

HOUSE BILL NO. 255

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES BARNES, Cowdery, Mulder, Austerman, Green, James, Hodgins, Ryan, Kohring

Introduced: 4/18/97

Referred: Resources, House Special Committee on World Trade and State/Federal Relations

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to subsistence hunting and fishing; and providing for an effective
2 date."

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

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

5 (e) The Board of Fisheries may allocate fishery resources among subsistence,
6 personal use, sport, guided sport, and commercial fisheries. The board shall adopt
7 criteria for the allocation of fishery resources and shall use the criteria as appropriate
8 to particular allocation decisions. The criteria for the allocation to and among
9 subsistence uses must be consistent with AS 16.05.258. The criteria for the
10 allocation among personal use, sport, guided sport, and commercial fishing may
11 include factors such as

12 (1) the history of each personal use, sport, guided sport, and
13 commercial fishery;

14 (2) the number of residents and nonresidents who have participated in

1 each fishery in the past and the number of residents and nonresidents who can
2 reasonably be expected to participate in the future;

3 (3) the importance of each fishery for providing residents the
4 opportunity to obtain fish for personal and family consumption;

5 (4) the availability of alternative fisheries resources;

6 (5) the importance of each fishery to the economy of the state;

7 (6) the importance of each fishery to the economy of the region and
8 local area in which the fishery is located;

9 (7) the importance of each fishery in providing recreational
10 opportunities for residents and nonresidents.

11 * **Sec. 2.** AS 16.05.251 is amended by adding a new subsection to read:

12 (i) The Board of Fisheries shall establish by regulation criteria for determining
13 the individuals who may take a fishery resource

14 (1) for subsistence uses; and

15 (2) in a fishery for subsistence uses in the event of restrictions on
16 subsistence uses of the fishery resource.

17 * **Sec. 3.** AS 16.05.255(a) is amended to read:

18 (a) The Board of Game may adopt regulations it considers advisable in
19 accordance with AS 44.62 (Administrative Procedure Act) for

20 (1) setting apart game reserve areas, refuges, and sanctuaries in the
21 water or on the land of the state over which it has jurisdiction, subject to the approval
22 of the legislature;

23 (2) establishing open and closed seasons and areas for the taking of
24 game;

25 (3) establishing the means and methods employed in the pursuit,
26 capture, taking, and transport of game, including regulations, consistent with resource
27 conservation and development goals, establishing means and methods that may be
28 employed by persons with physical disabilities;

29 (4) setting quotas, bag limits, harvest levels, and sex, age, and size
30 limitations on the taking of game;

31 (5) classifying game as game birds, song birds, big game animals, fur

1 bearing animals, predators, or other categories;

2 (6) methods, means, and harvest levels necessary to control predation
3 and competition among game in the state;

4 (7) watershed and habitat improvement, and management, conservation,
5 protection, use, disposal, propagation, and stocking of game;

6 (8) prohibiting the live capture, possession, transport, or release of
7 native or exotic game or their eggs;

8 (9) establishing the times and dates during which the issuance of game
9 licenses, permits, and registrations and the transfer of permits and registrations between
10 registration areas and game management units or subunits is allowed;

11 (10) regulating sport hunting and subsistence hunting, **consistent with**
12 **AS 16.05.258**, as needed for the conservation, development, and utilization of game;

13 (11) taking game to ensure public safety;

14 **(12) establishing criteria for determining which individuals may**
15 **take game for subsistence uses and the individuals who may take game from a**
16 **game population in the event of restrictions on subsistence uses of the game**
17 **population.**

18 * **Sec. 4.** AS 16.05.258(a) is repealed and reenacted to read:

19 (a) The Board of Fisheries and the Board of Game shall identify the fish
20 stocks and game populations, or portions of stocks and populations, that are
21 customarily and traditionally used for subsistence uses in each area identified by the
22 boards.

23 * **Sec. 5.** AS 16.05.258(b) is repealed and reenacted to read:

24 (b) The boards shall determine

25 (1) what portion, if any, of the stocks and populations identified under
26 (a) of this section can be harvested consistent with sustained yield; and

27 (2) how much of the harvestable portion is needed to provide a
28 reasonable opportunity to satisfy the subsistence uses of those stocks and populations.

29 * **Sec. 6.** AS 16.05.258(c) is repealed and reenacted to read:

30 (c) The boards shall, for each stock and population for which a harvestable
31 portion is determined to exist under (b)(1) of this section, allocate by regulation the

1 percentage of the stock or population that may be taken for subsistence uses, for
 2 personal uses, for sport uses, and for commercial uses. The percentage allocated for
 3 subsistence uses must give a preference to satisfy subsistence uses. If it is necessary
 4 to restrict subsistence fishing or subsistence hunting in order to assure sustained yield
 5 or continue subsistence uses, then the preference shall be limited, and the boards shall
 6 distinguish among subsistence users on the basis of their

7 (1) customary and direct dependence on the fish stock or game
 8 population for human consumption as the mainstay of livelihood; and

9 (2) ability to obtain food if subsistence use is restricted or eliminated.

10 * **Sec. 7.** AS 16.05.258 is amended by adding a new subsection to read:

11 (g) The boards may adopt regulations consistent with this section that authorize
 12 taking for nonsubsistence uses a stock or population identified under (a) of this section.

13 * **Sec. 8.** AS 16.05.940(30) is amended to read:

14 (30) "subsistence fishing" means the taking of, fishing for, or
 15 possession of fish, shellfish, or other fisheries resources [BY A RESIDENT
 16 DOMICILED IN A RURAL AREA OF THE STATE] for subsistence uses with gill
 17 net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

18 * **Sec. 9.** AS 16.05.940(31) is amended to read:

19 (31) "subsistence hunting" means the taking of, hunting for, or
 20 possession of game [BY A RESIDENT DOMICILED IN A RURAL AREA OF THE
 21 STATE] for subsistence uses by means defined by the Board of Game;

22 * **Sec. 10.** AS 16.05.940(32) is amended to read:

23 (32) "subsistence uses" means the noncommercial, customary and
 24 traditional uses of wild, renewable resources by **an individual who significantly**
 25 **depends on the resource** [A RESIDENT DOMICILED IN A RURAL AREA OF THE
 26 STATE] for direct personal or family consumption as food, shelter, fuel, clothing,
 27 tools, or transportation, for the making and selling of handicraft articles out of
 28 nonedible by-products of fish and wildlife resources taken for personal or family
 29 consumption, and for the customary trade, barter, or sharing for personal or family
 30 consumption; in this paragraph, "family" means persons related by blood, marriage, or
 31 adoption, and a person living in the household on a permanent basis;

1 * **Sec. 11.** AS 16.05.940(27) is repealed.

2 * **Sec. 12.** Sections 3, 5, and 9, ch. 1, SSSLA 1992, are repealed.

3 * **Sec. 13.** TRANSITION. (a) It is the intent of the legislature that the Board of Fisheries
4 and the Board of Game expeditiously adopt regulations necessary to implement secs. 1 - 10
5 of this Act.

6 (b) Regulations adopted by the Board of Fisheries, Board of Game, or Department of
7 Fish and Game after the effective date of this Act may not be inconsistent with the provisions
8 of secs. 1 - 10 of this Act.

9 (c) Regardless of whether regulations in effect on the effective date of this Act, and
10 adopted under the authority of AS 16.05.251, 16.05.255, or 16.05.258, as those statutes read
11 on the day before the effective date of this Act, are inconsistent with the provisions of secs.
12 1 - 10 of this Act, they may continue to be implemented and enforced until October 1, 1997.

13 * **Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).