

Introduced: 4/24/81  
Referred: Resources

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 528

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making miscellaneous amendments to the fish  
7 and game code (AS 16)."

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

9 \* Section 1. AS 16.05.050(5) is amended to read:

10 (5) collect, classify, and disseminate statistics, data and  
11 information that, [AS] in his discretion, will tend to promote the pur-  
12 poses [OBJECTS] of this title [CHAPTER];

13 \* Sec. 2. AS 16.05.050 is amended by adding new paragraphs to read:

14 (13) initiate or conduct research necessary or advisable to  
15 carry out the purposes of this title;

16 (14) enter into cooperative agreements with agencies of the  
17 federal government, educational institutions, or other agencies or or-  
18 ganizations when in the public interest to carry out the purposes of  
19 this title;

20 (15) to carry out the purposes of this title, contract with  
21 and make grants to agencies, organizations, and individuals under terms  
22 established by the commissioner which make certain that the grants and  
23 contracts made are in the best public interest.

24 \* Sec. 3. AS 16.05.100 is amended to read:

25 Sec. 16.05.100. FISH AND GAME FUND ESTABLISHED. There is created  
26 a revolving "Fish and Game Fund," which shall be used exclusively  
27 for the following uses:

28 (1) to carry out the purposes and provisions of this title  
29 [CHAPTER] or other duties that may be delegated by the legislature to

1 the commissioner or the department; and

2 (2) to carry out such purposes and objectives within the  
3 scope of this title [THE CHAPTER] as may be directed by the donor of  
4 any such funds.

5 \* Sec. 4. AS 16.05.150 is amended to read:

6 Sec. 16.05.150. ENFORCEMENT AUTHORITY. The following persons are  
7 peace officers of the state and they shall enforce this title [CHAP-  
8 TER]:

9 (1) an employee of the department authorized by the commis-  
10 sioner;

11 (2) a police officer in the state;

12 (3) any other person authorized by the commissioner.

13 \* Sec. 5. AS 16.05.160 is amended to read:

14 Sec. 16.05.160. DUTY TO ARREST. Each person designated in AS 16.-  
15 05.150 may [SHALL] arrest a person violating this title [CHAPTER], or  
16 any [RULE OR] regulation adopted [MADE] under this title [CHAPTER], in  
17 his presence or view, and may bring [SHALL TAKE] the person [IMME-  
18 DIATELY] for examination or trial before an officer or court of com-  
19 petent jurisdiction.

20 \* Sec. 6. AS 16.05.170 is amended to read:

21 Sec. 16.05.170. POWER TO EXECUTE WARRANT. Each person designated  
22 in AS 16.05.150 may execute a warrant or other process issued by an of-  
23 ficer or court of competent jurisdiction for the enforcement of this  
24 title [CHAPTER], and may, with a search warrant, search any place at  
25 any time. The judge of a court having jurisdiction may, upon proper  
26 oath or affirmation showing probable cause, issue a warrant in all  
27 cases.

28 \* Sec. 7. AS 16.05.180 is amended to read:

29 Sec. 16.05.180. POWER TO SEARCH WITHOUT WARRANT. Each person

1 designated in AS 16.05.150 may without a warrant search any thing or  
2 place if the search is reasonable or is not protected from searches and  
3 seizures without warrant within the meaning of sec. 14, art. I of the  
4 state constitution, which specifically enumerates "persons, houses and  
5 other property, papers and effects." [HOWEVER, BEFORE A SEARCH WITHOUT  
6 WARRANT IS MADE A SIGNED WRITTEN STATEMENT BY THE PERSON MAKING THE  
7 SEARCH SHALL BE SUBMITTED TO THE PERSON IN CONTROL OF THE PROPERTY OR  
8 OBJECT TO BE SEARCHED, STATING THE REASON THE SEARCH IS BEING CONDUCTED.  
9 A WRITTEN RECEIPT SHALL BE GIVEN BY THE PERSON CONDUCTING THE SEARCH  
10 FOR PROPERTY WHICH IS TAKEN AS A RESULT OF THE SEARCH. THE ENUMERATION  
11 OF SPECIFIC THINGS DOES NOT LIMIT THE MEANING OF WORDS OF A GENERAL  
12 NATURE.]

13 \* Sec. 8. AS 16.05.221 is amended to read:

14 Sec. 16.05.221. BOARD OF FISHERIES AND GAME. (a) For purposes  
15 of the conservation or [AND] development of the fishery resources of  
16 the state in the interest of the economy or general welfare of the state  
17 [,] there is created the Board of Fisheries composed of seven members  
18 appointed by the governor, subject to confirmation by a majority of the  
19 members of the legislature in joint session. The appointed members  
20 shall be residents of the state and shall be appointed without regard  
21 to political affiliation or geographical location of residence. The  
22 commissioner is not a member of the Board of Fisheries, but shall be ex  
23 officio secretary.

24 (b) For purposes of the conservation or [AND] development of the  
25 game resources of the state in the interest of the economy or general  
26 welfare of the state [,] there is created a Board of Game composed of  
27 seven members appointed by the governor, subject to confirmation by a  
28 majority of the members of the legislature in joint session. The ap-  
29 pointed members shall be residents of the state, and shall be appointed

1 without regard to political affiliation or geographical location of  
2 residence. The commissioner is not a member of the Board of Game, but  
3 shall be ex officio secretary.

4 \* Sec. 9. AS 16.05.251(a)(3) is amended to read:

5 (3) setting quotas, [AND] bag limits, harvest levels, and  
6 sex and size limitations on the taking of fish;

7 \* Sec. 10. AS 16.05.251(a)(7) is amended to read:

8 (7) [ENGAGING IN BIOLOGICAL RESEARCH,] watershed and habitat  
9 protection [IMPROVEMENT], and [FISH] management, conservation, protec-  
10 tion, use, disposal and propagation of fish [AND STOCKING];

11 \* Sec. 11. AS 16.05.255(4) is amended to read:

12 (4) setting quotas; [AND] bag limits; harvest levels; and  
13 sex, age, and size limitations on the taking of game;

14 \* Sec. 12. AS 16.05.255(6) is repealed and reenacted to read:

15 (6) methods and harvest levels necessary to control preda-  
16 tion and competition among game in the state;

17 \* Sec. 13. AS 16.05.255(7) is amended to read:

18 (7) [ENGAGING IN BIOLOGICAL RESEARCH,] watershed and habitat  
19 protection [IMPROVEMENT], and [GAME] management, conservation, protec-  
20 tion, use, disposal, and propagation of game [AND STOCKING];

21 \* Sec. 14. AS 16.05.340(a)(6) is amended to read:

22 (6) Nonresident [VISITOR'S] special sport fishing license --  
23 valid for the period inscribed on the license

24 (A) For 10-day license.....\$15

25 (B) For one-day license..... 5

26 \* Sec. 15. AS 16.05.340(a)(9) is amended to read:

27 (9) Nonresident hunting and sport fishing license..... 90

28 A nonresident may not take a big game animal without previously pur-  
29 chasing a numbered, nontransferable, appropriate tag, issued to him as

1 provided in (16) of this subsection. The tag shall be affixed to the  
2 animal immediately upon capture and shall remain affixed until the ani-  
3 mal is prepared for storage, consumed, or exported. A tag issued but  
4 not used for an animal may be used to satisfy the tagging requirement  
5 for an [ANY OTHER] animal of any other [THE] species [NAMED] for which  
6 the tag fee is of equal or less value.

7 \* Sec. 16. AS 16.05.340(b) is amended to read:

8 (b) The commissioner of fish and game may issue without cost a  
9 permit to collect fish and game, including fur animals, subject to the  
10 limitations and provisions he considers appropriate, for scientific,  
11 propagative, or educational purposes [PURPOSE]. In addition, the com-  
12 missioner may issue a permit for (1) the collecting of wild fur animals  
13 for fur farming, or (2) the recapturing of fur animals that have escaped  
14 from fur farms. The annual fee for a permit for collecting fur animals  
15 for fur farming purposes is \$100.

16 \* Sec. 17. AS 16.05.390 is amended to read:

17 Sec. 16.05.390. FEE FOR ISSUANCE OF LICENSES AND TAGS. A person  
18 appointed and authorized by the commissioner of revenue to sell li-  
19 censes and tags, except a salaried employee of the state, is entitled  
20 to keep five percent of the fee for the issuance of each license or  
21 tag, or a fee of 25 cents, whichever is greater. Each person selling  
22 licenses or tags shall, as directed by the commissioner of revenue  
23 [SOON AS PRACTICABLE AFTER THE LAST DAY OF EACH CALENDAR MONTH], trans-  
24 mit the proceeds from the sales, except the amount authorized to be  
25 retained, together with a report of the sales to the commissioner for  
26 deposit in the fish and game fund or the general fund. Fees imposed  
27 under AS 16.05.340(e) shall be collected and transmitted in the same  
28 manner and to the same source as license and tag fees provided for  
29 under this chapter.

1 \* Sec. 18. AS 16.05.685(c)(2) is amended to read:

2 (2) "registration area" means a specific king crab registra-  
3 tion area as designated by regulation of the Board of Fisheries [AND  
4 INCLUDES THE BERING SEA SHELLFISH AREA AND THE WESTERN ALEUTIAN ISLANDS  
5 KING CRAB AREA].

6 \* Sec. 19. AS 16.05.831(a) is amended to read:

7 (a) It is unlawful for a person to waste salmon intentionally,  
8 knowingly, or with reckless disregard for the consequences. In this  
9 section, "waste" means the failure to utilize the majority of the car-  
10 cass, excluding viscera and sex parts, of any salmon intended for:  
11 [WHICH ARE TO BE]

12 (1) sale or that has been sold to a commercial buyer or pro-  
13 cessor;

14 (2) [UTILIZED FOR] consumption by humans or domesticated an-  
15 imals; or

16 (3) [UTILIZED FOR] scientific, educational, or display pur-  
17 poses.

18 \* Sec. 20. AS 16.05.870(b) is amended to read:

19 (b) A [IF A] person or governmental agency who constructs [DE-  
20 SIRES TO CONSTRUCT] a hydraulic project, or intends to use, divert, ob-  
21 struct, pollute, or change the natural flow or bed of a specified  
22 river, lake, or stream, or uses or intends to use wheeled, tracked, or  
23 excavating equipment or log-dragging equipment in the bed of a speci-  
24 fied river, lake, or stream, [THE PERSON OR GOVERNMENTAL AGENCY] shall  
25 notify the commissioner [OF THIS INTENTION] before [THE] beginning [OF]  
26 the construction, [OR] use, or other activity.

27 \* Sec. 21. AS 16.05.900(a) is amended to read:

28 (a) A person who violates AS 16.05.870 -- 16.05.895 [OR 16.05.920  
29 OR ANY REGULATION PROMULGATED UNDER THIS CHAPTER] is guilty of a class

1 A misdemeanor [AND, UPON CONVICTION, IS PUNISHABLE BY A FINE OF NOT  
2 MORE THAN \$1,000 OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY  
3 BOTH. A PERSON WHO VIOLATES A REGULATION PROMULGATED UNDER THIS CHAPTER  
4 FOR THE REGULATION OF COMMERCIAL FISHERIES SHALL BE PUNISHED AS PROVIDED  
5 IN SEC. 720 OF THIS CHAPTER].

6 \* Sec. 22. AS 16.05.920 is amended to read:

7 Sec. 16.05.920. CERTAIN ACTS MADE UNLAWFUL. (a) Unless permit-  
8 ted by AS 16.05. -- AS 16.40 [THIS CHAPTER] or by regulation adopted  
9 [MADE] under AS 16.05 -- AS 16.40 [THIS CHAPTER], it is unlawful for a  
10 person to take, possess, transport, sell, offer to sell, purchase, or  
11 offer to purchase fish, game or marine aquatic plants, or any part of  
12 fish, game or aquatic plants, or a nest or egg of fish or game.

13 (b) No person may knowingly disturb, injure, or destroy a notice,  
14 signboard, seal, tag, aircraft, boat, vessel, automobile, parapherna-  
15 lia, equipment, building or other improvement or property of the depart-  
16 ment used in the administration or enforcement of this title [CHAPTER],  
17 or a poster or notice to the public concerning the provisions of this  
18 title [CHAPTER], or regulation adopted under this title [CHAPTER], or a  
19 marker indicating the boundary of an area closed to hunting, trapping,  
20 fishing or other special use under this title [CHAPTER]. No person may  
21 knowingly destroy, remove, tamper with, or imitate a seal or tag issued  
22 or used by the department or attached under its authority to a skin,  
23 portion, or specimen of fish or game, or other article for the purpose  
24 of identification or authentication in accordance with this title  
25 [CHAPTER] or a regulation adopted under this title [CHAPTER].

26 \* Sec. 23. AS 16.05 is amended by adding a new section to read:

27 Sec. 16.05.925. PENALTY FOR VIOLATIONS. A person who violates  
28 AS 16.05.920 or a regulation adopted under this chapter or AS 16.20  
29 is guilty of a class A misdemeanor. However, a person who violates a

1 regulation adopted under this chapter for the regulation of commercial  
2 fisheries shall be punished as provided in AS 16.05.720.

3 \* Sec. 24. AS 16.05.940 is amended to read:

4 Sec. 16.05.940. DEFINITIONS. In this title, [CHAPTER]

5 (1) "a board" means either the Board of Fisheries or the  
6 Board of Game;

7 (2) "commercial fisherman" means an individual who fishes  
8 commercially for, takes, or attempts to take fish, shellfish, or other  
9 fishery resources of the state by any means, and includes every indivi-  
10 dual aboard a boat operated for fishing purposes who participates di-  
11 rectly or indirectly in the taking of these raw fishery products,  
12 whether participation is on shares or as an employee or otherwise; how-  
13 ever, this definition does not apply to anyone aboard a licensed vessel  
14 as a visitor or guest who does not directly or indirectly participate  
15 in the taking; and the term "commercial fisherman" includes the crews  
16 of tenders or other floating craft used in transporting fish;

17 (3) "commercial fishing" means the taking, fishing for, or  
18 possession of fish, shellfish, or other fishery resources with the in-  
19 tent of disposing of them for profit, or by sale, barter, trade, or in  
20 commercial channels; the failure to have a valid subsistence permit in  
21 possession, if required by statute or regulation, is considered prima  
22 facie evidence of commercial fishing if commercial fishing gear as spe-  
23 cified by regulation is involved in the taking, fishing for, or posses-  
24 sion of fish, shellfish or other fish resources;

25 (4) "commissioner" means the commissioner of fish and game  
26 unless specifically provided otherwise;

27 (5) "department" means the Department of Fish and Game un-  
28 less specifically provided otherwise;

29 (6) "fish" means any species of or any part of an aquatic

1 fin fish, invertebrates or [AND] amphibians, in any stage of their life  
2 cycle, found in or introduced into the state;

3 (7) "fish or game farming" means the business of propagating,  
4 breeding, raising, or producing fish or game in captivity for the pur-  
5 pose of marketing the fish or game or their products, and "captivity"  
6 means having the fish or game under positive control, as in a pen,  
7 pond, or an area of land or water which is completely enclosed by a  
8 generally escape-proof barrier;

9 (8) "fur dealing" means engaging in the business of buying,  
10 selling, or trading in animal skins and [. THE TERM] does not include  
11 [APPLY TO A HUNTER OR TRAPPER SELLING] the sale of animal skins by a  
12 hunter or trapper who [HE] has legally taken the animal, or the purchase  
13 of [TO A PERSON, OTHER THAN A FUR DEALER, PURCHASING] animal skins by a  
14 person other than a fur dealer for his own use;

15 (9) "game" means any species of bird, reptile and mammal,  
16 including a feral domestic animal, found or introduced in the state,  
17 except domestic birds and mammals; and game may be classified by regu-  
18 lation as big game, small game, fur bearers or other categories consid-  
19 ered essential for carrying out the intention and purposes of this  
20 title [CHAPTER];

21 (10) Repealed by sec. 2, ch. 32, SLA 1968;

22 (11) "hunting" means the taking of game under this title  
23 [CHAPTER] and the [RULES AND] regulations adopted [PROMULGATED] under  
24 it;

25 (12) "nonresident" means a person who is not a resident;

26 (13) "operator" means the individual by law made responsible  
27 for the operation of the vessel;

28 (14) "resident" means a person who for 12 consecutive months  
29 has maintained a permanent place of abode in the state and who has con-

1 continually maintained his voting residence in the state; and in the case  
2 of a partnership, association, joint stock company, trust, or corpora-  
3 tion, "resident" means one that has its main office or headquarters in  
4 the state; however, a member of the military service who has been sta-  
5 tioned in the state for the preceding 12 consecutive months is a resi-  
6 dent for the purposes of AS 16.05 -- AS 16.40 [THIS CHAPTER], and the  
7 dependent of a resident member of the military service, who has been  
8 living in the state for the preceding year is a resident for the pur-  
9 poses of AS 16.05 -- AS 16.40 [THIS CHAPTER], and a person who is an  
10 alien but who for one year has maintained a permanent place of abode in  
11 the state is a resident for the purposes of AS 16.05 -- AS 16.40 [THIS  
12 CHAPTER];

13 (15) "seizure" means the actual or constructive taking or po-  
14 session of real or personal property subject to seizure under this  
15 title [CHAPTER] by an enforcement or investigative officer charged with  
16 enforcement of the fish and game laws of the state;

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

23 (17) "subsistence fishing" means the taking, fishing for, or  
24 possession of fish, shellfish, or other fisheries resources for subsis-  
25 tence uses with gill net, seine, fish wheel, long line, or other means  
26 defined by the Board of Fisheries;

27 (18) "take" means taking, pursuing, hunting, fishing, trap-  
28 ping, or in any manner disturbing, capturing, or killing or attempting  
29 to take, pursue, hunt, fish, trap, or in any manner capture or kill

1 fish or game;

2 (19) "taxidermy" means tanning, mounting, processing, or oth-  
3 er treatment or preparation of fish or game, or any part of fish or  
4 game, as a trophy, for monetary gain, including the receiving of the  
5 fish or game or parts of fish or game for such purposes;

6 (20) "trapping" means the taking of mammals declared by regu-  
7 lation to be fur bearers;

8 (21) "vessel" means a floating craft powered, towed, rowed,  
9 or otherwise propelled, which is used for delivering, landing, or  
10 taking fish within the jurisdiction of the state, but for the purposes  
11 of this chapter does not include aircraft;

12 (22) "visitor" means a nonresident or alien temporarily so-  
13 journing in the state as a visitor or tourist;

14 (23) "aquatic plant" means any species of plant, excluding  
15 the rushes, sedges and true grasses, growing in a marine aquatic or  
16 intertidal habitat;

17 (24) "fish derby" means a contest in which prizes are awarded  
18 for catching fish;

19 (25) "fishing derby association" means a civic, service or  
20 charitable organization in the state, not for pecuniary profit, whose  
21 primary purpose is to promote interest in fishing for recreational pur-  
22 poses and which has been in existence for five years before applying  
23 for a permit under this chapter, but does not include an organization  
24 formed or operated for gaming or gambling purposes; [.]

25 (26) "subsistence uses" means the customary and traditional  
26 uses in Alaska of wild, renewable resources for direct personal or fam-  
27 ily consumption as food, shelter, fuel, clothing, tools, or transporta-  
28 tion, for the making and selling of handicraft articles out of nonedi-  
29 ble by-products of fish and wildlife resources taken for personal or

1 family consumption, and for the customary trade, barter or sharing for  
2 personal or family consumption; for the purposes of this paragraph,  
3 "family" means all persons related by blood, marriage, or adoption, and  
4 any person living within the household on a permanent basis;

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

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

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

10 (28) "domestic mammals" include musk oxen, bison and reindeer  
11 if they are lawfully owned.

12 \* Sec. 25. AS 16.10.173 is amended by adding a new subsection to read:

13 (f) A person who violates this section is guilty of a class A  
14 misdemeanor.

15 \* Sec. 26. AS 16.10.280 is amended to read:

16 Sec. 16.10.280. PRICE DISPUTES BETWEEN FISHERMEN AND FISH PROCES-  
17 SORS. In an area where a price dispute exists between at least one-  
18 third of the registered commercial fishermen for that area, as esti-  
19 imated [CERTIFIED] by the Department of Fish and Game, on the basis of  
20 information available to the department, and fish processors on the  
21 price to be paid for salmon, and no agreement has been reached up to  
22 120 days before the opening of the salmon fishing season in that area,  
23 a representative from the Department of Labor shall intervene as media-  
24 tor of the dispute upon request of either party.

25 \* Sec. 27. AS 16.20.036(a)(8) is amended to read:

26 (8) Township 14 North, Range 4 West, Seward Meridian

27 Sections: Lots 1 - 6, SE 1/4 NW 1/4, W 1/2 NE 1/4 NW 1/4, SE  
28 1/4 NE 1/4 NW 1/4, NE 1/4 SW 1/4, NW 1/4 SE 1/4, SE 1/4 SE 1/4, W 1/2  
29 SW 1/4 NE 1/4, SE 1/4 SW 1/4 NE 1/4, S 1/2 NE 1/4 SW 1/4 NE 1/4 of

1 Section 31 [6]

2 \* Sec. 28. AS 16.30.012 is amended by adding a new subsection to read:

3 . (c) A person who violates this section is guilty of a class A  
4 misdemeanor.

5 \* Sec. 29. AS 16.35.200 is amended to read:

6 Sec. 16.35.200. USE OF POISON [BY DEPARTMENTS AND OTHER STATE  
7 AGENCIES]. No person or [DEPARTMENT, OTHER] state agency [OR PERSON]  
8 may use poison to kill [PREDATORY] animals unless authorized by regula-  
9 tion [WITHOUT FIRST OBTAINING THE WRITTEN CONSENT] of the appropriate  
10 board. This section does not apply to poisons deployed within buildings  
11 or to kill rats or mice at dumps or landfills operating in compliance  
12 with state law or local ordinances.

13 \* Sec. 30. AS 16.05.251(a)(9), 16.05.255(a)(8), 16.05.632, 16.05.835,  
14 16.05.903; AS 16.10.120, 16.10.230(1); AS 16.15.010 -- 16.15.090; and AS 16.-  
15 35.010 -- 16.35.180 are repealed.