut
5 Commission;

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

8 (15) regulating resident or nonresident sport fishermen as needed for
9 the conservation, development, and utilization of fishery resources;

10 (16) requiring unlicensed fishing vessels present in or transiting the
11 waters of the state to report to the department the quantity, species, and origin of fish
12 on board; in this paragraph, "unlicensed fishing vessel" means a fishing vessel that is
13 not licensed under AS 16.05.490 - 16.05.530;

14 **(17) regulating the sport fishing services industry as needed for the**
15 **conservation, development, and utilization of fishery resources, the safety of**
16 **clients of the industry, or the protection of the integrity of the industry.**

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

- 18 (25) Fishing services licenses
 - 19 (A) Sport fishing services operator license
 - 20 (i) Resident \$ 75
 - 21 (ii) Nonresident 225
 - 22 (B) Fishing guide license
 - 23 (i) Resident 25
 - 24 (ii) Nonresident 75
 - 25 (C) Sport fishing services operator and fishing guide license
 - 26 (i) Resident 75
 - 27 (ii) Nonresident 225.

28 * **Sec. 3.** AS 16.40 is amended by adding new sections to read:

29 **Article 4. Sport and Personal Use Fishing Services.**

30 **Sec. 16.40.350. Sport fishing services operator license.** (a) The department
31 shall issue an annual sport fishing services operator license to a person who

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

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

7 (3) pays the license fee prescribed by AS 16.05.340(a); and

8 (4) satisfies additional requirements adopted by the Board of Fisheries
9 that the board finds necessary for the conservation, development, and utilization of the
10 fishery resources of the state, the safety of clients of the sport fishing services industry,
11 or the protection of the integrity of the sport fishing services industry.

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 may not aid
24 the commission of a violation of AS 16.05 - AS 16.40 or a regulation adopted under
25 AS 16.05 - AS 16.40 by a fishing guide who is employed by the person or by a sport
26 or personal use fisherman who is a client of the person.

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, Canada, or Mexico or a resident
30 alien;

31 (2) is certified in first aid by the American Red Cross or an equivalent

1 organization;

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

6 (4) holds a current sport fishing license;

7 (5) pays the fee prescribed by AS 16.05.340(a); and

8 (6) satisfies additional requirements adopted by the Board of Fisheries
9 that the board finds necessary for the conservation, development, and utilization of the
10 fishery resources of the state, the safety of clients of the sport fishing services industry,
11 or the protection of the integrity of the sport fishing services industry.

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 fishing guide license under this section; and

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

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

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

27 (1) a fishing guide license;

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

31 (3) a driver's license or similar identification card that was issued by

1 a state or federal agency and that bears a photograph of the fishing guide;

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

5 (5) proof of current certification in first aid; and

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

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

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

19 (b) The department shall collect information from sport fishing services
20 operators and other information that the Board of Fisheries requires by regulation.

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

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

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

29 (f) Information collected under this section is confidential to the extent
30 provided under AS 16.05.815.

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

1 a person who knowingly commits an act in violation of AS 16.40.350 - 16.40.390 or
 2 a regulation adopted under AS 16.40.350 - 16.40.390 is guilty of a class A
 3 misdemeanor.

4 (b) A person who commits an act in violation of AS 16.40.360(e) is guilty of
 5 a violation and upon conviction is punishable by a fine of not more than \$500.

6 (c) A person who knowingly commits an act in violation of AS 16.40.360(e)
 7 is

8 (1) guilty of a class B misdemeanor and upon conviction is punishable
 9 only by a fine of not more than \$500; or

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

12 (d) In addition to any other penalty provided by law, a court may revoke the
 13 fishing guide license of a person who is convicted under (c)(2) of this section.

14 (e) In this section, "knowingly" has the meaning given in AS 11.81.900.

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

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

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

21 (3) "fishing guide services" means to assist, for compensation or with
 22 the intent to receive compensation, a sport or personal use fisherman to take or to
 23 attempt to take fish by accompanying or personally directing the fisherman in sport or
 24 personal use fishing activities during any part of a trip; "fishing guide services" do not
 25 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 (4) "outfitting" means the provision of equipment or services, including

1 the renting of vessels without a vessel operator, to sport or personal use fishermen in
 2 the field; "outfitting" does not include the sale of fishing tackle, bait, or fuel; in this
 3 paragraph, "field" means an area that is

4 (A) outside of established developments usually associated with
 5 a city, town, or village; and

6 (B) not reasonably accessible by foot from the state highway
 7 system; in this subparagraph, "highway" has the meaning given in
 8 AS 19.45.001;

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

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

15 (B) booking and other ancillary services provided by a tour
 16 broker or agent to a fishing services operator.

17 * **Sec. 4.** AS 16.40.370(a) is repealed and reenacted to read:

18 (a) The department may collect in-season information from sport fishing
 19 services operators on the number of king salmon, sockeye salmon, coho salmon, chum
 20 salmon, pink salmon, and halibut taken by clients and fishing guides during the
 21 provision of fishing guide services.

22 * **Sec. 5.** TRANSITION. (a) Notwithstanding AS 16.40.350(b), added by sec. 3 of this
 23 Act, during the 60 days immediately following the effective date of sec. 3 of this Act, a
 24 person may provide sport fishing services without holding a current sport fishing services
 25 operator license and without obtaining the insurance required under AS 16.40.350(b).

26 (b) Notwithstanding AS 16.40.360(c), added by sec. 3 of this Act, during the 60 days
 27 immediately following the effective date of sec. 3 of this Act, a person may provide fishing
 28 guide services without first obtaining a fishing guide license under AS 16.40.360 and without
 29 being employed by a licensed sport fishing services operator or holding a sport fishing
 30 services operator license.

31 (c) In this section, "fishing guide services" and "sport fishing services" have the

1 meaning given in AS 16.40.390, added by sec. 3 of this Act.

2 * **Sec. 6.** TRANSITION: 1997 LICENSE FEES. Notwithstanding AS 16.05.340(a)(25),
3 added by sec. 2 of this Act, the fees for fishing services licenses for calendar year 1997 are

| | | |
|----|---|-------|
| 4 | (1) Sport fishing services operator license | |
| 5 | (A) Resident | \$ 40 |
| 6 | (B) Nonresident | 120 |
| 7 | (2) Fishing guide license | |
| 8 | (A) Resident | 15 |
| 9 | (B) Nonresident | 45 |
| 10 | (3) Sport fishing services operator and fishing guide license | |
| 11 | (A) Resident | 40 |
| 12 | (B) Nonresident | 120. |

13 * **Sec. 7.** Section 4 of this Act takes effect January 1, 2001.

14 * **Sec. 8.** Except for sec. 4 of this Act, this Act takes effect immediately under
15 AS 01.10.070(c).