

Original sponsor: Gardiner

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1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR HOUSE BILL NO. 359 am S

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 enhancement of the salmon fishery
7 through private hatchery development."

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

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

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

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

16 (3) a direct economic benefit to the commercial fisheries results
17 from efficient salmon enhancement and includes enhanced economic return to
18 those persons commercially harvesting the resource;

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

21 (5) regional user involvement in salmon enhancement planning and
22 production will promote maximum benefit to the users as well as maximum
23 resource protection;

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

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

29 (8) regional organizations comprised of user groups will effec-

1 tively promote aquaculture development in the state;

2 (9) the most equitable and nondiscriminatory method for providing
3 revenues for regional salmon enhancement is to authorize regional associa-
4 tions to assess percentage royalty shares against those persons commercially
5 harvesting the resource within the region.

6 (b) It is the purpose of AS 16.10.375 - 16.10.620 to provide for con-
7 tinuing efficient aquaculture development in the coastal and interior regions
8 of the state in a manner which equally affects and benefits all persons
9 similarly situated and to encourage the development of small, private, non-
10 profit hatcheries that may provide important benefits to the state through
11 increased employment, educational training, and research opportunities.

12 * Sec. 2. AS 16.10.440(b) is amended to read:

13 (b) The Board of Fisheries may, after the issuance of a permit by
14 the commissioner, amend by regulation adopted in accordance with the
15 Administrative Procedure Act (AS 44.62), the terms of the permit re-
16 lating to the harvest of broodstock fish by hatchery operators and the
17 specific locations designated by the department for harvest. The Board
18 of Fisheries may not adopt any regulations nor take any action regarding
19 the issuance or denial of any permits required in [PROMULGATE REGULA-
20 TIONS NECESSARY TO IMPLEMENT] AS 16.10.400 - 16.10.470.

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

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

1 ciations which have formed a nonprofit corporation before June 24, 1977.

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

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

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

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

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

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

1 procedural requirements under (e) of this section were followed and
2 whether the proposed assessment is reasonable. A royalty [AN] assess-
3 ment levied under this section shall be for the purpose of providing
4 revenue for the qualified regional association for the area in which the
5 royalty assessment is made. The rate and conditions of royalty assess-
6 ments, including species to be involved, shall be stated by the appro-
7 priate qualified regional association in conjunction with the request to
8 the commissioner under this subsection. The royalty assessment may be
9 equal to either two or three per cent of the fair market value of the
10 fish but may not exceed three per cent of the fair market value of the
11 fish.

12 (b) (repealed)

13 (c) The commissioner and the appropriate qualified regional asso-
14 ciation must agree on a means of collection of the royalty assessment
15 and the commissioner may, by regulation, require its collection by
16 buyers of the salmon upon the sale of which a royalty [AN] assessment is
17 levied.

18 (d) The royalty assessment shall terminate

19 (1) upon request of the qualified regional corporation when
20 all financial obligations relating to the royalty assessments have been
21 met; or

22 (2) upon majority vote at an election held under (h) of this
23 section, in the area in which the royalty assessment is levied either
24 before any financial obligations relating to the royalty assessment
25 have been incurred or after all financial obligations relating to the
26 royalty assessment have been met.

27 (e) Before a royalty [AN] assessment is made under this section,
28 the qualified regional association for the area in which the royalty
29 assessment is to be levied shall hold an initial public meeting to

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

1 (f) The qualified regional association shall establish standard
2 registration procedures for voting on royalty assessments under this
3 section.

4 (g) A limited entry permit holder who would be qualified to vote
5 on a royalty assessment levied by a regional corporation may request
6 the commissioner to reduce or terminate a royalty assessment in the
7 region. The commissioner may terminate or reduce the royalty assess-
8 ment if he finds the royalty assessment to be unreasonable or to be no
9 longer needed by the regional association to meet the purposes of
10 AS 16.10.372 - 16.10.620.

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

26 * Sec. 7. AS 16.10.540(a) is amended to read:

27 (a) In place of or in addition to an assessment levied under
28 AS 16.10.530, an association of persons who hold entry permits [LI-
29 CENSED] under AS 16.43.010 - 16.43.380 [AS 16.05.540 - 16.05.600], which

1 consists of at least 51 per cent of the persons holding entry permits
2 [SO LICENSED] and actively participating in a fishery to be benefited by
3 a hatchery program, may levy and collect an assessment from among its
4 members for the purpose of securing and repaying a loan made under
5 AS 16.10.510.

6 * Sec. 8. AS 16.43 is amended by adding new sections to read:

7 ARTICLE 5B. SPECIAL HARVEST AREA ENTRY PERMITS.

8 Sec. 16.43.335. SPECIAL HARVEST AREA ENTRY PERMITS. (a) In
9 addition to entry permits, interim-use permits, and educational permits,
10 the commission may issue special harvest area entry permits to holders
11 of private, nonprofit hatchery permits issued by the Department of Fish
12 and Game under AS 16.10.400 - 16.10.475.

13 (b) The commission may issue special harvest area entry permits
14 notwithstanding the establishment of maximum or optimum numbers under
15 AS 16.43.240 and 16.43.290.

16 Sec. 16.43.337. TERMS AND CONDITIONS OF SPECIAL HARVEST AREA ENTRY
17 PERMITS. (a) Special harvest area entry permits may be applied for on
18 an annual basis and shall be issued for a term of one year. A permit is
19 nontransferable.

20 (b) A special harvest area entry permit may only be issued for the
21 applicable area designated by the Department of Fish and Game as a
22 special harvest area.

23 (c) The annual fee for a special harvest area entry permit shall
24 be specified by commission regulation under the authority of AS 16.43.-
25 160.

26 Sec. 16.43.339. DISPOSITION OF FISH. Fish caught under the author-
27 ity of a special harvest area entry permit are the property of the
28 permit holder. The permit holder may sell the fish if the proceeds are
29 used in the manner described in AS 16.10.450.

1 Sec. 16.43.341. AUTHORIZED GEAR. For the purposes of harvesting
2 salmon, a special harvest area entry permit holder may employ any fish-
3 ing gear designated as legal gear in the applicable special harvest area
4 by the Board of Fisheries.

5 Sec. 16.43.343. ADOPTION OF REGULATIONS. (a) Use privileges
6 granted under AS 16.43.335 - 16.43.341 are subject to the regulations of
7 the Board of Fisheries.

8 (b) The commission, after consultation with the Department of
9 Fish and Game, shall adopt regulations which are reasonably necessary
10 to implement AS 16.43.335 - 16.43.341.

11 * Sec. 9. AS 44.62.330(a) is amended by adding a new paragraph to read:

12 (46) Department of Commerce and Economic Development con-
13 cerning the Fisheries Enhancement Loan Program (AS 16.10.500 - 16.10.-
14 620).

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