

Introduced: 5/6/83
Referred: House Special
Committee on Fisheries,
Resources and Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2

HOUSE BILL NO. 404

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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
12 purposes [OBJECTS] of AS 16 except AS 16.51 and AS 16.52 [AS 16.05.-
13 010 -- 16.05.950];

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

15 (13) initiate or conduct research necessary or advisable to
16 carry out the purposes of AS 16 except AS 16.51 and AS 16.52;

17 (14) enter into cooperative agreements with agencies of the
18 federal government, educational institutions, or other agencies or or-
19 ganizations, when in the public interest, to carry out the purposes of
20 AS 16 except AS 16.51 and AS 16.52;

21 (15) contract with and make grants to agencies, organiza-
22 tions, and individuals under terms, established by the commissioner,
23 which make certain that the grants and contracts made are in the best
24 interests of the public and further the purposes of AS 16 except
25 AS 16.51 and AS 16.52.

26 * Sec. 3. AS 16.05.100 is amended to read:

27 Sec. 16.05.100. FISH AND GAME FUND ESTABLISHED. There is cre-
28 ated a revolving "Fish and Game Fund," which shall be used exclusively
29 for the following: (1) to carry out the purposes and provisions of

1 AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER] or other duties that
2 may be delegated by the legislature to the commissioner or the depart-
3 ment; and (2) to carry out such purposes and objectives within the sco-
4 of AS 16 except AS 16.51 and AS 16.52 [THE CHAPTER] as may be
5 directed by the donor of any such funds.

6 * Sec. 4. AS 16.05.150 is amended to read:

7 Sec. 16.05.150. ENFORCEMENT AUTHORITY. The following persons
8 are peace officers of the state and they shall enforce AS 16 except
9 AS 16.51 and AS 16.52 [THIS CHAPTER]:

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

12 (2) a police officer in the state;

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

14 * Sec. 5. AS 16.05.160 is amended to read:

15 Sec. 16.05.160. RIGHT [DUTY] TO ARREST. Each person designated
16 in AS 16.05.150 may [SHALL] arrest a person violating a provision of
17 AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER], or any [RULE OR]
18 regulation adopted [MADE] under AS 16 except AS 16.51 and AS 16.52
19 [THIS CHAPTER], in his presence or view, and may bring [SHALL TAKE]
20 the person [IMMEDIATELY] for examination or trial before an officer or
21 court of competent jurisdiction.

22 * Sec. 6. AS 16.05.170 is amended to read:

23 Sec. 16.05.170. POWER TO EXECUTE WARRANT. Each person designat-
24 ed in AS 16.05.150 may execute a warrant or other process issued by an
25 officer or court of competent jurisdiction for the enforcement of
26 AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER], and may, with a
27 search warrant, search any place at any time. The judge of a court
28 having jurisdiction may, upon proper oath or affirmation showing prob-
29 able cause, issue a warrant in all cases.

1 * Sec. 7. AS 16.05.251(a)(3) is amended to read:
2 (3) setting quotas, [AND] bag limits, harvest levels, and
3 sex and size limitations on the taking of fish;

4 * Sec. 8. AS 16.05.251(a)(7) is amended to read:
5 (7) [ENGAGING IN BIOLOGICAL RESEARCH,] watershed and habi-
6 tat protection [IMPROVEMENT], and [FISH] management, conservation,
7 protection, use, disposal, and propagation of fish [AND STOCKING];

8 * Sec. 9. AS 16.05.255(a)(4) is amended to read:
9 (4) setting quotas, [AND] bag limits, harvest levels, and
10 sex, age, and size limitations on the taking of game;

11 * Sec. 10. AS 16.05.255(a)(6) is repealed and reenacted to read:
12 (6) methods and harvest levels necessary to control preda-
13 tion and competition among game in the state;

14 * Sec. 11. AS 16.05.255(a)(7) is amended to read:
15 (7) [ENGAGING IN BIOLOGICAL RESEARCH,] watershed and habi-
16 tat protection [IMPROVEMENT], and [GAME] management, conservation,
17 protection, use, disposal, and propagation of game [AND STOCKING];

18 * Sec. 12. AS 16.05.340(a)(6) is amended to read:
19 (6) Nonresident [VISITOR'S] special sport fishing li-
20 cence -- valid for the period inscribed on the license
21 (A) For 14-day license.....\$20
22 (B) For three-day license..... 10

23 * Sec. 13. AS 16.05.340(a)(9) is amended to read:
24 (9) Nonresident hunting and sport fishing license..... 96
25 A nonresident may not take a big game animal without previously pur-
26 chasing a numbered, nontransferable, appropriate tag, issued under [TO
27 THE NONRESIDENT AS PROVIDED IN] (16) of this subsection. The tag must
28 [SHALL] be affixed to the animal immediately upon capture and must
29 [SHALL] remain affixed until the animal is prepared for storage,

1 consumed, or exported. A tag issued but not used for an animal may be
2 used to satisfy the tagging requirement for an [ANY OTHER] animal of
3 any other [THE] species [NAMED] for which the tag fee is of equal or
4 less value.

5 * Sec. 14. AS 16.05.340(b) is amended to read:

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

14 * Sec. 15. AS 16.05.350 is amended to read:

15 Sec. 16.05.350. EXPIRATION OF LICENSES AND TAGS. Licenses and
16 tags required under AS 16.05.330 -- 16.05.430, except the nonresident
17 [VISITOR'S] special sport fishing license and the resident trapping
18 license, expire at the close of December 31 following issuance. The
19 resident trapping license expires at the close of September 30 follow-
20 ing the year of issuance.

21 * Sec. 16. AS 16.05.685(c)(2) is amended to read:

22 (2) "registration area" means a specific king crab regis-
23 tration area as designated by regulation of the Board of Fisheries
24 [AND INCLUDES THE BERING SEA SHELLFISH AREA AND THE WESTERN ALEUTIAN
25 ISLANDS KING CRAB AREA].

26 * Sec. 17. AS 16.05.831(a) is amended to read:

27 (a) It is unlawful for a person to waste salmon intentionally,
28 knowingly, or with reckless disregard for the consequences. In this
29 section, "waste" means the failure to utilize the majority of the

1 carcass, excluding viscera and sex parts, of any salmon intended for
2 [WHICH ARE TO BE]

3 (1) sale [SOLD] to a commercial buyer or processor;

4 (2) [UTILIZED FOR] consumption by humans or domesticated
5 animals; or

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

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

9 (b) A [IF A] person or governmental agency that intends [DE-
10 SIRES] to construct a hydraulic project, or intends to use, divert,
11 obstruct, pollute, or change the natural flow or bed of a specified
12 river, lake, or stream, or uses or intends to use wheeled, tracked, or
13 excavating equipment or log-dragging equipment in the bed of a speci-
14 fied river, lake, or stream, [THE PERSON OR GOVERNMENTAL AGENCY] shall
15 notify the commissioner [OF THIS INTENTION] before [THE] beginning
16 [OF] the construction, [OR] use, or other activity set out in this
17 section.

18 * Sec. 19. AS 16.05.900(a) is amended to read:

19 (a) A person who violates AS 16.05.870 -- 16.05.895 [OR 16.05.-
20 920 OR ANY REGULATION PROMULGATED UNDER THIS CHAPTER] is guilty of a
21 class A misdemeanor [AND, UPON CONVICTION, IS PUNISHABLE BY A FINE OF
22 NOT MORE THAN \$1,000 OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS,
23 OR BY BOTH. A PERSON WHO VIOLATES A REGULATION PROMULGATED UNDER THIS
24 CHAPTER FOR THE REGULATION OF COMMERCIAL FISHERIES SHALL BE PUNISHED
25 AS PROVIDED IN AS 16.05.720].

26 * Sec. 20. AS 16.05.920 is amended to read:

27 Sec. 16.05.920. CERTAIN ACTS MADE UNLAWFUL. (a) Unless permit-
28 ted by AS 16.05 -- AS 16.40 [THIS CHAPTER] or by regulation adopted
29 [MADE] under AS 16.05 -- AS 16.40 [THIS CHAPTER], it is unlawful for a

1 person to take, possess, transport, sell, offer to sell, purchase, or
2 offer to purchase fish, game or marine aquatic plants, or any part of
3 fish, game or aquatic plants, or a nest or egg of fish or game.

4 (b) No person may knowingly disturb, injure, or destroy a no-
5 tice, signboard, seal, tag, aircraft, boat, vessel, automobile, para-
6 phernalia, equipment, building or other improvement or property of the
7 department used in the administration or enforcement of AS 16 except
8 AS 16.51 and AS 16.52 [THIS CHAPTER], or a poster or notice to the
9 public concerning the provisions of AS 16 except AS 16.51 and AS 16.52
10 [THIS CHAPTER], or a regulation adopted under AS 16 except AS 16.51
11 and AS 16.52 [THIS CHAPTER], or a marker indicating the boundary of an
12 area closed to hunting, trapping, fishing or other special use under
13 AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER]. No person may
14 knowingly destroy, remove, tamper with, or imitate a seal or tag is-
15 sued or used by the department or attached under its authority to a
16 skin, portion, or specimen of fish or game, or other article for the
17 purpose of identification or authentication in accordance with AS 16
18 except AS 16.51 and AS 16.52 [THIS CHAPTER] or a regulation adopted
19 under AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER].

20 * Sec. 21. AS 16.05 is amended by adding a new section to read:

21 Sec. 16.05.925. PENALTY FOR VIOLATIONS. A person who violates
22 AS 16.05.920, or a regulation adopted under this chapter or AS 16.20,
23 is guilty of a class A misdemeanor. However, a person who violates a
24 regulation adopted under this chapter for the regulation of commercial
25 fisheries is subject to the penalties set out in AS 16.05.720.

26 * Sec. 22. AS 16.05.940 is amended to read:

27 Sec. 16.05.940. DEFINITIONS. In AS 16.05 -- AS 16.40 [AS 16.-
28 05.010 -- 16.05.950]

29 (1) "a board" means either the Board of Fisheries or the

1 Board of Game;

2 (2) "commercial fisherman" means an individual who fishes
3 commercially for, takes, or attempts to take fish, shellfish, or other
4 fishery resources of the state by any means, and includes every indi-
5 vidual aboard a boat operated for fishing purposes who participates
6 directly or indirectly in the taking of these raw fishery products,
7 whether participation is on shares or as an employee or otherwise;
8 however, this definition does not apply to anyone aboard a licensed
9 vessel as a visitor or guest who does not directly or indirectly par-
10 ticipate in the taking; and the term "commercial fisherman" includes
11 the crews of tenders or other floating craft used in transporting
12 fish;

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

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

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

25 (6) "fish" means any species of aquatic finfish, inverte-
26 brate or amphibian [INVERTEBRATES AND AMPHIBIANS], in any stage of its
27 [THEIR] life cycle, found in or introduced into the state, and in-
28 cludes any part of such aquatic finfish, invertebrate or amphibian;

29 (7) "fish or game farming" means the business of

1 propagating, breeding, raising, or producing fish or game in captivity
2 for the purpose of marketing the fish or game or their products, and
3 "captivity" means having the fish or game under positive control, as
4 in a pen, pond, or an area of land or water which is completely en-
5 closed by a generally escape-proof barrier;

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

12 (9) "game" means any species of bird, reptile, and mammal,
13 including a feral domestic animal, found or introduced in the state,
14 except domestic birds and mammals; and game may be classified by regu-
15 lation as big game, small game, fur bearers or other categories con-
16 sidered essential for carrying out the intention and purposes of
17 AS 16.05 -- AS 16.40 [AS 16.05.010 -- 16.05.950];

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

19 (11) "hunting" means the taking of game under AS 16.05 --
20 AS 16.40 [AS 16.05.010 -- 16.05.950] and the [RULES AND] regulations
21 adopted [PROMULGATED] under those chapters [IT];

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

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

25 (14) "resident" means a person who for 12 consecutive months
26 has maintained a permanent place of abode in the state and who has
27 continually maintained his voting residence in the state; and in the
28 case of a partnership, association, joint stock company, trust, or
29 corporation, "resident" means one that has its main office or

1 headquarters in the state; however, a member of the military service
2 who has been stationed in the state for the preceding 12 consecutive
3 months is a resident for the purposes of this paragraph [AS 16.05.-
4 010 -- 16.05.950], and the dependent of a resident member of the mili-
5 tary service, who has been living in the state for the preceding year
6 is a resident for the purposes of this paragraph [AS 16.05.010 --
7 16.05.950], and a person who is an alien but who for one year has
8 maintained a permanent place of abode in the state is a resident for
9 the purposes of this paragraph [AS 16.05.010 -- 16.05.950];

10 (15) "seizure" means the actual or constructive taking or
11 possession of real or personal property subject to seizure under
12 AS 16.05 -- AS 16.40 [AS 16.05.010 -- 16.05.950] by an enforcement or
13 investigative officer charged with enforcement of the fish and game
14 laws of the state;

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

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

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

29 (19) "taxidermy" means tanning, mounting, processing, or

1 other treatment or preparation of fish or game, or any part of fish or
2 game, as a trophy, for monetary gain, including the receiving of the
3 fish or game or parts of fish or game for such purposes;

4 (20) "trapping" means the taking of mammals declared by
5 regulation to be fur bearers;

6 (21) "vessel" means a floating craft powered, towed, rowed,
7 or otherwise propelled, which is used for delivering, landing, or tak-
8 ing fish within the jurisdiction of the state, but for the purposes of
9 this paragraph [AS 16.05.010 -- 16.05.950] does not include aircraft;

10 (22) "visitor" means a nonresident or alien temporarily
11 sojourning in the state as a visitor or tourist;

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

15 (24) "fish derby" means a contest in which prizes are award-
16 ed for catching fish;

17 (25) "fishing derby association" means a civic, service or
18 charitable organization in the state, not for pecuniary profit, whose
19 primary purpose is to promote interest in fishing for recreational
20 purposes and which has been in existence for five years before apply-
21 ing for a permit under AS 16.05.010 -- 16.05.950, but does not include
22 an organization formed or operated for gaming or gambling purposes;
23 [.]

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

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

5 (27) "barter" means the exchange or trade of fish or game,
6 or 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 rein-
11 deer, if they are lawfully owned; [.]

12 (29) "nonresident alien" means a person who is not a citizen
13 of the United States and whose permanent place of abode is not in the
14 United States.

15 * Sec. 23. AS 16.10.173 is amended by adding a new subsection to read:

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

18 * Sec. 24. AS 16.10.280 is amended to read:

19 Sec. 16.10.280. PRICE DISPUTES BETWEEN FISHERMEN AND FISH PRO-
20 CESSORS. In an area where a price dispute exists between at least
21 one-third of the registered commercial fishermen for that area, as es-
22 timated [CERTIFIED] by the Department of Fish and Game, on the basis
23 of information available to the department, and fish processors on the
24 price to be paid for salmon, and no agreement has been reached up to
25 120 days before the opening of the salmon fishing season in that area,
26 a representative from the Department of Labor shall intervene as medi-
27 ator of the dispute upon request of either party.

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

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

1 Sections: Lots 1 -- 6, SE 1/4 NW 1/4, W 1/2 NE 1/4 NW 1/4,
2 SE 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
3 1/2 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
4 Section 31 [6]

5 * Sec. 26. AS 16.30.012 is amended by adding a new subsection to read:

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

8 * Sec. 27. AS 16.35.200 is amended to read:

9 Sec. 16.35.200. USE OF POISON [BY DEPARTMENT AND OTHER STATE
10 AGENCIES]. No person or [DEPARTMENT, OTHER] state agency [OR PERSON]
11 may use poison to kill [PREDATORY] animals unless authorized by regu-
12 lation [WITHOUT FIRST OBTAINING THE WRITTEN CONSENT] of the appropri-
13 ate board. This section does not apply to poisons used within build-
14 ings or to kill rats or mice at dumps or landfills operating in com-
15 pliance with state law or local ordinances.

16 * Sec. 28. AS 16.05.251(a)(9), 16.05.255(a)(8), 16.05.632, 16.05.903;
17 AS 16.10.230(1); AS 16.15; and AS 16.35.010 -- 16.35.180 are repealed.