

CS FOR HOUSE BILL NO. 19(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/18/97

Referred: Rules

Sponsor(s): REPRESENTATIVES AUSTERMAN, Ivan, James

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 **the sport fishing services industry and** commercial,
23 sport, guided sport, subsistence, and personal use fishing as needed for the
24 conservation, development, and utilization of 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 * **Sec. 2.** AS 16.05.340(a) is amended by adding a new paragraph to read:

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

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

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

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

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

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

31 (2) presents proof satisfactory to the department of financial

1 responsibility in the amount of at least \$100,000 in the form of assets, insurance, or
2 a bond; and

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

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

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

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

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

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

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

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

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

28 (4) holds a current sport fishing license; and

29 (5) pays the fee prescribed by AS 16.05.340(a).

30 (b) A natural person may obtain an annual combined sport fishing services
31 operator and fishing guide license if the person satisfies the requirements for a sport

1 fishing services operator license under AS 16.40.350 and for a fishing guide license
2 under this section and pays the fee prescribed by AS 16.05.340(a).

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

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

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

7 (d) A fishing guide may provide fishing guide services only to persons who
8 have engaged the services of the sport fishing services operator by whom the fishing
9 guide is employed. A fishing guide may not contract directly with a person to provide
10 fishing guide services to that person unless the fishing guide also holds a sport fishing
11 services operator license.

12 (e) While engaged in providing fishing guide services, a fishing guide shall
13 physically possess

14 (1) a fishing guide license;

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

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

20 (4) proof of employment as a fishing guide by a person licensed as a
21 sport fishing services operator or proof of licensure as a sport fishing services
22 operator;

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

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

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

31 **Sec. 16.40.370. Reports.** (a) The department shall collect in-season

1 information from sport fishing services operators on the number of king salmon,
2 sockeye salmon, coho salmon, chum salmon, and halibut taken by clients and fishing
3 guides during the provision of fishing guide services. The department may collect
4 information from sport fishing services operators on the number of pink salmon taken
5 by clients and fishing guides during the provision of fishing guide services. The
6 department may collect other information the department considers appropriate.

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

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

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

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

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

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

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

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

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

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

31 (1) "fishing club" means an organization that offers use of real or

1 personal property or services to persons who pay a membership fee for the privilege
2 of using the real or personal property or services for sport or personal use fishing;

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

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

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

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

15 (4) "outfitting" means the provision of equipment or services in the
16 field, for compensation or with the intent to receive compensation, to a sport or
17 personal use fisherman for use in sport or personal use fishing; "outfitting" does not
18 include (A) the renting of a vessel without an operator to a sport or personal use
19 fisherman if no fishing equipment, gear, bait, tackle, or other services are provided to
20 the sport or personal use fisherman by the person providing the rented vessel, or (B)
21 the sale of fishing equipment, gear, bait, tackle, or fuel to a sport or personal use
22 fisherman if no other services are provided to the sport or personal use fisherman by
23 the person selling the fishing equipment, gear, bait, tackle, or fuel; in this paragraph,
24 "field" means an area that is outside of established developments usually associated
25 with a city, town, or village;

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

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

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

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

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

9 * **Sec. 5.** Section 4 of this Act takes effect January 1, 2001.

10 * **Sec. 6.** Except for sec. 4 of this Act, this Act takes effect January 1, 1998.