

Introduced: 1/18/84
Referred: Resources and
Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 404

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act making miscellaneous amendments regarding

7

fish and game."

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, in the commissioner's discretion, will tend to

12

promote the purposes [OBJECTS] of AS 16 except AS 16.51 and AS 16.52

13

[THIS CHAPTER];

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
4 scope 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 peace officer
16 designated in AS 16.05.150 may [SHALL] arrest a person violating a
17 provision of AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER], or any
18 regulation adopted [MADE] under AS 16 except AS 16.51 and AS 16.52
19 [THIS CHAPTER], in the peace officer's presence or view, and may bring
20 [SHALL TAKE] the person [IMMEDIATELY] for examination or trial before
21 an officer or 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 peace officer
24 designated in AS 16.05.150 may execute a warrant or other process
25 issued by an officer or court of competent jurisdiction for the en-
26 forcement of AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER], and
27 may, with a search warrant, search any place at any time. The judge
28 of a court having jurisdiction may, upon proper oath or affirmation
29 showing probable 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, means, and harvest levels necessary to control
13 predation 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)(7) is amended to read:
19 (7) Nonresident [VISITOR'S] special sport fishing li-
20 cense -- 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)(10) is amended to read:
24 (10) 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] (15) 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 16.05.350 is amended to read:

6 Sec. 16.05.350. EXPIRATION OF LICENSES AND TAGS. Licenses and
7 tags required under AS 16.05.330 -- 16.05.430, except the nonresident
8 [VISITOR'S] special sport fishing license and the resident trapping
9 license, expire at the close of December 31 following issuance. The
10 resident trapping license expires at the close of September 30 of the
11 year following the year in which the license is issued.

12 * Sec. 15. AS 16.05.685(c)(2) is amended to read:

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

17 * Sec. 16. AS 16.05.831(a) is amended to read:

18 (a) A person may not waste salmon intentionally, knowingly, or
19 with reckless disregard for the consequences. In this section,
20 "waste" means the failure to utilize the majority of the carcass,
21 excluding viscera and sex parts, of any salmon intended for [WHICH ARE
22 TO BE]

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

24 (2) [UTILIZED FOR] consumption by humans or domesticated
25 animals; or

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

28 * Sec. 17. AS 16.05.870(b) is amended to read:

29 (b) A [IF A] person or governmental agency that intends

1 [DESIRES] to construct a hydraulic project, or intends to use, divert,
2 obstruct, pollute, or change the natural flow or bed of a specified
3 river, lake, or stream, or uses or intends to use wheeled, tracked, or
4 excavating equipment or log-dragging equipment in the bed of a speci-
5 fied river, lake, or stream, [THE PERSON OR GOVERNMENTAL AGENCY] shall
6 notify the commissioner [OF THIS INTENTION] before [THE] beginning
7 [OF] the construction, [OR] use, or other activity set out in this
8 section.

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

10 (a) A person who violates AS 16.05.870 -- 16.05.895 [OR 16.05.-
11 920 OR ANY REGULATION ADOPTED UNDER THIS CHAPTER] is guilty of a class
12 A misdemeanor [AND, UPON CONVICTION, IS PUNISHABLE BY A FINE OF NOT
13 MORE THAN \$1,000 OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR
14 BY BOTH. A PERSON WHO VIOLATES A REGULATION ADOPTED UNDER THIS CHAP-
15 TER FOR THE REGULATION OF COMMERCIAL FISHERIES SHALL BE PUNISHED AS
16 PROVIDED IN AS 16.05.720].

17 * Sec. 19. AS 16.05.920 is amended to read:

18 Sec. 16.05.920. CERTAIN ACTS MADE UNLAWFUL. (a) Unless permit-
19 ted by AS 16.05 -- AS 16.40 [THIS CHAPTER] or by regulation adopted
20 under AS 16.05 -- AS 16.40 [THIS CHAPTER], a person may not take,
21 possess, transport, sell, offer to sell, purchase, or offer to pur-
22 chase fish, game, or marine aquatic plants, or any part of fish, game
23 or aquatic plants, or a nest or egg of fish or game.

24 (b) A person may not knowingly disturb, injure, or destroy a
25 notice, signboard, seal, tag, aircraft, boat, vessel, automobile,
26 paraphernalia, equipment, building or other improvement or property of
27 the department used in the administration or enforcement of AS 16
28 except AS 16.51 and AS 16.52 [THIS CHAPTER], or a poster or notice to
29 the public concerning the provisions of AS 16 except AS 16.51 and

1 AS 16.52 [THIS CHAPTER], or a regulation adopted under AS 16 except
2 AS 16.51 and AS 16.52 [THIS CHAPTER], or a marker indicating the
3 boundary of an area closed to hunting, trapping, fishing or other
4 special use under AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER].
5 A person may not knowingly destroy, remove, tamper with, or imitate a
6 seal or tag issued or used by the department or attached under its
7 authority to a skin, portion, or specimen of fish or game, or other
8 article for the purpose of identification or authentication in accor-
9 dance with AS 16 except AS 16.51 and AS 16.52 [THIS CHAPTER] or a
10 regulation adopted under AS 16 except AS 16.51 and AS 16.52 [THIS
11 CHAPTER].

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

13 Sec. 16.05.925. PENALTY FOR VIOLATIONS. A person who violates
14 AS 16.05.920, or a regulation adopted under this chapter or AS 16.20,
15 is guilty of a class A misdemeanor. However, a person who violates a
16 regulation adopted under this chapter for the regulation of commercial
17 fisheries is subject to the penalties set out in AS 16.05.720.

18 * Sec. 21. AS 16.05.940 is amended to read:

19 Sec. 16.05.940. DEFINITIONS. In AS 16.05 -- AS 16.40 [THIS
20 CHAPTER]

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

24 (2) "barter" means the exchange or trade of fish or game,
25 or their parts, taken for subsistence uses

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

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

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

1 Board of Game;

2 (4) "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 (5) "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 (6) "commissioner" means the commissioner of fish and game
22 unless specifically provided otherwise;

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

25 (8) "domestic mammals" include musk oxen, bison, and rein-
26 deer, if they are lawfully owned;

27 (9) "fish" means any species of aquatic finfish, inverte-
28 brate, or amphibian [INVERTEBRATES AND AMPHIBIANS], in any stage of
29 its [THEIR] life cycle, found in or introduced into the state, and

1 includes any part of such aquatic finfish, invertebrate, or amphibian;

2 (10) "fish derby" means a contest in which prizes are award-
3 ed for catching fish;

4 (11) "fishing derby association" means a civic, service, or
5 charitable organization in the state, not for pecuniary profit, whose
6 primary purpose is to promote interest in fishing for recreational
7 purposes and which has been in existence for five years before apply-
8 ing for a permit under AS 16.05.010 -- 16.05.950 [THIS CHAPTER], but
9 does not include an organization formed or operated for gaming or
10 gambling purposes;

11 (12) "fish or game farming" means the business of propagat-
12 ing, breeding, raising, or producing fish or game in captivity for the
13 purpose of marketing the fish or game or their products, and "captiv-
14 ity" means having the fish or game under positive control, as in a
15 pen, pond, or an area of land or water which is completely enclosed by
16 a generally escape-proof barrier;

17 (13) "fur dealing" means engaging in the business of buying,
18 selling, or trading in animal skins, but [; THE TERM] does not include
19 [APPLY TO A HUNTER OR TRAPPER SELLING] the sale of animal skins by a
20 [THE] trapper or hunter who [HE] has legally taken the animal, or the
21 purchase of [TO A PERSON, OTHER THAN A FUR DEALER, PURCHASING] animal
22 skins by a person, other than a fur dealer, for the person's own use;

23 (14) "game" means any species of bird, reptile, and mammal,
24 including a feral domestic animal, found or introduced in the state,
25 except domestic birds and mammals; and game may be classified by regu-
26 lation as big game, small game, fur bearers or other categories con-
27 sidered essential for carrying out the intention and purposes of
28 AS 16.05 -- AS 16.40 [THIS CHAPTER];

29 (15) "hunting" means the taking of game under AS 16.05 --

1 AS 16.40 [THIS CHAPTER] and the regulations adopted under those chap-
2 ters [IT];

3 (16) "nonresident" means a person who is not a resident of
4 the state;

5 (17) "nonresident alien" means a person who is not a citizen
6 of the United States and whose permanent place of abode is not in the
7 United States;

8 (18) "operator" means the individual by law made responsible
9 for the operation of the vessel;

10 (19) "resident" means a person who for 12 consecutive months
11 has maintained a permanent place of abode in the state and who has
12 continually maintained a voting residence in the state; and in the
13 case of a partnership, association, joint stock company, trust, or
14 corporation, "resident" means one that has its main office or head-
15 quarters in the state; however, a member of the military service who
16 has been stationed in the state for the preceding 12 consecutive
17 months is a resident for the purposes of this paragraph [CHAPTER], and
18 the dependent of a resident member of the military service, who has
19 been living in the state for the preceding year is a resident for the
20 purposes of this paragraph [CHAPTER], and a person who is an alien but
21 who for one year has maintained a permanent place of abode in the
22 state is a resident for the purposes of this paragraph [CHAPTER];

23 (20) "seizure" means the actual or constructive taking or
24 possession of real or personal property subject to seizure under
25 AS 16.05 -- AS 16.40 [THIS CHAPTER] by an enforcement or investigative
26 officer charged with enforcement of the fish and game laws of the
27 state;

28 (21) "sport fishing" means the taking of or attempting to
29 take for personal use, and not for sale or barter. any fresh water,

1 marine, or anadromous fish by hook and line held in the hand, or by
2 hook and line with the line attached to a pole or rod which is held in
3 the hand or closely attended, or by other means defined by the Board
4 of Fisheries;

5 (22) "subsistence fishing" means the taking of, fishing for,
6 or possession of fish, shellfish, or other fisheries resources for
7 subsistence uses with gill net, seine, fish wheel, long line, or other
8 means defined by the Board of Fisheries;

9 (23) "subsistence uses" means the customary and traditional
10 uses in Alaska of wild, renewable resources for direct personal or
11 family consumption as food, shelter, fuel, clothing, tools, or trans-
12 portation, for the making and selling of handicraft articles out of
13 nonedible by-products of fish and wildlife resources taken for per-
14 sonal or family consumption, and for the customary trade, barter, or
15 sharing for personal or family consumption; for the purposes of this
16 paragraph, "family" means all persons related by blood, marriage, or
17 adoption, and any person living within the household on a permanent
18 basis;

19 (24) "take" means taking, pursuing, hunting, fishing, trap-
20 ping, or in any manner disturbing, capturing, or killing or attempting
21 to take, pursue, hunt, fish, trap, or in any manner capture or kill
22 fish or game;

23 (25) "taxidermy" means tanning, mounting, processing, or
24 other treatment or preparation of fish or game, or any part of fish or
25 game, as a trophy, for monetary gain, including the receiving of the
26 fish or game or parts of fish or game for such purposes;

27 (26) "trapping" means the taking of mammals declared by
28 regulation to be fur bearers;

29 (27) "vessel" means a floating craft powered, towed, rowed,

1 or otherwise propelled, which is used for delivering, landing, or tak-
2 ing fish within the jurisdiction of the state, but [FOR THE PURPOSES
3 OF THIS CHAPTER] does not include aircraft;

4 (28) ["VISITOR" MEANS A NONRESIDENT OR ALIEN TEMPORARILY
5 SOJOURNING IN THE STATE AS A VISITOR OR TOURIST].

6 * Sec. 22. AS 16.10.173 is amended by adding a new subsection to read:

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

9 * Sec. 23. AS 16.10.280 is amended to read:

10 Sec. 16.10.280. PRICE DISPUTES BETWEEN FISHERMEN AND FISH PRO-
11 CESSORS. In an area where a price dispute exists between at least
12 one-third of the registered commercial fishermen for that area, as es-
13 timated [CERTIFIED] by the Department of Fish and Game on the basis of
14 information available to the department, and fish processors on the
15 price to be paid for salmon, and no agreement has been reached up to
16 120 days before the opening of the salmon fishing season in that area,
17 a representative from the Department of Labor shall intervene as medi-
18 ator of the dispute upon request of either party.

19 * Sec. 24. AS 16.20.036(a)(8) is amended to read:

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

21 Sections: Lots 1 -- 6, SE 1/4 NW 1/4, W 1/2 NE 1/4 NW 1/4,
22 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
23 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
24 Section 31 [6]

25 * Sec. 25. AS 16.35.200 is amended to read:

26 Sec. 16.35.200. USE OF POISON [BY DEPARTMENTS AND OTHER STATE
27 AGENCIES]. A person or [DEPARTMENT, OTHER] state agency [OR PERSON]
28 may not use poison to kill [PREDATORY] animals unless authorized by
29 regulation [WITHOUT FIRST OBTAINING THE WRITTEN CONSENT] of the

1 appropriate board. This section does not apply to poisons used within
2 buildings or to kill rats or mice at dumps or landfills operating in
3 compliance with state law or local ordinances.

4 * Sec. 26. AS 16.05.251(a)(9), 16.05.255(a)(8), 16.05.903; AS 16.10.-
5 230(1); AS 16.15.010 -- 16.15.090; and AS 16.35.010 -- 16.35.180 are re-
6 pealed.