

SENATE BILL NO. 160

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY SENATOR TAYLOR

Introduced: 3/23/01

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 certain nonresident hunters,**
3 **to nuisance game animals, and to consideration of the budget of the Department of Fish**
4 **and Game 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 **to achieve abundance for maximum sustained**
13 **yield of those resources, excluding predators of game,** in the interest of the
14 economy and general well-being of the state;

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

4 * **Sec. 2.** AS 16.05.050(a) is repealed and reenacted to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (B) must make scheduling and scope of an observer's activities
 30 as predictable as practicable;

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

1 operations;

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

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

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

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

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

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

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

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

28 **Sec. 16.05.080. Limitation of power. (a)** Nothing in this chapter authorizes
29 the department or a board to change the amount of fees or licenses **or to expend,**
30 **transfer, or reallocate funds appropriated to the department except as provided**
31 **in an appropriation made by the legislature.**

1 **(b) Nothing in this chapter authorizes the department to enter into a**
 2 **cooperative agreement with any entity for the management of wildlife resources**
 3 **in the state.**

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

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

8 (d) Revenue from the sale of general hunting, trapping, and fishing licenses,
 9 [AND] tags, **and permits** together with the federal matching funds from Pittman -
 10 Robertson, Dingell - Johnson/Wallop - Breaux programs shall be allocated by the
 11 department to programs **that** [INTENDED TO] directly benefit license purchasers of
 12 general hunting, trapping, and fishing licenses. **Federal funds received from the**
 13 **wildlife conservation and restoration account of the Pittman-Robertson program**
 14 **may be allocated by the department for any purpose authorized under federal**
 15 **law.** The department shall prepare an annual report by project of expenditures from
 16 the fish and game fund **that describes the anticipated results and benefits of each**
 17 **project in regard to fish stock and game population abundance goals and harvest**
 18 **goals set by the department and the boards** and notify the legislature that the report
 19 is available.

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

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

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

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

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

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

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

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

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

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

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

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

17 (10) regulating sport hunting and subsistence hunting as needed for the
 18 conservation, development, and utilization of game;

19 (11) taking game to ensure public safety.

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

21 (g) The Board of Game shall establish **high** population **goals based on**
 22 **historic high population levels consistent with the maximum carrying capacity of**
 23 **the habitat of the population** and **high** harvest goals **to provide for high levels of**
 24 **human harvest** and seasons for intensive management of identified big game prey
 25 populations to achieve a high level of human harvest. **The board shall annually**
 26 **review the effectiveness of intensive management programs established under (e)**
 27 **of this section to determine whether the abundance, productivity, population, and**
 28 **harvest goals of the board have been achieved. If the abundance, productivity,**
 29 **population, or harvest goals have not been achieved, the board shall adjust the**
 30 **intensive management programs as necessary to specifically address the cause or**
 31 **reason for the failure of the program to achieve the intended goals.**

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

2 (2) "high level of human harvest" means the allocation of **one-third** [A
3 SUFFICIENT PORTION] of the harvestable surplus of **the post-calving population**
4 **of a big game prey** population to achieve a high probability of success for human
5 harvest of the [GAME] population [BASED ON BIOLOGICAL CAPABILITIES OF
6 THE POPULATION AND CONSIDERING HUNTER DEMAND];

7 * **Sec. 8.** AS 16.05.255 is amended by adding a new subsection to read:

8 (j) Notwithstanding (a) of this section, the board may not adopt a regulation
9 under this section

10 (1) for the purpose of addressing or responding to opposition to
11 consumptive use of game, public safety concerns involving game, or existing illegal
12 activities involving game; or

13 (2) based on subjective standards related to the quality or nature of the
14 experience associated with the taking of game.

15 * **Sec. 9.** AS 16.05.407 is repealed and reenacted to read:

16 **Sec. 16.05.407. Nonresident hunting big game animals must be**
17 **accompanied.** (a) Except as provided under (e) of this section, it is unlawful for a
18 nonresident to hunt, pursue, or take brown bear, grizzly bear, mountain goat, or sheep
19 in this state, unless personally accompanied by

20 (1) a person who is licensed as a registered guide, master guide, class-
21 A assistant guide, or an assistant guide under AS 08.54; or

22 (2) a resident over 19 years of age who is

23 (A) the spouse of the nonresident; or

24 (B) related to the nonresident, within and including the second
25 degree of kindred, by marriage or blood.

26 (b) An applicant for a nonresident big game tag for the taking of an animal
27 specified in (a) or (e) of this section shall first furnish to the state on a form provided
28 by the state an affidavit showing that the applicant will be personally accompanied
29 while hunting by a person who is qualified under the terms of this section. A person
30 who falsifies the required affidavit is guilty of perjury under AS 11.56.200.

31 (c) A nonresident who violates (a) or (e) of this section or who fails to furnish

1 an affidavit under (b) of this section is guilty of a misdemeanor and upon conviction is
 2 punishable by imprisonment for not more than one year, or by a fine of not more than
 3 \$5,000, or by both.

4 (d) An applicant for a nonresident hunt permit for the taking of an animal
 5 specified in (a) of this section shall, if requested by the department, first furnish to the
 6 department proof of prior authorization to use federal or private land where the permit
 7 hunt will occur. The authorization shall be provided to the applicant by the registered
 8 guide or master guide with whom the applicant has contracted to guide the permit
 9 hunt.

10 (e) Notwithstanding (a) of this section, it is unlawful for a nonresident to hunt,
 11 pursue, or take brown bear or grizzly bear in an intensive management area
 12 established by the Board of Game under AS 16.05.255(e) unless the nonresident is
 13 personally accompanied by a resident over 19 years of age.

14 * **Sec. 10.** AS 16.05.430(a) is amended to read:

15 (a) Except as provided in AS 16.05.407(b) and **(c)** [(d)], 16.05.408(b), and
 16 16.05.420(b), a person who violates AS 16.05.330 - 16.05.420 or a regulation adopted
 17 under AS 16.05.330 - 16.05.420 is guilty of a misdemeanor and upon conviction is
 18 punishable by a fine of not more than \$1,000, or by imprisonment for not more than
 19 six months, or by both.

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

21 **Article 2. Nuisance Game.**

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

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

28 (U) commercial fisheries test fishing operations

29 **(AS 16.05.050(a)(14))** [(AS 16.05.050(a)(15))];

30 * **Sec. 13.** AS 44.39 is amended by adding a new section to read:

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

1 of the department and in making appropriations for the operations of the department,
2 the legislature shall consider increases and decreases in the abundance of the fish,
3 game, and aquatic plant resources of the state and in the human harvest of those
4 resources.

5 * **Sec. 14.** This Act takes effect July 1, 2001.