

Offered: 2/5/86
Referred: Resources and Judiciary

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 288 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game for
7 subsistence and personal use; and providing for an
8 effective date."

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

10 * Section 1. AS 16.05.251(a)(6) is amended to read:

11 (6) classifying as commercial fish, sport fish, personal
12 use fish, subsistence fish, or predators or other categories essential
13 for regulatory purposes;

14 * Sec. 2. AS 16.05.251(a) is amended by adding new paragraphs to read:

15 (12) designating and regulating special fishing areas,
16 including personal use areas, trophy management areas, catch-and-
17 release areas, and children's fishing areas, and designating stocks in
18 those areas for which special management is appropriate;

19 (13) regulating commercial, sport, subsistence, and personal
20 use fishing as needed for the conservation, development, and utiliza-
21 tion of fisheries.

22 * Sec. 3. AS 16.05.255(a) is amended by adding a new paragraph to read:

23 (10) regulating sport hunts and subsistence hunts as needed
24 for the conservation, development, and utilization of game and nongame
25 species.

26 * Sec. 4. AS 16.05 is amended by adding new sections to read:

27 Sec. 16.05.258. SUBSISTENCE USE AND ALLOCATION OF FISH AND GAME.

28 (a) The Board of Fisheries and the Board of Game shall identify the
29 fish stocks and game populations, or portions of stocks and

1 populations, that are customarily and traditionally taken and used in
2 the subsistence economy and culture of the area in which they are
3 located.

4 (b) Consistent with sustained yield, sound management, and the
5 maintenance of healthy fish stocks and game populations, the boards
6 shall determine

7 (1) whether there exists a harvestable surplus of the
8 stocks and populations identified under (a) of this section; and

9 (2) how much of the surplus is needed to provide a reason-
10 able opportunity to satisfy the subsistence uses of those stocks and
11 populations.

12 (c) The boards shall adopt subsistence fishing and subsistence
13 hunting regulations for each stock and population for which a harvest-
14 able surplus is determined to exist under (b)(1) of this section. If
15 a surplus is not sufficient to accommodate all consumptive uses of the
16 surplus, but is sufficient to accommodate subsistence uses of the
17 surplus, then subsistence uses shall be accorded a preference over
18 other consumptive uses, and the regulations shall provide a reasonable
19 opportunity to satisfy subsistence uses of the surplus, and may pro-
20 vide opportunities to satisfy other consumptive uses of the surplus.
21 If it is necessary to restrict subsistence fishing or subsistence
22 hunting in order to assure sound management or protect future subsis-
23 tence fishing or subsistence hunting, then the preference shall be
24 limited, and the boards shall distinguish among subsistence users, by
25 applying the following criteria:

26 (1) customary and direct dependence on the fish stock or
27 game population as the mainstay of livelihood;

28 (2) local residency; and

29 (3) availability of alternative resources.

1 (d) The boards may adopt regulations consistent with this sec-
2 tion that authorize taking for nonsubsistence uses a stock or popula-
3 tion identified under (a) of this section.

4 (e) Fish stocks and game populations, or portions of fish
5 stocks and game populations, not identified under (a) of this section
6 may be taken only under nonsubsistence regulations.

7 (f) In making allocation decisions the boards may apportion
8 subsistence use among species, stocks, and populations that are simi-
9 lar and reasonably available.

10 (g) Takings authorized under this section are subject to reason-
11 able regulation of seasons, catch or bag limits, and methods and
12 means. Takings and uses of resources authorized under this section
13 are subject to AS 16.05.831 and AS 16.30.

14 (h) Active duty military personnel, while stationed in the
15 state for more than 30 days, are eligible to fish, hunt, or trap on
16 military installations and facilities in the state under 10 U.S.C.
17 2671 to the same extent as other nonsubsistence users.

18 (i) The boards, after consulting with the department, shall
19 adopt regulations defining "maintenance of healthy populations of fish
20 and game," "sound management principles," "sustained yield," and
21 "harvestable surplus."

22 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries
23 and the Board of Game, acting jointly, may establish by regulation an
24 appeal procedure for persons aggrieved by the adoption or repeal of a
25 subsistence or personal use regulation.

26 * Sec. 5. AS 16.05 is amended by adding a new section to read:

27 Sec. 16.05.261. NO SUBSISTENCE DEFENSE. In a prosecution for
28 the taking of fish or game in violation of a statute or regulation, it
29 is not a defense that the taking was done for subsistence uses.

1 * Sec. 6. AS 16.05.330 is amended by adding new subsections to read:

2 (c) The Board of Fisheries and the Board of Game may adopt
3 regulations providing for the issuance and expiration of subsistence
4 permits for areas, villages, communities, groups, or individuals as
5 needed for authorizing, regulating and monitoring the subsistence
6 harvest of fish and game. The boards shall adopt these regulations
7 when the subsistence preference requires a reduction in the harvest of
8 a fish stock or game population by nonsubsistence users.

9 (d) With the assistance of the department, the boards shall
10 provide reasonable public notice of the following information to users
11 of a group, community, village, or area subsistence permit:

12 (1) the terms of the permit;

13 (2) the fish stocks and game populations authorized to be
14 taken under the permit;

15 (3) the subsistence use areas covered by the permit.

16 (e) The Board of Fisheries and the Board of Game may use village
17 and regional corporations formed under 43 U.S.C. 1601 - 1628 (Alaska
18 Native Claims Settlement Act) and community, postal, media, or other
19 services appropriate for providing notice under (d) of this section.

20 (f) The commissioner shall administer subsistence permit pro-
21 grams that may be established. The commissioner may appoint state
22 employees or other persons to take applications and issue permits and
23 tags. A person appointed by the commissioner may administer oaths for
24 permit and tag applications. The commissioner or the appropriate
25 board may require a report from persons using a permit concerning the
26 time, manner, and place of taking fish and game, the kinds and quanti-
27 ty taken, and other information helpful in administering the fish and
28 game resources of the state. Except for state employees, a person
29 appointed by the commissioner under this subsection is entitled to

1 compensation of \$50 per year or \$1 for each permit or tag issued,
2 whichever is greater.

3 * Sec. 7. AS 16.05.940(22) is amended to read:

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

9 * Sec. 8. AS 16.05.940(23) is amended to read:

10 (23) "subsistence uses" means the noncommercial, customary
11 and traditional uses [IN ALASKA] of wild, renewable resources by a
12 resident domiciled in a rural area of the state for direct personal or
13 family consumption as food, shelter, fuel, clothing, tools, or trans-
14 portation, for the making and selling of handicraft articles out of
15 nonedible by-products of fish and wildlife resources taken for per-
16 sonal or family consumption, and for the customary trade, barter, or
17 sharing for personal or family consumption; in [FOR THE PURPOSES OF]
18 this paragraph, "family" means [ALL] persons related by blood, mar-
19 riage, or adoption, and a [ANY] person living in [WITHIN] the house-
20 hold on a permanent basis;

21 * Sec. 9. AS 16.05.940 is amended by adding new paragraphs to read:

22 (28) "domicile" means the true and permanent home of a
23 person from which the person has no present intention of moving and to
24 which the person intends to return whenever the person is away; domi-
25 cile may be proved by presenting evidence of having had a permanent
26 home in a particular location for the preceding 12 consecutive months
27 or other evidence acceptable to the boards of fisheries and game;

28 (29) "fish stock" means a species, subspecies, geographic
29 grouping or other category of fish manageable as a unit;

1 (30) "game population" means a group of game animals of a
2 single species or subgroup manageable as a unit;

3 (31) "rural area" means a community or area of the state in
4 which the noncommercial, customary, and traditional taking and use of
5 fish or game for personal or family consumption is a significant
6 characteristic of the economy of the community or area;

7 (32) "subsistence hunting" means the taking of, hunting for,
8 or possession of game animals by a resident domiciled in a rural area
9 of the state for subsistence uses by means defined by the Board of
10 Game.

11 * Sec. 10. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

12 * Sec. 11. This Act takes effect June 1, 1986.