

Offered: 1-21-71  
Referred: Resources

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 SENATE BILL NO. 67

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 boards of fisheries and game;  
7 and providing for an effective date."

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

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

10 ARTICLE 2. BOARDS OF FISHERIES AND GAME.

11 Sec. 16.05.221. BOARDS OF FISHERIES AND GAME. (a) For purposes  
12 of the conservation and development of the fishery resources of the  
13 state, there is created the Board of Fisheries composed of 10 members  
14 appointed by the governor. The appointed members shall be residents of  
15 the state and shall be appointed without regard to political affiliation  
16 or geographical location of residence. The deputy commissioner of  
17 fisheries is not a member of the Board of Fisheries, but he may cast  
18 tie-breaking votes.

19 (b) For purposes of the conservation and development of the game  
20 resources of the state, there is created the Board of Game composed of  
21 10 members appointed by the governor. The appointed members shall be  
22 residents of the state, and shall be appointed without regard to  
23 political affiliation or geographical location of residence. The  
24 deputy commissioner of game is not a member of the Board of Game, but  
25 he may cast tie-breaking votes.

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

29 Sec. 16.05.251. REGULATIONS OF THE BOARD OF FISHERIES. The

1 Board of Fisheries may make regulations it considers advisable  
2 in accordance with the Administrative Procedure Act (AS 44.62)  
3 for

4 (1) setting apart fish reserve areas, refuges and sanctu-  
5 aries in the waters of the state over which it has jurisdiction,  
6 subject to the approval of the legislature;

7 (2) establishment of open and closed seasons and areas  
8 for the taking of fish;

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

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

12 (5) establishment of marking and identification require-  
13 ments for means used in the pursuit, capture and transport of  
14 fish;

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

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

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

22 (9) establishing additional qualifications relating to  
23 the eligibility requirements for gear licenses.

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

27 (1) setting apart game reserve areas, refuges and sanctu-  
28 aries in the waters or on the lands of the state over which it has  
29 jurisdiction, subject to the approval of the legislature;

1 (2) establishment of open and closed seasons and areas for  
2 the taking of game;

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

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

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

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

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

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

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

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

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

1 (d) Nothing in this section limits a board from considering  
2 department staff proposals, based either on independent staff requests  
3 or on public proposals recommended by the staff, for changes in  
4 regulations at any time.

5 \* Sec. 2. AS 16.05.070 is amended to read:

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

11 \* Sec. 3. AS 16.05.080 is amended to read:

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

15 \* Sec. 4. AS 16.05.190 is amended to read:

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

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

8 \* Sec. 5. AS 16.05.260 is amended to read:

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

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

28 (c) An advisory committee shall consider each public proposal  
29 pertinent to its locality for a change in a regulation of either board

1 and may, during the year specified in sec. 257(b) of this chapter,  
2 recommend the proposed change to the appropriate board for its con-  
3 sideration. A proposal for a change in a regulation arrived at by the  
4 advisory committee independently of a public proposal may [RECOMMENDA-  
5 TIONS FROM THE ADVISORY COMMITTEES SHALL] be forwarded at any time  
6 to the appropriate board for its consideration.

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

14 \* Sec. 6. AS 16.05.270 is amended to read:

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

25 \* Sec. 7. AS 16.05.290 is amended to read:

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

1 by a [THE] board.

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

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

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

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

15 \* Sec. 10. AS 16.05.310 is amended to read:

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

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

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

25 \* Sec. 12. AS 16.05.320 is amended to read:

26 Sec. 16.05.320. QUORUM. A majority of the members of a [THE]  
27 board constitutes a quorum for the transaction of business, for the  
28 performance of any duty, and for the exercise of any power. However,  
29 a majority of the full board membership [OF 10 MEMBERS] is required

1 to carry all motions, regulations and resolutions. A majority of the  
2 members of the boards of fisheries and game constitutes a quorum for  
3 the transaction of business in a joint board meeting. A majority of  
4 the membership of the boards is required to carry all joint motions,  
5 regulations and resolutions of the boards.

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

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

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

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

15 \* Sec. 14. AS 16.05.800 is amended to read:

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

22 \* Sec. 15. AS 16.05.820 is amended to read:

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

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

1 (c) Section 920 of this chapter does not prohibit rearing and  
2 sale of fish from private ponds or the raising of wild animals in  
3 captivity for food or fur purposes under regulations promulgated by  
4 the appropriate board.

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

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

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

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

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

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

18 \* Sec. 20. AS 16.10.190 is amended to read:

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

26 \* Sec. 21. AS 16.10.200 is amended to read:

27 Sec. 16.10.200. UNLAWFUL TAKING PROHIBITED. It is unlawful for  
28 a person taking migratory fish and migratory shellfish in high sea  
29 areas designated by the Board of Fisheries [BOARD] or in violation of

1 the [RULES AND] regulations promulgated by the Board of Fisheries  
2 [BOARD] governing the taking of migratory fish and migratory shellfish  
3 in the designated areas to possess, sell, offer to sell, barter, offer  
4 to barter, give or transport in the state, including the waters of the  
5 state, migratory fish or migratory shellfish.

6 \* Sec. 22. AS 16.10.210 is amended to read:

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

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

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

16 \* Sec. 24. AS 16.20.120 is amended to read:

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

23 \* Sec. 25. AS 16.35.200 is amended to read:

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

28 \* Sec. 26. AS 16.50.010 is amended to read:

29 Sec. 16.50.010. DESIGNATION OF BOARD. In addition to its other

1 duties, the Board of [FISH AND] Game shall serve as the Guide Licensing  
2 and Control Board.

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

4 (5) require submission of reports on outfitting and guiding  
5 activities as considered necessary by the Board of [FISH AND] Game  
6 for game management purposes;

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

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

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

10 (33) Board of Fisheries

11 (34) Board of Game

12 \* Sec. 30. AS 39.05.060 is amended to read:

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

1 years, and two for three years; (4) in the case of eight-member boards,  
2 two members serve for one year, two for two years, two for three years,  
3 and two for four years; (5) and in the case of 10-member boards, two  
4 members serve for one year, two for two years, two for three years,  
5 two for four years and two for five years; (6) in the case of seven-  
6 member boards, one member serves for one year, two for two years, two  
7 for three years, and two for four years. Initial terms date from  
8 February 1 before appointment. A vacancy occurring during a term of  
9 office is filled in the same manner as the original appointment is  
10 made and for the balance of the unexpired term. Each member holds  
11 office at the pleasure of the governor notwithstanding the member's  
12 term.

13 \* Sec. 31. The following laws are repealed: AS 16.05.030; 16.05.220 -  
14 16.05.250; and AS 44.62.330(31).

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

18 \* Sec. 33. This Act takes effect July 1, 1971.  
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