

Introduced: 5/10/85
Referred: State Affairs, Resources
Judiciary and Finance

1 IN THE SENATE

BY ABOOD

2

SENATE BILL NO. 320

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to fishing and hunting."

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

8 * Section 1. AS 16.05.251(b) is amended to read:

9 (b) The Board of Fisheries may [SHALL] adopt regulations in
10 accordance with the Administrative Procedure Act (AS 44.62) providing
11 for the issuance of and establishing fees for subsistence fishing
12 licenses and permitting the taking of fish for subsistence uses unless
13 the board determines, in accordance with the Administrative Procedure
14 Act, that adoption of the regulations will jeopardize or interfere
15 with the maintenance of fish stocks on a sustained-yield basis. When-
16 ever it is necessary to restrict the taking of fish to assure the
17 maintenance of fish stocks on a sustained-yield basis, or to assure
18 the continuation of subsistence uses of such resources, subsistence
19 use shall be the priority use. Only those subsistence uses of fish
20 specified by statute or by regulations of the board are authorized.
21 The board may, based on historical levels of subsistence use, deter-
22 mine allocations and regulate seasons, catch limits, methods and means
23 of taking, harvestable quotas, and other aspects of subsistence fish-
24 ing. A catch limit established under this subsection applies to all
25 fish taken for subsistence uses by a subsistence license holder and
26 all dependents listed on the holder's license [IF FURTHER RESTRICTION
27 IS NECESSARY, THE BOARD SHALL ESTABLISH RESTRICTIONS AND LIMITATIONS
28 ON AND PRIORITIES FOR THESE CONSUMPTIVE USES ON THE BASIS OF THE
29 FOLLOWING CRITERIA:

- 1 (1) CUSTOMARY AND DIRECT DEPENDENCE UPON THE RESOURCE AS
2 THE MAINSTAY OF ONE'S LIVELIHOOD;
3 (2) LOCAL RESIDENCY; AND
4 (3) AVAILABILITY OF ALTERNATIVE RESOURCES].

5 * Sec. 2. AS 16.05.255(b) is amended to read:

6 (b) The Board of Game may [SHALL] adopt regulations in accordance
7 with the Administrative Procedure Act (AS 44.62) providing for the
8 issuance of and establishing fees for subsistence hunting licenses and
9 permitting the taking of game for subsistence uses unless the board
10 determines, in accordance with the Administrative Procedure Act, that
11 adoption of the regulations will jeopardize or interfere with the
12 maintenance of game resources on a sustained-yield basis. Whenever it
13 is necessary to restrict the taking of game to assure the maintenance
14 of game resources on a sustained-yield basis, or to assure the contin-
15 uation of subsistence uses of such resources, subsistence use shall be
16 the priority use. Only those subsistence uses of game specified by
17 statute or by regulations of the board are authorized. The board may,
18 based on historical levels of subsistence use, determine allocations
19 and regulate seasons, bag limits, methods and means of taking, har-
20 vestable quotas, and other aspects of subsistence hunting. A bag
21 limit established under this subsection applies to all game taken for
22 subsistence uses by a subsistence license holder and all dependents
23 listed on the holder's license [IF FURTHER RESTRICTION IS NECESSARY,
24 THE BOARD SHALL ESTABLISH RESTRICTIONS AND LIMITATIONS ON AND PRIORI-
25 TIES FOR THESE CONSUMPTIVE USES ON THE BASIS OF THE FOLLOWING CRITE-
26 RIA:

- 27 (1) CUSTOMARY AND DIRECT DEPENDENCE UPON THE RESOURCE AS THE
28 MAINSTAY OF ONE'S LIVELIHOOD;
29 (2) LOCAL RESIDENCY; AND

1 (3) AVAILABILITY OF ALTERNATIVE RESOURCES].

2 * Sec. 3. AS 16.05.940(22) is amended to read:

3 (22) "subsistence fishing" means the taking of, fishing for,
4 or possession of fish, shellfish, or other fisheries resources by a
5 resident for subsistence uses with gill net, seine, fish wheel, long
6 line, hook and line held in the hand, or hook and line with the line
7 attached to a pole or rod that is held in the hand or closely attend-
8 ed, or other means defined by the Board of Fisheries;

9 * Sec. 4. AS 16.05 is amended by adding new sections to read:

10 Sec. 16.05.258. SUBSISTENCE FISHING AND HUNTING LICENSES. (a)
11 The Board of Fisheries and the Board of Game shall provide for the
12 issuance of subsistence fishing licenses, subsistence hunting li-
13 censes, and combination subsistence fishing and hunting licenses.

14 (b) An applicant for a subsistence license

15 (1) must be a resident 16 years of age or older;

16 (2) must claim as dependants all persons

17 (A) whose primary residence is in the applicant's
18 household; or

19 (B) who consume as food, or during the period for
20 which the subsistence license is to be issued are expected to
21 consume as food, fish or game taken for subsistence uses by the
22 applicant;

23 (3) may not be claimed as a dependent by another applicant;

24 (4) must prove to the satisfaction of the department that

25 (A) a minimum percentage of the diet of the applicant
26 and that of all persons to be listed as dependents on the li-
27 cense, as established by the department, consists of fish and
28 game taken for subsistence uses by the applicant; and

29 (B) due to one or more of the following factors, the

1 applicant and dependents claimed by the applicant are unable to
2 obtain alternative sustenance:

3 (i) remote nature of the applicant's permanent
4 residence;

5 (ii) lack of adequate transportation;

6 (iii) physical or mental disabilities;

7 (iv) lack of a reasonable means of procurement;

8 and

9 (5) shall notify all persons claimed as dependents in the
10 application that they are ineligible to apply for a subsistence li-
11 cense.

12 (c) If further restriction of the taking of fish or game is
13 necessary to assure the maintenance of a fish stock or a game popula-
14 tion on a sustained-yield basis, the department may require that an
15 applicant for a subsistence license may not have an annual gross
16 income that exceeds the maximum income established jointly by the
17 Board of Fisheries and the Board of Game under (d) of this section.

18 (d) The Board of Fisheries and the Board of Game jointly shall
19 establish gross annual income limits for applicants for subsistence
20 licenses. The boards shall set the lowest income limit for applicants
21 whose primary residences are in a community or area with the lowest
22 cost of living in the state. The department shall adjust the income
23 limit for applicants from other communities or areas in accordance
24 with the higher cost of living in those communities or areas.

25 (e) An application shall be submitted on a form provided by the
26 department.

27 (f) A person who holds a subsistence fishing license or a com-
28 bination subsistence license, or a person listed on the subsistence
29 license as a dependent, may not, while the subsistence license is in

1 effect, hold a license or permit for sport or commercial fishing. A
2 person who holds a subsistence hunting license or a combination sub-
3 sistence license, or a person listed on the subsistence license as a
4 dependent, may not, while the subsistence license is in effect, hold a
5 license or permit for sport hunting or big game guiding.

6 (g) A person may not engage in subsistence fishing or hunting
7 unless the person

8 (1) has an appropriate subsistence license properly issued
9 and validated and in actual possession; or

10 (2) is listed on a subsistence license as a dependent of
11 the license holder and is fishing or hunting for subsistence uses with
12 the subsistence license holder.

13 (h) A person to whom a subsistence license has been issued may
14 not alter, change, loan, or transfer the license. A person may not
15 use a subsistence license that has been issued to another person.

16 Sec. 16.05.259. EXPIRATION, VALIDATION, AND REVOCATION OF SUB-
17 SISTENCE LICENSES. (a) A subsistence fishing or subsistence hunting
18 license expires on the fifth anniversary of the date of issuance.

19 (b) A subsistence fishing or subsistence hunting license must be
20 validated and signed annually by a department employee or an agent
21 designated by the commissioner. The employee or agent shall verify
22 that the applicant is in compliance with the requirements of AS 16.-
23 05.258 and has not been convicted of a violation of a fish or game
24 statute or regulation since the issuance or last validation of the
25 license.

26 (c) The department shall revoke the subsistence fishing and
27 subsistence hunting licenses of a person who, during the period for
28 which either subsistence license was issued to the person, has been
29 convicted of a violation of

- 1 (1) a fish or game statute or regulation;
2 (2) AS 11.56.210 with regard to an application for a sub-
3 sistence license; or
4 (3) AS 16.05.258(f) or (h).

5 (d) In addition to other penalties provided by law, upon a first
6 conviction as described in (c) of this section or a first conviction
7 of AS 16.05.258(g), the person is ineligible to apply for a subsis-
8 tence license for a period of one year from the date of the convic-
9 tion. Upon a second conviction, the person is ineligible to apply for
10 a subsistence license for a period of three years from the date of the
11 conviction. Upon a third conviction, the person is permanently ineli-
12 gible to apply for a subsistence license, unless permitted after
13 petitioning jointly the Board of Fisheries and the Board of Game.

14 * Sec. 5. AS 16.05 is amended by adding a new section to article 2 to
15 read:

16 Sec. 16.05.325. PENALTIES. (a) A person who violates AS 16.-
17 05.258(f), (g), or (h) is guilty of a misdemeanor and upon conviction
18 is punishable by a fine of not more than \$1,000, or by imprisonment
19 for not more than six months, or by both.

20 (b) The proceeds of all fines shall be transmitted by the court
21 to the proper state officer for deposit in the general fund of the
22 state.

23 * Sec. 6. AS 16.05 is amended by adding a new section to article 3 to
24 read:

25 Sec. 16.05.435. DEFINITION. For purposes of AS 16.05.330 -
26 16.05.430, "hunting" does not include hunting for subsistence uses.