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Referred: Rules

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 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:

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

9 ARTICLE 2. THE MASTER BOARD OF FISH AND GAME.

10 Sec. 16.05.225. CREATION. There is created within the
11 Department of Fish and Game a Master Board of Fish and Game consisting
12 of 10 members, all of whom shall be citizens of the United States.

13 Sec. 16.05.235. APPOINTMENT OF MEMBERS. (a) The 10 members of
14 the board, no more than six of whom may be members of the same political
15 party as the governor, shall be appointed by the governor from a list
16 of residents nominated by the regional boards. A member shall be
17 appointed from each regional area specified in sec. 322(a) of this chap-
18 ter from a list of two nominations submitted by each regional board.
19 Each member is subject to confirmation by a majority of the members of
20 the legislature in joint session. A regional board is not prohibited
21 from nominating one of its own members. In nominating board members,
22 a regional board shall consider recommendations made by fish and game
23 advisory committees created under the authority of sec. 322(c) of this
24 chapter. Members of the board shall possess an ability in management
25 and an interest in and knowledge of the fish and game resources of the
26 state.

27 (b) The 10 members are entitled to the expenses, travel, and per
28 diem allowances provided by law.

29 (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 be
3 appointed for overlapping five-year terms. A member appointed to fill a
4 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 AS 16.05.250 is repealed and re-enacted to read: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 game;

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

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

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

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

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

27 Sec. 16.05.275. Meetings. The board shall meet at least once a
28 year. Meetings may be called by the chairman by a majority of the members
29

1 of the board. The board shall determine the time and place of meetings.

2 Sec. 16.05.285. LEGAL ASSISTANCE. The Department of Law shall pro-
3 vide all legal services for the board, unless otherwise provided by law.

4 Sec. 16.05.295. COMMISSIONER OF FISH AND GAME. (a) The governor
5 shall appoint the commissioner of fish and game from a list of recommend-
6 ations submitted by the master board subject to the right of the governor
7 to request additional nominations. The appointment shall be confirmed by
8 a majority of the members of the legislature in joint session. The com-
9 missioner shall be the principal executive officer of the department.

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

14 (c) The commissioner shall be appointed for a term of office not
15 to exceed five years. If a vacancy occurs in the office of the commis-
16 sioner, the governor shall appoint a successor for the unexpired term in
17 the manner provided for regular appointment. He may be removed during
18 his term of office for cause as defined in this 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, but
26 is not limited to, the failure of the commissioner to comply with the
27 rules or regulations adopted by the board.

28 (e) The commissioner shall receive the salary set out in AS
29 39.20.080.

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 of
7 the master board, compelling conservation reasons, as documented by the
8 department or broad public interest, clearly establish the necessity of
9 the veto action.

10 * Sec. 5. AS 16.05.060 is amended to read:

11 Sec. 16.05.060. EMERGENCY OPENINGS AND CLOSURES. This chapter does
12 not limit the power of the board [COMMISSIONER] or its [HIS] authorized
13 designee, when circumstances require, to summarily open or close seasons
14 or areas or to change weekly closed periods on fish or game by means of
15 emergency orders. An emergency order has the force and effect of law
16 after field announcement by the board [COMMISSIONER] or its [HIS] auth-
17 orized designee. An emergency order adopted under this section is not
18 subject to the Administrative Procedure Act (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 Administra-
24 tive 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 created
14 the Guide Licensing and Control Board consisting of five members; the
15 director of the division of protection and four other members having a
16 general knowledge of the game resources of the state. At least two mem-
17 bers of the board shall have held a master guide's license. A minimum
18 of 10 years residence in the state is required for all members of the
19 board with the exception of the Director of the Division of Protection.

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 (2) has had at least 20 years experience in the guide dis-
2 trict in which he is to be employed; for the purposes of this paragraph
3 physical presence at some time of the year during each of the 20 years
4 constitutes adequate evidence of experience, and military service out-
5 side the state for no more than six years shall be accepted as part
6 of the required 20 years experience;

7 (3) has been recommended in writing as qualified by a
8 registered or master guide to the board.

9 Sec. 16.48.130. PRIVILEGES AND LIMITATIONS OF CLASS-A ASSISTANT
10 GUIDES. A class-A assistant guide

11 (1) may not contract for hunts;

12 (2) shall be under the supervision of a registered or master
13 guide who has contracted with the client for whom the class-A assistant
14 guide is conducting the hunt;

15 (3) may take charge of a camp and conduct hunts from it
16 without the registered or master guide necessarily being present in the
17 area if the registered or master guide is physically present in the
18 state and is actively participating in guiding activities.

19 Sec. 16.48.140. QUALIFICATIONS FOR ASSISTANT GUIDE LICENSE. A
20 person is entitled to be licensed as an assistant guide if he

21 (1) is 19 years of age or more;

22 (2) is a resident of the state;

23 (3) is favorably recommended by a registered guide;

24 (4) meets additional qualifications which the board may
25 require;

26 (5) is in sound physical condition.

27 Sec. 16.48.150. RESPONSIBILITY OF REGISTERED OR MASTER GUIDE FOR
28 VIOLATIONS. A registered or master guide contracting for a hunt is

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 re-
6 newal of a license if the board finds that the licensee

7 (1) engaged in activities which are unsportsmanlike, uneth-
8 ical, unsafe or degrading to the outfitting and guiding profession or
9 which adversely affect the natural resources or principles of conserva-
10 tion; 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 state
20 sport fish, game or guide statutes or regulations.

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

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

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

28 (2) a master guide, registered guide, class-A assistant guide
29 or assistant guide to aid the commission of a violation of this chapter

1 or of ch. 5 of this title or a regulation promulgated under either chap-
2 ter, or permit the commission of a violation in his sight without at-
3 tempting to prevent it, short of using force, and without reporting it;

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

7 (4) a person to advertise as or represent himself to be a
8 licensed master guide, registered guide, class-A assistant guide or as-
9 sistant guide without being licensed, or to falsely advertise services.

10 (b) A person who violates this section is guilty of a misdemeanor
11 and upon conviction is punishable by a fine of not more than \$1,000 or
12 by imprisonment for not more than one year, or by both, and may have his
13 license revoked for a period up to five years. However, a person who en-
14 gages in outfitting or guiding activity during the period of disciplinary
15 action under sec. 200(e) of this chapter is guilty of a felony punish-
16 able by a fine of not more than \$5,000 and by imprisonment for not less
17 than one year nor more than three years. In addition to punishment for
18 a felony under sec. 200(e) of this chapter, all guns, fishing tackle,
19 boats, aircraft, automobiles or other vehicles, camping gear and other
20 equipment and paraphernalia used in or in aid of a violation of sec.
21 200(e) of this chapter shall be confiscated by persons authorized to
22 enforce this chapter.

23 Sec. 16.48.220. INJUNCTION AGAINST UNLAWFUL ACTION. When in the
24 judgment of the board a person or corporation or other entity has engag-
25 ed in an act in violation of secs. 100 - 200 of this chapter or the re-
26 gulations promulgated under sec. 210 of this chapter, the board may
27 apply to the appropriate court for an order enjoining the act. Upon a
28 showing by the board that the person is engaging in the act, the court
29 shall grant injunctive relief or other appropriate order without bond.

1 ARTICLE 4. GENERAL PROVISIONS.

2 Sec. 16.48.240. DEFINITIONS. In this chapter

3 (1) "board" means the Guide Licensing and Control Board;

4 (2) "guide", "guides" or "guiding" means accompanying,
5 guiding, or assisting another person to take game with the intent of
6 receiving monetary or material remuneration for the services;

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

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

11 (34) Guide Licensing and Control Board.

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

13 (11) require submission of such reports on guiding as consider-
14 ed necessary for game management purposes.

15 * Sec. 24. A person licensed as a registered or master guide, class-A
16 assistant guide or assistant guide at the time this Act takes effect shall,
17 upon application, be issued a registered guide license, master guide license,
18 class-A assistant guide license or assistant guide license, respectively.

19 * Sec. 25. AS 16.05.010 - 16.05.040, 16.05.090, 16.05.220, 16.05.230,
20 16.05.260, 16.05.290 - 16.05.320; AS 16.50; AS 39.05.060(5); and AS 44.39.030
21 - 44.39.050 are repealed.

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