

HOUSE BILL NO. 380

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE MEYER

Introduced: 1/18/06

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the powers and duties of the commissioner of environmental**
2 **conservation; relating to animals, animal products, agricultural products, and the**
3 **transportation of animals and animal products; relating to the employment,**
4 **appointment, and duties of a state veterinarian by the commissioner of environmental**
5 **conservation; relating to the powers of the commissioner of natural resources regarding**
6 **agricultural products; and providing for an effective date."**

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

8 *** Section 1.** AS 03.05.011 is repealed and reenacted to read:

9 **Sec. 03.05.011. Powers of commissioner of environmental conservation.** (a)

10 To carry out the requirements of this title, the commissioner may

11 (1) issue orders or permits relating to or authorizing the examination,
12 inspection, testing, quarantine, or embargo of animals or animal products, or premises
13 containing or having contained animals or animal products, in order to prevent the

1 spread of pests or contagious or infectious disease;

2 (2) conduct tests, analyses, and hearings to determine whether to issue
3 an order or permit under this section;

4 (3) cooperate with federal, state, municipal, and other governmental
5 agencies regarding powers and duties under this section;

6 (4) issue orders or permits relating to or authorizing the custody, care,
7 or destruction of animals or animal products to prevent the spread of pests or
8 contagious or infectious disease;

9 (5) designate points of entry for the admission of animals or animal
10 products into the state; and

11 (6) issue orders or permits relating to, or authorizing the examination,
12 testing, or care of, animals or animal products to be transported into, within, or from
13 this state, in order

14 (A) to prevent the spread of pests or contagious or infectious
15 disease; or

16 (B) to promote safe or sanitary conditions for the animals or
17 animal products to be transported.

18 (b) The commissioner may

19 (1) charge fees for services performed by or for the state, state officers,
20 and state employees, including a state veterinarian, under this section;

21 (2) designate individuals, independently or in cooperation with federal,
22 state, municipal, or other governmental agencies, to carry out and enforce, under the
23 direction of the state veterinarian, the requirements of this title over which the
24 department has jurisdiction; and

25 (3) adopt regulations under AS 44.62 (Administrative Procedure Act)
26 to implement and interpret this section.

27 (c) Before taking custody of or destroying an animal or animal product under
28 (a)(4) of this section, or imposing a quarantine, placing an embargo, or taking another
29 action under this section that deprives a person of an animal or animal product, the
30 department shall provide for notice and an opportunity to be heard to the owner or
31 person in possession of the animal or animal product, unless the department

1 determines there is an immediate threat to the health or safety of an animal or the
2 public.

3 (d) Nothing in this section affects the authority of another agency of this state.

4 (e) In this section,

5 (1) "commissioner" means the commissioner of environmental
6 conservation;

7 (2) "department" means the Department of Environmental
8 Conservation.

9 * **Sec. 2.** AS 03.05 is amended by adding a new section to read:

10 **Sec. 03.05.013. State veterinarian.** The commissioner of environmental
11 conservation may employ or appoint a person to act as the state veterinarian to carry
12 out and enforce the requirements of this title over which the Department of
13 Environmental Conservation has jurisdiction. To be eligible for appointment as the
14 state veterinarian, a person must be licensed or otherwise legally authorized under
15 AS 08.98 to engage in the practice of veterinary medicine in the state.

16 * **Sec. 3.** AS 03.05.040(a) is amended to read:

17 (a) **To carry out the requirements of this chapter,** [ON ANY BUSINESS
18 DAY DURING THE USUAL HOURS OF BUSINESS] the commissioner or an
19 **individual designated by the commissioner as an** [AUTHORIZED] inspector may,
20 for the purpose of inspecting **animals, animal products,** agricultural products, **or**
21 **premises containing or having contained animals, animal products, or**
22 **agricultural products** [SUBJECT TO REGULATION], enter a storehouse,
23 warehouse, cold storage plant, packing house, slaughterhouse, retail store, or other
24 building or place where **animals, animal products, or agricultural** [THOSE]
25 products are **or have been raised, housed,** kept, stored, processed, or sold.

26 * **Sec. 4.** AS 03.05.050(a) is amended to read:

27 (a) An **animal, animal product, or** agricultural product found by the
28 commissioner, or an **individual designated by the commissioner as an**
29 [AUTHORIZED] inspector, to violate a regulation adopted under this chapter is
30 declared to be a public nuisance injurious to the public interest and may not be moved
31 by the person in whose possession it may be except **at** [UPON] the specific direction

1 of the commissioner or inspector.

2 * **Sec. 5.** AS 03.05.090 is amended by adding new subsections to read:

3 (b) A person who violates an order issued, a regulation adopted, a permit
4 issued, a quarantine imposed, or an embargo ordered under AS 03.05.011, or a person
5 who directs or orders a person to commit the violation, is subject to a civil fine of not
6 more than \$500 for each violation.

7 (c) If the Department of Environmental Conservation issues an order
8 regarding, adopts a regulation on, issues a permit regarding, imposes a quarantine on,
9 or orders an embargo on an animal or animal product that the Department of
10 Environmental Conservation reasonably believes carries pests, a contagious disease, or
11 an infectious disease, a consignee who knowingly receives, or a carrier who
12 knowingly transports, the animal or animal product in violation of the order,
13 regulation, permit, quarantine, or embargo is subject to a civil fine of not more than
14 \$500 for each violation.

15 (d) The Department of Environmental Conservation or a court of competent
16 jurisdiction may impose the fine authorized by (b) or (c) of this section.

17 (e) Each animal, animal product, or premises containing or having contained
18 animals or animal products involved in a violation described in (b) or (c) of this
19 section constitutes a separate violation under (b) and (c) of this section. Each day on
20 which a violation described in (b) or (c) of this section occurs constitutes a separate
21 violation under (b) and (c) of this section.

22 (f) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

23 * **Sec. 6.** AS 03.05.100(1) is amended to read:

24 (1) "agricultural products" does not include fish, [OR] fisheries
25 products, **animals, or animal products;**

26 * **Sec. 7.** AS 03.05.100 is amended by adding new paragraphs to read:

27 (4) "animal" means an animal other than a human being and includes a
28 mammal, insect, bird, fish, and reptile, whether wild or domestic, and whether living
29 or dead;

30 (5) "animal product" means a product, article, or commodity
31 containing any part of an animal.

1 * **Sec. 8.** AS 44.46.025(a) is amended to read:

2 (a) Except as otherwise provided in AS 37.10.050 - 37.10.056, the Department
3 of Environmental Conservation may adopt regulations that prescribe reasonable fees,
4 and establish procedures for the collection of those fees, to cover the applicable direct
5 costs, not including travel except in the case of a designated regulatory service, as that
6 term is defined in AS 37.10.058, of inspections, permit preparation and administration,
7 plan review and approval, and other services provided by the department relating to

8 (1) [AGRICULTURE AND] animals **and animal products** under
9 AS 03.05; food, drugs, and cosmetics under AS 17.20; and public accommodations
10 and facilities under AS 18.35;

11 (2) certificates of inspection for motor vehicles under AS 46.14.400 or
12 46.14.510;

13 (3) drinking water systems under AS 46.03.720;

14 (4) water and wastewater operator training under AS 46.30;

15 (5) waste management and disposal authorizations under
16 AS 46.03.100;

17 (6) certification of laboratories conducting environmental analyses of
18 public drinking water systems or of oil or hazardous substances, or conducting other
19 analyses required by the department;

20 (7) certification of federal permits or authorizations under 33 U.S.C.
21 1341 (sec. 401, Clean Water Act);

22 (8) regulation of point source discharges of pollutants under the
23 program authorized by AS 46.03.020(12);

24 (9) regulation of pesticides and broadcast chemicals registered under
25 AS 46.03.320(a)(4), with a reasonable fee not to exceed \$120;

26 (10) licensing of pesticide applicators under AS 46.03.320(b), with a
27 reasonable fee not to exceed \$25.

28 * **Sec. 9.** AS 03.05.020, 03.05.060, 03.05.080; AS 03.25.010, 03.25.020, 03.25.250;
29 AS 03.45.040, 03.45.050, 03.45.060, 03.45.070, 03.45.080; and AS 03.53.010 are repealed.

30 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 TRANSITIONAL PROVISIONS: REGULATIONS. The Department of
2 Environmental Conservation and the Department of Natural Resources may proceed to adopt
3 regulations necessary to implement the changes in this Act. The regulations take effect under
4 AS 44.62 (Administrative Procedure Act), but not before the effective date of the law
5 implemented by the regulation.

6 * **Sec. 11.** Section 10 of this Act takes effect immediately under AS 01.10.070(c).

7 * **Sec. 12.** Except as provided in sec. 11 of this Act, this Act takes effect July 1, 2006.