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Referred: Resources and
Judiciary

1 IN THE HOUSE

BY WILSON AND SPECKING

2 HOUSE BILL NO. 499

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

10 Sec. 16.05.070. REGULATIONS AS EVIDENCE. Regulations [RULES AND
11 REGULATIONS] of the boards of fisheries and game [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
14 Administrative Procedure Act (AS 44.62).

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

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

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

20 ARTICLE 2. BOARDS OF FISHERIES AND GAME.

21 Sec. 16.05.221. BOARDS OF FISHERIES AND GAME. (a) For purposes
22 of the conservation and development of the fishery resources of the
23 state, there is created the Board of Fisheries composed of seven members
24 appointed by the governor. The appointed members shall be residents
25 of the state and shall be appointed without regard to political
26 affiliation or geographical location of residence. The commis-
27 sioner is not a member of the Board of Fisheries, but shall be ex
28 officio secretary. He may cast tie-breaking votes.

29 (b) For purposes of the conservation and development of the game

1 resources of the state, there is created a Board of Game composed of
2 seven members appointed by the governor. The appointed members shall
3 be residents of the state, and shall be appointed without regard to
4 political affiliation or geographical location of residence. The
5 commissioner is not a member of the Board of Game, but shall be
6 ex officio secretary. He may cast tie-breaking votes.

7 Sec. 16.05.241. POWERS EXCLUDED. The boards have regulation-
8 making powers as set out in this chapter, but do not have administrative,
9 budgeting or fiscal powers.

10 Sec. 16.05.251. REGULATIONS OF THE BOARD OF FISHERIES. The Board
11 of Fisheries may make regulations it considers advisable in accordance
12 with the Administrative Procedure Act (AS 44.62) for

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

16 (2) establishment of open and closed seasons and areas for
17 the taking of fish;

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

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

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

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

25 (7) engaging in biological research, watershed and habitat
26 improvement, fish management, protection, propagation and stocking;

27 (8) investigating and determining the extent and effect of
28 predation and competition among fish in the state, exercising control
29 measures considered necessary to the resources of the state;

1 (9) entering into cooperative agreements with educational
2 institutions and state, federal, or other agencies to promote fish
3 research, management, education and information and to train men for
4 fish management;

5 (10) prohibiting the live capture, possession, transport, or
6 release of native or exotic fish or their eggs;

7 (11) establishing seasons, areas, quotas and methods of
8 harvest for aquatic plants;

9 (12) establishment of the times and dates during which the
10 issuance of fishing licenses, permits and registrations and the transfer
11 of permits and registrations between registration areas is allowed;
12 however, this paragraph does not apply to permits issued or transferred
13 under ch. 43 of this title.

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

17 (1) setting apart game reserve areas, refuges and sanctuaries
18 in the waters or on the lands of the state over which it has jurisdic-
19 tion, subject to the approval of the legislature;

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

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

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

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

27 (6) investigating and determining the extent and effect of
28 predation and competition among game in the state, exercising control
29 measures considered necessary to the resources of the state and desig-

1 nating game management units or parts of game management units in which
2 bounties for predatory animals shall be paid;

3 (7) engaging in biological research, watershed and habitat
4 improvement, and game management, protection, propagation and stocking;

5 (8) entering into cooperative agreements with educational
6 institutions and state, federal, or other agencies to promote game
7 research, management, education, and information and to train men for
8 game management;

9 (9) prohibiting the live capture, possession, transport, or
10 release of native or exotic game or their eggs;

11 (10) establishing the times and dates during which the
12 issuance of game licenses, permits and registrations and the transfer of
13 permits and registrations between registration areas and game management
14 units or subunits is allowed.

15 * Sec. 4. AS 16.05.260 is repealed and re-enacted to read:

16 Sec. 16.05.260. ADVISORY COMMITTEES. The Board of Fisheries and
17 the Board of Game may make rules and regulations they consider advisable
18 in accordance with the Administrative Procedure Act (AS 44.62) estab-
19 lishing, at places in the state designated by the individual boards,
20 advisory committees to be composed of persons well informed on the fish
21 or game resources of the locality. The boards shall set the number and
22 terms of each of the members of the advisory committees, shall delegate
23 one member of each committee as chairman, and shall give him authority
24 to hold public hearings on fish or game matters. Recommendations from
25 the advisory committees shall be forwarded to the appropriate board
26 for their consideration but if the Board of Fisheries or the Board of
27 Game chooses not to follow the recommendations of the local advisory
28 committee the appropriate board shall inform the appropriate advisory
29 committee of this action and state the reasons for not following the

1 recommendations. The commissioner shall delegate authority to advisory
2 committees for emergency closures during established seasons. The
3 commissioner may countermand and make null and void any authority
4 delegated or order issued under this section but he shall advise the
5 appropriate committee of this action and state the reasons for overturn-
6 ing the advisory committee's action. The appropriate board shall
7 establish the necessary rules governing such closures.

8 * Sec. 5. AS 16.05.270 is amended to read:

9 Sec. 16.05.270. DELEGATION OF AUTHORITY TO COMMISSIONER. For the
10 purpose of administering secs. 251 and 255 [250 AND 260] of this chapter,
11 each [THE] board may delegate authority to the commissioner to act in its
12 behalf. If there is a conflict between the board and the commissioner
13 on proposed rules and regulations, public hearings shall be held con-
14 cerning the issues in question. If, after the public hearings, the board
15 and the commissioner continue to disagree, the issue shall be certified
16 in writing by the board and the commissioner to the governor who shall
17 make a decision. The decision of the governor is final.

18 * Sec. 6. AS 16.05.290 is amended to read:

19 Sec. 16.05.290. COMPENSATION OF BOARD MEMBERS. Each member of a
20 [THE] board is entitled to travel expenses and per diem allowed by law
21 for each day going to and from and for each day in actual attendance at
22 board meetings and other meetings or conferences authorized by a [THE]
23 board.

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

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

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

2 Sec. 16.05.305. CLERICAL ASSISTANCE FOR BOARDS. The Board of
3 Fisheries and the Board of Game are authorized to hire and set the
4 compensation for one clerical assistant for each board.

5 * Sec. 9. AS 16.05.310 is amended to read:

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

9 * Sec. 10. AS 16.05 is amended by adding a new section to read:

10 Sec. 16.05.315. JOINT BOARD MEETINGS. The boards of fisheries and
11 game may hold a joint meeting upon the call of the commissioner or a
12 board to resolve any conflicts in regulations of the boards and to con-
13 sider matters, as determined by the commissioner or a board, which
14 require the consideration of both boards.

15 * Sec. 11. AS 16.05.320 is amended to read:

16 Sec. 16.05.320. QUORUM. A majority of the members of a [THE] board
17 constitutes a quorum for the transaction of business, for the performance
18 of any duty, and for the exercise of any power. However, a majority of
19 the full board membership [OF 12 MEMBERS] is required to carry all
20 motions, regulations and resolutions. A majority of the members of the
21 boards of fisheries and game constitutes a quorum for the transaction of
22 business in a joint board meeting. A majority of the membership of the
23 boards is required to carry all joint motions, regulations and resolu-
24 tions of the boards.

25 * Sec. 12. AS 16.05.800 is amended to read:

26 Sec. 16.05.800. PUBLIC NUISANCES. A net, seine, lantern, snare,
27 device, contrivance, and material while in use, had and maintained for
28 the purpose of catching, taking, killing, attracting, or decoying fish
29 or game, contrary to law or rule or regulation of a [THE] board or the

1 commissioner, is a public nuisance and is subject to abatement.

2 * Sec. 13. AS 16.05.820 is amended to read:

3 Sec. 16.05.820. RESEARCH BY THE FEDERAL GOVERNMENT. The Secretary
4 of the Interior or the Secretary of Agriculture of the United States and
5 their authorized agents may conduct fish cultural operations and
6 scientific investigations in the state in the manner and at the times
7 jointly considered necessary or proper by the Board of Fisheries [BOARD]
8 and the secretary and their authorized agents.

9 * Sec. 14. AS 16.05.930(b) is amended to read:

10 (b) This chapter does not prohibit a person from taking fish or
11 game during the closed season, in case of dire emergency, as defined by
12 regulation promulgated by the appropriate board.

13 * Sec. 15. AS 16.05.930(c) is amended to read:

14 (c) Section 920 of this chapter does not prohibit rearing and sale
15 of fish from private ponds, the raising of wild animals in captivity for
16 food or fur purposes or the raising of game birds for the purpose of
17 recreational hunting on game hunting preserves, under regulations
18 promulgated by the appropriate board.

19 * Sec. 16. AS 16.05.940(1) is amended to read:

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

22 * Sec. 17. AS 16.05.940(16) is amended to read:

23 (16) "sport fishing" means the taking of or attempting to
24 take for personal use, and not for sale or barter, any fresh water,
25 marine, or anadromous fish by hook and line held in the hand, or by
26 hook and line with the line attached to a pole or rod which is held in
27 the hand or closely attended, or by other means defined by the Board of
28 Fisheries [BOARD];

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

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

5 * Sec. 19. AS 16.10.190 is amended to read:

6 Sec. 16.10.190. REGULATIONS. The Board of Fisheries [BOARD] may
7 promulgate [RULES AND] regulations to carry out the purposes of secs.
8 180 - 230 of this chapter defining the adjacent high sea areas, migratory
9 fish and migratory shellfish and to make coastal fishery [RULES AND]
10 regulations governing the manner, means, conditions and time for the
11 taking of migratory fish and migratory shellfish applicable in desig-
12 nated adjacent high sea areas.

13 * Sec. 20. AS 16.10.200 is amended to read:

14 Sec. 16.10.200. UNLAWFUL TAKING PROHIBITED. It is unlawful for a
15 person taking migratory fish and migratory shellfish in high sea areas
16 designated by the Board of Fisheries [BOARD] or in violation of the
17 [RULES AND] regulations promulgated by the Board of Fisheries [BOARD]
18 governing the taking of migratory fish and migratory shellfish in the
19 designated areas to possess, sell, offer to sell, barter, offer to
20 barter, give or transport in the state, including the waters of the
21 state, migratory fish or migratory shellfish.

22 * Sec. 21. AS 16.10.210 is amended to read:

23 Sec. 16.10.210. UNLAWFUL SALE OR OFFER PROHIBITED. It is unlawful
24 for a person to possess, purchase, offer to purchase, sell, or offer to
25 sell in the state migratory fish or migratory shellfish taken on the
26 high seas knowing that they were taken in violation of a [RULE OR]
27 regulation promulgated by the Board of Fisheries [BOARD] governing the
28 taking of migratory fish or migratory shellfish in certain areas desig-
29 nated by the Board of Fisheries [BOARD] or the commissioner.

1 * Sec. 22. AS 16.20.080(1) is amended to read:

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

3 * Sec. 23. AS 16.20.120 is amended to read:

4 Sec. 16.20.120. AUTHORITY TO ADMINISTER. The boards [BOARD] may
5 adopt regulations governing entry, development, construction, hunting,
6 fishing, and all other uses or activities not in conflict with secs. 130
7 and 140 of this chapter for the purpose of preserving the natural habi-
8 tat and the fish and game of the Walrus Islands State Game Sanctuary.

9 * Sec. 24. AS 16.20.240 is amended to read:

10 Sec. 16.20.240. REGULATIONS. The Board of Fisheries and the Board
11 of Game, where appropriate, [BOARD] shall promulgate regulations they
12 consider [IT CONSIDERS] advisable for conservation and protection pur-
13 poses governing the taking of fish and game in state fish and game
14 critical habitat areas.

15 * Sec. 25. AS 16.20.260 is amended to read:

16 Sec. 16.20.260. SUBMISSION OF PLANS AND SPECIFICATIONS. When a
17 [THE] board so determines, it shall instruct the commissioner, in the
18 letter of acknowledgment, to require the person or governmental agency
19 to submit full plans for the anticipated use, full plans and specifica-
20 tions of proposed construction work, complete plans and specifications
21 for the proper protection of fish and game, and the approximate date
22 when the construction or work is to commence, and shall require the
23 person or governmental agency to obtain the written approval of the
24 commissioner as to the sufficiency of the plans or specifications before
25 construction is commenced.

26 * Sec. 26. AS 16.35.200 is amended to read:

27 Sec. 16.35.200. USE OF POISON BY DEPARTMENTS AND OTHER STATE
28 AGENCIES. No department, other state agency or person may use poison to
29 kill predatory animals without first obtaining the written consent of

1 the appropriate board [BOARD OF FISH AND GAME].

2 * Sec. 27. AS 16.43.200(a) is amended to read:

3 (a) The commission shall establish administrative areas suitable
4 for regulating and controlling entry into the commercial fisheries. The
5 commission shall make the administrative areas reasonably compatible with
6 the geographic areas for which specific commercial fishing regulations
7 are adopted by the Board of Fisheries [FISH AND GAME].

8 * Sec. 28. AS 16.43.350 is amended to read:

9 Sec. 16.43.350. APPLICATIONS OF REGULATIONS OF BOARD OF FISHERIES
10 [FISH AND GAME]. Nothing in this chapter limits the powers of the Board
11 of Fisheries [FISH AND GAME], including the power to determine legal
12 types of gear and the power to establish size limitations or other
13 uniform restrictions applying to a certain type of gear. Holders of
14 interim-use permits or entry permits issued under this chapter are sub-
15 ject to all regulations adopted by the Board of Fisheries [FISH AND
16 GAME].

17 * Sec. 29. AS 16.43.380(8)(A) is amended to read:

18 (A) those classifications for which separate regulations
19 are adopted by the Board of Fisheries [FISH AND GAME] and for which
20 separate gear licenses are required by AS 16.05.550 - 16.05.630;
21 and

22 * Sec. 30. AS 16.43.380(9) is amended to read:

23 (9) "unit of gear" means the maximum amount of a specific
24 type of gear which can be fished under a single gear license subject to
25 regulations established by the Board of Fisheries [FISH AND GAME]
26 defining the legal requirements for that type of gear.

27 * Sec. 31. AS 39.05.060(a)(5) is amended to read:

28 (5) Board of Fisheries [FISH AND GAME];

29 * Sec. 32. AS 39.05.060(a) is amended by adding a new paragraph to read:

1 (10) Board of Game.

2 * Sec. 33. AS 39.05.060(c) is amended by adding a new paragraph to read:

3 (6) in the case of seven-member boards, two members serve for
4 one year, two for two years, and three for three years.

5 * Sec. 34. AS 44.39.030 is amended to read:

6 Sec. 44.39.030. APPOINTMENT AND TERM OF OFFICE OF COMMISSIONER.
7 The governor shall appoint the commissioner of fish and game from a list
8 of qualified persons nominated by the Board of Fisheries and the Board
9 of Game meeting in joint session [FISH AND GAME], subject to the right
10 of the governor to request additional nominations. The appointment
11 shall be confirmed by a majority of the members of the legislature in
12 joint session. The commissioner of fish and game serves for a term of
13 five years.

14 * Sec. 35. AS 44.39.050 is amended to read:

15 Sec. 44.39.050. REMOVAL OF COMMISSIONER. The Board of Fisheries
16 or the Board of Game [FISH AND GAME] may submit a resolution to the
17 governor requesting the removal of the commissioner. The resolution
18 shall set out the grounds for the request and the governor shall give
19 the commissioner and the appropriate board an opportunity to be heard.

20 * Sec. 36. AS 44.62.330 is amended by adding new paragraphs to read:

21 (37) Board of Fisheries

22 (38) Board of Game.

23 * Sec. 37. The following laws are repealed: AS 16.05.030; 16.05.220 -
24 16.05.250; AS 44.62.330(31).

25 * Sec. 38. All regulations in effect on the effective date of this Act
26 and all regulations adopted by a board before the effective date of this Act
27 remain valid until amended or revoked by the appropriate board. A board
28 member serving on the board on the effective date of this Act may be re-
29 appointed to either the Board of Fisheries or the Board of Game for the

1 remainder of his former term or be replaced by another appointee, at the
2 discretion of the governor.

3 * Sec. 39. This Act takes effect July 1, 1974.
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