

HOUSE BILL NO. 107

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES TALERICO, Chenault

Introduced: 2/6/17

Referred: House Special Committee on Fisheries, Resources

A BILL

FOR AN ACT ENTITLED

"An Act relating to certain fish; and establishing a fisheries enhancement permit."

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

*** Section 1.** AS 16.05 is amended by adding a new section to read:

Sec. 16.05.855. Fisheries enhancement permit. (a) Subject to restrictions imposed under this section, the department may issue a fisheries enhancement permit that allows a qualified person

(1) to remove anadromous or freshwater finfish from water of the state, collect gametes and fertilize and incubate eggs taken from the fish, and place the fertilized or incubated eggs, larvae, or unfed fry in the same water of the state; and

(2) to enhance habitat in water of the state to aid the survival of the fish.

(b) An applicant for a permit under this section shall apply on a form prescribed by the department. The department shall make the application form available on the department's Internet website and at the department's regional and local offices. The department shall charge a fee for printing an application form

provided by the department's offices. An application for a permit must include

(1) the name of the applicant;

(2) a statement of the reasons for and feasibility of the proposed project using historical and current data relating to habitat, the food web, and fish populations in the project area;

(3) documentation of

(A) the conditions justifying the project;

(B) any communication, or plan for continued communication, from the applicant with affected persons, relevant organizations with applicable expertise, and stakeholders in the project area; and

(C) any state, local, or federal permits required for the project;

(4) the location of the water from which the applicant will take fish and place fish eggs;

(5) the species and number of fish to be taken and, if applicable, the number to be taken for brood stock;

(6) a management plan that demonstrates the ability of the applicant to carry out and sustain the proposed project, including the applicant's plan for fish propagation or repopulation in permitted water;

(7) the applicant's goals, schedule, planned duration, performance measures, scope of work, budget, means of collecting data, plan for genetics management, and watershed habitat enhancement plan, if applicable, for the project; and

(8) an application fee of \$100.

(c) The department may issue a permit under this section if the commissioner determines that the project

(1) may restore or increase a population of fish in a body of water in which

(A) subsistence and escapement goals have not been met;

(B) there are no established escapement goals and local stakeholders have identified a decline in the number of the species of fish; or

(C) the population of the species of fish is limited;

- 1 (2) will result in public benefits;
- 2 (3) will not harm indigenous wild fish stocks;
- 3 (4) will not place eggs, larvae, or unfed fry in a body of water in which
- 4 there are sufficient numbers of the same species of fish for natural propagation of the
- 5 species to occur;
- 6 (5) will not introduce live fertilized eggs, larvae, or fry of
- 7 nonindigenous fish in violation of AS 16.35.210.

8 (d) In reviewing an application submitted under (b) of this section and

9 determining whether the department will issue a permit for a proposed project, the

10 commissioner shall consider

- 11 (1) the department's assessment of the proposed project;
- 12 (2) the capabilities of the applicant;
- 13 (3) the degree to which the applicant has reasonably communicated
- 14 with affected persons, including relevant organizations with applicable expertise, and
- 15 stakeholders in the project area;
- 16 (4) if the proposed project is a salmon enhancement project, relevant
- 17 and applicable comments relating to the proposed project submitted by a regional
- 18 planning team established under AS 16.10.375 for the region that encompasses the
- 19 project area;
- 20 (5) the consistency of the proposed project with the comprehensive
- 21 salmon plan developed under AS 16.10.375 for the region that encompasses the
- 22 project area and with constitutional and statutory requirements and duties imposed on
- 23 the department; and
- 24 (6) whether the proposed project will increase scientific knowledge
- 25 and understanding of natural resources affected by the project.

26 (e) A permittee shall

- 27 (1) collect and provide project data and reports reasonably requested
- 28 by the department;
- 29 (2) reasonably communicate with affected persons, including relevant
- 30 organizations with applicable expertise, and stakeholders in the project area.

31 (f) Within 15 days after the department receives an application for a fisheries

enhancement permit, the commissioner shall notify an applicant that the application is complete or incomplete. The commissioner may reject an application that is not completed within 30 days after the commissioner notifies the applicant that the application is incomplete. Within 90 days after the date the commissioner notifies an applicant that an application is complete, the commissioner shall approve or reject the application. If the commissioner fails to act within that period, the application is approved and the department shall issue a permit.

(g) A permit issued under this section shall require that the permittee

(1) collect not more than 500,000 eggs for fertilization;

(2) implement appropriate controls to avoid the introduction of nonindigenous or invasive pathogens or the increase of indigenous pathogens beyond levels acceptable to the department.

(h) Fish released into the water of the state under a permit issued under this section are available to the people for common use and are subject to applicable law in the same way as fish occurring in their natural state.

(i) A permit issued under this section is valid for three years from the date of issuance and, upon application by the permittee, may be extended by the commissioner.

(j) In this section,

(1) "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation; or another legal or commercial entity;

(2) "qualified person" means a state resident under AS 43.23.095 or a corporation organized under laws of this state;

(3) "reasonably communicate" means communicating significant information by a mode of communication likely to provide notice to persons a reasonable person would know are affected by a project or proposed project.

* **Sec. 2.** AS 16.05.871 is amended by adding a new subsection to read:

(e) In making a finding that the plans and specifications for a proposed construction, work, or use sufficiently protect fish and game under (d) of this section,

1 the commissioner shall consider related fisheries enhancement projects under
2 AS 16.05.855.

3 * **Sec. 3.** AS 16.10.375 is amended to read:

4 **Sec. 16.10.375. Regional salmon plans.** The commissioner shall designate
5 regions of the state for the purpose of salmon production and have developed and
6 amend as necessary a comprehensive salmon plan for each region, including
7 provisions for **salmon enhancement projects conducted under AS 16.05.855 and**
8 both public and private nonprofit hatchery systems. Subject to plan approval by the
9 commissioner, comprehensive salmon plans shall be developed by regional planning
10 teams consisting of department personnel and representatives of the appropriate
11 qualified regional associations formed under AS 16.10.380.