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1 IN THE SENATE

BY THE RESOURCES COMMITTEE

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SENATE CS FOR CS FOR HOUSE BILL NO. 185

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to fish and game."

7

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

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

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ARTICLE 2. THE MASTER BOARD OF FISH AND GAME.

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Sec. 16.05.225. CREATION. There is created at the head of the

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Department of Fish and Game a Master Board of Fish and Game consisting

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of 10 members, all of whom shall be citizens of the United States.

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Sec. 16.05.235. APPOINTMENT OF MEMBERS. (a) The 10 members of

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the board, no more than six of whom may be members of the same political

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party as the governor, shall be appointed by the governor from a list

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of residents nominated by the regional boards. A member shall be

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appointed from each regional area specified in sec. 322(a) of this chap-

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ter from a list of two nominations submitted by each regional board.

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Each member is subject to confirmation by a majority of the members of

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the legislature in joint session. A regional board is not prohibited

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from nominating one of its own members. In nominating board members,

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a regional board shall consider recommendations made by fish and game

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advisory committees created under the authority of sec. 322(c) of this

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chapter. Members of the board shall possess an ability in management

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and an interest in and knowledge of the fish and game resources of the

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state.

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(b) The 10 members are entitled to the expenses, travel, and per

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diem allowances provided by law.

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(c) A member may act and receive compensation from his appointment

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1 until his confirmation or rejection by the legislature.

2 Sec. 16.05.245. TERM OF OFFICE. The members of the board shall  
3 be appointed for overlapping five-year terms. A member appointed to  
4 fill a vacancy serves for the unexpired term of the member he succeeds.

5 \* Sec. 2. AS 16.05.250 is repealed and re-enacted to read:

6 Sec. 16.05.250. REGULATIONS. (a) Subject to (b) of this section,  
7 a regional board may make rules and regulations it considers advisable  
8 for the area it represents in accordance with the Administrative Pro-  
9 cedure Act (AS 44.62) for

10 (1) establishment of open and closed seasons and areas for  
11 fish and game;

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

14 (3) setting quotas and bag limits on the taking of fish and  
15 game;

16 (4) establishing seasons, areas, quotas and methods of  
17 harvest for aquatic plants.

18 (b) A regulation promulgated under (a) of this section may be  
19 vetoed by the master board if, in the view of a majority of the members  
20 of the master board, compelling conservation reasons, as documented by  
the department, clearly establish the necessity of veto action.

22 \* Sec. 3. AS 16.05 is amended by adding new sections to read:

23 Sec. 16.05.255. QUORUM AND CHAIRMAN. (a) Six members constitute  
24 a quorum; however a majority vote of the full board membership is re-  
25 quired to pass substantive measures.

26 (b) The board shall elect one member of the board as the chairman  
27 and he shall serve as a chairman of the board at the pleasure of the  
28 board.

29 Sec. 16.05.275. MEETINGS. The board shall meet at least once a

1 year. Meetings may be called by the chairman by a majority of the  
2 members of the board. The board shall determine the time and place of  
3 meetings.

4 Sec. 16.05.285. LEGAL ASSISTANCE. The Department of Law shall  
5 provide all legal services for the board, unless otherwise provided by  
6 law.

7 Sec. 16.05.295. COMMISSIONER OF FISH AND GAME. (a) The board  
8 shall appoint the commissioner of fish and game with the approval of  
9 the governor. The commissioner shall be the principal executive officer  
10 of the department.

11 (b) The commissioner shall be appointed without regard to politi-  
12 cal affiliation and shall be a qualified executive with knowledge of  
13 the requirements for the protection, management, conservation, and  
14 restoration of the fish and game resources of the state.

15 (c) The commissioner shall be appointed by the board for a term  
16 of office not to exceed five years. He may be removed during his term  
17 of office by six members of the board for cause as defined in this  
18 section.

19 (d) In this section "cause" means

20 (1) incompetency which is the inability or the unintentional  
21 or intentional failure to perform the duties of the commissioner;

22 (2) immorality which is the commission of an act which,  
23 under the laws of the state, constitutes a crime involving moral turpi-  
24 tude; or

25 (3) malfeasance or misfeasance in office which includes,  
26 but is not limited to, the failure of the commissioner to comply with  
27 the rules or regulations adopted by the board.

28 (e) The commissioner shall receive the salary set out in AS 39.-  
29 20.080.

1 (f) The commissioner shall supervise and control the department,  
2 employ and remove all classified personnel in the department subject  
3 to the State Personnel Act (AS 39.25). He may employ and remove  
4 personnel in the exempt or partially exempt service subject to the  
5 approval of the board. Personnel in the exempt or partially exempt  
6 service have a right of appeal to the board if they are removed.  
7 The commissioner may not sit on the board during an appeal.

8 (g) The commissioner shall manage, protect, maintain, improve,  
9 and extend the fish, game and aquatic plant resources of the state in  
10 the interest of the economy and general well-being of the state.

11 (h) The commissioner shall have necessary power to accomplish  
12 the foregoing including, but not limited to, the power to delegate  
13 authority to subordinate employees of the department.

14 Sec. 16.05.305. LIMITATIONS ON BOARD. No member of the board  
15 may be a candidate for partisan political office during his term of  
16 office.

17 ARTICLE 2-A. REGIONAL BOARDS.

18 Sec. 16.05.322. CREATION OF REGIONAL BOARDS. (a) There are  
19 created 10 regional boards of fish and game in the state, one for each  
20 of the following areas:

- 21 (1) Bristol Bay-Alaska Peninsula,
- 22 (2) Cook Inlet-Kenai Peninsula,
- 23 (3) Arctic,
- 24 (4) Interior (upper Yukon and Kuskokwim),
- 25 (5) Prince William Sound-Copper River Basin,
- 26 (6) Norton Sound-Seward Peninsula-Kotzebue Sound,
- 27 (7) Kodiak-Aleutian,
- 28 (8) Southeastern,
- 29 (9) Lower Yukon and Kuskokwim,

1 (10) Anchorage-Susitna Basin.

2 (b) The boundaries of the regional boards shall be established by  
3 the department, based on a consideration of fish and game areas, geo-  
4 graphic areas, and other resource considerations.

5 (c) The department shall divide the total area established for  
6 each regional board into five areas, with as nearly equal representa-  
7 tion as possible based on a consideration of fish and game areas, geo-  
8 graphic areas, and other resource considerations. An advisory  
9 committee may be established and organized by interested residents of  
10 the area for each of the five areas within a regional board's jurisdic-  
11 tion. Each advisory committee at its initial organizational meeting  
12 shall elect a steering committee consisting of three members, one of  
13 whom shall be designated chairman. The Department of Fish and Game  
14 shall give public notice of the initial organizational meeting at  
15 least two weeks prior to the date of the meeting. Public notice of  
16 subsequent meetings shall be given by the chairman of the local  
17 advisory committees. All meetings shall be conducted according to  
18 Roberts Rules of Order. All residents of an area in attendance shall  
19 have voting privileges at their respective local area advisory committee  
20 meetings. In the case of competing or conflicting advisory committees  
21 within one area the master board shall attempt to achieve a voluntary  
22 consolidation of the groups into one group. If a consolidation cannot  
23 be achieved, the master board shall designate the official advisory  
24 committee for the area. Recommendations from the advisory committees  
25 shall be forwarded to the regional board for the area in which it was  
26 established, for its consideration. The commissioner may delegate  
27 authority to advisory committees for emergency closures during established  
28 seasons. The commissioner may countermand and make null and void any  
29 authority delegated or order issued under this subsection. The master

1 board shall establish the necessary rules governing such closures.

2 Sec. 16.05.324. REGIONAL BOARD MEMBERSHIP. (a) A regional  
3 board shall consist of five members. Within the boundaries of the  
4 areas designated by the department in sec. 322(c) of this chapter  
5 each local advisory committee established under sec. 322(c) of this  
6 chapter shall elect one of its members for that area to serve on the  
7 regional board.

8 (b) If less than five local advisory committees exist in an area  
9 designated by the department in sec. 322(c) of this chapter, the  
10 remaining regional board members shall be elected by the committees  
11 from among the committee members or from among persons who are not  
12 advisory committee members.

13 (c) The term of office for members of a regional board is two  
14 years. Initial appointments shall be as follows: three members for  
15 two years and two members for one year. If a vacancy occurs, the  
16 advisory board shall fill it by election of a new member for the unex-  
17 pired term.

18 Sec. 16.05.325. COMPENSATION AND MEETINGS OF REGIONAL BOARD  
19 MEMBERS. (a) Each member of a regional board is entitled to travel  
20 expenses allowed by law for going to and from two regional board  
21 meetings a year in a community within its area as created in sec. 322(c)  
22 of this chapter. Per diem is allowed for each day in actual attendance  
23 at a regional board meeting, but no per diem is allowed for more than  
24 eight days a year.

25 (b) A regional board shall hold at least two meetings a year.

26 Sec. 16.05.326. ATTENDANCE OF REGIONAL BOARD MEMBERS AT MASTER  
27 BOARD MEETINGS. One member of each regional board is entitled to  
28 travel expenses and per diem for each day of travel to and attendance  
29 at each master board meeting.

1           Sec. 16.05.327. CONFLICT BETWEEN BOARDS. If there is a conflict  
2 between regional boards on proposed regulations, the conflict shall be  
3 submitted to the master board which shall make the final decision.

4 \* Sec. 4. AS 16.05.050 is amended to read:

5           Sec. 16.05.050. POWERS AND DUTIES OF BOARD [COMMISSIONER]. The  
6 board or its designee [COMMISSIONER] has, but not by way of limitation,  
7 the following powers and duties:

8           (1) assist the United States Fish and Wildlife Service in  
9 the enforcement of federal laws and regulations pertaining to fish  
10 and game;

11           (2) through the appropriate state agency, acquire by gift,  
12 purchase, or lease, or other lawful means, lands, buildings, water,  
13 rights-of-way, or other necessary or proper real or personal property  
14 when the acquisition is in the interest of furthering an objective  
15 or purpose of the department and the state;

16           (3) design and construct hatcheries, pipe lines, rearing  
17 ponds, fishways, and other projects beneficial for the fish and game  
18 resources of the state;

19           (4) accept money from any person under conditions requiring  
20 the use of the money for specific purposes in the furtherance of the  
21 protection, rehabilitation, propagation, preservation, or investigation  
22 of the fish and game resources of the state or in settlement of claims  
23 for damages to fish or game resources;

24           (5) collect, classify, and disseminate statistics, data and  
25 information as in its [HIS] discretion will tend to promote the objects  
26 of this chapter;

27           (6) capture, propagate, transport, buy, sell, or exchange  
28 fish or game or eggs for propagating, scientific or stocking purposes;

29           (7) repealed

1 (8) provide public facilities where necessary or proper to  
2 facilitate the taking of fish or game, and enter into cooperative  
3 agreements with any person to effect them;

4 (9) administrative, budgeting, and fiscal powers;

5 (10) the supervision and maintenance, including construction  
6 and operation, of vessels, aircraft, and other specialized equipment  
7 used by the Department of Fish and Game;

8 (11) promulgate regulations it considers necessary in accor-  
9 dance with the Administrative Procedure Act (AS 44.62) for

10 (A) classifying fish and game as commercial fish, sport  
11 fish, game birds, song birds, big game animals, fur bearing  
12 animals, or other categories essential for regulatory purposes;

13 (B) engaging in biological research, watershed and  
14 habitat improvement, fish and game management, protection, propa-  
15 gation and stocking;

16 (C) investigating and determining the extent and effect  
17 of predation and competition among fish and game in the state,  
18 exercising control measures considered necessary to the resources  
19 of the state and designating game management units or parts of  
20 game management units in which bounties for predatory animals  
21 shall be paid;

22 (D) entering into cooperative agreements with educa-  
23 tional institutions and state, federal, or other agencies to  
24 promote fish and game research, management, education, and informa-  
25 tion and to train men for fish and game management;

26 (E) prohibiting the live capture, possession, transport,  
27 or release of native or exotic fish or game or their eggs;

28 (F) establishment of the times and dates during which  
29 the issuance of fish and game licenses, permits and registrations,

1           and the transfer of permits and registrations between registration  
2           areas, game management units or subunits, is allowed;

3                   (G) establishing additional qualifications relating to  
4           the eligibility requirements for gear licenses;

5                   (12) veto regulations promulgated by a regional board under  
6           sec. 250 of this chapter if, in the view of a majority of the members  
7           of the master board, compelling conservation reasons, as documented by  
8           the department, clearly establish the necessity of the veto action.

9       \* Sec. 5. AS 16.05.060 is amended to read:

10           Sec. 16.05.060. EMERGENCY OPENINGS AND CLOSURES. This chapter  
11           does not limit the power of the board [COMMISSIONER] or its [HIS]  
12           authorized designee, when circumstances require, to summarily open or  
13           close seasons or areas or to change weekly closed periods on fish or  
14           game by means of emergency orders. An emergency order has the force  
15           and effect of law after field announcement by the board [COMMISSIONER]  
16           or its [HIS] authorized designee. An emergency order adopted under  
17           this section is not subject to the Administrative Procedure Act  
18           (AS 44.62).

19       \* Sec. 6. AS 16.05.070 is amended to read:

20           Sec. 16.05.070. RULES AND REGULATIONS AS EVIDENCE. Rules and  
21           regulations promulgated under this chapter [OF THE BOARD AND OF THE  
22           COMMISSIONER], including emergency openings and closures, are admissible  
23           as evidence in the courts of the state in accordance with the Adminis-  
24           trative Procedure Act (AS 44.62).

25       \* Sec. 7. AS 16.05.100 is amended to read:

26           Sec. 16.05.100. FISH AND GAME FUND ESTABLISHED. There is created  
27           a revolving "Fish and Game Fund," which shall be used exclusively  
28           (1) to carry out the purposes and provisions of this chapter or other  
29           duties that may be delegated by the legislature to the board

1 [COMMISSIONER] or the department; and (2) to carry out such purposes  
2 and objectives within the scope of the chapter as may be directed by  
3 the donor of any such funds.

4 \* Sec. 8. AS 16.05.120 is amended to read:

5 Sec. 16.05.120. DISBURSEMENT OF FUNDS. Upon authorization of  
6 the board [COMMISSIONER], disbursements from the fish and game fund  
7 shall be paid by the proper state officer on presentation of vouchers  
8 signed by the board [COMMISSIONER] or its [HIS] authorized representa-  
9 tive, and approved by the proper state officer.

10 \* Sec. 9. AS 16.05.270 is amended to read:

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

20 \* Sec. 10. AS 16.05.280 is amended to read:

21 Sec. 16.05.280. REMOVAL OF BOARD MEMBERS. The governor may  
22 remove a master board member or a regional board member for inefficiency,  
23 neglect of duty, or misconduct in office by delivering to him a written  
24 copy of the charges and giving him an opportunity to be heard in person  
25 or through counsel at a public hearing before the governor or his  
26 designee upon at least 10 days' notice by registered mail. The member  
27 has the right to confrontation by and cross-examination of all witnesses  
28 against him. Upon removal, the governor or his designee shall file a  
29 complete statement of all charges made against the member and the

1 findings in the proper state office.

2 \* Sec. 11. AS 16.05.800 is amended to read:

3 Sec. 16.05.800. PUBLIC NUISANCES. A net, seine, lantern, snare,  
4 device, contrivance, and material while in use, had and maintained for  
5 the purpose of catching, taking, killing, attracting, or decoying fish  
6 or game, contrary to law or rule or regulation of the board or its  
7 designee [THE COMMISSIONER], is a public nuisance and is subject to  
8 abatement.

9 \* Sec. 12. AS 16.05.840 is amended to read:

10 Sec. 16.05.840. FISHWAY REQUIRED. If the board or its designee  
11 [COMMISSIONER] considers it necessary, every dam or other obstruction  
12 built by any person across a stream frequented by salmon or other fish  
13 shall be provided by that person with a durable and efficient fishway  
14 and a device for efficient passage for downstream migrants. The fish-  
15 way or device or both shall be maintained in a practical and effective  
16 manner in the place, form and capacity the board or its designee  
17 [COMMISSIONER] approves, for which plans and specifications shall be  
18 approved by the department upon application to it. The fishway or  
19 device shall be kept open, unobstructed, and supplied with a sufficient  
20 quantity of water to admit freely the passage of fish through it.

21 \* Sec. 13. AS 16.05.850 is amended to read:

22 Sec. 16.05.850. HATCHERY REQUIRED. If a fishway over a dam or  
23 obstruction is considered impracticable by the board or its designee  
24 [COMMISSIONER] because of cost, the owner of the dam or obstruction,  
25 in order to compensate for the loss resulting from the dam or obstruc-  
26 tion shall, at his option: (1) pay a lump sum acceptable to the  
27 board or its designee [COMMISSIONER] to the state fish and game fund;  
28 (2) convey to the state a site of a size satisfactory to the board or  
29 its designee [COMMISSIONER] at a place mutually satisfactory to both

1 parties, and erect on it a fish hatchery, rearing ponds, necessary  
2 buildings and other facilities according to plans and specifications  
3 furnished by the board or its designee [COMMISSIONER], and give a good  
4 and sufficient bond to furnish water, lights and necessary money to  
5 operate and maintain the hatchery and rearing ponds; or (3) enter into  
6 an agreement with the board or its designee [COMMISSIONER], secured by  
7 good and sufficient bond, to pay to the fish and game fund such an  
8 initial amount of money and annual payments thereafter as the board or  
9 its designee [COMMISSIONER] considers necessary to expand, maintain,  
10 and operate additional facilities at existing hatcheries within a  
11 reasonable distance of the dam or obstruction.

12 \* Sec. 14. AS 16.05.860 is amended to read:

13 Sec. 16.05.860. PENALTY FOR VIOLATION OF SECS. 840 AND 850 OF  
14 THIS CHAPTER. (a) The owner of a dam or obstruction who fails to  
15 comply with sec. 840 or sec. 850 of this chapter within a reasonable  
16 time specified by written notice from the board or its designee [COMMIS-  
17 SIONER] is guilty of a misdemeanor, and is punishable by a fine of not  
18 more than \$1,000. Each day the owner fails to comply constitutes a  
19 separate offense.

20 (b) In addition to the fine the dam or other obstruction managed,  
21 controlled or owned by a person violating sec. 840 or sec. 850 of this  
22 chapter is a public nuisance and is subject to abatement.

23 \* Sec. 15. AS 16.05.870 is amended to read:

24 Sec. 16.05.870. PROTECTION OF FISH AND GAME. (a) The board or  
25 its designee [COMMISSIONER] shall, in accordance with the Administrative  
26 Procedure Act (AS 44.62) specify the various rivers, lakes, and streams  
27 or parts of them that are important for the spawning or migration of  
28 anadromous fish. [BEFORE DECEMBER 31, 1968, THE SPECIFICATION MAY  
29 BE MADE BY DESIGNATING AREAS WITHIN WHICH ALL RIVERS, LAKES, AND

1 STREAMS ARE CONSIDERED IMPORTANT FOR THE SPAWNING OR MIGRATION OF  
2 ANADROMOUS FISH; PROVIDED, THAT THE AREAS LIE WITHIN 50 MILES OF THE  
3 COASTLINE EXTENDING FROM DIXON ENTRANCE THROUGH FALSE PASS TO CAPE  
4 MENSHIKOF, INCLUDING ALL ISLANDS EAST OF FALSE PASS. A PERSON GIVING  
5 NOTICE UNDER (b) OF THIS SECTION BEFORE DECEMBER 31, 1968, MAY, IF  
6 THE ACTIVITY IS TO TAKE PLACE WITHIN SUCH A DESIGNATED AREA, REQUEST  
7 THE COMMISSIONER TO SPECIFY INDIVIDUALLY BY NAME OR NUMBER, THE  
8 PARTICULAR RIVERS, LAKES, AND STREAMS OR PARTS OF THEM WITHIN THE AREA  
9 OF OPERATIONS DESCRIBED IN THE NOTICE WHICH ARE IMPORTANT FOR THE  
10 SPAWNING AND MIGRATION OF ANADROMOUS FISH. UPON RECEIPT OF THE REQUEST  
11 THE COMMISSIONER SHALL PROMPTLY MAKE THE DESIGNATION.]

12 (b) If a person or governmental agency desires to construct a  
13 hydraulic project, or use, divert, obstruct, pollute, or change the  
14 natural flow or bed of a specified river, lake, or stream, or to use  
15 wheeled, tracked, or excavating equipment or log-dragging equipment in  
16 the bed of a specified river, lake, or stream, the person or governmental  
17 agency shall notify the board or its designee [COMMISSIONER] of this  
18 intention before the beginning of the construction or use.

19 (c) The board or its designee [COMMISSIONER] shall acknowledge  
20 receipt of the notice by return air mail. If the board or its designee  
21 [COMMISSIONER] determines to do so, it or he shall, in the letter of  
22 acknowledgment, require the person or governmental agency to submit  
23 to it or him full plans and specifications of the proposed construction  
24 or work, complete plans and specifications for the proper protection  
25 of fish and game in connection with the construction or work, or in  
26 connection with the use, and the approximate date the construction,  
27 work, or use will begin, and shall require the person or governmental  
28 agency to obtain written approval from it or him as to the sufficiency  
29 of the plans or specifications before the proposed construction or use

1 is begun.

2 \* Sec. 16. AS 16.05.880 is amended to read:

3 Sec. 16.05.880. VIOLATION OF SECS. 870 - 895 OF THIS CHAPTER.

4 If a person or governmental agency begins construction on a work or  
5 project or use for which notice is required by sec. 870 of this chapter  
6 without first providing plans and specifications subject to the approv-  
7 al of the board or its designee [COMMISSIONER] for the proper protection  
8 of fish and game, and without first having obtained written approval  
9 of the board or its designee [COMMISSIONER] as to the adequacy of the  
10 plans and specifications submitted for the protection of fish and  
11 game, he is guilty of a misdemeanor. If a person or governmental  
12 agency is convicted of violating secs. 870 - 895 of this chapter or con-  
13 tinues a use, work or project without fully complying with secs. 870 -  
14 895 of this chapter, the use, work, or project is a public nuisance and  
15 is subject to abatement. The cost of restoring a specified river, lake,  
16 or stream to its original condition shall be borne by the violator and  
17 shall be in addition to the penalty imposed by the court.

18 \* Sec. 17. AS 16.05.895 is amended to read:

19 Sec. 16.05.895. PENALTY FOR CAUSING MATERIAL DAMAGE. If a person  
20 or governmental agency fails to notify the board or its designee  
21 [COMMISSIONER] of any construction or use that causes material damage  
22 to the spawning beds or prevents or interferes with the migration of  
23 anadromous fish, or by neglect or noncompliance with plans and speci-  
24 fications required and approved by the board or its designee [COMMIS-  
25 SIONER] causes material damage to the spawning beds or prevents or  
26 interferes with the migration of anadromous fish, the person or govern-  
27 mental agency shall be guilty of a misdemeanor.

28 \* Sec. 18. AS 16.05.940(1) is amended to read:

29 (1) "board" means the Master Board of Fish and Game unless

1 otherwise specified;

2 \* Sec. 19. AS 44.39.010 is repealed and re-enacted to read:

3 Sec. 44.39.010. BOARD AND COMMISSIONER OF FISH AND GAME. There  
4 is at the head of the Department of Fish and Game a Master Board of  
5 Fish and Game. The commissioner of fish and game is the principal  
6 executive officer of the department.

7 \* Sec. 20. Upon initial appointment, three members of the master board  
8 shall be appointed for two years, three for four years, and four for five  
9 years.

10 \* Sec. 21. AS 16 is amended by adding a new chapter to read:

11 CHAPTER 48. GUIDES.

12 ARTICLE 1. GUIDE LICENSING AND CONTROL BOARD.

13 Sec. 16.48.010. CREATION AND MEMBERSHIP OF BOARD. There is  
14 created the Guide Licensing and Control Board consisting of five  
15 members: the director of the division of protection and four other  
16 members having a general knowledge of the game resources of the state.  
17 At least two members of the board shall have held a master guide's  
18 license. A minimum of 10 years residence in the state is required for  
19 all members of the board.

20 Sec. 16.48.020. APPOINTMENT AND TERM OF OFFICE. The members of  
21 the board shall be appointed by the governor and confirmed by the  
22 legislature for staggered terms of five years or until their successors  
23 are appointed. A member may be removed at the pleasure of the  
24 governor.

25 Sec. 16.48.030. CHAIRMAN OF BOARD. The board shall elect one of  
26 its members as chairman.

27 Sec. 16.48.040. POWERS AND DUTIES. (a) Except as provided in  
28 sec. 45 of this chapter, the board shall

29 (1) prepare, grade and administer examinations;

1 (2) determine and pass on qualifications of applicants for  
2 licenses and authorize the issuance of licenses to those who qualify;

3 (3) establish guide performance standards and regulate  
4 activity;

5 (4) compile, maintain and publish a guide register of  
6 persons who have not been convicted of a violation of a federal or  
7 state sport fish, game, or guiding statute or regulation within three  
8 years before the date the register is published;

9 (5) restrict guiding activities which are unsportsmanlike,  
10 unethical, unsafe, against principles of conservation, degrading to  
11 the guiding profession, or which adversely affect the natural resources;

12 (6) after a hearing, revoke, suspend or deny renewal of a  
13 license in accordance with sec. 200 of this chapter.

14 (b) If a person is unable to competently understand the written  
15 portion of an examination given under (a) of this section, he shall be  
16 given the complete examination orally in a language which he under-  
17 stands.

18 Sec. 16.48.045. SPECIAL GUIDING PERMIT. This chapter does not  
19 limit the power of the board or its authorized designee, to issue a  
20 special guiding permit, in place of a guide license, to a person to  
21 guide in a specifically designated area, if the person is considered  
22 sufficiently experienced to perform the services of a guide and is  
23 limited solely by language barriers from securing a regular guide  
24 license.

25 Sec. 16.48.050. BOARD REGULATIONS. The board shall adopt pro-  
26 cedural and substantive regulations, under the Administrative Procedure  
27 Act (AS 44.62), required by this chapter or reasonably necessary for  
28 its administration.

29 Sec. 16.48.060. BOARD HEARING. The Administrative Procedure Act

1 (AS 44.62) applies to proceedings and hearings under this chapter.

2 Sec. 16.48.070. COMPENSATION AND EXPENSES. Members of the board  
3 receive no salary, but are entitled to per diem and travel expenses  
4 authorized by law for other boards.

5 ARTICLE 2. LICENSING.

6 Sec. 16.48.100. QUALIFICATIONS FOR A MASTER GUIDE LICENSE. A  
7 person is entitled to be licensed as a master guide if he

8 (1) has legally hunted in the state for a part of each of  
9 10 years during which time a substantial source of his income was from  
10 guiding or related activities directly contributing to his experience  
11 and competency as a guide;

12 (2) meets all the requirements of a registered guide and  
13 has been actively engaged in licensed guiding activities in the state  
14 for at least five years preceding application;

15 (3) has not been convicted of a violation of federal or  
16 state sport fishing, game or guiding laws or regulations within the  
17 preceding five years;

18 (4) has consistently performed in a superior manner as  
19 evidenced by required reports submitted to the board and by inquiries  
20 made by the board to at least two of the guide's clients of record;  
21 and

22 (5) meets additional qualifications which the board may  
23 require.

24 Sec. 16.48.110. QUALIFICATIONS FOR REGISTERED GUIDE LICENSE.  
25 A person is entitled to be licensed as a registered guide if he

26 (1) is 21 years of age or more;

27 (2) is a resident of the state and maintains a permanent  
28 place of abode in the state;

29 (3) has practical field experience in the handling of

1 firearms, hunting, judging trophies, field preparation of trophies,  
2 first aid and photography;

3 (4) is familiar with the terrain and transportation problems  
4 in the district for which the license is requested;

5 (5) has passed the qualification examination prepared and  
6 administered by the board;

7 (6) has demonstrated to the board sufficient standards of  
8 competence and ethical conduct and has not been convicted of a crime  
9 involving moral turpitude;

10 (7) has legally hunted in the state for all or part of each  
11 of five years in a manner directly contributing to his experience and  
12 competency as a guide;

13 (8) has been licensed as and performed the services of an  
14 assistant guide in the state for a part of each of three years;

15 (9) submits a written recommendation to the board from a  
16 registered guide for whom the applicant has worked;

17 (10) is capable of performing the physical duties associated  
18 with guiding activities;

19 (11) has been favorably recommended in writing by two hunters  
20 that he has guided or assisted in guiding during each year of his three  
21 years as an assistant guide, whose recommendations have been solicited  
22 by the board from a list provided by the applicant;

23 (12) meets additional qualifications which the board may  
24 require.

25 Sec. 16.48.120. QUALIFICATIONS FOR A CLASS-A ASSISTANT GUIDE  
26 LICENSE. A person is entitled to be licensed as a class-A assistant  
27 guide if he

28 (1) has been employed for at least one season as a licensed  
29 assistant guide;



1 equally responsible for a violation of a federal or state sport fish,  
2 game or guide statute or regulation committed by a class-A assistant  
3 guide or assistant guide while in the course of his employment.

4 Sec. 16.48.170. LICENSE FEES. (a) License fees for engaging  
5 in the profession of guiding are:

- 6 (1) master guide license, annual ..... \$50
- 7 (2) registered guide license, annual ..... 50
- 8 (3) class-A assistant guide, annual ..... 10
- 9 (4) assistant guide license, annual ..... 5

10 (b) The license fee for a master guide, registered guide, class-A  
11 assistant guide or assistant guide license is in addition to the fee  
12 required for a hunting or fishing license.

13 Sec. 16.48.180. EXAMINATION FEE. An applicant for a guide  
14 examination shall pay a fee of \$25.

15 Sec. 16.48.190. EXPIRATION AND RENEWAL. (a) A master guide,  
16 registered guide, class-A assistant guide or assistant guide license  
17 expires on December 31.

18 (b) A license may not be issued to a master guide, registered  
19 guide, class-A guide or assistant guide who has failed to renew his  
20 license for two consecutive years unless he again meets the qualifica-  
21 tions for initial issuance of the license.

22 Sec. 16,48.200. GROUNDS FOR DISCIPLINING A LICENSEE. (a) After  
23 a licensee has been charged with a violation of a federal or state  
24 sport fish, game, or guide statute or regulation, the board shall  
25 review the charge to determine if a disciplinary hearing is necessary.

26 (b) The board shall hold a hearing to determine if disciplinary  
27 action is necessary if

- 28 (1) complaints concerning the licensee have been filed with  
29 the board from three or more clients of separate parties; or

1 (2) a licensee has been charged with three violations of  
2 federal or state sport fish, game or guide statutes or regulations; or

3 (3) a licensee has been convicted of a violation of federal  
4 or state sport fish, game or guide statute or regulation.

5 (c) After a hearing, the board may revoke, suspend, or deny  
6 renewal of a license if the board finds that the licensee

7 (1) engaged in activities which are unsportsmanlike, un-  
8 ethical, unsafe or degrading to the outfitting and guiding profession  
9 or which adversely affect the natural resources or principles of  
10 conservation; or

11 (2) violated a provision of a federal or state sport fish,  
12 game or guide statute or regulation.

13 (d) After a hearing, the board shall revoke a license if the  
14 board finds that the licensee

15 (1) does not meet the qualifications specified by statute  
16 or regulation for the class of license held;

17 (2) is incompetent as an outfitter, master guide, registered  
18 guide, class-A assistant guide, or assistant guide;

19 (3) has been convicted of two violations of federal or  
20 state sport fish, game or guide statutes or regulations; or

21 (4) has been convicted of a crime involving moral turpitude.

22 (e) No person who is disciplined under this section may engage  
23 in outfitting or guiding activity during the period of disciplinary  
24 action.

25 Sec. 16.48.210. UNLAWFUL ACTS. (a) It is unlawful for

26 (1) a master guide, registered guide, class-A assistant guide  
27 or assistant guide to fail to report to the Department of Fish and  
28 Game, within 60 days, violations by a client of a state fish, game or  
29 guiding statute or regulation;

1 (2) a master guide, registered guide, class-A assistant  
2 guide or assistant guide to aid the commission of a violation of this  
3 chapter or of ch. 5 of this title or a regulation promulgated under  
4 either chapter, or permit the commission of a violation in his sight  
5 without attempting to prevent it, short of using force, and without  
6 reporting it;

7 (3) a person to guide as defined in this chapter without  
8 being licensed under this chapter and without having the license in  
9 his actual possession;

10 (4) a person to advertise as or represent himself to be a  
11 licensed master guide, registered guide, class-A assistant guide or  
12 assistant guide without being licensed, or to falsely advertise  
13 services.

14 (b) A person who violates this section is guilty of a misdemeanor  
15 and upon conviction is punishable by a fine of not more than \$1,000,  
16 or by imprisonment for not more than one year, or by both, and may have  
17 his license revoked for a period up to five years.

18 Sec. 16.48.220. INJUNCTION AGAINST UNLAWFUL ACTION. When in the  
19 judgment of the board a person or corporation or other entity has  
20 engaged in an act in violation of secs. 100 - 200 of this chapter or  
21 the regulations promulgated under sec. 210 of this chapter, the board  
22 may apply to the appropriate court for an order enjoining the act.  
23 Upon a showing by the board that the person is engaging in the act,  
24 the court shall grant injunctive relief or other appropriate order  
25 without bond.

26 ARTICLE 4. GENERAL PROVISIONS.

27 Sec. 16.48.240. DEFINITIONS. In this chapter

- 28 (1) "board" means the Guide Licensing and Control Board;  
29 (2) "guide", "guides" or "guiding" means accompanying,

1 guiding, or assisting another person to take game with the intent of  
2 receiving monetary or material remuneration for the services;

3 (3) "resident" means a person who has resided and domiciled  
4 regularly within the state for a period of not less than 12 consecutive  
5 months immediately preceding the date of application for a license.

6 \* Sec. 22. AS 44.62.330 is amended by adding a new paragraph to read:

7 (34) Guide Licensing and Control Board.

8 \* Sec. 23. AS 16.05.050 is amended by adding a new paragraph to read:

9 (11) require submission of such reports on guiding as  
10 considered necessary for game management purposes.

11 \* Sec. 24. A person licensed as a registered or master guide, class-A  
12 assistant guide or assistant guide at the time this Act takes effect shall,  
13 upon application, be issued a registered guide license, master guide license,  
14 class-A assistant guide license or assistant guide license, respectively.

15 \* Sec. 25. AS 16.05.010 - 16.05.040, 16.05.090, 16.05.220, 16.05.230,  
16 16.05.260, 16.05.290 - 16.05.320; AS 16.50; AS 39.05.060(5); and AS 44.39.-  
17 030 - 44.39.050 are repealed.

18 \* Sec. 26. A regulation promulgated by the Board of Fish and Game in  
19 effect before the effective date of this Act remains in effect after the  
20 effective date of this Act until revoked or modified by the department.  
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