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1 IN THE SENATE BY THE LABOR AND
2 CS FOR SENATE BILL NO. 106 (L&C) COMMERCE COMMITTEE
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 wild stock.

12 Sec. 08.06.020. PERMIT APPLICATION AND RENEWAL. (a) An appli-
13 cant for an aquatic farming or hatchery permit required under AS 08.-
14 06.010 shall apply on a form prescribed by the commissioner.

15 (b) A permit issued under AS 08.06.010 expires five years after
16 the date of issue.

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

24 Sec. 08.06.030. TRANSFER OF AQUATIC FARMING AND HATCHERY PER-
25 MITS. A permit issued under AS 08.06.010 may be transferred only with
26 the approval of the commissioner.

27 Sec. 08.06.040. AQUATIC FARM STOCK ACQUISITION PERMITS. (a) A
28 person may not acquire aquatic plants or aquatic animals from wild
29 stock in the state for the purpose of supplying stock to an aquatic

1 farm or hatchery required to have a permit under AS 08.06.010 unless
2 the person holds an acquisition permit from the commissioner of fish
3 and game.

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

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

16 (d) The commissioner of fish and game shall forward a copy of
17 each permit application under this section to the commissioner of
18 commerce and economic development. The commissioner of fish and game
19 shall issue or deny a permit within 30 days after receiving an appli-
20 cation.

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

29 (f) Except as provided in (e) of this section, the commissioner

1 of fish and game shall issue a permit if
2 (1) wild stock is needed for initial farms or hatchery
3 stock;
4 (2) there are technological limitations on the propagation
5 of cultured stock for the species sought;
6 (3) wild stock is needed to maintain the gene pool of a
7 hatchery or aquatic farm; or
8 (4) commercial harvest of the species sought is not limited
9 under AS 16.43 and is not fully developed.

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

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

15 Sec. 08.06.050. IMPORTATION OF AQUATIC PLANTS OR AQUATIC ANIMALS
16 FOR STOCK. A person may not import into the state an aquatic plant or
17 aquatic animal for the purpose of supplying stock to an aquatic farm
18 or hatchery required to have a permit under AS 08.06.010 unless au-
19 thorized by the commissioner of fish and game or by a regulation of
20 the Board of Fisheries.

21 Sec. 08.06.060. LIMITATION ON SALE, TRANSFER OF STOCK, AND
22 PRODUCTS. (a) A private hatchery required to have a permit under
23 AS 08.06.010 may sell or transfer stock from the hatchery only to an
24 aquatic farm or other hatchery that has a permit issued under AS 08.-
25 06.010.

26 (b) Stock may not be transferred to or from an aquatic farm or
27 hatchery required to have a permit under AS 08.06.010 without prior
28 notice of the transfer to the commissioner. A notice of transfer
29 shall be submitted at least 30 days before the proposed date of

1 transfer.

2 (c) A notice of transfer must be accompanied by a report of a
3 health inspection of the stock. The inspection shall be conducted by
4 the Department of Fish and Game or by a disease diagnostician approved
5 by the Department of Fish and Game.

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

8 (1) would present a substantial risk of spreading disease;
9 or

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

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

19 Sec. 08.06.070. RELEASE OF CERTAIN FISH PROHIBITED. Salmon and
20 trout may not intentionally be released into the public water of the
21 state from a hatchery or aquatic farm required to have a permit under
22 AS 08.06.010 without prior authorization from the Department of Fish
23 and Game.

24 Sec. 08.06.080. DISEASE CONTROL AND INSPECTION. (a) The De-
25 partment of Fish and Game may order the quarantine or the destruction
26 and disposal of diseased hatchery stock or of aquatic farm products
27 when necessary to protect wild stock. A holder of a permit issued
28 under AS 08.06.010 shall report to the Department of Fish and Game an
29 outbreak or incidence of disease among stock or aquatic farm products

1 of the permit holder.

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

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

8 (d) The Department of Fish and Game may enter into an agreement
9 with a state or federal agency or a private provider to provide ser-
10 vices under (b) and (c) of this section, or inspections under AS 08.-
11 06.020(c).

12 Sec. 08.06.090. REGULATIONS. The commissioner may adopt regu-
13 lations necessary to implement this chapter.

14 Sec. 08.06.100. PENALTY. A person who violates a provision of
15 this chapter, a regulation adopted under this chapter, or a term or
16 condition of a permit issued under this chapter, is guilty of a class
17 B misdemeanor.

18 Sec. 08.06.900. DEFINITIONS. In this chapter

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

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

25 (3) "commissioner" means the commissioner of commerce and
26 economic development;

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

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

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

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

10 (a) The commissioner shall

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

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

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

28 (4) designate points of entry for admission of livestock or
29 poultry into the state, and arrange inspection at those points with or

1 without collaboration and assistance of the federal government, and
2 bar entry of stock or poultry not shipped under a valid permit or not
3 free from contagious or infectious disease;

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

6 (A) the labeling and grading of milk and milk products
7 and standards of cleanliness and sanitation, to at least the
8 minimum of current recommendations of the United States Public
9 Health Service, for the operation of dairies selling, or offering
10 for sale, milk or milk products;

11 (B) the production and sale of ice cream and allied
12 frozen desserts;

13 (C) the production and sale of imitation milk and
14 imitation milk products;

15 (6) monitor aquatic farms and hatcheries that hold permits
16 under AS 08.06.010 for the possible presence of paralytic shellfish
17 poisoning.

18 * Sec. 4. AS 08.01.065(a) is amended to read:

19 (a) The department shall adopt regulations that establish the
20 amount and manner of payment of application fees, examination fees,
21 license fees, registration fees, permit fees, investigation fees, and
22 all other fees as appropriate for the occupations covered by this
23 chapter, for aquatic farms and hatcheries under AS 08.06, and for real
24 estate brokers and salesmen under AS 08.88.

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

26 (f) Except as expressly provided in AS 08.06.050, the Board of
27 Fisheries may not adopt regulations or take action regarding the
28 issuance, denial, or conditioning of a permit under AS 08.06, the
29 construction or operation of a farm or hatchery required to have a

1 permit under AS 08.06.010, or a harvest with a permit issued under
2 AS 08.06.040. Regulations or orders adopted by the Board of Fisheries
3 under this section do not apply to a harvest with a permit issued
4 under AS 08.06.040.

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

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

11 * Sec. 7. AS 16.05.340(a)(14) is amended to read:

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

13 * Sec. 8. AS 16.05.920(a) is amended to read:

14 (a) Unless permitted by AS 16.05 - AS 16.40 or AS 08.06, or by
15 regulation adopted under AS 16.05 - AS 16.40 or AS 08.06, a person may
16 not take, possess, transport, sell, offer to sell, purchase, or offer
17 to purchase fish, game, or marine aquatic plants, or any part of fish,
18 game, or aquatic plants, or a nest or egg of fish or game.

19 * Sec. 9. AS 16.05.930 is amended by adding a new subsection to read:

20 (g) AS 16.05.330 - 16.05.720 do not apply to an activity au-
21 thorized by a permit issued under AS 08.06.010 or 08.06.040, or to a
22 person or vessel employed in an activity authorized by a permit issued
23 under AS 08.06.010 or 08.06.040.

24 * Sec. 10. AS 16.05.940(14) is amended to read:

25 (14) "[FISH OR] game farming" means the business of prop-
26 agating, breeding, raising, or producing [FISH OR] game in captivity
27 for the purpose of marketing the [FISH OR] game or game [THEIR] prod-
28 ucts, and "captivity" means having the [FISH OR] game under positive
29 control, as in a pen [, POND,] or an area of land that [OR WATER

1 WHICH] is completely enclosed by a generally escape-proof barrier;

2 * Sec. 11. AS 16.10 is amended by adding a new section to read:

3 Sec. 16.10.269. LIMITATIONS. AS 16.10.265 - 16.10.267 do not
4 apply to the purchase or sale of aquatic farm products from a holder
5 of a permit issued under AS 08.06.010 or stock from a holder of a
6 permit issued under AS 08.06.040.

7 * Sec. 12. AS 16.10.380(b) is amended to read:

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

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

12 (h) AS 16.10.400 - 16.10.475 do not apply to the construction or
13 operation of a private hatchery that has a permit issued under AS 08.-
14 06.010.

15 * Sec. 14. AS 16.10.420 is amended to read:

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

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

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

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

26 (4) no salmon be released by the hatchery before department
27 approval, and, for purposes of pathological examination and approval,
28 the department shall be notified of the proposed release of salmon at
29 least 15 days before the date of their proposed release by the

- 1 hatchery;
- 2 (5) diseased salmon be destroyed in a specific manner and
3 place designated by the department;
- 4 (6) adult salmon be harvested by hatchery operators only at
5 specific locations as designated by the department;
- 6 (7) surplus eggs from salmon returning to the hatchery be
7 made available for sale first to the department and then, after in-
8 spection and approval by the department, to operators of other hatch-
9 eries authorized by permit to operate under AS 16.10.400 - 16.10.470,
10 or AS 08.06.010;
- 11 (8) if surplus salmon eggs are sold by a permit holder to
12 another permit holder, a copy of the sales transaction be provided to
13 the department;
- 14 (9) [REPEALED
- 15 (10)] a hatchery be located in an area where a reasonable
16 segregation from natural stocks occurs, but, when feasible, in an area
17 where returning hatchery fish will pass through traditional salmon
18 fisheries.

19 * Sec. 15. AS 16.10.450 is amended to read:

20 Sec. 16.10.450. SALE OF SALMON AND SALMON EGGS BY HATCHERY. A
21 hatchery operator who sells salmon returning from the natural water
22 [WATERS] of the state, or sells salmon eggs to another hatchery op-
23 erating under AS 16.10.400 - 16.10.470 or with a permit issued under
24 AS 08.06.010, after utilizing the funds for reasonable operating
25 costs, including debt retirement, expanding its facilities, salmon
26 rehabilitation projects, fisheries research, or for costs of operating
27 the qualified regional association for the area in which the hatchery
28 is located, shall expend the remaining funds on other fisheries activ-
29 ities of the qualified regional association. Fish returning to

1 hatcheries and sold for human consumption must [SHALL] be of compara-
2 ble quality to fish harvested by commercial fisheries in the area, and
3 shall be sold at prices commensurate with the current market.

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

5 (d) This chapter does not apply to activities authorized by a
6 permit issued under AS 08.06.010 or 08.06.040.

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

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

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

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

17 * Sec. 19. This Act takes effect immediately under AS 01.10.070(c).