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Cotten, et al.

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2

CS FOR HOUSE BILL NO. 108 (L&C)

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;

19 (4) development of mariculture in the state would strengthen the
20 competitiveness of Alaska seafood in the world marketplace by broadening
21 the diversity of products and providing year-round supplies of premium
22 quality seafood; and

23 (5) the principal responsibility for development of aquatic
24 farming in the state rests with the private sector.

25 (b) It is the policy of the state

26 (1) to encourage the establishment and growth of an aquatic
27 farming industry in the state;

28 (2) to assist in the planning and orderly development of the
29 industry;

1 (3) that the industry be developed in a manner consistent with
2 the protection and enhancement of traditional high value industries and
3 with protection of the state's natural resources; and

4 (4) that aquatic farming be developed in a manner that assures
5 full participation and full benefits to the people of the state.

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

7 CHAPTER 06. AQUATIC FARMING.

8 Sec. 08.06.010. AQUATIC FARM AND HATCHERY PERMITS. (a) A
9 person may not, without a permit from the commissioner, construct or
10 operate

11 (1) an aquatic farm; or

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

14 (b) A permit issued under this section authorizes the permittee,
15 subject to the conditions of this chapter, to acquire, purchase, offer
16 to purchase, transfer, possess, sell, and offer to sell stock and
17 aquatic farm products that are used or reared at the hatchery or
18 aquatic farm.

19 (c) The commissioner, after consulting with the commissioner of
20 fish and game and the commissioner of environmental conservation, may
21 attach conditions to a permit issued under this section that are
22 necessary to protect the public health or wild stock.

23 Sec. 08.06.020. PERMIT APPLICATION AND RENEWAL. (a) An appli-
24 cant for an aquatic farming or hatchery permit required under AS 08.-
25 06.010 shall apply on a form prescribed by the commissioner.

26 (b) A permit issued under this section expires one year after
27 the date of issue.

28 (c) An application for renewal must be accompanied by fees
29 required under AS 08.01.065 and a report of a health inspection of the

1 farm or hatchery to be permitted. The inspection shall be conducted
2 by the Department of Fish and Game or by a fish disease diagnostician
3 approved by the Department of Fish and Game. The inspection shall be
4 conducted not more than 30 days before the application is submitted to
5 the department.

6 Sec. 08.06.030. AQUATIC FARM STOCK ACQUISITION PERMITS. (a) A
7 person may not acquire aquatic plants or aquatic animals from wild
8 stock in the state for the purpose of supplying stock to an aquatic
9 farm or hatchery required to have a permit under AS 08.06.010 unless
10 the person holds an acquisition permit from the commissioner of fish
11 and game.

12 (b) An acquisition permit authorizes the permit holder to ac-
13 quire the species and quantities of wild stock in the state specified
14 in the permit for the purpose of supplying stock to an aquatic farm or
15 hatchery required to have a permit under AS 08.06.010.

16 (c) The commissioner of fish and game, in consultation with the
17 commissioner of commerce and economic development, shall specify the
18 expiration date of an acquisition permit and may attach conditions to
19 an acquisition permit, including conditions relating to the time,
20 place, and manner of harvest. Size, gear, place, time, licensing, and
21 other limitations applicable to sport, commercial, or subsistence
22 harvest of aquatic plants and aquatic animals do not apply to a har-
23 vest with a permit issued under this section.

24 (d) The commissioner of fish and game shall forward a copy of
25 each permit application under this section to the commissioner of
26 commerce and economic development. The commissioner of fish and game
27 shall issue or deny a permit within 30 days after receiving an appli-
28 cation.

29 (e) The commissioner of fish and game may deny or restrict a

1 permit under this section if the commissioner finds that the proposed
2 harvest will substantially impair sustained yield of the species. The
3 decision of the commissioner of fish and game must contain the factual
4 basis for the findings. If the substantial impairment could not have
5 been reasonably foreseen and avoided through available management
6 options, the commissioner of fish and game shall explain why in the
7 decision.

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

10 (1) wild stock is needed for initial farms or hatchery
11 stock;

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

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

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

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

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

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

28 Sec. 08.06.050. LIMITATION ON SALE, TRANSFER OF STOCK, AND
29 PRODUCTS. (a) A private hatchery required to have a permit under

1 AS 08.06.010 may sell or transfer stock from the hatchery only to an
2 aquatic farm or other hatchery that has a permit issued under AS 08.-
3 06.010.

4 (b) Stock may not be transferred to or from an aquatic farm or
5 hatchery required to have a permit under AS 08.06.010 without prior
6 notice of the transfer to the commissioner. A notice of transfer
7 shall be submitted at least 30 days before the proposed date of trans-
8 fer.

9 (c) A notice of transfer must be accompanied by a report of a
10 health inspection of the stock. The inspection shall be conducted by
11 the Department of Fish and Game or by a disease diagnostician approved
12 by the Department of Fish and Game.

13 (d) The Department of Fish and Game may restrict or disapprove a
14 transfer of stock if it finds that the transfer

15 (1) would present a substantial risk of spreading disease;
16 or

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

20 (e) A person may not sell, transfer, or offer to sell or trans-
21 fer, or knowingly purchase or receive, an aquatic farm product grown
22 or propagated in the state unless the product was grown or propagated
23 on a farm with a permit issued under AS 08.06.010. The permit must be
24 in effect at the time of the sale, transfer, purchase, receipt, or
25 offer.

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

1 and Game.

2 Sec. 08.06.070. DISEASE CONTROL AND INSPECTION. (a) The De-
3 partment of Fish and Game may order the quarantine or the destruction
4 and disposal of diseased hatchery stock or of aquatic farm products
5 when necessary to protect wild stock. A holder of a permit issued
6 under this chapter shall report to the Department of Fish and Game an
7 outbreak or incidence of disease among stock or aquatic farm products
8 of the permit holder.

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

13 (c) The Department of Fish and Game shall develop a disease
14 management and control program for aquatic farms and hatcheries.

15 (d) The Department of Fish and Game may enter into an agreement
16 with a state or federal agency or a private provider to provide ser-
17 vices under (b) and (c) of this section, or inspections under AS 08.-
18 06.020(b).

19 Sec. 08.06.080. REPORT. The commissioner shall submit to the
20 legislature, not later than the first day of each regular legislative
21 session, a report concerning the progress of the aquatic farming
22 industry, including the number of permits issued under AS 08.06.010,
23 the names and addresses of permit holders, the effect of the industry
24 on the commercial fishing industry in the state, and recommendations
25 for legislation relating to aquatic farming.

26 Sec. 08.06.090. REGULATIONS. The commissioner shall adopt regu-
27 lations necessary to implement this chapter and to effect state policy
28 concerning aquatic farming.

29 Sec. 08.06.100. PENALTY. A person who violates a provision of

1 this chapter, a regulation adopted under this chapter, or a term or
2 condition of a permit issued under this chapter, is guilty of a class
3 B misdemeanor.

4 Sec. 08.06.900. DEFINITIONS. In this chapter

5 (1) "aquatic farm" means a facility that grows, farms, or
6 cultivates aquatic farm products in captivity or under positive con-
7 trol;

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

11 (3) "commissioner" means the commissioner of commerce and
12 economic development;

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

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

21 (6) "stock" means live aquatic plants and aquatic animals
22 acquired, collected, possessed, or intended for use by a hatchery or
23 aquatic farm for the purpose of further growth or propagation.

24 * Sec. 3. AS 08.01.065(a) is amended to read:

25 (a) The department shall adopt regulations that establish the
26 amount and manner of payment of application fees, examination fees,
27 license fees, registration fees, permit fees, investigation fees, and
28 all other fees as appropriate for the occupations covered by this
29 chapter, for aquatic farms and hatcheries under AS 08.06, and for real

1 estate brokers and salesmen under AS 08.88.

2 * Sec. 4. AS 16.05.251 is amended by adding a new subsection to read:

3 (f) Except as expressly provided in AS 08.06.040, the Board of
4 Fisheries may not adopt regulations or take action regarding the
5 issuance, denial, or conditioning of a permit under AS 08.06, the
6 construction or operation of a farm or hatchery required to have a
7 permit under AS 08.06.010, or a harvest with a permit issued under
8 AS 08.06.030. Regulations or orders adopted by the Board of Fisheries
9 under this section do not apply to a harvest with a permit issued
10 under AS 08.06.030.

11 * Sec. 5. AS 16.05.330(a) is amended to read:

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

17 * Sec. 6. AS 16.05.340(a)(14) is amended to read:

18 (14) [FISH OR] game farming biennial licenses.....200

19 * Sec. 7. AS 16.05.920(a) is amended to read:

20 (a) Unless permitted by AS 16.05 - AS 16.40 or AS 08.06, or by
21 regulation adopted under AS 16.05 - AS 16.40 or AS 08.06, a person may
22 not take, possess, transport, sell, offer to sell, purchase, or offer
23 to purchase fish, game, or marine aquatic plants, or any part of fish,
24 game, or aquatic plants, or a nest or egg of fish or game.

25 * Sec. 8. AS 16.05.930 is amended by adding a new subsection to read:

26 (g) AS 16.05.330 - 16.05.720 do not apply to an activity au-
27 thorized by a permit issued under AS 08.06.010 or 08.06.030, or to a
28 person or vessel employed in an activity authorized by a permit issued
29 under AS 08.06.010 or 08.06.030.

1 * Sec. 9. AS 16.05.940(14) is amended to read:

2 (14) "[FISH OR] game farming" means the business of prop-
3 agating, breeding, raising, or producing [FISH OR] game in captivity
4 for the purpose of marketing the [FISH OR] game or game [THEIR] prod-
5 ucts, and "captivity" means having the [FISH OR] game under positive
6 control, as in a pen [, POND,] or an area of land that [OR WATER
7 WHICH] is completely enclosed by a generally escape-proof barrier;

8 * Sec. 10. AS 16.10 is amended by adding a new section to read:

9 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 - 16.10.267 do not
10 apply to the purchase or sale of aquatic farm products from a holder
11 of a permit issued under AS 08.06.010 or stock from a holder of a
12 permit issued under AS 08.06.030.

13 * Sec. 11. AS 16.10.380(b) is amended to read:

14 (b) In this section "user group" includes, but is not limited
15 to, sport fishermen, processors, commercial fishermen, aquatic farm-
16 ers, subsistence fishermen, and representatives of local communities.

17 * Sec. 12. AS 16.10.400 is amended by adding a new subsection to read:

18 (h) AS 16.10.400 - 16.10.475 do not apply to the construction or
19 operation of a private hatchery that has a permit issued under AS 08.-
20 06.010.

21 * Sec. 13. AS 16.10.420 is amended to read:

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

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

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

28 (3) no salmon eggs or resulting fry, sold to a permit
29 holder by the state or by another party approved by the department,

1 may be resold or otherwise transferred to another person, unless that
2 person holds a permit issued under AS 08.06.010;

3 (4) no salmon be released by the hatchery before department
4 approval, and, for purposes of pathological examination and approval,
5 the department shall be notified of the proposed release of salmon at
6 least 15 days before the date of their proposed release by the hatch-
7 ery;

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

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

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

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

20 (9) [REPEALED

21 (10)] a hatchery be located in an area where a reasonable
22 segregation from natural stocks occurs, but, when feasible, in an area
23 where returning hatchery fish will pass through traditional salmon
24 fisheries.

25 * Sec. 14. AS 16.10.450 is amended to read:

26 Sec. 16.10.450. SALE OF SALMON AND SALMON EGGS BY HATCHERY. A
27 hatchery operator who sells salmon returning from the natural water
28 [WATERS] of the state, or sells salmon eggs to another hatchery op-
29 erating under AS 16.10.400 - 16.10.470 or with a permit issued under

1 AS 08.06.010, after utilizing the funds for reasonable operating
2 costs, including debt retirement, expanding its facilities, salmon
3 rehabilitation projects, fisheries research, or for costs of operating
4 the qualified regional association for the area in which the hatchery
5 is located, shall expend the remaining funds on other fisheries activ-
6 ities of the qualified regional association. Fish returning to hatch-
7 eries and sold for human consumption must [SHALL] be of comparable
8 quality to fish harvested by commercial fisheries in the area, and
9 shall be sold at prices commensurate with the current market.

10 * Sec. 15. AS 16.43.140 is amended by adding a new subsection to read:

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

13 * Sec. 16. AS 16.51.180(5) is amended to read:

14 (5) "seafood" means finfish, shellfish, and fish by-prod-
15 ucts, including but not limited to salmon, halibut, herring, flounder,
16 crab, clam, cod, shrimp, and pollock, but does not include aquatic
17 farm products as defined in AS 08.06.900;

18 * Sec. 17. AS 38.05.035 is amended by adding a new subsection to read:

19 (g) A land use or tidelands permit issued under this section for
20 aquatic farming or related hatchery operations under AS 08.06 may be
21 issued only to a resident or to a corporation licensed to do business
22 in the state.

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