

1 IN THE HOUSE

BY COMMITTEE ON RESOURCES

2 COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 34

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating an Alaska Department of Fish
7 and Game and an Alaska Fish and Game Com-
8 mission; providing for advisory committees to
9 the Commission; providing for a Director of
10 the Alaska Department of Fish and Game; pre-
11 scribing the duties and powers of the Com-
12 mission and the Director; providing for
13 organization of the Department; providing for
14 a merit system for employees; creating a Fish
15 and Game Fund; preventing diversion of funds;
16 transferring of property and funds; assent-
17 ing to provisions of the Federal Aid acts;
18 roviding for enforcement authority; author-
19 izing the administering of oaths; describing
20 and abating public nuisances; declaring
21 certain unlawful acts; permitting research by
22 the Federal Government; providing for transfer
23 of control of the fish and game resources to
24 Alaska; providing criminal penalties; continu-
25 ing present regulations, agreements, employees,
26 etc.; repealing Chapter 63, SLA 1957 and
27 other inconsistent acts; and providing for an
28 effective date."

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

CS for HB #34

1 Section 1. TITLE OF THE ACT. This Act shall be known and
2 may be cited as the "Fish and Game" Code of the State of Alaska.

3 Section 2. DEFINITIONS. For the purpose of this Act;

4 (a) "State" means the State of Alaska.

5 (b) "Department" means the Alaska Department of
6 Fish and Game.

7 (c) "Commission" means the Alaska Fish and Game
8 Commission.

9 (d) "Director" means the Director of the Alaska
10 Department of Fish and Game.

11 (e) "Person" means and includes, among others,
12 any individual, association, corporation, government agency, or
13 group of two or more persons, as defined, acting together to forward
14 a common purpose.

15 (f) "Fish" means all species of marine, anadromous,
16 and fresh water fish, amphibians, shellfish, and other inverte-
17 brates found in the State of Alaska.

18 (g) "Game" means all species of birds and mammals,
19 including feral domestic animals, found or that may be introduced
20 in Alaska, except domestic birds and mammals.

21 Section 3. DEPARTMENT OF FISH AND GAME CREATED. There is
22 hereby created a department of fish and game to be known as the
23 Alaska Department of Fish and Game for the purpose of carrying out
24 the intent and purposes of this Act.

25 Section 4. COMMISSION CREATED. There is hereby created a
26 commission to be known as the Alaska Fish and Game Commission,
27 which shall have jurisdiction, supervision, and control over the
28 fish and game of Alaska, whose purpose it shall be, among other
29 things, to pass such rules and regulations as shall protect, main-

1 tain, improve and extend the fish and game resources of Alaska.

2 Section 5. APPOINTMENT AND TERMS OF COMMISSION MEMBERS. The
3 Fish and Game Commission shall be composed of eight persons having
4 a general knowledge of and interest in the fish and game resources
5 and the management thereof.

6 The members of the Commission shall be appointed by the Gover-
7 nor, subject to confirmation by the Senate and House of Representa-
8 tives in joint session assembled. Each of said persons shall hold
9 office for a term of four years, commencing on April 1 of the year
10 in which he is appointed and until his successor is appointed and
11 duly qualified; except that the terms of the members first appointed
12 under this Act shall expire as follows: Two members on March 31,
13 1961, two members on March 31, 1962, two members on March 31, 1963,
14 and two members on March 31, 1964, as the Governor may determine.

15 In case a vacancy occurs among the members, for any reason,
16 the Governor shall have power to fill such vacancy for the balance
17 of the unexpired term, subject to confirmation by the Legislature
18 as above set forth, Provided, that any person so appointed may serve
19 on an interim basis pending confirmation by the Legislature.

20 No person shall be appointed to a Commission unless he is a
21 citizen and a registered voter of the State. Selections for the
22 appointment shall not be based on political affiliation.

23 Section 6. REMOVAL OF COMMISSION MEMBERS. The Governor may
24 remove any Commission member for inefficiency, neglect of duty, or
25 misconduct in office; Provided, however, the Governor shall give
26 the member a written copy of the charges against him not less than
27 ten days before public hearing is held, at which time the member
28 may be heard in person, or by counsel in his own defense, with the
29 right of cross-examination and all the safeguards of the due proc-

1 esses of law. If such Commission member is removed, the Governor
2 shall file in the office of the Secretary of Alaska a complete
3 statement of all charges made against the Commission member and
4 his findings thereon, together with a complete record of the
5 proceedings.

6 Section 7. ESTABLISHMENT OF ADVISORY COMMITTEES. The Com-
7 mission may establish, at places in the State designated by the
8 Commission, Advisory Committees to be composed of persons well-
9 informed on the fish and game resources of the locality. The Com-
10 mission may set the number and terms of the members of the Advis-
11 ory Committees, may delegate one member of each committee as chair-
12 man, and may empower him, from time to time, to hold public hearings
13 on fish and game matters. Recommendations from the Advisory Com-
14 mittees shall be forwarded to the Commission for their consider-
15 ation.

16 Section 8. COMPENSATION, ETC., OF COMMISSION MEMBERS. The
17 members of the Commission shall be allowed their necessary travel
18 expenses and such compensation and per diem as may be authorized
19 by the Legislature for attending Commission meetings and such
20 other meetings and conferences as may be agreed upon by a majority
21 vote of the Commission.

22 Section 9. COMMISSION MEETINGS. The members of the Commis-
23 sion shall meet in Juneau during the month of April, 1959, or as
24 soon thereafter as practical, and shall organize by electing from
25 their membership a chairman and by adopting a set of by-laws to
26 govern the conduct of their business. One regular meeting shall
27 be held annually by the Commission at the Capitol, and one or
28 more additional meetings at such times and places within Alaska
29 as the Commission shall select for the transaction of business.

1 Section 10. QUORUM. A majority of the members of the Commis-
2 sion shall constitute a quorum for the transaction of any business,
3 for the performance of any duty, and for the exercise of any power.
4 Provided, however, it shall take a majority of the full Commission
5 membership of eight members to carry all motions, regulations,
6 resolutions and policy decisions proposed.

7 Section 11. POWERS AND DUTIES OF THE COMMISSION. The fish
8 and game of Alaska are the property of the State of Alaska and
9 the Commission is charged with the duty of managing, protecting,
10 maintaining, improving and extending the fish and game resources
11 of Alaska in the interest of the economy and general well being
12 of Alaska. The Commission shall have jurisdiction, supervision and
13 control over the fish and game of Alaska as hereinafter set forth.

14 The Fish and Game Commission shall have the sole authority to

15 (1) set apart and reserve fish and game areas, refuges
16 and sanctuaries in any of the waters or on any of the lands of
17 Alaska over which it has jurisdiction;

18 (2) establish open and closed seasons for fish and game;

19 (3) establish the means and methods employed in the pur-
20 suit, capture, and transport of fish and game;

21 (4) set quotas and bag limits on the take of fish and
22 game; and

23 (5) make such regulations as is deemed advisable to
24 accomplish the above.

25 For the purposes of administering this Act, the Commission
26 may delegate any and all necessary functions and authority to the
27 Director, who shall act on its behalf. In addition to the above
28 powers and authority of the Commission, it may:

29 (1) Engage in biological research, watershed and habitat

1 Improvement, fish and game management, protection, propagation and
2 stocking.

3 (2) Assist the U.S. Fish and Wildlife Service in the
4 enforcement of Federal laws and regulations pertaining to fish and
5 game.

6 (3) Acquire through cooperation with the Alaska Land
7 Board, or its successor, by gift, purchase, or lease, and by other
8 lawful means at its disposal, lands, buildings, water, rights-of-
9 way, or other necessary property for hatchery sites, eyeing stations,
10 rearing ponds, public sport fishing areas, docks, research stations,
11 and other facilities.

12 (4) Design and construct hatcheries, pipe lines, rear-
13 ing ponds, fishways, and other projects beneficial for the fish
14 and game resources of the State.

15 (5) Investigate and determine the extent and effect of
16 predation and competition among fish and game in Alaska and exer-
17 cise such control measures as are deemed necessary and beneficial
18 to these resources in the State.

19 (6) Enter into cooperative agreements with educational
20 institutions and State, Federal, or other agencies, to promote fish
21 and game research, predator control, management, education and in-
22 formation, and to train men for fish and game management.

23 (7) Provide recreational facilities where necessary or
24 proper for the development or use of fish or game resources either
25 through cooperative agreement with non-profit organizations or as
26 Commission projects.

27 (8) Accept money from any person under conditions re-
28 quiring the use of such money for specific purposes in the further-
29 ence of the protection, rehabilitation, propagation, preservation,

1 or investigation of the fish and game resources of the State or in
2 settlement of any claims for damages to such fish and game re-
3 sources.

4 (9) Collect, classify, and disseminate such statistics,
5 data and information as in its discretion will tend to promote the
6 objects of this Act.

7 (10) Capture, propogate, transport, buy, sell, or
8 exchange any species of fish and game or eggs needed for propa-
9 gating, scientific or stocking purposes.

10 (11) Classify fish and game as commercial fish, sport
11 fish, game birds, songbirds, big game animals, fur bearing animals,
12 predators, vermin, or other categories as may be essential for
13 regulatory purposes.

14 (12) Prohibit the live capture, possession, transport,
15 or release of native or exotic fish and game, or eggs thereof,
16 without the approval of the Commission.

17 (13) Establish the qualifications for guides, regulate
18 guide activities and maintain a guide register.

19 (14) Authorize the department to procure insurance, in
20 addition to workmen's compensation insurance, for its employees
21 against injury or death occasioned by special hazards in connection
22 with their duties.

23 (15) The Commission is hereby granted authority to
24 promulgate and issue appropriate regulations to implement the pro-
25 visions of this Act and to cover matters not expressly touched
26 upon or anticipated but necessarily implied by the provisions here-
27 of. All such regulations shall be filed with the Office of the
28 Secretary of State or as may be otherwise provided by law before
29 such regulations shall become effective, and when so filed shall

1 have the force and effect of law; Provided, however, that nothing
2 in this section shall impair the power of the Director, or his
3 duly authorized representative to summarily open or close seasons,
4 weekly closures, or areas on fish or game under regulations which
5 shall have the full force and effect of law, upon field announce-
6 ment and prior to filing with the Secretary of State.

7 Section 12. RULES AND REGULATIONS --AS EVIDENCE. Rules
8 and regulations of the Commission shall be admitted as evidence in
9 the courts of the State when accompanied by an affidavit from the
10 Director or Assistant Director certifying that the rule or regu-
11 lation has been lawfully adopted and filed with the proper author-
12 ity, and such affidavit shall be prima facie evidence of proper
13 adoption and filing.

14 Section 13. LIMITATION OF POWER. Nothing in this Act, how-
15 ever, shall be construed to authorize the Commission to change the
16 amount of fees for licenses.

17 Section 14. ORGANIZATION OF WORK. The Commission shall
18 establish a departmental division of commercial fisheries, a de-
19 partmental division of sport fisheries, a departmental division of
20 fur and game and such other departmental division as may be neces-
21 sary, and shall authorize the Director to employ such administra-
22 tive, clerical, technical, protective, and other assistants as
23 may be necessary for the conduct of the work of the Department
24 and they shall fix a salary schedule and other compensation for
25 the guidance of the Director.

26 Section 15. APPOINTMENT OF PERSONNEL ON A MERIT BASIS. All
27 department personnel, except the Director and Assistant Director,
28 shall be employed on a basis of merit and in accordance with the
29 rules and regulations of the state personnel board.

1 Section 16. APPOINTMENT OF THE DIRECTOR. The office of the
2 Director of the Department of Fish and Game is hereby created.
3 The Commission shall appoint, with the approval of the Governor,
4 a Director thereof whose duty it shall be, among other things, to
5 administer the provisions of this Act under such authority as may
6 be given him hereafter or as the Commission may delegate to him.
7 The Director shall be a qualified executive with knowledge of the
8 requirements for the protection, management, conservation and
9 restoration of the fish and game resources. The Director shall be
10 appointed for a term of five years, subject, however, to removal
11 by a majority of the full membership of the Commission, for cause.

12 Section 17. COMPENSATION, ETC., OF DIRECTOR. The Director
13 shall receive such compensation as the Legislature shall determine,
14 and shall, subject to appropriate state travel regulations, be
15 reimbursed for all actual and necessary traveling and other expenses
16 incurred by him in the discharge of his official duties.

17 Section 18. DUTIES AND POWER OF THE DIRECTOR. The Director
18 shall be ex-officio secretary of the Alaska Fish and Game Com-
19 mission, attend its meetings and keep a record of the business
20 transacted by it. He shall have general supervisory and adminis-
21 trative powers and control all activities and functions of the
22 Department of Fish and Game, under the supervision and direction of
23 the Commission and shall administer all the provisions of the
24 applicable laws of this state relating to fish and game, and shall
25 exercise all necessary powers incident to those conferred upon him.

26 Section 19. POLITICAL ACTIVITY PROHIBITED. While retaining
27 the right to vote as he may please and to express his opinion on
28 all political subjects, no employee of the Department shall take any
29 active part in any political organization or political campaign,

1 nor shall he use his official authority directly or indirectly for
2 the purpose of influencing the results thereof, or for the purpose
3 of motivating political action by any person or body. Violation of
4 this section shall subject the employees to immediate dismissal
5 after appropriate hearing by the Commission or its designee.

6 Section 20. INELIGIBILITY FOR BOUNTIES. It shall be unlawful
7 for any employee or special hunter of the Department to receive or
8 attempt to receive any bounty for the killing of any predator, or
9 to transfer the scalp or other part of any predator to another
10 person for the purpose of collecting any bounty.

11 Section 21. FISH AND GAME FUND ESTABLISHED. There is hereby
12 created a revolving "Fish and Game Fund", which shall be used
13 exclusively (1) to carry out the purposes and provisions of this
14 Act or any other duties that hereafter may be delegated by the
15 State Legislature to the Commission or the Department; and (2) to
16 carry out such purposes and objectives within the scope of the
17 Act as may be directed by the donor of any such funds.

18 The balance of any monies remaining in the "Fish and Game Fund"
19 created by Sec. 18, Chapter 63, SLA 1957 shall be transferred to the
20 revolving "Fish and Game Fund" created by this Act.

21 All monies obtained from the following sources, and such
22 other monies as the Legislature may appropriate for fish and game
23 purposes, shall be deposited in said "Fish and Game Fund", and
24 shall be retained therein until expended as hereinafter provided.

25 (a) All monies received from fees for the sale of
26 State sport fishing, hunting, special permits, trapping, registered
27 guides, fur farming and fur dealers' licenses, etc.

28 (b) Proceeds received from the sale of furs, skins
29 and specimens taken by predator hunters and other employees whose

1 compensation is paid out of the "Fish and Game Fund".

2 (c) All monies received in settlement of any claim
3 or losses caused by damages to the fish and game resources of the
4 State.

5 (d) All monies received from the Federal, State or
6 any other governmental unit, or donor, whether public or private.

7 (e) Interest earned upon any monies in the fund.

8 (f) Monies from any other sources.

9 Upon authorization of the Commission, disbursements from the
10 Fund shall be paid by the State Treasurer on presentation of
11 vouchers signed by the Director, or his authorized representative,
12 and approved by the Director of Finance.

13 Section 22. DIVERSION OF FUNDS PROHIBITED. No funds accruing
14 to the State from sport fishing, hunting, trapping license and
15 permit fees shall be diverted to any other purpose than the pro-
16 tection, propagation, investigation, and restoration of sport fish
17 and game resources and the expenses of administration of the sport
18 fish and game divisions of the Department.

19 Section 23. TRANSFER OF PROPERTY AND FUNDS. All appropri-
20 ations, property and funds under the control of the Alaska Fish
21 and Game Commission and the Alaska Department of Fish and Game
22 shall be and hereby are transferred to and placed under control of
23 the Commission and Department herein created.

24 Section 24. ASSENT TO PROVISIONS OF FEDERAL AID ACTS. The
25 State assents to the provisions of the Federal Aid Wildlife
26 Restoration Act of September 2, 1937, (16 USCA Sec. 669 (a)-(j),
27 to the Federal Aid in Fish Restoration Act of August 9, 1950,
28 (16 USCA Sec. 777 (a)-(k), to any amendments, revisions or modi-
29 fications of either Federal Act, and to any other Federal Aid Act

1 which may hereinafter be enacted to benefit Alaska thereunder. It
2 is desired that the Department participate in any and all of the
3 Federal Aid programs on the same basis as the other States.

4 Section 25. ENFORCEMENT AUTHORITY. This Act shall be en-
5 forced by the following persons, who are hereby declared peace offi-
6 cers of the State:

7 (a) Any employee of the Department of Fish and
8 Game authorized by the Director;

9 (b) Any Enforcement Agent of the U.S. Fish and
10 Wildlife Service;

11 (c) Any Enforcement Agent of the U.S. Forest
12 Service; and

13 (d) Any Police Officer in the State.

14 (e) Any other person authorized by the Director.

15 It shall be the duty of any of the named persons to arrest
16 without warrant any person committing a violation of this Act or
17 any rule or regulation made under authority of this Act, in his
18 presence or view, and to take such person immediately for examin-
19 ation or trial before an officer or court of competent jurisdiction.

20 He shall have power to execute any warrant or other process
21 issued by an officer or court of competent jurisdiction for the
22 enforcement of the provisions of this Act; and he shall have
23 authority, with a search warrant, to search any place at any time.
24 The several judges of the courts having jurisdiction may upon
25 proper oath or affirmation showing probable cause, issue warrants
26 in all such cases.

27 Section 26. POWER TO SEARCH WITHOUT WARRANT. Any of the
28 named persons may search without warrant any conveyance, vehicle,
29 boat, aircraft, market, store or other building, except dwellings,

1 or any receptacle, box, tent, camp, or similar place, which he has
2 reason to believe contains evidence of violations of law or rules
3 and regulations of the Commission; provided, however, before
4 any such search is made a signed written statement by the person
5 making such search shall be submitted to the person in control of
6 the property or objects to be searched, and the reason such
7 search is being conducted. A written receipt shall be given by
8 the person conducting the search for any property which is taken
9 as a result of the search. The enumeration of specific things
10 shall not limit the meaning of words of a general nature in this
11 section.

12 Section 27. SEIZURE WITHOUT WARRANT AND CONFISCATION BY
13 COURT. All guns, traps, nets, fishing tackle, boats, aircraft,
14 automobiles, or other vehicles, dogs, sleds, and other parapherna-
15 lia used in or in aid of violation of this Act, or rule or regula-
16 tion of the Commission, may be seized without warrant, and all
17 fish and game, or parts thereof, or nests or eggs of birds, taken,
18 transported, or possessed contrary to the provisions of this Act,
19 or rule or regulation of the Commission shall be seized by any
20 person authorized to enforce this Act. Upon conviction of the
21 offender or upon judgement of the court having jurisdiction that
22 the same where taken, transported, or possessed in violation of
23 this Act or rule or regulation of the Commission, all fish and
24 game, or parts thereof, shall be forfeited to the State and dis-
25 posed of as directed by such court, and if sold the proceeds of
26 the sale shall be transmitted to the Treasurer of Alaska for
27 deposit in the General Fund. All guns, traps, nets, fishing
28 tackle, boats, aircraft, or other vehicles, dogs, sleds, and
29 other paraphernalia seized under provisions of this Act, or rule

1 or regulation of the Commission, unless forfeited by order of
2 the court, shall be returned, after completion of the case and
3 the fines, if any, have been paid.

4 Section 28. POWER TO ADMINISTER OATHS, ETC. Persons author-
5 ized to enforce this Act are hereby authorized and empowered to
6 administer to or take from any person, an oath, affirmation, or
7 affidavit when such oath, affirmation, or affidavit is for use in
8 any prosecution or proceeding under or in the enforcement of this
9 Act.

10 Section 29. PUBLIC NUISANCES. All nets, seines, lanterns,
11 snares, devices, contrivances, and materials while in use, or had
12 and maintained, for the purpose of catching, taking, killing,
13 attracting, or decoying any fish and game, contrary to law or rule
14 or regulation of the Commission, are public nuisances. Persons
15 authorized to enforce this Act shall, without warrant or process,
16 take, seize, abate, or destroy them while being used, had or
17 maintained for such purpose.

18 Section 30. BURDEN OF PROOF. The possession of any fish or
19 game or parts thereof, or any nest or egg of any bird during the
20 time the taking of it is prohibited, shall, in any action,
21 constitute prima facia evidence that it was taken, possessed, bought,
22 sold or transported in violation of the provisions of this Act,
23 except as regulations to be issued by the Department, as provided
24 herein, shall allow possession of fish for personal use, and the
25 burden of proof shall be upon the possessor or claimant of it
26 to overcome the presumption of illegal possession and to establish
27 the fact that it was obtained and is possessed lawfully; provided,
28 however, that the burden of proof and the rule of prima facia
29 evidence set forth in the first part of this section shall not

1 obtain

2 (a) during the first full seven days after the time
3 when any taking is prohibited or

4 (b) if the fish or game or parts thereof are found
5 to be in a preserved condition, whether frozen, smoked, canned,
6 salted, pickled or otherwise.

7 Section 31. WANTON WASTE. It shall be unlawful for any
8 person wantonly to waste or unnecessarily destroy any fish or
9 game taken or caught in the waters or on the land of the State:
10 Provided, however, that this shall not apply to fish or
11 game which the Commission declared by regulation or emergency
12 announcement to be of a destructive, noxious, or nuisance character.

13 Section 32. CERTAIN UNLAWFUL ACTS. It is unlawful to take,
14 possess, buy, sell or transport any fish or game or parts thereof
15 or any nest or egg of any bird, except as provided by rules or
16 regulations of the Director made pursuant to this Act. Provided,
17 however, that nothing in this Act shall be construed to prevent
18 the collection or exportation of such fish and game, parts thereof
19 or nests or eggs of birds for scientific or educational purposes,
20 or of like fish and game, eggs of birds for propagation or
21 exhibition purposes under a permit which the Commission is hereby
22 authorized to issue and prescribe the terms thereof.

23 Section 33. RESEARCH BY THE FEDERAL GOVERNMENT. The Secre-
24 tary of the Interior of the United States and his duly authorized
25 agents may conduct fish cultural operations and scientific
26 investigations in this State in such manner and at such times as
27 may be jointly considered necessary or proper by the Director
28 and the Commission.

29 Section 34. FISHWAYS OR HATCHERIES REQUIRED. Every dam or

1 other obstruction built by any person across any stream frequented
2 by salmon or other fish shall be provided by such person with
3 durable and efficient fishway and a device for efficient passage
4 for downstream migrants if deemed necessary by the Commission,
5 which fishway or device or both shall be maintained in a practical
6 and effective condition in such place, form and capacity as
7 the Alaska Fish and Game Commission may approve, for which plans
8 and specifications shall be approved by the Department upon
9 application to it, and which shall be kept open, unobstructed, and
10 supplied with a sufficient quantity of water to freely admit the
11 passage of fish through same.

12 In the event that a fishway over any dam or obstruction is
13 considered by the Commission to be impractical because of cost,
14 then the owner of such dam or obstruction, in order to compensate
15 for the loss resulting from such dam or obstruction shall, at
16 his option:

17 (1) Pay a lump sum acceptable to the Commission to the
18 State Fish and Game Fund;

19 (2) Convey to the State a site of a size satisfactory
20 to the Commission at such place as may be mutually satisfactory
21 to both parties, and erect thereon a fish hatchery, rearing
22 ponds, necessary buildings and other facilities according to plans
23 and specifications to be furnished by the Commission, secured by
24 good and sufficient bond to furnish all water and light and
25 necessary sums of money to operate and maintain said hatchery and
26 rearing ponds; or

27 (3) Enter into an agreement with the Commission,
28 secured by good and sufficient bond, to pay to the Alaska
29 Fish and Game Fund such initial money and make such annual payments

1 of additional money as the Commission may determine are necessary
2 to expand, maintain, and operate additional facilities at existing
3 hatcheries within a reasonable distance of such dam or obstruction.

4 The owner of any dam or obstruction who shall fail to comply
5 with the provisions of this section within a reasonable time as
6 specified by written notice from the Commission shall be guilty
7 of a misdemeanor, punishable by a fine not to exceed \$1,000.00,
8 and each day that the owner fails to comply shall constitute a
9 separate offense.

10 In addition to the penalty above provided, if any such person
11 be convicted of violating any of the provisions of this section,
12 the dam or other obstruction managed, controlled or owned by
13 such person is hereby declared a public nuisance and shall be
14 subject to abatement as such.

15 Section 35. PROTECTION OF FISH AND GAME. In the event that
16 any person or government agency desires to construct any form of
17 hydraulic project or to use any equipment that will use, divert,
18 obstruct, pollute, or change the natural flow or bed of any river,
19 lake or stream beds, such person or government agency shall submit
20 to the Department full plans and specifications of the proposed
21 construction or work, complete plans and specifications for the
22 proper protection of fish and game in connection therewith, the
23 approximate date when such construction or work is to commence, and
24 shall secure the written approval of the Director as to the adequacy
25 of the means outlined for the protection of fish and game in connec-
26 tion therewith and as to the propriety of the proposed construction
27 or work and time thereof in relation to fish and game in connection
28 or work thereon. If any person or government agency commences
29 construction on any such works or projects without first providing

1 plans and specifications subject to the approval of the Director
2 for the proper protection of fish and game in connection therewith
3 and without first having obtained written approval of the Director
4 as to the adequacy of such plans and specifications submitted for
5 the protection of fish and game, he is guilty of a misdemeanor.
6 If any such person or government agency be convicted of Violating
7 any of the provisions of this section and continues construction
8 on any such works or projects without fully complying with the
9 provisions hereof, such works or projects are hereby declared
10 a public nuisance and shall be subject to abatement as such. The
11 cost of restoring a river, lake or stream to its original condition
12 shall be borne by the violator and shall be in addition to any
13 penalty imposed by the court.

14 Provided, that in case of an emergency arising from weather
15 or stream flow conditions the Department through their authorized
16 representatives, shall issue oral permits to a riparian owner for
17 removing any obstructions or for repairing existing structures
18 without the necessity of submitting prepared plans and specifi-
19 cations.

20 Section 36. TRANSFER OF CONTROL TO ALASKA. Upon transfer
21 of control of the fish and game resources of Alaska from the
22 Federal Government to the State, the Commission shall accept such
23 transfer on behalf of the State of Alaska. The Commission shall,
24 without limiting itself to such powers, assume all the powers now
25 and hereafter vested in the United States Fish and Wildlife Service
26 prior to such transfer. All laws and regulations pertaining to,
27 "Alaska Fisheries", the "Alaska Game Law", and any other Federal
28 laws or regulations relating to the fish and game of Alaska, which
29 may be in full force and effect at the time of the transfer shall,

1 insofar as they can be applied, be incorporated herein and shall
2 govern the management and control of the Alaska fish and game
3 resources during any transitional period required to place the
4 provisions of this Act in operation and shall be effective until
5 such time as they may be superseded by laws passed by the Alaska
6 Legislature or rules or regulations promulgated by the Commission.

7 Section 37. VIOLATIONS: MISDEMEANOR: PENALTY. Any person
8 violating any of the provisions of this Act or any rule or
9 regulation promulgated thereunder shall be deemed guilty of a
10 misdemeanor and, upon conviction thereof, shall be punished by
11 imprisonment not to exceed one year and a fine of not exceeding
12 five thousand dollars (\$5,000.00) or both such fine and imprison-
13 ment.

14 Section 38. CONTINUATION OF REGULATIONS, AGREEMENTS,
15 EMPLOYEES, ETC. All rules, regulations, procedures, policies,
16 funds, contracts, agreements, employees' positions, accounts,
17 assets, liabilities, and benefit conditions and amounts, whether
18 vested or contingent, established in any manner under any act
19 repealed by the provisions of this Act are hereby continued
20 except where inconsistent with the provisions of this Act.
21 Department and division heads, together with all employees shall
22 continue in their respective positions at the pleasure of and
23 until removed by the Commission created herein, or Director here-
24 in appointed.

25 Section 39. REPEAL SCHEDULE. Chapter 63, Session Laws of
26 Alaska 1957, and all acts and parts of acts in conflict with the
27 provisions of this Act, are hereby repealed.

28 Section 40. SAVINGS CLAUSE. If any provision hereof or the
29 the application thereof to any person or circumstance is held

1 invalid, such invalidity shall not affect other provisions or
2 applications of this Act which can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are declared to be severable.

5 Section 41. EFFECTIVE DATE. This Act shall take effect
6 immediately upon its passage and approval or upon its becoming
7 law without such approval. Provided, however, that any part
8 or parts thereof which conflict with federal control shall take
9 effect upon cessation of such federal control.

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