

CS FOR HOUSE BILL NO. 19(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 4/7/97

Referred: 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.**

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

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

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

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

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

31 (1) holds a current business license under AS 43.70 to provide services

1 to sport and personal use fishermen;

2 (2) presents proof satisfactory to the department of financial
3 responsibility in the amount of at least \$100,000 in the form of assets, insurance, or
4 a bond;

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

6 (4) satisfies additional requirements adopted by the Board of Fisheries
7 that the board finds necessary for the conservation, development, and utilization of the
8 fishery resources of the state.

9 (b) A person may not provide sport fishing services unless the person holds
10 a current sport fishing services operator license and has proof of financial
11 responsibility in the amount of at least \$100,000 in the form of assets, insurance, or
12 a bond.

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

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

19 (e) A person who holds a sport fishing services operator license may not aid
20 the commission of a violation of AS 16.05 - AS 16.40 or a regulation adopted under
21 AS 16.05 - AS 16.40 by a fishing guide who is employed by the person or by a sport
22 or personal use fisherman who is a client of the person.

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

25 (1) is a citizen of the United States, Canada, or Mexico or a resident
26 alien;

27 (2) is certified in first aid by the American Red Cross or an equivalent
28 organization;

29 (3) holds a license to carry passengers for hire issued by the United
30 States Coast Guard, if the person operates a vessel in the provision of fishing guide
31 services and the license is required by the United States Coast Guard for the area in

1 which the fishing guide provides fishing guide services;

2 (4) holds a current sport fishing license;

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

4 (6) satisfies additional requirements adopted by the Board of Fisheries
5 that the board finds necessary for the conservation, development, and utilization of the
6 fishery resources of the state.

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

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

12 (1) has first obtained a fishing guide license under this section; and

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

15 (d) A fishing guide may provide fishing guide services only to persons who
16 have engaged the services of the sport fishing services operator by whom the fishing
17 guide is employed. A fishing guide may not contract directly with a person to provide
18 fishing guide services to that person unless the fishing guide also holds a sport fishing
19 services operator license.

20 (e) While engaged in providing fishing guide services, a fishing guide shall
21 physically possess

22 (1) a fishing guide license;

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

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

28 (4) proof of employment as a fishing guide by a person licensed as a
29 sport fishing services operator or proof of licensure as a sport fishing services
30 operator;

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

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

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

8 **Sec. 16.40.370. Reports.** (a) The department shall collect in-season
9 information from sport fishing services operators on the number of king salmon,
10 sockeye salmon, coho salmon, chum salmon, and halibut taken by clients and fishing
11 guides during the provision of fishing guide services. The department may collect
12 information from sport fishing services operators on the number of pink salmon taken
13 by clients and fishing guides during the provision of fishing guide services. The
14 department may collect other information the department considers appropriate.

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

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

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

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

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

27 **Sec. 16.40.380. Penalty.** (a) Except as provided in (b) and (c) of this section,
28 a person who knowingly commits an act in violation of AS 16.40.350 - 16.40.390 or
29 a regulation adopted under AS 16.40.350 - 16.40.390 is guilty of a class A
30 misdemeanor.

31 (b) A person who commits an act in violation of AS 16.40.360(e) is guilty of

1 a violation and upon conviction is punishable by a fine of not more than \$500.

2 (c) A person who knowingly commits an act in violation of AS 16.40.360(e)
3 is guilty of a class B misdemeanor. In addition to any other penalty provided by law,
4 a court may revoke the fishing guide license of a person who is convicted under this
5 subsection.

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

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

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

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

13 (3) "fishing guide services" means to assist, for compensation or with
14 the intent to receive compensation, a sport or personal use fisherman to take or to
15 attempt to take fish by accompanying or personally directing the fisherman in sport or
16 personal use fishing activities during any part of a trip; "fishing guide services" do not
17 include

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

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

23 (4) "outfitting" means the provision of equipment or services in the
24 field, for compensation or with the intent to receive compensation, to a sport or
25 personal use fisherman for use in sport or personal use fishing; "outfitting" does not
26 include (1) the renting of a vessel without an operator to a sport or personal use
27 fisherman if no fishing equipment, gear, bait, tackle, or other services are provided to
28 the sport or personal use fisherman by the person providing the rented vessel, or (2)
29 the sale of fishing equipment, gear, bait, tackle, or fuel to a sport or personal use
30 fisherman if no other services are provided to the sport or personal use fisherman by
31 the person selling the fishing equipment, gear, bait, tackle, or fuel; in this paragraph,

1 "field" means an area that is outside of established developments usually associated
2 with a city, town, or village;

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

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

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

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

12 (a) The department may collect in-season information from sport fishing
13 services operators on the number of king salmon, sockeye salmon, coho salmon, chum
14 salmon, pink salmon, and halibut taken by clients and fishing guides during the
15 provision of fishing guide services. The department may collect other information the
16 department considers appropriate.

17 * **Sec. 5.** TRANSITION. (a) Notwithstanding AS 16.40.350(b), added by sec. 3 of this
18 Act, during the 60 days immediately following the effective date of sec. 3 of this Act, a
19 person may provide sport fishing services without holding a current sport fishing services
20 operator license and without having the proof of financial responsibility required under
21 AS 16.40.350(b).

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

27 (c) In this section, "fishing guide services" and "sport fishing services" have the
28 meaning given in AS 16.40.390, added by sec. 3 of this Act.

29 * **Sec. 6.** Section 4 of this Act takes effect January 1, 2001.

30 * **Sec. 7.** Except for sec. 4 of this Act, this Act takes effect January 1, 1998.