

**3d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 178**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVES FATE, Coghill, Dyson**

**Introduced: 3/25/02**

**Referred: Resources, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the powers and duties of the commissioner of fish and game, the**  
2 **Department of Fish and Game, and the Board of Game, to taking and use of certain**  
3 **game animals, and to consideration of the budget of the Department of Fish and Game**  
4 **by the legislature; and providing for an effective date."**

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

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

7 **Sec. 16.05.020. Functions of commissioner.** The commissioner shall

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

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

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

1 **(B) to achieve an abundance of fish and wildlife resources**  
 2 **sufficient to provide the maximum sustained yield of those resources;**

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

6 \* **Sec. 2.** AS 16.05.050(a) is amended to read:

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

9 (1) to **cooperate with and** assist the **Board of Fisheries, the Board of**  
 10 **Game, and the advisory committees established under AS 16.05.260 in allocating**  
 11 **the fish, game, and aquatic plant resources of the state to achieve abundance for**  
 12 **maximum sustained yield of those resources** [UNITED STATES FISH AND  
 13 WILDLIFE SERVICE IN THE ENFORCEMENT OF FEDERAL LAWS AND  
 14 REGULATIONS PERTAINING TO FISH AND GAME];

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

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

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

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

30 (6) to take, capture, propagate, transport, buy, sell, or exchange fish,  
 31 [OR] game, or eggs, **or to authorize a person as agent of the commissioner to take,**

1 **capture, propagate, transport, buy, sell, or exchange fish, game, or eggs,** for  
 2 propagating, scientific, public safety, or stocking purposes;

3 (7) under the provisions of AS 36.30, to provide public facilities where  
 4 necessary or proper to facilitate the taking of fish or game[, AND TO ENTER INTO  
 5 COOPERATIVE AGREEMENTS WITH ANY PERSON TO EFFECT THEM];

6 (8) to exercise administrative, budgeting, and fiscal powers;

7 (9) **to assign the highest priority to the allocation of the fiscal,**  
 8 **personnel, and other resources of the division of game for implementation of the**  
 9 **plans, programs, and regulations adopted by the Board of Game under**  
 10 **AS 16.05.255(e) - (g) in a timely and effective manner;**

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

13 **(11)** [(10)] to authorize the holder of an interim-use permit under  
 14 AS 16.43 to engage on an experimental basis in commercial taking of a fishery  
 15 resource with vessel, gear, and techniques not presently qualifying for licensing under  
 16 this chapter in conformity with standards established by the Alaska Commercial  
 17 Fisheries Entry Commission;

18 **(12)** [(11)] not later than January 31 of each year, to provide to the  
 19 commissioner of revenue the names of those fish and shellfish species that the  
 20 commissioner of fish and game designates as developing commercial fish species for  
 21 that calendar year; a fish or shellfish species is a developing commercial fish species  
 22 if, within a specified geographical region,

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

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

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

29 **(13)** [(12)] to initiate or conduct research necessary or advisable to  
 30 carry out the purposes of this title except AS 16.51 and AS 16.52;

31 **(14)** [(13)] to enter into cooperative **arrangements** [AGREEMENTS]

1 with [AGENCIES OF THE FEDERAL GOVERNMENT, EDUCATIONAL  
2 INSTITUTIONS, OR OTHER] agencies or organizations, when in the **best** public  
3 interest, to carry out the purposes of this title except AS 16.51 and AS 16.52;

4 **(15)** [(14)] to implement an on-board observer program authorized by  
5 the Board of Fisheries under AS 16.05.251(a)(13); implementation

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

7 and

8 (B) must make scheduling and scope of observers' activities as  
9 predictable as practicable;

10 **(16)** [(15)] to sell fish caught during commercial fisheries test fishing  
11 operations;

12 **(17)** [(16)] to establish and charge fees equal to the cost of services  
13 provided by the department, including provision of public shooting ranges, broodstock  
14 and eggs for private nonprofit hatcheries, department publications, and other direct  
15 services, and reasonable fees for the use of state facilities managed by the department;  
16 fees established under this paragraph for tours of hatchery facilities, commercial use of  
17 sport fishing access sites, and for operation of state hatchery facilities by private  
18 aquaculture associations are not subject to the cost limit under AS 37.10.050(a);

19 **(18)** [(17)] to permit and regulate aquatic farming in the state in a  
20 manner that ensures the protection of the state's fish and game resources and improves  
21 the economy, health, and well-being of the citizens of the state;

22 **(19)** [(18)] .to operate state housing and facilities for employees,  
23 contractors, and others in support of the department's responsibilities and to charge  
24 rent that is consistent with applicable collective bargaining agreements, or, if **a** [NO]  
25 collective bargaining agreement is **not** applicable, competitive with market conditions;  
26 rent received from tenants shall be deposited in the general fund;

27 **(20)** [(19)] to petition the Alaska Commercial Fisheries Entry  
28 Commission, unless the Board of Fisheries disapproves the petition under  
29 AS 16.05.251(g), to establish a moratorium on new entrants into commercial fisheries

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

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

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

6 \* **Sec. 3.** AS 16.05.080 is amended by adding new subsections to read:

7 (b) Before entering into a cooperative arrangement with any entity for the  
8 management of fish or game resources in the state, the department shall provide the  
9 public with notice of the proposed arrangement and a reasonable opportunity to  
10 comment on the arrangement. The department shall provide a copy of the proposed  
11 arrangement to the presiding officers of each house of the legislature.

12 (c) The department shall include a clearly defined description of its  
13 administrative expenses for the fiscal year in the information compiled and submitted  
14 under AS 37.07.050(a)(1) - (12).

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (10) regulating [SPORT] hunting [AND SUBSISTENCE HUNTING  
24 AS NEEDED FOR THE CONSERVATION, DEVELOPMENT, AND  
25 UTILIZATION OF GAME];

26 (11) taking game to ensure public safety.

27 \* **Sec. 6.** AS 16.05.255(e) is amended to read:

28 (e) The Board of Game shall adopt regulations to provide for intensive  
29 management programs to restore the abundance or productivity of identified big game  
30 prey populations as necessary to achieve human consumptive use goals of the board in  
31 an area where the board **has limited the harvest of the population, with the**

1 **exception of musk ox populations, to persons who receive a drawing permit and**

2 has determined that

- 3 (1) consumptive use of the big game prey population is a preferred use;
- 4 (2) depletion of the big game prey population or reduction of the
- 5 productivity of the big game prey population has occurred and may result in a
- 6 significant reduction in the allowable human harvest of the population; and
- 7 (3) enhancement of abundance or productivity of the big game prey
- 8 population is feasibly achievable utilizing recognized and prudent active management
- 9 techniques.

10 \* **Sec. 7.** AS 16.05.255(f) is amended to read:

11 (f) The Board of Game may not significantly reduce the taking of an identified

12 big game prey population by adopting regulations relating to restrictions on harvest or

13 access to the population, or to management of the population by customary

14 adjustments in seasons, bag limits, open and closed areas, methods and means, or by

15 other customary means authorized under (a) of this section, unless the board has

16 adopted regulations [, OR HAS SCHEDULED FOR ADOPTION AT THE NEXT

17 REGULARLY SCHEDULED MEETING OF THE BOARD REGULATIONS,] that

18 provide for intensive management to increase the take of the population for human

19 harvest consistent with (e) of this section. This subsection does not apply if the board

20 (1) determines that intensive management would be

- 21 (A) ineffective, based on scientific information;
- 22 (B) inappropriate due to land ownership patterns; or
- 23 (C) against the best interest of subsistence uses; or

24 (2) declares that a biological emergency exists and takes immediate

25 action to protect or maintain the big game prey population in conjunction with the

26 scheduling for adoption of those regulations that are necessary to implement (e) of this

27 section.

28 \* **Sec. 8.** AS 16.05.255(g) is amended to read:

29 (g) The Board of Game shall establish population **goals based on estimated**

30 **historic high population levels consistent with the estimated maximum carrying**

31 **capacity of the habitat for the population, high** [AND] harvest goals **to provide for**

1 **high levels of human harvest, and regulations, including seasons and methods and**  
 2 **means** for intensive management of identified big game prey populations to achieve a  
 3 high level of human harvest. **The board shall annually review the effectiveness of**  
 4 **intensive management programs established under (e) of this section to**  
 5 **determine whether planned progress toward established goals has been achieved.**  
 6 **The board shall adjust the intensive management programs as necessary to**  
 7 **achieve interim management goals.**

8 \* **Sec. 9.** AS 16.05.255(j)(2) is amended to read:

9 (2) "high level of human harvest" means the **harvest of at least 15**  
 10 **percent but not more than 33 percent** [ALLOCATION OF A SUFFICIENT  
 11 PORTION] of the harvestable surplus of **an identified big** [A] game **prey** population  
 12 [TO ACHIEVE A HIGH PROBABILITY OF SUCCESS FOR HUMAN HARVEST  
 13 OF THE GAME POPULATION BASED ON BIOLOGICAL CAPABILITIES OF  
 14 THE POPULATION AND CONSIDERING HUNTER DEMAND];

15 \* **Sec. 10.** AS 16.05.940 is amended by adding a new paragraph to read:

16 (37) "maximum sustained yield" means the highest number of a  
 17 population that can be removed for human use without reducing the ability of the  
 18 population to replenish its numbers.

19 \* **Sec. 11.** AS 16.30 is amended by adding a new section to read:

20 **Article 2. Nuisance and Other Game.**

21 **Sec. 16.30.050. Taking and use of certain game animals.** The  
 22 commissioner of fish and game or the commissioner of public safety or a  
 23 representative of either commissioner may

24 (1) take or may authorize another person to take a game animal if the  
 25 animal poses a danger or a nuisance to a person, property, or the public and the taking  
 26 of the animal is consistent with sound game management principles; or

27 (2) authorize a person to use a game animal that is accidentally killed.

28 \* **Sec. 12.** AS 16.43.210(c) is amended to read:

29 (c) To the extent that the commissioner of fish and game authorizes it under  
 30 **AS 16.05.050(a)(11)** [AS 16.05.050(a)(10)], the commission may grant an interim-use  
 31 permit to a person to engage in the commercial taking from a fishery on an

1 experimental basis.

2 \* **Sec. 13.** AS 37.05.146(b)(4)(U) is amended to read:

3 (U) commercial fisheries test fishing operations

4 (AS 16.05.050(a)(16)) [(AS 16.05.050(a)(15))];

5 \* **Sec. 14.** AS 43.75.290(3) is amended to read:

6 (3) "developing commercial fish species" means those species of fish

7 and shellfish annually designated by the commissioner of fish and game under

8 AS 16.05.050(a)(12) [AS 16.05.050(a)(11)];

9 \* **Sec. 15.** AS 44.39 is amended by adding a new section to read:

10 **Sec. 44.39.060. Budget.** In reviewing the proposed annual operating budget

11 of the department and in making appropriations for the operations of the department,

12 the legislature shall consider increases and decreases in the resource abundance and

13 the human harvest of the fish and game resources of the state.

14 \* **Sec. 16.** This Act takes effect July 1, 2002.