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Referred: House Special Committee
on Fisheries, Resources and Finance

1 IN THE HOUSE

BY THOMPSON

2

HOUSE BILL NO. 355

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

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FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act authorizing the establishment and implementa-
tion of onboard observer programs; and providing for
an effective date."

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

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* Section 1. FINDINGS. The legislature finds that, in particular fish-
eries, observers on board fishing vessels would greatly enhance management,
primarily by facilitating information gathering, and additionally by im-
proving compliance. In fact, in those fisheries, onboard observers may be
the only practical data-gathering or enforcement mechanism. Some Alaska
fisheries include a large component of vessels, such as catcher/processors
and floating processors, that rarely or never enter Alaskan ports. These
situations are virtually impossible to monitor without the systematic
coverage of observers actually on board. The legislature therefore finds
it necessary to authorize the Board of Fisheries to establish, and the
Department of Fish and Game to implement, onboard observer programs in
particular fisheries if the board determines that it (1) is the only prac-
tical data-gathering or enforcement mechanism, (2) will not unduly disrupt
the fishery, and (3) can be conducted at a reasonable cost. The board may
require observers on board vessels registered under the laws of the state,
even if the vessels do not take fish within three miles of shore, because
the catch beyond three miles can have significant impact upon state manage-
ment considerations. A search warrant, criminal or administrative, should
not be required in the implementation of a program, since the process of
obtaining one would be so cumbersome as to defeat the purpose of the

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1 program.

2 * Sec. 2. AS 16.05.050 is amended to read:

3 Sec. 16.05.050. POWERS AND DUTIES OF COMMISSIONER. The commis-
4 sioner has, but not by way of limitation, the following powers and
5 duties:

6 (1) assist the United States Fish and Wildlife Service in
7 the enforcement of federal laws and regulations pertaining to fish and
8 game;

9 (2) through the appropriate state agency, acquire by gift,
10 purchase, or lease, or other lawful means, land, buildings, water,
11 rights-of-way, or other necessary or proper real or personal property
12 when the acquisition is in the interest of furthering an objective or
13 purpose of the department and the state;

14 (3) design and construct hatcheries, pipelines, rearing
15 ponds, fishways, and other projects beneficial for the fish and game
16 resources of the state;

17 (4) accept money from any person under conditions requiring
18 the use of the money for specific purposes in the furtherance of the
19 protection, rehabilitation, propagation, preservation, or investiga-
20 tion of the fish and game resources of the state or in settlement of
21 claims for damages to fish or game resources;

22 (5) collect, classify, and disseminate statistics, data and
23 information that, in the commissioner's discretion, will tend to
24 promote the purposes of this title except AS 16.51 and AS 16.52;

25 (6) capture, propagate, transport, buy, sell, or exchange
26 fish or game or eggs for propagating, scientific or stocking purposes;

27 (7) provide public facilities where necessary or proper to
28 facilitate the taking of fish or game, and enter into cooperative
29 agreements with any person to effect them;

1 (8) exercise administrative, budgeting, and fiscal powers;
2 (9) construct, operate, supervise, and maintain vessels
3 used by the Department of Fish and Game;
4 (10) authorize the holder of an interim-use permit under
5 AS 16.43 to engage on an experimental basis in commercial taking of a
6 fishery resource with vessel, gear, and techniques not presently
7 qualifying for licensing under this chapter in conformity with stan-
8 dards established by the Alaska Commercial Fisheries Entry Commission;
9 (11) not later than January 31 of each year, provide to the
10 commissioner of revenue the names of those fish and shellfish species
11 which the commissioner of fish and game designates as developing
12 commercial fish species for that calendar year; a fish or shellfish
13 species is a developing commercial fish species if, within a specified
14 geographical region,
15 (A) the optimum yield from the harvest of the species
16 has not been reached;
17 (B) a substantial portion of the allowable harvest of
18 the species has been allocated to fishing vessels of a foreign
19 nation; or
20 (C) a commercial harvest of the fish species has
21 recently developed;
22 (12) initiate or conduct research necessary or advisable to
23 carry out the purposes of this title except AS 16.51 and AS 16.52;
24 (13) enter into cooperative agreements with agencies of the
25 federal government, educational institutions, or other agencies or
26 organizations, when in the public interest, to carry out the purposes
27 of this title except AS 16.51 and AS 16.52;
28 (14) implement an onboard observer program authorized by the
29 Board of Fisheries under AS 16.05.251(a)(12); any implementation

- 1 (A) must be as unintrusive to vessel operations as
2 practicable;
3 (B) must make scheduling and scope of observers'
4 activities as predictable as practicable; and
5 (C) does not require criminal or administrative search
6 warrants.

7 * Sec. 3. AS 16.05.251(a) is amended to read:

8 (a) The Board of Fisheries may adopt regulations it considers
9 advisable in accordance with the Administrative Procedure Act (AS 44.-
10 62) for

11 (1) setting apart fish reserve areas, refuges and sanctu-
12 aries in the waters of the state over which it has jurisdiction,
13 subject to the approval of the legislature;

14 (2) establishing open and closed seasons and areas for the
15 taking of fish;

16 (3) setting quotas, bag limits, harvest levels, and sex and
17 size limitations on the taking of fish;

18 (4) establishing the means and methods employed in the
19 pursuit, capture and transport of fish;

20 (5) establishing marking and identification requirements
21 for means used in pursuit, capture and transport of fish;

22 (6) classifying as commercial fish, sport fish or predators
23 or other categories essential for regulatory purposes;

24 (7) watershed and habitat improvement, and management,
25 conservation, protection, use, disposal, propagation and stocking of
26 fish;

27 (8) investigating and determining the extent and effect of
28 disease, predation, and competition among fish in the state, exercis-
29 ing control measures considered necessary to the resources of the

1 state;

2 (9) prohibiting and regulating the live capture, posses-
3 sion, transport, or release of native or exotic fish or their eggs;

4 (10) establishing seasons, areas, quotas and methods of
5 harvest for aquatic plants;

6 (11) establishing the times and dates during which the
7 issuance of fishing licenses, permits and registrations and the trans-
8 fer of permits and registrations between registration areas is al-
9 lowed; however, this paragraph does not apply to permits issued or
10 transferred under AS 16.43;

11 (12) requiring, in a fishery, observers on board fishing
12 vessels, as defined in AS 16.05.475(d), that are registered under the
13 laws of the state, as defined in AS 16.05.475(c), after making a
14 written determination that an onboard observer program

15 (A) is the only practical data-gathering or enforce-
16 ment mechanism for that fishery;

17 (B) will not unduly disrupt the fishery; and

18 (C) can be conducted at a reasonable cost.

19 * Sec. 4. AS 16.05.940 is amended by adding a new paragraph to read:

20 (28) "fishery" means a specific administrative area in
21 which a specific fishery resource is commercially taken with a
22 specific type of gear; however, the Board of Fisheries may designate a
23 fishery to include more than one specific administrative area, gear
24 type, or fishery resource; for the purposes of this paragraph "gear"
25 and "type of gear" have the meaning given in AS 16.43.990.

26 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
27 10.070(c).

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