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SENATE CS FOR CS FOR HOUSE BILL NO. 380(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/7/06

Referred: Finance

Sponsor(s): REPRESENTATIVES MEYER, Foster, Dahlstrom, Wilson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the powers and duties of the commissioner of environmental
2 conservation regarding 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9 * **Section 1.** AS 03.05.011 is repealed and reenacted to read: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 relating to animals or animal products over
12 which the department has jurisdiction, 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 relating to animals or animal products 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) adopt a schedule of fees or charges, and credit provisions, for
22 services related to animals and animal products rendered by state veterinarians to
23 farmers and others at their request, and all the receipts from the fees and charges shall
24 be transmitted to the commissioner for deposit in the state treasury;

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

29 (3) enter into agreements with the federal government for controlling
30 disease among animals and match federal payments for animals destroyed under those
31 agreements from any appropriation available for this purpose;

1 (4) pay an owner of an animal destroyed under this section an amount
2 from any appropriation available for this purpose; and

3 (5) adopt regulations under AS 44.62 (Administrative Procedure Act)
4 to implement and interpret this section; when adopting regulations under this
5 paragraph, the commissioner shall give substantial weight to the typical practices and
6 standards in the state and in the United States of the industry for which the regulations
7 are designed.

8 (c) Before taking custody of or destroying an animal or animal product under
9 (a)(4) of this section, or imposing a quarantine, placing an embargo, or taking another
10 action under this section that deprives a person of an animal or animal product, the
11 department shall provide for notice and an opportunity to be heard to the owner or
12 person in possession of the animal or animal product, unless the commissioner
13 determines there is an immediate threat to the health or safety of an animal or the
14 public.

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

16 (e) In this section,

17 (1) "commissioner" means the commissioner of environmental
18 conservation;

19 (2) "department" means the Department of Environmental
20 Conservation.

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

22 **Sec. 03.05.013. State veterinarian.** The commissioner of environmental
23 conservation may employ or appoint a person to act as the state veterinarian to carry
24 out and enforce the requirements of this title relating to animals or animal products
25 over which the Department of Environmental Conservation has jurisdiction. To be
26 eligible for appointment as the state veterinarian, a person must be licensed or
27 otherwise legally authorized under AS 08.98 to engage in the practice of veterinary
28 medicine in the state.

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

30 (a) **To carry out the requirements of this chapter,** on any business day
31 during the usual hours of business, **or at any time if the commissioner determines**

1 **that there is an immediate threat to the health or safety of an animal or the**
 2 **general public,** the commissioner or an **individual designated by the commissioner**
 3 **as an** [AUTHORIZED] inspector may, for the purpose of inspecting **animals, animal**
 4 **products,** agricultural products, **or premises containing or having contained**
 5 **animals, animal products, or agricultural products** [SUBJECT TO
 6 REGULATION], enter a storehouse, warehouse, cold storage plant, packing house,
 7 slaughterhouse, retail store, or other building or place where **animals, animal**
 8 **products, or agricultural** [THOSE] products are **or have been raised, housed,** kept,
 9 stored, processed, or sold.

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

11 (a) An **animal, animal product, or** agricultural product found by the
 12 commissioner, or an **individual designated by the commissioner as an**
 13 [AUTHORIZED] inspector, to violate a regulation adopted under this chapter is
 14 declared to be a public nuisance injurious to the public interest and may not be moved
 15 by the person in whose possession it may be except **at** [UPON] the specific direction
 16 of the commissioner or inspector.

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

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

22 (c) If the Department of Environmental Conservation issues an order
 23 regarding, adopts a regulation on, issues a permit regarding, imposes a quarantine on,
 24 or orders an embargo on an animal or animal product that the Department of
 25 Environmental Conservation reasonably believes carries pests, a contagious disease, or
 26 an infectious disease, a consignee who knowingly receives, or a carrier who
 27 knowingly transports, the animal or animal product in violation of the order,
 28 regulation, permit, quarantine, or embargo is subject to a civil fine of not more than
 29 \$500 for each violation.

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

1 (e) Each animal, animal product, or premises containing or having contained
 2 animals or animal products involved in a violation described in (b) or (c) of this
 3 section constitutes a separate violation under (b) and (c) of this section. Each day on
 4 which a violation described in (b) or (c) of this section occurs constitutes a separate
 5 violation under (b) and (c) of this section.

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

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

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

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

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

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

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

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

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

26 (2) certificates of inspection for motor vehicles under AS 46.14.400 or
 27 46.14.510;

28 (3) drinking water systems under AS 46.03.720;

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

30 (5) waste management and disposal authorizations under
 31 AS 46.03.100;

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

4 (7) certification of federal permits or authorizations under 33 U.S.C.
 5 1341 (sec. 401, Clean Water Act);

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

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

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

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

13 **Sec. 47.05.012. Material incorporated by reference.** Under
 14 AS 44.62.245(a)(2), in adopting or amending a regulation that incorporates a
 15 document or other material by reference, the department may incorporate future
 16 amended versions of the document or other material if the document or other material
 17 is one of the following:

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

20 (A) the international classification of diseases, clinical
 21 modifications;

22 (B) the common procedure coding system;

23 (C) the specifications for national uniform billing data
 24 elements;

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

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

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

29 (2) the current procedural terminology for physicians published by the
 30 American Medical Association;

31 (3) the diagnostic and statistical manual of mental disorders published

1 by the American Psychiatric Association;

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

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

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

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

10 (8) practice standards adopted by the American Academy of Pediatrics,
11 American College of Obstetricians and Gynecologists, American Diabetes
12 Association, American Cancer Society, American Academy of Family Physicians,
13 American College of Physicians, United States Centers for Disease Control and
14 Prevention, Agency for Healthcare Research and Quality, or the National Asthma
15 Education and Prevention Program;

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

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

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

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

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

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

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

31 TRANSITIONAL PROVISIONS: REGULATIONS. The Department of

1 Environmental Conservation and the Department of Natural Resources may proceed to adopt
2 regulations necessary to implement the changes in secs. 1 - 8 of this Act. The regulations take
3 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
4 law implemented by the regulation.

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

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