



LAWS OF ALASKA

2005

Source

SCS CSHB 75(FIN)

Chapter No.

AN ACT

Relating to the powers and duties of the commissioner of fish and game, Board of Fisheries, and Board of Game in promoting and preserving fishing, hunting, and trapping in the state.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to the powers and duties of the commissioner of fish and game, Board of Fisheries,
2 and Board of Game in promoting and preserving fishing, hunting, and trapping in the state.

3

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE INTENT. It is the intent of the Alaska State Legislature that the
7 commissioner of fish and game, the Board of Fisheries, and the Board of Game implement
8 their authority to promote fishing, hunting, and trapping and to preserve the heritage of
9 fishing, hunting, and trapping in the state in a manner consistent with scientific fish and
10 wildlife management principles and the Alaska constitutional principles of common use and
11 sustained yield.

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

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

1 and duties:

2 (1) [TO ASSIST THE UNITED STATES FISH AND WILDLIFE
3 SERVICE IN THE ENFORCEMENT OF FEDERAL LAWS AND REGULATIONS
4 PERTAINING TO FISH AND GAME;

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

10 (3) [(3)] under the provisions of AS 36.30, to design and construct
11 hatcheries, pipelines, rearing ponds, fishways, and other projects beneficial for the fish
12 and game resources of the state;

13 (3) [(4)] to accept money from any person under conditions requiring
14 the use of the money for specific purposes in the furtherance of the protection,
15 rehabilitation, propagation, preservation, or investigation of the fish and game
16 resources of the state or in settlement of claims for damages to fish or game resources;

17 (4) [(5)] to collect, classify, and disseminate statistics, data and
18 information that, in the commissioner's discretion, will tend to promote the purposes
19 of this title except AS 16.51 and AS 16.52;

20 (5) [(6)] to take, capture, propagate, transport, buy, sell, or exchange
21 fish or game or eggs for propagating, scientific, public safety, or stocking purposes;

22 (6) [(7)] under the provisions of AS 36.30, to provide public facilities
23 where necessary or proper to facilitate the taking of fish or game, and to enter into
24 cooperative agreements with any person to effect them;

25 (7) [(8)] to exercise administrative, budgeting, and fiscal powers;

26 (8) [(9)] under the provisions of AS 36.30, to construct, operate,
27 supervise, and maintain vessels used by the department;

28 (9) [(10)] to authorize the holder of an interim-use permit under
29 AS 16.43 to engage on an experimental basis in commercial taking of a fishery
30 resource with vessel, gear, and techniques not presently qualifying for licensing under
31 this chapter in conformity with standards established by the Alaska Commercial

1 Fisheries Entry Commission;

2 **(10)** [(11)] not later than January 31 of each year, to provide to the
3 commissioner of revenue the names of those fish and shellfish species that the
4 commissioner of fish and game designates as developing commercial fish species for
5 that calendar year; a fish or shellfish species is a developing commercial fish species
6 if, within a specified geographical region,

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

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

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

13 **(11)** [(12)] to initiate or conduct research necessary or advisable to
14 carry out the purposes of this title except AS 16.51 and AS 16.52;

15 **(12)** [(13)] to enter into cooperative agreements with agencies of the
16 federal government, educational institutions, or other agencies or organizations, when
17 in the public interest, to carry out the purposes of this title except AS 16.51 and
18 AS 16.52;

19 **(13)** [(14)] to implement an on-board observer program authorized by
20 the Board of Fisheries under AS 16.05.251(a)(13); implementation

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

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

25 **(14)** [(15)] to sell fish caught during commercial fisheries test fishing
26 operations;

27 **(15)** [(16)] to establish and charge fees equal to the cost of services
28 provided by the department, including provision of public shooting ranges, broodstock
29 and eggs for private nonprofit hatcheries, department publications, and other direct
30 services, and reasonable fees for the use of state facilities managed by the department;
31 fees established under this paragraph for tours of hatchery facilities, commercial use of

1 sport fishing access sites, and for operation of state hatchery facilities by private
2 aquaculture associations are not subject to the cost limit under AS 37.10.050(a);

3 **(16)** [(17)] to permit and regulate aquatic farming in the state in a
4 manner that ensures the protection of the state's fish and game resources and improves
5 the economy, health, and well-being of the citizens of the state;

6 **(17)** [(18)] to operate state housing and facilities for employees,
7 contractors, and others in support of the department's responsibilities and to charge
8 rent that is consistent with applicable collective bargaining agreements, or, if no
9 collective bargaining agreement is applicable, competitive with market conditions;
10 rent received from tenants shall be deposited in the general fund;

11 **(18)** [(19)] to petition the Alaska Commercial Fisheries Entry
12 Commission, unless the Board of Fisheries disapproves the petition under
13 AS 16.05.251(g), to establish a moratorium on new entrants into commercial fisheries

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

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

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

21 **(19) to promote fishing, hunting, and trapping and preserve the**
22 **heritage of fishing, hunting, and trapping in the state.**

23 * **Sec. 3.** AS 16.05.251(a) is amended to read:

24 (a) The Board of Fisheries may adopt regulations it considers advisable in
25 accordance with AS 44.62 (Administrative Procedure Act) for

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

29 (2) establishing open and closed seasons and areas for the taking of
30 fish; if consistent with resource conservation and development goals, the board may
31 adopt regulations establishing restricted seasons and areas necessary for

1 (A) persons 60 years of age and older to participate in sport,
2 personal use, or subsistence fishing; or

3 (B) persons under 16 years of age to participate in sport
4 fishing;

5 (3) setting quotas, bag limits, harvest levels, and sex and size
6 limitations on the taking of fish;

7 (4) establishing the means and methods employed in the pursuit,
8 capture, and transport of fish;

9 (5) establishing marking and identification requirements for means
10 used in pursuit, capture, and transport of fish;

11 (6) classifying as commercial fish, sport fish, guided sport fish,
12 personal use fish, subsistence fish, or predators or other categories essential for
13 regulatory purposes;

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

16 (8) investigating and determining the extent and effect of disease,
17 predation, and competition among fish in the state, exercising control measures
18 considered necessary to the resources of the state;

19 (9) prohibiting and regulating the live capture, possession, transport, or
20 release of native or exotic fish or their eggs;

21 (10) establishing seasons, areas, quotas, and methods of harvest for
22 aquatic plants;

23 (11) establishing the times and dates during which the issuance of
24 fishing licenses, permits, and registrations and the transfer of permits and registrations
25 between registration areas is allowed; however, this paragraph does not apply to
26 permits issued or transferred under AS 16.43;

27 (12) regulating commercial, sport, guided sport, subsistence, and
28 personal use fishing as needed for the conservation, development, and utilization of
29 fisheries;

30 (13) requiring, in a fishery, observers on board fishing vessels, as
31 defined in AS 16.05.475(d), that are registered under the laws of the state, as defined

1 in AS 16.05.475(c), after making a written determination that an on-board observer
2 program

3 (A) is the only practical data-gathering or enforcement
4 mechanism for that fishery;

5 (B) will not unduly disrupt the fishery;

6 (C) can be conducted at a reasonable cost; and

7 (D) can be coordinated with observer programs of other
8 agencies, including the National Marine Fisheries Service, North Pacific
9 Fishery Management Council, and the International Pacific Halibut
10 Commission;

11 (14) establishing nonexclusive, exclusive, and superexclusive
12 registration and use areas for regulating commercial fishing;

13 (15) regulating resident or nonresident sport fishermen as needed for
14 the conservation, development, and utilization of fishery resources;

15 (16) requiring unlicensed fishing vessels present in or transiting the
16 waters of the state to report to the department the quantity, species, and origin of fish
17 on board; in this paragraph, "unlicensed fishing vessel" means a fishing vessel that is
18 not licensed under AS 16.05.490 - 16.05.530;

19 **(17) promoting fishing and preserving the heritage of fishing in the**
20 **state.**

21 * **Sec. 4.** AS 16.05.255(a) is amended to read:

22 (a) The Board of Game may adopt regulations it considers advisable in
23 accordance with AS 44.62 (Administrative Procedure Act) for

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

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

29 (3) establishing the means and methods employed in the pursuit,
30 capture, taking, and transport of game, including regulations, consistent with resource
31 conservation and development goals, establishing means and methods that may be

1 employed by persons with physical disabilities;

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

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

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

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

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

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

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

17 (11) taking game to ensure public safety;

18 (12) regulating the activities of persons licensed to control nuisance
19 wild birds and nuisance wild small mammals;

20 **(13) promoting hunting and trapping and preserving the heritage**
21 **of hunting and trapping in the state.**

22 * **Sec. 5.** AS 16.43.210(c) is amended to read:

23 (c) To the extent that the commissioner of fish and game authorizes it under
24 **AS 16.05.050(a)(9)** [AS 16.05.050(a)(10)], the commission may grant an interim-use
25 permit to a person to engage in the commercial taking from a fishery on an
26 experimental basis.

27 * **Sec. 6.** AS 37.05.146(c)(21) is amended to read:

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

30 * **Sec. 7.** AS 43.75.290(1) is amended to read:

31 (1) "developing commercial fish species" means those species of fish

1 and shellfish annually designated by the commissioner of fish and game under
2 **AS 16.05.050(a)(10)** [AS 16.05.050(a)(11)];