Offered: 4/21/86
Referred: Finance

Original sponsors: Thompson, Goll, Binkley, et al

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 355 (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 authorizing the establishment and implementa-
7 tion of on-board observer programs; and providing for
8 an effective date."

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

10 * Section 1. FINDINGS. (a) The legislature finds that, in particular
11 fisheries, observers on board fishing vessels would greatly enhance manage-
12 ment, primarily by facilitating information gathering, and additionally by
13 improving compliance. In fact, in those fisheries, on-board observers may
14 be the only practical data-gathering or enforcement mechanism. Some Alaska
15 fisheries include a large component of vessels, such as catcher/processors
16 and floating processors, that rarely or never enter Alaskan ports. These
17 situations are virtually impossible to monitor without the systematic
18 coverage of observers actually on board. The legislature therefore finds
19 it necessary to authorize the Board of Fisheries to establish, and the
20 Department of Fish and Game to implement, on-board observer programs in
21 particular fisheries if the board determines that it (1) is a practical
22 data-gathering or enforcement mechanism, (2) will not unduly disrupt the
23 fishery, and (3) can be conducted at a reasonable cost. The board may
24 require observers on board vessels registered under the laws of the state,
25 even if the vessels do not take fish within three miles of shore, because
26 the catch beyond three miles can have significant impact upon state manage-
27 ment considerations.

28 (b) The legislature finds that it is important to explore long-term
29 financing mechanisms that ensure a stable on-board observer program not

1 solely dependent upon state and federal appropriations. The legislature
2 believes that the program should be funded through a variety of sources.
3 The legislature also finds it critical that fishing vessels in state and
4 federal waters be subject to identical regulations, permits, and fees.
5 * Sec. 2. AS 16.05.050 is amended to read:
6 Sec. 16.05.050. POWERS AND DUTIES OF COMMISSIONER. The commis-
7 sioner has, but not by way of limitation, the following powers and
8 duties:
9 (1) assist the United States Fish and Wildlife Service in
10 the enforcement of federal laws and regulations pertaining to fish and
11 game;
12 (2) through the appropriate state agency, acquire by gift,
13 purchase, or lease, or other lawful means, land, buildings, water,
14 rights-of-way, or other necessary or proper real or personal property
15 when the acquisition is in the interest of furthering an objective or
16 purpose of the department and the state;
17 (3) design and construct hatcheries, pipelines, rearing
18 ponds, fishways, and other projects beneficial for the fish and game
19 resources of the state;
20 (4) accept money from any person under conditions requiring
21 the use of the money for specific purposes in the furtherance of the
22 protection, rehabilitation, propagation, preservation, or investiga-
23 tion of the fish and game resources of the state or in settlement of
24 claims for damages to fish or game resources;
25 (5) collect, classify, and disseminate statistics, data and
26 information that, in the commissioner's discretion, will tend to
27 promote the purposes of this title except AS 16.51 and AS 16.52;
28 (6) capture, propagate, transport, buy, sell, or exchange
29 fish or game or eggs for propagating, scientific or stocking purposes;

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

(8) exercise administrative, budgeting, and fiscal powers;

(9) construct, operate, supervise, and maintain vessels used by the Department of Fish and Game;

(10) authorize the holder of an interim-use permit under AS 16.43 to engage on an experimental basis in commercial taking of a fishery resource with vessel, gear, and techniques not presently qualifying for licensing under this chapter in conformity with standards established by the Alaska Commercial Fisheries Entry Commission;

(11) not later than January 31 of each year, provide to the commissioner of revenue the names of those fish and shellfish species which the commissioner of fish and game designates as developing commercial fish species for that calendar year; a fish or shellfish species is a developing commercial fish species if, within a specified geographical region,

(A) the optimum yield from the harvest of the species has not been reached;

(B) a substantial portion of the allowable harvest of the species has been allocated to fishing vessels of a foreign nation; or

(C) a commercial harvest of the fish species has recently developed;

(12) initiate or conduct research necessary or advisable to carry out the purposes of this title except AS 16.51 and AS 16.52;

(13) enter into cooperative agreements with agencies of the federal government, educational institutions, or other agencies or organizations, when in the public interest, to carry out the purposes

of this title except AS 16.51 and AS 16.52;

(14) implement an on-board observer program authorized by the Board of Fisheries under AS 16.05.251(a)(12); implementation

(A) must be as unintrusive to vessel operations as practicable; and

(B) must make scheduling and scope of observers' activities as predictable as practicable.

* Sec. 3. AS 16.05 is amended by adding a new section to read:

Sec. 16.05.055. ON-BOARD OBSERVER PROGRAM. (a) The commissioner may enter into appropriate contracts and agreements with agencies, such as the National Marine Fisheries Service, North Pacific Fishery Management Council, and the International Pacific Halibut Commission, designed to ensure that on-board observer programs conducted in the fisheries of the state are coordinated and consistent with each other for vessels operating in state and federal water.

(b) The master of a vessel, as a condition of participating in a fishery for which an on-board observer program is authorized by the Board of Fisheries under AS 16.05.251, shall consent in writing to the placement of an observer aboard the vessel.

* Sec. 4. AS 16.05.251(a) is amended to read:

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

(1) setting apart fish reserve areas, refuges and sanctuaries in the waters of the state over which it has jurisdiction, subject to the approval of the legislature;

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

(3) setting quotas, bag limits, harvest levels, and sex and

1 size limitations on the taking of fish;

2 (4) establishing the means and methods employed in the

3 pursuit, capture and transport of fish;

4 (5) establishing marking and identification requirements

5 for means used in pursuit, capture and transport of fish;

6 (6) classifying as commercial fish, sport fish or predators

7 or other categories essential for regulatory purposes;

8 (7) watershed and habitat improvement, and management,

9 conservation, protection, use, disposal, propagation and stocking of

10 fish;

11 (8) investigating and determining the extent and effect of

12 disease, predation, and competition among fish in the state, exercis-

13 ing control measures considered necessary to the resources of the

14 state;

15 (9) prohibiting and regulating the live capture, posses-

16 sion, transport, or release of native or exotic fish or their eggs;

17 (10) establishing seasons, areas, quotas and methods of

18 harvest for aquatic plants;

19 (11) establishing the times and dates during which the

20 issuance of fishing licenses, permits and registrations and the trans-

21 fer of permits and registrations between registration areas is al-

22 lowed; however, this paragraph does not apply to permits issued or

23 transferred under AS 16.43;

24 (12) requiring, in a fishery, observers on board fishing

25 vessels, as defined in AS 16.05.475(d), that are registered under the

26 laws of the state, as defined in AS 16.05.475(c), after making a

27 written determination that an on-board observer program

28 (A) is the only practical data-gathering or enforce-

29 ment mechanism for that fishery;

1 (B) will not unduly disrupt the fishery;

2 (C) can be conducted at a reasonable cost; and

3 (D) can be coordinated with observer programs of other

4 agencies, including the National Marine Fisheries Service, North

5 Pacific Fishery Management Council, and the International Pacific

6 Halibut Commission.

7 * Sec. 5. AS 16.05.940 is amended by adding a new paragraph to read:

8 (28) "fishery" means a specific administrative area in

9 which a specific fishery resource is commercially taken with a speci-

10 fic type of gear; however, the Board of Fisheries may designate a

11 fishery to include more than one specific administrative area, gear

12 type, or fishery resource; in this paragraph "gear" and "type of gear"

13 have the meanings given in AS 16.43.990.

14 * Sec. 6. In order to further the goals set out in sec. 1(b) of this

15 Act, the commissioner of fish and game shall study funding and jurisdic-

16 tional issues related to the on-board observer programs, and submit a

17 report on the matter to the legislature not later than January 31, 1987.

18 * Sec. 7. This Act takes effect immediately in accordance with AS 01.-

19 10.070(c).