

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 523

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the boards of fisheries and game;
7 and providing for an effective date."

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

9 * Section 1. AS 16.05 is amended by adding new sections to read:

10 ARTICLE 2. BOARDS OF FISHERIES AND GAME.

11 Sec. 16.05.221. BOARDS OF FISHERIES AND GAME. (a) For purposes of the
12 conservation and development of the fishery resources of the state, there
13 is created the Board of Fisheries composed of seven members appointed by
14 the governor. The appointed members shall be residents of the state and
15 shall be appointed without regard to political affiliation or geographical
16 location of residence. The deputy commissioner of fisheries is not a member
17 of the Board of Fisheries, but he may cast tie-breaking votes.

18 (b) For purposes of the conservation and development of the game
19 resources of the state, there is created a Board of Game composed of
20 five members appointed by the governor. The appointed members shall
21 be residents of the state, and shall be appointed without regard to
22 political affiliation or geographical location of residence. The deputy
23 commissioner of game is not a member of the Board of Game, but he
24 may cast tie-breaking votes.

25 Sec. 16.05.241. POWERS EXCLUDED. The boards have regulation-making
26 powers as set out in this chapter, but, except for sec. 295 of this
27 chapter, do not have administrative, budgeting or fiscal powers.

28 Sec. 16.05.251. REGULATIONS OF THE BOARD OF FISHERIES. The
29 Board of Fisheries may make regulations it considers advisable in

1 accordance with the Administrative Procedure Act (AS 44.62) for

2 (1) setting apart fish reserve areas, refuges and sanctuaries
3 in the waters of the state over which it has jurisdiction, subject to
4 the approval of the legislature;

5 (2) establishment of open and closed seasons and areas for
6 the taking of fish;

7 (3) setting quotas and bag limits on the taking of fish;

8 (4) establishment of the means and methods employed in the
9 pursuit, capture and transport of fish;

10 (5) establishment of marking and identification requirements
11 for means used in the pursuit, capture and transport of fish;

12 (6) classifying fish as commercial fish, sport fish or
13 predators or other categories essential for regulatory purposes;

14 (7) investigating and determining the extent and effect of
15 predation and competition among fish in the state, exercising control
16 measures considered necessary to the resources of the state;

17 (8) prohibiting the live capture, possession, transport, or
18 release of native or exotic fish or their eggs;

19 (9) establishing additional qualifications relating to the
20 eligibility requirements for gear licenses;

21 (10) establishment of marking and identification requirements
22 for means used in the pursuit, capture and transport of fish.

23 Sec. 16.05.255. REGULATIONS OF THE BOARD OF GAME. The Board of
24 Game may make regulations it considers advisable in accordance with
25 the Administrative Procedure Act (AS 44.62) for

26 (1) setting apart game reserve areas, refuges and sanctuaries
27 in the waters or on the lands of the state over which it has juris-
28 diction, subject to the approval of the legislature;

29 (2) establishment of open and closed seasons and areas for

1 the taking of game;

2 (3) establishment of the means and methods employed in the
3 pursuit, capture and transport of game;

4 (4) setting quotas and bag limits on the taking of game;

5 (5) classifying game as game birds, song birds, big game
6 animals, fur-bearing animals, predators or other categories;

7 (6) investigating and determining the extent and effect of
8 predation and competition among game in the state, exercising control
9 measures considered necessary to the resources of the state and designat-
10 ing game management units or parts of game management units in which
11 bounties for predatory animals shall be paid;

12 (7) prohibiting the live capture, possession, transport, or
13 release of native or exotic game or their eggs;

14 (8) revoking, suspending or refusing issuance of master guide,
15 registered guide and assistant guide licenses.

16 Sec. 16.05.257. PUBLIC PROPOSALS FOR REGULATION CHANGES. (a) Every
17 year the Board of Fisheries and the Board of Game shall consider public pro-
18 posals for changes in regulations setting quotas and bag limits for fish
19 and game and establishing open and closed seasons and areas for fish and
20 game.

21 (b) Every other year each board shall consider only those public
22 proposals which have been endorsed by an advisory committee and which
23 change regulations other than those specified in (a) of this section.
24 In the case of an emergency, as determined by a board or the commissioner,
25 public proposals for changes in regulations may be considered.

26 (c) The boards shall establish and publish uniform procedures
27 governing the submission and consideration of proposals for regulation
28 changes under (a) and (b) of this section.

29 (d) Nothing in this section limits a board from considering

1 department staff proposals, based either on independent staff requests
2 or on public proposals recommended by the staff, for changes in
3 regulations at any time.

4 * Sec. 2. AS 16.05.070 is amended to read:

5 Sec. 16.05.070. [RULES AND] REGULATIONS AS EVIDENCE. Regulations
6 [RULES AND REGULATIONS] of the boards of fisheries and game or [BOARD
7 AND] of the commissioner, including emergency openings and closures,
8 are admissible as evidence in the courts of the state in accordance with
9 the Administrative Procedure Act (AS 44.62).

10 * Sec. 3. AS 16.05.080 is amended to read:

11 Sec. 16.05.080. LIMITATION OF POWER. Nothing in this chapter
12 authorizes the department or the boards of fisheries and game [BOARD]
13 to change the amount of fees or licenses.

14 * Sec. 4. AS 16.05.190 is amended to read:

15 Sec. 16.05.190. SEIZURE WITHOUT WARRANT AND CONFISCATION BY COURT.
16 Guns, traps, nets, fishing tackle, boats, aircraft, automobiles or
17 other vehicles, sleds, and other paraphernalia used in or in aid of
18 a violation of this chapter, [OR RULE] or regulation of the boards or
19 the commissioner [DEPARTMENT] may be seized under a valid search, and
20 all fish and game, or parts of fish and game, or nests or eggs of birds,
21 taken, transported, or possessed contrary to the provisions of this
22 chapter, [OR RULE] or regulation of the boards or the commissioner
23 [DEPARTMENT] shall be seized by any person designated in sec. 150 of
24 this chapter. Upon conviction of the offender or upon judgment of the
25 court having jurisdiction that the item was taken, transported, or
26 possessed in violation of this chapter [OR RULE] or regulation of the
27 boards or the commissioner [DEPARTMENT], all fish and game, or parts of
28 them are forfeited to the state and shall be disposed of as directed
29 by the court. If sold, the proceeds of the sale shall be transmitted

1 to the proper state officer for deposit in the general fund. Guns,
2 traps, nets, fishing tackle, boats, aircraft, or other vehicles, sleds,
3 and other paraphernalia seized under the provisions of this chapter,
4 [OR RULE] or regulation of the boards or the commissioner [DEPARTMENT],
5 unless forfeited by order of the court, shall be returned, after com-
6 pletion of the case and payment of the fine, if any.

7 * Sec. 5. AS 16.05.260 is amended to read:

8 Sec. 16.05.260. ADVISORY COMMITTEES. (a) The Board of Fisheries
9 and the Board of Game shall, in joint session, promulgate [BOARD MAY
10 MAKE RULES AND] regulations they consider [IT CONSIDERS] advisable in
11 accordance with the Administrative Procedure Act (AS 44.62) establishing
12 advisory committees and their operating procedures [,] at places in the
13 state designated by the boards [BOARD], [ADVISORY COMMITTEES] to be
14 composed of persons well informed on the fish and game resources of the
15 locality. Each advisory committee shall have in its membership represen-
16 tatives of all fish and game interests present in the locality.

17 (b) The boards, in accordance with the operating procedures
18 established in (a) of this section, [BOARD] shall appoint the members
19 of the advisory committees from a list of nominations submitted by
20 local organizations and individuals, set the number and terms of each
21 of the members of the advisory committees, shall designate [DELEGATE]
22 one member of each committee as chairman, and shall give him authority
23 to hold public hearings on fish and game regulations [MATTERS]. If two
24 or more advisory committees are established in a locality, a person
25 is ineligible for appointment as a member to more than one committee
26 at a time.

27 (c) An advisory committee shall consider each public proposal
28 pertinent to its locality for a change in a regulation of either board
29 and may, during the year specified in sec. 257(b) of this chapter,

1 recommend the proposed change to the appropriate board for its considera-
2 tion. A proposal for a change in a regulation arrived at by the ad-
3 visory committee independently of a public proposal may [RECOMMENDATIONS
4 FROM THE ADVISORY COMMITTEE SHALL] be forwarded at any time to the
5 appropriate board for its consideration.

6 (d) The commissioner shall delegate authority to advisory commit-
7 tees for emergency closures for conservation reasons during established
8 seasons. The commissioner may countermand and make null and void, for
9 conservation reasons, any closure made [ANY AUTHORITY DELEGATED OR
10 ORDER ISSUED] under this section. The Board of Fisheries and the Board
11 of Game shall, in joint session, [BOARD SHALL] establish the necessary
12 rules governing such closures.

13 * Sec. 6. AS 16.05.270 is amended to read:

14 Sec. 16.05.270. DELEGATION OF AUTHORITY TO COMMISSIONER. For
15 the purpose of administering secs. 251 and 255 [250 AND 260] of this
16 chapter, each [THE] board may delegate authority to the commissioner
17 to act in its behalf. [IF THERE IS A CONFLICT BETWEEN THE BOARD AND
18 THE COMMISSIONER ON PROPOSED RULES AND REGULATIONS, PUBLIC HEARINGS SHALL
19 BE HELD CONCERNING THE ISSUES IN QUESTION. IF, AFTER THE PUBLIC HEARINGS,
20 THE BOARD AND THE COMMISSIONER CONTINUE TO DISAGREE, THE ISSUE SHALL BE
21 CERTIFIED IN WRITING BY THE BOARD AND THE COMMISSIONER TO THE GOVERNOR
22 WHO SHALL MAKE A DECISION. THE DECISION OF THE GOVERNOR IS FINAL.]

23 * Sec. 7. AS 16.05.290 is amended to read:

24 Sec. 16.05.290. COMPENSATION OF BOARD MEMBERS. Each member of
25 a [THE] board is entitled to travel expenses and per diem allowed by
26 law for each day going to and from and for each day in actual attend-
27 ance at board meetings and other meetings or conferences authorized
28 by a [THE] board.

29 * Sec. 8. AS 16.05 is amended by adding a new section to read:

1 Sec. 16.05.295. BOARD STAFF. The boards shall employ and deter-
2 mine the compensation of an executive director and staff personnel
3 necessary to assist in carrying out the duties imposed on the boards
4 by this title. The boards may employ an attorney, as required, to
5 advise the boards in connection with the handling of administrative
6 regulations.

7 * Sec. 9. AS 16.05.300 is amended to read:

8 Sec. 16.05.300. BOARD MEETINGS. Each [THE] board shall hold at
9 least one meeting a year and as many other meetings as it considers
10 necessary. Each [THE] board shall select the time and place in the
11 state for the transaction of business. Each [THE] board shall maintain
12 its office at the principal office of the department.

13 * Sec. 10. AS 16.05.310 is amended to read:

14 Sec. 16.05.310. SPECIAL BOARD MEETINGS. A [THE] board may meet
15 at any time upon the call of the commissioner or upon the request of
16 two board members.

17 * Sec. 11. AS 16.05 is amended by adding a new section to read:

18 Sec. 16.05.315. JOINT BOARD MEETINGS. The boards of fisheries
19 and game may hold a joint meeting upon the call of the commissioner or
20 a board to resolve any conflicts in regulations of the boards and to
21 consider matters, as determined by the commissioner or a board, which
22 require the consideration of both boards.

23 * Sec. 12. AS 16.05.320 is amended to read:

24 Sec. 16.05.320. QUORUM. A majority of the members of a [THE]
25 board constitutes a quorum for the transaction of business, for the
26 performance of any duty, and for the exercise of any power. However,
27 a majority of the full board membership [OF 10 MEMBERS] is required
28 to carry all motions, regulations and resolutions. A majority of the
29 members of the boards of fisheries and game constitutes a quorum for

1 the transaction of business in a joint board meeting. A majority of
2 the membership of the boards is required to carry all joint motions,
3 regulations and resolutions of the boards.

4 * Sec. 13. AS 16.05.536(a) is amended to read:

5 (a) Except in cases of extreme hardship as defined by the Board of
6 Fisheries [FISH AND GAME], a salmon net gear license for a specific
7 salmon registration area may be issued only to a person who

8 (1) has previously held a salmon net gear license for that
9 specific salmon registration area; or

10 (2) has, for any three years, held a commercial fishing
11 license and while so licensed actively engaged in commercial fishing
12 in that specific area.

13 * Sec. 14. AS 16.05.800 is amended to read:

14 Sec. 16.05.800. PUBLIC NUISANCES. A net, seine, lantern, snare,
15 device, contrivance, or other [AND] material while in use, had and
16 maintained for the purpose of catching, taking, killing, attracting,
17 or decoying fish or game, contrary to law or a [RULE OR] regulation
18 of a [THE] board or the commissioner, is a public nuisance and is sub-
19 ject to abatement.

20 * Sec. 15. AS 16.05.820 is amended to read:

21 Sec. 16.05.820. RESEARCH BY THE FEDERAL GOVERNMENT. The Secretary
22 of the Interior or the Secretary of Agriculture of the United States
23 and their authorized agents may conduct fish cultural operations and
24 scientific investigations in the state in the manner and at the times
25 jointly considered necessary or proper by the commissioner [BOARD] and
26 the secretary and their authorized agents.

27 * Sec. 16. AS 16.05.930(c) is amended to read:

28 (c) Section 920 of this chapter does not prohibit rearing and
29 sale of fish from private ponds or the raising of wild animals in

1 captivity for food or fur purposes under regulations promulgated by
2 the appropriate board.

3 * Sec. 17. AS 16.05.940(1) is amended to read:

4 (1) "a board" means either the Board of Fisheries or the
5 Board of [FISH AND] Game;

6 * Sec. 18. AS 16.05.940(17) is amended to read:

7 (17) "subsistence fishing" means the taking, fishing for
8 or possession of fish, shellfish, or other fishery resources for personal
9 use and not for sale or barter, with gill net, scinc, fish wheel, long
10 line, or other means defined by the Board of Fisheries [BOARD];

11 * Sec. 19. AS 16.10.150(b) is amended to read:

12 (b) Upon securing a permit from the commissioner, herring spawn
13 may be taken for commercial purposes at places and times and in amounts
14 and in the manner permitted by the Board of Fisheries [BOARD].

15 * Sec. 20. AS 16.10.190 is amended to read:

16 Sec. 16.10.190. RULES AND REGULATIONS. The Board of Fisheries
17 [BOARD] may promulgate [RULES AND] regulations to carry out the purposes
18 of secs. 180 - 230 of this chapter defining the adjacent high sea areas,
19 migratory fish and migratory shellfish and to make coastal fishery
20 [RULES AND] regulations governing the manner, means, conditions and time
21 for the taking of migratory fish and migratory shellfish applicable in
22 designated adjacent high sea areas.

23 * Sec. 21. AS 16.10.200 is amended to read:

24 Sec. 16.10.200. UNLAWFUL TAKING PROHIBITED. It is unlawful for
25 a person taking migratory fish and migratory shellfish in high sea
26 areas designated by the Board of Fisheries [BOARD] or in violation of
27 the [RULES AND] regulations promulgated by the Board of Fisheries [BOARD]
28 governing the taking of migratory fish and migratory shellfish in the
29 designated areas to possess, sell, offer to sell, barter, offer to

1 barter, give or transport in the state, including the waters of the
2 state, migratory fish or migratory shellfish.

3 * Sec. 22. AS 16.10.210 is amended to read:

4 Sec. 16.10.210. UNLAWFUL SALE OR OFFER PROHIBITED. It is unlawful
5 for a person to possess, purchase, offer to purchase, sell, or offer
6 to sell in the state migratory fish or migratory shellfish taken on the
7 high seas knowing that they were taken in violation of a [RULE OR] regu-
8 lation promulgated by the Board of Fisheries [BOARD] governing the
9 taking of migratory fish or migratory shellfish in certain areas desig-
10 nated by the Board of Fisheries [BOARD] or the commissioner.

11 * Sec. 23. AS 16.20.080(1) is amended to read:

12 (1) "board" means the Board of [FISH AND] Game;

13 * Sec. 24. AS 16.20.120 is amended to read:

14 Sec. 16.20.120. AUTHORITY TO ADMINISTER. The boards [BOARD] may
15 adopt regulations governing entry, development, construction, hunting,
16 fishing, and all other uses or activities not in conflict with secs. 130
17 and 140 of this chapter for the purpose of preserving the natural
18 habitat and the fish and game of the Walrus Islands State Game Sanctuary.

19 * Sec. 25. AS 16.35.200 is amended to read:

20 Sec. 16.35.200. USE OF POISON BY DEPARTMENTS AND OTHER STATE
21 AGENCIES. No department, other state agency or person may use poison
22 to kill predatory animals without first obtaining the written consent
23 of the appropriate board [BOARD OF FISH AND GAME].

24 * Sec. 26. AS 16.50.010 is amended to read:

25 Sec. 16.50.010. DESIGNATION OF BOARD. In addition to its other
26 duties, the Board of [FISH AND] Game shall serve as the Guide Licensing
27 and Control Board.

28 * Sec. 27. AS 16.50.020(5) is amended to read:

29 (5) require submission of reports on outfitting and guiding

1 activities as considered necessary by the Board of [FISH AND] Game
2 for game management purposes;

3 * Sec. 28. AS 16.50.420(1) is amended to read:

4 (1) "board" means the Board of [FISH AND] Game;

5 * Sec. 29. AS 44.62.330 is amended by adding new paragraphs to read:

6 (33) Board of Fisheries

7 (34) Board of Game

8 * Sec. 30. AS 39.05.060 is amended to read:

9 Sec. 39.05.060. APPOINTMENT, QUALIFICATIONS, AND TERMS OF OFFICE
10 FOR MEMBERS OF DEPARTMENTAL BOARDS, COUNCILS, OR COMMISSIONS. Each
11 member of the Local Boundary Commission, Alcoholic Beverage Control
12 Board, Employment Security Advisory Council, Alaska State Housing
13 Authority, Board of Fisheries, Board of [FISH AND] Game, and the Com-
14 mission for Northern Operations of Rail Transportation and Highways,
15 shall be a citizen of the United States. The governor shall appoint
16 each member on the basis of interest in public affairs, good judgment,
17 knowledge and ability in the field of action of the department for
18 which appointed, and with a view to providing diversity of interest
19 and points of view in the membership. Appointments are subject to
20 confirmation by a majority of the members of the legislature in joint
21 session. Initial appointments of members are as follows: (1) in the
22 case of three-member boards, for one, two and three years; (2) in the
23 case of five-member boards, for one, two, three, four and five years;
24 (3) in the case of six-member boards, two members serve for one year,
25 two for two years, and two for three years; (4) in the case of eight-
26 member boards, two members serve for one year, two for two years, two
27 for three years, and two for four years; (5) and in the case of 10-
28 member boards, two members serve for one year, two for two years, two
29 for three years, two for four years, and two for five years; (6) in

1 the case of seven-member boards, one member serves for one year, two
2 for two years, two for three years, and two for four years. Initial
3 terms date from February 1 before appointment. A vacancy occurring
4 during a term of office is filled in the same manner as the original
5 appointment is made and for the balance of the unexpired term. Each
6 member holds office at the pleasure of the governor notwithstanding
7 the member's term.

8 * Sec. 31. The following laws are repealed: AS 16.05.030; 16.05.220 -
9 16.05.250; and AS 44.62.330(31).

10 * Sec. 32. All regulations in effect on the effective date of this Act
11 and all regulations adopted by a board before the effective date of this Act
12 remain valid until amended or revoked by the appropriate board.

13 * Sec. 33. This Act takes effect July 1, 1970.
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