

CS FOR HOUSE BILL NO. 380(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 2/8/06

Referred: Finance

Sponsor(s): REPRESENTATIVE MEYER

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; relating to animal rabies prevention and control; and providing**
7 **for an effective date."**

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

9 *** Section 1.** AS 03.05.011 is repealed and reenacted to read:

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

11 To carry out the requirements of this title over which the department has jurisdiction,
12 the commissioner may

13 (1) issue orders or permits relating to or authorizing the examination,

1 inspection, testing, quarantine, or embargo of animals or animal products, or premises
2 containing or having contained animals or animal products, in order to prevent the
3 spread of pests or contagious or infectious disease;

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

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

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

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

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

16 (A) to prevent the spread of pests or contagious or infectious
17 disease; or

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

20 (b) The commissioner may

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

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

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

29 (c) Before taking custody of or destroying an animal or animal product under
30 (a)(4) of this section, or imposing a quarantine, placing an embargo, or taking another
31 action under this section that deprives a person of an animal or animal product, the

1 department shall provide for notice and an opportunity to be heard to the owner or
 2 person in possession of the animal or animal product, unless the department
 3 determines there is an immediate threat to the health or safety of an animal or the
 4 public.

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

6 (e) In this section,

7 (1) "commissioner" means the commissioner of environmental
 8 conservation;

9 (2) "department" means the Department of Environmental
 10 Conservation.

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

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

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

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

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

29 (a) An **animal, animal product, or** agricultural product found by the
 30 commissioner, or an **individual designated by the commissioner as an**
 31 [AUTHORIZED] inspector, to violate a regulation adopted under this chapter is

1 declared to be a public nuisance injurious to the public interest and may not be moved
 2 by the person in whose possession it may be except at [UPON] the specific direction
 3 of the commissioner or inspector.

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

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

9 (c) If the Department of Environmental Conservation issues an order
 10 regarding, adopts a regulation on, issues a permit regarding, imposes a quarantine on,
 11 or orders an embargo on an animal or animal product that the Department of
 12 Environmental Conservation reasonably believes carries pests, a contagious disease, or
 13 an infectious disease, a consignee who knowingly receives, or a carrier who
 14 knowingly transports, the animal or animal product in violation of the order,
 15 regulation, permit, quarantine, or embargo is subject to a civil fine of not more than
 16 \$500 for each violation.

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

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

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

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

26 (1) "agricultural products" does not include fish, [OR] fisheries
 27 products, animals, or animal products;

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

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

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

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

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

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

13 (2) certificates of inspection for motor vehicles under AS 46.14.400 or
 14 46.14.510;

15 (3) drinking water systems under AS 46.03.720;

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

17 (5) waste management and disposal authorizations under
 18 AS 46.03.100;

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

22 (7) certification of federal permits or authorizations under 33 U.S.C.
 23 1341 (sec. 401, Clean Water Act);

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

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

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

30 * **Sec. 9.** AS 47.05.012 is amended to read:

31 **Sec. 47.05.012. Material incorporated by reference.** Under

1 AS 44.62.245(a)(2), in adopting or amending a regulation that incorporates a
2 document or other material by reference, the department may incorporate future
3 amended versions of the document or other material if the document or other material
4 is one of the following:

5 (1) a document that is published, compiled, or prepared by the United
6 States Department of Health and Human Services and is included in the following list:

7 (A) the international classification of diseases, clinical
8 modifications;

9 (B) the common procedure coding system;

10 (C) the specifications for national uniform billing data
11 elements;

12 (D) the federal poverty guidelines for the state;

13 (E) the Indian Health Service encounter rates; or

14 (F) the relative value units used in the Medicare program for
15 determination of fee schedules;

16 (2) the current procedural terminology for physicians published by the
17 American Medical Association;

18 (3) the diagnostic and statistical manual of mental disorders published
19 by the American Psychiatric Association;

20 (4) the length of stay in hospitals by diagnosis and operation for the
21 western region of the United States, published by Solucient;

22 (5) the relative value guide published by the American Society of
23 Anesthesiologists;

24 (6) the consumer price index published by the United States
25 Department of Labor;

26 (7) the health plan employer data and information set published by the
27 National Committee for Quality Assurance;

28 (8) practice standards adopted by the American Academy of Pediatrics,
29 American College of Obstetricians and Gynecologists, American Diabetes
30 Association, American Cancer Society, American Academy of Family Physicians,
31 American College of Physicians, United States Centers for Disease Control and

1 Prevention, Agency for Healthcare Research and Quality, or the National Asthma
2 Education and Prevention Program;

3 (9) the compendium of animal rabies prevention and control [, 2002,]
4 published by the United States Centers for Disease Control and Prevention;

5 (10) the control of communicable diseases manual published by the
6 American Public Health Association;

7 (11) the standards manual and interpretative guidelines for behavioral
8 health, employment and community support services, and for medical rehabilitation
9 published by the Commission on Accreditation of Rehabilitative Facilities;

10 (12) consumer assessment of health plans published by the Agency for
11 Health Care Policy and Research; or

12 (13) resources for optimal care of the injured patient published by the
13 Committee on Trauma, American College of Surgeons.

14 * **Sec. 10.** AS 03.05.020, 03.05.060, 03.05.080; AS 03.25.010, 03.25.020, 03.25.250;
15 AS 03.45.040, 03.45.050, 03.45.060, 03.45.070, 03.45.080; and AS 03.53.010 are repealed.

16 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 TRANSITIONAL PROVISIONS: REGULATIONS. The Department of
19 Environmental Conservation and the Department of Natural Resources may proceed to adopt
20 regulations necessary to implement the changes in secs. 1 - 8 of this Act. The regulations take
21 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
22 law implemented by the regulation.

23 * **Sec. 12.** Section 11 of this Act takes effect immediately under AS 01.10.070(c).

24 * **Sec. 13.** Except as provided in sec. 12 of this Act, this Act takes effect July 1, 2006.