

CS FOR HOUSE BILL NO. 109(RES) am
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Amended: 4/16/99

Offered: 4/1/99

Sponsor(s): REPRESENTATIVES OGAN, Dyson, Green, Kohring, Cowdery, Austerman, Harris, Grussendorf, James, Porter, Coghill, Whitaker, Mulder, Williams, Sanders, Kookesh, Rokeberg

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to management of fish and game in Glacier Bay National Park
2 and Preserve and navigable waters."

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

4 * Section 1. FINDINGS. (a) The legislature finds that

5 (1) sustained yield management of fish and game in accordance with the
6 mandate of the Constitution of the State of Alaska assures the maintenance of healthy
7 populations of fish and game and provides the opportunity for a wide range of uses of the fish
8 and game resource;

9 (2) the State of Alaska recognizes the value of Glacier Bay National Park and
10 Preserve, one of our nation's crown jewels;

11 (3) the State of Alaska has demonstrated competence by state managers in
12 assuring healthy, viable populations of fish and game within the park and preserve, with no
13 deleterious effects on the resources or the aesthetic appeal of the area, and the State of Alaska
14 desires to continue to do so;

1 (4) current uses of the park and preserve, including limited and controlled
 2 commercial and subsistence uses, constitute integral parts of the park and preserve and reflect
 3 precisely the purposes for the executive withdrawal that created the original Glacier Bay
 4 National Monument.

5 (b) The legislature further finds that

6 (1) the State of Alaska is the only entity responsible for and capable of
 7 assuring the sustained yield management of fish and game throughout the entire state;

8 (2) the multitude of federal entities that have authority to provide for the
 9 management of fish and game in Alaska have jurisdiction over only a patchwork of land and
 10 water in Alaska and operate under a variety of legal mandates regarding fish and game;

11 (3) only the State of Alaska bears the public trust responsibility of providing
 12 a single, comprehensive scheme of sustained yield management of fish and game to
 13 compensate for diverse management objectives pursued by the many federal agencies;

14 (4) the State of Alaska has consistently demonstrated a greater sensitivity than
 15 the federal agencies to sound conservation principles, which, for example, resulted in a
 16 dramatic recovery of Alaska's fisheries following statehood in 1959 after a lengthy period of
 17 misguided federal management;

18 (5) the State of Alaska is committed to continuing its public trust responsibility
 19 for the navigable waters within Glacier Bay National Park and Preserve;

20 (6) it is not in the best interest of the State of Alaska to acquiesce in and assist
 21 in federal takeover of fisheries management in the park and preserve in the face of pending
 22 litigation challenging federal preemption of state management.

23 * **Sec. 2.** AS 16.20.010 is amended to read:

24 **Sec. 16.20.010. Legislative recognition.** The legislature recognizes that

25 (1) the state has jurisdiction over all fish and game in the state except
 26 in those areas where it has assented to federal control;

27 (2) the state has not assented to federal control of fish and game in
 28 (A) those areas **that** [WHICH] were set apart as National Bird
 29 and Wildlife Refuges while the state was a United States territory; **and**

30 **(B) Glacier Bay National Park and Preserve or the navigable**
 31 **waters within or adjoining the park and preserve;**

1 (3) special recognition of the value to the state and the nation of areas
2 of unspoiled habitat and the game characteristic to it will be demonstrated by
3 designating as state game refuges those federal lands **that** [WHICH] were National
4 Bird and Wildlife Refuges or Ranges at the time that Alaska achieved statehood.

5 * **Sec. 3.** AS 16.20.010 is amended by adding a new subsection to read:

6 (b) In recognition of the fact that the state has not assented to federal control
7 of fish and game in Glacier Bay National Park and Preserve or the navigable waters
8 within or adjoining the park and preserve, that the power to control the management
9 of fish and game within the boundaries of the state is an incident of state sovereignty,
10 and that the federal government cannot commandeer the lawmaking processes of the
11 states to compel the state to enact and enforce a federal regulatory program, an agency,
12 employee, or agent of the state may not expend funds to adopt or enforce the
13 implementation of the federal regulatory program or a part of the program for control
14 of fish and game in the park and preserve or the navigable waters within or adjoining
15 the park and preserve that is in conflict with a state statute or regulation regarding
16 management of fish or game within the park or preserve. This subsection does not
17 prohibit an agency, employee, or agent of the state from taking action necessary to
18 protect life or property, from commenting on proposed federal statutes or regulations,
19 or from collecting data relating to claims of economic harm arising from the closure
20 of the park and preserve to commercial fishing.