

**SENATE CS FOR CS FOR HOUSE BILL NO. 41(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/17/16

Referred: Rules

Sponsor(s): REPRESENTATIVES TILTON AND MUÑOZ

SENATOR Costello

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to sport fishing services, salt water sport fishing operators, and salt**  
2 **water sport fishing guides; and providing for an effective date."**

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

4 \* **Section 1.** AS 16.05.340(a) is amended by adding a new paragraph to read:

- 5 (27) Fishing services licenses
- 6 (A) Salt water sport fishing operator license ..... 200
- 7 (B) Salt water sport fishing guide license ..... 100
- 8 (C) Salt water sport fishing operator and guide combined
- 9 license ..... 200.

10 \* **Sec. 2.** AS 16.05.395 is amended to read:

11 **Sec. 16.05.395. Sport fishing vessel registration.** A [FOR CALENDAR  
12 YEAR 2005 AND SUBSEQUENT CALENDAR YEARS, A] person may not use a  
13 vessel to provide sport fishing services [UNDER AS 16.40.260 - 16.40.299] unless the  
14 vessel is registered with the department and proof of registration is attached to and  
15 clearly visible on the vessel while the vessel is used to provide sport fishing services.

1 The department shall register vessels used to provide sport fishing services, and  
 2 provide proof of registration, without charge. The department may adopt regulations  
 3 as the department finds necessary to implement this section.

4 \* **Sec. 3.** AS 16.40 is amended by adding new sections to read:

5 **Sec. 16.40.261. Salt water sport fishing operator license.** (a) The department  
 6 shall issue an annual salt water sport fishing operator license to a person who

7 (1) holds a current business license under AS 43.70 to provide services  
 8 to sport fishermen;

9 (2) presents proof satisfactory to the department of a general liability  
 10 insurance policy or marine protection and indemnity insurance policy, covering the  
 11 services provided by the person and the person's employees to sport fishermen, that  
 12 provides coverage of at least \$100,000 for each incident, and \$300,000 for all  
 13 incidents in a year;

14 (3) pays the license fee prescribed by AS 16.05.340(a); and

15 (4) satisfies all additional requirements adopted in regulation by the  
 16 Board of Fisheries.

17 (b) A person may not provide salt water sport fishing services unless the  
 18 person is licensed and insured under (a) of this section.

19 (c) A person licensed under this section may contract to provide salt water  
 20 sport fishing guide services to a sport fisherman through an employee who holds a  
 21 current salt water sport fishing guide license under AS 16.40.271.

22 (d) A person licensed under this section may not directly provide salt water  
 23 sport fishing guide services to a sport fisherman unless the person is also licensed as a  
 24 salt water sport fishing guide, or a guide and operator, under AS 16.40.271.

25 (e) A person licensed as a salt water sport fishing operator may not aid in the  
 26 commission of a violation of AS 16.05 - AS 16.40 or a regulation adopted under  
 27 AS 16.05 - AS 16.40, including regulations relating to the proper method to release  
 28 fish, by a salt water sport fishing guide who is employed by the person or by a sport  
 29 fisherman who is a client of the person.

30 (f) In this section, "salt water sport fishing services" means the indirect  
 31 provision of assistance, for compensation or with the intent to receive compensation,

1 to a person engaged in sport fishing in salt water in taking or attempting to take fish or  
 2 shellfish by a business that employs a salt water sport fishing guide to provide sport  
 3 fishing guide services to the person during any portion of a sport fishing trip on salt  
 4 water; "salt water sport fishing services" does not include

5 (1) an activity for which a salt water sport fishing guide license is  
 6 required; or

7 (2) booking and other ancillary services provided by a tour broker or  
 8 agent to a salt water sport fishing services operator.

9 **Sec. 16.40.271. Salt water sport fishing guide license; combined operator**  
 10 **and guide license.** (a) A natural person may obtain an annual salt water sport fishing  
 11 guide license if the person

12 (1) is a citizen of the United States, Canada, or Mexico, or is a resident  
 13 alien;

14 (2) is certified in first aid by the American Red Cross or a similar  
 15 organization;

16 (3) holds a current sport fishing license from the state;

17 (4) pays the license fee prescribed by AS 16.05.340(a); and

18 (5) satisfies all additional requirements adopted in regulation by the  
 19 Board of Fisheries.

20 (b) A natural person may obtain an annual salt water sport fishing operator  
 21 and guide combined license if the person satisfies the requirements for a salt water  
 22 sport fishing operator license under AS 16.40.261 and for a license under this section  
 23 and pays the license fee prescribed by AS 16.05.340(a).

24 (c) A person may not provide salt water sport fishing guide services unless the  
 25 person

26 (1) holds a current salt water sport fishing guide license under (a) or  
 27 (b) of this section; and

28 (2) holds, or is an employee of a person who holds, a current salt water  
 29 sport fishing operator license under AS 16.40.261 or (b) of this section.

30 (d) A salt water sport fishing guide may provide salt water sport fishing guide  
 31 services only to persons who have engaged the services of the salt water sport fishing

1 operator who employs the salt water sport fishing guide. A salt water sport fishing  
 2 guide may not contract directly with a person to provide salt water sport fishing guide  
 3 services unless the guide also holds a current salt water sport fishing operator license.

4 (e) While providing salt water sport fishing guide services, a guide shall have  
 5 readily available for inspection

6 (1) a current license issued under AS 16.05.340(a)(27)(B) or (C);

7 (2) the current licenses, tags, and permits required to engage in the  
 8 sport fishery for which the salt water sport fishing guide is providing services;

9 (3) a driver's license or valid government-issued photographic  
 10 identification card; and

11 (4) proof of

12 (A) employment as a salt water sport fishing guide by a person  
 13 who holds a current license under AS 16.05.340(a)(27)(A) or (C); or

14 (B) current licensure under AS 16.05.340(a)(27)(A) or (C).

15 (f) A salt water sport fishing guide may not

16 (1) aid in the commission of a violation of AS 16.05 - AS 16.40 or a  
 17 regulation adopted under AS 16.05 - AS 16.40 by a client of the guide; or

18 (2) permit a client to commit a violation of AS 16.05 - AS 16.40 or a  
 19 regulation adopted under AS 16.05 - AS 16.40 that the guide knows or reasonably  
 20 believes is being or will be committed without

21 (A) attempting to prevent it, short of using force; and

22 (B) reporting the violation.

23 **Sec. 16.40.291. Penalty.** (a) Except as provided in (b) of this section, a person  
 24 who knowingly violates AS 16.40.261 - 16.40.300 or a regulation adopted under  
 25 AS 16.40.261 - 16.40.300 is guilty of a class A misdemeanor. However, this  
 26 subsection does not apply to the failure to hold a current business license under  
 27 AS 16.40.261(a)(1) as required under AS 43.70.

28 (b) A person who, without any culpable mental state, violates AS 16.40.271(e)  
 29 is guilty of a violation.

30 (c) A person who knowingly violates AS 16.40.271(e) is, for a

31 (1) first offense in a three-year period, guilty of a violation; and

1 (2) second or subsequent offense in a three-year period, guilty of a  
2 class B misdemeanor.

3 (d) In addition to any other penalty provided by law, a court may revoke the  
4 salt water sport fishing guide license of a person who is convicted under (a) or (c)(2)  
5 of this section.

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

7 **Sec. 16.40.300. Definitions.** In AS 16.40.261 - 16.40.300,

8 (1) "salt water sport fishing guide" means a person who is licensed to  
9 provide salt water sport fishing guide services to persons who are engaged in sport  
10 fishing;

11 (2) "salt water sport fishing guide services" means assistance, for  
12 compensation or with the intent to receive compensation, to a sport fisherman to take  
13 or to attempt to take fish by accompanying or physically directing the sport fisherman  
14 in sport fishing activities on salt water during any part of a sport fishing trip; "salt  
15 water sport fishing guide services" does not include

16 (A) sport fishing services; or

17 (B) services provided by an assistant, deckhand, or similar  
18 person who works directly under the supervision of and on the same vessel as a  
19 salt water sport fishing guide.

20 \* **Sec. 4.** AS 25.27.244(s)(2) is amended to read:

21 (2) "license"

22 (A) means, except as provided in (B) of this paragraph, a  
23 license, certificate, permit, registration, or other authorization that, at the time  
24 of issuance, will be valid for more than 150 days and that may be acquired  
25 from a state agency to perform an occupation, including the following:

26 (i) license relating to boxing or wrestling under  
27 AS 05.10;

28 (ii) authorization to perform an occupation regulated  
29 under AS 08;

30 (iii) teacher certificate under AS 14.20;

31 (iv) authorization under AS 18.08 to perform

1 emergency medical services;

2 (v) asbestos worker certification under AS 18.31;

3 (vi) boiler operator's license under AS 18.60.395;

4 (vii) certificate of fitness under AS 18.62;

5 (viii) hazardous painting certification under AS 18.63;

6 (ix) security guard license under AS 18.65.400 -  
7 18.65.490;

8 (x) license relating to insurance under AS 21.27;

9 (xi) employment agency permit under AS 23.15.330 -  
10 23.15.520;

11 (xii) registration as a broker-dealer, an agent, a state  
12 investment adviser, or an investment adviser representative under  
13 AS 45.55.030;

14 (xiii) certification as a pesticide applicator under  
15 AS 46.03.320;

16 (xiv) certification as a storage tank worker or contractor  
17 under AS 46.03.375;

18 (xv) certification as a water and wastewater works  
19 operator under AS 46.30;

20 (xvi) commercial crewmember fishing license under  
21 AS 16.05.480 other than an entry permit or interim-use permit under  
22 AS 16.43;

23 (xvii) fish transporter permit under AS 16.05.671;

24 (xviii) salt water sport fishing operator license under  
25 AS 16.40.261;

26 (xix) salt water sport fishing guide license under  
27 AS 16.40.271; [REPEALED

28 (xix) REPEALED]

29 (B) does not include

30 (i) a vessel license issued under AS 16.05.490 or  
31 16.05.530;

1 (ii) [REPEALED

2 (iii)] a business license issued under AS 43.70;

3 (iii) [(iv)] an entry permit or interim-use permit issued  
4 under AS 16.43; or

5 (iv) [(v)] a driver's license issued under AS 28.15;

6 \* **Sec. 5.** AS 16.05.340(a)(27); AS 16.40.261, 16.40.271, 16.40.281, 16.40.291, 16.40.300;  
7 AS 25.27.244(s)(2)(A)(xviii), and 25.27.244(s)(2)(A)(xix) are repealed.

8 \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 REGULATIONS. Notwithstanding AS 44.62.190, the Department of Fish and Game  
11 may use and enforce regulations previously adopted to administer former AS 16.40.260 -  
12 16.40.299 to the extent those regulations do not conflict with the provisions of this Act. The  
13 Department of Fish and Game shall update and readopt those regulations in accordance with  
14 AS 44.62 (Administrative Procedure Act) to conform to the provisions of this Act. The  
15 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
16 effective date of the law implemented by the regulation.

17 \* **Sec. 7.** Section 6 of this Act takes effect immediately under AS 01.10.070(c).

18 \* **Sec. 8.** Section 5 of this Act takes effect January 1, 2019.

19 \* **Sec. 9.** Except as provided in secs. 7 and 8 of this Act, this Act takes effect January 1,  
20 2017.