

CORRECTION

HOUSE BILL NO. 359 am

Please discard all other versions of HB 359 am and retain this corrected one.

Introduced: 3/7/79
Referred: Resources and
Judiciary

1 IN THE HOUSE

BY GARDINER

2 HOUSE BILL NO. 359 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to salmon enhancement."

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

8 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

9 (1) efficiently enhancing the salmon fisheries will result in a
10 substantial contribution to increased food production and is an appropriate
11 use of the resource;

12 (2) efficiently enhancing the common property salmon fisheries
13 will result in a general benefit to the state and in a greater direct benefit
14 to the commercial fisheries;

15 (3) the direct benefit to the commercial fisheries from efficient
16 salmon enhancement includes enhanced economic return to those persons commer-
17 cially harvesting the resource;

18 (4) efficient salmon enhancement will result in increased economic
19 benefit to the coastal and interior regions of the state;

20 (5) regional involvement in salmon enhancement planning and pro-
21 duction will assure maximum economic return as well as maximum resource
22 protection;

23 (6) fisheries commerce in the coastal and interior regions of the
24 state overlap many local government boundaries, is not tied to local govern-
25 ment boundaries, and is primarily in the unorganized borough;

26 (7) it is impracticable for the framework of local government in
27 the state to be the vehicle for efficient aquaculture development;

28 (8) user-controlled regional organizations will most effectively
29 ensure efficient aquaculture development in the state;

1 (9) The most equitable and nondiscriminatory method for providing
2 revenues for salmon enhancement is to assess percentage royalty shares
3 against those persons commercially harvesting the resource.

4 (b) It is the purpose of AS 16.10.375 - 16.10.620 to provide for con-
5 tinuing efficient aquaculture development in the coastal and interior regions
6 of the state in a manner which equally effects and benefits all persons
7 similarly situated.

8 * Sec. 2. AS 16.10.440(a) is amended to read:

9 (a) Fish released into the natural waters of the state by a
10 hatchery operated under AS 16.10.400 - 16.10.470 are available to the
11 people for common use and are subject to regulation under applicable law
12 in the same way as fish occurring in their natural state until they
13 return to the specific location designated by the department for harvest
14 by the hatchery operator. The Board of Fisheries may adopt regula-
15 tions, in accordance with the Administrative Procedure Act (AS 44.62),
16 relating to the harvest of fish by hatchery operators at the specific
17 locations designated by the department for harvest.

18 * Sec. 3. AS 16.10.510(9) is amended to read:

19 (9) make grants for organizational and planning purposes to
20 qualified regional associations which have formed a nonprofit corpora-
21 tion, in amounts not exceeding \$100,000 per region and up to an addi-
22 tional \$100,000 on a 50/50 cash matching basis with the regional associ-
23 ations which have an authorized royalty assessment under AS 16.10.530 or
24 AS 16.10.540. The state portion of the matching share shall be avail-
25 able when a final vote for assessments is made under AS 16.10.530 or
26 AS 16.10.540. This provision also applies to qualified regional asso-
27 ciations which have formed a nonprofit corporation before June 24, 1977.

28 * Sec. 4. AS 16.10.520(b) is amended to read:

29 (b) Loans for the total project costs may be made if the commis-

1 sioner determines that the applicant has sufficient financial resources
2 to insure the establishment of an equity position in the project equal
3 to 10 per cent of the loan within six years or less, either through
4 a royalty [AN] assessment levied under AS 16.10.530 or AS 16.10.540 or
5 other means approved by the commissioner. For purposes of this subsec-
6 tion, "total project costs" includes planning and construction costs for
7 the facility and the cost of operations for not more than the first six
8 years. The costs for operations shall be loaned on an annual basis.

9 * Sec. 5. AS 16.10.520(c) is amended to read:

10 (c) All loans must be secured by collateral satisfactory to the
11 commissioner, including but not limited to a first deed of trust,
12 assignment of lease and leasehold improvements, sale of surplus fish
13 from the hatchery, or royalty assessments from fishermen levied under
14 AS 16.10.530 - 16.10.540.

15 * Sec. 6. AS 16.10.530 is amended to read:

16 Sec. 16.10.530. ROYALTY ASSESSMENT ON SALE OF SALMON. (a) The
17 commissioner, on request of the qualified regional association for the
18 area in which the royalty assessment is to be levied, and after consul-
19 tation with the commissioner of fish and game, shall establish areas in
20 which a royalty [AN] assessment shall be levied on the sale of one or
21 more species of salmon caught by persons holding entry permits
22 [LICENSED] under AS 16.43.010 - 16.43.380 [AS 16.05.540 - 16.05.600], in
23 the area in which the royalty assessment is to be levied. A request by
24 the qualified regional association shall include a description of com-
25 pliance with (e) of this section. The commissioner shall determine
26 whether the procedural requirements under (e) of this section were
27 followed and whether the proposed assessment is reasonable. A royalty
28 [AN] assessment levied under this section shall be for the purpose of
29 providing revenue for the qualified regional association for the area in

1 which the royalty assessment is made. The rate and conditions of
2 royalty assessments, including species to be involved, shall be stated
3 by the appropriate qualified regional association in conjunction with
4 the request to the commissioner under this subsection; the royalty
5 assessment may not exceed three per cent of the fair market value of
6 the fish.

7 (b) (repealed)

8 (c) The commissioner and the appropriate qualified regional asso-
9 ciation must agree on a means of collection of the royalty assessment
10 and the commissioner may, by regulation, require its collection by
11 buyers of the salmon upon the sale of which a royalty [AN] assessment is
12 levied.

13 (d) The royalty assessment shall terminate

14 (1) upon request of the qualified regional corporation when
15 all financial obligations relating to the royalty assessments have
16 been met; or

17 (2) upon majority vote at an election held under (h) of this
18 section, in the area in which the royalty assessment is levied either
19 before any financial obligations relating to the royalty assessment
20 have been incurred or after all financial obligations relating to the
21 royalty assessment have been met.

22 (e) Before a royalty [AN] assessment is made under this section,
23 the qualified regional association for the area in which the royalty
24 assessment is to be levied shall hold an initial public meeting to
25 explain and discuss the necessity for the royalty assessment and to
26 explain the registration procedure established under (f) of this sec-
27 tion. Reasonable public notice of the meeting shall be sent to all
28 limited entry permit holders actively participating in a fishery in the
29 area, posted in at least three centrally located public places in the

1 area, and published in at least one newspaper of general circulation at
2 least one time a week for three consecutive weeks in the area, if one
3 exists. The notice shall briefly state the amount of the royalty
4 assessment and a short general description of the purposes for which the
5 royalty assessment money will be used. A ballot shall be mailed to all
6 limited entry permit holders actively participating in a fishery in the
7 area at least 20 days before the initial public meeting and contain a
8 copy of the notice and ask the question whether a royalty [AN] assess-
9 ment shall be imposed. At the public meeting the returned ballots shall
10 be counted by a special committee appointed by the regional association
11 for that purpose, and a vote by written ballot shall be taken on the
12 question from among the limited entry permit holders present at the
13 initial public meeting. After the vote is taken at the initial meeting
14 a second public meeting shall be held, upon the limited notice of publi-
15 cation in a newspaper of general circulation, each day for five consecu-
16 tive days and the mailing of personal notice to all limited entry permit
17 holders who actively participate in a fishery in the area at least
18 14 days before the second public meeting, to give those who did not vote
19 by written ballot at the initial public meeting an opportunity to vote.
20 These votes shall be counted with the votes counted at the initial
21 meeting. A majority vote for the royalty assessment is required from
22 the combined total of the returned ballots and the votes by ballot cast
23 at both public meetings, before a royalty [AN] assessment may be im-
24 posed. No person may vote twice.

25 (f) The qualified regional association shall establish standard
26 registration procedures for voting on royalty assessments under this
27 section.

28 (g) A limited entry permit holder who would be qualified to vote
29 on a royalty assessment levied by a regional corporation may request

1 the commissioner to reduce or terminate a royalty assessment in the
2 region. The commissioner may terminate or reduce the royalty assess-
3 ment if he finds the royalty assessment to be unreasonable or to be no
4 longer needed by the regional association to meet the purposes of
5 AS 16.10.372 - 16.10.620.

6 (h) Upon receipt of a petition requesting termination of the
7 royalty assessment and signed by not less than 10 per cent of the
8 number of persons qualified to vote under (e) of this section in the
9 election levying the royalty assessment in the area, the commissioner
10 shall determine if there are any outstanding financial obligations
11 relating to the royalty assessment. If the commissioner determines
12 that there are no outstanding financial obligations relating to the
13 royalty assessment, the commissioner shall notify the qualified
14 regional association for the area of his determination. The qualified
15 regional association shall, within two months after receiving notice of
16 the commissioner's determination, hold public meetings and mail ballots
17 in accordance with (e) of this section. The ballots shall ask the
18 question whether the royalty assessment for the area shall be continued.
19 Only a person who is qualified to vote in accordance with (e) of this
20 section may receive and cast a ballot under this subsection.

21 * Sec. 7. AS 44.62.330(a) is amended by adding a new paragraph to read:

22 (46) Department of Commerce and Economic Development con-
23 cerning the Fisheries Enhancement Loan Program (AS 16.10.500 - 16.10.-
24 620).

25 * Sec. 8. AS 16.10.440(b) is repealed.