SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 178

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES FATE, Coghill, Dyson

Introduced: 04/05/01
Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

"An Act relating to the powers and duties of the commissioner of fish and game, the Department of Fish and Game, and the Board of Game, to nuisance game animals, and to consideration of the budget of the Department of Fish and Game by the legislature; and providing for an effective date."

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

*** Section 1.** AS 16.05.020 is amended to read:

Sec. 16.05.020. Functions of commissioner. The commissioner shall

(1) supervise and control the department, and may appoint and employ division heads [, ENFORCEMENT AGENTS,] and the technical, clerical, and other assistants necessary for the general administration of the department;

(2) manage, protect, maintain, improve, and extend the fish, game**,** and aquatic plant resources of the state

(A) in the interest of the economy and general well-being of the state**; and**

(B) to achieve maximum sustained yield of those resources of an area that are utilized by the highest number of people;

(3) have necessary power to accomplish the foregoing including, but not limited to, the power to delegate authority to subordinate officers and employees of the department.

*** Sec. 2.** AS 16.05.050(a) is repealed and reenacted to read:

(a) The commissioner has, but not by way of limitation, the following powers and duties:

(1) to cooperate with and assist the Board of Fisheries, the Board of Game, and the advisory committees established under AS 16.05.260 in managing the fish, game, and aquatic plant resources of the state to achieve abundance for maximum sustained yield of those resources;

(2) through the appropriate state agency and under the provisions of AS 36.30 (State Procurement Code), to acquire by gift, purchase, lease, or other lawful means land, buildings, water, rights-of-way, or other necessary or proper real or personal property when the acquisition is in the interest of furthering an objective or purpose of the department and the state;

(3) under the provisions of AS 36.30, to design and construct hatcheries, pipelines, rearing ponds, fishways, and other projects beneficial for the fish and game resources of the state;

(4) to accept money from any person under conditions requiring the use of the money for specific purposes in the furtherance of the protection, rehabilitation, propagation, preservation, or investigation of the fish and game resources of the state or in settlement of claims for damages to fish or game resources;

(5) to collect, classify, and disseminate statistics, data, and information that, according to the commissioner's discretion, will tend to promote the purposes of this title except AS 16.51 and AS 16.52;

(6) to take, capture, propagate, transport, buy, sell, or exchange fish, game, or eggs, or to authorize a person as agent of the commissioner to take, capture, propagate, transport, buy, sell, or exchange fish, game, or eggs, for propagating, scientific, public safety, or stocking purposes;

(7) under the provisions of AS 36.30, to provide public facilities where necessary or proper to facilitate the taking of fish or game;

(8) to exercise administrative, budgeting, and fiscal powers and to assign the highest priority to the allocation of the fiscal, personnel, and other resources of the department to implementation of the plans, programs, and regulations adopted by the Board of Game under AS 16.05.255(e) - (g) in a timely and effective manner;

(9) under the provisions of AS 36.30, to construct, operate, supervise, and maintain vessels used by the department;

(10) to authorize the holder of an interim-use permit under AS 16.43 to engage on an experimental basis in commercial taking of a fishery resource with a vessel, gear, and techniques not presently qualifying for licensing under this chapter in conformity with standards established by the Alaska Commercial Fisheries Entry Commission;

(11) not later than January 31 of each year, to provide to the commissioner of revenue the names of those fish and shellfish species that the commissioner of fish and game designates as developing commercial fish species for that calendar year; a fish or shellfish species is a developing commercial fish species if, within a specified geographical region,

(A) the optimum yield from the harvest of the species has not been reached;

(B) a substantial portion of the allowable harvest of the species has been allocated to fishing vessels of a foreign nation; or

(C) a commercial harvest of the fish species has recently developed;

(12) to initiate or conduct research necessary or advisable to carry out the purposes of this title except AS 16.51 and AS 16.52;

(13) to implement an on-board observer program authorized by the Board of Fisheries under AS 16.05.251(a)(13); implementation

(A) must be as unintrusive to vessel operations as practicable; and

(B) must make scheduling and scope of an observer's activities

as predictable as practicable;

(14) to sell fish caught during commercial fisheries test fishing operations;

(15) to establish and charge fees equal to the cost of services provided by the department, including provision of public shooting ranges, broodstock and eggs for private nonprofit hatcheries, department publications, and other direct services, and reasonable fees for the use of state facilities managed by the department; fees established under this paragraph for tours of hatchery facilities, commercial use of sport fishing access sites, and operation of state hatchery facilities by private aquaculture associations are not subject to the cost limit under AS 37.10.050(a);

(16) to permit and regulate aquatic farming in the state in a manner that ensures the protection of the state's fish and game resources and improves the economy, health, and well-being of the citizens of the state;

(17) to operate state housing and facilities for employees, contractors, and others in support of the department's responsibilities and to charge rent that is consistent with applicable collective bargaining agreements or, if a collective bargaining agreement is not applicable, competitive with market conditions; rent received from tenants shall be deposited in the general fund;

(18) to petition the Alaska Commercial Fisheries Entry Commission, unless the Board of Fisheries disapproves the petition under AS 16.05.251(g), to establish a moratorium on new entrants into commercial fisheries

(A) that have experienced recent increases in fishing effort that are beyond a low, sporadic level of effort;

(B) that have achieved a level of harvest that may be approaching or exceeding the maximum sustainable level for the fishery; and

(C) for which there is insufficient biological and resource management information necessary to promote the conservation and sustained yield management of the fishery.

*** Sec. 3.** AS 16.05.080 is amended to read:

Sec. 16.05.080. Limitation of power. **<u>(a)</u>** Nothing in this chapter authorizes the department or a board to change the amount of fees or licenses **<u>or to expend,</u>**

transfer, or reallocate funds appropriated to the department except as provided in an appropriation made by the legislature.

(b) Before entering into a cooperative agreement with any entity for the management of wildlife resources in the state, the department shall provide notice of the proposed agreement to the public and a copy of the proposed agreement to the presiding officers of each house of the legislature.

(c) The department may not expend more than 13 percent of the money appropriated to the department from any source for administration of the department in a fiscal year.

*** Sec. 4.** AS 16.05.130(d) is amended to read:

(d) Revenue from the sale of general hunting, trapping, and fishing licenses**,** [AND] tags**, and permits** together with the federal matching funds from Pittman - Robertson, Dingell - Johnson/Wallop - Breaux programs shall be allocated by the department to programs **that** [INTENDED TO] directly benefit license purchasers of general hunting, trapping, and fishing licenses. The department shall prepare an annual report by project of expenditures from the fish and game fund **that describes the anticipated results and benefits of each project in regard to fish stock and game population abundance goals and harvest goals set by the department and the boards** and notify the legislature that the report is available.

*** Sec. 5.** AS 16.05.255(a) is amended to read:

(a) The Board of Game**, as it considers necessary to manage, protect, maintain, improve, and extend the game resources of the state to achieve abundance for maximum sustained yield of game,** may adopt regulations [IT CONSIDERS ADVISABLE] in accordance with AS 44.62 (Administrative Procedure Act) for

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

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

(3) establishing the means and methods employed in the pursuit,

capture, taking, and transport of game, including regulations, consistent with resource conservation and development goals, establishing means and methods that may be employed by persons with physical disabilities;

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

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

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

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

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

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

(10) regulating sport hunting**, including providers of commercial big game services,** and subsistence hunting as needed for the conservation, development, and utilization of game;

(11) taking game to ensure public safety.

*** Sec. 6.** AS 16.05.255(g) is amended to read:

(g) The Board of Game shall establish **high** population **goals based on high population levels consistent with the maximum carrying capacity of the habitat of the population** and **high** harvest goals **to provide for high levels of human harvest** and seasons for intensive management of identified big game prey populations to achieve a high level of human harvest. **The board shall annually review the effectiveness of intensive management programs established under (e) of this section to determine whether the abundance, productivity, population, and harvest goals of the board have been achieved. If the abundance, productivity, population, or harvest goals have not been achieved, the board shall adjust the intensive management programs as necessary to achieve the goals.**

*** Sec. 7.** AS 16.05.255(i)(2) is amended to read:

(2) "high level of human harvest" means the **harvest of more than 15 percent** [ALLOCATION OF A SUFFICIENT PORTION] of the harvestable surplus of **the post-calving population of** a **big** game **prey** population [TO ACHIEVE A HIGH PROBABILITY OF SUCCESS FOR HUMAN HARVEST OF THE [GAME] POPULATION BASED ON BIOLOGICAL CAPABILITIES OF THE POPULATION AND CONSIDERING HUNTER DEMAND];

*** Sec. 8.** AS 16.05.940 is amended by adding a new paragraph to read:

(37) "maximum sustained yield" means the highest level of yield of a fish, game, or aquatic plant resource that is achievable under existing biological and environmental conditions.

*** Sec. 9.** AS 16.30 is amended by adding a new section to read:

Article 2. Nuisance Game.

Sec. 16.30.050. Taking of nuisance game animals. The commissioner of fish and game or the commissioner of public safety or a representative of either commissioner may take or may authorize another person to take a game animal if the animal poses a danger or a nuisance to a person, property, or the public and the taking of the animal is consistent with sound game management principles.

*** Sec. 10.** AS 37.05.146(b)(4)(U) is amended to read:

(U) commercial fisheries test fishing operations **(AS 16.05.050(a)(14))** [(AS 16.05.050(a)(15))];

*** Sec. 11.** AS 44.39 is amended by adding a new section to read:

Sec. 44.39.060. Budget. In reviewing the proposed annual operating budget of the department and in making appropriations for the operations of the department, the legislature shall consider increases and decreases in the abundance of the fish, game, and aquatic plant resources of the state and in the human harvest of those resources.

*** Sec. 12.** This Act takes effect July 1, 2001.