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Referred: Resources and
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1 IN THE HOUSE

2 HOUSE BILL NO. 117

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH 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 16.05.070 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 Adminis-
14 trative 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]
18 to 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 affilia-
26 tion or geographical location of residence. The commissioner is not
27 a member of the Board of Fisheries, but shall be ex officio secretary.
28 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
11 Board of Fisheries may make regulations it considers advisable in
12 accordance 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,
6 or 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
16 the 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 jurisdiction,
19 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
2 which 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
13 of permits and registrations between registration areas and game
14 management 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 regulations they consider advisable in
18 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
21 fish, or game resources of the locality. The boards shall set the
22 number and terms of each of the members of the advisory committees,
23 shall delegate one member of each committee as chairman, and shall
24 give him authority to hold public hearings on fish or game matters.
25 Recommendations from the advisory committees shall be forwarded to the
26 appropriate board for their consideration but if the Board of Fisheries
27 or the Board of Game chooses not to follow the recommendations of the
28 local advisory committee the appropriate board shall inform the appropri-
29 ate advisory committee of this action and state the reasons for not

1 following the recommendations. The commissioner shall delegate author-
2 ity 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 but he shall
5 advise the appropriate committee of this action and state the reasons
6 for overturning the advisory committee's action. The appropriate
7 board shall 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
10 the purpose of administering secs. 251 and 255 [250 AND 260] of this
11 chapter, each [THE] board may delegate authority to the commissioner
12 to act in its behalf. If there is a conflict between the board and
13 the commissioner on proposed [RULES AND] regulations, public hearings
14 shall be held concerning the issues in question. If, after the public
15 hearings, the board and the commissioner continue to disagree, the
16 issue shall be certified in writing by the board and the commissioner
17 to the governor who shall make a decision. The decision of the governor
18 is final.

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

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

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

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

1 its office at the principal office of the department.

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

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

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

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

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

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

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

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

26 * Sec. 12. AS 16.05.685(c)(2) is amended to read:

27 (2) "registration area" means a specific king crab regis-
28 tration area as designated by regulation of the Board of Fisheries
29 [BOARD OF FISH AND GAME] and includes the Bering Sea shellfish area

1 and the western Aleutian Islands king crab area.

2 * Sec. 13. 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 a [THE] board or the
7 commissioner, is a public nuisance and is subject to abatement.

8 * Sec. 14. AS 16.05.820 is amended to read:

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

15 * Sec. 15. AS 16.05.825(a) and (d) are amended to read:

16 (a) In addition to any other program for the stocking or propa-
17 gation of game birds that the department has as of July 23, 1974, the
18 department shall establish a special program for the raising, mainte-
19 nance, and release of upland game birds in the state. Birds raised
20 under this program may be released in an appropriate area of the state,
21 at any time, but may be harvested only during regular hunting seasons,
22 as specified by the board under sec. 255(2) [250(2)] of this chapter.
23 The board shall promulgate regulations necessary to implement this
24 section.

25 (d) In this section, "upland game bird" means a game bird for
26 which a season is established under sec. 255(2) [250(2)] of this chapter
27 as of July 23, 1974, excluding waterfowl.

28 * Sec. 16. AS 16.05.930(b) is amended to read:

29 (b) This chapter does not prohibit a person from taking fish or

1 game during the closed season, in case of dire emergency, as defined
2 by regulation promulgated by the appropriate board.

3 * Sec. 17. AS 16.05.930(c) is amended to read:

4 (c) Section 920 of this chapter does not prohibit rearing and
5 sale of fish from private ponds, the raising of wild animals in captivity
6 for food or the raising of game birds for the purpose of recreational
7 hunting on game hunting preserves, under regulations promulgated by
8 the appropriate board.

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

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

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

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

19 * Sec. 20. AS 16.05.940(17) is amended to read:

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

25 * Sec. 21. AS 16.10.190 is amended to read:

26 Sec. 16. 10.190. REGULATIONS. The Board of Fisheries [BOARD]
27 may promulgate [RULES AND] regulations to carry out the purposes of
28 secs. 180 - 230 of this chapter defining the adjacent high sea areas,
29 migratory fish and migratory shellfish and to make coastal fishery

1 [RULES AND] regulations governing the manner, means, conditions and
2 time for the taking of migratory fish and migratory shellfish applicable
3 in designated adjacent high sea areas.

4 * Sec. 22. AS 16.10.200 is amended to read:

5 Sec. 16.10.200. UNLAWFUL TAKING PROHIBITED. It is unlawful for
6 a person taking migratory fish and migratory shellfish in high sea
7 areas designated by the Board of Fisheries [BOARD] or in violation of
8 the [RULES AND] regulations promulgated by the Board of Fisheries
9 [BOARD] governing the taking of migratory fish and migratory shellfish
10 in the designated areas to possess, sell, offer to sell, barter, offer
11 to barter, give or transport in the state, including the waters of the
12 state, migratory fish or migratory shellfish.

13 * Sec. 23. AS 16.10.210. is amended to read:

14 Sec. 16.10.210. UNLAWFUL SALE OR OFFER PROHIBITED. It is unlawful
15 for a person to possess, purchase, offer to purchase, sell, or offer
16 to sell in the state migratory fish or migratory shellfish taken on
17 the high seas knowing that they were taken in violation of a [RULE OR]
18 regulation promulgated by the Board of Fisheries [BOARD] governing the
19 taking of migratory fish or migratory shellfish in certain areas
20 designated by the Board of Fisheries [BOARD] or the commissioner.

21 * Sec. 24. AS 16.10.440(b) is amended to read:

22 (b) The Board of Fisheries [BOARD] may promulgate regulations
23 necessary to implement secs. 400 - 470 of this chapter.

24 * Sec. 25. AS 16.20.080(1) is amended to read:

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

26 * Sec. 26. AS 16.20.120 is amended to read:

27 Sec. 16.20.120. AUTHORITY TO ADMINISTER. The boards [BOARD] may
28 adopt regulations governing entry, development, construction, hunting,
29 fishing, and all other uses or activities not in conflict with secs.

1 130 and 140 of this chapter for the purpose of preserving the natural
2 habitat and the fish and game of the Walrus Islands State Game Sanc-
3 tuary.

4 * Sec. 27. AS 16.20.240 is amended to read:

5 Sec. 16.20.240. REGULATIONS. The Board of Fisheries and the
6 Board of Game, where appropriate, [BOARD] shall promulgate regulations
7 they consider [IT CONSIDERS] advisable for conservation and protection
8 purposes governing the taking of fish and game in state fish and game
9 critical habitat areas.

10 * Sec. 28. AS 16.20.260 is amended to read:

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

21 * Sec. 29. AS 16.35.200 is amended to read:

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

26 * Sec. 30. AS 16.43.200(a) is amended to read:

27 (a) The commission shall establish administrative areas suitable
28 for regulating and controlling entry into the commercial fisheries.
29 The commission shall make the administrative areas reasonably compatible

1 with the geographic areas for which specific commercial fishing regula-
2 tions are adopted by the Board of Fisheries [FISH AND GAME].

3 * Sec. 31. AS 16.43.350 is amended to read:

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

12 * Sec. 32. AS 16.43.380(8)(A) is amended to read:

13 (A) those classifications for which separate regulations
14 are adopted by the Board of Fisheries [FISH AND GAME] and for
15 which separate gear licenses are required by AS 16.05.550 -
16 16.05.630; and

17 * Sec. 33. AS 16.43.380(9) is amended to read:

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

22 * Sec. 34. AS 39.05.060(a)(5) is amended to read:

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

24 * Sec. 35. AS 39.05.060(a) is amended by adding a new paragraph to read:

25 (10) Board of Game.

26 * Sec. 36. AS 39.05.060(c) is amended by adding a new paragraph to read:

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

29 * Sec. 37. AS 44.39.030 is amended to read:

1 Sec. 44.39.030. APPOINTMENT AND TERM OF OFFICE OF COMMISSIONER.

2 The governor shall appoint the commissioner of fish and game from a
3 list of qualified persons nominated by the Board of Fisheries and the
4 Board of Game meeting in joint session [FISH AND GAME], subject to the
5 right of the governor to request additional nominations. The appoint-
6 ment shall be confirmed by a majority of the members of the legislature
7 in joint session. The commissioner of fish and game serves for a term
8 of five years.

9 * Sec. 38. AS 44.39.050 is amended to read:

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

15 * Sec. 39. AS 44.62.330 is amended by adding new paragraphs to read:

16 (40) Board of Fisheries

17 (41) Board of Game

18 * Sec. 40. The following laws are repealed: AS 16.05.030; 16.05.220 -
19 16.05.250; AS 44.62.330(31).

20 * Sec. 41. All regulations in effect on the effective date of this Act
21 and all regulations adopted by a board before the effective date of this
22 Act remain valid until amended or revoked by the appropriate board. A
23 board member serving on the board on the effective date of this Act may be
24 reappointed to either the Board of Fisheries or the Board of Game for the
25 remainder of his former term or be replaced by another appointee, at the
26 discretion of the governor.

27 * Sec. 42. This Act takes effect July 1, 1975.