

Introduced: 2/16/82  
Referred: Resources and  
Finance

1 IN THE SENATE

BY STIMSON

2 SENATE BILL NO. 787

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to damage to fishermen's gear caused  
7 by contact with certain man-made objects; and providing  
8 for an effective date."

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

10 \* Section 1. The purpose of the fishermen's gear damage compensation fund  
11 established in this Act is to provide financial relief to resident commercial  
12 fishermen whose fishing gear is damaged by contact with man-made obstructions,  
13 hazards, or objects in state waters and who are unable to locate a party  
14 financially responsible for damage.

15 \* Sec. 2. AS 16.10 is amended by adding a new section to read:

16 ARTICLE 20. MISCELLANEOUS PROVISIONS.

17 Sec. 16.10.900. FISHERMEN'S GEAR DAMAGE COMPENSATION FUND. (a)  
18 The fishermen's gear damage compensation fund is established in the  
19 Department of Revenue. The commissioner of revenue shall administer the  
20 fund.

21 (b) Except as provided in (c) of this section, a resident commer-  
22 cial fisherman may be compensated from the fund for actual damage to  
23 gear resulting from hitting or snagging a man-made obstruction, hazard,  
24 or object in state waters if the fisherman files a claim under (d) of  
25 this section and establishes to the satisfaction of the hearing officer  
26 that

27 (1) the damage occurred while the vessel was being used for  
28 commercial fishing in state waters;

29 (2) the damage resulted from contact with a man-made obstruc-

tion, hazard, or object;

(3) the obstruction was not located on a chart or survey published by the state or the federal government;

(4) at the time of the damage the fisherman and vessel were licensed under this title to engage in commercial fishing;

(5) the hitting or snagging was not caused intentionally, recklessly, or negligently by the fisherman; and

(6) the fisherman or owner of the damaged gear has made a good faith effort to identify and locate any person liable for the damage in accordance with regulations adopted under (f) of this section.

(c) Compensation from the fund may not be paid

(1) for speculative loss to the fisherman, such as anticipated profit or income;

(2) if an identifiable person may be liable for the loss;

(3) to the extent that the loss is or may be mitigated by insurance;

(4) in an amount more than \$10,000.

(d) A fisherman seeking compensation from the fund shall file a claim within 90 days of incurring the loss and on a form provided by the department. Upon receipt of a claim, the commissioner shall assign the matter to a hearing officer for adjudication. The decision of the hearing officer is final and is not subject to the Administrative Procedure Act (AS 44.62).

(e) Upon payment of a claim against the fund the state shall acquire by subrogation all rights of the claimant against any person found to be responsible for the loss with respect to which the claim was made.

(f) The commissioner may adopt regulations to implement this section.

1 (g) In this section

2 (1) "commercial fisherman" means a commercial fisherman as  
3 defined in AS 16.05.940(2);

4 (2) "commissioner" means the commissioner of revenue;

5 (3) "department" means the Department of Revenue;

6 (4) "fisherman" means a commercial fisherman;

7 (5) "fund" means the fishermen's gear damage compensation  
8 fund;

9 (6) "gear" means apparatus used in the commercial harvest of  
10 a species, including but not limited to purse seines, drift gill nets,  
11 crab pots, trawl nets, and troll gear;

12 (7) "resident" means a resident of the state as defined in  
13 AS 16.05.940(14);

14 (8) "state waters" means the navigable waters within the  
15 territorial limits of the state, and the marginal sea adjacent to the  
16 state, and as defined in AS 44.03 and AS 46.03.900(22).

17 \* Sec. 3. SURVEY OF OBSTRUCTIONS. (a) The commissioner of natural  
18 resources shall conduct a two-year survey to locate man-made obstructions in  
19 state waters under AS 16.10.925(8) that are hazardous to commercial fishing  
20 gear, including obstructions relating to oil, gas, and mineral development.

21 (b) The commissioner of natural resources shall, on the basis of the  
22 survey conducted under this section, publish charts for commercial fishermen  
23 identifying the nature and location of man-made obstructions in state waters.

24 \* Sec. 4. This Act takes effect July 1, 1982.