

SENATE BILL NO. 184

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST

Introduced: 5/16/07

Referred: Community and Regional Affairs, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act amending the powers of the Board of Fisheries to include regulating
2 commercial cooperative fisheries."

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

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

6 LEGISLATIVE INTENT AND PURPOSE. (a) It is the intent of the legislature to
7 clarify that the Board of Fisheries has authority under AS 16.05 and AS 16.43 to establish and
8 allocate fishery resources to commercial cooperative fisheries and that AS 16.43 does not
9 limit that authority.

10 (b) The purpose of this Act is to overrule the holdings in Grunert v. State, 109 P.3d
11 924 (Alaska 2005), and Grunert v. State, 139 P.3d 1226 (Alaska 2006).

12 * **Sec. 2.** AS 16.05.251(a) is amended to read:

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

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

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

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

9 (B) persons under 16 years of age to participate in sport
10 fishing;

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

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

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

17 (6) classifying as commercial fish, sport fish, guided sport fish,
18 personal use fish, subsistence fish, or predators or other categories essential for
19 regulatory purposes;

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

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

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

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

29 (11) establishing the times and dates during which the issuance of
30 fishing licenses, permits, and registrations and the transfer of permits and registrations
31 between registration areas is allowed; however, this paragraph does not apply to

1 permits issued or transferred under AS 16.43;

2 (12) regulating commercial, sport, guided sport, subsistence, and
3 personal use fishing as needed for the conservation, development, and utilization of
4 fisheries, **including allocating to commercial cooperative fisheries;**

5 (13) requiring, in a fishery, observers on board fishing vessels, as
6 defined in AS 16.05.475(d), that are registered under the laws of the state, as defined
7 in AS 16.05.475(c), after making a written determination that an on-board observer
8 program

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

11 (B) will not unduly disrupt the fishery;

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

13 (D) can be coordinated with observer programs of other
14 agencies, including the National Marine Fisheries Service, North Pacific
15 Fishery Management Council, and the International Pacific Halibut
16 Commission;

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

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

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

25 (17) promoting fishing and preserving the heritage of fishing in the
26 state.

27 * **Sec. 3.** AS 16.05.251(e) is amended to read:

28 (e) The Board of Fisheries may allocate fishery resources among **and within**
29 personal use, sport, guided sport, and commercial fisheries, **including allocating to**
30 **cooperatives within a single fishery or between fisheries.** The board shall adopt
31 criteria for the allocation of fishery resources and shall use the criteria as appropriate

1 to particular allocation decisions. The criteria may include factors such as

2 (1) the history of each personal use, sport, guided sport, and
3 commercial fishery;

4 (2) the number of residents and nonresidents who have participated in
5 each fishery in the past and the number of residents and nonresidents who can
6 reasonably be expected to participate in the future;

7 (3) the importance of each fishery for providing residents the
8 opportunity to obtain fish for personal and family consumption;

9 (4) the availability of alternative fisheries resources;

10 (5) the importance of each fishery to the economy of the state;

11 (6) the importance of each fishery to the economy of the region and
12 local area in which the fishery is located;

13 (7) the importance of each fishery in providing recreational
14 opportunities for residents and nonresidents.

15 * **Sec. 4.** AS 16.43.950 is amended to read:

16 **Sec. 16.43.950. Applications of regulations of Board of Fisheries.** Nothing
17 in this chapter limits the powers of the Board of Fisheries, including the power to
18 determine legal types of gear, [AND] the power to establish size limitations or other
19 uniform restrictions applying to a certain type of gear, **and the power to establish**
20 **and allocate fishery resources to commercial cooperative fisheries.** Holders of
21 interim-use permits or entry permits issued under this chapter are subject to all
22 regulations adopted by the Board of Fisheries.