

Introduced: 1/22/85  
Referred: Resources and  
Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 79

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act authorizing the Board of Fisheries to estab-  
7 lish onboard observer programs; and providing for an  
8 effective date."

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

10 \* Section 1. FINDINGS. The legislature finds that, in particular fish-  
11 eries, observers on board fishing vessels would greatly enhance management,  
12 primarily by facilitating information gathering, and additionally by im-  
13 proving compliance. In fact, in those fisheries, onboard observers may be  
14 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, which 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, onboard observer programs in  
21 particular fisheries if the board determines that it (1) is the only prac-  
22 tical data gathering or enforcement mechanism, (2) will not unduly disrupt  
23 the 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. No search warrant, criminal or administrative, should  
28 be required in the implementation of a program, since the process of ob-  
29 taining one would be so cumbersome as to defeat the purpose of the program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (13) enter into cooperative agreements with agencies of the  
24 federal government, educational institutions, or other agencies or  
25 organizations, when in the public interest, to carry out the purposes  
26 of this title except AS 16.51 and AS 16.52;

27 (14) implement an onboard observer program authorized by the  
28 Board of Fisheries under AS 16.05.251(a)(12); any implementation

29 (A) must be as unintrusive to vessel operations as

1           practicable;

2                   (B) must make scheduling and scope of observers'  
3           activities as predictable as practicable;

4                   (C) does not require criminal or administrative search  
5           warrants; and

6                   (D) may include a requirement that the operators of  
7           all vessels registered under the laws of the state that partici-  
8           pate in that fishery pay a fee specified by the commissioner,  
9           which may not exceed the costs of operating the onboard observer  
10           program.

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

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

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

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

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

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

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

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

28                   (7) watershed and habitat improvement, and management,  
29           conservation, protection, use, disposal, propagation and stocking of

1 fish;

2 (8) investigating and determining the extent and effect of  
3 disease, predation, and competition among fish in the state, exercis-  
4 ing control measures considered necessary to the resources of the  
5 state;

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

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

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

15 (12) requiring, in any fishery, observers on board fishing  
16 vessels, as defined in AS 16.05.475(d), which are registered under the  
17 laws of the state, as defined in AS 16.05.475(c), upon a written  
18 determination that an onboard observer program

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

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

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

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

24 (28) "fishery" means the commercial taking of a specific  
25 fishery resource in a specific administrative area with a specific  
26 type of gear; however, the Board of Fisheries may designate a fishery  
27 to include more than one specific administrative area, gear type, or  
28 fishery resource; for the purposes of this paragraph "gear" and "type  
29 of gear" are defined as in AS 16.43.990.

1 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
2 10.070(c).  
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