

CS FOR 3d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 178(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 4/26/02

Referred: Finance

Sponsor(s): REPRESENTATIVES FATE, Coghill, Dyson

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 beneficial use 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** [UNITED STATES FISH
 12 AND WILDLIFE SERVICE IN THE ENFORCEMENT OF FEDERAL LAWS AND
 13 REGULATIONS PERTAINING TO FISH AND GAME];

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

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

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

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

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

1 propagating, scientific, public safety, or stocking purposes;

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

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

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

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

12 (11) [(10)] to authorize the holder of an interim-use permit under
13 AS 16.43 to engage on an experimental basis in commercial taking of a fishery
14 resource with vessel, gear, and techniques not presently qualifying for licensing under
15 this chapter in conformity with standards established by the Alaska Commercial
16 Fisheries Entry Commission;

17 (12) [(11)] not later than January 31 of each year, to provide to the
18 commissioner of revenue the names of those fish and shellfish species that the
19 commissioner of fish and game designates as developing commercial fish species for
20 that calendar year; a fish or shellfish species is a developing commercial fish species
21 if, within a specified geographical region,

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

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

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

28 (13) [(12)] to initiate or conduct research necessary or advisable to
29 carry out the purposes of this title except AS 16.51 and AS 16.52;

30 (14) [(13)] to enter into cooperative agreements with [AGENCIES OF
31 THE FEDERAL GOVERNMENT, EDUCATIONAL INSTITUTIONS, OR OTHER]

1 agencies or organizations, when in the **best** public interest, to carry out the purposes of
2 this title except AS 16.51 and AS 16.52;

3 **(15)** [(14)] to implement an on-board observer program authorized by
4 the Board of Fisheries under AS 16.05.251(a)(13); implementation

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

6 and

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

9 **(16)** [(15)] to sell fish caught during commercial fisheries test fishing
10 operations;

11 **(17)** [(16)] to establish and charge fees equal to the cost of services
12 provided by the department, including provision of public shooting ranges, broodstock
13 and eggs for private nonprofit hatcheries, department publications, and other direct
14 services, and reasonable fees for the use of state facilities managed by the department;
15 fees established under this paragraph for tours of hatchery facilities, commercial use of
16 sport fishing access sites, and for operation of state hatchery facilities by private
17 aquaculture associations are not subject to the cost limit under AS 37.10.050(a);

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

21 **(19)** [(18)] to operate state housing and facilities for employees,
22 contractors, and others in support of the department's responsibilities and to charge
23 rent that is consistent with applicable collective bargaining agreements, or, if **a** [NO]
24 collective bargaining agreement is **not** applicable, competitive with market conditions;
25 rent received from tenants shall be deposited in the general fund;

26 **(20)** [(19)] to petition the Alaska Commercial Fisheries Entry
27 Commission, unless the Board of Fisheries disapproves the petition under
28 AS 16.05.251(g), to establish a moratorium on new entrants into commercial fisheries

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

31 (B) that have achieved a level of harvest that may be

1 approaching or exceeding the maximum sustainable level for the fishery; and

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

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

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

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

14 * **Sec. 4.** AS 16.05.090(a) is amended to read:

15 (a) The commissioner may, with the approval of the governor, establish a
16 departmental division of commercial fisheries, a departmental division of sport
17 fisheries, a departmental division of **wildlife conservation** [GAME], and other
18 departmental divisions as are necessary.

19 * **Sec. 5.** AS 16.05.130(d) is amended to read:

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

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

31 (a) The Board of Game, **as it considers advisable to allocate, protect,**

1 **maintain, improve, and extend the game resources of the state to achieve**
 2 **abundance for maximum beneficial use of game and for other purposes,** may
 3 adopt regulations [IT CONSIDERS ADVISABLE] in accordance with AS 44.62
 4 (Administrative Procedure Act) for

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

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

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

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

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

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

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

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

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

27 (10) regulating [SPORT] hunting [AND SUBSISTENCE HUNTING
 28 AS NEEDED FOR THE CONSERVATION, DEVELOPMENT, AND
 29 UTILIZATION OF GAME];

30 (11) taking game to ensure public safety.

31 * **Sec. 7.** AS 16.05.255(e) is amended to read:

1 (e) The Board of Game shall adopt regulations to provide for intensive
 2 management programs to restore the abundance or productivity of identified big game
 3 prey populations as necessary to achieve human consumptive use goals of the board in
 4 an area where the board **has limited the harvest of the population, with the**
 5 **exception of musk ox populations, and** has determined that

6 (1) consumptive use of the big game prey population is a preferred use;

7 (2) depletion of the big game prey population or reduction of the
 8 productivity of the big game prey population has occurred and may result in a
 9 significant reduction in the allowable human harvest of the population; and

10 (3) enhancement of abundance or productivity of the big game prey
 11 population is feasibly achievable utilizing recognized and prudent active management
 12 techniques.

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

14 (g) The Board of Game shall establish population **goals based on the highest**
 15 **possible population levels consistent with the estimated maximum carrying**
 16 **capacity of the habitat for the population, high** [AND] harvest goals **to provide for**
 17 **high levels of human harvest, and regulations, including seasons, bag limits, and**
 18 **methods and means** for intensive management of identified big game prey
 19 populations to achieve a high level of human harvest. **The board shall annually**
 20 **review the effectiveness of intensive management programs established under (e)**
 21 **of this section to determine whether planned progress toward established goals**
 22 **has been achieved. The board shall adjust the intensive management programs**
 23 **as necessary to achieve interim management goals.**

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

25 (2) "high level of human harvest" means the **harvest of not less than**
 26 **10 percent** [ALLOCATION OF A SUFFICIENT PORTION] of the harvestable
 27 surplus of **an identified big** [A] game population [TO ACHIEVE A HIGH
 28 PROBABILITY OF SUCCESS FOR HUMAN HARVEST OF THE GAME
 29 POPULATION BASED ON BIOLOGICAL CAPABILITIES OF THE
 30 POPULATION AND CONSIDERING HUNTER DEMAND];

31 * **Sec. 10.** AS 16.30 is amended by adding a new section to read:

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

2 **Sec. 16.30.050. Taking and use of certain game animals.** The
3 commissioner of fish and game or the commissioner of public safety or a
4 representative of either commissioner may

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

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

9 * **Sec. 11.** AS 16.43.210(c) is amended to read:

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

14 * **Sec. 12.** AS 37.05.146(b)(4)(U) is amended to read:

15 (U) commercial fisheries test fishing operations

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

17 * **Sec. 13.** AS 43.75.290(3) is amended to read:

18 (3) "developing commercial fish species" means those species of fish
19 and shellfish annually designated by the commissioner of fish and game under
20 AS 16.05.050(a)(12) [AS 16.05.050(a)(11)];

21 * **Sec. 14.** AS 44.39 is amended by adding a new section to read:

22 **Sec. 44.39.060. Budget.** In reviewing the proposed annual operating budget
23 of the department and in making appropriations for the operations of the department,
24 the legislature shall consider increases and decreases in the resource abundance and
25 the human harvest of the fish and game resources of the state.

26 * **Sec. 15.** This Act takes effect July 1, 2002.