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Referred: Rules

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

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

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the taking of fish and game for

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subsistence and personal use; and providing for an

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effective date."

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

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

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(6) classifying as commercial fish, sport fish, personal

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use fish, subsistence fish, or predators or other categories essential

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for regulatory purposes;

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

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(12) regulating commercial, sport, subsistence, and personal

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use fishing as needed for the conservation, development, and utiliza-

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tion of fisheries.

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

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(d) Regulations adopted under (a) of this section must, con-

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sistent with sustained yield and the provisions of AS 16.05.258,

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provide a fair and reasonable opportunity for the taking of fishery

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resources by personal use, sport, and commercial fishermen.

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(e) The Board of Fisheries shall establish criteria for the

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allocation of fishery resources among personal use, sport, and commer-

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cial fishing. The criteria may, as appropriate to particular alloca-

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tion decisions, include factors such as

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(1) the history of each personal use, sport, and commercial

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fishery;

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(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. 7. AS 16.05 is amended by adding new sections to read:

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

10 Sec. 16.05.262. SUBSISTENCE LICENSE. (a) The department shall
11 issue a subsistence license to a resident domiciled in a rural area of
12 the state who

13 (1) applies for the license on a form provided by the
14 department;

15 (2) pays an annual license fee of 25 cents; and

16 (3) presents proof that the applicant's annual family gross
17 income for the preceding calendar year was below 130 percent of the
18 official federal poverty line established by the director of the
19 federal Office of Management and Budget, as revised by the Secretary
20 of Health and Human Services under 42 U.S.C. 9847 and 9902.

21 (b) A subsistence license expires one year after the date of
22 issuance.

23 Sec. 16.05.263. LICENSE REQUIRED FOR SUBSISTENCE TAKINGS. A
24 person who takes fish or game for subsistence uses shall have in
25 possession a current, valid subsistence license that was issued under
26 AS 16.05.262 to the person or to another individual for whose benefit
27 the person is taking the fish or game.

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

29 (c) The Board of Fisheries and the Board of Game may adopt

1 regulations providing for the issuance and expiration of subsistence
2 permits for rural areas as needed for authorizing, regulating, and
3 monitoring the subsistence harvest of fish and game. The boards shall
4 adopt these regulations when the subsistence preference requires a
5 reduction in the harvest of a fish stock or game population by nonsub-
6 sistence users.

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

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

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

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

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

26 (28) "domicile" means the true and permanent home of a
27 person from which the person has no present intention of moving and to
28 which the person intends to return whenever the person is away; domi-
29 cile may be proved by presenting evidence acceptable to the boards of

1 fisheries and game;

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

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

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

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

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

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

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