

**HOUSE BILL NO. 198**

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

BY REPRESENTATIVE ELKINS

Introduced: 3/4/05

Referred: House Special Committee on Fisheries, Resources

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to aquatic farming; and providing for an effective date."**

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

3 \* **Section 1.** AS 16.40.100(b) is amended to read:

4 (b) A permit issued under this section authorizes the permittee, subject to the  
5 conditions of AS 16.40.100 - 16.40.199 and AS 17.20, to

6 **(1)** acquire, purchase, offer to purchase, transfer, possess, sell, and  
7 offer to sell stock and aquatic farm products that are used or reared at the hatchery or  
8 aquatic farm; **and**

9 **(2)** **except as provided in (f) of this section, acquire ownership of,**  
10 **harvest, and, without further cultivation, sell an insignificant population that**  
11 **may be present at the aquatic farm site of a wild stock of a shellfish species**  
12 **intended to be cultured at the site** [. A PERSON WHO HOLDS A PERMIT  
13 UNDER THIS SECTION MAY SELL OR OFFER TO SELL SHELLFISH STOCK  
14 TO THE DEPARTMENT OR TO AN AQUATIC FARM OR RELATED  
15 HATCHERY OUTSIDE OF THE STATE].

1 \* **Sec. 2.** AS 16.40.100(e) is amended to read:

2 (e) Upon the expiration or termination of a permit issued under this section, a  
 3 person who holds a permit for an aquatic farming site where wild stocks of shellfish  
 4 indigenous to the site are cultured shall, as a condition of the permit, restore the wild  
 5 stock of shellfish, as consistent with sustained yield management of the wild stock, to  
 6 the population level that existed on the site when the permit for the site was initially  
 7 issued by the commissioner. **A permit holder is not required to restore that**  
 8 **portion of the wild stock of shellfish that was removed from an aquatic farming**  
 9 **site by a common property fishery conducted after the issuance of the permit for**  
 10 **the aquatic farming site.**

11 \* **Sec. 3.** AS 16.40.100 is amended by adding a new subsection to read:

12 (f) If the wild stock of a shellfish species to be cultured at an aquatic farm site  
 13 exceeds the amount determined by the department to be an insignificant population  
 14 and if the commissioner determines in writing that removal from the site of that  
 15 portion of the stock that exceeds an insignificant population would benefit the public  
 16 and that removal of the stock by a person other than the permittee would unreasonably  
 17 interfere with the operation of the aquatic farm, the commissioner may authorize the  
 18 permittee to remove and sell the excess amount of the wild stock from the site, if the  
 19 permittee pays reasonable compensation, as defined by the department, to the  
 20 department for the harvest and sale of the excess wild stock. The department shall  
 21 deposit the money received under this subsection into the general fund. The  
 22 legislature may appropriate the money received under this section to the department  
 23 for shellfish management and enhancement.

24 \* **Sec. 4.** AS 16.40.105 is amended to read:

25 **Sec. 16.40.105. Criteria for issuance of permits.** The commissioner shall  
 26 issue permits under AS 16.40.100 on the basis of the following criteria:

27 (1) the physical and biological characteristics of the proposed farm or  
 28 hatchery location must be suitable for the farming or the shellfish or aquatic plant  
 29 proposed;

30 (2) the proposed farm or hatchery may not require significant  
 31 alterations in traditional fisheries or other existing uses of fish and wildlife resources;

1 (3) the proposed farm or hatchery may not significantly affect  
2 fisheries, wildlife, or their habitats in an adverse manner; [AND]

3 (4) the proposed farm or hatchery plans and staffing plans must  
4 demonstrate technical and operational feasibility; **and**

5 **(5) the proposed farm site may not include more than an**  
6 **insignificant population of a wild stock of a shellfish species intended to be**  
7 **cultured on the site.**

8 \* **Sec. 5.** AS 16.40 is amended by adding a new section to read:

9 **Sec. 16.40.155. Records and reports confidential.** Records required by  
10 statute or by a regulation adopted by the department concerning aquatic farm stocks or  
11 production, prices, and harvests of aquatic farm products and wild stocks, and annual  
12 statistical reports of individual aquatic farms or hatcheries required by statute or by a  
13 regulation adopted by the department are confidential and may not be released by the  
14 department, except that the department may release the records and reports

15 (1) to the Department of Revenue and the Department of Natural  
16 Resources to assist the departments in carrying out their respective statutory  
17 responsibilities;

18 (2) as necessary to comply with a court order;

19 (3) provided by an aquatic farm or hatchery permit holder to the permit  
20 holder whose activity is the subject of the records or reports;

21 (4) regarding cumulative annual harvests of wild stocks at individual  
22 aquatic farm sites.

23 \* **Sec. 6.** AS 16.40.199 is amended by adding a new paragraph to read:

24 (9) "insignificant population" mean a population of shellfish that, in  
25 the determination of the commissioner, would not attract and support a commercial  
26 fishery for that species of shellfish and the harvest and sale of the shellfish would not  
27 result in significant alteration in traditional fisheries or other existing uses of fish and  
28 wildlife resources if the population were included within an aquatic farm site.

29 \* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to  
30 read:

31 **APPLICABILITY.** Until expiration or termination of the permit, AS 16.40.105,

1 added by sec. 4 of this Act, does not apply to an aquatic farm permit issued under  
2 AS 16.40.100 before the effective date of this Act.

3 \* **Sec. 8.** This Act takes effect July 1, 2005.