

SENATE BILL NO. 275

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY SENATOR MCGUIRE

Introduced: 2/10/10

Referred: Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to aquatic farming and to payment made to the Department of Fish**
2 **and Game for the removal of wild stock of a shellfish species that exceeds an**
3 **insignificant amount; and providing for an effective date."**

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

5 *** Section 1.** AS 16.05.050(a) is amended to read:

6 (a) The commissioner has, but not by way of limitation, the following powers
7 and duties:

8 (1) through the appropriate state agency and under the provisions of
9 AS 36.30 (State Procurement Code), to acquire by gift, purchase, or lease, or other
10 lawful means, land, buildings, water, rights-of-way, or other necessary or proper real
11 or personal property when the acquisition is in the interest of furthering an objective or
12 purpose of the department and the state;

13 (2) under the provisions of AS 36.30, to design and construct
14 hatcheries, pipelines, rearing ponds, fishways, and other projects beneficial for the fish

1 and game resources of the state;

2 (3) to accept money from any person under conditions requiring the
3 use of the money for specific purposes in the furtherance of the protection,
4 rehabilitation, propagation, preservation, or investigation of the fish and game
5 resources of the state or in settlement of claims for damages to fish or game resources;

6 (4) to collect, classify, and disseminate statistics, data and information
7 that, in the commissioner's discretion, will tend to promote the purposes of this title
8 except AS 16.51 and AS 16.52;

9 (5) to take, capture, propagate, transport, buy, sell, or exchange fish or
10 game or eggs for propagating, scientific, public safety, or stocking purposes;

11 (6) under the provisions of AS 36.30, to provide public facilities where
12 necessary or proper to facilitate the taking of fish or game, and to enter into
13 cooperative agreements with any person to effect them;

14 (7) to exercise administrative, budgeting, and fiscal powers;

15 (8) under the provisions of AS 36.30, to construct, operate, supervise,
16 and maintain vessels used by the department;

17 (9) to authorize the holder of an interim-use permit under AS 16.43 to
18 engage on an experimental basis in commercial taking of a fishery resource with
19 vessel, gear, and techniques not presently qualifying for licensing under this chapter in
20 conformity with standards established by the Alaska Commercial Fisheries Entry
21 Commission;

22 (10) not later than January 31 of each year, to provide to the
23 commissioner of revenue the names of those fish and shellfish species that the
24 commissioner of fish and game designates as developing commercial fish species for
25 that calendar year; a fish or shellfish species is a developing commercial fish species
26 if, within a specified geographical region,

27 (A) the optimum yield from the harvest of the species has not
28 been reached;

29 (B) a substantial portion of the allowable harvest of the species
30 has been allocated to fishing vessels of a foreign nation; or

31 (C) a commercial harvest of the fish species has recently

1 developed;

2 (11) to initiate or conduct research necessary or advisable to carry out
3 the purposes of this title except AS 16.51 and AS 16.52;

4 (12) to enter into cooperative agreements with agencies of the federal
5 government, educational institutions, or other agencies or organizations, when in the
6 public interest, to carry out the purposes of this title except AS 16.51 and AS 16.52;

7 (13) to implement an on-board observer program authorized by the
8 Board of Fisheries under AS 16.05.251(a)(13); implementation

9 (A) must be as unintrusive to vessel operations as practicable;

10 and

11 (B) must make scheduling and scope of observers' activities as
12 predictable as practicable;

13 (14) to sell fish caught during commercial fisheries test fishing
14 operations;

15 (15) to establish and charge fees equal to the cost of services provided
16 by the department, including provision of public shooting ranges, broodstock and eggs
17 for private nonprofit hatcheries, department publications, and other direct services, and
18 reasonable fees for the use of state facilities managed by the department; fees
19 established under this paragraph for tours of hatchery facilities, commercial use of
20 sport fishing access sites, and for operation of state hatchery facilities by private
21 aquaculture associations are not subject to the cost limit under AS 37.10.050(a);

22 (16) to permit and regulate aquatic farming in the state in a manner
23 that **promotes the economic health and sustainability of the aquatic farming**
24 **industry**, ensures the protection of the state's fish and game resources, and improves
25 the economy, health, and well-being of the citizens of the state;

26 (17) to operate state housing and facilities for employees, contractors,
27 and others in support of the department's responsibilities and to charge rent that is
28 consistent with applicable collective bargaining agreements, or, if no collective
29 bargaining agreement is applicable, competitive with market conditions; rent received
30 from tenants shall be deposited in the general fund;

31 (18) to petition the Alaska Commercial Fisheries Entry Commission,

1 unless the Board of Fisheries disapproves the petition under AS 16.05.251(g), to
2 establish a moratorium on new entrants into commercial fisheries

3 (A) that have experienced recent increases in fishing effort that
4 are beyond a low, sporadic level of effort;

5 (B) that have achieved a level of harvest that may be
6 approaching or exceeding the maximum sustainable level for the fishery; and

7 (C) for which there is insufficient biological and resource
8 management information necessary to promote the conservation and sustained
9 yield management of the fishery;

10 (19) to promote fishing, hunting, and trapping and preserve the
11 heritage of fishing, hunting, and trapping in the state.

12 * **Sec. 2.** AS 16.40.100(f) is amended to read:

13 (f) If the wild stock of a shellfish species to be cultured at an aquatic farm site
14 exceeds the amount determined by the department to be an insignificant population
15 and if the commissioner determines in writing that removal from the site of that
16 portion of the stock that exceeds an insignificant population would benefit the public
17 and that removal of the stock by a person other than the permittee would unreasonably
18 interfere with the operation of the aquatic farm, the commissioner may authorize the
19 permittee to remove and sell the excess amount of the wild stock from the site, **in**
20 **addition to the fisheries business tax imposed under AS 43.75.015,** the permittee
21 pays [REASONABLE COMPENSATION, AS DEFINED BY THE
22 DEPARTMENT,] to the department **compensation in the amount of 10 percent of**
23 **the ex-vessel value of the excess amount of the wild stock in the case of a live**
24 **product and three percent of the ex-vessel value of the excess amount of the wild**
25 **stock in the case of a processed product** for the harvest and sale of the excess wild
26 stock. The department shall deposit the money received under this subsection into the
27 general fund. The legislature may appropriate the money received under this section to
28 the department for shellfish management and enhancement.

29 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).