

Introduced: 2/28/67
Referred: Resources

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 157

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating within the Department of Fish and
7 Game a Division of Commercial Fisheries supervised by
8 a Board of Commercial Fisheries, a Division of Sport
9 Fish and Game supervised by a Board of Sport Fish and
10 Game, and an Arbitration Commission; and providing
11 for an effective date."

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

13 * Section 1. AS 44.39.030 is amended to read:

14 Sec. 44.39.030. APPOINTMENT AND TERM OF OFFICE OF COMMISSIONER.
15 The Governor shall appoint the Commissioner of Fish and Game [FROM A
16 LIST OF QUALIFIED PERSONS NOMINATED BY THE BOARD OF FISH AND GAME,
17 SUBJECT TO THE RIGHT OF THE GOVERNOR TO REQUEST ADDITIONAL NOMINA-
18 TIONS]. The appointment shall be confirmed by a majority of the mem-
19 bers of the legislature in joint session. The Commissioner of Fish
20 and Game serves for a term of five years.

21 * Sec. 2. AS 44.39.040 is amended to read:

22 Sec. 44.39.040. VACANCY. If a vacancy occurs in the office of
23 The Commissioner of Fish and Game, the Governor shall appoint a succes-
24 sor for the unexpired term [IN THE MANNER PROVIDED FOR THE REGULAR
25 APPOINTMENT].

26 * Sec. 3. AS 44.39.050 is amended to read:

27 Sec. 44.39.050. REMOVAL OF COMMISSIONER. The Commissioner shall
28 serve at the pleasure of the Governor. [THE BOARD OF FISH AND GAME
29 MAY SUBMIT A RESOLUTION TO THE GOVERNOR REQUESTING THE REMOVAL OF THE

1 COMMISSIONER. THE RESOLUTION SHALL SET OUT THE GROUNDS FOR THE REQUEST
2 AND THE GOVERNOR SHALL GIVE THE COMMISSIONER AND THE BOARD AN OPPOR-
3 TUNITY TO BE HEARD.]

4 * Sec. 4. AS 16.05.030 is amended to read:

5 Sec. 16.05.030. STATUS OF COMMISSIONER. The Commissioner [IS NOT
6 A MEMBER OF THE BOARD, BUT] shall serve [BE] as [AN] ex officio secre-
7 tary to the Board of Commercial Fisheries and to the Board of Sport
8 Fish and Game. [HE MAY CAST TIE-BREAKING VOTES.]

9 * Sec. 5. AS 16.05.070 is amended to read:

10 Sec. 16.05.070. RULES AND REGULATIONS AS EVIDENCE. Rules and
11 regulations of the Board of Commercial Fisheries, and of the Board of
12 Sport Fish and Game [BOARD AND OF THE COMMISSIONER, INCLUDING EMERGENCY
13 OPENINGS AND CLOSURES,] are admissible as evidence in the courts of the
14 State in accordance with the Administrative Procedure Act.

15 * Sec. 6. AS 16.05.080 is amended to read:

16 Sec. 16.05.080. LIMITATION OF POWER. Nothing in this chapter
17 authorises the department or the boards [BOARD] to change the amount
18 of fees or licenses.

19 * Sec. 7. AS 16.05.090 is amended to read:

20 Sec. 16.05.090. ORGANIZATION OF THE DEPARTMENT. The department
21 shall be composed of two divisions; a division of Commercial Fisheries
22 and a division of Sport Fish and Game. [COMMISSIONER MAY, WITH THE
23 APPROVAL OF THE GOVERNOR, ESTABLISH A DEPARTMENTAL DIVISION OF COMMER-
24 CIAL FISHERIES, A DEPARTMENTAL DIVISION OF SPORT FISHERIES, A DEPART-
25 MENTAL DIVISION OF GAME, AND OTHER DEPARTMENTAL DIVISIONS AS ARE
26 NECESSARY.]

27 * Sec. 8. AS 16.05 is amended by adding new sections to read:

28 Sec. 16.05.221. GENERAL. There shall be created within the
29 Department of Fish and Game a Board of Commercial Fisheries; a Board

1 of Sport Fish and Game; and an Arbitration Commission.

2 Sec. 16.05.231. THE BOARD OF COMMERCIAL FISHERIES. There is
3 created at the head of the Division of Commercial Fisheries a Board of
4 Commercial Fisheries composed of seven members.

5 Sec. 16.05.241. BOARD OF SPORT FISH AND GAME. There is created
6 at the head of the Division of Sport Fish and Game a Board of Sport
7 Fish and Game consisting of seven members.

8 Sec. 16.05.251. APPOINTMENT, TERM OF OFFICE, VACANCIES, REMOVAL.

9 (A) The seven members of each board shall be appointed by
10 the Governor without regard to political affiliation, subject to con-
11 firmation by a majority of the members of the legislature in joint
12 session;

13 (B) The members of each board shall be appointed for over-
14 lapping four year terms. The first members appointed to each board
15 serve as follows: Two members shall serve for one year, two for two
16 years, two for three years, and one for four years, respectively.
17 Initial terms date from the first of March immediately preceding
18 appointment.

19 (C) Vacancies shall be filled by appointment by the Governor,
20 subject to confirmation by the legislature at the next regular or
21 special session.

22 (D) The members of each board serve at the pleasure of the
23 Governor.

24 Sec. 16.05.261. MEETINGS, QUORUM, CHAIRMAN, OFFICE.

25 (A) Each board shall hold one regular meeting annually at
26 the state capital. Additional meetings shall be held at such times
27 and places as the boards shall select. Meetings may be called by
28 board chairmen or by a majority of the members of each board;

29 (B) Four members of each board constitute a quorum.

1 (C) Each board shall select a chairman for a term set by
2 the board.

3 (D) Each board shall maintain its office at the principal
4 office of the Department of Fish and Game.

5 Sec. 16.05.271. COMPENSATION. The members of each board are
6 entitled to expenses, travel and per diem allowances as provided by
7 law. Members shall act and receive compensation from the date of
8 appointment until the date of confirmation or rejection by the
9 legislature.

10 Sec. 16.05.281. POWERS. The boards have rule making powers as
11 set forth in this chapter including budgetary revision power over items
12 related to board functions, but do not have administrative, or fiscal
13 powers. All rules and regulations shall be promulgated under the
14 Administrative Procedure Act (AS 44.62).

15 Sec. 16.05.291. COMMERCIAL FISHERIES RULES AND REGULATIONS. The
16 Board of Commercial Fisheries may make rules and regulations it con-
17 siders advisable for:

18 (1) setting apart commercial fishery reserve areas and
19 sanctuaries in the waters of the state over which it has jurisdiction,
20 subject to the approval of the legislature;

21 (2) establishing open and closed seasons and areas for
22 commercial fish;

23 (3) establishing the means and methods to be employed in the
24 pursuit, capture, and transport of commercial fish;

25 (4) setting quotas and bag limits on the taking of commer-
26 cial fish;

27 (5) engaging in biological research, watershed and habitat
28 improvement, commercial fish management, protection, propagation and
29 stocking;

1 (6) investigating and determining the extent and effect of
2 predation and competition among fish in the state and exercising con-
3 trol measures considered necessary to the commercial fish resources of
4 the state;

5 (7) entering into cooperative agreements with educational
6 institutions and state, federal, or other agencies to promote commer-
7 cial fish research, management, education, and information and to
8 train men for commercial fish management.

9 Sec. 16.05.301. SPORT FISH AND GAME, RULES AND REGULATIONS,
10 ADJUDICATIVE HEARINGS.

11 (A) The Board of Sport Fish and Game may make rules and
12 regulations it considers advisable for:

13 (1) setting apart sport fish and game reserve areas;
14 refuges and sanctuaries in the waters or on the lands of the state
15 over which it has jurisdiction, subject to the approval by the
16 legislature;

17 (2) establishing open and closed seasons and areas
18 for sport fish and game;

19 (3) establishing the means and methods to be employed
20 in the pursuit, capture, and transport of sport fish and game;

21 (4) setting quotas and bag limits on the taking of
22 sport fish and game;

23 (5) classifying sport fish and game as sport fish,
24 game birds, song birds, big game animals, fur bearing animals, pre-
25 dators, vermin, or other categories essential for regulatory purposes;

26 (6) establishing the qualifications for guides and
27 assistant guides, certifying master guides, regulating guide activities,
28 and maintaining a guide register;

29 (7) engaging in biological research, watershed and

1 habitat improvement, sport fish and game management, protection, pro-
2 pagation and stocking;

3 (8) investigating and determining the extent and
4 effect of predation and competition among sport fish and game in the
5 state and exercising control measures considered necessary to the
6 resources of the state;

7 (9) entering into cooperating agreements with educa-
8 tional institutions and state, federal, or other agencies to promote
9 sport fish and game research, management, education, and information
10 and to train men for sport fish and game management;

11 (10) prohibiting the live capture, possession, trans-
12 port, or release of native sport fish or game or their eggs.

13 (B) The Board of Sport Fish and Game may hold adjudicative
14 hearings, pursuant to the Administrative Procedure Act (AS 44.62) for
15 the purpose of revoking, suspending or refusing to issue guide licenses

16 Sec. 16.05.311. ADVISORY COMMITTEES. Each board may establish,
17 at places in the state designated by the board, advisory committees to
18 be composed of persons well informed on the commercial and/or sport
19 fish and game resources of the locality. The boards shall set the
20 number and terms of each of the members of the advisory committees,
21 shall delegate one member of each committee as chairman, and shall
22 give him authority to hold public hearings. [ON SPORT FISH AND GAME
23 MATTERS.] Recommendations from the advisory committees shall be
24 forwarded to the boards for their consideration. [THE COMMISSIONER
25 SHALL DELEGATE AUTHORITY TO ADVISORY COMMITTEES FOR EMERGENCY CLOSURES
26 DURING ESTABLISHED SEASONS. THE COMMISSIONER MAY COUNTERMAND AND MAKE
27 NULL AND VOID ANY AUTHORITY DELEGATED OR ORDER ISSUED UNDER THIS
28 SECTION. THE BOARDS SHALL ESTABLISH THE NECESSARY RULES GOVERNING
29 SUCH CLOSURES.]

1 **Sec. 16.05.321. DELEGATION OF AUTHORITY TO COMMISSIONER.** For
2 the purpose of administering sections of this chapter, the boards may
3 delegate authority to the commissioner to act on their behalf.

4 **Sec. 16.05.331. ARBITRATION COMMISSION.** There is created within
5 the Department of Fish and Game an Arbitration Commission. The Commis-
6 sion shall consist of five members; two from the Board of Commercial
7 Fisheries, two from the Board of Sport Fish and Game, and the Commis-
8 sioner. Commission representation shall be appointed by the Chairman
9 of their respective boards. The Commissioner shall serve as Chairman
10 of the Commission.

11 **Sec. 16.05.341. MEETINGS.** The Arbitration Commission shall meet
12 as circumstances require as determined by the Commissioner or a majority
13 of the members of either the Board of Commercial Fisheries or the Board
14 of Sport Fish and Game.

15 **Sec. 16.05.351. POWERS AND DUTIES OF THE ARBITRATION BOARD.** The
16 Board shall:

17 (1) Determine those types, varieties or species of fish
18 which shall be designated "commercial fish";

19 (2) Determine those types, varieties or species of fish
20 which shall be designated "sport fish";

21 (3) Determine those types, varieties or species of fish
22 which shall be designated both "commercial" and "sport" fish;

23 (4) Arbitrate differences between the Board of Commercial
24 Fisheries and the Board of Sport Fish and Game which may arise when
25 rules and regulations issued by the two boards conflict. Determina-
26 tions made by the Arbitration Commission are final and shall be binding
27 upon the Boards of Commercial Fisheries and Sport Fish and Game.

28 **Sec. 16.05.361.** Notwithstanding the provisions of this act,
29 authority vested in, and references made to, the Board of Fish and

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Game shall be vested in, and shall apply to, the Boards of Commercial Fisheries and Sport Fish and Game.

* Sec. 9. AS 16.20.040 is amended to read:

Sec. 16.20.040. REGULATIONS. The Board of Sport Fish and Game shall, under Ch. 5 of this title, establish regulations governing the taking of game on state game refuges it considers advisable for conservation and protection purposes.

* Sec. 10. AS 16.20.080 (1) is amended to read:

Subsec. (1) "board" means the Board of Sport Fish and Game.

* Sec. 11. AS 16.20.120 is amended to read:

Sec. 16.20.120. AUTHORITY TO ADMINISTER. The Board of Sport Fish and Game may adopt regulations governing entry, development, construction, hunting, fishing, and all other uses or activities not in conflict with Sections 130 and 140 of this chapter for the purpose of preserving the natural habitat and the fish and game of the Walrus Islands State Game Sanctuary.

* Sec. 12. This act takes effect on the day after its passage and approval or on the day it becomes law without approval.

* Sec. 13. The following laws are repealed: AS 16.05.270-AS 16.05.320.