

**CS FOR HOUSE BILL NO. 452(FIN) am**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 4/23/04

Offered: 4/15/04

Sponsor(s): REPRESENTATIVES HEINZE, Lynn

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to licensing and regulation of sport fishing operators and sport fishing  
2 guides; authorizing the Department of Fish and Game and the Alaska Commercial  
3 Fisheries Entry Commission to release records and reports to the Department of  
4 Natural Resources and the Department of Public Safety; and providing for an effective  
5 date."

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

7 \* **Section 1.** AS 16.05.340(a) is amended by adding a new paragraph to read:

- 8 (26) Fishing services licenses
  - 9 (A) Sport fishing operator license .....\$100
  - 10 (B) Sport fishing guide license .....50
  - 11 (C) Sport fishing operator and sport fishing
  - 12 guide combined license ..... 100

13 \* **Sec. 2.** AS 16.05.815(a) is amended to read:

1           (a) Except as provided in (b) and (c) of this section, records required by  
2 regulations of the department concerning the landings of fish, shellfish, or fishery  
3 products, and annual statistical reports of fishermen, buyers, and processors required  
4 by regulation of the department are confidential and may not be released by the  
5 department or by the Alaska Commercial Fisheries Entry Commission except as set  
6 out in this subsection. The department may release the records and reports set out in  
7 this subsection to the Alaska Commercial Fisheries Entry Commission. The  
8 department and the Alaska Commercial Fisheries Entry Commission may release the  
9 records and reports set out in this subsection to the recipients identified in this  
10 subsection if the recipient, other than a recipient under (5) - (9) of this subsection,  
11 agrees to maintain the confidentiality of the records and reports. The department and  
12 the Alaska Commercial Fisheries Entry Commission may release

13           (1) any of the records and reports to the National Marine Fisheries  
14 Service and the professional staff of the North Pacific Fishery Management Council as  
15 required for preparation and implementation of the fishery management plans of the  
16 North Pacific Fishery Management Council within the exclusive economic zone;

17           (2) any of the records and reports to the professional staff of the  
18 Pacific States Marine Fisheries Commission who are employed in the Alaska Fisheries  
19 Information Network project for the purpose of exchanging information with users  
20 authorized by the department;

21           (3) any of the records and reports to the Department of Revenue to  
22 assist the **department** [DEPARTMENT OF REVENUE] in carrying out its statutory  
23 responsibilities;

24           (4) records or reports of the total value purchased by each buyer to a  
25 municipality that levies and collects a tax on fish, shellfish, or fishery products if the  
26 municipality requires records of the landings of fish, shellfish, or fishery products to  
27 be submitted to it for purposes of verification of taxes payable;

28           (5) such records and reports as necessary to be in conformity with a  
29 court order;

30           (6) on request, the report of a person to the person whose fishing  
31 activity is the subject of the report, or to a designee of the person whose fishing

1 activity is the subject of the report;

2 (7) on request, annual statistical reports of a fisherman, buyer, or  
3 processor to the fisherman, buyer, or processor whose activity is the subject of the  
4 report, or to a designee of the fisherman, buyer, or processor whose activity is the  
5 subject of the report;

6 (8) **any of the records and reports** [FISH TICKETS, FISH TICKET  
7 INFORMATION, SALTWATER CHARTER LOGBOOKS, SALTWATER  
8 CHARTER LOGBOOK INFORMATION, AND ANNUAL STATISTICAL  
9 REPORTS OF FISHERMEN, BUYERS, AND PROCESSORS AND  
10 INFORMATION IN THOSE REPORTS] to the Department of Public Safety **for law**  
11 **enforcement purposes**;

12 (9) fish tickets, fish ticket information, and annual statistical reports of  
13 fishermen, buyers, and processors and information in those reports to the law  
14 enforcement personnel of the National Marine Fisheries Service and the National  
15 Oceanic and Atmospheric Administration for the purpose of enforcing fishery laws in  
16 waters of this state and in waters of the exclusive economic zone adjacent to this state;

17 (10) fish tickets and fish ticket information regarding halibut to the  
18 International Pacific Halibut Commission; [AND]

19 (11) any of the records and reports to the child support enforcement  
20 agency created in AS 25.27.010, or the child support enforcement agency of another  
21 state, for child support purposes authorized under law; **and**

22 **(12) any of the records and reports to the Department of Natural**  
23 **Resources to assist the department in carrying out its statutory responsibilities in**  
24 **regard to sport fishing operations and sport fishing guides within the Kenai River**  
25 **Special Management Area under AS 41.21.500 - 41.21.514.**

26 \* **Sec. 3.** AS 16.40 is amended by adding new sections to read:

27 **Article 6. Sport Fishing Services.**

28 **Sec. 16.40.260. Sport fishing operator license.** (a) The department shall  
29 issue an annual sport fishing operator license to a person who

30 (1) holds a current business license under AS 43.70 to provide services  
31 to sport fishermen;

1 (2) presents proof satisfactory to the department of a general liability  
 2 insurance policy or marine protection and indemnity insurance policy, covering the  
 3 services provided by the person and person's employees to sport fishermen, that  
 4 provides coverage of at least \$100,000 for each incident, and \$300,000 for all  
 5 incidents in a year;

6 (3) pays the license fee prescribed by AS 16.05.340(a); and

7 (4) satisfies all additional requirements adopted in regulation by the  
 8 Board of Fisheries.

9 (b) A person may not provide sport fishing services unless the person holds a  
 10 current sport fishing operator license and has current insurance coverage as required in  
 11 (a)(2) of this section.

12 (c) A person who holds a current sport fishing operator license may contract to  
 13 provide sport fishing guide services to a sport fisherman through an employee who  
 14 holds a current sport fishing guide license under AS 16.40.270.

15 (d) A person who holds a current sport fishing operator license may not  
 16 directly provide sport fishing guide services to a sport fisherman unless the person also  
 17 holds a current sport fishing guide license under AS 16.40.270(b).

18 (e) A person who holds a sport fishing operator license may not aid in the  
 19 commission of a violation of AS 16.05 - AS 16.40 or a regulation adopted under  
 20 AS 16.05 - AS 16.40, including regulations relating to the proper method to release  
 21 fish, by a sport fishing guide who is employed by the person or by a sport fisherman  
 22 who is a client of the person.

23 **Sec. 16.40.270. Sport fishing guide license.** (a) A natural person may obtain  
 24 an annual sport fishing guide license if the person

25 (1) is a citizen of the United States, Canada, or Mexico, or is a resident  
 26 alien;

27 (2) is certified in first aid by the American Red Cross or a similar  
 28 organization;

29 (3) holds a license to carry passengers for hire issued by the United  
 30 States Coast Guard if the person operates a vessel in the provision of sport fishing  
 31 guide services and the license is required by the United States Coast Guard for the area

1 in which the fishing guide provides fishing guide services;

2 (4) holds a current sport fishing license from this state;

3 (5) pays the license fee prescribed by AS 16.05.340(a); and

4 (6) satisfies all additional requirements adopted in regulation by the  
5 Board of Fisheries.

6 (b) A natural person may obtain an annual sport fishing operator and sport  
7 fishing guide combined license if the person satisfies the requirements for a sport  
8 fishing operator license under AS 16.40.260 and for a sport fishing guide license under  
9 this section and pays the license fee prescribed by AS 16.05.340(a).

10 (c) A person may not provide sport fishing guide services unless the person

11 (1) holds a current sport fishing guide license; and

12 (2) holds a current sport fishing operator license or is an employee of a  
13 person who holds a current sport fishing operator license.

14 (d) A sport fishing guide may provide sport fishing guide services only to  
15 persons who have engaged the services of the sport fishing operator by whom the  
16 sport fishing guide is employed. A sport fishing guide may not contract directly with  
17 a person to provide sport fishing guide services to a person unless the sport fishing  
18 guide also holds a current sport fishing operator license.

19 (e) While engaged in providing sport fishing guide services, a sport fishing  
20 guide shall have readily available for inspection

21 (1) a current sport fishing guide license;

22 (2) the current licenses, tags, and permits that are required to engage in  
23 the sport fishery for which the sport fishing guide services are being provided;

24 (3) a driver's license or similar identification card that is issued by a  
25 state or federal agency and that bears a photograph of the fishing guide; and

26 (4) proof of

27 (A) employment as a sport fishing guide by a person who holds  
28 a current sport fishing operator license; or

29 (B) current licensure as a sport fishing operator.

30 (f) A sport fishing guide may not

31 (1) aid in the commission of a violation of AS 16.05 - AS 16.40 or a

1 regulation adopted under AS 16.05 - AS 16.40 by a client of the sport fishing guide; or  
 2 (2) permit the commission by a client of the sport fishing guide of a  
 3 violation of AS 16.05 - AS 16.40 or a regulation adopted under AS 16.05 - AS 16.40  
 4 that the sport fishing guide knows or reasonably believes is being or will be committed  
 5 without

6 (A) attempting to prevent it, short of using force; and

7 (B) reporting the violation.

8 **Sec. 16.40.280. Reports.** (a) The department may collect information from  
 9 sport fishing guides, including

10 (1) the name and license number of each vessel licensed under  
 11 AS 16.05.490 that is used in providing sport fishing guide services;

12 (2) the amount of fishing effort, catch, and harvest by clients of a sport  
 13 fishing guide;

14 (3) the locations fished during the provision of sport fishing guide  
 15 services; and

16 (4) other information that the department or board requires by  
 17 regulation.

18 (b) A person who holds a license issued under AS 16.40.260 or 16.40.270  
 19 shall comply with the reporting requirements in this section and reporting  
 20 requirements adopted in regulation by the department or board. The department and  
 21 the board may adopt by regulation requirements for timely submission of reports  
 22 required under this section or under regulations adopted by the department or board.

23 (c) A person who is required to complete reports under this section may not  
 24 provide false information or omit material facts in a report.

25 (d) A person who is required to complete reports under this section may not be  
 26 issued a new license under AS 16.40.260 or 16.40.270 unless the department has  
 27 received all reports required under this section for the preceding year.

28 (e) Information collected under this section is confidential to the extent  
 29 provided under AS 16.05.815.

30 (f) The department or board may adopt regulations under AS 44.62  
 31 (Administrative Procedure Act) that it considers necessary to implement this section.

1           **Sec. 16.40.290. Penalty.** (a) Except as provided in (b) and (c) of this section,  
2 a person who knowingly violates AS 16.40.260 - 16.40.299 or a regulation adopted  
3 under AS 16.40.260 - 16.40.299 is guilty of a class A misdemeanor.

4           (b) A person who, without any culpable mental state, violates AS 16.40.270(e)  
5 is guilty of a violation.

6           (c) A person who knowingly violates AS 16.40.270(e) or who knowingly fails  
7 to comply with a requirement for timely submission of reports required by a regulation  
8 adopted under AS 16.40.280(b) is, for a

9                   (1) first offense in a three-year period, guilty of a violation; and

10                   (2) second or subsequent offense in a three-year period, guilty of a  
11 class B misdemeanor.

12           (d) In addition to any other penalty provided by law, a court may revoke the  
13 sport fishing guide license of a person who is convicted under (a) or (c)(2) of this  
14 section.

15           (e) In this section, "knowingly" has the meaning given in AS 11.81.900.

16           **Sec. 16.40.299. Definitions.** In AS 16.40.260 - 16.40.299,

17                   (1) "sport fishing guide" means a person who is licensed to provide  
18 sport fishing guide services to persons who are engaged in sport fishing;

19                   (2) "sport fishing guide services" means assistance, for compensation  
20 or with the intent to receive compensation, to a sport fisherman to take or to attempt to  
21 take fish by accompanying or physically directing the sport fisherman in sport fishing  
22 activities during any part of a sport fishing trip; "sport fishing guide services" does not  
23 include

24                           (A) sport fishing services; or

25                           (B) services provided by an assistant, deckhand, or similar  
26 person who works directly under the supervision of and on the same vessel as a  
27 sport fishing guide;

28                   (3) "sport fishing services" means the indirect provision of assistance,  
29 for compensation or with the intent to receive compensation, to a person engaged in  
30 sport fishing in taking or attempting to take fish or shellfish by a business that  
31 employs a sport fishing guide to provide sport fishing guide services to the person

1 during any portion of a sport fishing trip; "sport fishing services" does not include

2 (A) an activity for which a sport fishing guide license is  
3 required; or

4 (B) booking and other ancillary services provided by a tour  
5 broker or agent to a sport fishing services operator.

6 \* **Sec. 4.** AS 25.27.244(s)(2)(A) is amended by adding new sub-subparagraphs to read:

7 (xviii) sport fishing operator license under  
8 AS 16.40.260;

9 (xix) sport fishing guide license under AS 16.40.270;

10 \* **Sec. 5.** AS 16.05.340(a)(26); AS 16.40.260, 16.40.270, 16.40.280, 16.40.290, 16.40.299;  
11 AS 25.27.244(s)(2)(A)(xviii), and 25.27.244(s)(2)(A)(xix) are repealed January 1, 2010.

12 \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
13 read:

14 TRANSITION; REGULATIONS. The Board of Fisheries and the Department of Fish  
15 and Game each may proceed to adopt regulations necessary to implement the changes made  
16 by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but  
17 not before the effective date of the statutory changes.

18 \* **Sec. 7.** Section 6 of this Act takes effect immediately under AS 01.10.070(c).

19 \* **Sec. 8.** Except as provided in sec. 7 of this Act, this Act takes effectg January 1, 2005.