

CS FOR SENATE BILL NO. 90(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/12/99
Referred: Finance

Sponsor(s): SENATOR TAYLOR

A BILL

FOR AN ACT ENTITLED

1 "An Act providing that the state has exclusive jurisdiction to manage fish and
2 game; relating to federal authority over management of fish and game; and
3 providing that a state agency or employee may not engage in law enforcement
4 activities to enforce a federal law that preempts or supersedes state management
5 of fish and game."

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

7 * **Section 1.** AS 16.05 is amended by adding a new section to read:

8 **Sec. 16.05.005. State management of fish and game.** (a) Fish and game
9 resources within the boundaries of the state are subject to the exclusive management
10 jurisdiction of the state as exercised through the Department of Fish and Game, the
11 Board of Fisheries, and the Board of Game under the laws of the state.

12 (b) Except as expressly provided under state law, a person, group, business
13 entity, government agency, or municipality may not exercise authority over the

1 management of fish or game in the state.

2 (c) If the federal government is found by a court of competent jurisdiction to
3 have authority to manage a species of fish or game within the boundaries of the state,
4 the state, as the sole legal entity under state law that is authorized to exercise
5 jurisdiction over fish and game management, is the only legal entity

6 (1) to which the federal government may transfer, delegate, surrender,
7 or abandon federal authority over management of fish or game within the boundaries
8 of the state; and

9 (2) with which the federal government may contract to administer
10 federal authority over management of fish or game within the boundaries of the state.

11 (d) Notwithstanding any other provision of law, a state agency or employee
12 may not engage in police activities or other law enforcement activities to enforce a
13 federal law that preempts or supersedes state management of fish and game. This
14 subsection does not apply to

15 (1) assistance provided to a federal law enforcement officer by the
16 Department of Public Safety that is necessary in the unforeseen absence of available
17 assistance from a federal source to avert a present and substantial risk of physical harm
18 to a person;

19 (2) enforcement of 16 U.S.C. 703 - 712 (Migratory Bird Treaty Act);
20 16 U.S.C. 773 - 773k (Northern Pacific Halibut Act of 1982); 16 U.S.C. 1361 - 1421h
21 (Marine Mammal Protection Act); 16 U.S.C. 1531 - 1544 (Endangered Species Act);
22 16 U.S.C. 1801 - 1883 (Magnuson-Stevens Fishery Conservation and Management
23 Act); 16 U.S.C. 3631 - 3644 (Pacific Salmon Treaty Act of 1985); or a regulation
24 adopted under these statutes.