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1 IN THE HOUSE

2 HOUSE BILL NO. 108

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to aquatic farming; and providing  
7 for an effective date."

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

9 \* Section 1. FINDINGS AND POLICY. (a) The legislature finds that

10 (1) aquatic farming in the state would provide a consistent  
11 source of quality food, provide new jobs, increase state exports, create  
12 new commercial fishing and other business opportunities, and increase the  
13 stability and diversity of the state's economy;

14 (2) many areas of the state are ecologically suited for aquatic  
15 farming development;

16 (3) aquatic farming would complement and enhance the variety and  
17 quality of Alaska seafood and aquatic products, and thereby benefit the  
18 state's economy; and

19 (4) the principal responsibility for development of aquatic  
20 farming in the state rests with the private sector.

21 (b) It is the policy of the state to encourage the establishment and  
22 growth of an aquatic farming industry and to assist in the planning and  
23 orderly development of the industry.

24 \* Sec. 2. AS 08 is amended by adding a new chapter to read:

25 CHAPTER 06. AQUATIC FARMING.

26 Sec. 08.06.010. AQUATIC FARM AND HATCHERY PERMITS. (a) A

27 person may not, without a permit from the commissioner, construct or  
28 operate

29 (1) an aquatic farm; or

1 (2) a hatchery for the purpose of supplying aquatic plants  
2 or aquatic animals to an aquatic farm.

3 (b) A permit issued under this section authorizes the permittee,  
4 subject to the conditions of this chapter, to acquire, purchase, offer  
5 to purchase, transfer, possess, sell, and offer to sell stock and  
6 aquatic farm products that are used or reared at the hatchery or  
7 aquatic farm.

8 (c) The commissioner, after consulting with the commissioner of  
9 fish and game and the commissioner of environmental conservation, may  
10 attach conditions to a permit issued under this section that are  
11 necessary to protect the public health or natural stock.

12 Sec. 08.06.020. PERMIT APPLICATION AND RENEWAL. (a) An  
13 applicant for an aquatic farming or hatchery permit required under  
14 AS 08.06.010 shall apply on a form prescribed by the commissioner.

15 (b) An application for renewal must be accompanied by fees  
16 required under AS 08.01.065 and a report of a health inspection of the  
17 farm or hatchery to be permitted. The inspection shall be conducted  
18 by the Department of Fish and Game or by a fish disease diagnostician  
19 approved by the Department of Fish and Game. The inspection shall be  
20 conducted not more than 30 days before the application is submitted to  
21 the department.

22 Sec. 08.06.030. AQUATIC FARM STOCK ACQUISITION PERMITS. (a) A  
23 person may not acquire aquatic plants or aquatic animals from wild  
24 stock in the state for the purpose of supplying stock to an aquatic  
25 farm or hatchery required to have a permit under AS 08.06.010 unless  
26 the person holds an acquisition permit from the commissioner of fish  
27 and game.

28 (b) An acquisition permit authorizes the permit holder to ac-  
29 quire the species and quantities of wild stock in the state specified

1 in the permit for the purpose of supplying stock to an aquatic farm or  
2 hatchery required to have a permit under AS 08.06.010.

3 (c) The commissioner of fish and game, in consultation with the  
4 commissioner of commerce and economic development, shall specify the  
5 expiration date of an acquisition permit and may attach conditions to  
6 an acquisition permit, including conditions relating to the time,  
7 place, and manner of harvest. Size, gear, place, time, licensing, and  
8 other limitations applicable to sport, commercial, or subsistence  
9 harvest of aquatic plants and aquatic animals do not apply to a har-  
10 vest with a permit issued under this section.

11 (d) The commissioner of fish and game shall forward a copy of  
12 each permit application under this section to the commissioner of  
13 commerce and economic development. The commissioner of fish and game  
14 shall issue or deny a permit within 30 days after receiving an appli-  
15 cation.

16 (e) The commissioner of fish and game may deny or restrict a  
17 permit under this section if the commissioner finds that the proposed  
18 harvest will substantially impair sustained yield of the species. The  
19 decision of the commissioner of fish and game must contain the factual  
20 basis for the findings. If the substantial impairment could not have  
21 been reasonably foreseen and avoided through available management  
22 options, the commissioner of fish and game shall explain why in the  
23 decision.

24 (f) Except as provided in (e) of this section, the commissioner  
25 of fish and game shall issue a permit if

26 (1) wild stock is needed for initial farms or hatchery  
27 stock;

28 (2) there are technological limitations on the propagation  
29 of cultured stock for the species sought;

1 in the permit for the purpose of supplying stock to an aquatic farm or  
2 hatchery required to have a permit under AS 08.06.010.

3 (c) The commissioner of fish and game, in consultation with the  
4 commissioner of commerce and economic development, shall specify the  
5 expiration date of an acquisition permit and may attach conditions to  
6 an acquisition permit, including conditions relating to the time,  
7 place, and manner of harvest. Size, gear, place, time, licensing, and  
8 other limitations applicable to sport, commercial, or subsistence  
9 harvest of aquatic plants and aquatic animals do not apply to a har-  
10 vest with a permit issued under this section.

11 (d) The commissioner of fish and game shall forward a copy of  
12 each permit application under this section to the commissioner of  
13 commerce and economic development. The commissioner of fish and game  
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15 cation.

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17 permit under this section if the commissioner finds that the proposed  
18 harvest will substantially impair sustained yield of the species. The  
19 decision of the commissioner of fish and game must contain the factual  
20 basis for the findings. If the substantial impairment could not have  
21 been reasonably foreseen and avoided through available management  
22 options, the commissioner of fish and game shall explain why in the  
23 decision.

24 (f) Except as provided in (e) of this section, the commissioner  
25 of fish and game shall issue a permit if

26 (1) wild stock is needed for initial farms or hatchery  
27 stock;

28 (2) there are technological limitations on the propagation  
29 of cultured stock for the species sought;

1 (3) wild stock is needed to maintain the gene pool of a  
2 hatchery or aquatic farm; or

3 (4) commercial harvest of the species sought is not limited  
4 under AS 16.43 and is not fully developed.

5 (g) Aquatic plants and aquatic animals acquired under a permit  
6 issued under this section become the property of the permit holder and  
7 are no longer a public or common resource.

8 (h) The commissioner of fish and game shall make stock available  
9 for aquatic farming purposes.

10 Sec. 08.06.040. IMPORTATION OF AQUATIC PLANTS OR AQUATIC ANIMALS  
11 FOR STOCK. A person may not import into the state an aquatic plant or  
12 aquatic animal for the purpose of supplying stock to an aquatic farm  
13 or hatchery unless authorized by the commissioner of fish and game or  
14 by a regulation of the Board of Fisheries.

15 Sec. 08.06.050. LIMITATION ON SALE, TRANSFER OF STOCK, AND  
16 PRODUCTS. (a) A private hatchery required to have a permit under  
17 this chapter may sell or transfer stock from the hatchery only to an  
18 aquatic farm or other hatchery that has a permit issued under this  
19 chapter.

20 (b) Stock may not be transferred to or from an aquatic farm or  
21 hatchery required to have a permit under this chapter without prior  
22 notice of the transfer to the commissioner. A notice of transfer  
23 shall be submitted at least 30 days before the proposed date of trans-  
24 fer.

25 (c) A notice of transfer must be accompanied by a report of a  
26 health inspection of the stock. The inspection shall be conducted by  
27 the Department of Fish and Game or by a disease diagnostician approved  
28 by the Department of Fish and Game.

29 (d) The Department of Fish and Game may restrict or disapprove a

1 transfer of stock if it finds that the transfer

2 (1) would present a substantial risk of spreading disease;  
3 or

4 (2) in the case of a transfer from a hatchery for which a  
5 permit has been issued under AS 16.10.400, would significantly impair  
6 the production needs of the hatchery.

7 (e) A person may not sell, transfer, or offer to sell or trans-  
8 fer, or knowingly purchase or receive, an aquatic farm product grown  
9 or propagated in the state unless the product was grown or propagated  
10 on a farm with a permit issued under this chapter. The permit must be  
11 in effect at the time of the sale, transfer, purchase, receipt, or  
12 offer.

13 Sec. 08.06.060. RELEASE OF CERTAIN FISH PROHIBITED. Salmon and  
14 trout may not intentionally be released into the public water of the  
15 state from a hatchery or aquatic farm required to have a permit under  
16 this chapter without prior authorization from the Department of Fish  
17 and Game.

18 Sec. 08.06.070. DISEASE CONTROL AND INSPECTION. (a) The De-  
19 partment of Fish and Game may order the quarantine or the destruction  
20 and disposal of diseased hatchery stock or of aquatic farm products  
21 when necessary to protect wild stock. A holder of a permit issued  
22 under this chapter shall report to the Department of Fish and Game an  
23 outbreak or incidence of disease among stock or aquatic farm products  
24 of the permit holder.

25 (b) A holder of a permit issued under AS 08.06.010 shall allow  
26 the Department of Fish and Game to inspect the permit holder's farm or  
27 hatchery during operating hours and upon reasonable notice. The cost  
28 of inspection shall be borne by the Department of Fish and Game.

29 (c) The Department of Fish and Game shall develop a disease

1 management and control program for aquatic farms and hatcheries.

2 (d) The Department of Fish and Game may enter into an agreement  
3 with a state or federal agency or a private provider to provide ser-  
4 vices under (b) and (c) of this section, or inspections under AS 08.-  
5 06.020(b).

6 Sec. 08.06.080. REGULATIONS. The commissioner may adopt regu-  
7 lations necessary to implement this chapter.

8 Sec. 08.06.090. PENALTY. A person who violates a provision of  
9 this chapter, a regulation adopted under this chapter, or a term or  
10 condition of a permit issued under this chapter, is guilty of a class  
11 B misdemeanor.

12 Sec. 08.06.900. DEFINITIONS. In this chapter

13 (1) "aquatic farm" means a facility that grows, farms, or  
14 cultivates aquatic farm products in captivity or under positive  
15 control;

16 (2) "aquatic farm product" includes an aquatic plant or  
17 aquatic animal, or fish parts that are propagated, farmed, or cul-  
18 tivated in an aquatic farm and sold or offered for consumption;

19 (3) "commissioner" means the commissioner of commerce and  
20 economic development;

21 (4) "hatchery" means a facility for the artificial incu-  
22 bation of stock, including rearing of juvenile aquatic plants or  
23 aquatic animals;

24 (5) "positive control" means, for fish and other mobile  
25 species, enclosed within a natural or artificial escape-proof barrier;  
26 for species with limited or no mobility, such as a bivalve or an  
27 aquatic plant, "positive control" also includes managed cultivation in  
28 unenclosed water;

29 (6) "stock" means live aquatic plants and aquatic animals

1 acquired, collected, possessed, or intended for use by a hatchery or  
2 aquatic farm for the purpose of further growth or propagation.

3 \* Sec. 3. AS 03.05.020(a) is amended to read:

4 (a) The commissioner shall

5 (1) require routine inspection of food animals, fish,  
6 poultry and derivative food products, to protect the public against  
7 fraud, disease and spoilage, and in this connection adopt uniform  
8 regulations establishing standards of identity and composition of  
9 these food products and minimum standards of sanitation and handling  
10 methods as to all phases of slaughtering, processing, storing, trans-  
11 porting, displaying and selling of these food products;

12 (2) issue orders or cause the orders to be issued by an  
13 authorized veterinarian prohibiting transportation and sale of food  
14 products intended for human consumption which do not meet the minimum  
15 requirements established under (1) of this subsection, and limiting  
16 their use and disposal in conformity with protection of the public;

17 (3) adopt a schedule of fees or charges, and credit pro-  
18 visions, for services rendered by state veterinarians to farmers and  
19 others at their request in caring for livestock and poultry, and all  
20 the fees shall be transmitted to the commissioner for deposit in the  
21 state treasury;

22 (4) designate points of entry for admission of livestock or  
23 poultry into the state, and arrange inspection at those points with or  
24 without collaboration and assistance of the federal government, and  
25 bar entry of stock or poultry not shipped under a valid permit or not  
26 free from contagious or infectious disease;

27 (5) adopt, repeal, and amend regulations consistent with  
28 existing law for

29 (A) the labeling and grading of milk and milk products

1 and standards of cleanliness and sanitation, to at least the  
2 minimum of current recommendations of the United States Public  
3 Health Service, for the operation of dairies selling, or offering  
4 for sale, milk or milk products;

5 (B) the production and sale of ice cream and allied  
6 frozen desserts;

7 (C) the production and sale of imitation milk and  
8 imitation milk products;

9 (6) monitor aquatic farms and hatcheries that hold permits  
10 under AS 08.06.010 for the possible presence of paralytic shellfish  
11 poisoning.

12 \* Sec. 4. AS 08.01.010 is amended by adding a new paragraph to read:

13 (27) regulation of aquatic farms and hatcheries under  
14 AS 08.06.

15 \* Sec. 5. AS 16.05.251 is amended by adding a new subsection to read:

16 (f) Except as expressly provided in AS 08.06.040, the Board of  
17 Fisheries may not adopt regulations or take action regarding the  
18 issuance, denial, or conditioning of a permit under AS 08.06, the  
19 construction or operation of a farm or hatchery required to have a  
20 permit under AS 08.06.010, or a harvest with a permit issued under  
21 AS 08.06.030. Regulations or orders adopted by the Board of Fisheries  
22 under this section do not apply to a harvest with a permit issued  
23 under AS 08.06.030.

24 \* Sec. 6. AS 16.05.330(a) is amended to read:

25 (a) Except as otherwise permitted in this chapter, a person may  
26 not engage in sport fishing, including the taking of razor clams; in  
27 hunting, trapping, or fur dealing; in the farming of [FISH,] fur [,]  
28 or game; or in taxidermy, without having the appropriate license or  
29 tag in actual possession.

1 \* Sec. 7. AS 16.05.340(a)(14) is amended to read:  
2 (14) [FISH OR] game farming biennial licenses.....200  
3 \* Sec. 8. AS 16.05.920(a) is amended to read:  
4 (a) Unless permitted by AS 16.05 - AS 16.40 or AS 08.06, or by  
5 regulation adopted under AS 16.05 - AS 16.40 or AS 08.06, a person may  
6 not take, possess, transport, sell, offer to sell, purchase, or offer  
7 to purchase fish, game, or marine aquatic plants, or any part of fish,  
8 game, or aquatic plants, or a nest or egg of fish or game.  
9 \* Sec. 9. AS 16.05.930 is amended by adding a new subsection to read:  
10 (g) AS 16.05.330 - 16.05.720 do not apply to an activity au-  
11 thorized by a permit issued under AS 08.06.010 or 08.06.030, or to a  
12 person or vessel employed in an activity authorized by a permit issued  
13 under AS 08.06.010 or 08.06.030.  
14 \* Sec. 10. AS 16.05.940(14) is amended to read:  
15 (14) "[FISH OR] game farming" means the business of prop-  
16 agating, breeding, raising, or producing [FISH OR] game in captivity  
17 for the purpose of marketing the [FISH OR] game or game [THEIR] prod-  
18 ucts, and "captivity" means having the [FISH OR] game under positive  
19 control, as in a pen [, POND,] or an area of land that [OR WATER  
20 WHICH] is completely enclosed by a generally escape-proof barrier;  
21 \* Sec. 11. AS 16.10 is amended by adding a new section to read:  
22 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 - 16.10.267 do not  
23 apply to the purchase or sale of aquatic farm products from a holder  
24 of a permit issued under AS 08.06.010 or stock from a holder of a  
25 permit issued under AS 08.06.030.  
26 \* Sec. 12. AS 16.10.380(b) is amended to read:  
27 (b) In this section "user group" includes, but is not limited  
28 to, sport fishermen, processors, commercial fishermen, aquatic farm-  
29 ers, subsistence fishermen, and representatives of local communities.

1 \* Sec. 13. AS 16.10.400 is amended by adding a new subsection to read:

2 (h) AS 16.10.400 - 16.10.475 do not apply to the construction or  
3 operation of a private hatchery that has a permit issued under AS 08.-  
4 06.010.

5 \* Sec. 14. AS 16.10.420 is amended to read:

6 Sec. 16.10.420. CONDITIONS OF A PERMIT. The department  
7 shall require, in a permit issued to a hatchery operator, that

8 (1) salmon eggs procured by the hatchery must be from the  
9 department or a source approved by the department;

10 (2) no salmon eggs or resulting fry be placed in waters of  
11 the state other than those specifically designated in the permit;

12 (3) no salmon eggs or resulting fry, sold to a permit  
13 holder by the state or by another party approved by the department,  
14 may be resold or otherwise transferred to another person, unless that  
15 person holds a permit issued under AS 08.06.010;

16 (4) no salmon be released by the hatchery before department  
17 approval, and, for purposes of pathological examination and approval,  
18 the department shall be notified of the proposed release of salmon at  
19 least 15 days before the date of their proposed release by the hatch-  
20 ery;

21 (5) diseased salmon be destroyed in a specific manner and  
22 place designated by the department;

23 (6) adult salmon be harvested by hatchery operators only at  
24 specific locations as designated by the department;

25 (7) surplus eggs from salmon returning to the hatchery be  
26 made available for sale first to the department and then, after in-  
27 spection and approval by the department, to operators of other hatch-  
28 eries authorized by permit to operate under AS 16.10.400 - 16.10.470,  
29 or AS 08.06.010;

1 (8) if surplus salmon eggs are sold by a permit holder to  
2 another permit holder, a copy of the sales transaction be provided to  
3 the department;

4 (9) [REPEALED

5 (10)] a hatchery be located in an area where a reasonable  
6 segregation from natural stocks occurs, but, when feasible, in an area  
7 where returning hatchery fish will pass through traditional salmon  
8 fisheries.

9 \* Sec. 15. AS 16.10.450 is amended to read:

10 Sec. 16.10.450. SALE OF SALMON AND SALMON EGGS BY HATCHERY. A  
11 hatchery operator who sells salmon returning from the natural water  
12 [WATERS] of the state, or sells salmon eggs to another hatchery op-  
13 erating under AS 16.10.400 - 16.10.470 or with a permit issued under  
14 AS 08.06.010, after utilizing the funds for reasonable operating  
15 costs, including debt retirement, expanding its facilities, salmon  
16 rehabilitation projects, fisheries research, or for costs of operating  
17 the qualified regional association for the area in which the hatchery  
18 is located, shall expend the remaining funds on other fisheries activ-  
19 ities of the qualified regional association. Fish returning to hatch-  
20 eries and sold for human consumption must [SHALL] be of comparable  
21 quality to fish harvested by commercial fisheries in the area, and  
22 shall be sold at prices commensurate with the current market.

23 \* Sec. 16. AS 16.43.140 is amended by adding a new subsection to read:

24 (d) This chapter does not apply to activities authorized by a  
25 permit issued under AS 08.06.010 or 08.06.030.

26 \* Sec. 17. AS 16.51.180(5) is amended to read:

27 (5) "seafood" means finfish, shellfish, and fish by-prod-  
28 ucts, including but not limited to salmon, halibut, herring, flounder,  
29 crab, clam, cod, shrimp, and pollock, but does not include aquatic

1: farm products as defined in AS 08.06.900;

2 \* Sec. 18. This Act takes effect immediately under AS 01.10.070(c).