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Offered: 6/1/75

1 IN THE SENATE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR SENATE BILL NO. 131

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  
24 members appointed by the governor. The appointed members shall be  
25 residents of the state and shall be appointed without regard to polit-  
26 ical affiliation or geographical location of residence. The commissioner  
27 is not a member of the Board of Fisheries, but shall be ex officio  
28 secretary.

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 ex  
6 officio secretary.

7 Sec. 16.05.241. POWERS EXCLUDED. The boards have regulation-  
8 making powers as set out in this chapter, but do not have  
9 administrative, 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  
14 sanctuaries in the waters of the state over which it has jurisdiction,  
15 subject to 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  
22 requirements for means used in the pursuit, capture and transport of  
23 fish;

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

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

28 (8) investigating and determining the extent and effect of  
29 predation and competition among fish in the state, exercising control  
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  
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 juris-  
19 diction, 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 is empowered to set aside and make null  
4 and void only opening of seasons set by the advisory board's under  
5 this section. The appropriate board shall establish the necessary  
6 rules governing such closures.

7 \* Sec. 5. AS 16.05.270 is amended to read:

8 Sec. 16.05.270. DELEGATION OF AUTHORITY TO COMMISSIONER. For  
9 the purpose of administering secs. 251 and 255 [250 AND 260] of this  
10 chapter, each [THE] board may delegate authority to the commissioner  
11 to act in its behalf. If there is a conflict between the board and  
12 the commissioner on proposed [RULES AND] regulations, public hearings  
13 shall be held concerning the issues in question. If, after the public  
14 hearings, the board and the commissioner continue to disagree, the  
15 issue shall be certified in writing by the board and the commissioner  
16 to the governor who shall make a decision. The decision of the governor  
17 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 \$100 per diem [ALLOWED  
21 BY LAW] for each day going to and from and for each day in actual  
22 attendance at board meetings and other meetings or conferences authorized  
23 by a [THE] board.

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

25 Sec. 16.05.300. (a) 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           (b) In addition, the Board of Fisheries shall hold at least one  
2 meeting or hearing a year in each of the following general areas:

3           (1) Upper Yukon - Kuskokwim - Arctic

4           (2) Western Alaska (including Kodiak)

5           (3) Southcentral

6           (4) Prince William Sound (including Yakutat)

7           (5) Southeast.

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

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

12 \* Sec. 9. AS 16.05.310 is amended to read:

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

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

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

22 \* Sec. 11. AS 16.05.320 is amended to read:

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

1 the membership of the boards is required to carry all joint motions,  
2 regulations and resolutions of the boards.

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

4 (2) "registration area" means a specific king crab regis-  
5 tration area as designated by regulation of the Board of Fisheries [BOARD]  
6 OF FISH AND GAME] and includes the Bering Sea shellfish area and the  
7 western Aleutian Islands king crab area.

8 \* Sec 13. AS 16.05.800 is amended to read:

9 Sec. 16.05.800. PUBLIC NUISANCES. A net, seine, lantern, snare,  
10 device, contrivance, and material while in use, had and maintained for  
11 the purpose of catching, taking, killing, attracting, or decoying fish  
12 or game, contrary to law or rule or regulation of a [THE] board or the  
13 commissioner, is a public nuisance and is subject to abatement.

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

15 Sec. 16.05.820. RESEARCH BY THE FEDERAL GOVERNMENT. The Secretary  
16 of the Interior or the Secretary of Agriculture of the United States  
17 and their authorized agents may conduct fish cultural operations and  
18 scientific investigations in the state in the manner and at the times  
19 jointly considered necessary or proper by the Board of Fisheries  
20 [BOARD] and the secretary and their authorized agents.

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

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

1 this section.

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

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

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

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

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

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

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

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

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

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

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

1 \* Sec. 21. AS 16.10.190 is amended to read:

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

9 \* Sec. 22. AS 16.10.200 is amended to read:

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

18 \* Sec. 23. AS 16.10.210. is amended to read:

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

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

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

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

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

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

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

9 \* Sec. 27. AS 16.20.240 is amended to read:

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

15 \* Sec. 28. 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  
25 before construction is commenced.

26 \* Sec. 29. 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  
29 to kill predatory animals without first obtaining the written consent

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

2 \* Sec. 30. 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.  
5 The commission shall make the administrative areas reasonably compatible  
6 with the geographic areas for which specific commercial fishing regula-  
7 tions are adopted by the board of Fisheries [FISH AND GAME].

8 \* Sec. 31. 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  
11 Board of Fisheries [FISH AND GAME], including the power to determine  
12 legal types of gear and the power to establish size limitations or  
13 other uniform restrictions applying to a certain type of gear. Holders  
14 of interim-use permits or entry permits issued under this chapter are  
15 subject to all regulations adopted by the Board of Fisheries [FISH AND  
16 GAME].

17 \* Sec. 32. 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  
20 which separate gear licenses are required by AS 16.05.550 -  
21 16.05.630; and

22 \* Sec. 33. 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  
25 to regulations established by the Board of Fisheries [FISH AND GAME]  
26 defining the legal requirements for that type of gear.

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

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

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

1 (10) Board of Game.

2 \* Sec. 36. 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  
4 for one year, two for two years, and three for three years.

5 \* Sec. 37. 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  
8 list of qualified persons nominated by the Board of Fisheries and the  
9 Board of Game meeting in joint session [FISH AND GAME], subject to the  
10 right of the governor to request additional nominations. The appoint-  
11 ment shall be confirmed by a majority of the members of the legislature  
12 in joint session. The commissioner of fish and game serves for a term  
13 of five years.

14 \* Sec. 38. 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 both boards [THE BOARD] an opportunity to be  
20 heard. The final decision to remove or retain the commissioner shall  
21 be made by the governor.

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

23 (40) Board of Fisheries

24 (41) Board of Game

25 \* Sec. 40. The following laws are repealed: AS 16.05.030; 16.05.220 -  
26 16.05.250; AS 44.62.330(31).

27 \* Sec. 41. All regulations in effect on the effective date of this Act  
28 and all regulations adopted by a board before the effective date of this  
29 Act remain valid until amended or revoked by the appropriate board. A

1 board member serving on the board on the effective date of this Act may be  
2 reappointed to either the Board of Fisheries or the Board of Game for the  
3 remainder of his former term or be replaced by another appointee, at the  
4 discretion of the governor.

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

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