

1 IN THE SENATE

BY HAMMOND BY REQUEST

2

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 36

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the governance and organization of  
7 the Department of Fish and Game."

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

9

\* Section 1. AS 16.05.070 is amended to read:

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

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\* Sec. 2. AS 16.05.080 is amended to read:

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Sec. 16.05.080. LIMITATION OF POWER. Nothing in this chapter  
17 authorizes the department or a [THE] board to change the amount of fees  
18 or licenses.

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\* Sec. 3. AS 16.05.260 is amended to read:

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Sec. 16.05.260. ADVISORY COMMITTEES. The department [BOARD] may  
21 make rules and regulations it considers advisable in accordance with  
22 the Administrative Procedure Act (AS 44.62) establishing, at places  
23 in the state designated by the department [BOARD], advisory committees  
24 to be composed of persons well informed on the fish and game resources  
25 of the locality. The department [BOARD] shall set the number and terms  
26 of each of the members of the advisory committees, shall delegate one  
27 member of each committee as chairman, and shall give him authority to  
28 hold public hearings on fish and game matters. Recommendations from  
29 the advisory committees shall be forwarded to the department [BOARD]

1 for its consideration. The commissioner shall delegate authority  
2 to advisory committees for emergency closures during established  
3 seasons. The commissioner may countermand and make null and void any  
4 authority delegated or order issued under this section. The department  
5 [BOARD] shall establish the necessary rules governing such closures.

6 \* Sec. 4. AS 16.05 is amended by adding new sections to read:

7 ARTICLE 2-A. REGIONAL BOARDS.

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

- 11 (1) Bristol Bay,
- 12 (2) Cook Inlet-Susitna Basin,
- 13 (3) Arctic,
- 14 (4) Interior (upper Yukon and Kuskokwim),
- 15 (5) Prince William Sound-Copper River Basin,
- 16 (6) Norton Sound-Seward Peninsula-Kotzebue Sound,
- 17 (7) Kodiak,
- 18 (8) Southeastern,
- 19 (9) Alaska Peninsula-Aleutians,
- 20 (10) Lower Yukon and Kuskokwim.

21 (b) The boundaries of the regional boards shall be established  
22 by the department, based on a consideration of fish and game areas,  
23 geographic areas, population densities, and other resource considera-  
24 tions.

25 Sec. 16.05.324. REGIONAL BOARD MEMBERSHIP. (a) A regional  
26 board shall consist of at least six members. Within the boundaries of  
27 the areas designated by the department in sec. 322 of this chapter  
28 each local advisory committee established under sec. 260 of this  
29 chapter shall elect one of its members for that area to serve on the

1 regional board.

2 (b) If less than six local advisory committees exist in an area  
3 designated by the department in sec. 322 of this chapter, the remaining  
4 regional board members shall be elected by the committees from among  
5 the committee members or from among persons who are not advisory  
6 committee members.

7 (c) The term of office for members of a regional board is four  
8 years. If a vacancy occurs, the advisory board shall fill it by  
9 election of a new member for the unexpired term.

10 (d) Notwithstanding the provisions of this section, as soon  
11 as practicable after the effective date of this Act, the governor shall  
12 appoint a chairman for each regional board specified in sec. 322 of  
13 this chapter from the members serving on the Board of Fish and Game  
14 as of the effective date of this Act. After the expiration of the term  
15 of an initially appointed chairman, a subsequent chairman of a board  
16 shall be elected by its members.

17 (e) No member of a board may be a candidate for partisan political  
18 office during his term of office.

19 Sec. 16.05.325. COMPENSATION AND MEETINGS OF REGIONAL BOARD  
20 MEMBERS. (a) Each member of a regional board is entitled to travel  
21 expenses allowed by law for each day going to and from two regional  
22 board meetings a year in a community within its area as created in  
23 sec. 322 of this chapter. A maximum of six days per diem is allowed  
24 per year at two regional board meetings.

25 (b) A regional board shall hold at least two meetings a year  
26 and as many other meetings as it considers necessary.

27 Sec. 16.05.327. REMOVAL. The governor may remove a regional  
28 board member for inefficiency, neglect of duty, or misconduct in  
29 office by delivering to him a written copy of the charges and giving

1 him an opportunity to be heard in person or through counsel at a  
2 public hearing before the governor or his designee upon at least 10  
3 days notice by registered mail. The member has the right to confronta-  
4 tion by and cross-examination of all witnesses against him. Upon re-  
5 moval, the governor or his designee shall file a complete statement  
6 of all charges made against the member and the findings in the proper  
7 state office.

8 Sec. 16.05.328. PROPOSALS FOR REGULATIONS. (a) A regional  
9 board, after public hearings, may propose to the department regulations  
10 which it considers advisable for the area it represents. These regula-  
11 tions shall be promulgated by the department in accordance with the  
12 Administrative Procedure Act (AS 44.62), unless in the view of the  
13 commissioner, the broad public interest, in his determination, or  
14 compelling conservation reasons, as documented by the staff of the  
15 Department of Fish and Game, make them undesirable.

16 (b) In addition to regulations promulgated under (a) of this  
17 section the department may promulgate other regulations under the Ad-  
18 ministrative Procedure Act, necessary to carry out the provisions of  
19 this chapter.

20 \* Sec. 5. AS 16.05.536(a) is amended to read:

21 (a) Except in cases of extreme hardship as defined by the Depart-  
22 ment [BOARD] of Fish and Game, a salmon net gear license for a specific  
23 salmon registration area may be issued only to a person who

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

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

29 \* Sec. 6. AS 16.05.800 is amended to read:

1           Sec. 16.05.800. PUBLIC NUISANCES. A net, seine, lantern, snare,  
2 device, contrivance, and material while in use, had and maintained for  
3 the purpose of catching, taking, killing, attracting, or decoying  
4 fish or game, contrary to law, or rule or regulation promulgated under  
5 AS 16 [OF THE BOARD OR THE COMMISSIONER], is a public nuisance and is  
6 subject to abatement.

7 \* Sec. 7. AS 16.05.820 is amended to read:

8           Sec. 16.05.820. RESEARCH BY THE FEDERAL GOVERNMENT. The Secretary  
9 of the Interior or the Secretary of Agriculture of the United States  
10 and their authorized agents may conduct fish cultural operations and  
11 scientific investigations in the state in the manner and at the times  
12 jointly considered necessary or proper by the commissioner [BOARD] and  
13 the secretary and their authorized agents.

14 \* Sec. 8. AS 16.05.870(a) is amended to read:

15           (a) The commissioner shall, in accordance with the Administrative  
16 Procedure Act (AS 44.62) specify the various rivers, lakes, and streams  
17 or parts of them that are important for the spawning or migration of  
18 anadromous fish. [BEFORE DECEMBER 31, 1968, THE SPECIFICATION MAY BE  
19 MADE BY DESIGNATING AREAS WITHIN WHICH ALL RIVERS, LAKES, AND STREAMS  
20 ARE CONSIDERED IMPORTANT FOR THE SPAWNING OR MIGRATION OF ANADROMOUS  
21 FISH; PROVIDED, THAT THE AREAS LIE WITHIN 50 MILES OF THE COASTLINE  
22 EXTENDING FROM DIXON ENTRANCE THROUGH FALSE PASS TO CAPE MENSHIKOF,  
23 INCLUDING ALL ISLANDS EAST OF FALSE PASS. A PERSON GIVING NOTICE  
24 UNDER (B) OF THIS SECTION BEFORE DECEMBER 31, 1968, MAY, IF THE  
25 ACTIVITY IS TO TAKE PLACE WITHIN SUCH A DESIGNATED AREA, REQUEST THE  
26 COMMISSIONER TO SPECIFY INDIVIDUALLY BY NAME OR NUMBER, THE PARTICULAR  
27 RIVERS, LAKES, AND STREAMS OR PARTS OF THEM WITHIN THE AREA OF OPERATIONS  
28 DESCRIBED IN THE NOTICE WHICH ARE IMPORTANT FOR THE SPAWNING AND  
29 MIGRATION OF ANADROMOUS FISH. UPON RECEIPT OF THE REQUEST THE COMMIS-

1 SIONER SHALL PROMPTLY MAKE THE DESIGNATION.]

2 \* Sec. 9. AS 16.05.940(1) is repealed and re-enacted to read:

3 (1) "board" means a regional board of fish and game;

4 \* Sec. 10. AS 16.50.020 is amended to read:

5 Sec. 16.50.020. POWERS AND DUTIES. The department [BOARD] shall

6 (1) prepare, grade, and administer examinations;

7 (2) determine and pass on qualifications of applicants for  
8 licenses and issue licenses to those who qualify;

9 (3) establish guide performance standards and regulate  
10 activity;

11 (4) compile, maintain and publish an outfitter and guide  
12 register;

13 (5) require submission of reports on outfitting and guiding  
14 activities as considered necessary by the Department [BOARD] of Fish  
15 and Game for game management purposes;

16 (6) restrict outfitting and guiding activities which are  
17 unsportsmanlike, unethical, unsafe, against principles of conservation  
18 or degrading to the outfitting and guiding profession or which ad-  
19 versely affect the natural resources;

20 (7) after hearing, revoke, suspend or deny renewal of a  
21 license in accordance with sec. 205 of this chapter.

22 \* Sec. 11. AS 16.50.030 is amended to read:

23 Sec. 16.50.030. [BOARD] REGULATIONS. The department [BOARD]  
24 shall adopt procedural and substantive regulations, under the Adminis-  
25 trative Procedure Act (AS 44.62), required by this chapter or reason-  
26 ably or reasonably necessary for its administration.

27 \* Sec. 12. AS 39.05.060 is amended to read:

28 Sec. 39.05.060. APPOINTMENT, QUALIFICATIONS, AND TERMS OF OFFICE  
29 OF MEMBERS OF DEPARTMENTAL BOARDS, COUNCILS, OR COMMISSIONS. Each

1 member of the Local Boundary Commission, Alcoholic Beverage Control  
2 Board, Employment Security Advisory Council, Alaska State Housing  
3 Authority, [BOARD OF FISH AND GAME,] Board of Tourism, Commission for  
4 Northern Operations of Rail Transportation and Highways, and the Board  
5 of Directors for State-operated Schools shall be a citizen of the United  
6 States. The governor shall appoint each member on the basis of interest  
7 in public affairs, good judgment, knowledge and ability in the field of  
8 action of the department for which appointed, and with a view to  
9 providing diversity of interest and points of view in the membership.  
10 Appointments are subject to confirmation by a majority of the members  
11 of the legislature in joint session. Initial appointments of members  
12 are as follows: (1) in the case of three-member boards, for one, two  
13 and three years; (2) in the case of five-member boards, for one, two,  
14 three, four and five years; (3) in the case of six-member boards, two  
15 members serve for one year, two for two years, and two for three  
16 years; (4) in the case of eight-member boards, two members serve for  
17 one year, two for two years, two for three years, and two for four  
18 years; (5) and in the case of 10-member boards, two members serve  
19 for one year, two for two years, two for three years, two for four  
20 years, and two for five years. Initial terms date from February 1  
21 before appointment. A vacancy occurring during a term of office is  
22 filled in the same manner as the original appointment is made and for  
23 the balance of the unexpired term. Each member holds office at the  
24 pleasure of the governor notwithstanding the member's term.

25 \* Sec. 13. AS 16.05.030, 16.05.220 - 16.05.250 and 16.05.270 - 16.05.-  
26 320, AS 16.50.010, 16.50.420(1) and AS 44.39.030 - 44.39.050 are repealed.

27 \* Sec. 14. A regulation promulgated by the Board of Fish and Game in  
28 effect before the effective date of this Act remains in effect after the  
29 effective date of this Act until revoked or modified by the department.