

SENATE BILL NO. 138

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR TAYLOR

Introduced: 4/9/99

Referred: Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to management of game populations for sustained yield for
2 human harvest; providing for the replacement of areas closed to consumptive uses
3 of fish and game; relating to management of fish and game areas; relating to
4 means of transportation to provide access to take game; relating to open and
5 closed seasons and areas for taking game; relating to management and use of
6 game; defining 'sustained yield.'"

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

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

9 **Sec. 16.05.005. Management of game.** (a) Notwithstanding another law to
10 the contrary, game populations shall be managed on a biological basis for abundance
11 consistent with sustained yield for human harvest. Consumptive use of game is the
12 highest and best use of game. This section does not apply on land designated as a
13 park or a state game sanctuary where consumptive use of game is prohibited.

1 (b) If the department, the Board of Game, or other agency of the state adopts
 2 a regulation closing an area to the taking of a game species for consumptive uses or
 3 closing an area to the taking of a game species for consumptive use by a method,
 4 manner, or means that was permitted in the area before the closure, the regulation may
 5 not take effect until the department, Board of Game, or other state agency opens a new
 6 area or areas where the consumptive use or method, manner, or means that was
 7 prohibited can occur and where healthy populations of the affected game species are
 8 present. The new area or areas opened by the board shall be at least two times larger
 9 than the area that was closed. This subsection does not apply to a temporary closure
 10 for a period of less than one year based upon a biological emergency.

11 (c) The department may not close, or otherwise restrict, access into an area for
 12 the purpose of consumptive use of game by a means of access that has been
 13 historically used to gain access to the area for the purpose of consumptive use of fish
 14 or game unless the department finds by clear and convincing evidence that the means
 15 of access has resulted in significant biological harm to the game population and that
 16 the affected game population cannot be rehabilitated without a restriction on the use
 17 of the means of access. The department may not adopt regulations subject to this
 18 subsection before a program has been implemented to rebuild or enhance the game
 19 population in the area.

20 * **Sec. 2.** AS 16.05 is amended by adding a new section to read:

21 **Sec. 16.05.145. Public trust for special fish and game management areas.**

22 (a) The state has created a public trust by the acceptance and use of revenue generated
 23 from taxes, license fees, and other fees paid by sportsmen, by the acceptance and use
 24 of funds received from federal aid in sport fish and wildlife restoration programs, and
 25 by the establishment of state game refuges, range areas, special management areas,
 26 critical habitat areas, and similar areas established by law.

27 (b) This public trust would be breached by

- 28 (1) restricting access to state game refuges, range areas, sanctuaries,
 29 special management areas, critical habitat areas, and similar areas established by law;
 30 (2) restricting sport fishing, hunting, and trapping activities and
 31 opportunities on state game refuges, range areas, special management areas, critical

1 habitat areas, and similar areas established by law in a manner that is inconsistent with
 2 management on a biological basis for abundance consistent with sustained yield for
 3 human harvest; or

4 (3) utilization of the revenue generated from taxes, license fees, and
 5 other fees paid by sportsmen or funds received from federal aid in sport fish and
 6 wildlife restoration programs

7 (A) in an area where consumptive use of fish and game is not
 8 permitted;

9 (B) in an area, or in regard to a fish stock or game population,
 10 that is subject to preferences among consumptive uses that are not valid under
 11 the state constitution or state law; or

12 (C) for management of nongame species.

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

14 (a) **Except as provided in (i) of this section, the** [THE] Board of Game may
 15 adopt regulations it considers **necessary** [ADVISABLE] in accordance with AS 44.62
 16 (Administrative Procedure Act) for

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

20 (2) establishing **on a biological basis** open and closed seasons and
 21 areas for the taking of game;

22 (3) establishing, **consistent with sustained yield for human harvest,**
 23 the means and methods employed in the pursuit, capture, taking, and transport of
 24 game, including regulations **necessary for** [, CONSISTENT WITH] resource
 25 conservation and development goals, establishing means and methods that may be
 26 employed by persons with physical disabilities; **however, the board may not prohibit**
 27 **or restrict access into an area by a means of transportation that has historically**
 28 **been used in that area unless the board finds, based on clear and convincing**
 29 **evidence, that the means of transportation has resulted in significant biological**
 30 **harm to a game population;**

31 (4) setting quotas, bag limits, harvest levels, and sex, age, and size

1 limitations on the taking of game;

2 (5) classifying game as game birds, song birds, big game animals, fur
3 bearing animals, predators, or other categories;

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

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

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

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

13 (10) regulating sport hunting and subsistence hunting as needed for the
14 conservation, development, and utilization of game [;

15 (11) TAKING GAME TO ENSURE PUBLIC SAFETY].

16 * **Sec. 4.** AS 16.05.255 is amended by adding a new subsection to read:

17 (i) In adopting regulations under (a) of this section, the board, except as
18 necessary to provide for the subsistence preference under AS 16.05.258, may not
19 restrict or prohibit a use of game or provide a preference to a use of game by
20 excluding other uses of game based on values or conflicts among different users.

21 * **Sec. 5.** AS 16.05.940 is amended by adding new paragraphs to read:

22 (37) "high level of human harvest" means the opportunity with a high
23 probability of success for humans to harvest at least one-third of the harvestable
24 surplus of a game population; in this paragraph "high probability of success" means
25 a probability greater than 50 percent that a hunter will take an animal of the species
26 being hunted during a general hunting season or a subsistence hunting season other
27 than a drawing permit hunting season or subsistence hunting season established under
28 AS 16.05.258(b)(4);

29 (38) "sustained yield" means the achievement and maintenance in
30 perpetuity of a high level of human harvest on an annual basis of game, other than
31 mammalian predators, or of fish.

1 * **Sec. 6.** AS 16.20.020 is amended to read:

2 **Sec. 16.20.020. Purpose.** The purpose of AS 16.20.010 - 16.20.080 is to
 3 conserve, maintain, and develop habitat and game populations [PROTECT AND
 4 PRESERVE THE NATURAL HABITAT AND GAME POPULATION] in certain
 5 designated areas of the state and to guarantee access to and continuation of public
 6 sport fishing, hunting, and trapping activities and opportunities in these areas,
 7 consistent with sustained yield.

8 * **Sec. 7.** AS 16.20.075 is amended to read:

9 **Sec. 16.20.075. Regulations.** The board shall, under AS 16.05, adopt
 10 regulations

11 (1) governing the taking of game on state game refuges it considers
 12 necessary [ADVISABLE] for conservation and protection purposes;

13 (2) guaranteeing access to and continuation of public sport fishing,
 14 hunting, and trapping activities and opportunities on state game refuges,
 15 consistent with sustained yield.

16 * **Sec. 8.** AS 16.20 is amended by adding a new section to article 4 to read:

17 **Sec. 16.20.295. Purpose.** In addition to the purposes stated in AS 16.20.300 -
 18 16.20.360, state range areas are created to guarantee access to and continuation of
 19 public sport fishing, hunting, and trapping activities and opportunities in these areas,
 20 consistent with sustained yield.

21 * **Sec. 9.** AS 16.20.500 is amended to read:

22 **Sec. 16.20.500. Purpose.** The purpose of AS 16.20.500 - 16.20.690 is to
 23 protect and preserve habitat areas especially crucial to the perpetuation of fish and
 24 wildlife, and to restrict all other uses not compatible with that primary purpose and
 25 to guarantee access to and continuation of public sport fishing, hunting, and
 26 trapping activities and opportunities in critical habitat areas, consistent with
 27 sustained yield.

28 * **Sec. 10.** AS 16.20.510 is amended to read:

29 **Sec. 16.20.510. Regulations.** The Board of Fisheries and the Board of Game,
 30 where appropriate, shall adopt regulations they consider necessary [ADVISABLE] for

31 (1) conservation and protection purposes governing the taking of fish

1 and game in state fish and game critical habitat areas;

2 **(2) guaranteeing access to and continuation of public sport fishing,**
3 **hunting, and trapping activities and opportunities in fish and game critical habitat**
4 **areas, consistent with sustained yield.**