

Original sponsor: Rules Committee
by request (for the Special
Committee on Subsistence)

Offered: 6/14/78
Referred: Rules

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 960 am S

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to fish and game management."

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

8 * Section 1. INTENT. The legislature finds that there is a need to
9 develop a statewide policy on the utilization, development and conservation
10 of fish and game resources, and to recognize that those resources are not
11 inexhaustible and that preferences must be established among beneficial users
12 of the resources. The legislature further determines that it is in the
13 public interest to clearly establish subsistence use as a priority use of
14 Alaska's fish and game resources and to recognize the needs, customs and
15 traditions of Alaskan residents. The legislature further finds that bene-
16 ficial use of those resources by all state residents should be carefully
17 monitored and regulated, with as much input as possible from the affected
18 users, so that the viability of fish and game resources is not threatened and
19 so that resources are conserved in a manner consistent with the sustained-
20 yield principle.

21 * Sec. 2. AS 16.05.090 is amended by adding a new subsection to read:

22 (c) There is established in the Department of Fish and Game a
23 section of subsistence hunting and fishing.

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

25 Sec. 16.05.094. DUTIES OF SECTION OF SUBSISTENCE HUNTING AND
26 FISHING. The section of subsistence hunting and fishing shall

27 (1) compile existing data and conduct studies to gather
28 information, including data from subsistence users, on all aspects of
29 the role of subsistence hunting and fishing in the lives of the resi-

1 dents of the state;

2 (2) quantify the amount, nutritional value, and extent of
3 dependence on food acquired through subsistence hunting and fishing;

4 (3) make information gathered available to the public, appro-
5 priate agencies, and other organized bodies;

6 (4) assist the department, the Board of Fisheries, and the
7 Board of Game in determining what uses of fish and game, as well as
8 which users and what methods, should be termed subsistence uses, users,
9 and methods;

10 (5) evaluate the impact of state and federal laws and regu-
11 lations on subsistence hunting and fishing and, when corrective action
12 is indicated, make recommendations to the department;

13 (6) make recommendations to the Board of Game and the Board
14 of Fisheries regarding adoption, amendment and repeal of regulations
15 affecting subsistence hunting and fishing;

16 (7) participate with other divisions in the preparation of
17 statewide and regional management plans so that those plans reorganize
18 and incorporate the needs of subsistence users of fish and game.

19 * Sec. 4. AS 16.05.251 is amended by adding a new subsection to read:

20 (b) The Board of Fisheries shall adopt regulations in accordance
21 with the Administrative Procedure Act (AS 44.62) permitting the taking
22 of fish for subsistence uses unless the board determines, in accordance
23 with the Administrative Procedure Act, that adoption of such regulations
24 will jeopardize or interfere with the maintenance of fish stocks on a
25 sustained-yield basis. Whenever it is necessary to restrict the taking
26 of fish to assure the maintenance of fish stocks on a sustained-yield
27 basis, or to assure the continuation of subsistence uses of such re-
28 sources, subsistence use shall be the priority use. If further restric-
29 tion is necessary, the board shall establish restrictions and limita-

1 tions on and priorities for these consumptive uses on the basis of the
2 following criteria:

3 (1) customary and direct dependence upon the resource as the
4 mainstay of one's livelihood;

5 (2) local residency; and

6 (3) availability of alternative resources.

7 * Sec. 5. AS 16.05.255 is amended by adding new subsections to read:

8 (b) The Board of Game shall adopt regulations in accordance with
9 the Administrative Procedure Act (AS 44.62) permitting the taking of
10 game for subsistence uses unless the board determines, in accordance
11 with the Administrative Procedure Act, that adoption of such regulations
12 will jeopardize or interfere with the maintenance of game resources on a
13 sustained-yield basis. Whenever it is necessary to restrict the taking
14 of game to assure the maintenance of game resources on a sustained-yield
15 basis, or to assure the continuation of subsistence uses of such re-
16 sources, subsistence use shall be the priority use. If further restric-
17 tion is necessary, the board shall establish restrictions and limita-
18 tions on and priorities for these consumptive uses on the basis of the
19 following criteria:

20 (1) customary and direct dependence upon the resource as the
21 mainstay of one's livelihood;

22 (2) local residency; and

23 (3) availability of alternative resources.

24 * Sec. 6. AS 16.05.257(a) is amended to read:

25 (a) The Board of Game, at its regularly scheduled annual meeting
26 and other meetings held under authority of sec. 300(a) of this chapter,
27 shall consider and may adopt regulations providing for subsistence
28 hunting in a game management unit or subunit or a portion of a unit or
29 subunit upon

1 (1) recommendation of the department, based on biological
2 evidence;

3 (2) the recommendation [MAJORITY VOTE] of the active local
4 advisory committees for that game management unit or subunit or a por-
5 tion of a unit or subunit;

6 (3) the written petition of not less than 100 interested
7 residents of that game management unit or subunit; or

8 (4) the written petition of not less than 25 interested
9 residents of an area which is requested for establishment as a subsis-
10 tence area within a game management unit or subunit.

11 * Sec. 7. AS 16.05.257(c) is repealed and re-enacted to read:

12 (c) No regulations may be adopted by the Board of Game under (a),
13 (b) or (f) of this section unless, in addition to the requirements of AS
14 44.62.180 - 44.62.290, the department

15 (1) holds public hearings, after reasonable notice, at least
16 30 days before the meeting at which the regulation is to be adopted,
17 with at least one of the hearings being held in close proximity to the
18 area potentially affected;

19 (2) presents at the hearings the information provided for in
20 (e) of this section;

21 (3) makes the information provided for in (e) of this section
22 available to the appropriate advisory committees and to petitioners if
23 consideration of adoption of regulations was prompted by petitions under
24 (a)(3) or (4) of this section; comments shall be received by the board
25 until 10 days before any adoption of regulations.

26 * Sec. 8. AS 16.05.257(d) is amended to read:

27 (d) A petition submitted under (a)(3) - (4) of this section shall
28 contain a complete description of the area requested as a subsistence
29 area and a specification of the species within the area considered

1 necessary for subsistence use. A petition or recommendation made under
2 (a)(2), (3) or (4) of this section must be filed with the department at
3 least 75 days before the meeting of the board at which the petition or
4 recommendation is to be considered.

5 * Sec. 9. AS 16.05.257(e) is repealed and re-enacted to read:

6 (e) The department shall investigate, by collecting existing data,
7 and, when necessary, conducting new studies, every petition or recom-
8 mendation made under (a)(2), (3) or (4) of this section to the extent
9 practicable within the time available and provide the following informa-
10 tion:

11 (1) the concentration of the species to be affected and carry-
12 ing capacity of the area to be affected;

13 (2) the current hunting practices in the area, including
14 numbers of animals taken and by what methods and means, whether the take
15 is subsistence or recreational;

16 (3) the dependence of persons in the area for subsistence use
17 of a species;

18 (4) the population trends of the affected fish and game in the
19 area;

20 (5) whether the affected fish and game population is able to
21 support a nonsubsistence harvest; and

22 (6) other information considered necessary by the division of
23 subsistence hunting and fishing.

24 * Sec. 10. AS 16.05.257(h)(1) is amended to read:

25 (1) "subsistence hunting" means the taking of game animals by
26 a state resident for subsistence uses by means defined by the Board of
27 Game [FOOD OR CLOTHING FOR PERSONAL OR IMMEDIATE FAMILY USE];

28 * Sec. 11. AS 16.05.257(h)(2) is repealed and re-enacted to read:

29 (2) "subsistence hunting area" means an area in which only

1 subsistence hunting of the affected species is permitted and which is
2 managed for maximum food potential.

3 * Sec 12. AS 16.05.257 is amended by adding a new subsection to read:

4 (i) The Board of Game may make no decision denying, creating or
5 changing a subsistence hunting area unless based on specific written
6 findings of fact regarding all the information provided in accordance
7 with (e) of this section.

8 * Sec. 13. AS 16.05.930 is amended by adding a new subsection to read:

9 (e) This chapter does not prevent the traditional barter of fish
10 and game taken by subsistence hunting or fishing, except that the com-
11 missioner may prohibit the barter of subsistence-taken fish and game by
12 regulation, emergency or otherwise, if a determination on the record is
13 made that the barter is resulting in a waste of the resource, damage to
14 fish stocks or game populations, or circumvention of fish or game manage-
15 ment programs.

16 * Sec. 14. AS 16.05.940(17) is amended to read:

17 (17) "subsistence fishing" means the taking, fishing for, or
18 possession of fish, shellfish, or other fisheries resources for subsis-
19 tence uses [PERSONAL USE AND NOT FOR SALE OR BARTER,] with gill net,
20 seine, fish wheel, long line, or other means defined by the Board of
21 Fisheries;

22 * Sec. 15. AS 16.05.940 is amended by adding new paragraphs to read:

23 (26) "subsistence uses" means the customary and traditional
24 uses in Alaska of wild, renewable resources for direct personal or
25 family consumption as food, shelter, fuel, clothing, tools, or trans-
26 portation, for the making and selling of handicraft articles out of
27 nonedible by-products of fish and wildlife resources taken for personal
28 or family consumption, and for the customary trade, barter or sharing
29 for personal or family consumption; for the purposes of this paragraph,

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"family" means all persons related by blood, marriage, or adoption, and any person living within the household on a permanent basis;

(27) "barter" means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

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