

Offered: 3/13/86  
Referred: Judiciary

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2

SENATE CS FOR CS FOR HOUSE BILL NO. 288 (Resources)

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 a new paragraph to read:

15 (12) regulating commercial, sport, subsistence, and personal  
16 use fishing as needed for the conservation, development, and utiliza-  
17 tion of fisheries.

18 \* Sec. 3. AS 16.05.251 is amended by adding new subsections to read:

19 (d) Regulations adopted under (a) of this section must, con-  
20 sistent with sustained yield and the provisions of AS 16.05.258,  
21 provide a fair and reasonable opportunity for the taking of fishery  
22 resources by personal use, sport, and commercial fishermen.

23 (e) The Board of Fisheries shall establish criteria for the  
24 allocation of fishery resources among personal use, sport, and commer-  
25 cial fishing. The criteria may, as appropriate to particular alloca-  
26 tion decisions, include factors such as

27 (1) the history of each personal use, sport, and commercial  
28 fishery;

29 (2) the number of residents and nonresidents who have

1 participated in each fishery in the past and the number of residents  
2 and nonresidents who can reasonably be expected to participate in the  
3 future;

4 (3) the importance of each fishery for providing residents  
5 the opportunity to obtain fish for personal and family consumption;

6 (4) the availability of alternative fisheries resources;

7 (5) the importance of each fishery to the economy of the  
8 state;

9 (6) the importance of each fishery to the economy of the  
10 region and local area in which the fishery is located;

11 (7) the importance of each fishery in providing recreation-  
12 al opportunities for residents and nonresidents.

13 \* Sec. 4. AS 16.05.255(a) is amended by adding a new paragraph to read:

14 (10) regulating sport hunting and subsistence hunting as  
15 needed for the conservation, development, and utilization of game.

16 \* Sec. 5. AS 16.05.255 is amended by adding a new subsection to read:

17 (d) Regulations adopted under (a) of this section shall provide  
18 that, consistent with the provisions of AS 16.05.258, the taking of  
19 moose, deer, elk, and caribou by residents for personal or family  
20 consumption has preference over taking by nonresidents.

21 \* Sec. 6. AS 16.05 is amended by adding new sections to read:

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

23 (a) The Board of Fisheries and the Board of Game shall identify the  
24 fish stocks and game populations, or portions of stocks and popu-  
25 lations, that are customarily and traditionally used for subsistence  
26 in each rural area identified by the boards.

27 (b) The boards shall determine

28 (1) what portion, if any, of the stocks and populations  
29 identified under (a) of this section can be harvested consistent with

1       sustained yield; and

2               (2) how much of the harvestable portion is needed to pro-  
3       vide a reasonable opportunity to satisfy the subsistence uses of those  
4       stocks and populations.

5               (c) The boards shall adopt subsistence fishing and subsistence  
6       hunting regulations for each stock and population for which a harvest-  
7       able portion is determined to exist under (b)(1) of this section. If  
8       the harvestable portion is not sufficient to accommodate all consump-  
9       tive uses of the stock or population, but is sufficient to accommodate  
10      subsistence uses of the stock or population, then nonwasteful subsis-  
11      tence uses shall be accorded a preference over other consumptive uses,  
12      and the regulations shall provide a reasonable opportunity to satisfy  
13      the subsistence uses. If the harvestable portion is sufficient to  
14      accommodate the subsistence uses of the stock or population, then the  
15      boards may provide for other consumptive uses of the remainder of the  
16      harvestable portion. If it is necessary to restrict subsistence  
17      fishing or subsistence hunting in order to assure sustained yield or  
18      continue subsistence uses, then the preference shall be limited, and  
19      the boards shall distinguish among subsistence users, by applying the  
20      following criteria:

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

23              (2) local residency; and

24              (3) availability of alternative resources.

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

28              (e) Fish stocks and game populations, including bison, or  
29      portions of fish stocks and game populations, not identified under (a)

1 of this section may be taken only under nonsubsistence regulations.

2 (f) Takings authorized under this section are subject to reason-  
3 able regulation of seasons, catch or bag limits, and methods and  
4 means. Takings and uses of resources authorized under this section  
5 are subject to AS 16.05.831 and AS 16.30.

6 Sec. 16.05.259. ADMINISTRATIVE APPEALS. The Board of Fisheries  
7 and the Board of Game, acting jointly, may establish by regulation an  
8 appeal procedure for persons aggrieved by the adoption or repeal of a  
9 regulation.

10 \* Sec. 7. AS 16.05 is amended by adding a new section to read:

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

14 \* Sec. 8. AS 16.05.330 is amended by adding a new subsection to read:

15 (c) The Board of Fisheries and the Board of Game may adopt  
16 regulations providing for the issuance and expiration of subsistence  
17 permits for areas, villages, communities, groups, or individuals as  
18 needed for authorizing, regulating and monitoring the subsistence  
19 harvest of fish and game. The boards shall adopt these regulations  
20 when the subsistence preference requires a reduction in the harvest of  
21 a fish stock or game population by nonsubsistence users.

22 \* Sec. 9. AS 16.05.940(22) is amended to read:

23 (22) "subsistence fishing" means the taking of, fishing for,  
24 or possession of fish, shellfish, or other fisheries resources by a  
25 resident domiciled in a rural area of the state for subsistence uses  
26 with gill net, seine, fish wheel, long line, or other means defined by  
27 the Board of Fisheries;

28 \* Sec. 10. AS 16.05.940(23) is amended to read:

29 (23) "subsistence uses" means the noncommercial, customary

1 and traditional uses [IN ALASKA] of wild, renewable resources by a  
2 resident domiciled in a rural area of the state for direct personal or  
3 family consumption as food, shelter, fuel, clothing, tools, or trans-  
4 portation, for the making and selling of handicraft articles out of  
5 nonedible by-products of fish and wildlife resources taken for per-  
6 sonal or family consumption, and for the customary trade, barter, or  
7 sharing for personal or family consumption; in [FOR THE PURPOSES OF]  
8 this paragraph, "family" means [ALL] persons related by blood, mar-  
9 riage, or adoption, and a [ANY] person living in [WITHIN] the house-  
10 hold on a permanent basis;

11 \* Sec. 11. AS 16.05.940 is amended by adding new paragraphs to read:

12 (28) "domicile" means the true and permanent home of a  
13 person from which the person has no present intention of moving and to  
14 which the person intends to return whenever the person is away; domi-  
15 cile may be proved by presenting evidence acceptable to the boards of  
16 fisheries and game;

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

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

21 (31) "personal use fishing" means the taking, fishing for,  
22 or possession of finfish, shellfish, or other fishery resources, by  
23 Alaska residents for personal use and not for sale or barter, with  
24 gill or dip net, seine, fish wheel, long line, or other means defined  
25 by the Board of Fisheries;

26 (32) "rural area" means a community or area of the state in  
27 which the noncommercial, customary, and traditional use of fish or  
28 game for personal or family consumption is a principal characteristic  
29 of the economy of the community or area;

1                   (33) "subsistence hunting" means the taking of, hunting for,  
2                   or possession of game by a resident domiciled in a rural area of the  
3                   state for subsistence uses by means defined by the Board of Game.

4                   \* Sec. 12. AS 16.05.251(b), 16.05.255(b), and 16.05.257 are repealed.

5                   \* Sec. 13. This Act takes effect June 1, 1986.